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Legal Harmonization in the Enforcement of Corruption in the Banking Sector: Dualism Between Anti-Corruption Law and Banking Law

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Corruption crime,
Embezzlement of funds,
Harmonization of regulations,
Legal certainty.

Abstract. Applying the law to corruption in the banking sector has its complexities due to legal dualism between the Anti-Corruption Law and the Banking Law. In Law No. 31 of 1999, which was amended into Law No. 20 of 2001 on the Eradication of Corruption, Article 14 specifically stated that sectoral criminal acts can only be classified as corruption if they are regulated in the relevant sectoral law. However, in practice many banking cases, especially bad debts and embezzlement of funds, are processed as corruption crimes by referring to Article 2 paragraph 1 and Article 3 of the Anti-Corruption Law. This research used a normative approach with statute approach and conceptual approach methods. The analysis was conducted on the Anti-Corruption Law and Banking Law, as well as their application in various court decisions. The results show that legal uncertainty arises due to differences in interpretation between sectoral laws and the Anti- Corruption Law. In some cases, the Banking Law which has specific provisions should be applied. Therefore, this study recommends the need for harmonization between the two laws to increase legal certainty and the effectiveness of law enforcement in corruption cases in the banking sector.

1. INTRODUCTION

The reform movement demands good governance and for good governance there must be good government officials, namely government officials who are clean and free from Corruption, Collusion, and Nepotism (CCN)[1], In the practice of law enforcement of corruption in the banking sector. The two legal principles mentioned above, in addition to deviating from the implementation, are also contrary to the corruption law an sich. Based on Article 14 of Law No. 31/1999 as amended in Law No. 20/2001 concerning the Eradication of Corruption (hereinafter abbreviated as "Corruption Law") emphasizes: " Every person who violates the provisions of the Law which expressly states that the violation of the provisions of the Law is a criminal offense of corruption shall apply the provisions stipulated in this Law."

Article 14 of the Anti-Corruption Law has essentially tightened the sectoral criminal offenses in addition to those regulated in Law No. 31/1999 as amended by Law No. 20/2001. Sectoral corruption offenses must be clearly defined, and only then can corruption offenses be charged in accordance with the divisions of corruption offenses in the Anti-Corruption Law. In Law No. 7/1992 as amended by Law No. 10/1998 on Banking (hereinafter abbreviated as "Banking Law"), specifically for Chapter VII "Criminal Offenses and Administrative Sanctions" starting from Article 46 to Article 53, none of the provisions that mention "banking crimes" are classified as corruption crimes.

In actual law enforcement practice, there have been many criminal events that are relevant as banking crimes but investigated, charged, prosecuted, and decided as corruption crimes, especially the crime of corruption "harming state finances" as referred to Article 2 paragraph 1 and Article 3 of the Anti-Corruption Law.

Two cases that are always dominant are considered as corruption of state losses, namely the occurrence of non-performing loans caused by the non-application of the principle of prudence. In addition, bank employees who embezzle funds, both funds from customers and bank funds in their large treasury, by transferring funds to several unused customer accounts, also in practice apply the criminal threats referred to in Article 2 paragraph 1 and Article 3 of the Anti-Corruption Law (Vide: Decision Number 35/Pid.Sus-TPK/2022/PN. Kdi).

Whereas in both events, there are more specific provisions (systematic lex specialist) that can be applied as stipulated in the Banking Law. Namely through Article 49 paragraph 1 and paragraph 2.

Article 49 paragraph 1 of the Banking Law:

Members of the board of commissioners, directors or bank employees who intentionally:

a) Make or cause false entries in books or reports, as well as in documents or reports on business activities, transaction reports or accounts of a bank.
b) Omit or fail to include or causing not to be recorded in the books or in reports, as well as in documents or reports on business activities, transaction reports or accounts of a bank.
c) Change, obscure, hide, delete, or eliminate the existence of a record in the books or in reports, as well as in documents or reports on business activities, transaction reports or accounts of a bank, or deliberately changing, obscuring, eliminating, hiding or destroying the bookkeeping records,
d) Shall be punished with a maximum imprisonment of 15 (fifteen) years and a maximum fine of Rp. 10,000,000,000,- (ten billion rupiah).

