

## The Existence of Supervision by Non-Governmental Organizations in Providing Legal Protection for Consumers with Bad Credit



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**ABSTRACT:** Convolutated formal procedures have led to a crisis of public confidence in state institutions, this is what happens with bad credit, in fact the public prefers to take bad credit issues to complain to YLKI rather than going to state institutions that handle consumer protection. This research is intended to examine and analyze the role of Indonesian consumer foundations in providing protection to consumers with bad credit. The research method used is normative legal research which is carried out by conducting research, using library materials or secondary data. This research concludes, first, the problem of consumer protection for bad credit is that the public does not have confidence in resolution through consumer protection institutions under state institutions and through legal action in court as a litigation step. The reason is that complicated bureaucracy and the weak response of state institutions to the issue of bad credit have encouraged the public to choose YLKI to advocate for the issue of bad credit. Second, the existence of supervision by non-governmental organizations since 1970 has been able to respond quickly to consumer protection issues, especially regarding bad credit, namely through advocacy to save bad credit consumers who experience arbitrary collections. The problems experienced by YLKI are a lack of budget and the number of human resources that are unable to keep up with the volume of handling advocacy cases such as bad credit issues, causing YLKI to not optimally handle bad credit cases.

**KEYWORDS:** Foundations; Institution; Consumers; Indonesia.

### I. INTRODUCTION

Society must be faced with the fact that the emergence of undesirable events such as financial crises, is an undesirable situation. Such a situation requires someone to apply for a credit loan to an institution that provides such services, in this case it is commonly understood that it is usually done by a banking institution. The phenomenon of credit loans is a common thing, especially in the modern era today, with the reason for easy access to make credit loans.<sup>1</sup>

The problem that then arises is, late payments or bad debts occur in various consumers in this case bank customers, which raises two problems, namely: First, customers experiencing payment constraints are something that cannot be avoided. Second, the Bank will easily carry out legal processes without tolerance for customers who experience bad debt constraints.

The problem of information about problematic credit in various banks has a very bad impact on customers as consumers and the Bank. On the one hand, customers will be given convenience in obtaining a budget for their needs, but on the other hand, when the credit is bad, the Bank will be harmed materially. This happens continuously in the credit relationship between customers and the Bank.<sup>2</sup>

The relationship between the customer and the Bank will be at a point of tension when a bad debt actually occurs. The Bank will always consider that the occurrence of delays is a form of bad debt which is legally categorized as a default. Even though the customer did not do it intentionally or negligently, for example, late payments are made due to force majeure or are beyond the customer's will, say a disaster that befalls or other things that come from external to the customer's will, the Bank will not announce the event as something that must be understood, in this case a customer will be considered to be in default.<sup>3</sup>

The phenomenon of customers being unable to make payments has become an encouragement for banks to take legal steps. Although in fact the bank should first conduct a review of the causes of bad debts. This means that there is still a humanitarian

<sup>1</sup> Aan Handriani, "Perlindungan Hukum Bagi Debitur dalam Perjanjian Kredit Ditinjau dari Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen," *Pamulang Law Review* 2, no. 2 (November 2019): 142.

<sup>2</sup> Fakhry Firmanto, "Penyelesaian Kredit Macet Di Indonesia," *Jurnal Pahlawan* 2, no. 2 (September 2019): 30.

<sup>3</sup> Firmanto, 30.

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side that must be considered by the bank. The reason is that not all customers who do not make payments are due to deliberate factors, there are also those who are purely due to income or economic constraints.<sup>4</sup>

The mistake that is often made by the Bank is to rush to apply sanctions and legal efforts to customers who experience bad credit, even though there has been a first to third warning letter, but the classification process is not as simple as the way it has been done so far. Mediation should be carried out through deliberation and consensus, not collecting without any aspect of humanitarian considerations.<sup>5</sup>

Considering that at the beginning of the borrowing and lending, of course there is a motive to seek profit for each party, from the Bank as the creditor wanting interest on the return and from the customer who applies for credit as the debtor expecting the loan money for economic activities. These are the elements in applying for a loan to the Bank consisting of: First, the willingness to lend a certain amount of money from the creditor, which is without coercion. Second, a statement in the form of the ability to return the debt that has been made within a specified time. Third, the agreement is stated in a deed of agreement.<sup>6</sup>

The ability to pay is the obligation of the debtor or customer. If the money lent by the bank cannot be paid, then in addition to obtaining the status of bad debt, other legal sanctions in the form of default and Unlawful Acts are very likely to occur.<sup>7</sup> At times like this, an institutional role is needed to advocate for the issue of bad credit.

