

Legal Reformulation of Banking Consumer Protection: Building A Justice-Oriented Regulatory System

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ABSTRACT

The contractual relationship between banks and customers in credit agreements often places customers in a weak position, as agreements are typically drafted unilaterally by banks and emphasize obligations over rights, creating potential harm. This article aims to reformulate banking customer protection regulations to improve legal certainty and effectiveness. Using a normative legal method with an empirical approach, the research examines the suitability, gaps, and inconsistencies in existing regulations in achieving fair protection. The findings show that consumer protection aligns with Article 28D(1) of the 1945 Constitution, which guarantees the right to legal protection and security. However, current banking regulations lack specific provisions and enforcement mechanisms, resulting in weak protection. Disputes are often resolved through administrative or criminal sanctions that do not ensure fair outcomes. Reform is needed to integrate social protection principles and bridge the gap between legal norms and social realities, ensuring that future regulations promote not only financial efficiency but also fairness and equality in customer relations.

Keywords: Consumer Protection, Regulatory Reformulation, Legal Certainty, Social Protection System.

I. INTRODUCTION

According to Mantiri (2018), the banking sector significantly influences a country's economic dynamics, functioning not only as a source of financing

for production and consumption but also as a repository for public wealth. In *Bank Politics*, G.M. Verryn Stuart (Hermansyah, 2020) describes banks as institutions that fulfill credit demands by mobilizing financial resources—both funds obtained from third parties and new forms of exchange, such as demand deposits.

Recent studies indicate that the banking industry faces increasingly complex and dynamic challenges, including shifts in business scale, intensifying competition, and the rapid growth of the digital economy, all accompanied by evolving economic behaviors. Diener and Špaček (2021) note that despite significant pressures—such as cybersecurity risks, technological disruptions, and regulatory constraints—banking executives remain optimistic about growth prospects through transformation. These structural challenges are closely linked to changes in the scale and competitiveness of banking operations and to the expansion of digital finance.

In Indonesia, banking development must be approached cautiously to avoid instability and to promote healthy, sustainable growth that contributes to national economic development and social welfare (R. Alauddin, H. Alting, & F. Hanafi, 2021). One of the primary functions of banks is to collect public funds through deposits, which include demand deposits, time deposits, certificates of deposit, and savings accounts. To become a bank customer, individuals must establish a legal relationship with the bank (Setiantoro Arfian, 2018).

The preamble to Law No. 8 of 1999 on Consumer Protection establishes that consumer protection functions as a mechanism to balance the interests of consumers and business actors. Legally, interests are claims that individuals expect to be fulfilled, containing powers guaranteed and protected by law in

their realization (M. Ibnu Sumarna, 2024). The creation of a sound economy and the achievement of national development objectives.

National legal development aims to improve human resources so that individuals become more aware of and understand their rights and obligations, particularly as consumers, and are actively engaged in seeking legal remedies when violations occur. A robust consumer protection system fosters a healthy business environment and supports sustainable economic growth, consistent with the economic principles articulated in Article 33 of the 1945 Constitution of the Republic of Indonesia, which emphasizes the people's welfare. Additionally, Article 28D of the Constitution affirms every person's right to recognition, protection, legal certainty, and equal treatment before the law.

In the banking sector, which serves as a critical pillar of the national economy, banks maintain extensive access and involvement across various sectors, including trade, services, transportation, industry, and agriculture. The relationship between a bank and a customer (debtor) is contractual, with the signing of agreements provided by the bank constituting a legal act that establishes rights and obligations for each party.

In practice, prospective debtors are faced with limited options: to accept the entire content of the agreement clauses drafted unilaterally by the bank or to decline them altogether. There is typically no opportunity to negotiate or amend these terms, reflecting an imbalance of bargaining power between the bank as creditor and the customer as debtor. Consequently, customers are compelled to accept predetermined terms to access the credit facilities they require.

As prospective debtors, consumers are made to choose between accepting the entirety of the agreement clauses predetermined by the bank or

rejecting them. In practice, there is no opportunity for negotiation or modification of the terms. This imbalance of bargaining power between the bank as creditor and the customer as debtor results in a contractual relationship that lacks equality. Consequently, customers are effectively compelled to agree to the bank's terms to access the credit facilities they need.

