

CRIMINOLOGICAL ANALYSIS OF BANKING CRIMES IN MAKASSAR CITY

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Abstract

This research aims to analyze the factors causing banking crime in Makassar City and the prevention efforts of the South Sulawesi Regional Police. Data was gathered from direct interviews with 20 respondents, including 10 investigators, 5 bank employees, and 5 victims of banking crime. The findings indicate that supervision, technological, economic, and opportunity factors are the main causes of banking crime in Makassar City. The police's preventive measures include legal counseling, patrols, routine supervision, community policing, and investigations. The research recommends revising the Banking Law to adapt to the banking industry's changes and challenges in the digital era. Additionally, improving police resources' quality and training in knowledge, skills, and integrity are crucial for future action.

Keywords: Criminology; Banking Crime; Police

Abstrak

Penelitian ini bertujuan untuk menganalisis faktor-faktor penyebab tindak pidana perbankan di Kota Makassar dan upaya pencegahan Polda Sulsel. Data dikumpulkan dari wawancara langsung dengan 20 responden, termasuk 10 penyidik, 5 pegawai bank, dan 5 korban tindak pidana perbankan. Temuan tersebut menunjukkan bahwa faktor pengawasan, teknologi, ekonomi, dan peluang menjadi penyebab utama tindak pidana perbankan di Kota Makassar. Langkah-langkah pencegahan kebijakan tersebut meliputi penyuluhan hukum, patroli, pengawasan rutin, pemolisian masyarakat, dan penyidikan. Penelitian ini merekomendasikan revisi Undang-Undang Perbankan untuk beradaptasi dengan perubahan dan tantangan industri perbankan di era digital. Selain itu, meningkatkan kualitas dan pelatihan sumber daya kepolisian dalam pengetahuan, keterampilan, dan integritas sangat penting untuk tindakan di masa depan.

Kata Kunci: Kriminologi, Kejahatan Perbankan, Polisi

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INTRODUCTION

One of the goals of the state as stated in the Preamble of the 1945 Constitution is to promote the general welfare. To achieve that goal, the fulfillment of clothing, food, shelter, and economic welfare must be maximized. The higher the economic growth in a country, the better the level of welfare of the community's economy. In the field of finance and global trade, the banking sector is a crucial pillar for economic stability and growth, which is expected to support the implementation of national development and enhance equitable development. Banking encompasses everything related to banks, including institutions, business activities, as well as the methods and processes involved in carrying out these activities. Various types of activities are conducted by commercial banks, such as collecting funds from the public in the form of deposits like checking accounts, time deposits, certificates of deposit, and savings accounts; providing financing or credit; transferring money for both personal interests and for the benefit of customers; offering a place to store goods and securities; and facilitating the placement of funds from one customer to another in the form of unlisted securities.

However, on the other hand, banking activities based on the principle of prudence are not free from the shadow of criminality. Behind the positive lens of banking mechanisms, there are still practices of bank abuse. Speaking about crime, from a criminological perspective, crime in a broad sense has the same meaning as the violation of norms, whether legal norms, social norms, cultural norms, or moral norms, which leads to conflict and instability. This approach emphasizes that outside the norms of criminal law, there exists a reality initiated by the actions of the perpetrator that triggers instability for the victim, which must be prevented based on a theoretical framework formulation. In response to anticipate banking crimes, the state enacted legislative instruments in Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 on Banking, which states in Article 51 paragraph (1) that Articles 46, 47, 47A, 48 paragraph (1), 49, 50, and 50A are considered crimes.¹

The existence of crime in the banking sector has become a serious issue in Indonesia, including in the city of Makassar. The Financial Services Authority recorded that in 2022 there were 433 reports related to external fraud at banking institutions, such as scams, account breaches, and cybercrime, with a total of 5,940 complaints overall. The actual losses experienced by commercial banks were reported to be IDR 246.5 billion.² The development of various modus operandi not only motivates the perpetrators but also creates vulnerabilities in the victims, allowing the crime to be committed continuously. For example, in 2023, the South Sulawesi Regional Police dealt with a syndicate or network of banking crimes related to the alleged forgery of documents experienced by one of the customers of PT Taspen Makassar at Bank Syariah Indonesia (BSI) South Sulawesi. The documents forged by BSI for the diversion of pension payment disbursements were documents required for a loan application, while the victim feels they never signed anything.³

¹ Pasal 51 ayat (1) Undang-Undang Nomor 10 Tahun 1998 tentang Perubahan Atas Undang-Undang Nomor 7 Tahun 1992 tentang Perbankan.

