



CONSTITUTIONAL PRIVACY PROTECTION: INDONESIA EXPERIENCE

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INTRODUCTION

CULTURE

CONSTITUTION

LEGISLATION

INTERNATIONAL

INTRUMENTS

INFORMATION

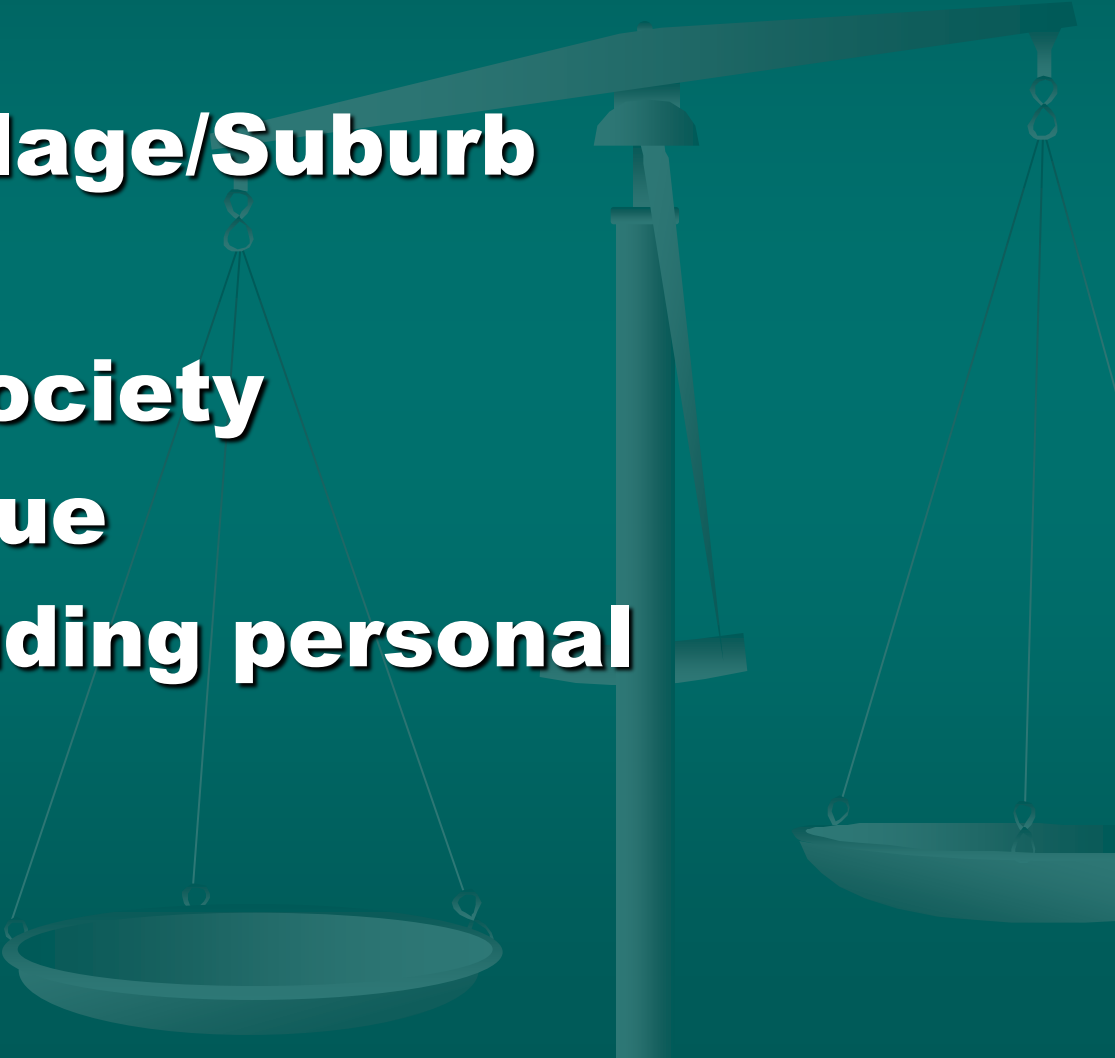
TECHNOLOGY

CASES

A large, faint background image of a scale of justice is centered on the right side of the slide. The scale is tilted, with the left pan being lower than the right pan. A white rectangular sign is suspended from the center of the scale's beam. On the sign, the word "Privacy?" is written in a colorful, 3D-style font. The letters are blue, red, yellow, green, and red, with a question mark at the end. The background of the slide is a dark teal color.

