

Juridical Analysis on the Consistency of the Indonesian Law Number 25 of 1992 on Cooperatives with Universal Cooperation Principle

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ABSTRACT

In its history as an institution cooperative was triggered to borne by "economic-based" conflict in Europe between socialists and capitalists. As the result of the conflict, a group of people which marginalized economically arose and form an economic vehicle called cooperative. Thus, from the early beginning until now, cooperative becomes an effort to improve the well-being in the economic section. Cooperative is an Economic vehicle. However, cooperative has variously interpreted when it came to Indonesia. Without intending to debate the Indonesian founding fathers hearting at that time, they a priori proclaimed that most suitable economic vehicle for Indonesians social-culture condition are cooperative. Therefore as an economic vehicle in Indonesia, cooperative are appropriately recommended and being include in the 1945 Constitution. The Consequence when include an enterprise which actually a business enterprise in 1945 Constitution is ideological friction. Since the old order as well as the new order, it is proven and turn in its implementation that cooperative policy is always directed as political-ideological mouthpiece of the ruling regime. Cooperative which should be function as an economic vehicle, to empower and improve society economic welfare based on economic principles, apparently used as a tool to follow the political line of the incumbent regime. In the old order period, cooperative must be in the Nasakom corridor and in the new order period with the trilogy development. In 1992, the Cooperatives Policy that compatible with the universal cooperative identity, basically can be told as an embryo that tried to herd the Indonesian cooperatives to be placed and purely enforced as an economic vehicle.

Keywords: *Indonesian law, UCP, ideological function, cooperative policies*

1. INTRODUCTION

Kwik Kian Gie¹, one of this country senior economist as well as political practitioner said that the cooperatives in Indonesia will never have progress as long as it's burdened with ideology. Ideology meant by Ramlan Surbakti² defined as a set of ideas and common good justification system on society or state. Likewise Thoby Mutis³ opinion, one of economics professor as well as cooperative movement figure said that the government role in cooperative "development" cause the death of cooperative creativity and accelerate cooperative destruction. It is recommended that the Ministry of Cooperatives immediately disbanded because it is only a functionary movement arena and not a people movement arena. While the joke at the grassroots level to say that: KUD⁴ is not an abbreviation of Cooperative Village Unit but Chief lucky first. With thus various opinions, has

affected many less hearty rural people to the cooperative existence. Cooperative will really get a grim picture if the statement of economic practitioners, politicians, academics and ordinary people as illustrated above is a valid representation of the Indonesian people. By some people this grey picture on the Indonesian cooperatives considered as our "stunt" and "ignorance" in reading and interpreting cooperatives. Or in other words there has been a distortion in reading ideology messages, other than its inability in economy practice, where the cooperative principles are not defined as the pursuit of profit.

Regarding to the ideological message that mentioned in the cooperative discussion and the starting point of the constitutional message, that cooperative as economic vehicle recommended by the 1945 constitutions in chapter 31, then cooperative are the tool of democracy and the national economy movement. Without intending to debate the founding father hearting and logical background in producing provision in 1945 constitution, compare to other countries, until nowadays the Indonesian seem still be plagued with "the most familiar and most loyal to the cooperative" disease. Yet if we look at the reality that cooperative development has turn out to reach giant level in Europe today, not only stand on the principles of cooperation, but also relies on other economic theory as well as make some adjustments to the cooperative principles⁵. With that ideological message presence, until now it's still leaves the issue of concerning the message that cooperatives are pillars, the main mast, or the backbone of national economy. On the other hand

¹ Kwik Kian Gie, *Seminur Koperasi*, Jakarta: CSIS, 1993

² Ramlan Surbakti., *Wentahami Ilmu Politik*, Jakarta: Gramedia, 1992, hal. 32-33

³ Thoby Mutis, *Koperasi*, Jakarta: CSIS, 1993, lihat juga Kompas, 28 Februari 1999

⁴ Based on Inpres 4/1973 KUD is a cooperatives business built in the village level area with a village unit total area 600 ha to 100 ha. KUD is a mergers or fusion of various cooperatives in the village. With the presidential instruction came into similar and centralize guidance pattern to Cooperatives in village. Look at, Ima Suwandi, *Peran Pemerittah Dalam Pergenthangat Koperasi Urtit Desa*, Jakarta : Prisma, LP3ES, No. 71 1986

⁵ Husni Rasyad, *Wiraswasta, Aspek Penting dalam Pembangunan Koperasi*, Bandung : Rochdale No. 7/ 1993, hal. 30

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there is a thought that the cooperative is the only economic vehicle that mandated as the economic pillar of the national economy. But others believe that cooperative is just another economy pillars besides of State Owned Enterprises (BUMN) and the Private Owned Companies (BUMS). With the unfinished debate of cooperative, it causes the emerging of indication that says that the most difficult standardized terms of economic organization is cooperative. This fact is understood by some people because of high diversity of perception content and interests⁶. Therefore, in general cooperative always lose when competing with other business entities. Cooperative cultivated as one way to answer the economic problems, apparently the way it's perform is less encouraging.

