

Legal Reconstruction of the Credit Union Operation in Indonesia for Community Welfare Based on the Pancasila Justice Value

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DOI: [10.36348/sijlcrj.2022.v05i11.005](https://doi.org/10.36348/sijlcrj.2022.v05i11.005)

| Received: 08.10.2022 | Accepted: 15.11.2022 | Published: 30.11.2022

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Abstract

This research takes the formulation of the problem of why is the regulation of the implementation of Credit Union activities not based on the value of justice and how is the reconstruction of regulations for implementing Credit Union activities in Indonesia based on the value of justice. This research uses normative legal research methods and empirical legal research where the research specification used in this research is descriptive-analytical. The Primary data sources are based on data or facts and legal cases obtained directly through research in the field and Secondary data is done through literature study. The result of the research shows that the regulation on the implementation of Credit Union activities in Indonesia has not been based on the value of justice, because Credit Unions, which in their implementation are based on the Model Law for Credit Unions, are still analogous to the Savings and Loans Cooperative which in its implementation is based on Government Regulation Number 9 of 1995 concerning Implementation Savings and Loans Business Activities by Cooperatives. There are differences in the recruitment of members, forms of education, and indicators of loan requirements and institutional health, it is necessary to reconstruct the regulations for implementing Credit Union activities in Indonesia based on the value of justice. Reconstruction of Law Number 25 of 1992 concerning Cooperatives can be done by adding new paragraphs in Article 44, namely; (4) The implementation of savings and loan business activities by the Credit Union is regulated based on the Model Law for Credit Union.

Keywords: Legal Reconstruction, Credit union, Community Welfare, Pancasila Justice.

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INTRODUCTION

Indonesia is trying to catch up in many areas. Especially after the Covid-19 pandemic that has caused a shock to the country's economy. The Research Institute for Demographic and Poverty Studies (IDEAS) estimated that the poverty rate in Indonesia in 2022 reached 29.3 million people (Detik, 2022). For this reason, the poverty rate in Indonesia needs to be suppressed, and in order to do this, the government needs to make alternative policies, especially those related to Micro, Small, and Medium Enterprises (MSMEs) which have a big role in building the country's economy. MSMEs have been able to prove that they have created jobs and are resilient in the face of the economic crisis that has ever occurred in Indonesia. Even though in reality they face problems, especially in the capital. Given these conditions, one effective solution is to streamline non-formal financial institutions, in the form of microfinance institutions (MFIs). This institution is divided into two, namely;

Bank Microfinance Institutions and Non-Bank Microfinance Institutions. Microfinance Institutions in the form of banks include the *Bank Rakyat Indonesia* (Indonesian People's Bank) Village Units, Rural Banks, and Village Credit Boards. For non-bank Microfinance Institutions, among others; Savings and Loan Cooperatives, Baitul Mal Wattanwil (Islamic Loan), Credit Unions, and other institutions.

A Credit union or commonly called a Credit Cooperative is a type of microfinance institution that is included in the type of financial services cooperative. Credit cooperatives have different characteristics from other savings and loan cooperative models, where these cooperatives are engaged in capital formation through savings of members on a regular and continuous basis to be then lent to members in a fast, cheap, easy, and precise way for productive purposes and improvement of their well-being. Based on the 2022 WOCCU Statistical Report (2022), until 2021, there are

approximately 800 credit unions in Indonesia, 31 (Central Credit Union) *puskopdits*, and 6 pre-*puskopdits* with a total of 3,000,000 members. Total assets up to 2017 amounted to Rp. 30,645,042,731,186. It is estimated that this number is increasing by 3 trillion every year. The development of Credit Unions in Indonesia is very likely to increase in the next few years.

So far, Credit Unions are subject to Law Number 25 of 1992 concerning Cooperatives because there are no special regulations governing Credit Unions so their existence is analogous to savings and loan cooperatives. By taking a look at the implementation of its activities it can be seen that it has differences with savings and loan cooperatives. Credit Union activities are based more on the Model Law for Credit Unions, in contrast to Savings and Loan Cooperatives whose regulation is based on Government Regulation Number 9 of 1995 concerning the Implementation of Savings and Loans Business Activities by Cooperatives. In order for Credit Unions to play a maximum role in the national economy, the government needs to draft regulations regarding Credit Unions that are in accordance with the Model Law for Credit Unions, considering that Indonesia is a member of the WOCCU (World Council of Credit Unions). Based on this description, the author is interested in conducting research and examining the problem in a study titled “*Legal Reconstruction Of The Credit Union Operation In Indonesia For Community Welfare Based On The Pancasila Justice Value*” where the main problem discussed in this article is as follows:

1. What are the weaknesses in the regulation of The Credit Union Operation In Indonesia For Community Welfare using the analogy of the Union law?
2. How is the legal reconstruction of the status of The Credit Union Operation In Indonesia For Community Welfare based on the values of Pancasila justice?