Privacy?

CULTURE

- **Village/Suburb**
 - **Communal Society**
 - **Tradition Value**
 - **Sharing including personal information**
- 

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- **CITIES**
 - **INDIVIDUALISM**
 - **RESPECT PRIVACY**
 - **REQUEST MORE GOVERNMENT PROTECTION**
 - **DAILY LIVES CONCERN MORE ON PRIVACY**

CONSTITUTION REFORM



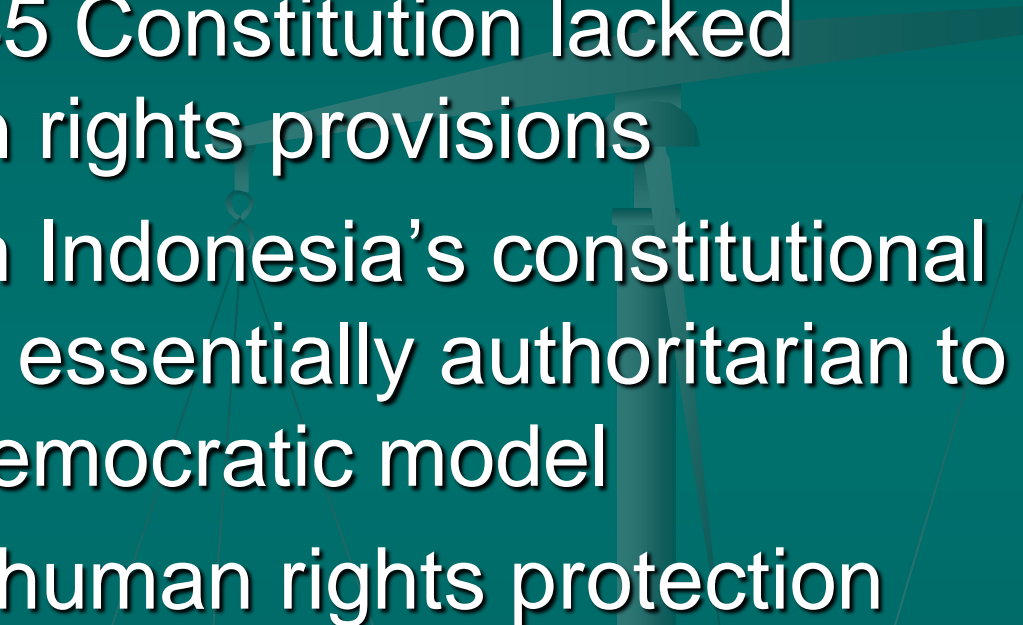
- BACKGROUND

- After President Suharto Fall

- 1999-2002

- Enacted the Fourth Amendment to the 1945 Constitution of Indonesia

David Lindsey

- The original 1945 Constitution lacked sufficient human rights provisions
 - “a radical shift in Indonesia’s constitutional philosophy from essentially authoritarian to a more liberal-democratic model
 - more extensive human rights protection
- 

