

THE ROLE OF COOPERATION AGREEMENT IN PARTNERSHIP SYSTEM TO IMPROVE INDONESIAN COOPERATIVE BUSINESS COMPETITIVENESS IN THE NATIONAL ECONOMY

HAMDAN AZHAR SIREGAR

Faculty of Law, Jakarta Islamic University Jakarta, Indonesia
Hamdan_sir@yahoo.co.id.

OTOM MUSTOMI

Fakulty of Law, Jakarta Islamic University, Jakarta, Indonesia
otommustomi@gmail.com

UNTORO

Fakulty of Law, Jakarta Islamic University, Jakarta, Indonesia
Untoro_uid@yahoo.co.id

NUR AIDAH

Fakulty of Law, Jakarta Islamic University, Jakarta, Indonesia
Nuraidah.dpb@gmail.com

ABSTRACT:

Agreement law is very instrumental in carrying out partnerships between cooperatives and other business entities, because partnerships made without agreement will not have certainty for all parties. The lack of achievement will affect the rights and obligations of the parties in partnership. Cooperative as a legal entity, in principle, is the same as the form of other legal entities. However, in its development it is not the same as a business entity that has other legal entities such as PT and BUMN. In fact, the cooperative is a teacher of the national economy and as a legal entity, as stipulated in Article 33 of the 1945 Constitution of the Republic of Indonesia. This pact is very interesting to study with the aim of: finding to examine the implementation of partnership cooperation agreements in improving cooperative competitiveness. The study was done to examine the increasing competitiveness of Indonesian cooperative

businesses through partnership cooperation in the development of Indonesian cooperatives.

This study used normative juridical research, with the nature of descriptive analysis research. The data collection techniques were done through library study or document study, but field data is also used to support and complete library data, after the data were collected, they were analyzed by juridical qualitative.

Based on the results of research, it was found that to develop cooperatives to be able to have competitiveness, the cooperatives need partnerships with other business partners. The supporting skills such as: skills transfer process, production and processing, marketing, capital, human resources and technology development. Partnerships carried out between cooperatives and other business entities must be based on principles of mutual need, mutual trust, mutual reinforcement and mutual benefit. These principles are taken

to eliminate a stereotype that the strong parties will run over the weak parties. The concept of partnership is in accordance with Article 33 of the 1945 Constitution of the Republic of Indonesia, emphasizing that the economy is structured as a joint venture based on kinship. Therefore, the concept of partnership is a manifestation of the principle of kinship in the development of cooperatives in Indonesia.

KEYWORDS: Partnership, business competitiveness, cooperatives.

INTRODUCTION:

A. Background.

The Indonesian Cooperative is currently faced with the great economic global flow. Furthermore, the great economic flow impacts all fields. One of its impacts can result in the cooperative not being able to develop due to not being able to compete with other companies. Therefore, increasing the competitiveness of cooperatives is a challenge. To deal with the economic global flow and to improve the competitiveness of cooperatives, the government has issued a policy to encourage partnerships as stipulated in Law Number 20 year 2008 concerning Micro Small and Medium Enterprises with Joint Enterprise as well as those regulated in PP No. 17 of 2013 concerning Partnership.

Correspondingly, as a state law, the implementation policies to encourage cooperatives to develop and advance, is the mandate of Article 33 of the 1945 Constitution. The cooperative has a noble objective as stated in Law No. 25 year 1992, namely promoting the welfare of members in particular and society in general and participating in building the economic order in order to realize the advanced, just and prosperous based on Pancasila and the 1945 Constitution.

Regarding the development of cooperatives through partnerships, the general

provisions Article I number (4) PP No. 17 of 2013 states:

Partnership is a collaboration in a business relationship, both directly and indirectly, on the basis of the principle of mutual need, trust, strengthening and profit that involves Micro business operators, Small and Medium Enterprises with Large Businesses.

Then in Government Regulation No. 17 year 2013 concerning Partnership explains: To further accelerate the realization of an independent and reliable national economy as a joint effort on the principle of kinship, more tangible efforts are needed to create a climate that is able to stimulate the establishment of strong business partnerships among all economic life based principals need each other, trust each other, strengthen each other and benefit each other.

Cooperation through partnership agreements is one way that is in accordance with the spirit and spirit of kinship in the national economic system. Looking further at the meaning of the principle of kinship contained in Article 33 Paragraph (1) of the 1945 Constitution, Bung Hatta in Limbong said that the principle of kinship is a cooperative that is a business entity that is full of moral, togetherness and a sense of wanting to progress together, managed together and become a tool mutual welfare.