In practice, there is no government institution that is able to realize supervision of bad credit, in order to protect customers. So far, it is precisely institutions outside the authority of the state that play an important role, in this case private institutions from the community element show their role more. As done by the Indonesian Consumers Foundation (YLKI), whose journey, especially in the East Java region, shows its role in protecting bad credit customers as consumers who must be protected.

Some reasons why bad credit customers must be protected from creditors, namely as follows: First, bad credit customers are parties who are in a weak position. Second, protection is given to those who really cannot make payments due to work or income obstacles. Third, the nature of the institution is to mediate so that a way out is found without having to bring the problem into the realm of litigation.

Textually, of course, when a defaulting credit customer is unable to make payments, then this is absolutely not justified according to law. The emergence of a legal relationship between a defaulting credit customer and the Bank has bound themselves in an agreement, meaning that there are rights and obligations that must be carried out. When this issue is brought to the realm of litigation, of course, the creditor will easily argue for default sanctions or PMH against the debtor. The reason is because the legal position of the creditor is very clear as the party who is harmed because the performance has not been carried out. However, other efforts need to be made before entering into the material of the lawsuit in Court, through mediation so that the law does not appear to side with the powerful and tends to ignore the values of benefit and justice of the law itself.<sup>8</sup>

Through the role of institutions, the settlement of bad debts can be carried out without harming the parties. On the other hand, the settlement action carried out by involving two conflicting parties, without going through a mediator, will give rise to a legal conflict, which actually does not bring much benefit to the parties. On the one hand, bad debt customers cannot pay and on the other hand, the Bank will not experience a return of the finances that have been borrowed by customers if they carry out legal proceedings, because the collateral is not necessarily able to cover the money borrowed by bad debt customers, not to mention if the interest payments are doubled and have not been paid.

Late payments that occur to bad credit customers encourage efforts to provide alternatives, as long as the customer concerned still has good intentions. This means that advocacy for those who cannot make payments is when they are unable to pay according to the payment date specified in a loan agreement. For customers who do not have good intentions and even sell the object of collateral confiscation, advocacy from the institution handling the problem does not apply.

Settlement of bad credit is very essential, especially for bad credit customers, because collateral seizure is a valuable asset. This certainly concerns the economic condition of the customer after the collateral seizure that will be confiscated by the Bank, so that arbitrary confiscation without providing an opportunity for bad credit customers is something that has an impact on financial decline for the customer's life. Moreover, if the Bank takes legal action in the form of default or PMH, which in practice often the

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<sup>4</sup> Alfina Rahmatun Nida, "Analisis Kredit Macet Dan Penanganannya: Prespektif Hukum Ekonomi Syariah," *Al-Muammalat: Jurnal Ilmu Hukum & Ekonomi Syariah* 6, no. 2 (Desember 2021): 4.

<sup>5</sup> Kadek Eni Andriani dan I Gede Agus Pertama Yudiantara, "Analisis Penyelesaian Kredit Macet Berdasarkan Konsep Menyama Braya Di Bumdesa Pandan Harum Selat," *JIMAT (Jurnal Ilmiah Mahasiswa Akuntansi) Universitas Pendidikan Ganesha* 12, no. 03 (2021): 658.

<sup>6</sup> Sutrisno dkk., "Literature Review: Mitigasi Resiko Dan Prosedur Penyelamatan Pada Sistem Perkreditan Rakyat," *COSTING: Journal of Economic, Business and Accounting* 6, no. 2 (Juni 2023): 1159.

<sup>7</sup> Taudlikhul Afkar, "Analisis Pengaruh Kredit Macet Dan Kecukupan Likuiditas Terhadap Efisiensi Biaya Operasional Bank Umum Syariah Di Indonesia," *AJIE-Asian Journal of Innovation and Entrepreneurship* 02, no. 02 (Mei 2017): 179–80.

