



Effectiveness of Law Enforcement of Banking Crimes in Banking Law in Indonesia

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Abstract: This study examines the effectiveness of law enforcement against banking crimes within the framework of Indonesia's Banking Law, particularly Law Number 10 of 1998. Although the legal framework normatively provides comprehensive provisions regarding bank secrecy, prudential principles, licensing, financial reporting, and sanctions, its implementation remains constrained by structural, technical, and institutional challenges. Using a normative juridical method supported by statutory, conceptual, and case approaches, this research analyzes the extent to which existing regulations have achieved the goals of legal certainty, justice, and utility as conceptualized in Radbruch's theory. Findings indicate that overlapping institutional authority, limited investigative capacity, evidentiary barriers due to strict bank secrecy, and weak inter-agency coordination hinder effective enforcement. Additionally, disparities in digital forensic facilities and inadequate internal control systems within banking institutions reduce the ability to detect and prosecute violations. Through the lens of Soerjono Soekanto's and Lawrence Friedman's theories of legal effectiveness, this study concludes that while the normative substance is adequate, enforcement remains suboptimal. Strengthening institutional coordination, enhancing investigator competence, updating regulations to meet digital era banking complexities, and promoting a culture of transparency and compliance are essential for improving law enforcement outcomes

Keywords: Banking Crimes, Banking Law, Law Enforcement, Legal Effectiveness, Indonesia

1. Introduction

Banking plays a strategic role in the national economic system, serving as a financial intermediary that impacts monetary stability, economic growth, and public welfare (Purba et al., 2024). Banks not only manage public funds but also drive the economy through credit distribution, financial services provision, and business transaction facilitation. Therefore, the banking sector's sustainability is highly dependent on public trust. Any disruption stemming from unfair practices, abuse of authority, or banking crimes may create systemic risks that could threaten the integrity of the national financial system. In this context, law enforcement against banking crimes is a crucial part of achieving economic stability and legal protection for the public.

Law enforcement against banking crimes is regulated under Law Number 10 of 1998 concerning Banking. The regulation covers various categories of crimes, such as the granting of fictitious loans, violations of prudential principles, manipulation of financial statements, breaches of bank secrecy, and the abuse of authority by bank management. These norms are formed to realize the three objectives of law as stated by Gustav Radbruch, namely legal certainty (Rechtssicherheit), justice (Gerechtigkeit), and utility (Zweckmäßigkeit) (Radbruch, 1946). Thus, ideally, banking crime regulations should provide a clear legal basis, a structured law enforcement mechanism, and sanctions that deter perpetrators.

However, the implementation of law enforcement in the field does not always align with normative objectives. Law enforcement against banking crimes often faces various obstacles. First, the complexity of financial transactions means that the investigation and evidence-gathering process often requires specialized expertise that law enforcement officers do not always possess (Rinaldi & Wijaya, 2025). Second, the application of the

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principle of bank secrecy limits investigators' access to necessary information. Although legal provisions provide exceptions to bank secrecy for law enforcement purposes, in practice, banking institutions still exhibit defensive behavior, both due to reputational concerns and fear of administrative violations (Harahap, 2002a). Third, there is the issue of overlapping authority between institutions, particularly between the Financial Services Authority (OJK), Bank Indonesia (BI), the Indonesian National Police, the Attorney General's Office, and the Financial Transaction Reports and Analysis Center (PPATK).

This fragmentation of authority causes disharmony in the law enforcement process. The OJK has the authority to supervise and impose administrative sanctions, while criminal proceedings remain under the authority of the police and prosecutors. This condition often gives rise to lengthy bureaucracy in handling cases, so that law enforcement does not take place effectively. Fourth, weak coordination between institutions often leads to differing interpretations of norms in the Banking Law, particularly regarding the elements of crimes and forms of abuse of authority in bank management (Harahap, 2002a).

Another obstacle is the weakness of internal banking systems in preventing criminal acts by internal officials. Banking crimes often involve bank managers or employees who have the authority to access internal information systems. In such circumstances, the effectiveness of law enforcement depends not only on external law enforcement but also on each bank's internal control system. Without a strong internal oversight system, manipulative practices will be difficult to detect early.

