

THE LAW'S ROLE IN ENSURING THE PROTECTION AND SECURITY OF BANK CUSTOMERS

Dany Sulistiono, Rommy Hardyansah, Didit Darmawan

Universitas Sunan Giri Surabaya

correspondence: dr. rommyhardyansah@gmail.com

Abstract - Technological developments and the global economy have affected the banking sector in Indonesia, making legal protection for bank customers increasingly important. Banks function as financial intermediary institutions that connect surplus and deficit funds, so the protection of customers is crucial to maintain public trust. Law No. 8/1999 on Consumer Protection and Law No. 10/1998 on Banking provide a legal basis to protect the rights of customers, including in terms of dispute resolution and compensation. However, there are still gaps in legal protection, especially in relation to data misuse and embezzlement of funds. Therefore, a more detailed regulation on protection and dispute resolution mechanisms is needed, as well as a continuous education program to improve the public's understanding of their rights. The Financial Services Authority (OJK) plays an important role in protecting consumers through complaints and legal defense. With these measures, it is hoped that legal protection for bank customers can be enhanced, maintaining public confidence and creating a fair relationship between customers and banks.

Keywords: legal protection, bank customers, law, OJK, dispute resolution, education, trust.

INTRODUCTION

The times and global technological advances have had a significant impact on the progress of various sectors around the world, including Indonesia. One of the areas most affected by these changes is the economic sector. The more developed economic activities are, the faster the turnover of money that occurs, which has an impact on the growth rate of the real sector. In this case, national development goals can be achieved faster thanks to the dynamic movement in the economic sector. However, in order to ensure that this money circulation runs properly and regularly, financial institutions are needed that can maintain economic stability. Banks, as one of the main financial institutions, have an important role to play in keeping this process running smoothly.

Banks function as financial intermediary institutions that provide sources of funds in the form of deposits and credit, which can be used by the public or business entities to meet consumption needs or increase their production capacity (Kasmir, 2002). As an institution that connects surplus and deficit funds, banks have a vital role in national economic development (Judisseno, 2002). Through its main activities, namely attracting funds from the public in the form of deposits and channeling them back in the form of credit or financing, banks are highly dependent on the laws and regulations governing banking. Therefore, banking activities are regulated by the banking law itself, as well as by other relevant regulations, which aim to ensure the smoothness and security of financial transactions as well as protection for customers and the economy as a whole. Bank reputation supported by strong legal protection for its customers is a major factor in building customer loyalty, because customers feel safe and protected in making transactions (Hardyansah & Jahroni, 2023). In addition, to strengthen customer loyalty, banks need to ensure that effective legal protection for customers is realized through policies and procedures that are in accordance with existing regulations (Jahroni et al., 2023).

Based on the state philosophy of the Republic of Indonesia, which is enshrined in the Pancasila state foundation and the 1945 Constitution of the Republic of Indonesia, the protection of banking service consumers, known as customers, is very important. In Law Number 10 of 1998 on the Amendment to Law Number 7 of 1992 on Banking, customers are divided into two categories, namely depositor customers and debtor customers. However, this law does not regulate in detail how to resolve disputes that can arise due to embezzlement of customer funds or leakage of personal data such as credit card PINs that can cause losses to customers. As such, the legal responsibility for banks to prevent misuse of names in credit applications is crucial to ensure the protection and security of customer data, as well as building public trust in the banking sector. (Firmanto et al., 2024). This is a significant problem, because in practice many banks tend to ignore customer rights, and even utilize customer weaknesses for their benefit, without having to face adequate legal sanctions.

This phenomenon shows a gap in legal protection for banking consumers, where many banking businesses do not have good faith in running their business. They often focus on seeking maximum profit by utilizing existing resources efficiently, without paying attention to the interests of customers. The public, as consumers, who often lack adequate legal knowledge or awareness, are highly vulnerable to these harmful practices. The provisions in conventional banking laws and regulations mostly regulate criminal and administrative sanctions imposed on banks, while the protection of customers in the event of legal disputes or losses due to irresponsible actions on the part of banks is still very limited.

Legal protection of customers is instrumental in building customer trust, which in turn increases customer loyalty to banks, especially through fair dispute resolution (Darmawan, 2022).

