

# Lektor Kepala

*by* Didi Sukardi

---

**Submission date:** 01-Nov-2021 12:55PM (UTC+0700)

**Submission ID:** 1689743189

**File name:** Jurnal\_Internasional\_Didi\_Sukardi.pdf (302.99K)

**Word count:** 6120

**Character count:** 33978



## Philosophical, sociological and judicial foundation as a means of reconstructing the law of *Koperasi* in Indonesia based on the value of justice

Didi Sukardi<sup>1</sup>, Teguh Prasetyo<sup>2</sup>, Anis Mashdurohatun<sup>3</sup>

<sup>1</sup> Doctorate Student of Faculty of Law Universitas Islam Sultan Agung Semarang, Indonesia

<sup>2</sup> Faculty of Law Universitas Pelita Harapan, Indonesia

<sup>3</sup> Faculty of Law Universitas Islam Sultan Agung Semarang, Indonesia

### Abstract

In Indonesia, a concept of cooperative commonly called *Koperasi* has received noble nicknames and are mentioned in the constitution, it turns out that Indonesian *Koperasi* for more than half a century of existence did not show encouraging developments. Many factors hinder the progress of *Koperasi*. This results in the development and empowerment of *Koperasi* that are difficult to realize strong and independent *Koperasi* that are able to develop and empower *Koperasi*. It is difficult to realize strong and independent *Koperasi* that are able to develop and enhance the *Koperasi*, potential, and economic capabilities of members in order to improve their welfare and social well-being. One of the inhibiting factors is the legislation. Law Number 25 of 1992 concerning *Koperasi* turned out to be inadequate for use as an instrument for *Koperasi* development. This can be seen in the provisions governing the values and principles of *Koperasi*, the granting of legal entity status, capital, management, *Koperasi* savings and loan business activities and the role of the Government. The paradigm used is a constructivist paradigm. This research was conducted with a statute approach (statute approach) and a normative juridical approach which is also referred to as doctrinal research. In connection with the type of descriptive normative research that was finally selected in this study; so as stated by experts, normative research usually uses, among others, the statutory approach, the conceptual approach, the analytical approach, the philosophical approach and the case approach. The specifications of this study are also analytical in nature, with primary and secondary legal materials. The data analysis used in this study is a qualitative analysis.

Research Shows that the Reconstruction of Legal Norms with Article Definitions of *Koperasi*, Membership, Management and Supervisors, *Koperasi* Capital, Savings and Loans, Development of *Koperasi* and Administrative Sanctions and Criminal Sanctions Law Number 25 of 1992 concerning *Koperasi*. Reconstruction of Legal Norms is carried out on Article Definition of *Koperasi*, Membership, Management and Supervisors, *Koperasi* Capital, Savings and Loans, Development of *Koperasi* and Administrative Sanctions and Criminal Sanctions Act Number 25 of 1992 concerning *Koperasi*.

**Keywords:** Foundation, *Koperasi*, Reconstruction

### 1. Introduction

Indonesia has a concept of Cooperative of economic organizations owned and operated by individuals for the common good commonly called as *Koperasi*<sup>[1]</sup>. *Koperasi* have a significant role in developing joint ventures of people who have limited economic capacity. In the context of efforts to advance the position of the people who have limited economic capacity, the Government of Indonesia pays attention to the growth and development of *Koperasi* associations. In Indonesia, *Koperasi* received noble nicknames and are even mentioned in the constitution, it turns out that Indonesian *Koperasi* for more than half a century of existence did not show encouraging developments. It remains only on the lips of government officials, and does not appear on the surface as a "company building" that is solid and capable of being the foundation (fundamentals) of the economy, and in the Indonesian

economic system, *Koperasi* are on the marginal side<sup>[2]</sup>.

This is in accordance with what was expressed by I. Wayan Dipta, namely: In the Indonesian economic system there are three main pillars that support the economy. The three pillars are State-Owned Enterprises (BUMN), Private-Owned Enterprises (BUMS), and *Koperasi*<sup>[3]</sup>.

These three economic pillars have roles that are each very specific in accordance with their capacity. Unfortunately, of the three pillars, *Koperasi*, although often referred to as the pillars of the economy, are generally economic pillars that are "the most difficult way" compared to SOEs and especially BUMS.

Development of *Koperasi* needs to be directed so that they increasingly play a role in the national economy. Its development is directed so that *Koperasi* truly implement *Koperasi* and economic business rules. Thus the *Koperasi* will be a stable, democratic, autonomous, participatory and socially economic organization. Development of *Koperasi*

<sup>1</sup> O'Sullivan, Arthur, 2003, "Economics: Principles in action. Upper Saddle River", New Jersey 07458: Pearson Prentice Hall. p. 202

<sup>2</sup> Martin Manurung, 1998, Indonesia: "Menuju Demokrasi Ekonomi", in: "Kumpulan Makalah Sistem Ekonomi". Jakarta: FEUI., p. 13.

<sup>3</sup> I Wayan Dipta, 2004, "Pengembangan Daya Saing Usaha Kecil dan Menengah". Jakarta, 28 April 2004, p. 12

is basically intended to encourage *Koperasis* to carry out business activities and play a major role in the economic life of the people.