To address this disparity, contract formulation between banks and customers should adhere to the principle of equality. Agreements drafted by banks ought to contain fair provisions that do not disadvantage customers, in line with Law No. 8 of 1999 on Consumer Protection, which requires that standard contracts must not harm consumers. In this context, customers must hold an equal legal standing with business actors, as guaranteed by the principle of freedom of contract.

However, in practice, banking agreements are unilaterally drafted, granting the bank a dominant position. The contractual terms often emphasize customer obligations over rights, placing customers in a subordinate position subject to the bank's discretion. Moreover, the inclusion of exoneration clauses frequently undermines legal protection for customers (Balaati et al., 2022). These conditions create significant risks, including digital transaction fraud, misuse of personal data, and misleading product information, all of which can ultimately harm consumers. Therefore, ensuring adequate legal protection for banking customers is essential to developing a legal system that is fair, transparent, and oriented toward public welfare.

Several studies have extensively examined the protection of banking customers, including analyses of the renewal of bank authority in protecting customers from banking crimes based on the principle of justice (Ramadhani et al., 2025), legal protection for Sharia banking customers in cases of problematic financing (Danti et al., 2024), efforts to protect banking customers

through the principle of bank secrecy under Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector (Nayla Azarine, Tesalonika David, 2024), and the authority and mechanisms for resolving banking disputes following the enactment of Law No. 21 of 2011 concerning the Financial Services Authority (Imam Asfali, 2023).

This research will examine how the harmonization of laws and regulations can support the establishment of a fair social protection system for banking customers and identify the main challenges in ensuring effective customer protection. It will also explore how legal reformulation can enhance legal certainty and promote a just social protection framework in the digital era. The novelty of this research lies in its normative-constitutional analysis of legal gaps in the current regulatory framework governing banking customer protection, along with proposed reformulations grounded in the principle of social justice as stipulated in Articles 28D and 33 of the 1945 Constitution of the Republic of Indonesia.

This research also aims to develop concrete solutions and practical recommendations for reforming legal regulations on banking customer protection, particularly in the context of building a justice-oriented social protection system. This objective reflects an effort to advance national legal development that guarantees legal certainty, safeguards constitutional rights, and establishes a balanced, transparent, and equitable legal relationship between customers and banking institutions. Furthermore, the research is expected to contribute to strengthening banking sector governance to make it more inclusive and responsive to the dynamics of economic development and societal needs.

II. RESEARCH METHOD

Several research problems were proposed as follows: (1) what were the main challenges in ensuring effective customer protection? (2) how could the harmonization of legal rules support the establishment of a fair and just legal protection system for banking customers? And (3) how could legal reformulation guarantee legal certainty and promote a just social protection system in the digital era?

This research employed a normative legal method combined with an empirical approach. The normative approach examined laws and regulations related to banking customer protection, including national legislation, constitutional provisions, financial sector regulations, and consumer protection laws. This analysis focused on identifying the appropriateness, gaps, and inconsistencies within the existing legal framework in realizing fair and effective protection for banking customers.

The empirical approach assessed the practical effectiveness of customer protection regulations by analyzing public and customer experiences with digital banking services, their legal awareness, and the challenges they encountered in seeking protection. Empirical data were collected through questionnaires and interviews with 104 digital bank customers in Bandar Lampung City. All data were analyzed qualitatively using a descriptive-analytical method to develop a model for reforming banking customer protection laws that upholds social justice and legal certainty.

III. RESULT OF RESEARCH AND ANALYSIS

A. The main challenges in ensuring effective customer protection

1. Respondents' Characteristic

Research on the reformulation of banking customer protection regulations reveals the heterogeneity of banking customers. As shown in the table below, respondents comprise 43 men (41%) and 61 women (59%), indicating a slight predominance of female customers. Educational attainment is largely at the bachelor's level (43%), followed by master's (30%) and doctoral degrees (21%). Participants are employed as lecturers (27%), civil servants (21%), private employees (21%), bank employees (17%), and students (12%), with a small proportion in other occupations (2%). The majority of respondents are aged 20–30 years (48%) and 31–40 years (33%).