²<https://insight.kontan.co.id/news/ojk-kejahatan-siber-memanfaatkan-kelengahan-nasabah-bukan-menjebol-keamanan-bank> diakses pada 2 November 2023.

³<https://celebesnews.co.id/2023/06/17/polda-diminta-bongkar-sindikata-pemalsu-dokumen-kredit-di-bank-bsi-sulsel/> diakses pada 2 November 2023

Not only that, banking crimes are occurring more massively using a social engineering approach, where victims or customers are psychologically influenced and then asked to fill in their data under the pretext of an update through various methods such as package link schemes. Bank account breaches are carried out via digital invitation links or fake pdf files, which, if clicked or opened, allow the perpetrators to directly access the customer's mobile banking. In addition to methods such as forgery, a prevalent crime is banking fraud through electronic transactions. In June 2023, the South Sulawesi Police arrested perpetrators involved in the crime of breaching Mastercard debit accounts and victim data using Heart Sender Software V.1.2 to send phishing emails to victims or email owners, allowing the perpetrators to obtain data such as usernames, passwords, emails, passports, and Mastercard debit card information. Then the Mastercard debit card was cashed out in various ways, such as transacting cryptocurrency on the Paxful platform, cashing out through Western Union and Remitly, allowing the perpetrators to gain approximately IDR 100,000,000.⁴

Based on that data, the police are at the forefront of handling crime. In Law Number 2 of 2002 concerning the Indonesian National Police, the police are defined as all matters related to the functions and institutions of the police, which have the primary duties of maintaining security and order, law enforcement, protection, guidance, and service to the community. Nevertheless, banking crimes will continue to emerge if we only rely on laws as a temporary solution while the law itself faces social changes that tend to create pressure.

Therefore, based on the explanation above, it is necessary to conduct research titled: "Criminological Analysis of Banking Crimes in the City of Makassar." The formulation of the problem in this research is: What are the factors that contribute to the occurrence of banking crimes in the city of Makassar? What preventive measures are being taken by the South Sulawesi Regional Police to tackle banking crimes in the city of Makassar?

METHOD

This research is a type of empirical legal study that focuses on primary data or results from field research. Empirical legal research is a field research approach that involves observing and examining what happens in a location, as well as the application of regulations in practice that grow and develop within society. Empirical legal research focuses on legal issues as problems concerning the gap between obligations, namely commands and prohibitions (*das sollen*) contained in various laws and what actually occurs according to observable facts. (*das sein*)

RESULT AND DISCUSSION

1. Factors Contributing to the Occurrence of Banking Crimes in Makassar City

Banking is an institution in the financial sector that encompasses various financial activities such as money management, providing financial services, and facilitating economic transactions. In Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 on Banking, hereinafter referred to as the Banking Law, Article 1 number 1 further explains that banking encompasses everything related to banks, including institutions, business activities, as well as the methods and processes in carrying out these business activities. Meanwhile, a bank is a business entity that collects

⁴<https://upeks.co.id/2023/06/polda-sulsel-tangkap-satu-pembobol-debit-mastercard-empat-masih-dpo/diakses-pada-2-November-2023>.

funds from the public in the form of deposits and distributes them to the public in the form of credit and/or other forms to improve the living standards of the broader community. In other words, the Banking Law articulates banking as a financial management system, including institutions, while a bank serves as an instrument in manifesting the flow of financial transactions.

The South Sulawesi Regional Police, hereinafter referred to as Polda Sulsel, is the implementing body of the Indonesian National Police in the South Sulawesi Province. In order to carry out the roles and functions of the police, the territory of the Republic of Indonesia is divided into legal areas according to the interests of the implementation of the duties of the National Police of the Republic of Indonesia. Based on the empirical research and literature study conducted by the author at the South Sulawesi Regional Police, the legal basis for the South Sulawesi Regional Police regarding its authority to conduct investigations can refer to the Regulation of the Chief of the Indonesian National Police (Perkap) Number 12 of 2017 concerning the Requirements and Procedures for the Determination of the Division of Legal Areas of the Indonesian National Police, specifically in Article 1, point 4, which states that the Regional Police, hereinafter referred to as Polda, are the executors of the duties and authority of the National Police in the provincial area. In line with those provisions, it is also explained in Article 6 paragraph (2) of Law Number 2 of 2002 concerning the Indonesian National Police that in order to carry out the roles and functions of the police, the territory of the Republic of Indonesia is divided into legal regions according to the interests of the implementation of the duties of the Indonesian National Police. The jurisdiction in question covers the province of South Sulawesi, which has an area of 46,717.48 km².