<sup>8</sup> Veronika Nauli Lumban Batu, "Gugatan Sederhana Sebagai Instrumen Penyelesaian Sengketa Kredit Bermasalah Pada Perbankan," *Jurnal Kertha Desa* 11, no. 10 (2023): 3566.

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loss is increased from the value of the debt borrowed by the customer.<sup>9</sup> This is where the importance of a credit default dispute resolution institution lies, which first of all does not enter the realm of litigation.

The advantage of not going through litigation efforts for the Bank is that it will not experience a prolonged legal process, because in practice, legal efforts for appeals and cassation can take up to years. Meanwhile, the Bank itself needs certainty to cover losses due to bad credit by its customers. Efforts to obtain legal certainty must of course go hand in hand with the benefits that the Bank will obtain if it goes through the legal process in Court, not to mention the cost of seizing collateral that must be incurred by the Bank to execute the collateral which requires a lot of money.<sup>10</sup>

Choosing an independent dispute resolution institution is very important. The parties must think about the considerable costs before entering into the main case in court. In fact, the party who lends a certain amount of cash, either in default or PMH, certainly needs a return on the loan. Legal efforts made through the court are often ineffective and inefficient, meaning that going through the court as a dispute resolution path cannot provide certainty to provide benefits for the Bank.<sup>11</sup> This view emphasizes that the Court should be the last resort, when the institution for resolving disputes over bad debts is truly no longer able to act as a mediator in bad debt issues.

The most important consideration for not rushing to bring a bad credit issue to court, especially when the value of the debt loan compared to the estimated costs of litigation, turns out to be more expensive when litigation will be a consideration for creditors, not to continue the loan case into the realm of litigation. The most rational reason is that the debt loan case is a civil case, the focus of which is to return the money that the debtor has borrowed.<sup>12</sup>

At least this is what is done by private institutions in this case the Indonesian End Consumer Foundation (YLKAI), in Central Java Province. Based on the author's analysis, many bad credit customers face the YLKAI institution. It's just that the problem is that the YLKAI institution is not mentioned by the Law to be an official advocacy institution mentioned by the Law, but only the Indonesian Consumer Foundation (YLKI), so that in the research conducted by the author YLKAI will only be a supporter that the existence of private institutions to resolve bad credit.

Based on historical perspective, YLKI has become an organization with long experience. Before Law No. 8 of 1999 concerning Consumer Protection was enacted, YLKI has shown its existence through various advocacy on consumer protection. An institution that in its journey has been able to show performance that is worthy of being reckoned with and oversee various consumer disputes. The existence of the YLKI institution is based on respect for human rights, avoiding the practice of discrimination in the national business world, thus protecting consumers is very essential for YLKI. Independence is YLKI's main capital to carry out its role as an institution that is not part of the government.<sup>13</sup>

The problem is that YLKI does not have the authority as a state institution, for example to summon business actors or consumers. Its existence is only for advocacy, even YLKI's recommendations are not mandatory to be implemented, so that the advocacy actions taken will be easily diverted, this is what prompted the author to conduct research to answer the legal issues regarding: First, How are the problems of protection for consumers of bad credit?. Second, How is the existence of supervision of Non-Governmental Organizations in providing legal protection for consumers of bad credit?.

## II. MATERIALS AND METHODS

The method used by the author is normative legal research which is carried out by using library materials or secondary data in the form of primary legal materials, secondary legal materials and tertiary legal materials to answer research problems.,<sup>14</sup> The author will use it to conduct a study and analysis of the existence of supervision by Non-Governmental Organizations in providing legal protection for consumers with bad credit.

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<sup>9</sup> Hillary Yohana Saroinsong, Sri Murni, dan Victoria N Untu, "Analisis Faktor Internal Dan Eksternal Penyebab Terjadinya Kredit Macet Pada PT. Bank Sulutgo Cabang Utama," *Jurnal EMBA* 10, no. 4 (Oktober 2022): 445.

<sup>10</sup> Syapri Chan, "Penyelesaian Sengketa Kredit Macet Perbankan Melalui Gugatan Sederhana," *Jurnal Normatif Fakultas Hukum Universitas Al-Azhar* 1, no. 1 (Juni 2021): 7, [www.gabyhardwicke](http://www.gabyhardwicke).