This gap between *das sollen* and *das sein* indicates a problem with law enforcement's effectiveness that warrants in-depth examination. From a normative legal perspective, the effectiveness of law enforcement is the extent to which applicable legal norms are applied consistently, provide certainty, and achieve the objectives of norm formation (Hadi, 2022). As Soerjono Soekanto stated, legal effectiveness is influenced by five factors: the law itself, law enforcement officials, facilities and infrastructure, community factors, and cultural factors (Soekanto, 2011a). In the context of banking crimes, these five factors are complex and interrelated, so that failure in any one aspect can lead to suboptimal law enforcement.

In this context, the need to evaluate the effectiveness of law enforcement for banking crimes is crucial. The evaluation not only assesses whether the Banking Law norms have been well formulated, but also the extent to which they can be implemented in law enforcement practice. The analysis of effectiveness is required to see whether legal norms can protect banking business actors, consumers, and prevent detrimental practices that could threaten financial stability.

Although several previous studies have discussed banking crimes, their focus tends to be limited to normative aspects, such as discussions of offenses, sanctions, and legal mechanisms stipulated in the Banking Law. These studies rarely assess the effectiveness of systemic law enforcement, including technical constraints, fragmentation of authority between institutions, and weaknesses in banks' internal controls that can impact the implementation of legal norms in practice. This gap raises the need to uncover the extent to which banking legal norms can be applied consistently and have a real impact in preventing crimes that harm financial stability.

Theoretically, this study aims to contribute by combining three complementary frameworks. First, Gustav Radbruch's perspective on the purpose of law—certainty, justice, and utility—is used to assess the extent to which the norms of the Banking Law fulfill ideal legal principles. Second, Soerjono Soekanto's concept of legal effectiveness is applied to identify factors influencing the implementation of norms, including law enforcement officials, infrastructure, society, and legal culture. Third, Lawrence Friedman's framework of law as a social system is used to understand the interaction between legal norms, institutional structures, and social practices in the banking sector. This combination of theories allows for a comprehensive analysis, not only assessing the equality of legal norms, but also the effectiveness of their implementation in the real context of banking law enforcement in Indonesia.

This research is thus relevant both academically and practically. Academically, this research contributes to enriching studies on the effectiveness of law enforcement in the financial sector, which is still relatively limited compared to studies on other general crimes. Practically, the results of this study are expected to provide recommendations for policymakers and supervisory institutions to improve regulatory mechanisms and law enforcement for banking crimes.

2. Materials and Methods

This research uses a normative juridical method with a statutory approach, a conceptual approach, and a case approach. The statutory approach is used to examine the normative provisions in Law Number 10 of 1998 concerning Banking and other related regulations governing banking crimes. The conceptual approach is used to understand the concept of legal effectiveness, law enforcement, and relevant banking legal principles. Meanwhile, the case approach is done by examining court decisions related to banking crimes to observe the implementation of norms in practice. The legal materials used include primary, secondary, and tertiary legal materials, which are analyzed qualitatively to obtain prescriptive conclusions.

3. Results and Discussion

3.1. Regulations and Mechanisms for Enforcement of Banking Crimes According to Banking Law in Indonesia

The regulation of banking crimes in Law Number 10 of 1998 concerning Banking demonstrates that lawmakers have formulated comprehensive and preventive legal instruments to maintain the stability of the national banking system. The law regulates in detail several acts that can be qualified as banking crimes, including violations related to licensing, bank secrecy, bookkeeping manipulation, and abuse of authority by bank managers. These normative regulations demonstrate the state's efforts to maintain the integrity of the financial system and protect customers by formulating crimes specific to the banking sector. For example, Article 46 regulates the crime of collecting funds from the public without permission, Articles 47 and 47A regulate violations of bank secrecy, while Article 49 paragraphs (1) and (2) regulate false bookkeeping, false reports, and actions that endanger the continuity of the bank's business. The characteristics of these crimes indicate that banking crimes are economic crimes that not only cause individual losses but also have the potential to disrupt national economic stability. It is in line with Mulhadi's view that banking law must be designed to close regulatory gaps to prevent systemic risks and maintain public trust in banking. The regulations regarding criminal penalties in the form of imprisonment and large fines demonstrate that lawmakers prioritize protecting the public interest and the stability of the financial system through effective sanctions as a repressive instrument.

