

Ethics in Artificial Intelligence in the Banking Sector in Indonesia



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ABSTRACT: This research aims to find out the answer to whether the use of AI is a violation of ethics.

Methods: This type of research is normative legal research. This research uses secondary data. Data analysis uses qualitative data analysis techniques. The conclusion-drawing technique used is deductive.

Result: The research results show that Artificial Intelligence is only one instrument in bank activities. The use of AI in banking, the use of AI is considered a violation of Morals and Ethics if it violates the inner behavior which is a manifestation of good values and cannot find a justification for it.

KEYWORDS: Artificial Intelligence, normative legal research, secondary data

I. INTRODUCTION

The use of AI in the banking sector can be simply demonstrated by AI's ability to process both structured and unstructured data, which can improve risk management analysis. AI can identify, measure, and control risks that may occur in the banking world. For example, many Indonesians do not yet have a bank account. AI can help the verification process for new customers because it is integrated with Indonesian population data. The system will recognize the faces, signatures, and fingerprints of new customers according to their resident cards. Several banks have a policy of not requiring an ID card when opening an account according to the resident card address. AI has identified and controlled these risks. In addition to the term AI, there is the term Generative Artificial Intelligence (Gen AI) which refers to a type of AI with the ability to produce new data or output based on data that has been learned by AI. The Gen AI model can create new content that is like the training data that has been given to it. Compared to Gen AI, AI refers to something traditional. Traditional AI focuses on specific tasks and predetermined algorithms with limited capabilities on data to train algorithms. In the banking sector, the advantage of Gen AI compared to traditional AI is its ability to update an algorithm according to the development of customer relationships progressively and automatically (Indra Utoyo, 2021). For example, Gen AI can monitor the smoothness of customer loan payments in real time which is used to provide recommendations for top-up loans for certain customers automatically. The nature of Gen AI is not static but can adjust to customer behavior. Many banks use AI in the credit granting process, by conducting credit history, income, and customer behavior. In general, the algorithm is updated periodically using new training data sets. The chatbot feature used by banks and fintech is a rule-based chatbot with pre-defined key vocabulary. Such chatbots are unable to provide answers outside of previously anticipated scenarios. Chatbots with Gen AI can automatically update answers that are outside of the scenario. Gen AI chatbots can understand the context and intent of questions and interact with more human language and learn from the interactions that occur. One of the leading financial institutions in China has used iceboats to automate the credit collection process, including by scheduling when to contact customers and even negotiating discounts on bill payments with late paying customers.

This description shows the benefits or positive consequences of using AI for banking and society, but also the negative consequences for customers and banks. The negative consequences include data accuracy and security issues as well as ethical issues. Negative consequences for data accuracy and security will be viewed from a legal and ethical perspective. These negative consequences have the potential to disrupt the bank's reputation and public trust in banking institutions which are non-contractual relationships that inspire the bank's relationship with its customers. The problem is that Using AI results in negative impacts such as data security and accuracy and a need for more ability to explain things and also raises ethical issues. This problem can damage the Bank's reputation, which affects public trust in banking institutions. This research aims to find out the

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answer to whether the use of AI is a violation of ethics? . There is previous research in Law that examines legal developments in AI in Indonesia, namely conducted by Reza Farishy (2023), Firza, A. D. C., Samudera, et al. (2023), Camila Amalia et al. (2022), Sinta Dewi Rosadi, et al. (2022). Artificial intelligence research in banking in other countries has also been written by, among others, Fares OH (2022), Choithani (2022), and Hasan MM (2022). The difference between this research and the previous research results is that this research needs to focus on the challenge of developing AI in banking from the perspective of ethic. This research is an internal group research schema. This research is urgent to find out what challenges exist in implementing artificial Intelligence in the banking sector from the perspective of ethic.