In general, the organizational structure of the South Sulawesi Police consists of leadership elements, supervisory and assistant/supporting elements, elements responsible for the main tasks, supporting elements, and elements responsible for regional operations. The leadership consists of the Chief of Police (Kapolda) and the Deputy Chief of Police (Wakapolda). The Kapolda is responsible for carrying out the duties of the police within the jurisdiction of the Polda. Meanwhile, the Wakapolda assists the Kapolda in carrying out his duties and oversees the implementation of staff tasks. The supervisory and leadership support elements consist of Itwasda, Roops, Rorena, Ro SDM, Rolog, Bidpropam, Bidhumas, Bidkum, and Bid TIK. Meanwhile, the service elements consist of Spripim, Setum, and Yanma.

This research focuses on the jurisdiction of the South Sulawesi Police, specifically the city of Makassar. Makassar is the capital of South Sulawesi Province, covering an area of 175.77 km² and having a population of 1,571,814 in 2022, with a density of 8,900 people per km². Makassar is located in the southern part of Sulawesi Island, formerly known as Ujung Pandang, situated between 119°24'17'38" East Longitude and 5°8'6'19" South Latitude. It is bordered to the north by Maros Regency and Pangkajene and Islands Regency (Liukang Tupabiring District), to the east by Maros Regency (Mocongloe District) and Gowa Regency (Pattallassang District), to the south by Gowa Regency (Somba Opu and Barombong Districts) and Takalar Regency (North Galesong District), and to the west by the Makassar Strait. The vastness of the Makassar area and its dense population make Makassar the fourth largest city in Indonesia and the largest in Eastern Indonesia. Nevertheless, it cannot be denied that the more advanced and developed a city becomes, the more it will always be overshadowed by the risk of crime, particularly in banking crimes.

Table 1. Banking Crime Data Handled by the South Sulawesi Regional Police 2019-2023

Tahun	Jumlah perkara
2019	4
2020	3
2021	7
2022	2
2023	2
TOTAL;	20

Based on the data above, it can be identified that there are 20 (twenty) cases of banking crimes recorded by the South Sulawesi Regional Police from 2019 to 2023. The number of cases fluctuates from year to year. In 2019, there were 4 (four) cases, which is a decrease of 1 (one) case, resulting in 3 (three) banking crimes recorded in 2020. Unfortunately, in 2021 there was a significant increase, with the number reaching the highest level in the last five years, totaling 7 (seven) cases. The crime rate slightly decreased in 2022 to 4 (four) cases, and then dropped further to 2 (two) cases in 2023. From the data, there are several cases that have drawn attention in the city of Makassar. In 2019, there was embezzlement of 2.3 billion rupiah from customers by a teller at the BRI Panakkukang branch in Makassar. In 2020, there were incidents of theft of customer funds and a rise in identity theft (skimming) in banking. Then, in 2021, a customer lost a deposit of 400 million rupiah at BRI Toddopuli, along with several other cases such as the forgery of bank giro slips and missing deposits. In 2022, there was an organized group committing banking crimes by stealing money from customers who had just withdrawn cash. By the year 2023, there were instances of document forgery involving certain employees at Bank BSI, as well as ATM thefts using the method of attaching fake call center logos to the ATM machines.

The rationalization of banking crimes is explained in the explanation section of Article 51 paragraph (1) of the Banking Law, stating that the purpose of formulating certain actions as criminal offenses has two objectives: to foster a high level of compliance with the provisions contained in the Banking Law, and to prevent the erosion of public trust. Considering this aspect, the author agrees that it is reasonable for the main focus of banking crimes to concentrate more on parties within the banking sector and other parties with an interest in obtaining mandatory or confidential bank information.