Back to cooperative ideological problems in the form of its operations required an easy recognized ways to communicate. If this ideology is introduced as a doctrinaire, its means the created rules will be formulated in a systematic, detailed and its implementation should be tightly controlled. It would be different if the ideology pragmatically introduced, which only principally formulated and implemented through family, education, economic systems, religious life, or the political system⁷ socialization. With this last ways then people aspirations and creativity are maintained and respected. However with certain notes the Doctrinaire ways, still can be tolerated by some people. Doctrinaire ways described by a top-down approach, is appropriate as long as directed for the sake of public participation.

Participatory developments are the development of emancipator and respected people for they sovereignty, including top - down and bottom – up movement. Top - down approach is not wrong indeed it's the responsibility of the state as long as it's directed to improve the bottom-up⁸ motivation.

Ramifications of the ideology translation and interpretation that partially doing nowadays which guiding toward between "political language" and the "economy of language" has made Indonesian cooperatives not more than an unfinished problems.

All this time ideological translation and interpretation is more focused on political interest while destroying law and economic interest. In this case as follow⁹:

⁶ Muslimin Nasution, Nilcri-nitai Koperasi, dalam Info Kop. No. I 1/1992, hal. 65

⁷ Ramlan Surbakti, Memahami Ilmu Politik, Jakarta: Gramedia, 1992, hal. 33

⁸ Sri-Edi Swasono, Strategi Pembangunan Koperasi Dalam PJP II, Bandung : IKOPIN, Rochdale No. 7 Tahun 1993, hal. 31

⁹ LSM little discussion result. Lapenkop Jatiningor, Februari 2000

- a. A quantitative success by government officers to attract someone becoming cooperative members apparently used as their performance indicator. The success of cooperative management in a village or district region to increase number of cooperative members, even though by ignoring the quality is an achievement. A village chief achievement means a District chief achievement, a district chief achievements mean a mayor achievement and so on upwards becoming governor, minister and president. The peak of this achievement result came in the form of awards symbol.
- b. Prevailed doctrinaire policies about single and government build cooperative in each KUD (Presidential instruction No. 4/1973), has shut down people creative aspiration. Monopolistic practices of fertilizer distribution and production facilities, which in turn enrich corruption, collusion, and nepotism practice occurs in KUD body¹⁰. With this policy villagers were forced to act not more than a dumb robot.
- c. Cooperatives formation policy at primary, secondary and tertiary levels was only a vehicle for raising and enriching certain groups and marginalized people in general. Some of primary level cooperatives, whose members are having similar business field as individuals, can form a secondary level cooperative. Similarly some of secondary level cooperatives also can form tertiary level cooperatives. In practice we know terms such as center, alliance and mother. Cooperatives formation with a similar business at these levels is supposed to create cooperatives bargaining position stronger and better in business transactions, with the same hiding business. But sometime in reality it's result a conflict among them. These Cooperatives weakening engineering ironically made by cooperative people itself. Based on these facts, the ideological transformation into a useful operation which focused on political interests as applied so far, proven have brought a number of distortions. Ideological message relating to cooperative economic ideology on the 1945 Constitution should be operated in the interest and usefulness of the economy; actually it has not been placed on the right track.

Restoring, describing and interpreting ideological message efforts to suitable with the goals had been done with the issuance of Law No. 25 of 1992 on Cooperatives. Its mean based on the policy, according to

¹⁰ Description about KUD can be seen on Ima Suwandi, Peranan Pemerintah Dalam Pengembangan Koperasi Unit Desa, Jakarta: Prisme, LP3ES, No. 7/1986, hal 72-85

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the consideration of Indonesian cooperative identity¹¹ which includes elements of value, meaning, and principles, intentionally cultivated both direct and develop to appropriate with the values, meaning, and cooperatives principle as an economic vehicles. In a word with these laws Indonesian cooperatives really directed as economic organizations, economically characterize, and prepared as a trusted and accountable alternative economic vehicles.

On the other hand, as a member of the International Cooperative Alliance (ICA) Indonesia by itself must obey the policy outlined by the ICA. Essentially the ICA policy are its member experience accumulation, continuously processed and communicated on cooperative quality improvement initiative.

Not only internal problems that related to identity standardization and human resources escalation, but also how to formulate a good relationship pattern between cooperatives and government, academics, international and national organizations are the Qualities that try to step up by the ICA. For that, ICA in its history tried to actualize the whole mean professionally and proportionately. Those things are very important to be run because in reality there's too much interpretation of cooperative meaning and principles by ICA members. Meaning and cooperative principles diversity sometimes is ideological, if it isn't anticipated and given adequate direction certainly will become a boomerang and disintegration factors which can handicap the cooperative, both as a movement and as business entities. So that we must critically interpret Mohammad Hatta words, who suggest that Cooperative was established as a fellowship of the weak to defend their life needs. Achieve their life needs with the lowest possible costs, that is intended. In cooperation common needs are precedence not profit¹².