As users of products and services from a bank, customers should have good faith in establishing relationships with banks (Machauer & Morgner, 2001). This includes the customer's understanding of the rights and obligations arising from the agreement made with the bank. Bank customers, both individuals and entities, use bank services for various financial activities such as saving money, accessing credit, making transactions, and others. In return, customers are expected to fulfill their obligations in accordance with the agreed terms. On the other hand, banks also have an obligation to maintain public trust by ensuring that the products and services offered are carried out with full responsibility and transparency. Trust is one of the important ethics that banks must have in their relationships with customers.

However, despite the obligations of both parties, it is not uncommon for violations to occur that harm customers, such as the submission of false reports, misuse of customer funds, account breaches, and fraud through ATMs and internet banking. Such incidents indicate that legal protection for customers is very important. This protection not only provides a sense of security for customers, but also creates comfort and fairness in the relationship between customers and banks. Strong legal protection will ensure that customers can carry out their financial activities with a sense of security and are protected from any form of abuse. Therefore, legal protection of customers is necessary to maintain important aspects such as financial security, contractual rights, and fairness in interactions with financial institutions (Gandapraja, 2004). Banks, as institutions trusted by the public, have a moral and legal responsibility to protect the interests of customers while complying with applicable regulations and laws.

Legal protection for bank customers is very important, especially when there are losses caused by embezzlement of funds by bank employees, leaking of credit card PIN data, or other forms of violations that harm customers (Ngiu, 2015). In situations like this, the law must be present to provide guarantees and protection of the interests and rights of customers. This legal protection aims to create a sense of security and protection for customers, who are an important element in the continuity of bank operations. Without customers, banks will not be able to develop properly and provide maximum benefits to society (Potabuga, 2019). Therefore, the close relationship between customers and banks must be properly protected, so that banks can continue to function effectively and reliably.

As one of the banking businesses, banks rely heavily on customers to maintain their business continuity. In this context, legal protection becomes an indispensable tool to ensure that customers can protect their rights and resolve disputes in the event of losses. Various laws and regulations, such as banking and consumer protection laws, also play an important role in providing the legal framework governing the relationship between banks and customers. These laws not only provide a legal basis for customers to file claims if their rights are violated, but also regulate the obligations and responsibilities of banks in maintaining customer safety and convenience. This study aims to analyze the legal protection of bank customers, especially in situations of breaches that harm customers, and evaluate the extent to which existing regulations can provide effective legal guarantees and remedies for customers in dealing with these problems.

RESEARCH METHODS

In this research, the approach used is a normative approach, which aims to analyze and understand the legal norms that apply in the context of bank customer protection and security. This normative approach focuses on the study of laws and regulations governing customer protection, such as banking laws, consumer protection laws, and other relevant provisions. This research will also identify various legal policies implemented by financial institutions to ensure customer rights are well protected. With this approach, the research aims to explore and understand how the law plays a role in providing protection guarantees and creating a sense of security for bank customers.

The research specification used in this study is descriptive, which means that this research will describe systematically and in detail the existing regulations and practices related to customer protection in the banking world. This method will be used to provide a clear picture of the legal mechanisms governing the relationship between banks and customers, as well as the challenges faced in the implementation of the law. Drawing conclusions from the research results is carried out using a qualitative normative analysis method, which aims to interpret the data in depth and explore the legal values contained in existing regulations. With this approach, it is expected to obtain a better understanding of the extent of the role of law in providing protection and security for bank customers.

RESULTS AND DISCUSSIONS

Legal protection provided to bank customers includes not only service quality and brand image, but also assurance that customer rights will be protected with clear and effective legal mechanisms (Mamuaja, 2015; Jahroni & Hardyansah, 2023). The legal protection of bank customers cannot be separated from the existence of Law No. 8/1999 on Consumer Protection (UUPK), which is the basis of protection for consumers, including customers in general. UUPK is designed to protect the rights of customers by setting limits on standardized clauses that are often used in the banking

business. These standardized clauses are often drafted unilaterally by the bank and can be detrimental to customers, so UUPK is present to provide justice and protection in agreements that apply

Article 1 point 1 of GCPL explains that consumer protection includes all efforts to ensure legal certainty to provide protection to consumers, which in this case includes bank customers. The importance of legal protection for bank customers, especially in the aspect of data and financial transactions, can encourage customers to choose banks that have clear legal policies and support customer trust (Hardyansah et al., 2023). Legal protection in Islamic banking is very important to build customer trust, by ensuring that customers are protected from potential abuse and fraud in banking transactions (Djazilan & Darmawan, 2021).

