

THE URGENCY OF THE CRIMINAL PROVISION REGULATIONS IN COOPERATIVES LAW AT INDONESIA

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ABSTRACT : *The essence of cooperatives is to remain themselves as cooperatives and not deviate into other forms, the moral values that underlie them must be realities of life in the activities and behavior of cooperative people. Evil develops along with the development and change of human life. The types are even more diverse with varied modus operandi, all following the development of increasingly modern humans, one of which is the crime of corruption and money laundering. Likewise, crime in the economy follows the sophistication of the development of the world economy. Crimes in the economic field are very likely to occur and affect the cooperative business entity. Based on this, the main problems of criminal acts cannot be avoided in the regulations of cooperative business activities. Determination of a law as a criminal acts means the law is prohibited, and should be given a criminal sanction. Crime in the Cooperative is identified as a problem that needs to be sought as an alternative sanction as a last resort in terms of law enforcement. The development of economic life requires a normative framework to maintain social order. Then it is necessary to administer the law with real legal objectives to facilitate the economic life of the Indonesian state.*

Keyword: criminal provisions; cooperative business entity; cooperatives.

INTRODUCTION

Legal Regulations regarding Cooperatives in Indonesia are regulated in Law no. 25 of 1992 concerning Cooperatives. Article 1 paragraph (1) states that a Cooperative is a Business Entity consisting of individuals or legal entities of a Cooperative based on its activities based on the Cooperative principle as well as a people's economic movement based on the principle of kinship. Based on the contents of the article Cooperatives are business entities not community organizations; the founder / owner consists of individuals (individuals / individuals) cooperative legal entities; works with the principles of Cooperatives and Family Principles and as a people's economic movement. (Budi Untung, 2005: 37)

Cooperatives which are a people's economic movement based on Pancasila and 1945 Constitution of the Republic of Indonesia, based on the principle of kinship have a large share in the Indonesian economy, according to what is formulated in Article 33 of the 1945 Constitution is quite threatened because of the variety of crimes that exist today. .

The essence of cooperatives is to remain themselves as cooperatives and not deviate into other forms, the moral values that underlie them must be realities of life in the activities and behavior of cooperative people. In other words, the nature of cooperatives is not determined by the name they bear or the legal entity rights they obtain from the government, but whether their principles and principles constitute living realities in the activities and behavior of cooperatives and their members. (Andjar Pachta, 2018: 21).

The purpose of cooperatives is economic objectives or based on economic motives or profit seeking, while the interrelated parts are economic elements such as the use of a standard bookkeeping system, periodic checks are carried out, the existence of reserves and

so on. Although in practice Cooperatives try to carry out the main principles as much as possible otherwise currently starting to experience a shift in the original purpose of the establishment of cooperatives and several obstacles in realizing national economic stability.

Capital trust from the community turns into distrust to the cooperative. Evil develops along with the development and change of human life. The types are even more diverse with the modus operandi being carried out increasingly varied, all following the increasingly modern human development. In the current era of globalization, the development of criminal acts has spawned new types of crime, transnational crime, one of which is corruption, money laundering, terrorism, human smuggling, human trafficking, and cyber crime. This is very interesting to the attention of the international community. Likewise, crime in the economic field, along with the rapid economic development accompanied by increasingly sophisticated technological developments, crime in the economy follows the sophistication of the development of the world economy. Crimes in the economic field are very likely to occur and affect the national economic entity business entity, namely Cooperatives.

The types of cooperatives can be distinguished based on the types of business activities, the types of members, professional members, functions / objectives, and the needs of the cooperative itself, but in general the cooperative can be divided into 2 types, namely types of cooperatives based on business activities and types of cooperatives based on their membership. Based on the similarity of activities and economic interests of its members, one of them is a savings and credit cooperative. Savings and Credit Cooperatives are cooperatives whose members consist of people who have a direct interest in matters of credit or savings and loans. (Sutantya Rahardja, 2005: 65).