B. Identification of Problems.

Based on the background description, it can be formulated as follows:

1. How is the implementation of partnership cooperation agreements in improving cooperative competitiveness?
2. How to increase the competitiveness of Indonesian cooperative businesses through partnership cooperation in the development of Indonesian cooperatives?

C. Theoretical Foundation

In the Agreement made by the parties in the partnership, the rights and obligations must be implemented and obeyed, because in the partnership agreement, the arrangement is binding. Not only regulating the interests in carrying out obligations but also regulated in sanctions, if the parties do not carry out all of the contents of the agreement.

In connection with the agreement, the law is made and used for the purpose of increasing the public interest as widely as possible as illustrated below.

"... Economics is the science of rational choice in our world where resources are limited in relation to human wants. The task of economics is to explore the implications of assuming that man is a retentionmaximize of his ends in life. Law is basically a set of rules and sanctions which are attended for the regulation of the behavior of persons whose primary instinct is to maximize the extent of their satisfactions, as measured in economic terms. Law is, therefore, created and applied primarily for the purpose of maximizing overall social utility.

In the economic regulation, law is needed and must be able to regulate the parties to do business. This arrangement is to guarantee legal certainty in implementing partnerships in cooperative business with the private sector. Thus, there is a need for written evidence. The written evidence in question is an agreement for the parties that partnered as regulated in the Indonesian legal system from the Dutch Law of Agreement which is regulated in Book III of the Civil Code.

D. Research Methods.

In accordance with the problems in the study, the research method used was analytical descriptive research. Soerjono Soekanto called descriptive research, it is intended to provide as much accurate data as possible about humans,

circumstances and other symptoms. This analytical descriptive study was described by using primary legal materials, secondary legal materials, and tertiary legal materials. While the approach method used in this research was normative juridical, with consideration that: this research is legal research, where the data were prioritizes secondary data. This study is also called Normative Legal research because researchers examined such as: legal principles. Normative legal research is used, because the problem examined is closely related to the implementation of the treaty law.

To obtain data in accordance with the problems studied, it was carried out in two stages, they are: First library research and second field research. The Research Library was conducted to obtain secondary data, both in the form of primary legal materials, secondary legal materials and tertiary legal materials.

Field research in this study was carried out in order to obtain primary data to support secondary materials, such as interviews and observations. To describe the overall data from the results of the study, primary data, secondary data and tertiary data were analyzed using qualitative methods without using statistics, which were then presented in descriptive form.

DISCUSSION:

THE ROLE OF THE PARTNERSHIP AGREEMENT IMPROVING COMPETITIVENESS OF COOPERATIVE BUSINESS

A. Partnership Cooperation Agreement to Improve the Competitiveness of Indonesian Cooperative Enterprises.

The study of agreement legal construction in partnership cooperation in the cooperative business begins by looking at the form of agreement made by the parties in implementing the partnership. This is very influential on the contents of the agreement. Is

the agreement contain problem or not. Further, the most important thing is all parties must be able to obey the agreement that has been made.

The partnership is a business collaboration between small-scale businesses and medium-sized businesses and/or large-scale businesses accompanied by coaching and development by medium and/or large-scale businesses by taking into account the principles: Mutual need, mutual trust, mutual reinforcement and mutual benefit. If we see the meaning of the principles contained in the partnership and it is associated with Article 33 of the 1945 Constitution, namely the principle of kinship, then in carrying out the Indonesian economy, partnership is a pattern in accordance with the meaning and purpose contained in Article 33 of the 1945 Constitution.

A legally-made agreement is the Law as stipulated in Article 1338: All agreements made legally apply as laws for those who make it. The agreements cannot be withdrawn other than by agreeing to both parties or for reasons which are stated by the law to be sufficient. With the term "all", the legislator indicates that the agreement in question is not merely a name agreement, but also includes an unnamed agreement. With "legally" term lawmakers indicate that the making of the agreement must fulfill the conditions specified. All agreements made according to law or legally (Article 1320 of the Civil Code) are binding as a law against the parties and carried out with good conduct and the existence of a balance. In the law here is concluded the realization of the principle of legal certainty.

As stipulated in Article 29 Paragraph (2), it states "Partnership Agreements as referred to in paragraph (1) are made in writing in Indonesian language". This means that the agreement is made in writing used as evidence, that the parties have been bound in an agreement concerning the rights and

obligations of the parties. Contracts or agreements are one of the requirements of two legal bases that are apart from the Act which can lead to an agreement.