The principles of consumer protection according to Article 2 of Law No. 8 of 1999 are based on benefits, justice, balance, security, consumer safety, and legal certainty. This principle is very relevant in the context of banking, where customers as consumers are often bound by standard agreements such as bank credit or financing agreements. GCPL regulates in Chapter V, Article 18 regarding standard clauses that prohibit the inclusion of clauses that harm consumers in banking documents or agreements, except in certain circumstances. The purpose of the GCPL is to balance the bargaining power of consumers against business actors and encourage business actors, in this case banks, to be honest and responsible in carrying out their business activities. Thus, legal protection for bank customers not only protects their rights, but also ensures that banks operate with transparency and fairness.

Legal protection of bank customers can be divided into two types, namely direct protection and indirect protection. Direct protection provided to customers, especially in the event of a criminal offense in the banking sector, is by providing compensation directly to the injured customer. Criminal offenses in the banking sector itself are regulated in Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking. In this law, there are 13 types of criminal offenses divided into five broad categories, including criminal offenses related to licensing, bank secrecy, bank supervision and guidance, bank business, and actions taken by administrators, employees, or parties affiliated with banks (Ahmad et al., 2022). There are also criminal offenses outside the Banking Law that are listed in the Criminal Code (KUHP) and other regulations such as the Law on Corruption and Money Laundering.

In the context of the relationship between customers and banks, the position of customers is very important for the continuity of banking operations. Therefore, the law provides protection to customers in ways that can be pursued either through litigation (court) or non-litigation (out of court). This legal protection applies based on an agreement between the customer and the bank, such as a deposit or savings agreement. Thus, customers have the right to obtain protection for losses arising from violations committed by banks, both through formal legal channels and alternative solutions that are faster and more efficient.

Legal protection for bank customers is also regulated in Law Number 8 Year 1999 on Consumer Protection, which provides an obligation for banks to compile and arrange standard clauses in a fair and transparent manner. This is especially true in the making of credit, financing, and account opening agreements by customers. In the event of a violation of the customer's rights, such as losses due to careless management of funds, the customer is entitled to compensation in accordance with applicable regulations. This legal protection aims to provide a sense of security and justice for customers, so that customers feel protected in business relationships with banks.

Along with that, there is a need to improve the protection mechanism for customers. First, the Banking Law should regulate in more detail how banks can provide direct protection to aggrieved customers, as well as appropriate and effective compensation mechanisms. Banking institutions need to implement internal and external dispute resolution, in accordance with the Financial Services Authority Regulation. Banks should also work with consumer organizations or other bodies to formulate fair agreement clauses that fulfill the rights of both parties. Finally, to strengthen customer understanding and rights, it is necessary to socialize and educate on complaint and mediation procedures for aggrieved customers. This can be done by Bank Indonesia and commercial banks by including information on customer rights in their agreements.

Legal protection of customers depositing funds in banks is closely related to public trust in banking institutions. Without the trust of the public, banks will not be able to carry out their business activities properly. Therefore, the banking world needs to maintain this trust by providing legal protection for the interests of the community, especially the interests of customers. Thus, legal protection for depositors is needed to prevent losses that may arise due to the decline in public trust in banks. The legal relationship between depositors and banks is based on an agreement that binds both parties, so it is only natural that the interests of customers get legal protection that is equivalent to the protection given to banks.

In this case, the government has shown political will to protect the interests of customers, especially depositors (Lisungan, 2019). This is reflected in the issuance of Law Number 7 of 1992 which was later updated with Law Number 10 of 1998 concerning Banking. Protection of customers by Bank Indonesia is also considered very important, not only because of the obligations arising from the enactment of Law No. 8/1999 on Consumer Protection, but also because of the desire to expand banking regulation with aspects of customer protection and empowerment as consumers of bank services. Efforts to increase customer empowerment are realized by the existence of an infrastructure in the bank that specifically handles and resolves customer complaints and grievances. To prevent protracted complaint resolution, banks are required to set clear time standards in handling customer complaints. If the complaint cannot be resolved within the specified timeframe, then there must be a simple, cheap, and fast dispute resolution mechanism.