Meanwhile, what is included in banking crimes besides banking offenses are crimes in the banking sector. Crimes in the banking sector is a broader definition that is not limited to offenses under the Banking Law, but also encompasses crimes that occur within the entire scope of the banking world and includes other financial institutions. Thus, crimes in the banking sector can reach into the territory of other offenses as long as they use banks as a means or target. For example, banks can be used as a place to commit crimes found in the Criminal Code (KUHP) such as theft, fraud, and forgery. Beyond the KUHP, the potential for crimes in the banking sector is reflected when perpetrators breach bank security systems or commit identity theft, which is prohibited under Law Number 19 of 2016 concerning Electronic Information and Transactions.

Related to banking crimes, which consist of banking offenses and crimes in the banking sector, the general criteria used to criminalize an act as a criminal offense is to determine whether the act is

classified as *mala in se* or *mala prohibita*. Theoretically, *mala in se* refers to crimes that are inherently evil, or universally recognized as immoral acts, regardless of whether such acts are included in legislation. Meanwhile, *mala prohibita* refers to acts classified as crimes because they are prohibited by law, but are not morally wrong. If we examine how banking crimes are categorized as criminal offenses, then banking offenses and crimes in the banking sector can be formulated to include both *mala in se* and *mala prohibita*. This is reflected in banking crimes, which mostly consist of violations of the provisions found in the Banking Law, such as those related to coercion of banks to provide information or prohibitions on disclosing information that must be kept confidential, restrictions related to records concerning bank reports or documents, or ensuring the compliance of banks that fall under *mala prohibita*. In the doctrine, it is stated that crimes such as banking offenses fall under the qualification of *mala prohibita* because the prohibited acts are not accompanied by significant moral stigma and are created to protect financial interests. Meanwhile, actions that are fundamentally evil, such as theft, fraud, or bank robbery.

Both crimes, within the framework of *mala in se* and *mala prohibita*, have their own routes for crime prevention. If the crime is classified as *mala in se*, then the main focus of crime prevention will concentrate on the perpetrators and understanding the root causes or factors that lead the perpetrators to commit banking crimes, so that based on this understanding, early interventions can be implemented. The subsequent mitigation that can be applied when an offender commits a crime emphasizes the reintegration process for the offender after repressive measures such as investigation, prosecution, and sentencing by a judge have been carried out.

However, unfortunately, forms of banking crime often do not place the offender as the epicenter of the crime; rather, these offenses are designed to protect public welfare, maintain social order, preserve economic stability, or regulate actions that could ultimately lead to negative consequences if not given regulatory space. This approach also addresses emerging challenges or issues by making regulation a proactive step.

Furthermore, the nature of the banking crime will not be comparable to the official crime records held by law enforcement. The reason is that the existence of banking crimes or crimes in the banking sector is not the same as street crime in general, making it more elusive; most are not reported and not documented by law enforcement. This widens the gap between what is recorded by law enforcement and what actually happens on the ground, giving rise to a dark area of crime that is unknown, commonly referred to as the dark figure of crime. The lack of special attention to recognizing patterns of banking crimes as part of white-collar crime increases the tendency for criminal acts to become difficult to detect in society. This includes how to identify patterns of criminal acts, the motives of the perpetrators, as well as trends regarding the extent to which certain individuals or parties within banking institutions may pose a risk that leads to criminal acts.

Economics refers to how society behaves and allocates limited resources to satisfy unlimited wants in order to achieve prosperity. Prosperity is an ideal condition in which both human needs and desires are fulfilled. However, economic inequality can drive the occurrence of crime. When there is a significant economic gap between social groups. Communities that feel marginalized or lack legitimate access to fair economic opportunities tend to engage in banking crimes to gain financial benefits. Economic growth is an important goal, but it requires prerequisites to meet human desires, which can be achieved through investment and production financing. Meanwhile, developing countries like

Indonesia face many economic problems such as unemployment, poverty, low living standards, and inflation.

The author argues that banking crimes within the framework of the aforementioned criminological theory can only be applied to the lower class society. As is known, banking crime includes white-collar crime characterized by individuals in the upper-middle class, including professionals who exploit various types of vulnerabilities in banking mechanisms. The desire to gain economic benefits is escalated by certain controls or authorities that can only be abused in specific jobs or positions, in which context bank personnel have the power to misuse. As a result, this imbalance affects the unhealthy banking atmosphere.

