Legal Implications of Banking Dispute Settlement Regulations in Indonesia that Do Not Meet Principles of Legal Certainty After Covid-19

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Abstract. Trust is very expensive. The banking business is a trust business. If the public's trust in banking collapses, the bank will automatically go bankrupt. The poor condition of the banking system in Indonesia is caused by several factors: problematic credit distribution, moral hazard, excessive owner interference, weak aspects of banking supervision and regulation. Limited information available to the public regarding the financial condition of banks, so that community control over banks does not work properly. This condition causes the fragility of public trust in the banking industry. This has been exacerbated by the COVID-19 pandemic, which has been running for more than two years. Many workers lost their jobs and were laid off. They have no income. The money they have is of course used to finance basic needs in the form of food and drink, so that the debts they have are no longer able to be paid. Because of this, a policy for debt rescheduling is urgently needed. On the other hand, depositors who have deposits in the form of time deposits cannot withdraw their funds at maturity. The condition of banking in Indonesia is inseparable from the issue of moral hazard, which arises from various forms of government intervention, political involvement in the financial sector, and banking structures. The purpose of this writing is to reform the Indonesian banking industry in a better and more advanced direction. The author uses a normative legal research method with a related statutory approach, with a hypothesis: banking dispute resolution arrangements in Indonesia that do not meet the principle of legal certainty for customers after Covid-19. The result is that apart from going through the courts, an alternative banking dispute resolution (ADR) is still needed.

Keywords: Banking · Trust · Customer Deposits · The Principle of Legal Certainty · Banking Disputes

1 Introduction

Customer trust in banking is the key to maintaining banking stability. This customer trust can be obtained by the existence of justice and legal certainty in bank regulation and supervision as well as guaranteeing bank customer deposits to improve the continuity of the bank's business in a healthy manner. The continuity of a bank's business in a healthy manner can ensure the security of customer deposits and increase the role of banks as providers of development funds and banking services.

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Corona Virus or what we know as Covid-19 is a virus that is very easily transmitted and has become endemic in all parts of the world. According to the monitoring of the United Nations Educational, Scientific and Cultural Organization (UNESCO), a total of 39 countries have been affected with a large number of cases of 421,388,462 [1].

The online platforms are an important source of information and activity (European Commission, 2021). They are especially important in times of crisis, when they are vital conduits for providing basic needs and ensuring access to information activities. They must be a source that people can rely on. They need to play their part in ensuring the information shared is reliable and timely, and tackling disinformation, counterfeit sales, and other malicious activity [2].

Security risks of working from home. There are many types of business models in the market, such as business-to-consumer (B2C), business-to-business (B2B), and business-to-government (B2G). This type of business model was infrequent in many countries until online consumer businesses became extremely saturated. Now, covid-19 has unexpectedly revived home-to-X terminology, such as home-to-business (H2B), home-to-government (H2G), or home-to-consumer (H2C) [3].

The Covid-19 pandemic has been going on for quite a long time, in fact it has been going on for more than two years. The effects of Covid-19, which is in the form of a worldwide epidemic, are more in a negative direction or are more detrimental to humanity, for example: Termination of Employment, a decline in the economy, a decline in GDP, many health problems, inflation, delays in exports/imports, closed most of the tourism industry, closed MSMEs, and others. Without exception, banks are also feeling the effects of Covid-19. In summary, the effect is very detrimental and hits all aspects of life.

Many companies are unable to deal with the effects of Covid-19, gradually reducing working hours and finally carrying out Termination of Work. Many workers lost their jobs and were laid off with modest severance pay. They have no income and survive by using existing savings. The money they have is of course used to finance their basic basic needs in the form of food and drink, so that they can no longer afford to pay their house installments, car payments and other debts. Because of this, a policy for debt rescheduling is urgently needed. On the other hand, depositors who have bank deposits in the form of time deposits cannot withdraw their funds at maturity. If depositors cannot withdraw their deposits at the bank, can the public still trust banks?

The definition of a bank according to Law Number 14/1967 Article 1 concerning the Principles of Banking, a bank is, “a financial institution whose main business is to provide credit and services in payment traffic and money circulation.” Meanwhile, according to the law, financial institutions are “all bodies which, through their activities in the financial sector, withdraw money from and channel it into the community”.