With entering the ICA, so Indonesian cooperative meaning, principles and practices ought to be in tune with ICA policy. Generically ICA universal policy element is the crystallization of cooperatives movement and business experience of develop countries, if implemented correctly it's should "mutatis mutandis" also can make cooperative in Indonesia developing and progressing.

2. PROBLEM FORMULATION

In Fact since the enactment of Law No. 25 of 1992 on Cooperatives, cooperative role not in accordance with the idealized, it means that there are a number of obstacles to the implementation of the policy. In order to perform a juridical analysis, then these obstacles can be formulated in the form of the following questions

- a. Was the appearances of Law No. 25 Year 1992 on cooperatives, has been appropriate with universal principles?
- b. How can this law contribute to the effectiveness of the policy?
- c. In realizing the success of the cooperative, how the role of the universal cooperative principles?

3. SENSE OF UNDERSTANDING

In this paper the following meanings:

- a. Cooperatives law is the Republic of Indonesia Law Number 25 of 1992 on Cooperatives (State Gazette of the Republic of Indonesia of 1992 No. 116) and declared on October 21, 1992.
- b. Cooperatives is a business entity consisting of individuals or the bases cooperative legal entities which activities based on cooperation principles as well as economic movement based on kinship principles.
- c. Cooperatives are everything related to the life of the cooperative.
- d. Primary cooperatives is everything that was founded by and composed of individuals
- e. Secondary Cooperative is a cooperative established by and composed of primary cooperatives
- f. Cooperative movement is the overall cooperatives organization and activities that are integrated into the achievement of cooperative common goals¹³.

4. PURPOSE OF THE RESEARCH

The purpose of this research was to examine whether Law No. 25 of 1992 on Cooperatives consistent in applying the cooperative principles with universal cooperative principles.

5. RESEARCH METHODS

The research method used is a juridical normative research methods and law comparative:

- a. Juridical normative research methods have characteristics:
 1. Finding the truth in a research through the way of deductive thinking and coherent truth criteria
 2. The truth in a research angle reliably stated without having through a test or verification process.
- b. Law comparative research methods

¹¹ Which means with identity is cooperative characteristics means cooperative characteristics can be seen from value, meaning, dan principles.

¹² Revisond Baswir, Koperasi Indonesia, Yogyakarta : BPE, 1997, hal. 4

¹³ Laws No. 25 of 1992 subsection 1 clause 1 s/d 5

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The aims of this research are finding the principles of (science) legislation through the comparison of the various legal systems.

- c. Law comparative procedures:
 1. Selecting or defining the objects of research that will be compared
 2. These objects confronted to each other
 3. Finding the equations and the differences,
 4. Finding the causes between the equation and the differences

6. COOPERATIVES DEVELOPMENT HISTORY

In England, Rochdale cooperatives consumer managed to succeed as a result of industrial revolution, in the beginning of the establishment they does not have any written legislation to regulate cooperative management and implementation, but only based on the conviction and consciousness of the members / administrators. The only writing made legislation only cooperative business goals. Once the cooperative is rapidly progressing, there's an amendments by mutual agreements at members meeting which in the end members feels need to evaluate regulations that in the beginning was originally given the name "statement" and later known as the Rochdale cooperative principles. With the success of Rochdale cooperative principles formula created by the founders, this rules not only imitated other cooperatives in England but also aboard and known by the name "Rochdale Principles" and finally the rules developed and accepted by the cooperative all over the world as cooperative basic regulation.

Before independence, In Indonesia, the initial growth of cooperative and its development started in 1908 and after independence in 1945, based on the contents of the 1945 constitution that cooperative is one of the most suitable economic build for Indonesia. Apparently in its implementation are distorted or misleading interpretations. During the old order regime, cooperative only used to be ideological –political funnel tools directly based on NASAKOM concept. Similarly, at the beginning of the New Order regime known as cooperatives Law No. 12, 1967. Although in the consideration of 1967 policy was explicitly aimed corrected the mistakes done by the old order regime, but in fact it's still remain to be ideological –political funnel in the name of development stability and continuity. Same as the days of the old order regime, in the new order regime based on the 1967 policy cooperatives also used as an economic organization tools by virtue of social character and distinctive doctrinal guidance on business cooperatives named village cooperatives (KUD). KUD were established in every area of 600 to 1000 ha proved only to become a political vehicle that harm rural communities under the guise of improving the welfare of rural society, especially the government alternately issued 3₁ Presidential instruction : No. 4 of 1973, Presidential Instruction No. 2 Of 1978 and the last Presidential Instruction No. 4 Year 1984.