Bank Indonesia stipulates this in Bank Indonesia Regulation No. 7/7/PBI/2005 on Customer Complaint Settlement, which requires every bank to resolve customer complaints within a predetermined time—two working days for oral complaints and 20 working days for written complaints, with the possibility of extension. This PBI aims to ensure that customer dispute resolution can be done efficiently and effectively, while reducing the potential negative impact on the bank's reputation.

To optimize the customer protection program, continuous efforts are needed, one of which is through the implementation of public education on customer rights in their relationship with banks. This education also covers other important matters, such as the introduction of financial and banking products. The education to be conducted by Bank Indonesia aims to empower the public by improving their financial knowledge. The goal is to create a society that is more critical and able to plan their finances wisely. Thus, community education is expected to not only improve the understanding of financial and banking products, but also contribute to the improvement of people's living standards through better and proper financial planning.

However, given the social and economic diversity of communities, education programs cannot be based on general assumptions. Instead, careful planning, based on data and facts, is required so that education programs can meet the needs of diverse groups of people. To this end, Bank Indonesia is conducting a survey to map education needs, taking into account factors such as education levels, income levels, and geographical differences between urban and rural areas. The results of this mapping will be used to determine short, medium and long-term education strategies, and form the basis for the establishment of the Community Education Forum. The forum is planned to involve various government institutions and agencies, and will function as a coordination forum for the implementation of education, as well as a driver for the implementation of education strategies in each of their respective areas of authority.

The Financial Services Authority (OJK) has an important role in legal protection for users of financial services, which is regulated in Chapter VI of Law Number 21 of 2011. In the law, there are three articles that regulate consumer and community protection related to the financial services sector. Article 28 regulates OJK's authority to take preventive measures against consumer and public losses. Steps that can be taken by the OJK include providing information and education to the public regarding the characteristics of the financial services sector, services, and products; requesting financial services institutions to stop activities that have the potential to harm the public; and other actions deemed necessary in accordance with the applicable laws and regulations in the financial services sector.

Article 29 authorizes OJK to serve complaints from consumers harmed by financial service institutions. OJK is responsible for preparing adequate tools in handling complaints, developing a clear complaint mechanism, and facilitating the settlement of such complaints in accordance with applicable regulations. Furthermore, Article 30 paragraph (1) stipulates that OJK also has the authority to conduct legal defense for consumers and the public who are harmed. OJK can order financial service institutions to settle complaints from aggrieved consumers and propose efforts to recover assets lost due to violations of financial service sector laws and regulations, whether controlled by the party causing the loss or by other parties who have bad faith. Thus, OJK plays a very important role in protecting the rights of consumers and the public in the financial services sector through preventive measures, complaint facilitation, and legal defense.

CONCLUSIONS

Legal protection of bank customers in Indonesia is very important and is regulated by various laws, especially Law Number 8 Year 1999 on Consumer Protection (UUPK) and Law Number 10 Year 1998 on Banking. The GCPL provides a legal basis to protect the rights of customers, especially in relation to standardized clauses that often harm consumers. This protection includes direct and indirect protection, and entitles customers to compensation for losses suffered as a result of the bank's actions. The Financial Services Authority (OJK) also plays an important role in protecting consumers through education, complaints, and legal defense. The existence of this legal protection is not only important to maintain public trust in banking institutions, but also to create a fair and transparent relationship between customers and banks.

To improve legal protection for bank customers, more detailed arrangements are needed in the Banking Law regarding direct protection mechanisms and compensation for aggrieved customers, so as to provide legal certainty and justice. Banks should also implement efficient dispute resolution mechanisms, both internally and externally, so that customer complaints can be resolved quickly. Continuous education programs need to be implemented to improve public understanding of customer rights and banking products, with adjustments to the needs of various communities. Cooperation between banks and consumer organizations is essential in formulating fair and transparent agreement clauses. Bank Indonesia and the Financial Services Authority (OJK) should conduct surveys to map the public's educational needs, so that the programs implemented are more effective. OJK also needs to strengthen its role in protecting consumers by providing a clear and responsive complaint mechanism, as well as taking preventive action to prevent losses to customers. With these measures, it is hoped that legal protection for bank customers can be improved, maintain public trust in banking institutions, and ensure a good relationship between customers and banks.