The Deposit Insurance Corporation is a deposit insurance company for bank customers that can significantly maintain customer trust in the banking industry after the 1998 crisis. With the 1998 global financial crisis, it is necessary to anticipate that there will be no large-scale withdrawal of bank funds due to the decline in public confidence in guarantee the safety of the money saved.

The establishment of the Deposit Insurance Corporation in Indonesia is one of the efforts made by the Government to increase public trust in banking. The government’s

blanket guarantee program has succeeded in restoring public confidence in the banking system. However, this policy increases the burden on the state budget and has the potential to create moral hazard by bank managers and bank customers. In order to reduce the negative impact of the government guarantee program, the Deposit Insurance Corporation has been established. In accordance with Law no. 24 of 2004 concerning the Deposit Insurance Corporation on September 22, 2004, the Deposit Insurance Corporation has two functions, namely guaranteeing bank customer deposits and carrying out settlement or handling of banks that have not been successfully rehabilitated or failed banks.

Deposit insurance for bank customers by the Deposit Insurance Corporation is limited in nature to reduce the burden on the state budget and minimize moral hazard. However, the interests of customers are maintained optimally. Every bank operating in Indonesia, both Commercial Banks and Rural Banks, is required to become a guarantee participant. The types of deposits at banks that are guaranteed include savings, demand deposits, certificates of deposit and time deposits as well as other similar types of deposits. The Deposit Insurance Corporation guarantee scheme has been fully started since March 22, 2007.

2 Methods

The legal relationship between the customer and the bank is a relationship of trust. Trust in banking is very important. In order for the bank to be trusted by customers, it is necessary that this trust relationship must always be maintained and upheld. But unfortunately the concept of trust has undergone a shift, therefore banks are obliged to continue to uphold the trust of customers.

The idea of a rule of law has actually developed since the time of Ancient Greece. Plato in his book The Republic laid the foundation of the rule of law based on the theory of the rule of reason. This theory involves three main principles, namely: (1) A things is in a correct condition if, and only if, it exhibits proper order. Good conditions will only be created if there are good laws too. Good law must implicitly be based on the principle of justice. Fair application of law is carried out on a case by case basis; (2) A thing exhinits proper order, if and only if, some part of it is the natural ruler over its other parts. The second principle emphasizes that good law can only be realized if there are checks and balances. An institution functions as a means of control for other institutions; (3) The rational part is the natural ruler over the non-rational part. This principle explains how general regulations are formed as the soul of the nation itself. Socrates explained that the "soul" contains 3 parts: reason, spirit, and desire [4].

The theory of legal certainty, according to Plato, applies the principle of A things is in a correct condition if, and only if, it exhibits proper order. Good conditions will only be created if there are good laws too. Good law must implicitly be based on the principle of justice. Fair application of law is carried out on a case by case basis. The author chooses Plato, because according to the author all banking customers are entitled to equal rights to obtain justice and legal certainty regarding the regulation of the amount of bank customer deposits guaranteed by LPS.

Mahfud MD is of the opinion that Indonesian legal politics regarding the conception of the rule of law takes good elements from various different concepts into one unified

concept (integrative) whose implementation is adjusted to the demands of development. In this context, it can be read that the concept of a legal state in Indonesia accepts the principle of legal certainty in rechtsstaat as well as the principle of a sense of justice in the rule of law and the spiritual value of religious law [5].

Julius Stahl stated that there are four important elements that must be fulfilled in order to be called a state of law (rechtsstaat): (1) Protection of human rights; (2) Division of power; (3) Government based on the law; (4) State administrative court [6].

In contrast to rechtsstaat, the concept of the rule of law is rooted in British political traditions and constitutional history. The rule of law's influence has extended to the United States and many other countries that were former British colonies [7].

The concept of the rule of law was first coined by Albert Venn Dicey in 1885. Dicey believes that the core teaching of the rule of law in England includes three important points, namely: (1) Supremacy of law. That no one can be punished unless they have violated the law which is proven through a court process; (2) Equality before the law. Equality of all before the law enforced by the government or the courts; (3) Due process of law. That all state actions must be based on law and there is not a single action that does not have a legal basis [8].