<sup>11</sup> Muhammad Agus Prasetyo dkk., "Reposisi Pelaksanaan Penyelesaian Sengketa Perdata Dengan Gugatan Sederhana (Small Claim Court)," *Jurnal USM Law Review* 4, no. 2 (2021): 906, <https://doi.org/10.22437/jssh.v5i1.13456>.

<sup>12</sup> Firdaus Syafaat, "Penyelesaian Gugatan Sederhana (Small Claim Court) di Pengadilan Negeri Stabat," *Jurnal Sains Sosio Humaniora* 5, no. 1 (22 Juni 2021): 97, <https://doi.org/10.22437/jssh.v5i1.13456>.

<sup>13</sup> Febripuspa Surya Candra dan Putu Devi Yustisia Utami, "Tata Cara Yayasan Lembaga Perlindungan Konsumen Dalam Menangani Transaksi Fintech Illegal Di Kota Denpasar," *Jurnal Kertha Semaya* 9, no. 9 (2021): 1595, <https://doi.org/10.24843/KS.2021.v09.i09.p09>.

<sup>14</sup> Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: PT. Raja Grafindo Persada, 2003), 13.

### **III. RESULTS AND DISCUSSIONS**

#### **A. The Problem Of Legal Protection For Consumers With Bad Credit**

On-time payments are not entirely all bad credit customers, able to pay without delay in this case on time. Many factors can make someone unable to make payments on time, usually this is what is then called overpayment or the existence of force majeure. The debtor is unable to pay the creditor according to the date that has been agreed as the due date. Such a situation is a common occurrence, because a person's economic condition sometimes goes up and down. It's just that the creditor often does not consider the aspect of the debtor's condition, on the grounds of paying attention to the creditor's financial health as a legal entity.<sup>15</sup>

Creditors often easily bring the issue of bad credit into litigation. As happens in banks, when bad credit occurs, the bank will carry out a rescue, with the aim that the money that has been borrowed can be returned. This is especially done for bad credit customers who experience disaster, then several efforts will be made with the following explanation:<sup>16</sup> First, extending the payment collection but with a note of interest (additional payment). Second, Auction of collateral seizure when the debt application is made, usually there is collateral submitted by the bad credit customer. Third, additional cash deposits in the following month or multiple payments. Fourth, confiscation of customer assets outside of those used as collateral.

Often the Bank takes the path through legal efforts, when the four efforts above do not encourage customers to pay their debts. The legal action taken is not wrong if viewed from the perspective of positive law, if someone does not fulfill the performance then the person is in default and can be tried by the Court.

The demand to bring the issue to the legal process when bad credit occurs is not without reason. Because the Bank is required to maintain financial conditions so that they remain stable. This reason encourages the Bank to make every effort so that the money that is lent does not just disappear, so that from mediation to lawsuits in court will be used by the Bank, even though the costs incurred in the lawsuit process are not small.<sup>17</sup>

Efforts to recover the loan through litigation are not entirely beneficial to the Bank. Losses will actually be experienced, because the cost of the collateral auction object against the debtor's assets will usually be sold at a low value. The reason is that the collateralized object has a low selling value or can be sold at a high value, but it will make the auction of the object take a long time. In fact, the Bank needs the money from the auction to cover losses due to loans that cannot be repaid, this is also made possible by Article 12a of Law No. 10 of 1998 concerning Banking, to conduct an auction so that the creditor's losses in this case the Bank, can be minimized.<sup>18</sup>

Banks will certainly consider very carefully to go through legal efforts in the Court, because when the Court Decision is final, the problem is not finished. A new problem arises, namely the problem of the legal instrument regarding the implementation of the execution, which is so complicated. Starting from the application to the District Court, to the determination hearing, then a summons will be issued by the Court, coordination with other law enforcers, the entire process of which takes quite a long time. The execution application procedure also requires administrative costs, even in practice sometimes you have to deal with individuals who require the system to be complicated and creditors will spend additional money, thus the Justice system does not seem to provide effective and simple space for bad credit cases. This is what drives the importance of settlement through non-litigation channels.<sup>19</sup>