According to Purba (2019) acts against the law and Abuse of authority in criminal acts of corruption are regulated in Article 2 and Article 3 of Law Number 31 of 1999 as amended to Law Number 20 of 2001 concerning Eradication of Corruption (UUPTPK). There is a fundamental difference between the two acts, even though the two acts are elements that determine whether or not an action can be declared a criminal act, furthermore the two acts are also important to determine whether someone can be blamed for corruption or not. The rise of criminal acts such as fraud and embezzlement deserves the attention of all parties. Because a lot of savings and loan cooperatives do not carry out obligations in accordance with applicable regulations. One of them is the Annual Member Meeting (RAT) which is the obligation of the cooperative management to account for all of its business activities to its members.

Corruption practices such as abuse of authority, bribery, giving facilitation payments, illegal fees, giving rewards on the basis of collusion and nepotism and the use of state money for personal interests, are interpreted as acts of corruption and are considered common in this country (Sidi, 2019). So in this case the scope of potential criminal acts in cooperative business activities includes violations, fraud, embezzlement, fraud, criminal acts of corruption, money laundering and terrorism (terrorism financing). In order to maintain the health of cooperatives in Indonesia and to secure investment funds from customers or members of cooperatives, in addition to continuing to provide guidance and supervision, criminal provisions which are ultimum remedium in the Cooperative Law are urgently needed as an effort to prevent and deal with criminal acts in cooperatives.

RESEARCH METHODS

According to Soerjono Soekanto the method is the process, principles and procedures for solving a problem while research is a careful, diligent and thorough examination of a phenomenon to increase human knowledge, then the research method can be interpreted as a process of principles and procedures for solving problems faced in conducting research.

"Research is a scientific activity that is based on the systematic method of searching for something (inquiry) with the emphasis that this search is carried out on a problem that can be solved. Which aims to study one or several specific legal phenomena by analyzing it ". (Moh. Nazir, 1998: 13). Meanwhile, according to Sutrisno Hadi "research is an effort to find, develop and test the truth of a business knowledge which is done by scientific methods". (Sutrisno Hadi, 2000: 4).

One of them is through scientific activities, such as research wherein the research will look for data or materials that can be used for scientific writing. Where data is a symptom that will be sought to be investigated, symptoms observed by researchers and results of recording of symptoms observed by researchers ".

METHOD AND RESEARCH

This type of research is Normative Juridical Research. Normative Juridical Approach is a research focused on studying the application or rules or norms in positive law. (Johny Ibrahim, 2008: 295). The form of the results of this study will be described descriptively. A descriptive study, intended to provide a picture that is as detailed as possible human, circumstance or other symptoms, (Soerjono Soekanto, 2006: 10) which in this case is limited regarding the regulations of criminal provisions in the Cooperative Law.

Descriptive analytical research is a research that aims to describe carefully the characteristics of the flaw (individual, group or situation) and to determine the frequency of things happening. (Rianto Adi, 2000: 58) The analysis is intended based on the description, the flaw obtained will be done carefully analysis to answer the research. (Sunaryati Hartono, 1994: 101). The research used in this study is a deductive to inductive thinking method that describes and describes the crime of money laundering in economic law in Indonesia

DISCUSSION

Cooperatives as a form of economic organization in Indonesia have existed since the days of the ancestors, because cooperatives are based on the life of cooperation and mutual cooperation. Although in everyday life, working together and working together is not only limited in the economic field. In the beginning of the establishment of the Republic of Indonesia in the written Constitution of the Indonesian people, the life of cooperatives has been declared as the basis of the Indonesian economy, as stated in Article 33 of the 1945 Constitution and as a guideline for its implementation a set of laws and regulations concerning cooperatives have also been issued.

The chronology and history of regulations or legislation regarding cooperatives in Indonesia is important to know in order to understand the background of the existence of Indonesian cooperatives. Although it has been in force for more than 28 years, the world of cooperatives and the business world in general has developed so rapidly, Law Number 25 of 1992 concerning Cooperatives is considered to still not be fully able to accommodate the things needed to support the activities of cooperative associations, both as implementing business entities and as a people's economic movement. This cooperative law is intended to clarify and reinforce the identity, purpose, position, role, management, entrepreneurship, and capital of cooperatives and fostering cooperatives so that they can better guarantee the realization of cooperative life.

The development of globalization can not be dammed, because it has permeated the whole life of the Indonesian people. Economic globalization raises the negative potential for the development of crime in the economic field. In addition to the development of globalization which underlies the urgency of regulating criminal provisions in the implementation of cooperative business entities, other things have also been marked since the beginning of the new order there began to be new symptoms, namely a shift in the economic system, from the socialist style towards the capitalist economy.