According to Lon L. Fuller in his book "The Morality of Law", there are eight principles that must be fulfilled by law, if not fulfilled, then the law will fail to be called law, or in other words there must be legal certainty. The eight principles are: (1) The legal system consists of regulations, not based on deviant decisions; (2) The regulation must be announced to the public; (3) Does not apply retroactively, because it will damage the integrity of the system; (4) The formulation must be understood by the public; (5) There must be no conflicting regulations; (6) Must not demand an action that exceeds what can be done; (7) Should not be changed frequently; (8) There must be a match between regulations and daily implementation.

According to Lon L. Fuller [9], there must be certainty between regulations and their implementation, thus entering the realm of action, behavior, and factors that influence how positive law is implemented.

The research method used by the author is a normative legal research method with a related statutory approach. This research is a normative juridical research, so it will use secondary legal sources. For this secondary material source, researchers will use a number of legal materials in the form of literature. As for library legal materials, this library research is a type of data obtained through an inventory which includes 3 things, namely: 1). Primary legal materials, namely legal materials consisting of legal norms; 2) Secondary legal materials, namely legal materials that provide an explanation of primary legal materials and those related to evidence (evidence); 3) Tertiary legal materials, namely legal materials that provide an explanation of primary and secondary materials.

The legal material needed in this research is secondary legal material, so this legal material will be sought and collected by means of documentation studies or literature studies, both through electronic media and all other library media. Analysis of legal materials, according to Patton, is the process of arranging data sequences, organizing them into a pattern, category and a basic description [10].

The analytical method used in this study is a qualitative juridical analysis. Qualitative juridical analysis method is a research procedure that produces descriptive data. Maria S.W. Sumarjono [11] stated that in normative legal research that uses secondary data, the research is generally descriptive or descriptive-explorative in nature and the analysis is qualitative in nature.

3 Results and Discussion

Have the legal implications of regulating banking dispute resolution in Indonesia fulfilled the principle of legal certainty for customers? The author discusses Bank Indonesia Regulation PBI 7/7/2005 Regarding Customer Complaints, an example of the case of Bank Bukopin Sidoarjo Branch is as follows:

- The Customer is Angry and Disappointed, Because He Can't Disburse His Deposit Funds. A customer of PT Bank Bukopin Tbk (BKPP) named Dedi Setiawan (DS) vented his anger at the Bank Bukopin Sidoarjo Branch Office, on Jalan Ahmad Yani Sidoarjo, East Java, because he could not withdraw his deposit. In the video circulating, DS looks very angry because the promise from the management is not kept (default). DS was very disappointed and distributed 15 (fifteen) letters of deposit in front of the Sidoarjo Bank Bukopin Branch Office, amounting to Rp 45 billion. The management of Bank Bukopin promised that the payment would be made after the GMS. However, after the GMS has been held, the deposit disbursement has not yet been paid. DS was even more disappointed when he could only withdraw his deposit funds of Rp. 640 million, from his deposit of around Rp. 45 billion.
- The Bank Bukopin Sidoarjo Deposit Disbursement Case was Finally Successfully Resolved by the bank. Evidence of the seriousness of the commitment of the largest South Korean bank, among others, is the deposit of fresh funds in an account at Bank Bukopin. "KB Kookmin Bank is working on the realization of the process of increasing capital at Bank Bukopin. By regulation, KB must complete additional due diligence and fulfill the necessary licensing requirements to meet the requirements of the KB Financial Group holding company and regulators in Korea. KB is very serious about implementing this entire process immediately, it is hoped that customers and all stakeholders can support this success.
- Kokmin Will Be Taken, Bank Bukopin's Business Target in 2020. There are several optimistic targets that the company wants to achieve, among others, credit is expected to grow at least 3% and a maximum of up to 5% in the midst of the Covid-19 pandemic situation. Meanwhile, Third Party Funds are forecasted to increase to a level of 15% by the end of 2020. With the entry of new shareholders, Bank Bukopin's equity is also expected to increase by up to 33% year on year (yoy). We hope that profit will grow to 18%. The company has prepared a number of business strategies, including collaboration in the form of technical assistance between Bank Bukopin and the KB Kookmin Group.