Theoretically, the regulation of banking crimes can be analyzed using Lawrence Friedman's theory of legal effectiveness, which explains that the effectiveness of a regulation is determined by three elements: legal substance, structure (law enforcement), and legal culture (Friedman, 1975). In terms of substance, the Banking Law has provided norms with a fairly clear formulation of offenses and strict sanctions, thus fulfilling the element of clarity of norms (legal substance) (Purwogandi, 2023a). However, the effectiveness of a provision rests not only on its substance but also on its structure namely, the institution that enforces the legal norm. Therefore, as part of the law enforcement structure in the financial services sector, the presence of the Financial Services Authority (OJK) has brought significant changes to the law enforcement mechanism. Since the enactment of Law Number 21 of 2011, the OJK has taken over banking supervisory authority from Bank Indonesia and has been granted investigative authority for crimes in the financial services sector. Article 49 of the OJK Law authorizes OJK investigators to conduct investigations into banking crimes in accordance with the Criminal Procedure Code, including examining witnesses, requesting documents, and conducting seizures. According to Sultan Remy Sjahdeini, granting investigative authority to the OJK is a strategic step to en-

sure that violations in the financial sector are handled by investigators with adequate technical competence, given the complexity of modern banking transactions and mechanisms (Purwogandi, 2023a).

In addition to the Financial Services Authority (OJK), Bank Indonesia (BI) continues to play a crucial role in providing data, recommendations, and audit reports that can serve as initial evidence for investigations into banking crimes (Damayanti et al., 2024). Although its supervisory authority has been transferred, BI's role remains relevant, particularly with regard to payment systems, banks' financial standing, compliance with minimum reserve requirements, and the implementation of monetary policies that can detect potential violations early (Hapsari et al., 2025). Therefore, BI's role is preventative through an early warning system mechanism. In the theory of legal effectiveness, BI's contribution can be linked to factors of infrastructure and organizations supporting law enforcement, as stated by Soerjono Soekanto, that the effectiveness of a law requires adequate institutional and infrastructure support (Soekanto, 2011b).

Furthermore, the Indonesian National Police and the Prosecutor's Office continue to play a role in enforcing banking crimes, particularly in cases that overlap with general crimes such as fraud, embezzlement, corruption, or money laundering. Many banking cases are also transferred to the police when the investigation requires special authorities that only the National Police investigators possess. In the next stage, the case files will be forwarded to the Prosecutor's Office for the prosecution process. Yahya Harahap emphasized that the Criminal Procedure Code remains the general guideline for the criminal justice process, but in banking cases, the principle of *lex specialis derogat legi generali* must be observed, so that the specific provisions in the Banking Law remain the primary reference (Harahap, 2002b). This demonstrates the integration of general and specific laws in addressing banking crimes.

During the court hearings, law enforcement of banking crimes faces evidentiary challenges due to limitations related to bank secrecy. Article 47 of the Banking Law requires specific procedures for disclosing customer data, including formal approval or requests from competent authorities. According to Sri Mamudji, bank secrecy often presents a legal obstacle that makes the process of proving inefficient. Therefore, the mechanism for exceptions to bank secrecy needs to be strengthened to support the effectiveness of the judicial process without compromising the protection of customer rights. Empirically, judges also require the presence of banking experts or auditors to explain the structure of complex transactions, so that the adjudication process becomes more technical than in general criminal cases.

In the context of legal effectiveness, this evidentiary barrier reflects the gap between ideal legal norms that provide instruments for prosecuting banking violations and their implementation on the ground, which is influenced by technical, administrative, and inter-institutional coordination factors (Loin et al., 2025). Soerjono Soekanto emphasized that the law cannot be effective if one of the law enforcement factors, such as the apparatus, infrastructure, or the community's legal culture, does not support it. It aligns with Gustav Radbruch's theory that law enforcement will be disrupted if there is a conflict between legal certainty, expediency, and justice (Chroust, 1944). In the context of banking crimes, such conflicts can arise when the protection of bank secrecy clashes with the need to uncover the crime (Novarianti et al., 2025).

Therefore, although the regulations and law enforcement mechanisms in the Banking Law are normatively quite comprehensive, their effectiveness depends heavily on inter-agency coordination, the competence of investigators who understand financial transactions, the availability of digital forensic tools, and a legal culture that supports transparency and integrity in the banking sector (Purwogandi, 2023b). The fragmentation of authority between the Financial Services Authority (OJK), Bank Indonesia (BI), the Police, and the Prosecutor's Office also requires more robust coordination to ensure consistent and responsive law enforcement against banking crimes.