Article 49 paragraph 2 of the Banking Law:

Members of the board of commissioners, directors or bank employees who intentionally:

a) Request or receive, allow or agree to receive any reward, commission, additional money, services, money or valuables,

[1] Erawan, D. I. I., Ilmar, A., & Mirzana, H. A. (2024). Pemberhentian Tidak Dengan Hormat Aparatur Sipil Negara Dalam Kasus Tindak Pidana Korupsi. *Gorontalo Law Review*, *7*(1), Hlm 158.

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for his personal benefit or for the benefit of his family, in the context of obtaining or attempting to obtain for others in obtaining advances, bank guarantees, or credit facilities from banks, or in the context of purchasing or discounting by banks of bills of exchange, promissory notes, checks, and trade papers or other evidence of obligations, or in order to give approval for others to carry out withdrawals in excess of their credit limits with banks.

b) Not to take the necessary steps to ensure the bank's compliance with the provisions of this Act and other laws and regulations applicable to the bank.
c) Shall be punished with a maximum imprisonment of 6 (six) years and a maximum fine of Rp. 6,000,000,000,- (six billion rupiah).

Against banks that experience bad credit, with the non-application of the prudential principle in granting credit accompanied by collateral. In the form of the object of collateral in fact cannot cover the amount of customer debt from the bank, Article 49 paragraph 2 letter b of the Banking Law can be applied: "Failed to take the necessary steps to ensure the bank's compliance with the provisions of this Law and the provisions of other laws and regulations applicable to banks." Similarly, bank employees who embezzle customer funds and the bank's own funds, using the method of falsifying banking documents, can apply the criminal sanctions referred to in Article 49 paragraph 1 letter a of the Banking Law: "Making or causing false records in the books or in reports, as well as in documents or reports on business activities, transaction reports or accounts of a bank."

The application of the principle of legality in material criminal law, especially in the principle stating that criminal law must be interpreted strictly. In practice, banking criminal law enforcement does not run consistently. There is dualism among law enforcers, especially judges in the Corruption Court. According to Binsar M. Gultom, the criminalization or imposition of sanctions or punishment to the defendant depends on the judge. The judge is not bound by the severity of the prosecutor's charges, the judge may sentence the defendant more severely or less severely than the prosecutor's recommendation based on consideration of the aggravating and mitigating circumstances of the defendant's actions[2]. There are awesome prosecutors apply provisions of banking crimes for bad credit that violate the principle of prudence so that the defendant is then acquitted of all charges (Vide: Decision No.38/Pid.sus- TPK/2015/PN Amb). There are also prosecutors who continue to apply the crime of corruption of state losses, not only against the banker actors, but also the customers are expanded criminal liability as co-perpetrators who cause state losses, so that the defendant is proven to be a perpetrator of corruption (Decision Number 3/Pid.sus-TPK/2015/PN. Bdg Juncto Decision Number 16/Tipikor/2015/PT Bdg).

The definition of against the law in Article 2 paragraph 1 of the Anti- Corruption Law as interpreted only in the nature of formal against the law based on the Constitutional Court Decision (MK) Number 003/PUU- IV/2006, the occurrence of bad credit for violations of the principle of prudence is always interpreted systematically based on Article 2 of the Banking Law which states: "Indonesian banking in conducting its business is based on economic democracy by using the principle of prudence."