II. RESEARCH METHODS

This study uses secondary data. This study does not use primary data. This study does not use direct data from respondents. The secondary data used are laws and regulations related to artificial intelligence as primary legal materials. Secondary data used as secondary legal materials are books, journals, expert opinions. Data are collected, analysed with qualitative analysis and described with qualitative descriptive methods. The conclusion drawing technique used is deductive.

III. RESEARCH RESULT AND DISCUSSION

A. *State in Banking Activities and Public trust in banking institutions*

There are 2 (two) bank and customer relationships, namely a contractual relationship and a non-contractual relationship. A contractual relationship is a relationship that is based on an agreement, whether in a savings agreement, credit agreement or other banking services agreement. The state provides regulations regarding these private relationships in the form of general regulations, namely the Civil Code which regulates matters of engagement. Regulations regarding engagements are contained in Book III of the Civil Code. There are conditions for the validity of the agreement which is one of the sources of the agreement and the principles of the agreement which can be drawn from the provisions therein. It should be remembered that Book III of the Civil Code is complementary.

The complementary nature of the law means that the provisions in this regulation will apply as long as the parties do not determine otherwise. In accordance with the principle of freedom of contract in law, the parties have the freedom to determine the content, form and with whom they will enter into an agreement as long as it does not conflict with the law, morality and public order. In non-contractual relationships, the state is present in the form of regulations that require banks to carry out activities that can realize these non-contractual relationships. The concept that customer trust in banking institutions is a concept that underlies the operation of a bank. Based on this, understanding the content or substance and methods in conducting banking interactions is a very urgent matter to be seriously improved Public trust in banking institutions is greatly influenced by the experience, perception, understanding of the community itself, this is in accordance with Weber's concept of thinking. Human actions are based on experience, perception, understanding and interpretation of a particular stimulus object or situation. This individual action is a rational social action, namely achieving goals or targets with the most appropriate means. The behavior of society in choosing banking institutions as an option compared to other financial institutions is relevant to this Theory and Concept which was later developed by Talcott Parsons in the Action theory which states that action is not behavior. Action is a mechanical response to a stimulus while behavior is an active and creative mental process. According to Parsons, the main thing is not individual action, but social norms and values that guide and regulate behavior. Objective conditions combined with collective commitment to a value will develop a certain form of social action. In relation to the use of AI in banking, if banking institutions can provide banking digitalization with the help of AI that does not harm customers, but even benefits customers, then this will increase customer trust in banking institutions.

B. *Limitations of the Positivism Paradigm and Natural Law Theory*

The need for regulations related to AI in banking in Indonesia in the context of legal schools can be included in the positivism paradigm by prioritizing legal certainty by emphasizing the separation between law and morality (Hans Kelsen), determining the concept of law solely based on regulations that are currently in force or that already exist, without considering the basis for its existence (John Austin). Without ignoring the importance of legal certainty, the purpose of the law to achieve justice as a manifestation of the principle of balance of interests is something that must be reflected, this is in accordance with the opinion of the natural law theory as stated by Thomas Aquinas, Lon Fuller, Stammler (Satjipto Raharjo, 2021)

This issue shows the limitations of legal positivism which prioritizes legal certainty, and if the related parties in this case the banking sector, OJK, LAPS SJK only use the law based on the authority of the institution in charge, then the law can only be used as a tool for injustice and oppression (Franz Magnis S, 1987), so that if banking institutions cannot implement and interpret these regulations properly, the law will not be able to achieve its goal of providing justice. Viewed from the aspect of balancing

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interests for customers, these provisions have the potential to become obstacles to the legal protection of bank customers based on the balance of interests. Although there are no specific regulations governing AI, the problematic regulations that will exist and are currently used as a legal basis raise the issue of the application of the positivism paradigm in practice, resulting in more formal justice. Formal justice in reality does not necessarily reflect real justice (substantial justice) The positivist movement began to grow in the 19th century, this movement marked the emergence of positivism. The Indonesian state, which for 350 years was under the influence of the Dutch legal system, was a long enough period for the Indonesian people to get used to the written legal system, as a result of the influence of the civil law system (Continental Europe) that it had adopted for centuries. This paradigm was pioneered by August Comte which was then used in legal science The positivist paradigm influenced the birth of modern law. The characteristics of modern law in general are that its prominent nature is the rational (and formal) nature of modern law. This rationality can even develop in such a way that it reaches the level of "rationality above all else". This means that when associated with justice, procedural justice according to the law is what happens.