Privacy Protection

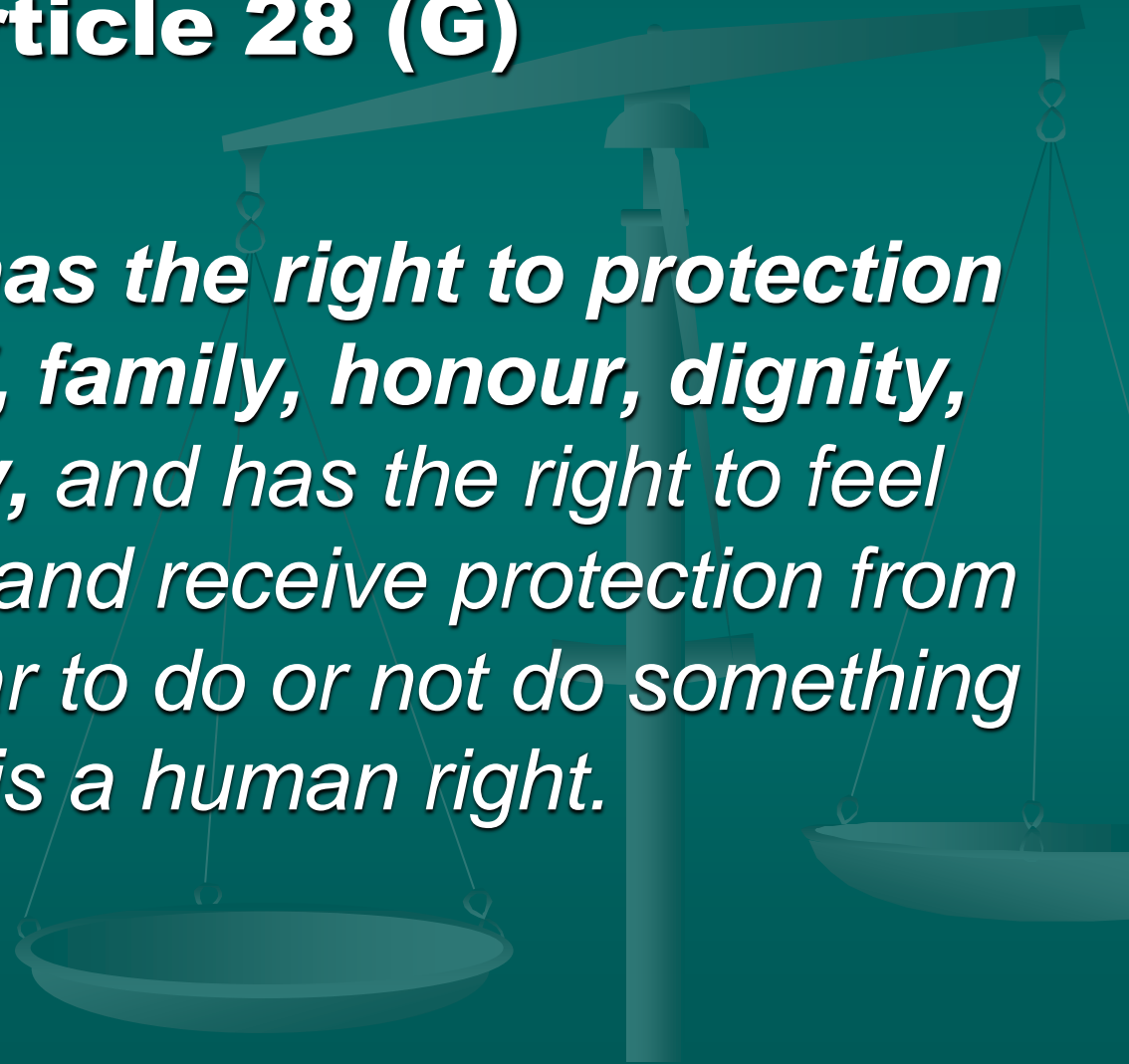
- **No explicit constitutional right to privacy**
- **Privacy legal issues against intrusive government activities**



CONSTITUTION

■ Article 28 (G)