7. UNIVERSAL COOPERATIVES IDENTITY

Law No. 25 of 1992 on Cooperatives which replaces Cooperatives Law No. 12 of 1967, can be said have given fresh air for the initial growth of other shades for Indonesian cooperatives. Then materially based on this policy, there's clearly an attempt to adopt a universal cooperative discourse developed by the International Cooperative Alliance (ICA). Under this policy Indonesian Cooperatives identity are same as the universal cooperative identity. Indonesian cooperatives that had been introduced as an "social character" economic organization and thick with ideological message embodied by "kinship" rigid term, begin to be eliminated although it's not quite assertive. Under this policy Indonesian cooperatives are given the official sense as a business entity that bases its activities on the cooperation and economic principles. The influence of the ICA at least have made the Indonesian Cooperative is no longer accused to be rulers political vehicles from time to time. Although it's still embryonic Indonesian Cooperatives under this policy began to get a good place.

8. NATIONAL COOPERATIVES IDENTITY

Although Law No. 25 of 1992 on Cooperatives can be regarded as a policy that seeks cooperative for becoming true economic vehicles, but culturally it's not yet been understood very well. Cooperative which should be understood as a vehicle for economic or business entity as PT or CV and can grow up to be big and strong, but at many stratum in Indonesia is better known as a form of small business, taboo economic principles profit, understood as a place of mutual cooperation and forth. Or more concretely cooperatives business form only known as "savings petty" and "versatile shop small". Actually, the assumption regarding that kind of cooperative business face cannot be wrong, as long as it's understood as a business. Basically cooperative as a form of economic entities have the same opportunity as PT for managing a business unit in the number of large scale assets and turnover.

9. COOPERATIVE PRINCIPLES AND SUBJECT POLICY MAKERS OVERVIEW

9.1 Cooperatives Principles Overview

Based on the previous discussion, there are two terms on the Universal ICA values that require attention in the context of this discussion. Both of these terms are cooperative principles and subject policy makers. Briefly cooperative principles can be outlined as follows:

ICA Cooperative principles consist of 7 (seven) namely:

a. Open an Voluntary Membership

Cooperatives are voluntary organizations, open to all who are willing to use its services and willing to accept membership responsibilities, regardless of sex

(gender) social background, race, politics and religion.

b. Cooperation among cooperatives.

b. Democratic Supervision by the Member

Cooperative is an organization controlled by its members, actively determining policies and making decisions. Men and Women were chosen as representative members responsible to members meeting.

c. Members Participation on Economic Activities

Cooperatives members give a fair funding contribution and democratically supervision (to the fund). At least part of that fund is cooperative common properties. If there are members usually receive limited compensation for the fund required to become a member.

d. Autonomy and Independence (Independence)

Cooperatives are autonomous organizations, helping it own and supervised by its members. If the cooperative has entered into agreements with other organizations, including the Government, or having fund from outside sources cooperatives do it under the terms that ensure democratic supervision by their members and maintain their autonomous.

e. Education, Training and Information

Cooperatives provide education and training for its representative's members elected by the members meeting as well as managers and employees, so that they can perform their duties more effectively of cooperative development. They provide information to public as general, especially the youth and opinion leaders in the community about the nature and benefits of cooperatives

f. Cooperation Between Cooperative

Cooperatives serve their members effectively and strengthen the cooperative movement by working together through local, regional, national and international level of cooperative organizations.

g. Community Care

Cooperatives are doing activities for the sustainable development of local communities, through policies that are made by the members meeting. While the cooperative principles in accordance with Law No. 25 of 1992 on Cooperatives listed in subsection 5 can be described as follows:

(1). Cooperative implement cooperative principles as follows:

- a. Memberships are voluntary and open.
- b. Management conducted democratically.
- c. Distributions of net income are fairly and proportionally done to the amount of each member's services business.
- d. Remuneration limited to independence fund.

(2). In developing cooperative, it's also implement the cooperative principles as follows:

- a. Cooperative education.

Based on the explanation of subsection 5, that cooperative principles are inseparable unity in cooperative life. By carrying all this principles Cooperative manifests itself as a business entity as well as social character economic movement.

Clause (1)

The cooperative principles are the basic essence of cooperative work as a business entity and its identity that distinguish cooperatives from other businesses entities.

Letter a

Voluntary nature of the cooperative membership implies that cooperatives members should not be forced by anyone. Voluntary nature also implies that a member may withdraw from the cooperative in accordance with the terms specified in Cooperative association articles. While the open nature means that the membership is not performed restriction or discrimination in any form.

Letter b

The democracy principle shows that cooperative management is done at the discretion and judgment of the members those members who hold and carry the highest authority in the Cooperative.

Letter c

Member net income distribution have been done not solely based on one individual fund in cooperatives but also based on the balance of member's business service of the Cooperative. This kind of provision is the embodiment of family values and justice

Letter d

Fund in Cooperative basically used for the benefit of its members and not for just for profit. Therefore, funding remuneration to the members are also limited and not based solely on the amount of provided fund. What is meant by limited is reasonable in the sense of not exceeding the prevailing interest rates in the market.

