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Cooperative Principles (Partnership-Based Togetherness) as the Legal Basis of Democracy Economic Thinking

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ABSTRACT

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One The imperative of economic democracy mandated by the constitution through Article 33 of the 1945 Constitution, the reality is not a legal foundations appreciation to economic activities, but even shifts to a free-market economy (*laissez-faire*). This is confirmed in the constitution "permanent position" of Article 33 of the 1945 Constitution the which relies on the notion of "mutualism and brotherhood" and Article II of the Transitional Rules of the 1945 Constitution roomates are temporary. The retention of the individual principle is a legal reason and at the same time a legal source that is Easily dictated by economic forces, from outside based on individual principles. The aim of this paper is 1) to analyze how the understanding of cooperative principles (cooperation based on mutualism) is manifested as the legal basis on the thought of economic democracy, 2) To analyze how the implementation of Article 33 of the 1945 Constitution into Indonesian economic law tends to lead to free competition. The approach used is normative and descriptive analysis Juridical type. The Conclusions of economic democracy are contained in the Explanation of Article 33 of the 1945 Constitution; and cooperative principles based on mutualism are not legal fundamentals for economic democracy.

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Keywords: cooperative, cooperation, togetherness, democracy, economy

1. INTRODUCTION

Economic democracy which imperatively been booked constitution through Article 33 of the 1945 Constitution is in reality not be used as legal basis in economic activity, even a shift to free-market economy (*laissez-faire*). Very firmly in the constitution of the "permanent position" of Article 33 UUD 1945, which is based on the familiar "togetherness and family principle" (mutualism and brotherhood) and Article II Transitional Provisions of the 1945 Constitution (original manuscript of 1945), which implicitly confirms "the position of temporary" colonial laws which are based the principle of individual among others *Wetboek van Koophandel (WvK)* and *Burgelijk Wetboek (BW Civil Code)*. Transitional Provisions of the Rules of this was supposed to be temporary / provisional, but in reality enacted to regulate economic life, so based on that the enactment of legal dualism of governing the economic democracy, namely the principle of solidarity

and the principle of individual. Article 33 UUD 1945 has positioned substantially folk, to obtain the greatest prosperity of earth, water and natural resources of Indonesia. The problem that exists is how the cooperative principle (cooperation based on solidarity) embodied the legal foundation of democratic thought economy. and how the implementation of Article 33 UUD 1945 into law Indonesian economy is likely to lead to free competition (individual principle / principle individualistik). To examine and analyze these problems is done by looking at your thoughts and views as well as the formulation of the father pounding nation that has tried to formulate and determine the thoughts and views to be used as the basis of Article 33 UUD 1945 set the basis for the Indonesian economy. Then analyzes the Act No. 1 of 1967 concerning Foreign Investment and Law No. 25 of 2007 on Investment.

The principle of co-operative is an ideology that is embedded in Article 33 UUD 1945, has a long history. Since the Dutch colonial era, the ideals of cooperation has been seen as the best way to build up gradually weakened the people's economy. Many people who are economically

weak start to think, that organisations be faced by the organization, the organization is right for the worker and the farmer is cooperation. If capitalism to develop in the spirit of individualism, free competition and strong capital, cooperation is essentially cooperation, mutual help among small people. Besides cooperation based on the principle of self-help, self-help. Therefore, the history of Europe shows,

With that, that cooperation which lays emphasis on the joint venture, people learn to know yourself, believe in yourself, learn to carry out self-help and solidarity and their otoproduktivitas, loyal friend and helping.

Lessons and vision in the review that encouraged the leaders of Indonesia and then to plant Article 33 UUD 1945, reads:

1) The economy is structured as a joint venture based on family principles.

2) Production branches which are important for countries that dominate the life of the people controlled by the State.

3) Land and water natural resources contained in it are controlled by the state and utilized for the welfare of the people".

Mohammad Hatta said that Article 33 UUD 1945 is the major joints of the social politics and political economy of Indonesia. From the statement summed up the economic base regularly, because poverty, basic economy of the people must necessarily be done amicably joint venture. What is meant by a joint effort based family is the cooperative. Indonesia understands cooperative that provides economic terms to the old social cooperatives are of mutual cooperation. Understand Indonesian Indonesian cooperatives create collective society, rooted in the customs of the original istiadat Indonesian life, but grown at a higher rate, in accordance with the demands of modern times.[1]

2. THEORETICAL FRAMEWORK

A. Economic Democracy in Article 33 of the 1945 Constitution

Elucidation of Article 33 of this by 1945 is described as follows: [2]

"In Article 33 stated on economic democracy, production is done by all, for all under the leadership or members of the viewing public. Prosperity prosperity society that preferred not individuals. kinship. Waking up in accordance with the company which is the cooperative. Economy based on economic democracy, prosperity for everyone. Therefore, production branches important for the country and who dominate the life must be controlled by the State. Otherwise, the supreme production will fall into the hands of those in power and the people at large will be oppressed. Only companies that do not master the lives of many people may be in the hands of individuals. Earth's water and natural resources contained within the earth is a staple-epokok prosperity of the people.

Based on the Constitution of 1945, then determined the enactment of "common ground" (collectiviteit) and the abandonment of "individual principle" (individualiteit). The entire colonial legislation, not least the Wetboek van Koophandel (WvK) apply temporary. The main interest of the community to be more than the interest of individuals and communities to take precedence prosperity, not the prosperity of individuals".[3]

Article 33 paragraph (1) of the Act of 1945, that "the economy is structured as a joint venture based on family principles". "Joint venture" (mutual endeavor) and the "principle of the family" (brotherhood, which is not kinship) rests on the collective consciousness that is termed "common ground".