Settlement through non-litigation channels will provide more space for the Bank to gain profit, on the grounds that the Bank can negotiate with the debtor in a longer settlement period. For example, the debtor can use other assets to be sold in order to pay off bad debts, because the problem of bad debts occurs not only because the debtor does not have good intentions to pay, but because on the due date the bill money has not been able to be paid at that time. This means that the Bank needs to have room for discretion in order to provide space for the debtor to carry out the achievement. This indeed needs to be understood from the beginning that referring to the provisions of Article 8 of Law No. 10 of 1998 concerning Banking, has warned citizens that credit at the Bank does contain a risk.<sup>20</sup>

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<sup>15</sup> Doni Rusadi dan Hendrik Budi Untung, "Upaya Hukum Kredit Bermasalah dan Macet untuk Properti," *Jurnal Kajian Hasil Penelitian Hukum* 5, no. 1 (2021): 122–38, <https://e-journal.janabadra.ac.id/index.php/JMIH/index>.

<sup>16</sup> Patricia Ludya Palar, "Penyelesaian Sengketa Kredit Macet Menurut Undang-Undang Nomor 30 Tahun 1999 Tentang Arbitrase," *Lex Et Societatis* 6, no. 2 (April 2018): 84–85.

<sup>17</sup> Sudarto dan Budi Santoso, "Penyelesaian Kredit Bermasalah Pada Perbankan Indonesia," *Jurnal Notarius* 12, no. 2 (Maret 2019): 605.

<sup>18</sup> Weppy Susetiyo dan Anik Ifitah, "Peranan dan Tanggungjawab Pemerintah dalam Pelayanan Kesehatan Pasca Berlakunya UU Cipta Kerja," *Jurnal Supremasi* 11, no. 2 (31 Agustus 2021): 52, <https://doi.org/10.35457/supremasi.v11i2.1648>.

<sup>19</sup> I Ketut Sukawati Lanang Putra Perbawa, "Penyelesaian Kredit Macet Dalam Perbankan," *Jurnal Advokasi* 6, no. 1 (2016): 69.

<sup>20</sup> Yustiana Yustiana, "Eksekusi Hak Tanggungan terhadap Kredit Macet Bank," *Al-Ishlah: Jurnal Ilmiah Hukum* 23, no. 1 (17 Mei 2020): 87, <https://doi.org/10.56087/aijih.v23i1.38>.

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### ***B. The Existence of Supervision by Non-Governmental Organizations in Providing Legal Protection for Consumers with Bad Credit***

Fulfillment of justice for customers with bad credit cards is indeed not easy. So far, the official state institution that resolves consumer disputes is the Consumer Dispute Resolution Agency (BPSK). However, there are several problems with the BPSK institution itself, with the following weaknesses: First, the BPSK Decision can be challenged in the District Court, meaning there is no legal certainty over the BPSK Decision. Second, the power in the form of authority given to BPSK is ambiguous. Third, there is no regulation if the creditor does not fulfill the summons, then what sanctions will be imposed. Fourth, there is no protection for BPSK members. Sixth, salaries that have not been paid to the BPSK institution.

BPSK's performance tends to be slow and unable to respond quickly to bad credit issues, indicating that BPSK tends to be passive in providing protection to consumers and does not provide a maximum role. This indicates that the BPSK institution needs to be reviewed to continue to handle consumer issues, because BPSK is unable to respond to public issues that are increasingly developing so quickly and giving rise to complex problems.

The impact of the unclear role of BPSK has an impact on the institutional performance of BPSK in handling bad debt issues. Finally, bad debts cannot be handled properly by the state, even though the state should be present when there is a legal deadlock in resolving bad debts, as happened in Central Java Province.