Many factors hinder the progress of *Koperasis*. This results in the development and empowerment of *Koperasis* that are difficult to realize a strong and independent *Koperasis* that are able to develop and empower the nation<sup>[4]</sup>. One of the inhibiting factors is the legislation that is Law Number 25 of 1992 concerning *Koperasis* turned out to be inadequate for use as an instrument for *Koperasi* development. This can be seen in the provisions governing the values and principles of *Koperasis*, the granting of legal entity status, capital, management, *Koperasi* savings and loan business activities and the role of the Government. Overcoming various factors hampering the progress of *Koperasis*, it is necessary to hold legal reforms in the field of *Koperasis* through the establishment of a new legal basis in the form of laws. The reform of the law must be in accordance with the demands of *Koperasi* development and in harmony with the development of national and global economic order<sup>[5]</sup>.

Law Number 17 of 2012 concerning *Koperasis*, promulgated on October 30, 2012, has drawn negative reactions because this Law contains articles that contradict the 1945 Constitution. Based on the facts above, several *Koperasis* filed application for judicial review to the Constitutional Court filed by the East Java Provincial Employees *Koperasi* Association (GKPRI), East Java Village Unit *Koperasi* Center (PUSKUD), East Java Women's *Koperasi* Center (Puskowanjati), An-nisa 'East Java *Koperasi* Center, *Koperasi* Pusat BUEKA Assakinah East Java, the Indonesian Dairy *Koperasi* Association, Agung Haryono, and Mulyono, the Constitutional Court granted the request.

Decision of the Constitutional Court in the case can be interpreted that Law Number 17 of 2012 concerning *Koperasis* is considered contrary to the 1945 Constitution so that it does not have binding legal force to be used as a basis for drafting *Koperasi* certificates.

Departing from the explanation above, the author then formulated a main problem that will be discussed in this articles and that is how to Reconstruction of the Legal Entity of *Koperasi* based on justice value ?

#### Method of Research

The research paradigm used for this study is none other than philosophical assumptions or fundamental assumptions that base themselves on the Indonesian nation's perspective on existing legal issues, namely Pancasila. This paradigm can also be called a constructivist paradigm of thinking. This research was conducted with a statute approach and a normative juridical approach which is also referred to as doctrinal research. Normative juridical research or doctrinal research is a legal research that examines the laws and regulations relating to the decision of the Constitutional Court Number 28 / PUU-XI / 2013 concerning cancellation

of Law Number 17 of 2012 concerning *Koperasis*, and discusses doctrines or principles that develop in the science of law as a normative foothold, which starts from the general premise and ends at a specific conclusion<sup>[6]</sup>.

In connection with the type of descriptive normative research that was finally selected in this study; so as stated by experts, normative research usually uses, among others, the statutory approach, the conceptual approach, the analytical approach, the philosophical approach and the case approach.

The specifications of this study are also analytical, given the results of this study compile the data findings or, as stated above are synonymous with legal materials both primary legal materials and legal materials or secondary data. The study was conducted by taking research locations in the city of Cirebon, West Java Province. Based on data from the Department of Industry, Trade and *Koperasis* of the City of Cirebon SMEs the number of *Koperasis* in the city of Cirebon as many as 408 *Koperasis* consisting of 219 active *Koperasis* and 189 inactive *Koperasis*. Data Sources or Primary Legal Materials, namely binding legal materials; consists of statutory regulations governing *Koperasi* Legal Entity arrangements. Whereas the source of data or secondary legal material, that is data which indirectly provides research study material or legal material which mostly comes from literature or literature. Analysis of the data used in this study is a qualitative analysis, the data obtained are then arranged systematically and then analyzed qualitatively to achieve clarity of the problem discussed.

#### Research Result and Discussion

##### 1. Cooperative Bodies in Various Nation

Concept of Cooperative that in Indonesia would be later called *Koperasi*, its activities and organizations were initially introduced in England around the middle ages. At that time the main mission of the cooperative was to help the workers and peasants facing economic problems by mobilizing their own strength. Then in France which was driven by the oppressed workers' movement by capitalist forces throughout the 19th century with the primary goal of building an alternative economy from *Koperasi* associations to replace capitalist companies. This cooperative idea then spread to the US and other countries in the world. In Indonesia, new concept of cooperative were introduced in the early 20th century as *Koperasi*.

Since the emergence of this idea until now, many cooperative in developed countries such as the European Cooperative (EU) and the US have become large companies, including in the agricultural sector, manufacturing industry, and banking that are able to compete with capitalist corporations. The history of the birth and development of cooperative in developing and advanced countries is indeed very diametric. In developed countries cooperative were born as a movement to fight market injustice, and therefore grow and develop in an atmosphere of market competition. Even with its strength the cooperative won bargaining position and important position in the constellation of economic policies including in international negotiations.

The laws and regulations governing cooperative grew later as demands from the cooperative community to protect

<sup>4</sup> Paul Davidson dan Frabca Ciambella,1995, Investment in South East Asia, Law and Policy, Butterworth-Heinemann Asia, Singapore, p.233.

<sup>5</sup> Wahyu Widodo, Sapto Budoyo, Toebagus Galang, 2018, The Role of Law Politics on Creating Good Governance and Clean Governance for a Free-Corruption Indonesia in 2030, The Social Sciences, Year 2018, Volume: 13, Issue: 8, Page No.: 1307-1311, DOI: 10.36478/sscience.2018.1307.1311

<sup>6</sup>Soerjono Soekanto dan Sri Mamudji,2001, *Penelitian Hukum Normatif*. Jakarta: UI-Press, p.30

themselves. Meanwhile, in developing countries cooperative are presented in the framework of building institutions that can become state partners in driving development to achieve community welfare. Therefore the awareness between the equality and the glory of the goals of the state and the cooperative movement in fighting for the improvement of the welfare of the people was highlighted in developing countries, both by the colonial government and the nation's own government after independence. According to ICA data, in the world today around 800 million people are members of cooperative and it is estimated that *Koperasis* in total work for more than 100 million people, 20% more than the number created by multinational companies. In 1994, the United Nations (UN) estimated that the lives of nearly 3 billion people, or half of the world's population, were guaranteed by cooperative companies<sup>[7]</sup>.