Table 1. Characteristics of Respondents

Characteristic		Amount	Percentage
Gender	Man	43	41%
	Woman	61	59%
Education	SMA	6	6%
	S1	45	43%
	S2	31	30%
	S3	22	21%
Work	Student	12	12%
	Private sector employee	22	21%
	Civil servants	22	21%

	Lectures	28	27%
	Bank employees	18	17%
	Other	2	2%
Age	20 - 30 years old	50	48%
	31 - 40 years old	34	33%
	41 - 50 years old	19	18%
	51 – 60 years old	1	1%

Source: Research Primary Data, 2024.

2. Framework of Banking Customer with Social Protection System

In analyzing the existing framework of banking customer protection, the research finds several key factors central to developing a fair social protection system.

First, the Citizen Charter, or Client Charter, represents a new approach to public services that prioritizes customer interests. It aims to foster a strong service culture by centering service delivery on user needs (Rachman, 2021). The Client Charter outlines the bank's commitment to secure internet banking, data privacy, reliable service, transparency, and prompt responses to inquiries and complaints. Typically displayed during online account opening, it provides prospective customers with a sense of security and trust.

Second, the confidentiality of customer data is critical (Situmeang & Sahat, 2021). Technological advancements have improved banking convenience and efficiency but have also increased risks such as data breaches and cybercrime

(Nugraheni et al., 2024). Philip and Yener (2022) identify two forms of legal protection: implicit protection, which emphasizes effective supervision and regulation to prevent bank failures (Mamuaja & Juanda, 2015), and explicit protection, which involves providing clear risk information and fair credit arrangements (Aniek Tyaswati W. L, 2021).

Third, customer support services are essential. The benefits of improving service quality often accumulate over time. Banks must proactively implement initiatives to enhance service and meet diverse customer needs. Employees' ability to perform their duties with dedication and competence, particularly in supporting online account opening, is crucial (Kastanya et al., 2023).

Finally, the effectiveness of online banking services is vital. According to the OJK, mobile banking applications provide innovative tools for customers to conduct transactions via smartphones (Suyanto, 2023). Effectiveness refers to achieving intended objectives efficiently. In this context, effectiveness assessments measure how well the service meets its goals and delivers expected benefits (Budiman et al., 2024)

B. Legal Rules Support the Creation of a just Social Protection system for banking customers.

1. Harmonization of Values in the Development of Legal Regulation Concepts for Banking Customer Protection Based on a Fair Social Protection System

A society is considered well-ordered when it is not only designed to improve the welfare of its members but is also effectively governed by a shared understanding of justice. This occurs when individuals accept and recognize that others adhere to the same principles, and when social institutions align with these principles. In Indonesia, such conceptions of justice are embedded in the values of Pancasila, especially the fifth principle. According to Notonegoro,

Pancasila values are spiritual but also acknowledge material and vital dimensions. Principles I to V embody the ideals and aspirations of the Indonesian people and serve as a normative guide for their attitudes, behavior, and actions (F. Nur, 2023).

Efforts to ensure justice for banking customers through a fair social protection system must uphold human dignity, consistent with Pancasila and the values in the Preamble to the 1945 Constitution. As a state based on law, Indonesia must establish such protections through regulation. The core Pancasila principles underlying a just social protection system in banking are the second principle (“Just and civilized humanity”), the fourth (“Democracy guided by the inner wisdom of deliberation among representatives”), and the fifth (“Social justice for all Indonesian people”). These principles are further elaborated in Article 33 of the 1945 Constitution, which anchors consumer protection as stated in the Preamble’s fourth paragraph.

Legal protection for contracting parties is a fundamental aspect of contract law (Almanisa et al., 2024). The constitutional basis for consumer protection lies in Article 28D(1) of the 1945 Constitution, which affirms that “Everyone has the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before the law.” Accordingly, banking customers are entitled to legal protection and a sense of security based on several principles: (a) benefit, (b) justice, (c) balance, (d) security, (e) consumer safety, and (f) legal certainty.