3.1 The Legal Implications of Banking Dispute Settlement Arrangements that Do not Meet the Principle of Legal Certainty

The poor condition of banking in Indonesia is at least caused by six factors, namely: (1) credit disbursement that is too expansive driven by foreign inflows of funds which are

vulnerable due to their short-term nature; (2) Providing credit without going through a sound credit analysis process; (3) Excessive concentration of credit to a business group or individual, whether related to a bank or not; (4) Moral hazard due to the lack of firm exit policy mechanism and the protracted settlement of troubled banks;(5) Excessive owner intervention in bank management, not even a few owners hold concurrent positions as bank administrators; and (6) Weak banking supervision and regulation aspects [12]. These weaknesses have made it easy for the exchange rate crisis to spread which started in Thailand and has had an impact on the economy as a whole. Pressure stemming from the fall in the value of the rupiah against foreign currencies has caused the banking system to begin to weaken. Non-performing loans increased rapidly and there was a rush by customers so that the bank's capital was decreasing. With reduced capital, banks do not have sufficient funds to lend to their customers. In addition, foreign banks are no longer willing to accept Letters of Credit issued by Indonesian banks. This causes the bank to ask for a guarantee of 100% of the import value in foreign currency even though the imported goods have not been delivered [13].

Management weaknesses can be seen, among others, from the ineffectiveness of the bank's internal supervision and the relatively limited information system, so that the implementation of self-regulatory banking has not developed well. This weakness has contributed significantly to irregularities and abuse of authority in banks, thereby increasing the risk of bank failure. These weaknesses also encourage concentrated lending to only a few debtors, particularly to individuals or business groups linked to banks.

The unclear mechanism for resolving troubled banks, especially the exit mechanism, has created a moral hazard that leads to high risk-taking behavior among banks. The absence of a guarantee system for public deposits has required the central bank to provide an implicit guarantee for the viability of a bank to prevent systemic failure in the banking industry. Supervision and guidance carried out by Bank Indonesia is still ineffective, mainly due to weak law enforcement and the lack of independence of the central bank. This is exacerbated by the limited information available to the public regarding the financial condition of a bank, so that public control over banking developments is not running properly.

This condition causes the public's trust in the banking industry to be weak. The liquidation of 16 banks in November 1997 resulted in massive withdrawals of deposits and transfers of funds between banks due to the decline in public confidence in banking [14].

3.2 The Principle of Legal Certainty

Based on the foregoing description, we can see that the banking dispute settlement arrangements in Indonesia based on Law Number 24 of 2004 concerning the Deposit Insurance Corporation and Government Regulation of the Republic of Indonesia Number 66 of 2008 concerning the amount of the value of deposits guaranteed by the Deposit Insurance Corporation do not meet the principle of certainty law.

To find out whether the content of Law Number 24 of 2004 and Government Regulation of the Republic of Indonesia Number 66 of 2008 has fulfilled the principle of legal certainty, the author will first describe the following matters:

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia expressly states that "the State of Indonesia is a state of law". As a state of law, all aspects of society, nationality, and statehood, including government, must always be based on law.

According to Simorangkir [15], "The rule of law is defined as a state that applies the principle of legality, namely all state actions through, based on and in accordance with the law. The law has the highest position so that the implementation of state power does not deviate from the law, thus power will be subject to the law, not the other way around.

Gustaf Radbruch, in the concept of "Baku Priority Teachings" suggests that there are three basic ideas of law or three objectives of law, namely justice, expediency and legal certainty. Justice is the main thing of the three things but that does not mean the other two elements can be ignored. A good law is a law that is able to synergize these three elements for the welfare and prosperity of the community [16].

According to Radbruch: Justice in question is justice in a narrow sense, namely equal rights for all before the court. Benefits or finality describes the content of the law because the content of the law is in accordance with the objectives to be achieved by the law, while legal certainty is interpreted as a condition in which the law can function as a regulation that must be obeyed [16].

Of the three basic ideas of Gustaf Radbruch's law, legal certainty which requires that the law can function as a regulation that must be obeyed is of course not only about how the regulation is implemented, but also how the norms or content material in the regulation contains the basic principles of law.

Legislation as a written norm (law), in the context of the Indonesian rule of law, becomes the basis for the administration of the state and as a guideline for administering the government. Every product of legislation, must be a reflection of Pancasila and the Constitution.

In the legal system in force in Indonesia, laws and regulations rank first in the application and enforcement of the law. Laws and regulations can only be overridden by judges if their application will cause a violation of the basics of justice or are no longer in accordance with social reality, or because in certain societies they apply legally, other laws outside the legislation (such as customary law and religious law).