The results of the research found that in case cooperatives want to make partnership with private cooperatives companies, they must have the potential. "How Much Percent Has Potential" because potential is a consideration/benchmark implemented by the Partnership. To run the partnership, the principle must be mutually needed, trust each other, strengthen each other; and mutually beneficial. It means that in the partnership agreement no one is placed in a weak position. However, in reality a company which has no potential will find difficulties to make partnership with other companies. Generally, companies do not want to be burdened in partnership, because if it happens then it becomes a burden for companies that partner with cooperatives.

So the agreement law must have a role in carrying out the partnership, it means all parties must do what it contain in the agreement. The principle in the partnership agreement is to be able to cooperate mutually, mutually uplift the dignity of a business actor. The law must be able to work according to its function. The function of the law itself is not only as a regulator, but also must be able to provide prosperity and happiness as a society in accordance with the legal puncture.

B. Improving the Competitiveness of Indonesian Cooperatives through Partnership Cooperation in the Context of Developing Indonesian Cooperatives in the National Economy.

As a legal entity and a pillar of the Indonesian economy, cooperatives should be able to develop like other business entities. The problem is indeed not easily overcome by the cooperative itself. The government, private

business entities and state-owned enterprises (BUMN) must play a role in helping and encouraging them to be able to compete in facing global markets. The problem of cooperatives includes: capital, human resources, technology, marketing, and the quality of the product produced. Cooperatives in this case must improve themselves, because in the cooperative body the commonly adopted theory appears. The will of the cooperative management is considered as the will of the cooperative. However, the actions of the management who act on behalf of the cooperative, the responsibility lies in the cooperative with all of its assets.

To achieve a level of competitiveness, it cannot be achieved just in simple way, cooperatives must make improvements and make breakthroughs with outsiders from their own internal. The breakthrough is to be able to raise and enhance the ability of cooperatives to reach the global level. Economic globalization requires cooperation between economic actors. The purpose of this collaboration is to open access to both capital, increase human resources, technology, improve product quality, and in the field of marketing.

Cooperatives must work together with the private sector, and State-owned enterprise. To bridge the three economic actors, it can be done in partnership. This partnership is expected to encourage cooperatives to compete in the current global era. As stipulated in Law No. 20 year 2008 concerning Micro, Small and Medium Enterprises and PP No. 17 year 2013 concerning Implementation of Law Number 20 year 2008 concerning Micro, Small and Medium Enterprises.

This Joint Effort is in accordance with the spirit of economic democracy mandated by the constitution Article 33 of the 1945 Constitution Paragraph (1). It states that "the economy is organized as a joint effort based on the principle of family." done by all, for all under

the leadership or ownership of community members. The prosperity of the community that takes precedence is not the prosperity of people. Therefore, the economy is structured as a joint effort based on the principle of kinship. Build a company that fits that is a cooperative.

In realizing partnership cooperation, it is necessary to bring together the concept and implementation of partnerships in the field. The steps include: first the implementation of partnerships is based on the basic strategy of partnership relationships that have business links, partnerships that do not have business relationships, and the creation of new business people. Second, the implementation of the partnership movement is done by doing the following steps: 1). Determination of partnership commitment by large business owners/directors 2). Identification of partnership opportunities by large business directors 3). Business partnership program campaign 4). Program publication and partnership results 5). Monitoring the implementation of the third Partnership, the target of the partnership movement needs to be thought of. The goal of the partnership is the business world as a whole. Indeed, the partnership pattern developed can differ according to their respective sectors. For example the agricultural sector, the plasma core pattern is more suitable. In the manufacturing industry sector, the sub-contract pattern is more appropriate. In the trade and service sector, franchise and agency partnerships can be carried out. And it does not rule out the possibility of partnership patterns outside existing patterns or in other forms in accordance with the partnership concept.

The national business partnership movement is a major vehicle for enhancing national entrepreneurial skills. Soebiakto said that the importance of business partnerships in development and improvement of national competitiveness are as follows: First, the

national business partnership movement is mandatory in accordance with the mandate in the economic field. Moreover, the prosperity of the community prioritized is not a person. Therefore, this partnership must reach all sectors of the economy and be carried out by all economic actors. Thus, the partnership does not only benefit the companies concerned but must bring positive impacts to the entire life of the Indonesian nation. National business partnerships must benefit the prosperity of the people. Second, it is important to realize that in the process of partnering, a strong partner can dictate the interests, whether intentional or not. Because the parties who partner honestly must have a sincere desire to move forward together. The partners who are stronger must treat their small partners as truly equal partners.