Potential crimes underlie the implementation of cooperative business entities, such as fraud, embezzlement, fraud crime, corruption, money laundering, and terrorism. One type of cooperative is a savings and loan cooperative. In savings and loan cooperatives all members are required to deposit principal savings and mandatory savings in addition to voluntary savings. However, in practice, there are several savings and loan cooperatives in Indonesia where the members only register the Identity Card (KTP) as the identity of the member, but do not deposit all the required deposits. The mode of saving and loan cooperatives saves funds not from members and also distributes them to non-members, especially the flaw that many Savings and Loan cooperatives operate without permission. This cooperative offers term deposits with greater interest than banks. That way the savings and loan cooperative has collected public funds in the form of deposits without permission from Bank Indonesia.

The current digital era of fraudulent practices in the name of online cooperatives is rife. Scams that occur are generally still through the type of cooperative savings and loan services. Fraud mode by offering loans to victims, various types of investments and promising fantastic interest yields for members who place their funds in the institution. The rise of this fraud adversely affects the image of cooperatives in Indonesia. Beyond Savings and Loans Cooperatives offered online, there are also illegal cooperatives that are directly offered.

Furthermore, fraud crime, the term fraud is not as familiar as the term corruption. Until now the term fraud in Indonesia has not been widely known by ordinary people, even though this fraud has plagued and damaged the country's economic order. The term fraud is generally used to describe law such as fraud, bribery, forgery, coercion, corruption, theft, conspiracy, embezzlement, misuse, concealment of facts, and collusion. Fraud can be defined as fraud in order to gain a profit, avoid liability, or harm another party. (Rozmita Dewi YR., 2017: 2)

Fraud includes a series of irregularities and unlawful actions which have the characteristic of the intention to commit fraud and usually include intentional concealment of facts. Fraud can be explained in various ways:

1. Deliberately falsifying or hiding flaw that cause financial losses or other losses to other parties.
2. Commit fraud, provide false information, hide the truth, or other dishonest methods, which are then trusted by other parties as something that is true, with the aim to seize money or assets of others, thus causing harm to those who trust those dishonest things.
3. Unlawful actions which are characterized by dishonesty, lies or damage to trust committed by individuals or an organization with the aim of obtaining money, assets, or services, avoiding payment obligations or rewards, or to obtain personal or corporate profits.
4. Intentionally commit fraud committed by an individual or an organization, both inside and outside the organization concerned, for their own or other people's benefit and which causes harm to others or the organization itself, including falsification of financial statements or records other notes to cover up the action.

According to the Association of Certified Fraud Examiners (ACFE), internal fraud (law of fraud in corporate data institutions) is classified into 3 (three) types, namely:

1. Fraud on Assets (Asset Misappropriation) - in short, misuse of company assets (institutions), whether stolen or used for personal purposes without permission from the company. As we know, company assets can be in the form of cash and non-cash. So asset misappropriation is grouped into 2 types:
 - a. Cash Misappropriation - Misappropriation of assets in the form of cash (for example: cash embezzlement, check checks from customers, hold payment checks for vendors).
 - b. Non-cash Misappropriation - Misappropriation of assets in the form of non-cash (for example: using company facilities for personal gain).
2. Fraud against Financial Statements (Fraudulent Statements) - ACFE divides this type of fraud into 2 types, namely: (1) financial; and (2) non-financial. All actions that make the Financial Statements are not as they should be (do not represent reality), are classified as a

fraud group against financial statements. Law of fraud in this case are carried out by management who are motivated to commit fraud in order to get a bigger bonus.

From the types of Fraud described, it can be concluded that all types of fraud are possible in a Cooperative environment, namely, the type of fraud against assets, for example selling assets at prices below market prices and holding a portion of the proceeds of asset sales for personal gain. Fraud actions on financial statements (financial and non-financial) in the sample cooperatives, manipulation of data and information (revenue recorded is greater than actual and debt and costs are recorded smaller than true), this type of fraud is the greatest implaw of loss and damage, because stakeholders rely on trust and base their decisions solely on the financial statements presented by the company in this case the cooperative as an example. While the types of law of corruption in cooperatives, for example, mark up the budget for the procurement of goods and services, and impose personal interests on cooperatives.