Letter e

Independence means can stand alone, without relying on the other party based on the confidence in the decision considerations, capabilities, and the business itself. In the sense of independence also contained a responsible freedom, autonomous, self-help, dare to responsible for self act and willingness for self.

Clause (2)

In addition to the five principles as referred to in clause (1), for cooperatives own development there's also two other cooperative principles implemented that is cooperative education and cooperation among cooperatives which is important in improving ability, broaden members horizons, and extend solidarity in achieving the goal of Cooperatives. Cooperation among

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cooperatives is can be done cross local, regional, national, and international.

Essentially principle is the result of thought and experience used as a basis to conduct activities. Cooperative principle is a collective agreement enforced as a basic guideline to manage the cooperative. At first principle is formulated from the experience of cooperative consumer in Rochdale England at the mid of 19th century and known as the "Rochdale Principles". Since the Rochdale Principles can only be applied to cooperatives consumer, the ICA (International Cooperative Alliance) seeks to formulate a suitable principle for all types of cooperatives. Preparation is entrusted to a committee which results discussed at ICA Congress in Paris in 1936, a cooperative arrangement was passed in the congress consists of two parts as follows:

- a) Applicable to all cooperative members of ICA:
 - Open membership
 - Democratically supervision
 - Limitation on fun interest payment
 - Distribution of net income in proportion to member's participation.
- b) Applicable not binding, because it can be changed / added according to the situation and condition of cooperatives in their respective countries:
 - Neutral in politics and religion
 - Buying and selling in cash
 - Members education

In connection with the world business progress in general, especially on the development of cooperatives movement, so at the insistence from the ICA member's cooperative principles above to be revisited. The proposal formulated by a committee approved by the ICA Congress in Vienna 1966, so that the cooperation principle since that time became like this below:

- a) Voluntary and open membership.
- b) Democratically conducted supervision
- c) Limitation on Fund interest payment.
- d) Cooperatives education for members.
- e) Cooperation among cooperatives.

Indonesian Cooperative Principle, Indonesian cooperative movement accepted as a member of the ICA in 1955 (member No. 77). As a member, Indonesian cooperative movements are obeyed six principles prescribed by the ICA. In Law No. 12 of 1967 this principle called cooperatives basic joint. 1992 Indonesian cooperatives to add "independence" as one of new principles so that the cooperative principle in the formulation of the Law No. 25 of 1992 as follows:

- a) Voluntary and open membership.
- b) Democratically conducted supervision.
- c) Net income allocation is fairly comparable to the amount of each member's business service.
- d) Rumination given limited to the fund

- e) Independence.
- f) Cooperatives education.
- g) Cooperation among cooperatives.

The seven cooperative principles is an unity whose implementation cannot be separated. If the overall principles are whole implemented, it will realize a democratic business entity as well as people economic movement. Furthermore, to understand the cooperation principle can be delivered the following explanation:

a). Voluntary and Open Membership

Voluntary means that there should be no forcing. In this case one should not be forced to become members of the cooperative. Instead who want to get out should not be prevented as long as fulfill the predetermined rules. To accelerate cooperative growth and development would be no mistake if the government recommends people to be a member candidate. However, to become a full member, which would need to have a awareness of cooperative. It can be done through education, counseling, or other effort.

Open membership means that anyone with an interest can be admitted as members regardless of gender. Ethnic, religious or others form of discriminations. But the cooperative membership is voluntary and open some limits. It is listed in the Articles of Association and Bylaws (AD and ART) that relevant to the cooperative.

b). Democratically Conducted Supervision

Cooperative life said to be democratic because every member has the right to express their opinions in determining the general policy and supervise the activities of the cooperative. Democratic management implies that the ultimate power in the hands of cooperative members who carried out through members meeting.

c). Net Income Allocation is Fairly Comparable to The Amount of Each Member's Business Service

A fair allocation does not mean everyone gets the same portion. In cooperative life net income derived from business activities. Because of that a fair net income allocation should be in proportion to each member's participation in the cooperative business service. For example, in marketing, business services given in proportion to the amount / price of goods provided by members for sale through the cooperative, in the shopping business services given effort is proportional to the amount / price of goods purchased by members. Such provisions encourage members to participate in business activities.

d). Rumination given limited to the fund

Cooperatives fund, among others, came from member's savings intrinsically meritorious participate anyway. Limitation on funding remuneration is intended to guard against the majority of net income fell to members who submit a lot of capital without participating in business activities. Because of it is there's a limitation on funding remuneration, which is determined by the

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members meeting. A reasonable limit should not exceed the prevailing rate in the market.