Central Java is an area with very high non-performing loans, based on data from Bank Jateng that in 2020 non-performing loans reached IDR 1,809 trillion. Non-performing loans that occurred in Central Java were in fact caused by the production and trade sectors, this cannot be stopped because of the high rate of economic growth regarding the gap between the rich and the poor.<sup>21</sup>

In fact, the rescue of consumer interests due to bad credit is actually carried out by private institutions. Based on data collected by the author from the Central Java Provincial Representative of YLKAI, several consumer complaints regarding bad credit can be seen in the following description:<sup>22</sup> First, Complainant Kurniaro Subesi on Friday, May 10, 2024 at the YLKAI Grobongan Consumer Head Office came to complain about his case with PT. Bank Rakyat Indonesia (BRI) Pandanaran Branch Office. Kurniaro Subesi complained to YLKAI because he felt pressured due to fears that his assets would be auctioned and had even been registered for auction at the KPKNKL Office with collateral in the form of two Land Ownership Certificates. Second, Complainant AAN Fahrul Syahrifudhin on Wednesday, July 7, 2022 at the YLKAI Grobongan Consumer Complaint Head Office came to complain about the Unlawful Act (PMH) between himself and PT. BANK RAKYAT INDONESIA Kwaron-Kanca Purwodadi Unit. Starting from a credit agreement on June 26, 2021 between AAN Fahrul Syahrifudhin and PT. BANK RAKYAT INDONESIA Kwaron-Kanca Purwodadi Unit with a guarantee of two (2) certificates of ownership (SHM). During his journey, AAN Fahrul Syahrifudhin was never given relief to pay when he experienced late payments, he even received a warning three (3) times with the threat that the SHM used as collateral would be auctioned at the KPKNL.

Based on the explanation of the data of consumer complainants who came to the YLKAI Grobongan Office, it can be seen that the problem of consumer protection for bad credit lies in the crisis of trust in the judicial institution, which is caused by two things, first, the case resolution system through the Court is considered incapable of resolving problems quickly, simply and at low cost. Second, YLKAI is considered to have credibility and competence, so that institutions outside the courts will be more trusted, this has a negative impact on public respect and appreciation for the judiciary, because public trust is actually given not to state institutions.

Referring to the data outlined by YLKAI Grobongan, Central Java Province, it shows that private sector advocacy is more effective and efficient in handling bad credit issues, the problem is that YLKAI itself does not have adequate authority and membership instruments, so that YLKI is a long-term alternative that can be chosen as a private institution to handle bad credit issues in Central Java Province. The reason is, in addition to experience and the competence of YLKI's Human Resources (HR) which has existed since before the Consumer Protection Law (UUPK) was passed, YLKI has been able to show its support for consumers.

The role of private institutions is important, because the nature of the administrative procedures that must be passed is not as difficult as the administration of state institutions. In addition, a quick response is the reason why the YLKI institution as a private institution can resolve the problem of bad credit. This is very important to consider in the development of national law, because if the state is unable to be present to anticipate the problem of bad credit, then social conflict is very open to occur in society.

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<sup>21</sup> Imam Yuda Saputra, "Kredit Macet Bank Jateng Capai Rp1,8 T," Solopos Jateng, Oktober 2020, <https://jateng.solopos.com/kredit-macet-bank-jateng-capai-rp18-triliun-1084308>.

<sup>22</sup> "Dokumen resmi YLKAI Jawa Tengah,"

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Economic demands and money loans are two things that will always go hand in hand forever. Unless all Indonesian people have above average incomes.<sup>23</sup>

Legally, the existence of a supervisory institution for consumer protection is recognized by law. It is apparent that the legislators understand that supervision through state institutions is not enough, external supervision is needed from private institutions. At least this is what underlies the recognition of the establishment of Non-Governmental Organizations (NGOs) in Article 44 of Law Number 8 of 1999 concerning Consumer Protection which states that: First, recognition of NGOs that focus their movements on consumer protection, as part of external supervision of legal protection guarantees for consumers. Second, NGOs are given space to make real contributions in realizing a healthy business climate between business actors and consumers. Third, NGOs have the task of conveying or disseminating information regarding all matters concerning the interests of consumers. Including providing input to consumers, as well as building relationships with related parties related to consumer protection. NGOs also have the task of advocating by making complaints to official government agencies related to violations against consumers.<sup>24</sup>

The NGO referred to in Law No. 8 of 2009 is not explicitly mentioned. However, implicitly based on historical journey, the Indonesian Consumers Foundation (YLKI) is the most relevant institution to be associated with supervision of consumer protection. Because since 1970, YLKI has been critical in overseeing consumer protection issues. Even behind the formulation of Article 44 of Law No. 8 of 1999 concerning Consumer Protection, which places NGOs as part of consumer protection supervision, it began with the role of YLKI which was able to carry out advocacy even though at that time consumer protection had not yet received its formal legality.<sup>25</sup>

YLKI, in its role in overseeing consumer protection, has been able to prove that the element of civil power is very important in the state management instrument.<sup>26</sup> The problem of bad credit should place YLKI as an alternative solution in the form of advocacy to resolve the problem of bad credit. The rampant arbitrary actions by banks in bad credit cases have caused bad credit consumers to be treated inhumanely.