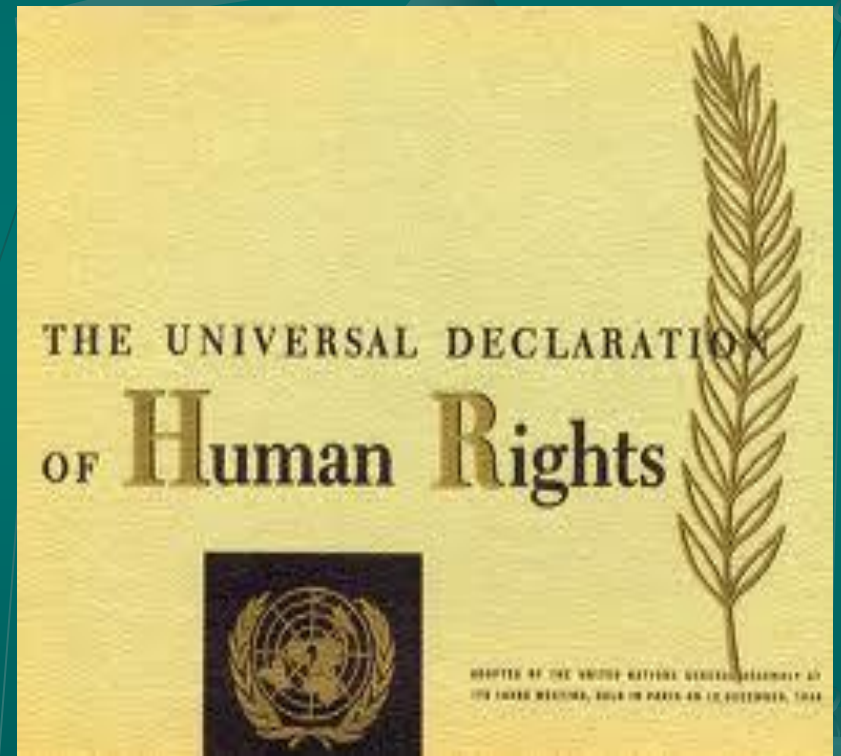
- *Every person has the right to protection of his/herself, family, honour, dignity, and property, and has the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right.*



INTERNATIONAL INSTRUMENTS

Human Rights Convention

1. **Universal Declaration**
2. **International Covenant of Political and Civil Rights, 1966**



PRIVACY LEGISLATION

- **Ratification of ICCPR (Laws Number 12, 2008)**
- **Human Rights Law (Laws Number 36, 1999)**