METHOD OF RESEARCH

This study uses a constructivist legal research paradigm approach. The constructivism paradigm in the social sciences is a critique of the positivist paradigm. According to the constructivist paradigm of social reality that is observed by one person cannot be generalized to everyone, as positivists usually do.

This research uses descriptive-analytical research. Analytical descriptive research is a type of descriptive research that seeks to describe and find answers on a fundamental basis regarding cause and effect by analyzing the factors that cause the occurrence or emergence of a certain phenomenon or event.

The approach method in research uses a method (*socio-legal approach*). The sociological juridical approach (*socio-legal approach*) is intended to

study and examine the interrelationships associated in real with other social variables (Toebagus, 2020).

Sources of data used include Primary Data and Secondary Data. Primary data is data obtained from field observations and interviews with informants. While Secondary Data is data consisting of (Faisal, 2010):

1. Primary legal materials are binding legal materials in the form of applicable laws and regulations and have something to do with the issues discussed, among others in the form of Laws and regulations relating to the freedom to express opinions in public.
2. Secondary legal materials are legal materials that explain primary legal materials.
3. Tertiary legal materials are legal materials that provide further information on primary legal materials and secondary legal materials.

Research related to the socio-legal approach, namely research that analyzes problems is carried out by combining legal materials (which are secondary data) with primary data obtained in the field. Supported by secondary legal materials, in the form of writings by experts and legal policies.

Research Result and Discussion

1. Weaknesses in the Regulation of the Credit Union Operation in Indonesia for Community Welfare Using the Analogy of the Union Law

By the end of 2021, there were already 86,451 (eighty six thousand four hundred and fifty one) Credit Unions in 118 (one hundred and eighteen) countries. Total membership worldwide is 375,160,065 (three hundred seventy five million one hundred sixty thousand sixty five) people, with total assets of USD 3208 billion, and population penetration of 12.18%. There has been a rapid growth in the Credit Union movement over the last ten years. Africa dominates in the number of Credit Unions with 40,570, which is 46% of the total in the world although it only accounts for 11% of the total number of members worldwide and 0.5% of the assets worldwide. The penetration rate of the population in Africa is only 14.34%, while for North America the penetration is 50.48%. This figure appears to have significant heterogeneity between countries. For example, the penetration rate in Ireland is 111% compared to the UK at 4.82%. The reserve-to-asset ratio is 8.2% in all countries and ranges from 4.6% for Asia to 15.9% for Latin America by region. This shows that the effective financial structure is institutional capital because the percentage of reserves must be greater than or equal to 10% for Credit Unions. The loan-to-asset ratio ranges from 33.6% in Europe to 78.3% in Africa. The World Council of Credit Union (WOCCU) indicates that the effective financial structure as a loan-to-assets ratio is between 70 and 80%.

Indonesia itself is an Associate Member, with all Asian Credit Unions, of which Indonesia joins an association called the Association of Asian Confederation of Credit Unions (ACCU). WOCCU is an organization consisting of Credit Unions from various countries. Members of WOCCU include Credit Union Associations from regional and national levels. The main mission of WOCCU is "*To be the world's leading advocate, platform, development and good governance agency for Credit Unions*". The World Credit Union Council is the leading international trade association and development agency for Credit Unions. It promotes the development of independent Credit Unions around the world to empower people through access to high-quality and affordable financial services that support the global Credit Union system before international organizations and works with national governments to improve legislation and regulation. Its technical assistance program introduces new tools and technologies to strengthen Credit Unions' financial performance and increase their reach.

Today, cooperatives, besides requiring capital to carry out their business activities, need more education or education to get directions so that the cooperatives formed can run healthily and generate profits that can prosper their members. Education of this cooperative is needed not only to direct the cooperative to progress but also to the lack of knowledge from the management and members about technology. This technology is a necessity for cooperatives today if they want to be accepted in society because they can keep up with more advanced times. The purpose of this education itself is to make cooperatives more independent in the future. Education at the Credit Union is a must because education is one of the pillars of the Credit Union. The educational motto is formulated; "*begins with education, develops with education, is controlled by education, and depends on education*". Education is an important pillar for the sustainability of the Credit Union (Kang, 2022), because:

1. The principles, values, vision, and mission of the Credit Union, and others must be instilled as early as possible so that they are understood and permeated by members
2. Credit Union management and staff will be able to work optimally and correctly if they have received education
3. Participation, members' awareness of their obligations and rights can be increased only through education
4. Education greatly determines the development of Credit Unions in terms of motivation and recruitment of new members.