In the provisions of Article 7 of Law Number 12 of 2011 concerning the Establishment of Legislations, it is stipulates that laws and regulations are determined according to their type and hierarchy. Basically, the types of legislation are not only contained in Article 7 paragraph (1) of Law No. 12 of 2011 but also contained in the provisions of Article 8 paragraph (1) of Law No. 12 of 2011, which contains also regulations of the Supreme Court and Regulations of the Constitutional Court as a type of legislation.

As actors of judicial power, the Supreme Court and the Constitutional Court have the authority that has been determined in the 1945 Constitution. From the authority possessed by the Supreme Court and the Constitutional Court, one of their powers that is of concern is the authority to examine laws and regulations. The Supreme Court examines the legislation under the law against the law, while the Constitutional Court examines the law against the Basic Law.

Law Number 24 of 2004 and Government Regulation of the Republic of Indonesia Number 66 of 2008 in fact contain many shortcomings, such as regulations that cause ambiguity or are no longer in accordance with legal developments in society.

According to Fence M. Wantu [17], "law without the value of legal certainty will lose its meaning because it can no longer be used as a code of conduct for everyone." Legal certainty is defined as the clarity of norms so that they can be used as guidelines for people who are subject to this regulation [18]. The definition of certainty can be interpreted that there is clarity and firmness towards the enactment of law in society. This is to give rise to many misinterpretations.

According to Van Apeldoorn [19], Legal certainty can also mean things that can be determined by law in concrete matters. Legal certainty is a guarantee that the law is carried out, that those entitled by law can obtain their rights and that decisions can be implemented. Legal certainty is a justifiable protection against arbitrary actions which means that someone will be able to get something that is expected in certain circumstances."

Based on this description, and to find out whether the principle of legal certainty has been applied in the material of Law Number 24 of 2004 and Government Regulation of the Republic of Indonesia Number 66 of 2008, the author will describe and present more material regarding the application of the principle of legal certainty in the Act. Number 24 of 2004 and Government Regulation of the Republic of Indonesia Number 66 of 2008.

Based on the background of the problem, it can be formulated, how is the application of the principle of legal certainty in Law Number 24 of 2004 and Government Regulation of the Republic of Indonesia Number 66 of 2008?

Many of the legal experts have given their opinion on what is meant by the principle of law. According to Satjipto Rahardjo [20], "the principle of law is the soul of the rule of law, because the principle of law is the basis for the birth of the rule of law."

According to Sudikno [21], "the legal principle is the ratio legis of legal regulations. Legal principles (rechtsbeginsel) are basic thoughts that are general in nature or are the background of concrete regulations (positive law) and can be found by looking for general characteristics in concrete regulations."

According to Roeslan Saleh [22], "legal principles are basic thoughts as general rules that form the foundation of the legal system." According to Bellefroid [23], "legal principles are basic norms that are translated from positive law and which legal science does not ascribe to more general rules, so legal principles are the deposition of positive law in society."

According to Paul Scholten [23], "legal principles are tendencies that are required by our moral view on the law, which are general characteristics with all their limitations as a general trait, but which must not exist." Based on some of these opinions, regarding the understanding of legal principles, it can be concluded that legal principles contain the following characteristics [24]: (1) Legal principles are basic thoughts or basic norms; (2)The legal principle is not a concrete legal regulation but the background of the law concrete laws; (3) The legal principle contains a moral judgment, so it has an ethical dimension; (4) The legal principle can be found in the legislation and regulations judge's decision.

According to Radbruch [25], "legal certainty is defined as a condition in which the law can function as a rule that must be obeyed."

Grammatically, certainty comes from the word definite which means it is fixed, must and of course. In the Big Indonesian Dictionary, the definition of certainty is a definite (fixed) condition, provision, provision, while the definition of law is a legal instrument of a country that is able to guarantee the rights and obligations of every citizen, so legal certainty is a provision or stipulation made by the government. a legal instrument of a country that is able to provide guarantees for the rights and obligations of every citizen.

Legal certainty refers to the application of a clear, permanent and consistent law where its implementation cannot be influenced by subjective circumstances [26]. Quoting the opinion of Lawrence M. Wriedman, a Professor at Stanford University, he is of the opinion that to realize "legal certainty" it must at least be supported by the following elements, namely: legal substance, legal apparatus, and legal culture [27].

Sudikno Mertokusumo stated that legal certainty is one of the conditions that must be met in law enforcement, namely being justifiable against arbitrary actions, which means that a person will be able to obtain something that is expected under certain circumstances.

