

BUILDING LAW-ABIDING COOPERATIVES STRENGTHENING AGREEMENTS AND ALLIANCES BASED ON INDONESIAN CIVIL LAW PRINCIPLES

Irwan Haryowardhani

Universitas Pembangunan Panca Budi

(e-mail: wanharyowardhani@gmail.com)

Abstract

Cooperatives are one of the important pillars in the Indonesian economy based on family and mutual cooperation. In practice, to create a healthy and sustainable cooperative, a strong legal foundation is needed, especially in terms of agreements and engagements between members and with third parties. This research discusses the importance of building law-abiding cooperatives with an emphasis on strengthening agreements and alliances based on the principles of Indonesian civil law, such as the principle of consensualism, the principle of freedom of contract, the principle of good faith, and the principle of pacta sunt servanda. Strengthening this aspect of the agreement is the foundation for cooperatives to carry out their business activities in an orderly manner, avoid internal and external disputes, and provide legal protection for the parties involved. The research method used is normative juridical with a legislative and doctrinal approach. The results of the study show that the application of civil law principles in cooperative practices can strengthen the legal legitimacy of cooperatives, increase member trust, and support economic growth based on justice and legal certainty.

Keywords:

Cooperative, Civil Law, Agreements, Alliances, Legal Obedience

I. INTRODUCTION

The agreement is regulated in the Civil Code in Book III of the Engagement. In the Civil Code, the term alliance is used for *Verbintenis* and the term alliance for *Overenkomst*. In Article 1233 of the Civil Code, it is stipulated that an agreement is born by consent or a law. The definition of an engagement is not explained in the Civil Code, so the definition of an engagement is explained by many legal experts, including: According to Riduan Syahreni (2009:194), an agreement (*Verbintenis*) is a legal relationship between two parties, where one party (creditor) is entitled to an achievement, and the other party (the debtor) is obliged to fulfill the achievement, therefore, in every engagement there are "rights" on one side and "obligations" on the other.

According to J. Satrio, an alliance is a legal relationship between two parties, where on one side there are rights and on the other side there are obligations. Therefore, it can be concluded that an agreement is an agreement by two binding parties, and on both parties where the creditor has the right

to an achievement, and the debtor has an obligation to fulfill an achievement. The party who demands a right is called a creditor and the party who is obliged to fulfill the right of an achievement is called a debtor. In the Civil Code regarding the general provisions in article 1313 it is explained that an agreement is an agreement by which one or more people bind themselves to one or more other people Prof. Soebekti, SH. An agreement is a legal relationship between two or two parties, based on which one party has the right to demand a right from the other party, and the other party is obliged to fulfill the demand. According to Abdulkadir, an engagement is a legal relationship that occurs between creditors and debtors located in the field of wealth and agreements. The important thing in an agreement is that an agreement is related to legal actions, because with legal actions people can carry out their duties and obligations. In an agreement, the interests related to what is written in the agreement in question are the interests of the parties themselves who have voluntarily and with their consent are deliberately involved.

According to Abdulkadir, an agreement is merely an agreement that is recognized by law. Therefore, the agreement will be recognized by law if it meets the requirements and contains the following elements: a) There are parties, namely two or more people who are competing to bind themselves b) There is mutual agreement between the parties c) There is a goal to be achieved d) There is an achievement to be carried out and each party promises to fulfill the achievement to the other party who must obtain the fulfillment of the achievement promised by the other party e) In oral form or written f) The existence of the terms of the agreement as the content of the agreement g) The existence of clauses that are halal and do not contradict the law.

Cooperatives as business entities based on the principle of kinship and mutual cooperation have an important role in strengthening the people's economy. In its implementation, cooperatives often establish legal relationships between members and with third parties which are outlined in the form of agreements and engagements. However, it is not uncommon for legal problems to arise due to weak understanding or neglect of the basic principles of civil law in the preparation and implementation of the agreement.