Perhaps the biggest difference between cooperative in other countries, especially developed countries, and in Indonesia is that the existence and role of Cooperative called *Koperasi* in Indonesia is inseparable from the ideology of the Pancasila and the 1945 Constitution, which are the institutions of life of the Indonesian people to guarantee their rights to obtain employment and a decent living for humanity so as to create a just and prosperous society for all Indonesian people, as referred to in Article 27 paragraph (2) of the 1945 Constitution which is fully the right of every citizen. Consequently, The Cooperative Called *Koperasi* in Indonesia have far greater social responsibilities than "business" responsibilities that emphasize efficiency, productivity, profitability and competitiveness, and are strongly influenced by state politics or government intervention compared to Cooperative in developed countries.

Based on previous research on the characteristics of Cooperative development from each country, namely Indonesia, Sweden, the United States, and South Korea, the following is in Table 1. Conclusions comparison of the Cooperative characteristics of the four countries.

Based on the results of research related to the analysis of the development of Cooperative in Indonesia compared to the United States, Sweden and South Korea, a policy can be formulated that is expected to increase the development of

cooperative in Indonesia in their function as business institutions and economic teachers in accordance with the constitution of the Law The 1945 Constitution or even can be compared with cooperative in the compared countries. Based on the results of the analysis of the development of cooperative in Indonesia shows that after entering the 1990s in the implementation of the autonomy stage policy which explains the dominant role of government in developing *Koperasis* in previous years began to be eliminated only to the extent of indirect assistance.

But empirically there is still a role for the government in developing cooperative even until the reform period there is still a role for the government to make cooperative part of the tools of government programs and there are practices that lead to profit seeking in cooperative. Then entering the 2000s there was no dominant government role in the development of cooperative, and the role of the government was only as a regulator and providing indirect assistance to cooperative. But there are still some *Koperasis* that do not apply the characteristics (values and principles) of cooperative properly and there are still many cooperative that are oriented or dependent on government assistance.

This is also caused by the low quality of human resources in managing cooperative and running cooperative businesses. So the government can formulate a policy on improving coordination and cooperation between the central government (the Ministry of *Koperasis* and SMEs) and the regions, as well as between the government and the community in order to reduce the limited ability of cooperative to reach markets, especially in product promotion, access to market information and marketing channels. In addition, in order to create business networks between cooperative and between cooperative with the private sector or large businesses, it is hoped that they can improve cooperative development facilities in optimizing resources to improve *Koperasi* performance and reduce competition among cooperative members. As happened in the development of cooperative in South Korea where the government cooperative with the community especially cooperative to improve progress in cooperative efforts and improve the welfare of society in general.

<sup>7</sup>Camelia Fanny Sitepu, Hasyim, *Perkembangan Ekonomi Koperasi di Indonesia*. NIAGAWAN Vol 7 No 2 Juli 2018, p.60.

**Table 1:** Comparison of Cooperative Characteristics in Various Countries

Description	Indonesia	Sweden	United States of America	South Korea
1. The Rule Regarding Cooperative	Law Number 25 of 1992 concerning <i>Koperasi</i>	The Cooperative Societies Act Regarding Cooperative Societies	There are a lot of Cooperative law in accordance with the Cooperative sector efforts	There are many Cooperative laws according to the Cooperative business sector
2. The principle of Cooperatives	It is listed in Act Number 25 of 1992 concerning Cooperatives Article 5, based on the ICA principle	Principles of the International Cooperative Alliance (ICA) and adjusted by the Cooperative	Principles of the International Cooperative Alliance (ICA)	Principles of the International Cooperative Alliance, synchronized with the culture of Confucianism
3. Cultures that are applied in the cooperative	Culture and values of Familial Bond	None	None	Culture and values of Confucianism
4. Political economy in the application of Cooperative principles	A small number of Cooperatives apply the principle of Cooperative cooperation and local culture which belongs to the heterodox political economy	Most operatives apply Cooperative Cooperative principles which belong to the socio-democratic political economy	Completely applying the principle of Cooperative cooperation which is included in the understanding of liberal political economy	Most Cooperative applies a Cooperative principles of the heterodox political economy to everyday life including in the schools

## 2. Philosophical, Sociological And Judicial Foundation of Cooperative

The philosophical basis of the law on *Koperasi* is on the view of life of the Indonesian people. In Indonesia, *Koperasi* were initially based on the resistance of colonialism and capitalism. The colonialists have built a negative stigma that indigenous people are of low rank and unable to afford the economy. So, Bung Hatta called for the slogan of self help and mutual help, mutual cooperation in the *Koperasi* movement.

In article 33 of the 1945 Constitution of the Republic of Indonesia that the economic system to be developed is the "mutual economic economy" or "mutual cooperation economy" of all citizens of the nation based on the principle of kinship. The principle of kinship contains the value of social responsibility, care for others and the environment, honesty to build trust and accountability and future-oriented. The energy driving the economic mutualism is the power of the ideals of each individual to achieve a better and more dignified life of the nation and state.

From the mandate of article 33 it is very clear that the development of *Koperasi* in Indonesia is directed to develop a just and civilized economic democracy that is economic democracy that can realize prosperity and social justice for all Indonesian people. In a more macro order, the conception of *Koperasi* is not merely directed as a community business operator, but also a system of thought of living together while respecting and recognizing individual rights.