According to Maria S.W. Sumardjono [11] that regarding the concept of legal certainty, namely that "normatively, legal certainty requires the availability of laws and regulations that are operational and support their implementation. Empirically, the existence of laws and regulations needs to be implemented consistently and consistently by resources human supporters."

A regulation is made and promulgated with certainty because it regulates clearly and logically. It is clear in the sense that it does not cause doubt (multi-interpretation) and is logical so that it becomes a norm system with other norms that do not conflict or cause norm conflicts. The resulting norm conflict from the uncertainty of the rules can take the form of contention of norms, reduction of norms or distortion of norms.

Real legal certainty is if the laws and regulations can be implemented in accordance with legal principles and norms. According to Bisdan Sigalingging, "between the certainty of legal substance and the certainty of law enforcement should be in line, it should not only depend on legal certainty in the law in the books but the real legal certainty is if the certainty in the law in the books can be carried out properly in accordance with the principles of law in the books. Principles and legal norms in upholding legal justice.

The application of the principle of legal certainty in the content of Law Number 24 of 2004 concerning the Deposit Insurance Corporation and Government Regulation of the Republic of Indonesia Number 66 of 2008 concerning the amount of the value of deposits guaranteed by the Deposit Insurance Corporation.

To find out whether the contents of Law Number 24 of 2004 and Government Regulation of the Republic of Indonesia Number 66 of 2008 have met the basic principles of Legal Certainty, the author will first describe the following matters:

- Law Number 24/2004 concerning IDIC; Article 11 (1), The guaranteed deposit value for each customer is a maximum of IDR 100,000,000,-
- Government Regulation Number 66 of 2008; Article 1, The value of guaranteed deposits for each customer at one bank which was originally based on Article 11 (1) of Law Number 24 of 2004 concerning LPS is set at a maximum of

Rp. 100,000,000,- based on this Government Regulation, it is changed to a maximum of Rp. 2,000,000,000,-

- Government Regulation must be corrected because Government Regulation must not conflict with the law. In the hierarchy of legislation, laws are higher in rank than Government Regulation (*Lex specialist derogat lex generalis*, that higher regulations override those below). In this case, the Government Regulation does not provide clarity on Law No. 24/2004 Article 11 (1), resulting in inconsistencies/disobeying principles. (in this case there are two rules governing the same thing). Until now there has been no judicial review or testing of these two rules. According to Lon L. Fuller, there must be certainty between regulations and their implementation, thus entering the realm of action, behavior, and factors that influence how positive law is implemented.

3.3 Alternative Banking Dispute Resolution

Alternative dispute resolution is the equivalent of the foreign term Alternative Dispute Resolution (ADR). There are several equivalents in Indonesian. Alternative Dispute Resolution has been introduced in various forums by various parties. Some of them that have been identified are: Alternative Dispute Resolution (APS) and Dispute Resolution Options (PPS) (Law No. 23/1997 on Environmental Management).

In the Alternative Dispute Resolution (ADR) system, the solution is attempted as much as possible in a cooperative manner (co-operative solutions). This cooperative settlement is usually termed as "win-win solutions" which is a settlement in which all parties feel they have won. The principles that are firmly adhered to in resolving problems/disputes with Alternative Dispute Resolution (ADR) are: the principle of freedom of contract, the principle of consensualism, the principle of trust, the principle of binding force, the principle of legal equality, the principle of balance, the principle of legal certainty, the principle of morals, the principle of protection., the principle of propriety, the principle of personality (personality), and the principle of good faith (good faith).

4 Conclusion

From the description that the author has described previously, we can draw the following conclusions: if public trust collapses in banking, then the bank will automatically go bankrupt as well. This is exacerbated by the limited information available to the public regarding the financial condition of a bank, so that public control over banking developments is not running properly.

Banking conditions in Indonesia cannot be separated from moral hazard issues. Political involvement in the financial sector is also a source of moral hazard. Meanwhile, the banking structure has also exacerbated the moral hazard problem.

The settlement of banking disputes in Indonesia still needs to be addressed. This is due to not meeting the principle of legal certainty for depositors. Apart from going through the courts, there is still a great need for alternative banking dispute resolution, Alternative Dispute Resolution.