This prudential principle, when viewed in scope, is only for banking. It is never intended to expand the liability for corruption of state finances. This can be seen from the derivation of the prudential principle in Formula 4P and Formula 5C. Formula 4P can be described as follows[3]:

a) Personality: In this case the bank seeks complete data on the personality of the credit applicant, including his/her life history, experience in business, association in the community, etc. This is necessary to determine the approval of the credit submitted by the credit applicant.
b) Purpose: In addition to the personality of the credit applicant, the bank must also seek data on the purpose or use of the credit according to the line of business of the credit concerned.
c) Prospect: In this case the bank must conduct a careful and in-depth analysis of the form of business to be carried out by the credit applicant. For example, whether the business run by the credit applicant has prospects in the future in terms of economic aspects and community needs.
d) Payment: In lending, the bank must know clearly about the ability of the credit applicant to repay the credit debt in the specified amount and time period.

Meanwhile, the 5C formula can be described as follows:

a) Character: Prospective debtor customers have good character, morals, and personal traits. This character assessment is carried out to determine the level of honesty, integrity, and willingness of prospective debtor customers to fulfill their obligations and run their business. This information can be obtained by the bank through life history, business history, and information from similar businesses.
b) Capacity: The ability of prospective debtor customers to manage their business activities and be able to see future prospects, so that their business will be able to run well and provide profits, which ensures that they are able to pay off their credit debts in the amount and time period that has been determined. Measurement of this ability can be done with various approaches, for example the material approach, which is to assess the state of the balance sheet, income statement, and cash flow of the business from the last few years. Through this approach, of course, it can also be known about the level of solvency, liquidity, and profitability of the business and the level of risk. In general, to assess a person's capacity is based on his experience in the business world which is related to the education of prospective debtor customers, as well as the company's ability and excellence in competing with other competitors.
c) Capital: In this case the bank must first conduct research into the capital owned by the credit applicant. This investigation is not solely based on the size of the capital, but is more focused on how the capital distribution is placed by the entrepreneur, so that all existing sources can run effectively.
d) Collateral: Collateral for credit approval which is a means of safety (back up) for risks that may occur due to the default of debtor customers in the future, for example bad credit. This guarantee is expected to be able to pay off the remaining credit debt, both principal and interest.
e) Condition of economy: In granting credit by banks, general economic conditions and the condition of the credit applicant's business sector need to receive attention from the bank to minimize the risks that may occur due to these economic

[2] Rivanie, S. S., Muchtar, S., Muin, A. M., Prasetya, A. D., & Rizky, A. (2022). Perkembangan Teori-teori Tujuan Pemidanaan. *Halu Oleo Law Review*, *6*(2), Hlm 178.
[3] Hermansyah, 2005, *Hukum Perbankan Nasional Indonesia*, Jakarta: Kencana, Hlm. 59 – 62.

conditions.

Based on the prudential principles described above, it is the collateral principle that is most often relied upon by the panel of judges of the Corruption Court for the fulfillment of formal illegality for directors, administrators, supervisors, or other bank employees when involved in making credit disbursements. It turns out that the amount of money that has been disbursed to debtor customers is not proportional to the object of collateral provided to the bank.

In addition to the fulfillment of the formal unlawful element in Article 2 paragraph 1 of the Anti-Corruption Law, it has been constructed in banking sector corruption by several Corruption Court judges. In practice, the fulfillment of the element of state financial losses is also expanded through the definition of state finances as contained in Article 2 of Law No. 17/2003 on State Finance (State Finance Law), along with the explanation in the sixth paragraph of the Anti-Corruption Law (Law No. 31/1999). Article 2 of Law No. 17/2003 on State Finance states as follows:

"State Finance as referred to in Article 1 number 1, includes:

a) The right of the state to levy taxes, issue and circulate money, and make loans.
b) The state's obligation to perform general government services and pay third-party bills.
c) State Revenue.
d) State Expenditure.
e) Regional Revenue.
f) Regional Expenditure.
g) State/regional assets managed by itself or by other parties in the form of money, securities, receivables, goods, and other rights that can be valued in money, including assets separated in state companies/regional companies;
h) Wealth of other parties controlled by the government in the context of carrying out government duties and/or public interests;
i) Wealth of other parties acquired using facilities provided by the government."