Thus, this *Koperasi* thought system offers a different concept from the flow of capitalism and socialism (Marxism). The basic principle of *Koperasi* development from the approach of community groups as the main actors in economic activities that can produce growth. *Koperasi* are directed to be able to manage economic resources in order to protect, educate, and prosper the members and the community independently and sustainably. The goal is to realize as much prosperity as the people in all corners of the country.

The legal basis for regulating *Koperasi* in the Indonesian constitution is Article 27, Article 28, and Article 33 of the 1945 Constitution of the State of the Republic of Indonesia and is also accompanied by a Decree of the People's Consultative Assembly of the Republic of Indonesia TAP

MPR Number XVI / MPR / 1998. The basic norms in the constitution and the MPR Decree are then manifested in Act Number 25 of 1992 concerning *Koperasi* which is then replaced by Act Number 17 of 2012 concerning *Koperasi*. The replacement of the law is an effort to reinforce the identity of the *Koperasi*, the principles and objectives, membership, organizational instruments, capital, supervision, the role of the *Koperasi* and Government Movement, supervision of the Savings and Loan *Koperasi* and the guarantee of the Savings of the *Koperasi* Members of Savings and Loans, as well as sanctions that may contribute to achieving *Koperasi* development goals.

Law Number 25 of 1992 concerning *Koperasi* as a legal umbrella in the development of *Koperasi*, which took effect on October 21, 1992, needs to be adjusted to the demands of the development of national and global conditions. With that in mind, it is necessary to draw up a Recontrusion of Law Number 25 of 1992 with due regard to the Constitutional Court's decision so that the replacement of Law Number 25 of 1992 concerning *Koperasi* does not face a judicial review again at the Court in the future.

## 3. Reconstructing the law of cooperative based on the value of justice

The reconstruction of values is in the form of strengthening *Koperasi* law which refers to the values of the Pancasila as a prism in the context of identity, filter, and resultant on two different concepts. In its implementation, the *Koperasi* is a representation of the values of the Pancasila (mutual cooperation), so that the existing *Koperasi* must not be left to the market mechanism, although the market is currently an important concern in the international economic arena.

With the spirit of togetherness and kinship in accordance with the Pancasila economy on a macroeconomic scale, and prioritizing the principles of mutual assistance, mutual support and complementarity, the *Koperasi* sector which in reality is still weak and lags behind other sectors, must intensify development. This integration requires a process of struggle, but it is expected that with an appropriate regulatory system by the government and awareness of the non-operational sectors, it is expected that the process will not meet obstacles that can cause potential national losses on a certain scale. This integration process is expected to increase national resilience.

Reconstruction of Legal Norms with Article Definitions of *Koperasi*, Membership, Management and Supervisors, *Koperasi* Capital, Savings and Loans, Development of *Koperasi* and Administrative Sanctions and Criminal Sanctions Law Number 25 of 1992 concerning *Koperasi*. Reconstruction of Legal Norms is carried out on Article Definition of *Koperasi*, Membership, Management and

Supervisors, *Koperasi* Capital, Savings and Loans, Development of *Koperasi* and Administrative Sanctions and Criminal Sanctions Act Number 25 of 1992 concerning *Koperasi*.  
The reconstruction of legal norms to the articles in Law Number 25 of 1992 concerning *Koperasi* is as listed in Table 2 as follows :