2. Harmonization of Legal Rules in the Formation of Banking Customer Protection Laws Based on a Just Social Protection System

The relationship between a bank and its customer is a contractual legal relationship, wherein both parties agree to activities that create legal consequences and establish reciprocal rights and obligations. If one party causes

harm, they are responsible for compensating the injured party (Nurfitriyani, 2021). As consumers of banking services, customers require legal protection to ensure security in using these services, with banks acting as producers (Hidayat & Atang, 2021). According to Article 1(1) of Law No. 8 of 1999 on Consumer Protection (UUPK), "Consumer protection is all efforts that guarantee legal certainty to protect consumers" (Kukuh Dwi Kurniawan, 2021)

However, the lack of specific provisions in the UUPK and its derivatives limits its deterrent effect on business actors. Dispute resolution relies primarily on fault-based liability, often resulting in mild administrative or criminal sanctions and public dissatisfaction. These mechanisms rarely deliver fair outcomes. Thus, short-term amendments to the UUPK are necessary, alongside a long-term need for a dedicated law on banking customer protection to address sectoral changes.

Legal protection for banking customers, grounded in a just social protection system, is supported by the second, fourth, and fifth principles of Pancasila, Chapter XIV on the National Economy and Social Welfare, and Article 33 of the 1945 Constitution. These foundations guide regulatory harmonization aimed at achieving equitable prosperity in a democratic society based on Pancasila and the Constitution.

Regulatory harmonization should adopt legal systems theory, which sees law as a mechanism for distributing and maintaining values deemed just by society (Bradley, 2019). In this view, the legal system plays a central role in realizing justice.

Consumer and community protection entails raising awareness of financial services and ensuring legal certainty in fulfilling rights and obligations. While UUPK was intended as the primary legal safeguard, it has yet to adequately protect consumers (Fista et al., 2023). One key issue is that customer

rights—particularly compensation for losses—are heavily dependent on standard contract terms set by banks.

Currently, the UUPK places consumers in a weak position, making them vulnerable to business abuse. In such cases, the state must intervene to protect consumers, who are often ordinary citizens. Social control mechanisms can help ensure fair business practices and a balanced relationship between consumers and producers. Ultimately, effective legal regulations must uphold certainty, justice, and human dignity in line with Pancasila, which mandates state protection for all Indonesians, including in consumer–business relations.

3. Banking Customer Protection Regulations in Indonesia

Law Number 10 of 1998 classifies bank customers into two categories: deposit customers, who place funds in the bank based on an agreement, and debtor customers, who receive credit or financing facilities under conventional or Sharia principles. Legal protection for these customers, particularly depositors, is regulated by Law Number 8 of 1999 on Consumer Protection and Law Number 7 of 1992 in conjunction with Law Number 10 of 1998 on Banking. According to Rusmiati et al. (2022), protection for depositors takes two forms: implicit protection through effective supervision to prevent bank failures, and explicit protection via institutions prepared to guarantee deposits.

Customer trust is fundamental to banking. Banks strengthen this trust by adhering to legal obligations and ethical standards, especially regarding confidentiality. Article 40 of Law Number 10 of 1998 obliges banks to maintain the privacy of customer data for several reasons: the right to personal privacy, contractual obligations requiring good faith, statutory requirements, established banking customs, and the essential nature of banks as trust-based institutions.

These principles form the basis for banks' duty to keep customer information confidential. The principle of bank secrecy prohibits disclosure to

third parties except as provided by law. This protection safeguards customer privacy and economic interests while also maintaining public confidence and the stability of the financial sector. Any violation of confidentiality represents both a breach of contract and a failure of the bank's core legal responsibility to protect its customers.

C. Legal Reformulation in Ensuring Legal Certainty and Promoting a Fair Social Protection System in the Digital Era.

The digital era has profoundly transformed social structures and patterns of legal interaction, necessitating a reorientation of legal frameworks to ensure both legal certainty in digital environments and the development of a fair and inclusive social protection system. Social protection offers a guiding framework for reforming consumer protection law. It focuses on state efforts to reduce vulnerability and inequality, encompassing the creation of supportive environments for community development, the strengthening of economic potential, and the protection of economically weaker groups from exploitation and unfair competition (Alam et al., 2023).