According to Subekti (2003:1), an agreement is an event in which one person promises to another or where two people promise each other to do something. This agreement gives rise to an agreement, which is a legal relationship that provides rights and obligations for the parties. In the context of cooperatives, this engagement can occur in the form of savings and loans, business cooperation, or other commercial transactions. If the engagement is not carried out based on the law, it can lead to disputes that are detrimental to the cooperative and its members.

R. Setiawan (1986:10) emphasized that the applicability of civil law in civil relations in Indonesia, including agreements in cooperatives, must be based on principles such as freedom of contract, consensualism, good faith (*goede trouw*), and legal certainty. These principles are the basis for the drafting of agreements that are valid, fair, and effectively enforceable.

Unfortunately, in practice, there are still many cooperatives that draw up agreements without paying attention to the legal requirements of the agreement as stipulated in Article 1320 of the Civil Code, namely: the agreement of those who bind themselves, the ability to make an agreement, a certain thing, and a halal cause. As a result, agreements that should be a binding tool actually become a source of internal and external conflicts in cooperatives.

This study aims to analyze the importance of building law-abiding cooperatives through strengthening agreements and alliances based on Indonesian civil law principles, as well as to provide recommendations for the proper application of civil law in every aspect of cooperative operations. Thus, cooperatives not only play a role as a pillar of the people's economy, but also become a responsible legal subject and uphold the rule of law.

II. LITERATURE REVIEW

A. Cooperatives in a Legal Perspective

Cooperatives are legal entities formed by individuals or cooperative legal entities, with the separation of members' wealth as capital to run a business, based on cooperative principles and as a people's economic movement based on the principle of kinship (Law Number 25 of 1992 concerning Cooperatives). Soemitro (1983:15) explained that cooperatives are not only economic organizations, but also social institutions that must obey legal norms in carrying out their activities. According to I Made Wiryana (2012), in the formation and business activities of cooperatives, legal aspects are very important to maintain a balance between the rights and obligations of members and third parties. Therefore, civil law is an important reference in ensuring the legality and fairness of legal relations that occur in cooperatives.

B. Definition and Elements of Agreement in Civil Law

A covenant according to Subekti (2003:1) is an event in which one or more people bind themselves to one or more other people. In the Civil Code, Article 1313 states that an agreement is an act by which one or more people bind themselves to one or more other people. Every agreement gives rise to an agreement, which is a legal relationship that gives rise to rights and obligations for the parties to the agreement. Salim HS (2006) explained that for an agreement to be valid, it must meet the conditions as referred to in Article 1320 of the Civil Code, namely: (1) the agreement of the parties; (2) the ability to make an alliance; (3) the existence of a certain thing; and (4) the existence of a halal cause. If any of the conditions are not met, the agreement may be cancelled or deemed invalid by law.

C. Civil Law Principles in Treaties

In the practice of drafting and implementing agreements, several general principles of civil law apply. According to R. Setiawan (1986:10), these principles include: a) The principle of freedom of contract: the parties are free to make agreements as long as they do not conflict with the law, public order, and morality (Article 1338 of the Civil Code). b) The principle of consensualism: a valid agreement only by consent, without the need for certain formalities unless stipulated by law. c) The basis of good faith: the parties are obliged to carry out the contents of the agreement with good intentions and honesty. d) The principle of legal certainty: the rights and obligations in the agreement must be clear and legally enforceable.

These principles are essential in realizing a valid, fair, and binding cooperative agreement. Legal *compliance* in the context of cooperatives refers to the cooperative's compliance with laws and regulations, including internal regulations and civil law principles. Munir Fuady (2010) states that legal compliance is not only related to positive laws, but also to moral principles, business ethics, and social responsibility. In the context of a cooperative, agreements that are not legally drafted or not

executed in an orderly manner can lead to financial losses and conflicts between members. Therefore, strengthening agreements based on civil law principles is the main strategy in building a professional and legally accountable cooperative.

III. RESEARCH METHODS

A. Types of Research

This research is a normative legal research, which is a research that is based on an analysis of applicable legal norms, especially related to agreements and engagements in cooperative practices. Normative research is used to examine positive legal principles and applicable civil law principles as a basis for building law-abiding cooperatives. According to Soerjono Soekanto and Sri Mamudji (2004:13), normative legal research is legal research that is carried out by examining literature materials or secondary data as basic materials to be researched with a normative approach.