**Table 2:** Reconstruction of legal norms to the articles in law number 25 of 1992 concerning *koperasi*

No	UU no. 25 of 1992	UU no. 17 of 201 2	Weakness	Reconstruction
1	<p><i>Koperasi</i> definition :</p> <p>8 Article 1 paragraph (1) <i>Koperasi</i> is a business entity consisting of individuals or legal entities of <i>Koperasi</i> by basing their activities based on <i>Koperasi</i> principles as well as a people's economic movement based on the principle of kinship.</p> <p><i>Koperasi</i> Principles</p> <p>(1) <i>Koperasi</i> implement the principles of <i>Koperasi</i> as follows membership is voluntary and open management is carried out democratically the maintenance of the remaining business results is carried out fairly in proportion to the magnitude of the business services of each member; granting limited compensation for capital</p> <p>a. Independence</p> <p>(2) In developing a <i>Koperasi</i>, the <i>Koperasi</i> also implements the <i>Koperasi</i> principle as follows :</p> <p>a. Education Method</p> <p>b. Cooperation between <i>Koperasi</i></p>	<p>Article 1 paragraph (1) 1 <i>Koperasi</i> are legal entities established by individuals or operating legal entities, with the separation of the wealth of their members as capital to run a business, which fulfill the aspirations and common needs in the economic, social and cultural fields in accordance with the values and principles of the <i>Koperasi</i>.</p>	<p>Weaknesses of Law No. 25 of 1992, there was no consistent word in outlining the definition of <i>Koperasi</i>, which is that <i>Koperasi</i> are described as a business entity but on the other hand <i>Koperasi</i> are described as legal entities</p>	<p>1 <i>Koperasi</i> Definition: <i>Koperasi</i> are associations of people who unite voluntarily and are autonomous to meet the needs and aspirations of the economy, social and culture through joint ventures that are organized based on the principle of kinship.</p> <p><i>Koperasi</i> Values and Principles</p> <p>(1) To achieve the objectives referred to in Article 4, the <i>Koperasi</i> develops activities based on the values and principles of the <i>Koperasi</i>;</p> <p>(2) <i>Koperasi</i> values as meant in paragraph (1) are:</p> <ol style="list-style-type: none"> <li>Kinship</li> <li>Helping myself</li> <li>Equally</li> <li>Democratic</li> <li>Take responsibility for yourself</li> <li>Solidarity</li> <li>Honesty</li> <li>Justice</li> <li>Openness, and</li> <li>Social responsibility</li> </ol> <p>(3) <i>Koperasi</i> principles as referred to in paragraph (1) are:</p> <ol style="list-style-type: none"> <li>voluntary and open membership ;</li> <li>democratic control by members is</li> <li>member participation</li> <li>autonomy and independence,</li> </ol> <p>Education, training and information, cooperation between <i>Koperasi</i>; and concern for the community and the environment.</p>
2	<p>Membership:</p> <p>1 Article 17:</p> <p>(1) Members of a <i>Koperasi</i> are owners and users of <i>Koperasi</i> services</p> <p>(2) <i>Koperasi</i> membership is recorded in the member register</p>	<p>1 Membership Article 26 paragraph (1) <i>Koperasi</i> members are both owners and users of <i>Koperasi</i> services</p>	<p>The weakness of this membership concept is the low sense of ownership of <i>Koperasi</i> members towards the 1 <i>Koperasi</i> itself Members will not want to know the difficulties faced by the <i>Koperasi</i> management in dealing with problems.</p> <p>Law No. 25 of 1992 has not included sanctions for <i>Koperasi</i> members who adhere to the AD, ART , and decisions of the Member Meeting; and not active in the business activities organized by the <i>Koperasi</i>.</p>	<p>Membership:</p> <p>(1) <i>Koperasi</i> members consist of individuals or <i>Koperasi</i> legal entities that join voluntarily .</p> <p>(2) Members of the <i>Koperasi</i> are owners and users of the <i>Koperasi</i> service .</p> <p>(3) Every member of the <i>Koperasi</i> is entitled to receive <i>Koperasi</i> education from the <i>Koperasi</i> .</p> <p>(4) <i>Koperasi</i> membership is recorded in the Members register book</p>
3	<p>Management and Supervisors</p> <p><i>Koperasi</i> management : Article 29:</p> <p>(1) <i>Koperasi</i> management is elected from and by members in a member meeting.</p>	<p>The Management of <i>Koperasi</i> (Article 48)</p> <p>The <i>Koperasi</i>'s management is chosen from</p>	<p>The weakness of the lack of participation of <i>Koperasi</i> members in controlling and controlling the management through the</p>	<p><i>Koperasi</i> management :</p> <ol style="list-style-type: none"> <li>Management is elected from and by Members in a Members' Meeting .</li> <li>Management of the Secondary <i>Koperasi</i> comes from the member <i>Koperasi</i> representatives.</li> <li>Period of tenure of the Board referred to in</li> </ol>

	<p>(2) The Management is the power of attorney of Member Meetings</p> <p>(3) For the first time, the composition and name of the members of the board are stated in the deed of establishment</p> <p>(4) The term of office of the Management is 5 (five) years at the most</p> <p>(5) The Requirement for membership</p> <p><i>Koperasi Supervisor:</i>  <sup>5</sup> Article 38:                  (1) Supervisors are elected from and by members of the <i>Koperasi</i> and Members' Meetings                  (2) Supervisors are accountable to the Members' Meetings                  (3) The requirements to be elected and appointed as Supervisory Members are stipulated in the Articles of Association</p>	<p>individuals, both Members and non-Members</p> <p><i>Koperasi Supervisor:</i>  <sup>5</sup> Article 55:                  Supervisors are elected from and by Members at the Members' Meetings</p>	<p>mechanism of the Annual Member Meeting.</p>	<p>paragraph (1), 5 (five) years and only been back at most 2 (two) periods</p> <p>Management is prohibited from concurrently serving as a carrier in the same <i>Koperasi</i></p> <p>Management can appoint employees</p> <p>Management represents <i>Koperasi</i> both inside and outside the court</p> <p>The Minister shall impose administrative sanctions on Management who concurrently holds positions as Supervisors on the same <i>Koperasi</i></p> <p><sup>5</sup> <i>Koperasi</i> Supervision</p> <ol style="list-style-type: none"> <li>Supervisors are elected from and by Members at the Members' Meetings <sup>39</sup></li> <li>The term of office of the Supervisory Office as referred to in paragraph (1), is a maximum of 5 (five) years and can only be re-elected for a maximum of 2 (two) periods.</li> <li>Supervisors are prohibited from concurrently acting as Management</li> <li>The Minister shall impose administrative sanctions on Supervisors who are also acting as Management</li> <li>(5) Supervisors can be dismissed based on a decision of the Member Meeting by stating the reasons</li> </ol>
<p>4</p>	<p><i>Koperasi Capital</i>                  Article 41</p> <p>(1) <i>Koperasi</i> capital consists of own capital and loan capital</p> <p>(2) Own capital can come from:</p> <ol style="list-style-type: none"> <li>Basic Savings</li> <li>Mandatory Deposits</li> <li>Reserved fund</li> <li>Grant</li> </ol> <p>(3) Loan capital may originate from:</p> <ol style="list-style-type: none"> <li>Member</li> </ol> <p>Other <i>Koperasi</i> and / or their members</p> <p>Banks and other financial institutions</p> <p>Issuance of bonds and other types of debt</p> <ol style="list-style-type: none"> <li>Other legal sources</li> </ol>	<p><i>Koperasi Capital</i>                  article 66 paragraph (1) <sup>12</sup></p> <p><i>Koperasi Capital</i> consists of Principal Deposit and <i>Koperasi Capital Certificate</i> as initial capital</p>	<p>It does not spell out more clearly the composition of capital owned by <i>Koperasi</i> in terms of the separation of the members' wealth</p>	<p><i>Koperasi Capital</i></p> <p>(1) To develop what bang right businesses, <i>Koperasi</i> can use m orking own and / or m orking outside</p> <p>(2) Own capital as referred to in paragraph (1), consists of:</p> <ol style="list-style-type: none"> <li>Basic Savings</li> <li>Mandatory Deposits</li> <li>Special Deposits</li> <li>Grant</li> <li>Reserved fund</li> </ol> <p>(3) External capital as referred to in paragraph (1), originates from:</p> <ol style="list-style-type: none"> <li>Member</li> </ol> <p>Other <i>Koperasi</i> or their members</p> <ol style="list-style-type: none"> <li>Banks and other financial institutions</li> <li>Issuance of bonds</li> </ol> <p><i>Koperasi</i> debt Government and Local Government</p> <p>Source of other illegal under the rules- invitation</p>
<p>5</p>	<p>Savings and Loan                  Article 44</p> <p>(1) <i>Koperasi</i> can collect funds and distribute through savings and loan business activities from and for Members of the <i>Koperasi</i> in question</p> <p>Other <i>Koperasi</i> and / or their members <sup>4</sup></p> <p>(2) The activity of a savings and loan business can be carried out as one or the only activities of the <i>Koperasi</i> business</p> <p>(3) The implementation of savings and loan business</p>	<p>Savings and Loan                  Regulated in Chapter X Articles 88, 89, 90, 91, 92, 93, 94, 95</p>	<p>There are no standard systems and procedures on how to manage each business unit organized by <i>Koperasi</i>; the practice of managing a <i>Koperasi</i>'s savings and loan business unit has not been implemented autonomously</p>	<p><sup>18</sup> Savings and Loan</p> <p>(1) Savings and Loan Business Activities is an activity to collect and distribute funds from and for <sup>18</sup> Members .</p> <p>(2) <i>Koperasi</i> that carry out Savings and Loan Business activities must have a business permit from the Minister</p> <p>(3) <i>Koperasi</i> carrying out Savings and Loan Business activities are required to protect the safety of Members' Deposits</p> <p>(4) Avoid administrative sanctions against <i>Koperasi</i> that carry out savings and loan businesses that violate the provisions</p> <p>(5) <i>Koperasi</i> can run savings and loan businesses based on sharia economic principles</p> <p>(6) Provisions regarding <i>Koperasi</i> based on sharia economic principles as referred to in paragraph (5)</p>