In the industrialized countries, the foundation of the economic order remains in the small and medium enterprises. Thus, strengthening and fostering small and medium-sized entrepreneur's means by strengthening and expanding the foundation of national economic life in the future. Third, small and medium-sized entrepreneurs and cooperatives should realize that partnership is not a big pity. Partnership must be understood as an opportunity and working relationship. Partnerships must be an arena for learning and developing themselves and fostering the advantages of large and strong partners. This requires large employers to participate in developing human resources of small and medium enterprises and cooperatives, through training and coaching assistance in companies. Fourth, the partnership program needs to be strengthened with specific efforts to prevent the failure of business partnerships, among others by improving the business structure, improving business weaknesses and strengthening capital. Participating in large businesses in providing low-cost funds

channeled to venture capital entrepreneurs and cooperatives will greatly help the development of small, medium and strong cooperatives.

CONCLUSION:

1. The implementation of partnership cooperation agreements is to improve the competitiveness of cooperatives. In the Agreement made by the parties in the partnership, the rights and obligations must be implemented and obeyed, because in the partnership agreement, the arrangement is binding. Not only regulating the interests in carrying out obligations, but also regulated in sanctions. In case there is party who do not carry out all of the contents of the agreement. The role of the agreement in partnership has not been maximized to encourage increased competitiveness, because other parties who want to partner still see what contribution can be given by the cooperative. Agreement law must play a role in partnership arrangements, to safeguard the rights and obligations of the parties.

2. Increasing the competitiveness of Indonesian cooperative businesses through partnership cooperation in the development of Indonesian cooperatives. On the basis of economic calculations, whatever business operators are run between the collaborating parties. There will be conditions that each party feels they need to be able to compete in the market. Strong parties (private and State-owned enterprise) will strive to encourage their partners (cooperatives) to work efficiently, meet the standards of quality and delivery of products/services on time. Encouragement can be given in the form of technical assistance and capital. The ideal situation described above will provide a double impact for cooperatives, namely from the financial side of the cooperative will be more powerful, provide greater business

opportunities and managerial capabilities increase. The partnership is one of the ways among other ways, in participating in Indonesia's economic development, in accordance with the mandate of the 1945 Constitution. All elements of economic actors are involved in encouraging the national economy. Cooperatives, private sector and state-owned enterprises, are national economic actors who significantly get the attention of the government, therefore there is no dichotomy among the three economic actors.

REFERENCES:

- 1) Muhammad Hattadalam Bernhard Limbong, Ekonomi Kerakyatan dan Nasionalisme Ekonomi, Jakarta : Margaretha Pustaka, Tahun.
- 2) Mariam DarusBadrulZaman, KompilasiHukumPerikatan, Bandung : Citra AdiyatBakti, Tahun, 2001.
- 3) Richard A. Ponser, dalamFajarSugianto, Economic Analysis Of Law, Jakarta :Prenada Media Group, Tahun 2013.
- 4) Soerjono Soekanto, Pengantar Penelitian Hukum, Jakarta UI-PerssTahun 1988.
- 5) SoerjonoSoekantodan Sri Mamudji, Penelitian Hukum Normatif Suatu Tinjauan Singkat, cetakan ketiga Jakarta: Rajawali Pers, Tahun 1990, hlm. 15.
- 6) Indonesia Uudang-UndangDasar 1945, Amandemenke-IV, Pasal 1 butir tiga, menyebut Negara Indonesia adalah negarahukum.
- 7) Indonesia Undang-Undang No. 20 Tahun 2008 Pasal 1 angka 13 tentang Usaha Mikro, Kecil dan Menengah, Lembaran Negara Republik Indonesia Tahun 2008 Nomor, 93.
- 8) Peraturan Pemerintah Republik Indonesia, No. 44 Tahun 1997, tentang Kemitraan, Pasal 1 Angka 1 diganti dengan PP No. 17 Tahun 2013 tentang Kemitraan.
- 9) Jurnal InfokopMedia Pengkajian Usaha Kecil dan Menengah, ISSN: 0126-813X No.: 26 Tahun XX 2005, hlm. 3.
- 10) www.Damandiri.or.id/file/buku/Subiaktobukukoperasibab IV pdf. Dengan judul Kemitraan Sebagai Usaha Strategis Memasuki Pasar Bebas, diakses tanggal 1 Mei 2013, jam 2.29. hlm. 1