

RELEVANSI PRINSIP *BUSINESS JUDGEMENT RULE* TERHADAP KOPERASI DAN IMPLIKASI HUKUM ATAS KETIADAANNYA DALAM REGULASI PERKOPERASIAN

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INTISARI

Penelitian ini bertujuan untuk mengetahui relevansi prinsip *Business Judgement Rule* (BJR) terhadap penerapan prinsip-prinsip koperasi sebagaimana diatur dalam Undang-Undang Nomor 25 Tahun 1992 tentang Perkoperasian dan mengkaji implikasi dari ketiadaan prinsip BJR bagi keberlangsungan usaha koperasi. Isu ini menjadi penting karena koperasi sebagai badan usaha berbasis anggota menghadapi dinamika bisnis yang semakin kompleks, sementara pengaturan mengenai batas diskresi dan pertanggungjawaban pengurus belum diatur secara eksplisit.

Penelitian ini merupakan penelitian yuridis normatif-empiris yang bersifat deskriptif analitis. Pendekatan yang digunakan adalah pendekatan perundang-undangan (*statute approach*) dan pendekatan konseptual (*conceptual approach*). Data primer diperoleh melalui wawancara dengan responden dan narasumber. Responden terdiri atas pengurus Koperasi Karya Bersama, pengurus Koperasi Simpan Pinjam Arta Seruni Mandiri, dan Sekretaris Umum Dewan Pengurus Pusat Serikat Petani Indonesia. Adapun narasumber merupakan ahli perkoperasian, yaitu perwakilan dari *Indonesian Consortium for Cooperatives Innovation* (ICCI) dan mantan Tenaga Ahli Kementerian Perkoperasian. Data sekunder diperoleh melalui studi kepustakaan. Analisis data dilakukan secara kualitatif.

Berdasarkan hasil penelitian dan pembahasan, relevansi prinsip BJR terhadap prinsip koperasi dalam UU 25/1992 tidak bersifat seragam. Prinsip pengelolaan demokratis dan kemandirian memiliki relevansi kuat dengan prinsip BJR karena berkaitan dengan diskresi dan pertanggungjawaban pengurus, sedangkan prinsip keanggotaan sukarela, pembagian SHU, dan balas jasa terbatas terhadap modal tidak berhubungan langsung, tetapi juga tidak bertentangan. Ketidadaan prinsip BJR menimbulkan implikasi berupa perluasan potensi tanggung jawab pengurus dan ketidakjelasan standar kesalahan, penyempitan diskresi bisnis dan hambatan inovasi, serta kesenjangan perlindungan hukum antara koperasi dan badan hukum lain. Oleh karena itu, diperlukan perumusan parameter perlindungan diskresi pengurus dalam regulasi perkoperasian.

Kata Kunci: *Business Judgement Rule*, Pelindungan Hukum, Tanggung Jawab Pengurus, Prinsip Koperasi

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***THE RELEVANCE OF THE BUSINESS JUDGEMENT RULE IN
COOPERATIVES AND THE LEGAL IMPLICATIONS OF ITS ABSENCE IN
COOPERATIVE REGULATION***

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ABSTRACT

This research aims to examine the relevance of the Business Judgement Rule (BJR) principle to the implementation of cooperative principles as regulated under Law Number 25 of 1992 concerning Cooperatives and to analyze the implications of the absence of the BJR principle for the sustainability of cooperative businesses. This issue is significant because cooperatives, as member-based business entities, face increasingly complex business dynamics, while the legal framework concerning the limits of managerial discretion and the liability of cooperative board members has not been explicitly regulated.

This research is a normative-empirical juridical study with a descriptive-analytical approach, utilizing both the statute approach and the conceptual approach. Primary data were obtained through interviews with respondents and expert informants. Respondents consisted of board members of Koperasi Karya Bersama, Koperasi Simpan Pinjam Arta Seruni Mandiri, and the Secretary General of the Central Executive Board of Serikat Petani Indonesia. The expert informants included representatives of the Indonesian Consortium for Cooperatives Innovation (ICCI) and a former Expert Staff of the Ministry of Cooperatives. Secondary data were collected through library research. Data were analyzed qualitatively.

Based on the research results, the relevance of the BJR principle to cooperative principles under Law 25/1992 is not uniform. The principles of democratic management and independence demonstrate strong relevance to the BJR principle as they relate to managerial discretion and board accountability. Meanwhile, the principles of voluntary membership, surplus distribution, and limited return on capital are not directly related but are not contradictory. The absence of the BJR principle results in broader potential liability for board members and the lack of clarity in the standard of liability, restricted business discretion and innovation, and a gap in legal protection compared to other legal entities. Therefore, it is necessary to formulate regulatory parameters to protect managerial discretion within cooperative law.

Keywords: *Business Judgement Rule, Legal Protection, Board Liability, Cooperative Principles*

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