One major difference between Union and KSP is for its Prospective members, in order to become members must undergo Basic Education (Diksar) first, while in KSP, there is no such process. In addition to

Diksar for prospective members, Credit Union also organizes other education, which must be followed by managers. However, in practice, KSP prospective members and members in practice do not get a basic education (Sinaga, 2022). While the education carried out is more technical in nature, which is intended for cashiers, bookkeepers, bill collectors, surveyors, customer service, loan analysts, internal control officers, head of funds, head of loan/financing, head of accounting, and managers.

Since 1990 WOCCU has used PEARLS as a financial ratio. CU will only be sustainable, if the CU is healthy and safe, by fulfilling five factors, namely: having financial strength based on PEARLS analysis, maintaining operational efficiency, having a competitive position, providing satisfaction to members, and providing satisfaction to employees. In savings and loan activities at Credit Unions, one of the important indicators to take into account the soundness of a Credit Union's financial performance is to measure the level of negligent credit. In addition, if there is one indicator that is less or not ideal, it will have an effect on other indicators. PEARLS is a system used to monitor financial performance that is designed and becomes a management guide in assessing the growth and weakness of Credit Unions. PEARLS is a monitoring tool in policymaking and can be used to determine the financial level of existing Credit Unions. In addition to containing information on financial ratios that can be used as indicators to help measure Credit unions' financial standards, this tool also contains financial indicators that describe changes in one financial ratio that can affect other financial indicators. PEARLS provides info about the signal of a problem before the problem has an impact that causes Credit Union losses. The PEARLS analysis in question includes protection or protection, asset quality or asset quality, rate of return and cost, and signs of growth. In Savings and Loans Union, the indicator used to measure the soundness of an institution's financial performance is the Health Assessment (PenKes). In addition to this, there are different requirements for granting credit to members. One of the requirements for granting credit in a Credit Union is the existence of a guarantor, the number of which is two or three people, either from the management, supervisors, or other members, depending on the pattern of the determined policy. The guarantor is also responsible for the smoothness of the credit given.

2. Legal Reconstruction of the Status of the Credit Union Operation in Indonesia for Community Welfare Based on the Values of Pancasila Justice

The main objective of the principle of social justice is the awareness of equal obligations and rights for all Indonesian people (Wahyu, 2019). To achieve this goal, a common task, namely maintaining a balance between one's obligations and rights, and most importantly respecting the rights of others need to be

done. Economic democracy is the people's economic sovereignty which aims to achieve economic justice. Fair treatment without discrimination is a right that each citizen has in realizing the social dimension of justice in everyday life (Wahyu, 2018). Social justice from Pancasila consists of a spiritual dimension that is always alive and just, as the Indonesian people have the right to live a life based on human values. Economic justice in the awareness of Pancasila is a condition where there is a common ability to control the course of the economy. According to John Rawls, the principle of justice is that each human being has the same rights and the greatest basic freedom, equal to the same freedom for all humans. In addition, social and economic inequalities are regulated as well as possible so that they can generate benefits for everyone and everyone gets a transparent position.

Credit Union is open to anyone, without discrimination, and respects differences in socio-economic background, culture, ethnicity, and religion. Democratic nature, marked by the fact that members are owners through a savings system. In a Credit Union, each member has one vote, regardless of the size of their savings or the volume of their business. Credit Unions as a legal entity is a supporter of obligations and rights. The existence of property as a means to uphold human dignity, so that the existence of private property rights to property can only be justified if it is socially beneficial (Toebagus, 2022). The fair nature of the Credit Union is characterized by a relatively low and declining Loan Interest System (BJP). While the Deposit Interest System (BJS) even though it is fixed, in the end, it will be higher than BJP. This is because of the simplicity of the facilities and the proximity of services to its members. The remaining operating revenue (SHU) are basically enjoyed by members, either in the form of services, growth of institutional assets, or SHU which is transferred to increase the number of members' savings. Credit Unions adhere to and apply values; self-help, self-responsibility, democracy, equality, justice, self-reliance, and solidarity (Stowe, 2018).

In order for the business ecosystem of Credit Unions and cooperatives to come more transparent, accommodating, and adaptive to the needs of members and the community, it is necessary to reconstruct Law Number 25 of 1992 concerning Cooperatives. So through reconstruction, it is hoped that it can follow the development of the country's economy and can improve people's welfare. Regarding the existence of Credit Unions in Indonesia, which have been able to prove their benefits for the welfare of its members and the wider community, then the article relating to the existence of the Credit Union needs to be reconstructed so that it is in accordance with its identity and principles. In this way, both cooperatives and credit unions can move more quickly, be modern, trusted, and especially able to create a firm legal certainty against

any violations that can degrade the image among the public. Seeing so many problems that have arisen, it is necessary to strengthen and update the Cooperative Law which the author can realize through legal reconstruction.