The existence of YLKI will be a bridge for bad credit customers and banks to resolve problems in a way that benefits both parties. It's just that YLKI often experiences obstacles in carrying out its duties, this is caused by several problems in this case as follows:<sup>27</sup> First, limited budget, The existence of NGOs can certainly be understood that funding does not receive funding from the APBN. This certainly has a very fundamental influence, because YLKI programs experience obstacles in their performance. YLKI office operations experience serious obstacles, such as travel costs when dealing with various bad credit problems, cannot be reached when they have entered outside Java. High costs are needed when advocating for cases, so that a limited budget will affect YLKI's performance, even though in its vision it must be recognized that building public interest as a work motivation is YLKI's noble task. Second, the minimum number of Members, the small number of YLKI human resources is one of the inhibiting factors in YLKI's performance in helping to protect consumer rights from various consumer violations that occur. Human Resources (HR) are the driving force in an organization, the large volume of cases that enter YLKI cannot be handled as a whole, only a few percent can be handled. The reason is that limited HR in qualitative facts or the small number of membership will certainly reduce YLKI's room for maneuver.

Based on the fact-finding of performance, YLKI has built credibility in the public. Advocacy mechanisms in the form of reviews, studies and conducting surveys related to consumer protection are the basis for YLKI in advocating for consumers. YLKI's consistency in advocating on other aspects shows that consumer protection institutions from the Government are unable to respond quickly to consumer protection issues.<sup>28</sup> As with the incident of bad credit which caused consumers to have to experience collateral confiscation, without any relief whatsoever from the Bank, it was able to be resolved by YLKI.

The settlement carried out by YLKI is not by writing off debts, but rather ensuring that legal mechanisms related to debts have been implemented before the execution of collateral seizures on loans is carried out. Because YLKI is in a neutral position whose presence is solely to ensure that no arbitrary actions are taken against consumers of bad credit.

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<sup>23</sup> Rumingsih, "Peranan Yayasan Konsumen Dalam Rangka Perlindungan Hukum Terhadap Pengguna Kartu Kredit," *Jurnal Justice* 3, no. 1 (2015): 28–29.

<sup>24</sup> Rumingsih, 28–29.

<sup>25</sup> Rina dan Mario Augusta, "Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Jual Beli Secara Online," *Rio Law Jurnal* 3, no. 2 (Desember 2022): 218.

<sup>26</sup> Denico Doly, "Upaya Penguatan Perlindungan Konsumen," *Jurnal Negara Hukum* 11, no. 2 (Agustus 2014): 42, <http://suaramerdeka.com>.

<sup>27</sup> Agung Nugroho, "Peranan Yayasan Lembaga Konsumen Indonesia Dalam Membantu Masyarakat Yang Dirugikan Akibat Iklan Yang Menyesatkan," *Lex Jurnalica* 11, no. 2 (Agustus 2014): 148.

<sup>28</sup> Liza Deshaini, Evi Oktarina, dan Rusmini, "Peran Yayasan Lembaga Konsumen Indonesia (YLKI) Dan Badan Perlindungan Sengketa Konsumen (BPSK) Dalam Perlindungan Konsumen Di Indonesia," *Disiplin: Majalah Civitas Akademika Sekolah Tinggi Ilmu Hukum Sumpah Pemuda* 27, no. 4 (Desember 2021): 282, <https://doi.org/10.5281/zenodo.4475004>.