In line with those items, based on the explanation of the sixth paragraph of Law No. 31/1999 (Anti-Corruption Law), it also describes the definition of state finances as follows:

"The state finances referred to are all state assets in any form, separated or non-separated, including all parts of state assets and all rights and obligations arising from:

a) Being in the possession, management, and accountability of officials of State institutions, both at the central and regional levels.
b) Being under the control, management, and accountability of State- Owned Enterprises/Region-Owned Enterprises, foundations, legal entities, and companies that include state capital, or companies that include third-party capital based on agreements with the State."

Furthermore, based on Article 2 letter g of the State Finance Law and the explanation in the fourth paragraph of Law No. 31/1999 mentioned above from several banks in the legal form of State-Owned Enterprise (SOE) and Regionally-Owned Enterprise (ROE), there is at last a state/ regional capital participation in the bank. Thus, the reduction of money in the bank or the profit that should have been obtained by the state is interpreted as a situation that causes state financial losses by several law enforcers of corruption.

Questions that have certainly arisen in the practice of law enforcement of corruption in the banking sector are whether the explanation in Law No. 31/1999 can override Article 14 of the Anti-Corruption Law, even though the provisions are still in the same law, whether the wording of Article 14 of the Anti-Corruption Law not firm enough, or is it still biased, so that its meaning can be overridden by its own explanation, and whether an explanation of the law not allowed to form new legal norms, contrary to the body of the law.

Article 14 of the Anti-Corruption Law actually clearly limits the prosecution of sectoral corruption cases, applicable only with the affirmation of the sectoral law in question. Article 14 of the Anti-Corruption Law is a clear provision, so it does not need to be interpreted anymore (Interpretatio cessat in claris - interpretation est perversio).

If the lawmakers intend to criminalize the depletion of finances in banks that are under the umbrella of SOE/ROE, it should have been done since the first enactment of the Banking Law in 1992. It relies on the precedent of the Natalegawa case, President Director of Bank Bumi Daya (BBD) with the Supreme Court Decision, December 15, 1983. In that case, Natalegawa as the President Director of BBD gave priority credit in the real estate sector, even though he knew that there was a Bank Indonesia Circular Letter prohibiting the provision of such credit. What Natalegawa did, according to the Bank Indonesia Circular at the time, was only subject to administrative sanctions, but the Supreme Court in its decision explicitly stated that the defendant violated the principle of propriety in society so that he was convicted of corruption (Decision Number: 275 K/Pid/1983 on December 29, 1983).[4]

The Natalegawa case concerned a bad credit case in which the Supreme Court cassation judges, in addition to expanding the meaning of unlawfulness in the sense of against material law, functioned positively. They also expanded the meaning of "state financial loss" to include state assets channeled or included in the banking sector. Therefore, if there is bad credit involving employees at the bank, criminal penalties can be applied based on the corruption crime of state financial losses.

This case has always been relied upon and strengthened by several panels of Corruption Court judges when trying to prove that the defendant has caused "bad credit in the banking sector." Both with regard to the meaning of the material law against positive functioning (which has been canceled by the Constitutional Court) and with regard to the meaning of state financial losses for the reduction of bank assets under the auspices of SOE or ROE. This case occurred in 1983, but why then did the framers of the Banking Law not adopt it through the establishment of a clause on what criminal acts in banking can be transplanted into corruption.

Likewise, the Supreme Court Decision Number 2477 K/Pid/1988 dated March 20, 1993, which basically states "cases of bad credit in banks, some or all of whose capital comes from the state, are criminal acts of corruption". Thus, there have been many precedents related to corruption in the banking sector that preceded the formation of the Banking Law, but the legislators have not yet classified criminal acts in the banking sector which can then be processed using the articles of corruption.

[4] Ifrani, "Grey Area Antara Tindak Pidana Korupsi Dengan Tindak Pidana Perbankan," *Jurnal Konstitusi*, Vol. 8, (6), Desember, 2011, Hal. 993-1018.