3.2 To what extent has the Banking Act been effective in supporting law enforcement against banking crimes

Normatively, Law Number 10 of 1998 concerning Banking provides a fairly comprehensive substantive legal framework for regulating banking crimes in Indonesia. The regulations concerning the obligations of banks, prudential principles, licensing, transparency, and criminal sanctions indicate that the legislation has been designed to prevent abuses of authority and maintain the stability of the financial system (Willyams & Yusuf, 2024). However, the effectiveness of these regulations must be tested within the framework of legal effectiveness theory. According to Soerjono Soekanto, legal effectiveness is determined by five main factors: legal substance, law enforcement, facilities and infrastructure, society, and legal culture. An evaluation of these five factors indicates that the Banking Law has not been optimally implemented in supporting law enforcement against banking crimes.

From a substantive legal perspective, the Banking Law regulates offenses related to banking activities, such as violations of bank secrecy, the granting of fictitious loans, manipulation of reports, and abuse of authority by bank management. However, several articles remain ambiguous, particularly regarding the definition of "unlawful" and the standard of proof for violations of prudential principles. From the perspective of legal effectiveness, unclear legal substance is a structural obstacle because it causes uncertainty in law enforcement (Fuady, 2001; Rahmah & Harahap, 2025). Furthermore, banking law is technical in nature, so its formulation often requires expert interpretation, which often makes it difficult for investigators and prosecutors to establish criminal elements. This ambiguity of norms is also relevant to Radbruch's theory, which states that unclear legal norms can disrupt the function of legal certainty, one of the purposes of law (Herlina, 2024).

From a law enforcement perspective, the effectiveness of the Banking Law is highly dependent on the technical capacity of law enforcement officers to understand financial mechanisms, banking audits, and electronic transactions (Nur, 2023). In many cases, police investigators still rely on information from Bank Indonesia, the Financial Services Authority (OJK), or external auditors, as banking crimes require a high level of technical expertise. Law enforcement's inability to understand these technical details slows down and often makes investigations ineffective (Iskandar, 2024). It aligns with Soerjono Soekanto's view that legal effectiveness is determined not only by regulations but also by the quality of law enforcement. In some cases, law enforcement has been found to hesitate to use their authority for fear of violating financial sector regulations, resulting in suboptimal law enforcement.

The next factor is infrastructure, which in the context of banking crimes is crucial for the success of law enforcement. Handling banking crimes requires digital forensic tools, transaction tracing systems, transaction databases, digital audit capabilities, and rapid access to banking documents. However, not all regional police departments have these facilities. Many cases must rely on digital forensic laboratories at the central level, which leads to protracted law enforcement processes. In Lawrence Friedman's theory of legal effectiveness, facilities and infrastructure are part of the legal structure, namely, institutional elements that influence the law's ability to operate effectively. This lack of facilities is one of the causes of ineffective law enforcement against banking crimes at the regional level.

From a societal perspective, Indonesia's financial literacy rate is still relatively low, so not everyone can understand and detect potential banking violations. The low level of public reporting often means that banking crimes go undetected early (Rochendi et al., 2022). However, according to Soerjono Soekanto, the public is a crucial factor in legal effectiveness, where legal awareness and public participation determine the success of regulations. Furthermore, the public often perceives banks as strong and professional institutions, making it difficult to suspect internal violations. This lack of public oversight contributes to the reduced early detection of banking crimes.

The final factor is legal culture, namely the attitudes, values, and perceptions of the public and authorities towards the law. In the banking context, a still-formalistic bureaucratic culture, a tendency to be reluctant to investigate large banks due to perceived economic impacts, and low integrity among officials in some regions make the Banking Law ineffective in its implementation (Simandjuntak, 2013). Friedman refers to legal culture as a social attitude element that determines whether the law can function as intended. If the legal culture is not supportive, even well-established norms cannot be effectively implemented.

The Banking Law and its derivative regulations have normatively provided a fairly comprehensive legal basis for the protection of customer funds (Wonok, 2013). Provisions regarding the principle of prudence, bank secrecy, and legal accountability mechanisms have essentially been formulated to ensure transaction security and provide legal certainty in the relationship between banks and customers. However, although these regulations are quite adequate, their implementation has not shown optimal results in the context of customer protection in the event of lost funds from accounts.

From the perspective of legal effectiveness, as Soerjono Soekanto argues, the success of legal norms is not solely determined by the quality of written regulations but also depends on factors such as law enforcement, supporting facilities, the community, and legal culture. In practice, obstacles remain in the quality of law enforcement and the readiness of internal banking systems, particularly regarding electronic transaction monitoring and digital security. Furthermore, the public's weak legal awareness and limited digital financial literacy tend to weaken customers' bargaining power in dispute resolution processes.