	activities by the <i>Koperasi</i> is further regulated by government regulations			shall be regulated by Government Regulation
6	<p><i>Koperasi</i> Empowerment regulated Chapter XI Development Article 60</p> <p>(1) The government creates and develops climate and conditions that encourage the growth and cooperation of <i>Koperasis</i></p> <p>(2) The government provides guidance, convenience and protection to <i>Koperasi</i></p>	<p><i>Koperasi</i> Empowerment Regulated in Chapter XIV Article 112 - Article 119</p>	<p>Not yet regulating the empowerment of <i>Koperasis</i> that exist only limited to coaching</p> <p>The role of the government does not specifically mention the role of the regional government, even though the regional government knows more about the community, understands the problems faced by them</p>	<p><b>38</b> <i>Koperasi</i> Empowerment</p> <p>(1) The Government and Regional Governments shall determine policies that encourage <i>Koperasis</i> to grow and develop properly</p> <p>(2) In setting the policy referred to in paragraph (1), the Government and Regional Government take steps to support the growth, development and empowerment of the <i>Koperasi</i> for the benefit of Members and the community.</p> <p>(3) The steps referred to in paragraph (2) shall be carried out by providing guidance and facilitation assistance in the form of:</p> <p>a. institutional development and educational assistance, training, counseling, and <i>Koperasi</i> research</p> <p><i>Koperasi</i> business assistance and guidance in accordance with Members' economic interests strengthen the capital and financing of the <i>Koperasi</i>;</p> <p>d. assistance in developing <i>Koperasi</i> business networks and mutually beneficial cooperation between <i>Koperasis</i> and other business entities consultation and facilitation assistance to solve problems faced by the <i>Koperasi</i> while still taking into account the <i>Koperasi</i> Articles of Association; and / or</p> <p>f. tax and fiscal incentives in accordance with statutory provisions.</p> <p>(4) Government and Local Government can establish an Education and Functional <i>Koperasi</i> Position in order to Empower the <i>Koperasi</i></p>
7	<p><b>19</b> Administrative sanctions and criminal sanctions</p> <p><b>19</b> Not to regulate administrative sanctions and criminal sanctions</p>	<p>Administrative sanctions are regulated in Chapter XV article 120, but have not yet regulated criminal sanctions</p>	<p>The regulation has not yet been regulated if members, management and supervisors have not carried out their obligations.</p>	<p><b>Administrative Sanctions:</b></p> <p>(1) <i>Koperasis</i> impose sanctions on Members who deliberately :</p> <p>(2) <i>Koperasis</i> impose sanctions on management who do not maintain the Members Register Book , Supervisory List Book, Management Register Book , <i>Koperasi</i> Capital Holders Register Book , and minutes of Member Meetings</p> <p>(3) <i>Koperasis</i> impose sanctions on Supervisors or Management of Savings and Loan <i>Koperasis</i> who also serve as Supervisors, Management, or other Savings and Loan of <i>Koperasi</i> management</p> <p>(4) Provisions regarding sanctions he toured in the Articles of Association.</p> <p><b>Criminal sanctions</b></p> <p>(1) Any person who benefits himself or another group or person by using or using the name of a <i>Koperasi</i> so as to obtain facilities to obtain funds, places of business, fields and business activities , or procure goods and services from the Government intended for <i>Koperasis</i> , imprisoned for a maximum of 3 (three) years and a maximum fine of Rp 2,000,000,000.00 (two billion rupiah).</p> <p>(2) Management or <i>Koperasi</i> Managers who deliberately transfer <i>Koperasi</i> assets for the benefit of themselves or other people or groups that result in losses to the <i>Koperasi</i> , imposed a maximum imprisonment of 2 (two) years and a maximum fine of Rp 1,000,000,000.00 ( one billion rupiah).</p> <p>(3 ) Any person who intentionally runs a Savings and Loan Business activity without a permit, shall be sentenced to a maximum imprisonment of 2 (two) years and a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah).</p>