REFERENCES

- Ahmad, H., Anggraini, S., & Iswahyudi, G. (2022). Perlindungan Hukum Terhadap Keamanan Rahasia Bank dalam Menjaga Kepentingan Nasabah Perbankan. *Al-Manhaj: Jurnal Hukum dan Pranata Sosial Islam*, 4(2), 337-350.
- Darmawan, D. (2022). The Effect of Trust and Saving Experience on Loyalty Through Satisfaction as an Intervening Variable (Case Study of Sharia Bank Customers in Surabaya City), *International Journal of Service Science, Management, Engineering, and Technology*, 2(2), 12 – 20.
- Djazilan, M. S. & D. Darmawan. (2021). The Effect of Religiosity and Technology Support on Trust in Sharia Banking in Surabaya, *Journal of Science, Technology and Society*, 2(2), 7-18.
- Firmanto, R., R. Hardyansah, & D. Darmawan. (2024). Responsibility of Banks in Preventing Name Abuse in Credit Applications, *Bulletin of Science, Technology and Society*, 3(3), 14-19.
- Gandapraja, P. (2004). *Dasar dan Prinsip Pengawasan Bank*. Gramedia Pustaka Utama, Jakarta.
- Hardyansah, R. & Jahroni. (2023). The Establishment of Customer Loyalty in View of Service Quality and Bank Reputation, *Bulletin of Science, Technology and Society*, 2(1), 16-20.
- Hardyansah, R., Jahroni, D. Darmawan, S. Arifin, & D. S. Negara. (2023). Student Interest in Becoming Customers of Islamic Banks in Terms of Religiosity and Product Knowledge, *International Journal of Service Science, Management, Engineering, and Technology*, 4(1), 5–10.
- Jahroni, J. & R. Hardyansah, D. Darmawan, R. K. Khayru, & S. Arifin. (2023). Strategi Efektif: Kepuasan Pelanggan dan Promosi untuk Memperkuat Loyalitas Nasabah Bank Syariah, *Jurnal Lima Daun Ilmu*, 3(2), 25-34.
- Jahroni, J. & R. Hardyansah. (2023). Tinjauan Kepuasan Nasabah Bank Syariah: Peranan Kualitas Layanan dan Citra Merek dalam Perspektif Konsumen, *Jurnal Lima Daun Ilmu*, 3(1), 47-58.
- Judisseno, R. K. (2002). *Sistem Moneter dan Perbankan di Indonesia*. Gramedia Pustaka Utama, Jakarta.
- Kasmir. (2002). *Dasar-Dasar Perbankan*. PT Raja Grafindo Persada, Jakarta.
- Lisungan, J. E. J. (2019). Peranan Lembaga Penjamin Simpanan Terhadap Perlindungan Bank Dan Nasabah Menurut Undang-Undang Nomor 24 Tahun 2004. *Lex Privatum*, 7(5).
- Machauer, A., & S. Morgner. (2001). Segmentation of Bank Customers by Expected Benefits and Attitudes. *International Journal of Bank Marketing*, 19(1), 6-18.
- Mamuaja, J. (2015). Fungsi lembaga penjamin simpanan dalam rangka perlindungan hukum bagi nasabah perbankan di Indonesia. *Lex Privatum*, 3(1).
- Nasution, A.Z. (2002). *Hukum Perlindungan Konsumen Suatu Pengantar*, Media, Jakarta.
- Ngiu, S. F. (2015). Perlindungan Hukum Terhadap Nasabah Bank Sebagai Subjek Hukum Menurut Undang–Undang Nomor 10 Tahun 1998 Tentang Perbankan. *Lex Privatum*, 3(1), 240-250.
- Potabuga, M. R. C. (2019). Perlindungan Hukum Terhadap Nasabah Bank. *Lex Privatum*, 6(10), 33-44.