Fraud in a cooperative can be done by all parties such as management, supervisors, management (employees) and members. Management can commit fraud because of the authority to take broader policies, while management can commit fraud because it is the party that manages operations. Fraud mode that occurs in the Cooperative environment in the activities of savings and loan services, namely fictitious withdrawal of deposits by others and borrowing the names of other members to obtain loans, by officers / management / supervisors / members. As a result of law of fraud in the cooperative environment can cause financial losses (decreasing the level of income) and reduce trust and a bad image of the institution by the community.

Other criminal acts such as corruption can also occur in legal entities, namely cooperatives and carried out by management or leaders, for example with the following example: first A who never applied for a loan, but the name and data are recorded as the borrower and the loan is issued, the second A had applied for a loan, but the loan status was canceled, the third A had applied for a loan and got out the loan, but A had not received it, and the fourth A had applied for a loan and got out the loan, and received but never made the loan payment. Of the various modes that can occur in cooperatives, the elements that are fulfilled are against the law, abusing authority, enriching oneself or others and harming the finances of the business entity (cooperative).

The elements in money laundering can also occur in the practice of cooperatives in Indonesia, due to the mode of crime in the financial services industry and cooperatives increasingly diverse along with changes and developments in technology and information, especially in Cooperatives many have not implemented Information Technology (IT) making tracking difficult. Funds channeled in the form of loans to the public other than funds collected in the form of deposits from the public can also be the proceeds from the original criminal offense mentioned in Article 2 paragraph (1) of Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes. The cooperative has the opportunity to become a vehicle for money laundering to eliminate the origin of illegal funds.

Other criminal acts such as Terrorism can potentially be involved in cooperative ventures. The criminal acts of terrorism is a genius threat to the people of Indonesia and the country's sovereignty. The question arises as to what is the link between criminal acts of terrorism and business entities that is cooperatives, is the link between the possibilities of cooperatives as a means of funding terrorists. Indications that mention the possibility of funding through cooperatives to terrorists are terrorism funding can be done through several methods, such as through the formal financial sector (banking) / or non-bank service providers and international trade. Terrorism funding can be through financial service providers such as banks, financial institutions, Savings and Credit Cooperatives, pawnshops, and / or money transfer service providers.

During this time law enforcement officers are limited to how to pursue the perpetrators (follow the suspect), this approach does not make law or terrorist activities stop, because in addition to a wide and hidden network, the essence of funding for terrorist activities is still flowing and funding every terrorist act. Provision of these funds, among others, to finance the purchase of explosives, weapons, hiding leases and other operational costs. Breaking the flow of funds is one of the efforts to protect citizens, the national economy and its sovereignty from law of terrorism.

The element of funding is one of the main factors in every law of terrorism so efforts to tackle terrorism crime must be followed by efforts to prevent and eradicate terrorism funding, including the section considering letter b, in Law Number 9 of 2013 concerning Eradication and Prevention of Criminal Funding Terrorism. This law was born as a consequence of the ratification of the 1999 International Convention for the Suppression of the Financing of Terrorism, (International Convention on the Eradication of Terrorism Funding 1999). Based on the general provisions of Article 1 paragraph (1) of Law Number 9 of 2013 concerning Eradication and Prevention of Criminal acts of Terrorism Funding, financing of terrorism is any law in the context of providing, collecting, giving, or lending funds, both directly and indirectly, with the intent to be used to carry out terrorist activities, terrorist organizations, or terrorists. These law are contrary to morals, especially bad implaw on the economy, and detrimental to economic life that damages the economic system of a society, and of course the implaw of suffering individual losses to members of the community.

Based on this, the main problems of criminal acts cannot be avoided in the regulations of cooperative business activities. Determination of a law as a criminal acts means the law is prohibited, and should be given a criminal sanction. Crime in the Cooperative is identified as a problem that needs to be sought as an alternative sanction as a last resort in terms of law enforcement.