e). In dependence

Independence can be defined as the ability to stand on our own without relying on others people help. And If there's a help only a supporting role. Basically independence was supported by the self-confidence to overcome any problems faced. Thus the independent cooperatives should be able to run their own business based on the strength of being able to take decisions without being influenced by others and dare to risk as a result of decisions taken.

f). Cooperative Education

Education is very necessary to improve the quality of human resources (HR), which includes members, board and the executive. Through focused and integrated educational programs cooperatives mental attitudes, knowledge, and skills are expected to be increased. So that's to support the development of cooperative effort. It required some education programs that are appropriate for group members, group administrators and group executive.

g). Cooperation Among Cooperatives

In general, individual members of cooperatives come from the weak economy so there's a thought that cooperative is only right to run a small scale business. Though the cooperative has the potential to grow and develop into a large company. Cooperative strength lies in solidarity and individuality. Through a cooperative land partnership a reliable funds and power can be collected to carry out a massive effort, No need to be inferior to private or state owned enterprise. Such cooperation can be held at a local level (district) regional (provincial), national and even international. Without the cooperation among cooperatives, cooperative

9.2 Subject Policy Makers Overview

In matters relating to "the subject of policy makers" proposed by the ICA was the accumulation of government, National Cooperative Organization and international Cooperative Organizations roles. In detail, the ICA said there are 7 (seven) role of the government, 14 (fourteen) role of national cooperatives organizations and nine (9) role of international cooperative organizations. Regarding to government's role the heavy emphasis is on government roles as facilitator and regulator. Concerning the role of the national cooperative organizations, the emphasis is done as a catalyst between the various elements concerned. Regarding the role of the International Cooperative organization the emphasis performed as communication and development forum at the universal level.

In relation to the roles of different components that act as the subject of a decision maker for the role of government is based on Law No. 25 of 1992, explicitly stated in the subsection:

Subsection 9

Cooperative acquired the status of a legal entity after its foundation certificate passed by the Government

Subsection 10

- (1) To obtained authorization refers to subsection 9 founders must submitted written request with cooperative foundation certificate.
- (2) Foundation certificate ratification is given in a maximum of 3 (three) months period after authorization request accepted.
- (3) Foundation certificate ratification published in the Republic of Indonesia state news:

Subsection 11

- 1) In case the foundation certificate ratification request has been rejected, reason of refusal notified in written to the founder no later than 3(three) months after the request received.
- 2) Against Foundation certificate ratification rejection founders can repeated the request no later than 1 (one) months period after the rejection received.
- 3) That decisions for repeated request of Foundation certificate ratification will be given no later than 1 (one) months period after the repeated request received.

Subsection 12

- (1) Articles of association amendments made by the members meeting.
- (2) For the Articles of association amendments relating merger, sharing and changing cooperatives business section requested authorization to the Government.

Subsection 13

Provisions regarding the requirements and procedures for ratification or rejection of foundation certificate and Articles of association amendment as meant in Subsection 9, 10, 11, and 12 shall be further regulated by Government Regulation.

Subsection 46

Cooperative liquidation can be done based on

- a. Members meeting decision.
- b. Government decision.

Subsection 47

- (1) Liquidation by government decision as referred to in Article 46 letter b can be done if :
 - a. There is evidence that the cooperative does not comply with the provisions of this law;
 - b. The activities contrary to public order and / or morality;
 - c. Life sustainability cannot be expected.
- (2) Ccooperative liquidation decision by Government issued later than four (4) months from the time liquidation notification letter received.

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- (3) Within a period of at least 2 (two) months from the date notification been received the Cooperative have the right to object. The government's decision regarding liquidation plans objection acceptance or rejection are given no later than 1 (one) month from the date that the statement of objections received.

Subsection 48

Provisions concerning Cooperative liquidation by the government and the procedure for filing an objection as referred to in Article 47. For further regulated by Government Regulation.

Subsection 49

- (1) Cooperation liquidation decision by members meeting notified in written by members meeting attorney to:
- a. All creditors
 - b. Government
- (2) Notification to all creditors done by the Government, in terms of occupying the liquidation based on government decision.
- (3) During the Cooperative liquidation notification has not received notification by the creditors, then the cooperative liquidation not applicable yet.

Subsection 53

- (1) The completion begins immediately after cooperative liquidation decision is issued.
- (2) Resolver responsible to the Members meeting Attorney in this case resolver appointed by the members Meeting and to the Government in terms of resolver appointed by the Government.

Subsection 54

Resolver has the rights, powers and obligations as follows:

- a. Doing all legal actions for and on behalf of "Cooperative completion"
- b. Collecting all necessary information
- c. Calling the board, members and certain required former members , either individually or together
- d. Obtaining, checking and using all the cooperative records and archives cooperative
- e. Establish and implement all payment obligations that take precedence over other payments;
- f. Using remaining assets to complete Cooperative remaining obligations
- g. Sharing the rest of completion result to the members
- h. Making a completion reports

Subsection 59

The organization was formed as referred to Article 57 paragraph (1) authorized by the government.

