

ABSTRAK

KEPASTIAN HUKUM PEMBIAYAAN KOPERASI DESA MERAH PUTIH: ANALISIS KELEMBAGAAN ANTARA PRINSIP KEMANDIRIAN KOPERASI DAN INTERVENSI NEGARA

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Penelitian ini bertujuan untuk mengetahui penggabungan peran negara sebagai inisiator, pembiayaan, sekaligus pengarah operasional dalam desain Koperasi Desa Merah Putih disebut juga KDMP. Pembentukan KDMP dapat berpotensi mengaburkan batas antara badan hukum publik dan privat. Sehingga menimbulkan ketidakpastian hukum, Hal ini karena Undang-Undang nomor 25 tahun 1992 Koperasi tidak secara rinci mengatur detail pembiayaan di tingkat desa, sehingga hal ini dapat menyebabkan kebingungan pada masyarakat. Permasalahan dalam penelitian ini adalah: Bagaimana desain kelembagaan dan norma hukum yang ideal dalam pembentukan koperasi desa yang didanai negara agar tidak bertentangan dengan asas subsidiaritas dan prinsip kemandirian koperasi? Bagaimana kepastian hukum pembiayaan Koperasi Desa Merah Putih ditinjau dari sistem hukum keuangan negara dan prinsip otonomi dalam hukum koperasi Indonesia. Metode dalam penelitian ini adalah Yuridis Normatif dengan pendekatan pendekatan undang-undang, policy analisis dan institutional comparation. Desain kelembagaan dan norma hukum koperasi desa yang didanai negara harus dirancang dengan sangat hati-hati agar tidak bertentangan dengan: Asas Subsidiaritas: Negara hanya bertindak bila masyarakat tidak mampu secara mandiri. Kepastian hukum KDMP dalam hal pembiayaan dari negara hanya terjamin bila terdapat dasar hukum yang spesifik, bantuan dari pemerintah tidak boleh mencampuri manajemen dan kebijakan internal koperasi karna itu subsidi atau pembiayaan negara harus bersifat stimulan, bukan ketergantungan.

Kata Kunci: Pembiayaan Koperasi Desa Merah Putih, Konflik Norma

ABSTRACT

LEGAL CERTAINTY OF FINANCING OF MERAH PUTIH VILLAGE COOPERATIVES: INSTITUTIONAL ANALYSIS BETWEEN THE PRINCIPLE OF COOPERATIVE INDEPENDENCE AND STATE INTERVENTION

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Thesis entitled Legal Certainty of Financing of Red and White Village Cooperatives: Institutional Analysis and Norm Conflict between the Principle of Cooperative Independence and State Intervention This study aims to determine whether the combination of the state's role as an initiator, financier, and operational director of cooperatives, as seen in the KDMP design, has the potential to blur the boundaries between public and private legal entities. The absence of explicit regulations regarding financing of village cooperatives in the Cooperative Law does indeed create legal uncertainty, especially regarding sources of funds, distribution mechanisms, and accountability. This is because the Cooperative Law does not regulate financing details at the village level in detail, thus potentially giving rise to various different interpretations and practices. Uncertainty of Funding Sources: The Cooperative Law does not specifically regulate the sources of funds that can be accessed by village cooperatives. This causes confusion as to whether village cooperatives may only rely on capital from members, or can access other sources of financing such as loans from financial institutions, government grants, or other external sources. Without clear regulations, village cooperatives may have difficulty developing their businesses due to limited capital. Uncertainty of Distribution Mechanism: The Cooperative Law also does not regulate in detail the mechanism for distributing funds to members. This fundamental difference raises the potential for conflicting legal norms, especially regarding the principles of statutory regulations. On the one hand, Law No. 25/1992 guarantees the principle of cooperative independence, namely that cooperatives are formed by and for members, with the spirit of self-help and self-governance. On the other hand, direct state intervention through Presidential Instructions or fiscal instruments, and without clear regulations in the parent cooperative law, can be considered to violate the principle of lex superior derogat legi inferiori (regulations under the law must not conflict with the law), and the principle of legality in the formation of legal entities and the use of public funds. This thesis can be an important contribution to testing whether the KDMP design is normatively in line with or deviates from the applicable cooperative legal principles

Keywords: Financing of the Red and White Village Cooperative, Conflict of Norms