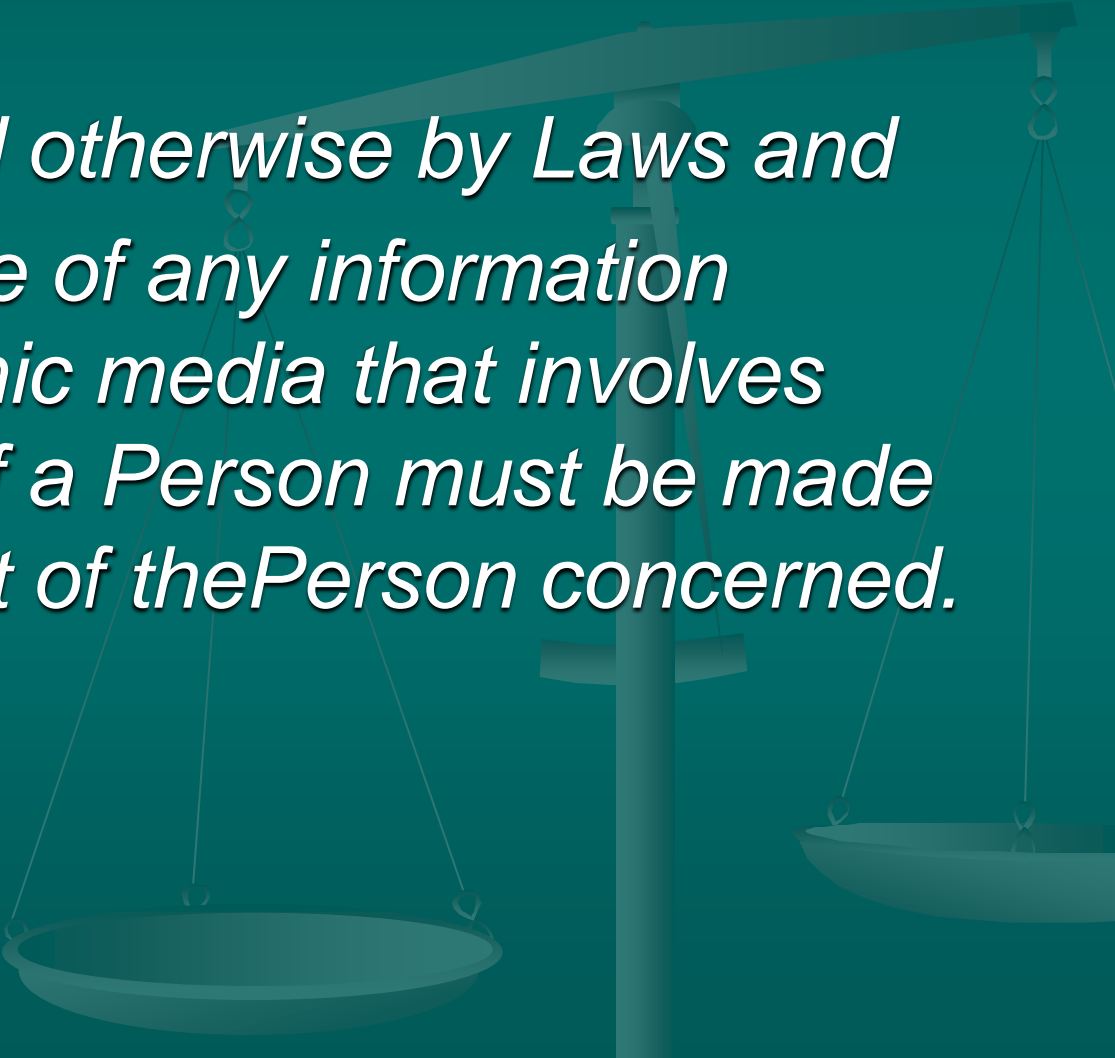
PRIVACY PROTECTION

■ LIMITED

1. **Physical Seclusion/Physical privacy**
 2. **Ownership (proprietary privacy)**
- 

ELECTRONIC INFORMATION TECHNOLOGY LAW

Unless provided otherwise by Laws and Regulations, use of any information through electronic media that involves personal data of a Person must be made with the consent of the Person concerned.