1 Based on the theory of dignified justice, looking at *Koperasi* as a system, justice has two balanced dimensions between the nature of civilization in commutative justice and the nature of public in distributive justice. Referring to the perspective of the system, the laws and regulations such as *Koperasi* laws that apply in a Pancasila legal system cannot be released from Pancasila as the First Agreement. The substance of each statutory regulation that applies whether or not it wants to be in line with the spirit of Pancasila as the soul of the nation. Therefore, Article 33 of the 1945 Constitution is a further manifestation of Pancasila as the soul of the nation. Construction of sharia *Koperasi* legal norms through the establishment of sharia *Koperasi* special laws that are clear and decisive and have legal certainty is absolutely necessary, so that professional, independent and reliable economic actors will be able to serve their members in accordance with *Koperasi* principles and sharia principles that should be become the basic foundation for sharia-based people's economic institutions towards a balance between welfare and social justice.

## 21 Conclusion

Based on the description above, it can be concluded that the Reconstruction of *Koperasi* Legal Entity after the Constitutional Court Decision Number: 28 / PUU-XI / 2013 based on the value of Dignified Justice can be done through

- a. The reconstruction of values is in the form of strengthening *Koperasi* law which refers to the values of the Pancasila as a prism in the context of identity, filter, and resultant on two different concepts. In its implementation, the *Koperasi* is a representation of the values of the Pancasila (mutual cooperation), so that the existing *Koperasi* must not be left to the market mechanism, although the market is currently an important concern in the international economic arena. With the spirit of togetherness and kinship in accordance with the Pancasila economy on a macroeconomic scale, and prioritizing the principles of mutual assistance, mutual support and complementarity, the *Koperasi* sector which in reality is still weak and lags behind other sectors, must intensify development. This integration requires a process of struggle, but it is expected that with an appropriate regulatory system by the government and awareness of the non-operational sectors, it is expected that the process will not meet obstacles that can cause potential national losses on a certain scale. This integration process is expected to increase national resilience.
- b. Reconstruction of Legal Norms with Article Definitions of *Koperasi*, Membership, Management and Supervisors, *Koperasi* Capital, Savings and Loans, Development of *Koperasi* and Administrative Sanctions and Criminal Sanctions Law Number 25 of 1992 concerning *Koperasi*. Reconstruction of Legal Norms is carried out on Article Definition of *Koperasi*, Membership, Management and Supervisors, *Koperasi* Capital, Savings and Loans, Development of *Koperasi* and Administrative Sanctions and Criminal Sanctions Law Number 25 of 1992 concerning *Koperasi*.

## References

1. Camelia Fanny Sitepu, Hasyim. Perkembangan Ekonomi *Koperasi* di Indonesia. NIAGAWAN Vol 7 2018.

2. I Wayan Dipta. Pengembangan Daya Saing Usaha Kecil dan Menengah. Jakarta, 2004.
3. Martin Manurung. Indonesia: "Menuju Demokrasi Ekonomi, in : "Kumpulan Makalah Sistem Ekonomi". Jakarta: FEUI, 1998.
4. O'Sullivan, Arthur. Economics: Principles in action. Upper Saddle River, New Jersey 07458: Pearson Prentice Hall, 2003.
5. Paul Davidson dan Frabca Ciambella. Investment in South East Asia, Law and Policy, Butterworth-Heinemann Asia, Singapore, 1995.
6. Soerjono Soekanto dan Sri Mamudji. Penelitian Hukum Normatif. Jakarta: UI-Press, 2001.
7. Wahyu Widodo, Sapto Budoyo, Toebagus Galang, 2018, The Role of Law Politics on Creating Good Governance and Clean Governance for a Free-Corruption Indonesia in 2030, The Social Sciences, Year 2018, Volume: 13, Issue: 8, Page No.: 1307-1311, DOI: 10.36478/sscience.2018.1307.1311.