Reconstruction of Law Number 25 of 1992 concerning Cooperatives is needed, because in order to follow the development of the country's economy and improve people's welfare. Through the reconstruction, it is hoped that it will create a business ecosystem for Credit Unions and cooperatives so that these two institutions can be clearer, more accommodating, and more adaptive to the needs of members and the community. In relation to the existence of Credit Unions in Indonesia, which have been able to prove their benefits for the welfare of its members and the wider community, then at least several articles relating to the existence of Credit Unions need to be reconstructed to conform to their identity and principles. So it is hoped that the Credit Union can develop well and help the national economy. With the rapid changes in the business world, a law is needed that is able to answer the need.

The phenomenon that has occurred recently is the emergence of problematic cooperatives so the image of unions in the community is not good. This is contrary to the union principle, that unions are based on the principles of togetherness, and kinship, with the main goal being to provide welfare to members. Various problems of unions today, among others, are many unions that are managed not in accordance with the principles and values of unions, causing malpractice that is detrimental to members and the community. Education of members and cooperation between union members which are an important part of the implementation of the cooperative principles are not carried out properly and there is a dependence of cooperatives on the domination of the management. In fact, in cooperatives, the role of members is the most important. In addition, the regulation of criminal sanctions against violations committed by the management/manager of the cooperative or other parties on behalf of the cooperative. This is a serious concern so that the cooperative management/manager is responsible and obedient to all existing rules.

Law Number 25 of 1992 concerning Cooperatives needs to be reconstructed because it is no longer in accordance with the times. In addition, as an effort to present a dynamic, adaptive, and accommodating cooperative business ecosystem for the needs of members and the community. The cooperative law that is currently in effect is thirty years old with substances that tend to be obsolete, so it needs to be updated. Along with rapid changes in the world of business and technology as well as various problems that occur, a law is needed that is also able to accommodate, respond to changes, and to improve

union management. Thus, both union and credit unions can move agilely, be modern, trustworthy and especially make firm legal certainty against any violations that can degrade the image among the public.

Seeing so many problems that have arisen, it is necessary to strengthen and update the Cooperative Law. If the existence of Law Number 25 of 1992 is maintained, then to support the Pancasila-based Indonesian economy and so that Credit Unions can be more efficient in their existence, there is a need for reconstruction, especially in two basic matters, namely the reconstruction of Article 41 and Article 44.

In addition to the reconstruction of the two articles, it is necessary to regulate the legal protection of depositors and refund members' savings. Cooperative law is required to guarantee member savings. In this case, the government can establish a Savings and Loan Cooperative Deposit Insurance Corporation (LPS-KSP). This institution organizes a deposit guarantee program for members of the Savings and Loans Cooperative, by providing protection for depositors of funds and also assisting in maintaining financial system stability. Those who can participate in the deposit insurance program are Savings and Loan Cooperatives that have met the requirements. Provisions on Savings and Loans Cooperatives and Savings and Loans Cooperatives are further regulated by Government Regulation (PP). The existence of LPS-KSP will bring goodness to the protection of funds for members of Savings and Loan Cooperatives, including Credit Cooperatives or Credit Unions. However, it is unfortunate that the provisions for the formation of LPS-KSP are not coercive for the government although in fact, in terms of its function, this institution is very much needed in organizing member deposit insurance programs.

CONCLUSION

Based on the results of the research, the following conclusions can be drawn:

1. The Weaknesses In The Regulation Of The Credit Union Operation In Indonesia For Community Welfare Using The Analogy Of The Union Law can be seen in Law No. 25 of 1992 concerning Cooperatives, in Article 41 which states that; (1) Cooperative capital consists of own capital and loan capital, (2) Own capital can come from principal savings, mandatory savings, reserve funds, grants. This can have an impact caused by the existence of profit-oriented cooperative investors. In addition, there is also the danger of intervention, especially if the grant funds have potential dangers. Because grants can be a medium for intervening in various policies, then there is no government regulation that regulates technical education for cooperative members, especially for prospective cooperative members. Education is needed to

direct Credit Unions to progress, according to their initial goals, and There are differences in operational indicators between Credit Unions and Savings and Loans Cooperatives and it can lead to misuse of the use of loan funds and a high risk of negligent credit.

2. There is no specific government policy on the implementation of Credit Union activities, making Credit Unions analogous to Savings and Loans Cooperatives. In order for Credit Unions to have a clear regulatory basis, it is necessary to reconstruct Article 44 by adding one paragraph, namely; (4) The implementation of savings and loan business activities by the Credit Union is regulated based on the Model Law for Credit Union. The government and the DPR are expected to immediately reconstruct Law Number 25 of 1992 concerning Cooperatives so that Credit Unions have clarity in their activities. So that people will also understand more about Credit Unions, and an economy based on Pancasila can be realized soon. The Department of Cooperatives and MSMEs is further enhanced in carrying out its role, especially in guiding and supervising both cooperatives and Credit Unions.

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