B. Research Approach

This research uses several approaches, namely: Statute Approach, used to analyze relevant laws and regulations such as the Civil Code, Law Number 25 of 1992 concerning Cooperatives, and other derivative regulations. Conceptual Approach, examines the doctrines and theories of civil law, especially those related to agreements and alliances, presented by experts such as Subekti, R. Setiawan, and Salim HS. Case Approach (*if needed*). To review court decisions or concrete cases related to cooperative disputes related to agreements or breach of engagement.

C. Source of Legal Materials

This research uses three types of legal materials, namely: **Primary Legal Materials**, namely: Civil Code (KUHPercivil), Law Number 25 of 1992 concerning Cooperatives, and other implementing regulations. **Secondary Legal Materials**, namely: Law books, scientific journals, articles, and opinions of legal experts, such as the works of Subekti, Salim HS, and Munir Fuady. **Tertiary Legal Materials**, namely: Legal dictionaries, legal encyclopedias, and indexes of other legal materials that support the search for primary and secondary sources.

D. Legal Material Collection Techniques

The collection of legal materials is carried out through literature studies, namely by studying and reviewing relevant legal materials from various libraries, online journals, official legislative websites, and other legal documents. The collected legal materials will be analyzed using the deductive method, which is to draw conclusions from general rules or legal principles into the case or practice of the cooperative. In addition, the author will use qualitative analysis to elaborate on the content of regulations and expert opinions as the basis for logical and systematic legal arguments.

IV. DISCUSSION

A. The Importance of Legal Compliance in Cooperative Operations

Legal compliance in cooperative practices is a fundamental requirement for business continuity and protection of members' rights. In carrying out economic activities, cooperatives are inseparable from legal relations in the form of agreements, both internally (between members) and externally (with third parties). These agreements must be drafted and executed on the basis of civil law principles in order to have valid and binding legal force. According to Munir Fuady (2010:23), civil law is the

main reference in civil relations, including in the aspect of agreements. Without strengthening the legal aspect, cooperatives are vulnerable to internal conflicts, defaults, and civil lawsuits in the future. Therefore, strengthening the aspects of agreements in cooperatives must be a managerial and legal strategic agenda.

B. The Role of Agreements and Engagements in Cooperatives

In civil law, an agreement is a legal relationship that arises due to an agreement or law, which gives rise to rights and obligations between the parties (Subekti, 2003:3). In the context of cooperatives, agreements can be in the form of business cooperation, savings and loans, financing, and profit sharing. Civil Code Article 1313 defines an agreement as an act by which one or more people bind themselves to one or more other people. This indicates that the cooperative must have written contract documents that meet the principles and conditions of the validity of the agreement as specified in Article 1320 of the Civil Code, namely: Agreement of the parties, Ability to make an agreement, A certain thing, Halal cause. If one of the conditions is not met, then the agreement is legally defective and non-binding (Salim HS, 2006:31).

C. Principles of Civil Law in the Preparation of Cooperative Agreements

In drafting agreements, cooperatives must pay attention to several important principles in civil law, namely: Principle of Freedom of Contract, cooperatives are free to make agreements as long as they do not conflict with law, public order, and morality (Civil Code Article 1338). R. Setiawan (1986:45) stated that freedom of contract is a guarantee of the autonomy of the parties in regulating their own legal relations. Principle of Consensualism An agreement is considered valid when there is agreement on both sides, without the need for a formal form unless required by law. This is relevant in cooperative transactions that are often done orally, which can create a dispute gap if not documented. The Good Faith Principle of the parties in the cooperative must carry out their obligations and rights honestly and not deviate from the purpose of the agreement. According to Sudikno Mertokusumo (2008:54), this principle is the spirit of every agreement because it regulates morality and justice in its implementation. Principles of Legal Certainty Cooperatives need to draft detailed and written contracts in order to provide legal protection to members and third parties, and avoid multiple interpretations. To build a law-abiding cooperative, it is necessary to take several strategic steps, including increasing the legal capacity of cooperative administrators through contract law training. Standardization of legal documents, such as cooperation agreements, statements, and minutes of meetings, which are prepared with reference to the Civil Code and cooperative regulations. Legal consultation with a notary or legal advisor in the drafting of any major or long-term contract. Digitize agreement documents to facilitate future storage, tracking, and legal proof.