Subsection 60

- (1) The government creates and develops climate

and the conditions that promote Cooperative growth and popularization.

- (2) The government provides guidance, convenience, protection to the Cooperative

Subsection 61

In an effort to creates and develops climate and the conditions that promote Cooperative growth and popularization. Government:

- a. Provide widest business opportunities to the Cooperative;
- b. Improving and strengthen the ability of cooperatives to be a healthy, strong, and independent cooperative.
- c. Arrange a mutual beneficial business relationship system between cooperative with other business entities
- d. Cultivate cooperation in society.

Subsection 62

In order to provide guidance and simplicity to the Cooperative, the Government

- c) Guiding cooperatives business which is suitable with the economic interests of its members;
- d) Encouraging, developing, and assisting the implementation of education, training, counseling, and research on cooperatives;
- e) Provide facilities to strengthen cooperation funding and developing cooperatives financial institution
- f) assisting the development of cooperative business networks and mutually beneficial cooperation among cooperatives;
- g) Provide consulting assistance to solve the problems faced by the cooperative with still considering the Articles of Association and the Cooperative Principle.

Subsection 63

- (1) In order to provide protection to the Cooperative Government can:

- a. Define areas of economic activity which should only be attempted by the Cooperative;
- b. Define the field of economic activity in a region that has been successfully cultivated by the Cooperative for not afforded by other business entities.

- (2) Requirements and procedures for implementation as referred to in paragraph (1) shall be further regulated by Government Regulation.

Subsection 64

Guidance refers to subsection, 60, 61, 62 and 63 can be done with regarding condition and economic interest as well as business and employment equals opportunities.

The roles of National Cooperative Organizations are explicitly listed in the subsection:

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Subsection 57

- (1) Cooperative together establishes a single organization that function as a vehicles for carrying cooperatives interests and aspirations.
- (2) The organization is based on Pancasila.
- (3) The name, purposes, structure and administration of the organization regulated in the organization Articles of Association.

Subsection 58

- (1) The organization activities:
 - a. contend and conducting cooperative aspiration
 - b. increasing cooperatives awareness in society
 - c. performed cooperative education for members and public;
 - d. Develop cooperation among cooperatives and between cooperatives with other business entity, either at national or international level.
- (2) To carry out these activities, cooperative together raising its funds.

While the role of participation in the International Cooperative Organization Implicitly indicated in subsection 58 (d).

Those three roles Weights should be consistent with what has been included in the ICA values. However, Law No. 25 of 1992 can be conclude how massive the government's role in the movement process or cooperative life in Indonesia. While the actual expected by ICA is the greater weight on the level of community participation that reflected in the National Cooperative Organization. The participation from and by community are including aspects of formulation, implementation, monitoring, and evaluation of cooperative life. Once again the function and role of government desired by the ICA is limited to facilitator and regulator substantially proposed by the National Cooperative Organization.

The role played by government in the wheel of cooperatives life's in Indonesia that's reflected in the Law No. 25 of 1992, can have an impact as follows:

- a. Having a contradiction with ICA values so that as juridical Indonesia been judge against universal current tendency. Against universal current tendency at the end can potentially effected to another problems which sometime caused a law sanctioned that can be exclude by big countries.
- b. Has made cooperative in Indonesia more likely as an organization or social-political vehicles compared with its actual goals as an economic vehicle.
- c. Has mad Cooperatives in Indonesia if belong to the Government, it is proven and turns out that Government intervention is not only external but also internal.

Based on two principal values developed by the ICA, so all the ICA's member states are required to hold an appropriate adjustment (adjustment) in each of the cooperative laws in the country. The question now is how the adjustments made by Indonesia as a member of the ICA as set out in the Law No. 25 of 1992.

Based on the identity principle developed in the cooperative discourse, it is necessary to first be emphasized that the possibility of differences between ICA and the national formulation, as something that does not need to be debated. Therefore it is possible, if there happened to be a variety of formulations in the Law No. 25 of 1992 which seem less systematic and explicit in the realization ICA values. In short there is a possibility that the differences encountered are Gradual and not be Substantial between ICA and national formulation.