As societies become more advanced and complex, legal systems must regulate reciprocal rights and obligations systematically. Dewi et al. (2020) emphasize that when such reciprocal behaviors are governed fairly and obeyed properly, societal order, security, and stability can be maintained.

The establishment of the Financial Services Authority (OJK) under Law No. 21 of 2011 is central to addressing the complexity of the global financial system. Article 9(c) of the law authorizes OJK to conduct supervision, inspection, investigation, and consumer protection across financial service institutions in accordance with sectoral regulations (Ramanda et al., 2024). OJK's consumer protection mandate aims to safeguard economic stability, recognizing that mismanagement and violations by financial institutions can

lead to public losses and systemic instability. Ultimately, the burden of such failures falls on the state and, by extension, the public. Poor financial governance also erodes public trust in financial institutions, negatively affecting savings, investment, and overall economic resilience (Fisch & Seligman, 2022).

OJK's role in supervising banking transactions fosters public confidence, ensuring that institutions adhere to ethical and sound business practices. This dual function—oversight and assurance—provides both legal protection and service quality to consumers. Nonetheless, OJK faces notable challenges, including limited resources in personnel and technology, and the complexity of overlapping or frequently changing regulations. These factors hinder effective supervision and policy responsiveness. As Cahyani Sudirman et al., (2024) note, OJK must adapt its regulatory approaches to remain relevant and responsive to the evolving dynamics of the financial sector.

The challenges faced by OJK necessitate rapid adaptation, though obstacles remain, particularly when policymaking and implementation lack responsiveness. One issue is OJK's reliance on internal reports from supervised financial institutions, which can limit its capacity to identify risks independently if the information provided does not accurately reflect actual conditions. Furthermore, alignment between OJK regulations and those issued by other authorities, such as Bank Indonesia or the Ministry of Finance, is critical. Regulatory inconsistencies or overlaps can create enforcement gaps and weaken supervisory effectiveness (Aufa & Fitriyanti, 2022).

A robust regulatory framework is essential to safeguard financial system stability and address the risks posed by global financial interconnectedness, as emphasized by Hiep Ngoc Luu (2023). This perspective aligns with prior

research highlighting the importance of consistent oversight in maintaining economic resilience.

The Consumer Dispute Resolution Agency (BPSK) also plays a role in consumer protection. Under Article 52 of the Consumer Protection Law (UUPK), BPSK is authorized to resolve consumer disputes through mediation, arbitration, or conciliation; provide consultations on consumer protection; supervise the use of standard clauses; and report violations to investigators.

Strengthening the roles of both OJK and BPSK in supervising standard agreements within the banking sector is therefore necessary. Regulations standardizing banking credit agreements are also needed to create a clear reference for transactions and promote a fair balance of rights and obligations. Customer protection often receives insufficient attention from banks, despite being essential for maintaining public trust and safeguarding deposited funds. The government likewise has a crucial role in ensuring legal certainty and protecting consumers from potential abuse.

IV. CONCLUSIONS

This research highlights the need to reform banking consumer protection laws to establish a fair social protection system. The dominant position of banks and agreements that primarily regulate customer obligations, rather than rights, create a contractual relationship that subordinates customers to the will of the bank. In this context, the right to legal protection is fundamental, as enshrined in Article 28D(1) of the 1945 Constitution, which guarantees equal treatment and security for all individuals, including banking consumers.

However, current regulations, particularly the Consumer Protection Law (UUPK), lack explicit provisions and enforcement mechanisms specifically designed for banking customers. This regulatory gap weakens protection, as

disputes are often resolved through administrative or criminal sanctions that fail to ensure equitable remedies. Reformulating banking regulations is therefore essential to integrate social protection principles and strengthen the legal framework. This includes reinforcing measures to hold business actors accountable and ensuring the legal system adapts to developments in the banking sector. Such reform is crucial to building a more efficient and trustworthy banking environment where legal certainty and customer protection are prioritized.

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