In the realm of banking, tensions can arise when there is a gap between the cultural goals of the bank and the legitimate means to achieve those goals. Banking is required to play a more active role in mobilizing funds from the public for the purpose of national development. It is not uncommon for banks to organize agendas, steps, and targets within a specific timeframe in order to continue operating towards achieving their goals. This certainly creates pressure for those working at the bank. Common conditions related to pressure that can lead to fraud include financial stability, external pressure, personal financial need, and financial targets. Financial stability is a state that describes the financial condition of a bank in a stable situation. When threatened by economic conditions, banks may manipulate profits. External pressure is excessive pressure on bank management to meet the requirements or expectations of third parties. The pressure to deliver performance for investors and creditors, for example. Personal financial need is a condition where the company's finances are also influenced by the financial situation of the executives. Meanwhile, financial targets are excessive pressure on management to achieve the financial goals set by the board of directors or management.

2. *Efforts to Prevent Crime by the South Sulawesi Regional Police Against Banking Crimes in Makassar City*

Crime prevention refers to a series of actions and strategies implemented by the police to reduce the opportunities for crime to occur, minimize the impact of crime, and address criminal activities. Theoretically, there are several crime prevention models such as primary prevention, secondary prevention, tertiary prevention, situational prevention, and community-based prevention. Primary prevention aims to prevent crime by identifying and addressing risk factors associated with crime, such as access to education and employment or promoting equality and social justice. Secondary prevention aims to reduce the opportunities for crime by focusing on individuals or groups at high risk of becoming offenders. Tertiary prevention aims to lessen the impact of crime by providing protection and support to victims of crime. Situational prevention involves modifying the physical environment or situations to reduce the chances of crime occurring, such as installing security systems. Then community-based prevention involves active participation from the community in crime prevention efforts. The efforts made by the South Sulawesi Regional Police to prevent banking crimes in the city of Makassar integrate a sequential crime prevention model that starts with early crime prevention (pre-emptive), before the crime is committed (preventive), and after the crime has been committed (repressive), as follows:

a. Pre-Emtif Measures

Preventive measures are initial efforts made by the police to prevent the occurrence of crimes or offenses, either by instilling good values and norms so that these norms are internalized within each individual. The internalization of norms that align with prosocial attitudes will fortify an individual and reduce the desire to commit crimes, so that even if there is an opportunity to commit a crime, if there is no intention to do so, then no crime will occur. This effort also serves as a countermeasure to situations that can be categorized as correlating criminogenic factors, by closely observing every early symptom and identifying the latent potential causes at their source.

b. Preventive Measures

Preventive measures are actions taken by the police to directly prevent conditions that can potentially lead to crime. Prevention is carried out before a crime or threat of crime occurs, involving the identification of potential crime risks so that these tendencies do not reach a threshold of disturbance and become a real disruption. Preventive measures also include activities that involve police hazards or the presence of police in the community. Preventive measures are a follow-up to preemptive efforts that are still at the level of prevention before a crime occurs. In other words, what is emphasized in preventive measures is how to eliminate the opportunities for crimes to be committed. However, the crime that is prevented with this approach is when there is potential, such as actions or other circumstances, that may later escalate into a crime. Unlike preemptive prevention, which focuses on internalizing values in individuals and society long before the potential crime arises. Preventive measures are actions taken when there is early detection that if the conditions facilitating crime are allowed to persist, then crime will occur.

c. Repressive Prevention Efforts

Repressive prevention is a crime prevention approach that focuses on law enforcement and punishment of offenders, which is carried out by implementing the criminal justice system and positioning offenders as participants in the actions of each law enforcement agency, such as investigation, prosecution, and sentencing. Repressive prevention emphasizes legal certainty by linking an individual's actions to norms that constitute criminal offenses. In this case, the South Sulawesi Regional Police conducted a series of investigative activities followed by an inquiry into two types of criminal offenses, namely banking crimes as outlined in Law Number 10 of 1998 concerning Banking, and criminal acts in the banking sector, which involve using banks as a means or target as stated in the Criminal Code and other regulations. Essentially, to reduce crime rates, offenders must also be forcibly restrained and deprived of their freedom through arrest or detention, with the aim of providing a deterrent effect on the perpetrators.

CONCLUSION

Based on the results of the research and discussion presented by the author, the conclusion of this thesis is: The factors causing banking crime in the city of Makassar are supervision factors, technology factors, economic factors, and opportunity factors.

The preventive measures taken by the South Sulawesi Regional Police in tackling banking crimes in Makassar City include pre-emptive efforts through legal counseling, preventive measures through patrols, routine monitoring, and community policing, as well as preventive actions through investigations.

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