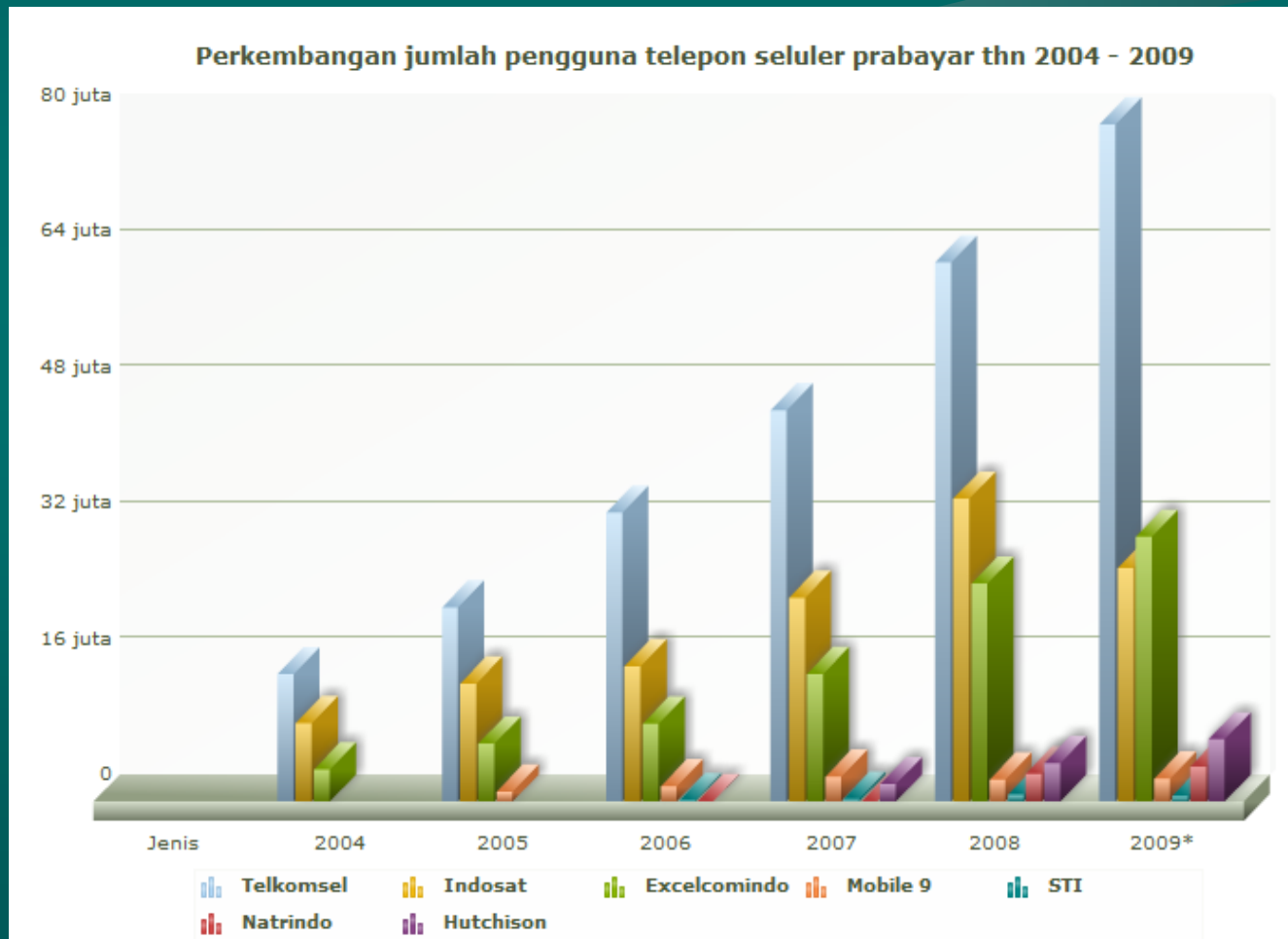


Elucidation of Article 26 Section (1):

- *In the usage of Information Technology, personal data shall be a part of the privacy rights to be protected. Privacy rights shall contain the following meaning:*
 - a. *A privacy right shall be the right to enjoy personal life and be free from any invasion.*
 - b. *A privacy right shall be the right to communicate with other Persons without surveillance.*
 - c. *A privacy right shall be the right to inspect access to information about personal life of and data on individuals.*

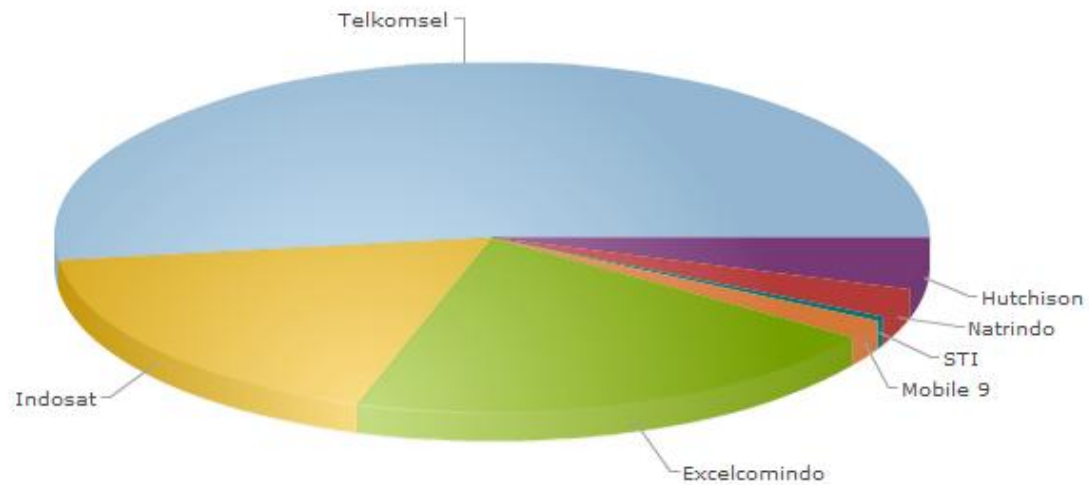
INFORMATION TECHNOLOGY INDUSTRY IN INDONESIA