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References

1. UNESCO: School closures caused by Coronavirus (Covid-19), (2020)
2. Muskaj, B.: Different Areas of Social Life and Their Access During and Post Covid-19. Eur. J. Soc. Sci. Educ. Res. 9, 19–28 (2022)
3. Alashhab, Z.R., Anbar, M., Singh, M.M., Leau, Y.-B., Al-Sai, Z.A., Alhayja'a, S.A.: Impact of coronavirus pandemic crisis on technologies and cloud computing applications. J. Electron. Sci. Technol. 19, 100059 (2021)
4. Miller, F.D.: The rule of law in ancient Greek thought. rule law Comp. Perspect. 11–18 (2010)
5. Mahfud, M.D.: Perdebatan Hukum Tata Negara Pasca Amandemen Konstitusi, cetakan kedua. Raja Grafindo Persada, Jakarta (2011)
6. Asshiddiqie, J.: The Constitutional Law of Indonesia. Sweet & Maxwell Asia Singapore (2009)
7. Zolo, D.: The rule of law: A critical reappraisal. Rule Law Hist. Theory Crit. 3–71 (2007)
8. Dicey, A. V: Introduction to The Study of The Law of The Constitution, Mc Millan and Co. Limited, London. (1952)
9. Elman, Y., Gershoni, I.: The Morality of Law. Yale University Press (2017)
10. Muhadjir, N.: Metodologi penelitian kualitatif. Rake Sarasin (1996)
11. Sumardjono, M.S.W.: Guidelines for Making Research Proposals: A Basic Guide. Gramedia Pustaka Utama, Jakarta (2001)
12. Sukarman, W.: The Politics of Banking: Globalisation and Domestic Policy Change. J. Indones. Econ. Bus. 24, 163–176 (2009)
13. Masuyama, S., Vandenbrink, D., Yue, C.S.: Restoring East Asia's Dynamism. Institute of Southeast Asian Studies (2000)
14. Djiwandono, J.S.: Bank Indonesia and the recent crisis. Bull. Indones. Econ. Stud. 36, 47–72 (2000)
15. Simorangkir, J.C.T.: Hukum dan Konstitusi Indonesia. Gunung Agung (1983)
16. Emha, Z.I.F., Silviana, A., Musahadi, M.: Waqf Land Certification Postponement for Place of Worship Due to the Obscurity of the Toll Road Expansion Project (Re-overview of Gustav Radbruch's Three Basic Legal Values Theory). Al-Ahkam. 32, 17–40 (2022)
17. Wantu, F.M.: Antinomi dalam penegakan hukum oleh hakim. Mimb. Hukum-Fakultas Huk. Univ. Gadjah Mada. 19, (2007)
18. Wijayanta, T.: Principles of Legal Certainty, Justice, and Their Benefits in Relation to the Bankruptcy Decision of the Commercial Court. J. Leg. Dyn. 14, 216–226 (2014)
19. Apeldoorn, L.J. Van: Inleiding Tot De Studie Van Het Nederlandse Recht, diterjemahkan oleh Oetarid Sadino, Pengantar Ilmu Hukum, (2009)
20. Rahardjo, S.: Ilmu hukum. Citra Aditya Bakti (2000)
21. Mertokusumo, S.: Knowing the law (an introduction). Yogyakarta Lib. (1988)
22. Saleh, R.: Beberapa Asas Hukum Pidana Dalam Perspektif. (1983)
23. Harun, R.R., Sahid, M.M., Yamin, B.: Problems of Criminal Applications Law in The Life of Indonesian Communities and Cultures. J. IUS Kaji. Huk. dan Keadilan. 11, 140–155 (2023)

24. Jumanah, J., Hasan, K.N.S., Syaifuddin, M.: Reconstruction of The Principle of Legal Certainty Fair Auction For Joint Assets After Divorce Decision. SASI. 29, 151–164 (2023)
25. Jenie, S.I.: Itikad Baik Perkembangan dari Asas Hukum Khusus Menjadi Asas Hukum Umum di Indonesia. dalam Pengukuhan Guru Besar UGM. 11, (2007)
26. Hildebrandt, M.: The adaptive nature of text-driven law. J. Cross-disciplinary Res. Comput. Law. 1, (2021
27. Ismail, F.K.: Kepastian Hukum Atas Akta notaris Yang Berkaitan Dengan Pertanahan. Depok Tesis. Fak. Huk. Univ. Indones. hlm. 2, (2011)