10. CONCLUSION

In juridical and substance that the universal cooperative principles according to the international cooperative alliance with cooperatives principles based on law No. 25 of 1992 are contrary or inconsistent

REFERENCES

- [1] Ady Yushar dan Pujadi, Disarikan dari Pandangan dan Pemikiran Fraksi ABRI terhadap RUU tentang Perkoperasian, disunting oleh, Jakarta, Infokop Nomor 12 Tahun 1992
- [2] Bustanil Arifin dalam sambutannya yang dimuat dalam buku "Pedoman Pelaksanaan Inpres No. 4/1984"
- [3] Dawam Rahardjo, Koperasi Indonesia menghadapi Abad 21, Jakarta : Dekopin 1997.
- [4] Hasan Jauhari dan Ady Yushar, Disarikan dari Pandangan dan Pemikiran Fraksi Persatuan Pembangunan terhadap RUU tentang Perkoperasian, ditentang oleh, Jakarta, Infokop Nomor 12 Tahun 1992
- [5] Hendrojogi, Koperasi : Azas-azas, Teori dan Praktek, Jakarta : Rajawali Pers, 1997
- [6] Husni Rasyad, Wiraswasta, Aspek Penting dalam Pembangunan Koperasi, Bandung : Rochdale No. 7/1993
- [7] Ima Suwandi, Peran Pemerintah Dalam Pengembangan Koperasi Unit Desa, Jakarta : Prisma, LP3ES, No. 7/1986
- [8] Koperasi Organisasi Ekonomi yang Berwatak Sosial, Jakarta : Bharata Karya Aksara, 1985.
- [9] ICA-4. Tahun Asia Pasific Cooperative Ministers Conference, Conclusions and Recomendations, Thailand : Chiang Mai, March 19-22, 1997

<http://www.ejournalofscience.org>

- [10] JG. Nirbito, Makalah Strategi Pengembangan Usaha Koperasi No. 25 Tahun 1992 tentang Perkoperasian Gresik, Sarasehan Depinda Gresik, 1994
- [11] Kwik Klan Gie, Seminar Koperasi, Jakarta: CSIS, 1993
- [12] Moh. Hatta, Membangun Koperasi dan Koperasi membangun, Koperaso Di Dalam Orde Ekonomi Indonesia, Jakarta, UI Pres, 1987
- [13] Muslimin Nasution & Muh Taufiq, Nilai-nilai Koperasi, dalam Infokop No. II Tahun 1992
- [14] M. Taufiq, Disarikan dari Pandangan dan Pendidikan Fraksi Karya Pembangunan terhadap RUU tentang Perekonomian tentang Jakarta, Infokop Nomor 12 Tahun 1992
- [15] Noer Sutrisno, Nilai Dasar Koperasi Dalam Perspektif Perkembangan Global, Infokop Nomor 11 Tahun 1999
- [16] Pardjimin Nurzain, Penyosialkan Ekonomi dan Mengekonomikan Sosial : Jakarta : Warta Koperasi, No. 8/1998.
- [17] Pujadi Atmadja, Hasan Jauhari dan Widiyono, Disarikan dari Pandangan dan Pemikiran Fraksi PDI terhadap RUU tentang Perkoperasian, disunting oleh Jakarta, Infokop Nomor 12 Tahun 1992
- [18] Prisma, Nomor 6, Tuli Tahun 1978
- [19] Tim P3PK UGM, Konsep Laporan Akhir Peranan Negara Dalam Sistem Ekonomi Koperasi, Yogyakarta, P3PK UGM, 1991
- [20] Ramlan Surbakti., Memahami Ilmu Politik, Jakarta: Gramedia, 1992. Revisi Baswir, Koperasi Indonesia, Yogyakarta : BPE, 1997.
- [21] Sri-Edi Swasono, Strategi Pembangunan Koperasi Dalam PJP 11, Bandung : IKOPIN, Rochdale No. 7 Tahun 1993.
- [22] Suradjiman, Ideologi Koperasi Membentuk Masyarakat Adil dan Makmur, Bandung Ganaco: 1963.
- [23] Koperasi: Dalam Teori dan Praktek Penyusun Naskah, Drs. Suradjiman; Penyunting, Djabaruddin Djohan, Abdul Wahab, M. Nasir Manan. - Cet. 1. Jakarta : Dewan Koperasi Indonesia, 1997
- [24] Suluh Koperasi, Lapenkop Dekopin, April 1999
- [25] Thoby Mutis, Koperasi, Jakarta: CSIS, 1993, lihat_juga Kompas, 28 Februari 1999
- [26] Tjiptono Darmadji, Koperasi atau PT Sama Saja yang Penting Pengusaan Modal, Teknologi dan Manusia, Jakarta, Infokop, Nomor 12 Tahun 1992
- [27] Yuyun Wirasmita terjemahan Bandung : 1990, dan Ima Suwandi Koperasi Organisasi Ekonomi yang Berwatak Sosial, Bhrahtara Karya Aksara, Jakarta : 1985.

LAWS AND REGULATIONS

1945 constitution

Law No. 12 of 1967 on Cooperatives Principles

Law No. 25 of 1992 on Cooperatives

Presidential Instruction No. 4 of 1973 on village Regional Unit

Presidential Instruction No. 2 of 1978 on BUUD/KUD

Presidential Instruction No. 4 of 1984 on guidance and Village Cooperatives Unit (KUD) Development

Presidential Instruction No.18 of 1998 on Improved Guidance and Development of Cooperation.

International Cooperative Alliance (ICA) Resolution statement on Universal Cooperative Identity