MOBILE PHONE USER 2004-2009

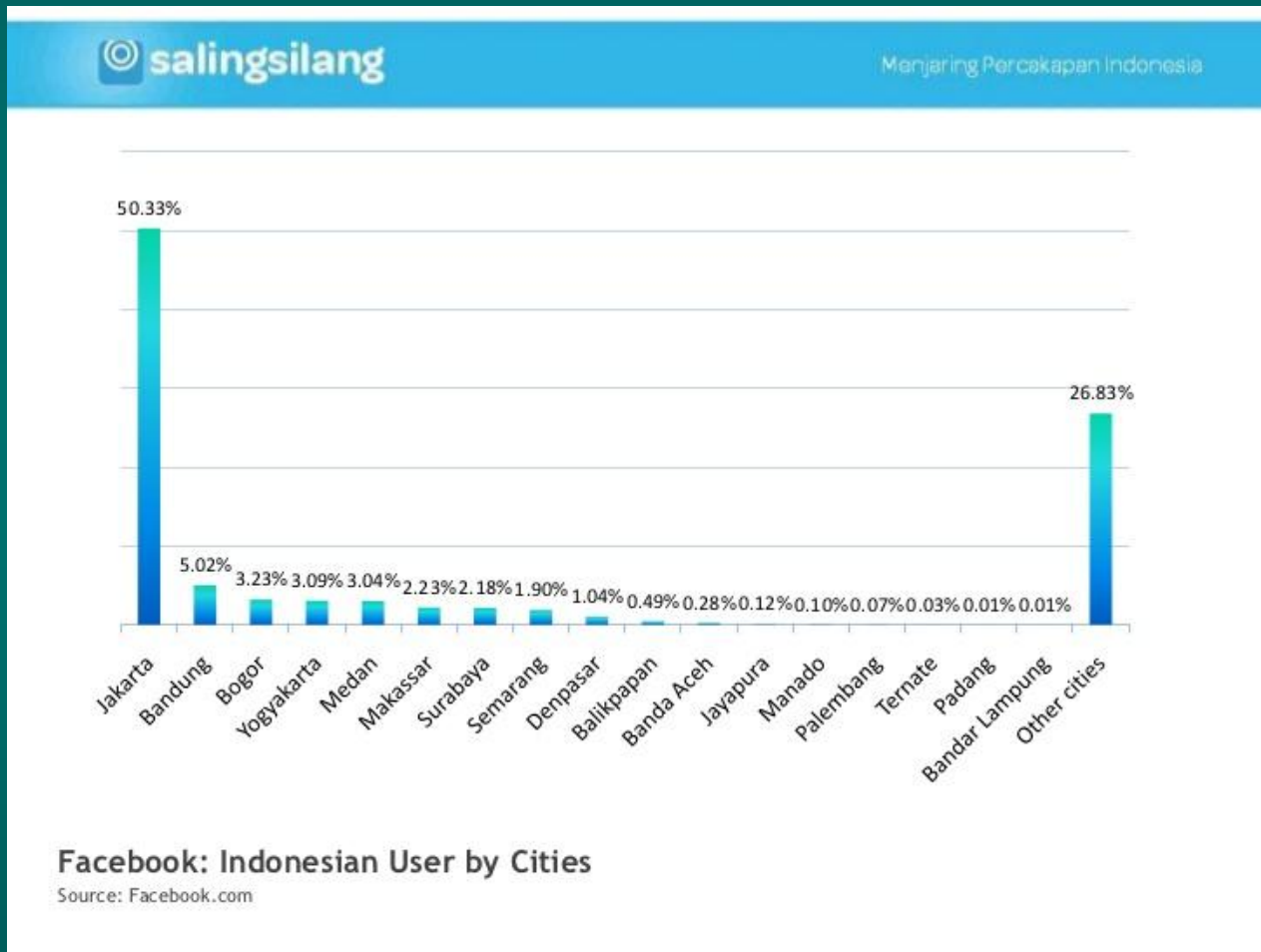


Mobile Phone Companies

Perkembangan jumlah pengguna telepon seluler prabayar thn 2004 - 2009



FACEBOOK USER BY CITIES



Open Access Public Information Law

EXCEPTION



PRIVACY

E-IDENTITY CARD PROGRAM



CONSTITUTIONAL COURT DECISION

- **Tree Cases on Wiretapping Conduct of Government Agencies :**
- **1. Privacy Protected under Article 28 (G) Constitution**
- **2. The Wiretapping is Violation of the right to privacy which is part of**





- **. Privacy Protected under Article 28 (G) Constitution :**

- 1. The Wiretapping is Violation of the right to privacy which is part of fundamental human rights**

- **2. The Wiretapping is Violation of the right to privacy which is part of fundamental human rights**