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The slowness of the bureaucracy in handling the problem of bad credit that is detrimental to consumers, is proof that supervision through external or NGOs is faster and able to reach the root of the problem. Of course the Government must respond positively, by providing budget assistance and facilities to YLKI, even if it is deemed necessary, it is time for YLKI to become part of the Government institution.<sup>29</sup> For example, by forming a Presidential Decree (Keppres) making YLKI an independent institution under the President whose task is to advocate for protection for consumers with bad credit.

Placing YLKI as part of a state institution is the right choice. Becoming a state institution will provide convenience for YLKI, namely getting a sufficient budget in carrying out its duties and functions, even the position of YLKI when it becomes a state institution can be supplemented with its authority by positive legal instruments, to summon business actors. This is important because the implementation of duties and authorities will only be easy if carried out with a power approach, as expressed by Philipus M. Hadjon that the power of the state in this case government institutions, has the power to force citizens, such as the imposition of administrative and civil sanctions.<sup>30</sup>

YLKI through its transformation from an NGO to a state institution, will provide a more advanced contribution in providing protection for consumers, because being outside the authority makes YLKI unable to do much for the legal issues being handled. As in the case of bad credit, business actors in the financial services sector will not be affected when advocacy is carried out by YLKI. In addition to the fact that the position of the lender (creditor) is stronger than the recipient of the loan (debtor), the authority of YLKI which is not a state institution will be set aside because it is considered to represent the interests of consumers of bad credit. This confirms that when YLKI becomes a state institution, its authority to advocate for consumers of bad credit will be seen.

The state paradigm to set aside advocacy in consumer protection against bad credit cannot be justified. It is the state's duty to provide instruments that protect its citizens, especially now that the development of the business world is getting faster, the world of banking finance continues to grow and is in demand by entrepreneurs. The state cannot be slow in responding to issues regarding consumer protection. Financial issues are something that never ends to be discussed and advocated.<sup>31</sup>

YLKI will assist the Government in maintaining the business climate in the financial services sector. The failure of the current consumer protection supervisory agency, in providing protection for consumers with bad credit, should be a consideration that a quick solution formulation needs to be found to overcome this problem, namely by providing formal legality to place YLKI as part of a state institution. This is the right step because the formation of a state institution is due to the needs in the lives of people who face complex problems. Relevant to the continuously increasing bad credit and the increasing number of business actors in the financial services sector, is the main basis for the Government to place YLKI as part of a state institution.

## CONCLUSIONS

Late payment or bad debts that occur are entirely the fault of the consumer, but the action in the form of execution carried out by the Bank on the seizure of collateral without prior notice or through a warning letter, a tolerance period for delays and a summons for mediation, is actually an action that cannot be justified, both in terms of law and from a humanitarian perspective. The state should play an active role in resolving the problem of bad debts, because arbitrary actions to execute collateral seizures seem to provide space for loan shark practices when there is a delay, then the action of taking collateral is immediately carried out, even though the substance of the difference between financial service institutions and loan sharks lies in the rules for collecting bad debts.

The existence of NGO supervision YLKI has proven to be able to provide advocacy as legal protection for consumers with bad credit. It's just that so far YLKI has experienced shortcomings in arbitrary debt collection. The problems experienced by YLKI are the lack of budget and the number of human resources that are unable to keep up with the volume of advocacy cases such as bad credit issues, causing YLKI to not optimally handle bad credit cases. It is time for YLKI to become part of the Government institution, through the Presidential Decree making YLKI an independent institution under the President. The reason is that the budget and the addition of the number of members will be saved if it is attached to the status of a state institution. Even other authorities such as forcibly summoning business actors in the financial services sector for bad credit are carried out.

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<sup>29</sup> Deshaini, Oktarina, dan Rusmini, 282.

<sup>30</sup> Sahat Marulitua Sihombing, "Perlindungan Hukum Bagi Debitur Bank Menurut Peraturan Perundang-Undangan di Indonesia," *Jurnal Law Review* 21, no. 1 (2021): 58.

<sup>31</sup> Dinni Rizky Amalia Putri, Yuniar Rahmatiar, dan Muhamad Abas, "Perlindungan Konsumen Terhadap Nasabah Kartu Kredit dalam Proses Penagihan yang dilakukan oleh Debt Collector," *Rechtsregel Jurnal Ilmu Hukum* 6, no. 2 (Desember 2023): 112.

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