Article 14 of the Anti-Corruption Law has actually demarcated the application of sectoral corruption crimes. Even some criminal law experts, (Romli Atmasasmita[5], Indriyanto Seno Adji[6], Abdul Latief[7]), do not agree with the application of the Anti-Corruption Law to prosecute banking actors who have caused non-performing loans. Their opinion is simple, apart from the firmness of Article 14 of the Anti-Corruption Law which does not justify the expansion of Anti-Corruption as long as the Sectoral Law does not mention it. In addition, the money, capital, property that is included by the state/ region to the company (the bank) is no longer in the field of public law, but is already in the realm of private (civil). Thus, such is no longer subject to the State Finance Law, but is subject to the SOE Law, or subject to the Limited Liability Company Law.Through this research, we do not necessarily agree with the opinions of the three criminal law experts. The occurrence of bad credit in the banking world must be sorted out in cases to be able to expand in the context of corruption crimes that harm state finances. At the very least, it must be seen that there is a close working relationship between bank employees and debtor customers to actually cause bank losses which have implications for the reduction of state money. Obviously, this will be mapped with the application of the doctrine of participation in criminal law, especially participation in the sense of medeplegen (participating) by correlating the objectives of law (justice, benefit, and certainty) based on existing legal cases.

Meanwhile, for the embezzlement of customer funds or funds from the bank itself by bank employees, actually it can be transplanted directly as an act of corruption that harms state finances without the need to look at the cases. This is because employees who work in government banks have adequate knowledge of the finances of the banks they manage as part of state finances. Hence, all his desires to embezzle banking assets can be modified as a form of error to cause state financial losses.

In the future, to criminalize the events of bad credit and embezzlement of banking funds, surely the Banking Law must undergo changes by way of legislative revision, so that the practice of law enforcement of corruption in the banking sector, which has so far resulted in many court decisions that are contrary to Article 14 of Law No. 31/1999. Harmonization can be created both between legislation with each other, as well as between legislation related to the practice of law enforcement of corruption in the banking sector.

2. RESEARCH METHOD

The type of research is normative law research. The approach used is *conceptual* approach, *statutory* approach[8]. The legal materials analyzed in this research are Law Number 31 of 1999 as amended in Law Number 20 of 2001 concerning Corruption, against Law Number 7 of 1992 as amended in Law Number 10 of 1998 concerning Banking, then linked to its application in various Corruption Court Decisions in the Banking Sector. There is a legal vacuum in the Banking Law (banking cases cannot be qualified as corruption crimes).

3. RESULTS AND DISCUSSION

The nature of criminalization of corruption in Indonesia reflects serious efforts to eradicate corruption through strict and fair law enforcement. With a clear punishment system and specific legal provisions, it is expected that it can prevent corrupt practices and provide justice for the community and the state. Corruption is based on mistakes made by the management of the corporation. Fault occurs when a criminal offense is committed by persons either based on employment or other relationships, acting within the scope of the corporation, either individually or jointly[9]. Criminalization serves not only as punishment for perpetrators but also as a preventive measure to maintain the integrity of the government system and state finances. The investigation of corruption crimes under Indonesia's Anti-Corruption Law is a complex process influenced by various legal, political and cultural factors. The Anti-Corruption Law, primarily governed by Law No. 31 of 1999 and its amendment in Law No. 20 of 2001, outlines the legal framework to address corruption, emphasizing the need to prove financial loss to the state to establish guilt[10].

The crime of corruption has various types. By the Corruption Eradication Commission (CEC)[11], corruption is formulated into 30 (thirty) forms/types. The thirty forms can then be simplified into seven major groups, namely: 1) state financial losses, 2) bribery, 3) embezzlement in office, 4) extortion, 5) fraudulent acts, 6) conflict of interest in procurement, 7) and gratuities.

Criminal law is made and grows in the survival of society, so it is important to be obeyed in order to create peace and order[12]. The legal system in Indonesia treats corruption as a special crime, distinct from general criminal law, and uses a lex specialist approach to speed up the legal process[13]. To improve the effectiveness of corruption investigations, there are calls for a multidisciplinary approach that integrates prevention measures and emphasizes asset seizure, which is currently underdeveloped in the Indonesian legal system[14].