The right itself can be limited this should be governed by law

4. A specific law on wiretapping is needed



OBSTACLES

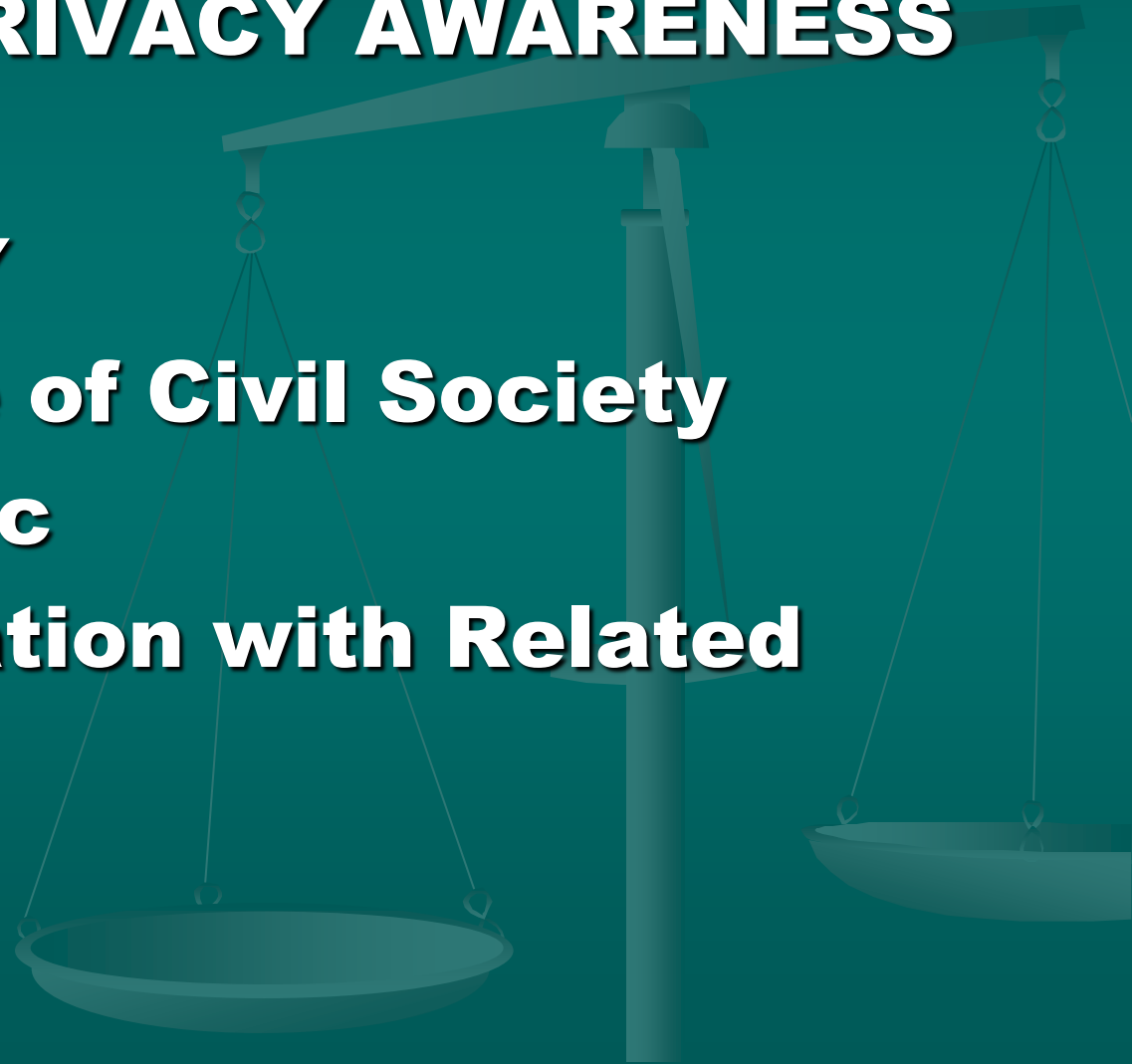
■ BUILDING PRIVACY AWARENESS

1. SOCIETY

The Role of Civil Society

Academic

Coordination with Related



Ministries

2. Buiding Society Awareness
Public Discussion
The Role of med



Building Legal Culture

- REGULATION CAN BE A DRIVING FORCES OF PRIVACY
- ADVOCACIES