The theory of natural law seems to have re-emerged in this period, which believes in the existence of moral idealism in positive law (Stammler). The idea of re-emphasizing the relationship between law and morality (Lon L. Fuller) occurred in the 20th century. The essence is that the idea of the theory of law that colors this era reveals the need for moral idealism that can be expressed in the order of positive legal norms. The development of legal theory that emphasizes the moral aspect in conceptualizing law is also followed by the development of legal theory related to the field of economics (John Rawls, Robert Nozick, John Finnis) which rejects the principle of utility and maximization. All three argue about the importance of legal rules that emphasize moral aspects. Differences in thinking arise when drawn to the philosophical aspect, even though the new teachings on law are only in theory, ideas or study movements. In practice, this teaching may not be able to shift the dominance of the modern legal order which currently has a positivist paradigm, but in any case, the idea that there is a need to re-emphasize moral idealism which is expressed in positive law will be more able to touch on the true aims of law which not only aims to achieve legal certainty but also justice for society.

Banking regulations, especially AI in banking in Indonesia, have characteristics that cannot be neutral because the legal relationship that occurs between customers and banks is always dominated by parties who have a more dominant position. In relation to ethics, the absence of specific regulations related to AI encourages related parties, especially banking parties, to use AI in banking activities, not only for the sake of seeking profit, but also without harming customers.

C. Artificial Intelligence in Banking from Ethics Perspective

The use of AI in banking can be seen from a Moral and Ethical perspective. As is known, Ethics talks about what is right and wrong and good and evil. If there is a division of norms in society, namely norms of trust, norms of politeness, norms of morality or conscience, and religious norms, then what is meant by ethics are good and right values that come from religious norms, norms of morality and norms of politeness. Ethics and morals are 2 words that are interrelated. Ethics and Morals, although inseparable, have different meanings. According to Frans Magnis S (1987). Ethics is a philosophy or critical and fundamental thinking about Moral teachings. Moral teachings are advice, sermons, benchmarks and collections of rules and regulations, both oral and written, about how humans should live and act in order to be better. According to Frans Magnis, ethics is critical and fundamental thinking about moral teachings. Thus, ethics is a science, not a teaching. Ethics and morals are also not at the same level. Moral teachings determine how humans should live, what is permissible and what is not. While ethics helps a person to understand. In other words, ethics as a science requires humans to behave morally critically and rationally. An immoral person can be said to be a bad person, but an unethical person means he is just a person who does not know about a science. If morals contain human obligations and values, then the task of ethics is to put forward arguments why something is a moral obligation. Morals discuss the right and wrong of an action from the deepest aspect (philosophical), while ethics examines the good and bad or the appropriateness or inappropriateness of an action to be done based on a rational and critical analysis of its moral views.

	MORAL	LAW
1	1 Morality is subjective and often requires clarity about whether an act is ethical or not	Law is objective and has greater certainty.
2	Morality concerns a person's inner behavior	Law only limits its scope to human outer behavior.
3	Moral sanctions: disturbed peace of conscience	Legal sanctions can be enforced.
4	Sanctions will be given by the community	

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IV. CONCLUSION.

AI as a software that works on the orders and authority of the Creator of the software. AI in banking takes information from many degenerate sources and provides the information desired by the user. Ethical violations for users are possible if the user's actions meet the violations of living Ethical elements. In relation to the use of AI in banking, the use of AI is considered a violation of Morals and Ethics if it violates the inner behavior which is a manifestation of good values and cannot find a justification for it.

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