Although the Banking Law provides a relatively comprehensive normative framework governing types of banking crimes, the authority of law enforcement agencies, and enforcement mechanisms, the effectiveness of its implementation in the field remains heavily influenced by the legal system's ability to translate these norms into concrete actions. Comprehensive regulations do not necessarily guarantee effectiveness if they are not accompanied by an institutional structure that is responsive and adaptive to the dynamics of modern financial crime. With the development of banking technology innovations, digital transactions, and new financial instruments, the complexity of banking crimes is increasing, demanding equal law enforcement capacity, both technically and institutionally.

One key factor determining the effectiveness of law enforcement is coordination between institutions authorized to supervise and investigate banking crimes. The fragmentation of authority between the Financial Services Authority (OJK), Bank Indonesia, the Police, and the Prosecutor's Office often creates obstacles to harmonization of actions, overlapping authority, and delays in case handling. The lack of synchronized information between these institutions can create legal gaps that are exploited by perpetrators of banking crimes. Therefore, a more robust coordination system is needed through information system integration, uniform work guidelines, and a fixed coordination model that can minimize sectoral barriers between institutions.

Furthermore, investigators' competence in understanding banking transactions, financial instruments, and the modus operandi of technology-based crimes is a crucial prerequisite for effective law enforcement. Investigators who lack adequate technical skills will struggle to trace transaction flows, read financial reports, or identify money laundering techniques often associated with banking crimes. Therefore, capacity building through training in forensic accounting, digital forensics, and financial crime investigation is crucial. At the same time, the availability of technological tools such as transaction monitoring systems, digital data analysis tools, and adequate financial forensic laboratories will significantly support investigators' ability to scientifically prove crimes.

Furthermore, the effectiveness of law enforcement rests not only on the substance and structure of the law, but also on the legal culture that develops within the banking environment and society (Wonok, 2013). Without a legal culture that emphasizes trans-

parency, integrity, and professional ethics, violations in the banking sector will continue to occur and can become systemic. A culture of compliance within banking institutions must be strengthened through effective internal control mechanisms, strict oversight by authorities, and the implementation of good corporate governance principles. Normatively comprehensive regulations and law enforcement mechanisms will only be effective if supported by sound inter-institutional coordination, adequate investigator competence, comprehensive technical facilities, and a legal culture oriented toward accountability and integrity within the banking sector.

Therefore, the effectiveness of the Banking Law and related regulations can only be achieved if all regulatory and institutional components are simultaneously strengthened. Harmonization between legal norms and the reality of their implementation can only be achieved through improving the quality of law enforcement, optimizing the supervisory function by financial authorities, increasing the transparency of dispute resolution mechanisms, and providing legal education to users of digital banking services. These efforts are necessary to ensure that consumer protection for financial services is not merely declarative in written law but is truly realized in fair, accountable, and trust-driven banking practices.

4. Conclusions

The regulation of banking crimes in Indonesia has been formulated comprehensively through the Banking Law, covering the types of violations, criminal sanctions, and the division of authority between institutions such as the Financial Services Authority (OJK), Bank Indonesia, the Police, the Prosecutor's Office, and the Courts. This legal framework demonstrates the state's commitment to maintaining banking system stability, protecting customers, and preventing crimes that have the potential to create systemic risk in the financial services sector. However, the effectiveness of law enforcement remains suboptimal. Key obstacles include weak coordination between institutions, limited data access due to the principle of bank secrecy, the complexity of proving modern financial transactions, and the limited technical capacity of law enforcement officials. This situation highlights the imbalance between the relatively adequate legal substance and the legal structure and culture, as explained in Soerjono Soekanto's theory of legal effectiveness and Lawrence M. Friedman's legal system framework. Therefore, increasing the effectiveness of law enforcement for banking crimes requires strengthening synergy between institutions through technology-based data integration, adaptive regulatory updates to digital financial crimes, and increasing the investigative capacity of officials, particularly in the areas of digital forensics and financial transaction analysis. Furthermore, strengthening a culture of compliance in the banking sector and increasing public financial legal literacy are important supporting factors. With these steps, it is hoped that the banking legal system will not only be strong normatively, but also effective in implementation and responsive to the increasingly complex dynamics of banking crimes.

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