The limitation of corruption offenses in the Anti-Corruption Law, as outlined in the Indonesian legal framework, is primarily regulated by Law No. 31/1999, which was later amended by Law No. 20/2001. These laws aim to eradicate corruption by defining specific offenses and stipulating penalties, including imprisonment and fines, as well as additional sanctions such as the return of

[5] https://mediaindonesia.com/opini/490667/kekeliruan-dalam-menyikapi-uu-tipikor
[6] Indriyanto Seno Adji, *Korupsi dan Pembalikan Beban Pembuktian*, Jakarta: Penerbit Kantor Pengacara dan Konsultan Hukum "Prof. Oemar Seno Adji, SH & Rekan, 2006), Hlm. 31.
[7] Abdul latief, 2014, *Hukum Administrasi dalam Praktik Tindak Pidana Korupsi*, Jakarta: Kencana, Hlm. 242.
[8] Peter Mahmud Marzuki, 2010 *Penelitian Hukum,* Kencana Prenada Media Grup : Jakarta. Hlm 35.
[9] Syahrir, K. A., Karim, M. S., & Mirzana, H. A. (2022). Pembaharuan Metode Pembuktian Subjek Hukum Korporasi sebagai Pelaku Tindak Pidana Korupsi. *Tumou Tou Law Review*, Hlm 38. Retrieved from https://ejournal.unsrat.ac.id/v3/index.php/tumoutou/article/view/43633
[10] AMRULLAH, M. D. F., Kasmarani, Y., & Mustika, D. (2024). Analisis Sifat Melawan Hukum Formil Terhadap Pelaku Tindak Pidana Korupsi Berdasarkan Pasal 2 Dan Pasal 3 Undang-undang Nomor 20 Tahun 2001. *Ta'zir: Jurnal Hukum Pidana*, *8*(1), 57-68.
[11] Anonim, "Memahami untuk Membasmi: Buku Panduan untuk Memahami Tindak Pidana Korupsi", Jakarta: Komisi Pemberantasan Korupsi (KPK), 2007, Hal. 15-17.
[12] Sirande, E., Mirzana, H. A., & Muin, A. M. (2021). Mewujudkan Penegakan Hukum Melalui Restorative Justice. *Jurnal Hukum Dan Kenotariatan*, *5*(4), 570-589. Hlm 572.
[13] Azizy, A. N., Parmono, B., & Muhibbin, M. (2023). Status Of Corruption Acts Under The Indonesian Criminal Law System. *International Journal of Law, Environment, and Natural Resources*, *3*(1), 67-74.
[14] Soedirjo, A. T., Santiago, F., & Jaya, S. (2023). Reform of Corruption Criminal Law: a Study of Corruptor Asset Application Law in Indonesia. *Journal of Social Research*, *2*(9), 2942-2954.

financial losses to the state[15]. The Anti-Corruption Law is further supported by Supreme Court Regulation (SCR) Number 1 of 2020, which provides guidelines for criminalizing acts under Articles 2 and 3, focusing on state losses and the responsibility of individuals involved in corruption[16].

The Anti-Corruption Law uses 2 (two) nomenclatures, namely "state financial losses" and "state losses". The phrase State financial loss is found in Article 4[17], Article 32 paragraph (1),[18] Article 33[19], and Article 34.[20] While the explanation section of the Anti-Corruption Law uses the phrase "State loss". Efforts to improve the legal framework include legal reform proposals to increase accountability and restitution mechanisms, such as asset freezes and bans on holding public office, to strengthen the prevention and recovery of state losses.[21]

In Law No. 7 of 1992 concerning banking, which has been amended by Law No. 10 of 1998, variants of the definition of bank can also be found. It is emphasized that a bank is a business entity that collects funds from the public in the form of deposits and distributes them to the public in the form of credit or other forms in order to improve the lives of many people. It is also stated that banking is everything that concerns banks, including institutions and business activities, as well as ways and processes in carrying out their business activities. Commercial banks are banks that carry out business activities conventionally or based on sharia principles which in their activities provide services in payment traffic.