# Lektor Kepala

---

## ORIGINALITY REPORT

---

**45%**  
SIMILARITY INDEX

**44%**  
INTERNET SOURCES

**11%**  
PUBLICATIONS

**%**  
STUDENT PAPERS

---

## PRIMARY SOURCES

---

**1** [repository.unissula.ac.id](https://repository.unissula.ac.id) **32%**  
Internet Source

---

**2** [www.um.edu.mt](http://www.um.edu.mt) **3%**  
Internet Source

---

**3** [www.psychologyandeducation.net](http://www.psychologyandeducation.net) **1%**  
Internet Source

---

**4** [doaj.org](http://doaj.org) **1%**  
Internet Source

---

**5** [jurnal.unpad.ac.id](http://jurnal.unpad.ac.id) **1%**  
Internet Source

---

**6** Abdul Hafizh Firdaus, I Gusti Bagus Baskara Nugraha. "Saving and Loan Transaction System in Cooperative Using Blockchain", 2019 International Conference on ICT for Smart Society (ICISS), 2019  
Publication

---

**7** [www.lawjournals.org](http://www.lawjournals.org) **1%**  
Internet Source

---

8

D S Maylawati, Y A Gerhana, S C Kusuma, W B Zulfikar, M A Ramdhani. "Creditworthiness system with k-means model based z-score", Journal of Physics: Conference Series, 2019

Publication

<1 %

9

Rima Elya Dasuki, Eka Setiajatnika, Iwan Mulyana. "Estimated financial performance model based on scale business cooperative (study in cooperatives in West Java", Risk Governance and Control: Financial Markets and Institutions, 2016

Publication

<1 %

10

[www.unafei.or.jp](http://www.unafei.or.jp)

Internet Source

<1 %

11

[www.ijstr.org](http://www.ijstr.org)

Internet Source

<1 %

12

Lauddin Marsuni, Salle Salle, Syarifuddin Syarifuddin, La Ode Husen. "Legal Examination of the Constitutional Court Number 28/PUU-XI/2013 Concerning the Case of Judicial Review of Law Number 17 of 2012 Concerning Cooperatives", Asian Social Science, 2020

Publication

<1 %

13

[nanopdf.com](http://nanopdf.com)

Internet Source

<1 %

[repository.ung.ac.id](http://repository.ung.ac.id)

14	Internet Source	<1 %
15	<a href="http://ejournal.uin-suska.ac.id">ejournal.uin-suska.ac.id</a> Internet Source	<1 %
16	<a href="http://e-journal.uajy.ac.id">e-journal.uajy.ac.id</a> Internet Source	<1 %
17	<a href="http://garuda.ristekbrin.go.id">garuda.ristekbrin.go.id</a> Internet Source	<1 %
18	<a href="http://oapub.org">oapub.org</a> Internet Source	<1 %
19	Nathalina Naibaho. "Rethinking the ultimum remedium principle to support justice and strong law enforcement institutions in environmental crimes", IOP Conference Series: Earth and Environmental Science, 2021 Publication	<1 %
20	<a href="http://en.mkri.id">en.mkri.id</a> Internet Source	<1 %
21	<a href="http://es.scribd.com">es.scribd.com</a> Internet Source	<1 %
22	<a href="http://www.sciencegate.app">www.sciencegate.app</a> Internet Source	<1 %
23	Marince A. Rata, Paulina Yuritha Amtiran. "WORKING CAPITAL EFFICIENCY TOWARDS PROFITABILITY IN THE SAMI JAYA CREDIT	<1 %

COOPERATIVE IN KUPANG", Jurnal Ekobis :  
Ekonomi Bisnis & Manajemen, 2021

Publication

24

qdoc.tips

Internet Source

<1 %

25

www.akademikbakis.org

Internet Source

<1 %

26

"The International Conference on ASEAN  
2019", Walter de Gruyter GmbH, 2019

Publication

<1 %

27

A Ilyas, M J Alputila. "Reason of criminal  
remover on the criminal action in forestry  
after decision of the constitutional court  
number 95/PUU-XII/2014", IOP Conference  
Series: Earth and Environmental Science, 2019

Publication

<1 %

28

Bernard Leca, Jean-Pascal Gond, Luciano  
Barin Cruz. "Building 'Critical Performativity  
Engines' for deprived communities: The  
construction of popular cooperative  
incubators in Brazil", Organization, 2014

Publication

<1 %

29

Yeni Widowaty, Triyono, Dimas Amanda  
Wahid. "Law Enforcement of Land Transfer  
from Agricultural Land to Housing in  
Indonesia", E3S Web of Conferences, 2021

Publication

<1 %

30	<a href="http://ijisrt.com">ijisrt.com</a> Internet Source	<1 %
31	<a href="http://islamicmarkets.com">islamicmarkets.com</a> Internet Source	<1 %
32	<a href="http://riamotulo.wordpress.com">riamotulo.wordpress.com</a> Internet Source	<1 %
33	<a href="http://www.journalijar.com">www.journalijar.com</a> Internet Source	<1 %
34	<a href="http://www.lps.go.id">www.lps.go.id</a> Internet Source	<1 %
35	Suparto, Rahdiansyah. "The Settlement of Boundary Disputes Through Testing of Legislation in Indonesia", SHS Web of Conferences, 2018 Publication	<1 %
36	<a href="http://eltearabszak.hu">eltearabszak.hu</a> Internet Source	<1 %
37	<a href="http://ppvt.setjen.deptan.go.id">ppvt.setjen.deptan.go.id</a> Internet Source	<1 %
38	<a href="http://repit.files.wordpress.com">repit.files.wordpress.com</a> Internet Source	<1 %
39	<a href="http://www.flevin.com">www.flevin.com</a> Internet Source	<1 %
40	<a href="http://www.ijicc.net">www.ijicc.net</a> Internet Source	<1 %

---

Exclude quotes      On

Exclude matches      Off

Exclude bibliography      On

# Lektor Kepala

---

GRADEMARK REPORT

---

FINAL GRADE

**/0**

GENERAL COMMENTS

**Instructor**

---

PAGE 1

---

PAGE 2

---

PAGE 3

---

PAGE 4

---

PAGE 5

---

PAGE 6

---

PAGE 7

---

PAGE 8

---