Cooperative life has become a necessity for the community, because for the people of Indonesia, cooperative life means building their economy. The development of economic life requires a normative framework to maintain social order. Then it requires the administration of law to facilitate economic life. The law becomes an instrument to make changes that can protect the general economic sector and the implementation of cooperative business entities in particular in accordance with the demands of the association of the world community as manifested in national law. According to Zulkarnain (2019) theoretically, there are two things in law enforcement. First, how are the legal rules? Second, how enforcement law is carried out properly and correctly. The role of law is to carry out its function as a tool of social engineering or to carry out social engineering, especially in the field of economic life. (Satjipto Rahardjo, 2002: 81-82)

Criminal provisions are very necessary, if there are no criminal sanctions these regulations are only administrative in nature. The Cooperative Law does not necessarily explain explicitly the sanctions that can be given. Instead Article 47 paragraph (1) of Law Number 25 of 1992 concerning Cooperatives states:

1. The decision to dissolve by the Government as referred to in Article 46 letter b (Government Decree) is made if:
 - a. There is evidence that the Cooperative concerned does not meet the provisions of this Law;
 - b. Its activities are contrary to public order and / or decency;
 - c. His survival can no longer be expected.

Based on the contents of the article, the writer concludes that the article above indicates administrative sanctions. The question arises what if a criminal acts / crime occurs in the activities of a cooperative business entity, what sanctions will be given. Although based on kinship in cooperatives, criminal acts can be used and utilized for the enforcement of norms

in the economic field, within the framework of economic development policies. Why is that, because it allows the occurrence of behavior that contradicts or violates these regulations?

Criminal acts enforcement is part of criminal politics, criminal politics is part of the politics of law enforcement which includes civil law enforcement and administrative law enforcement. Enforcement of criminal provisions in cooperatives means making use of criminal acts in the life of the national economy. A necessity that must be faced with the development of economic globalization in Indonesian society.

The law is demanded to adjust to the actual situation in order to avoid the law always lagging behind the events. The use of criminal provisions is to prevent and tackle crime. As a crime prevention policy (criminal acts policy) there needs to be efforts and stages, which consist of formulation / legislation / legislative policies, judicial application / application policies and implementation / executive / administrative policies. With criminal sanctions, an action is determined as prohibited. Moeljatno said that the definition of a criminal acts is an law that is prohibited by a law which prohibits accompanied by threats (sanctions) in the form of certain crimes, for those who violate the prohibition. (Mahrus Ali, 2012: 97)

Criminal provisions are expected as *ius constituendum* in the Cooperative Law. With criminal sanctions, it means that there is a classification regulations regarding criminal acts, which for the perpetrators will be sentenced by law enforcement officers in the criminal justice system. Thus, law enforcement can take action according to criminal acts (process / event / formal), such as investigations, investigations, prosecution, criminal conviction, and criminal conduct.

Determination of criminal sanctions in legislation is a determinant of value, meaning that there are provisions that cannot be carried out as undesirable values, and there are values that must be maintained or developed in society. In this case, related to the renewal of criminal acts, when searching for the contents / substance of criminal acts rules must be sourced, and get a strong backing on religious morals. (Barda Nawawi Arief, 1996: 293)

Criminal sanctions are needed in legislation in the field of cooperative business as a policy tool, so that it is not only contained in the codification (KUHP), or even autonomous regulations as criminal acts. The aspect of legal protection from criminal sanctions related to human life in a new dimension should not be hampered by the presence of crime, which attacks development policies, welfare as government policies or other social policies.

CONCLUSION

The Urgency of the Criminal Provision Regulations in Cooperatives Law at Indonesia is important, because the process of globalization, namely changes and developments in human life can lead to the potential for crime with varying modes, such as; violation, fraud, embezzlement, fraud crime, corruption, money laundering and terrorism financing crime in cooperative business activities. The criminal acts that occur in cooperative activities affect the development of Indonesia, which is based on the strength of the National Economy.

Regulations of Criminal Provisions in the Implementation of Cooperative Business Entities in Indonesia is required in the legislation in the field of cooperative business as a policy tool, so that it is not only found in the codification (KUHP), or even autonomous regulations as criminal acts. The law becomes an instrument to make changes that can protect the general economic sector and the implementation of cooperative business entities in particular in accordance with the demands of the association of the world community as manifested in national law. The development of economic life requires a normative framework to maintain social order. So that the administration of law is needed to facilitate economic life.

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