With this strengthening, cooperatives are not just people's economic entities, but become independent, accountable, and legally protected legal subjects.

V. CONCLUSION

Based on the discussion that has been described earlier, it can be concluded as follows: Agreements and alliances are essential legal foundations in cooperative operations, both in relationships between members and with external parties. Cooperatives as legal entities must be

subject to civil law norms in every form of transactions and cooperation carried out. Civil law principles such as the principle of freedom of contract, consensualism, good faith, and legal certainty should be the main guidelines in drafting and implementing cooperative agreements. The application of these principles is not only to meet the legal requirements of the agreement as stipulated in Article 1320 of the Civil Code, but also to ensure justice and legal stability in cooperative activities. Many legal problems that arise in the cooperative environment occur due to a weak understanding of the formal legal aspects of an agreement. Therefore, strengthening the internal legal structure of cooperatives, increasing the legal literacy of administrators, and the use of legal documents that are valid and well-documented are urgent needs. Building a law-abiding cooperative is not enough just by complying with formal rules, but must also be accompanied by legal awareness and a culture of legal order in cooperative management. This will create a cooperative that is legally healthy, economically strong, and sustainable in the long run. By strengthening agreements and alliances based on Indonesian civil law principles, cooperatives will be able to become people's economic institutions that are not only independent and professional, but also have strong legal integrity in dealing with business dynamics and potential legal disputes in the future.

VI. REFERENCE

- A.G. Kartasapoetra, et al. *Indonesian Cooperatives*. Jakarta: PT. Rineka Citra. 2017.
- Fay in Hendrojogi, *Cooperatives: Principles, Theories, and Practices*, Jakarta: PT. RajaGrafindo, Persada, 2007
- Mariam Darus Badruzaman, et al. *Compilation of the Law of Alliance*. Bandung: PT. Image: Aditya Abadi, 2016.
- Maulana, R., Bintang, H. J., & Siregar, M. A. (2024, August). Legal Review of Working Refugees in Indonesia (Research Study: Afghanistan Refugees in Medan City). In *1st International Conference Epicentrum of Economic Global Framework* (Vol. 1, No. 1, pp. 550-559).
- Nurhayati, S. (2023). Implementation of the principle of equality before the law in the settlement of industrial relations disputes in the industrial relations court. *International Journal of Society and Law*, 1(1), 11-20.
- Muhammad Arifullah, Nurbaiti, M.Kom, *Analysis of Restructuring Mechanisms in Non-Performing Financing During the Covid 19 Pandemic*, Volume 04 Number 01 2022, <https://ejournal.iainpalopo.ac.id/index.php/alkharaj/article/view/1883>.
- Peter Mahmud Marzuki. *Legal Research*, Jakarta: Kencana Prenada Media Group, 2005.
- R. Soeroso. *Introduction to Law*. Jakarta: Sinar Grafika, 2011.
- Salim H.S. *Contract Law (Theory and Technique of Contract Drafting)*. Jakarta: Sinar Grafika. 2003.
- Suhrawardi K. Lubis, Farid Wajdi. *Islamic Economic Law*. First Print. Jakarta: Sinar Grafika, 2012.
- Sudarsono Hadisaputro, *Points of Thought for Cooperative Development in Indonesia*. Jakarta: Saptacaraka, 2003.

Sembiring, Br, Tamaulina Br, and Nashrulloh Kartika Galuh. "Textbook of quantitative and qualitative research methodology." (2024).

Sitinjak, M. M. T., Siregar, F. R., & Siregar, M. A. (2024, August). The Role of Immigration in Prevention Against Criminal Acts of Trade Human in Indonesia. In *1st International Conference Epicentrum of Economic Global Framework* (Vol. 1, No. 1, pp. 923-936).