Provisions regarding banking crimes are regulated in the Banking Law and Bank Indonesia Law. Particularly for banking crimes regulated in the Banking Law based on Law No. 10/1998, most of the criminal offenses have experienced many changes and additional provisions compared to the previous law, namely Law No. 7/1992.

Besides, the provisions of banking crimes in the Bank Indonesia Law has gone through changes from Law No. 23/1999 to Law No. 3/2004. Furthermore, there was also an amendment through Law No. 6/2009 concerning the Stipulation of Government Regulation in Lieu of Law (Perppu) No. 2/2008 concerning the Second Amendment to Law No. 23/1999 concerning Bank Indonesia into law; Perppu No. 1/2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability. Similarly, it is in line with harmonization of Bank Indonesia Law through Law No.4/2023 on Financial Sector Development and Strengthening. In the Banking Law, the types of banking crimes can be classified into three clusters, including: criminal offenses in the field of bank licensing/legality, criminal offenses in the field of regulating bank secrecy, and criminal offenses in the field of credit and chiral traffic.

Law No. 10/1999 has limited the legal form of banking entities. Based on Article 21 of the Banking Law, it has stipulated that the legal form of a bank for Commercial Banks which can be a Limited Liability Company, Cooperative, or regional company. Meanwhile, the legal form of a People's Bank can be a regional company, cooperative, limited liability company, or other forms stipulated by government regulation.

The fundamental difference between Commercial Banks and Rural Banks is regulated in Article 1 number 3 and number 4 of the Banking Law. Commercial Banks are banks that carry out business activities conventionally and or based on Sharia Principles, which in their activities provide services in payment traffic. In contrast, Rural Banks are banks that carry out business activities conventionally or based on Sharia Principles, which in their activities do not provide services in payment traffic.

There are two fundamental issues or reasons that banking cases can be processed by applying the Anti-Corruption Law, especially with Article 2 paragraph 1 and Article 3 of the Anti-Corruption Law. First, the meaning of state finances is not only money that is being controlled by an official or state administrator or civil servant. However, it also includes the benefits that will be obtained by the state are considered as part of state finances. This is based on Article 1 number 1 of Law No. 17/2003 on State Finance which states as follows:

"State finances are all state rights and obligations that can be valued in money, as well as everything in the form of money and in the form of goods that can be used as state property in connection with the implementation of these rights and obligations."

Hence, the sentence in the provision "can be used as state property in connection with the implementation of rights and obligations" is in the meaning that there are benefits that should be obtained by the state, but are not obtained as a result of unlawful acts due to intentional or negligent. Second, at the same time the State Finance Law and Anti-Corruption Law have also expanded the participation of capital by the region or state in a company either in the form of separated assets is also included as part of state finances,

Article 2 letter g of the State Finance Law: "State Finance as referred to in Article 1 number 1, includes:

"State/regional assets managed by itself or by other parties in the form of money, securities, receivables, goods, and other rights that can be valued in money, including assets separated in state companies/regional companies".

The restrictions on corruption offenses in the Banking Law are complex and diverse, reflecting the legal and practical challenges in law enforcement. Enforcement efforts are influenced by factors that affect law.[22] The Banking Law, as amended by

[15] Budianto, A., & Pattinasarany, E. (2023, December). Enforcement of Corruption Criminal Laws (TIPIKOR) in the Perspective of Law Number 31 of 1999 Concerning Eradication of Corruption Crimes. In *Proceedings of the 3rd Multidisciplinary International Conference, MIC 2023, 28 October 2023, Jakarta, Indonesia*.

[16] Manihuruk, T. N. S., Daeng, Y., & Johar, O. A. (2022). Penerapan Peraturan Mahkamah Agung Nomor 1 Tahun 2020 Tentang Pedoman Pemidanaan Pasal 2 Dan Pasal 3 Undang-Undang Pemberantasan Tindak Pidana Korupsi Di Pengadilan Negeri Pekanbaru. *Jurnal Ilmiah Penegakan Hukum*, *9*(2), 162-169.

[17] Pengembalian **kerugian keuangan negara** atau perekonomian negara tidak menghapuskan dipidananya pelaku tindak pidana sebagaimana dimaksud dalam Pasal 2 dan Pasal 3.

[18] Dalam hal penyidik menemukan dan berpendapat bahwa satu atau lebih unsur tindak pidana korupsi tidak terdapat cukup bukti, sedangkan secara nyata telah ada **kerugian keuangan negara**, maka penyidik segera menyerahkan berkas perkara hasil penyidikan tersebut kepada Jaksa Pengacara Negara untuk dilakukan gugatan perdata atau diserahkan kepada instansi yang dirugikan untuk mengajukan gugatan.

[19] Dalam hak tersangka meninggal dunia pada saat dilakukan penyidikan, sedangkan secara nyata telah ada **kerugian keuangan negara**, maka penyidik segera menyerahkan berkas perkara hasil penyidikan tersebut kepada Jaksa Pengacara Negara atau diserahkan kepada instansi yang dirugikan untuk dilakukan gugatan perdata terhadap ahli warisnya.

[20] Dalam hal terdakwa meninggal dunia pada saat dilakukan pemeriksaan di sidang pengadilan, sedangkan secara nyata telah ada **kerugian keuangan negara**, maka penuntut umum segera menyerahkan salinan berkas berita acara sidang tersebut kepada Jaksa Pengacara Negara atau diserahkan kepada instansi yang dirugikan untuk dilakukan gugatan perdata terhadap ahli warisnya.

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Law No. 10 of 1998, outlines prudential principles that banks must adhere to in the distribution of credit to prevent corruption, but these principles do not eliminate the risk of corrupt practices.[23] The legal framework to address corruption in banking is further complicated by the lack of specific provisions in the Banking Law that directly address banks as perpetrators or victims of corruption, leading to a focus on individual accountability among bank officials rather than institutional liability.[24] These gaps in the law result in legal uncertainty, particularly in cases involving state-owned banks and non-performing loans, where the distinction between state finances and corporate finances remains ambiguous.[25]

These reforms are critical to aligning Indonesia's anti-corruption measures with international standards and ensuring effective enforcement.[26] Overall, while the Anti-Corruption Law provides a foundation for fighting corruption, ongoing legal and systemic reforms are needed to address its limitations and improve its effectiveness.

Enforcement of anti-corruption laws in banking often involves applying both the Banking Law and the Anti-Corruption Law, which can lead to double standards, especially in the treatment of bad loans funded by state versus private finance.[27] In addition, enforcement mechanisms are hampered by the high latency of corruption crimes, often committed by organized groups within banking institutions, which destabilize the banking system.[28]

Synergy between various law enforcement agencies, including Bank Indonesia, the Police, and the Prosecutor's Office, is essential for preventive and repressive measures against banking crimes, although the current framework lacks binding force, thus reducing its effectiveness (Arifin, 2018)]. Overall, while the existing legal framework provides a foundation for tackling corruption in banking, significant improvements are needed to close loopholes and ensure strong.[29]

4. CONCLUSIONS

The complexity of applying the law to corruption occurs in the banking sector. The legal basis used is Law No. 31 of 1999 as amended by Law No. 20 of 2001 on the Eradication of Corruption (Anti-Corruption Law) and Law No. 10 of 1998 on Banking. In the Anti-Corruption Law, Article 14 emphasizes that corruption in certain sectors can only be prosecuted if the sectoral law regulates it. However, in practice, banking cases are often processed under the Anti-Corruption Law even though there are specific rules in the Banking Law, specifically Article 49 paragraphs 1 and 2, which regulate internal criminal acts. For harmonization, regulatory revisions are needed to ensure that sectoral provisions are in line with the Anti-Corruption Law in cracking down on corruption fairly and effectively.

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