B. Integrative Nature of Principle Kinship in Article 33 of the Constitution of 1945

The economy is structured as a 'joint venture' based on 'the principle of kinship'. Joint venture is a mutualism, while the family principle is brotherhood. Mutualism and brotherhood in the context of religious morality is called brotherhood.

Collectivism (Communitarianism) is the community (Society) with the understanding togetherness (mutualism) and familial (brotherhood-are not kinship) is placed in the box seat. Individuals under the auspices of the community as a social being (homo-socius) which are subject to the rules of the social basis of a consensus (Gesamt-Akt). The pattern of behavior of the individual is a social provision based on social norms, hence, the individual privacy is a societal license. Collectivism is understood kebersamaan representation. Based on this, that understand the basic philosophy of Indonesia is collectivism / communitarianism, not individualism.

Indonesia rejects individualisme and liberalism. Individualism is individuals with a perfect understanding of individual liberty and self-interest is placed in the box seat, agreed to establish the community (Society) through a social contract (Social Contract or Vertrag). Individualism is a representation of liberalism. [5]

3. RESEARCH METHODS

The research method is a normative juridical approach prioritizes the data sekunde and supported by field data; data collection through the study of documents and field study using observation and interview techniques; as well as data analysis using qualitative juridical.

4. RESULTS AND DISCUSSION

The research method is a normative juridical approach prioritizes the data sekunde and supported by field data; data collection through the study of documents and field study using observation and interview techniques; as well as data analysis using qualitative juridical.

A. Understanding Form Cooperative Principle (Cooperation Based on

Solidarity) as the Legal Basis of Economic Democratic Thought

Noting the development of cooperatives, was first raised in England in 1848, based on the utopian thinkers, such as Robert Owen to improve the lot of the workers. In Indonesia, the growth of cooperatives pioneered by Wiriaatmadja 1885 and the Proclamation of Independence August 17th, 1945 under Article 33 of the 1945 Constitution Kooperativisme it began to develop in Europe in 1848 in Manchester England, was resistance to the understanding of capitalism that has driven the economic progress of Western society, the progress very closely with liberalism and individualism. People (people) in the world menupakan focus of attention. Hence capitalism centered on the capital (tools is a human creation) only people who do not indulge in unlimited lust, and called that capitalism is the economic system of greed. Grounding in economics are homo-economicus, which evolved through the teachings of Adam Smith. [6] Very different from capitalism, kooperativisme relies on cooperation among people, which is done democratically, regardless of the amount of capital. Everyone is entitled to one vote. This is why it is said cooperatives are associations of people, not capital association. This does not mean that capital is not important for the cooperative. But it means that the capital is owned equally among the members. Therefore, the philosophical foundation of the Indonesian cooperative outlined in Article 33 of the 1945 Constitution. Everyone is entitled to one vote. This is why it is said cooperatives are associations of people, not capital association. This does not mean that capital is not important for the cooperative. But it means that the capital is owned equally among the members. Therefore, the philosophical foundation of the Indonesian cooperative outlined in Article 33 of the 1945 Constitution. Everyone is entitled to one vote. This is why it is said cooperatives are associations of people, not capital association. This does not mean that capital is not important for the cooperative. But it means that the capital is owned equally among the members. Therefore, the philosophical foundation of the Indonesian cooperative outlined in Article 33 of the 1945 Constitution.

It is important to understand the people's economic or social economy. Populist economic terms first proposed earlier by Mohammad Hatta in his "Colonial Influence Kapitaal in Indonesia". [7]

Towards throw into Digoel, Mohammad Hatta wrote "Economic Ra'jat inside of Emergency. In both these writings Hatta wrote about people's economic and misery under the culture system (cultivation) as the exploitation of the country (stateexploitatie). Sustainable economic crimes against the people by the grip particulier initiatief or modern capitalism. Described cruel economic liberalism in the colonial era that brought ausschaltungstendenz (tendency to get rid of) and einschaltungstendenz (predatory tendencies) on the economy of the people. It then explores people's economy as the activities of life. Child domestic economy (inlander) increasingly displaced and stranded by the cruelty of the colonial system and the

economic malaise of the 1930s. It should be noted Indonesia's democracy is different from Western democracy, although both are based on the sovereignty of the people (volkssoevereiniteit). Western-style sovereignty based on liberalism, individualism or individual basis, while the Indonesian people's sovereignty based on the principle of togetherness, like in a big family, carrying the collective mutualism. Move forward together, prosper together, in a consensus agreement. That economic democracy Article 33 UUD 1945 put the interests of state establishments in accordance understand, that "sovereignty is in the hands of the people", then according to the 1945 position of the people is not a substantial central-marginal-residuals. It should be noted Indonesia's democracy is different from Western democracy, although both are based on the sovereignty of the people (volkssoevereiniteit). Western-style sovereignty based on liberalism, individualism or individual basis, while the Indonesian people's sovereignty based on the principle of togetherness, like in a big family, carrying the collective mutualism. Move forward together, prosper together, in a consensus agreement. That economic democracy Article 33 UUD 1945 put the interests of state establishments in accordance understand, that "sovereignty is in the hands of the people", then according to the 1945 position of the people is not a substantial central-marginal-residuals. It should be noted Indonesia's democracy is different from Western democracy, although both are based on the sovereignty of the people (volkssoevereiniteit). Western-style sovereignty based on liberalism, individualism or individual basis, while the Indonesian people's sovereignty based on the principle of togetherness, like in a big family, carrying the collective mutualism. Move forward together, prosper together, in a consensus agreement. That economic democracy Article 33 UUD 1945 put the interests of state establishments in accordance understand, that "sovereignty is in the hands of the people", then according to the 1945 position of the people is not a substantial central-marginal-residuals. Western-style sovereignty based on liberalism, individualism or individual basis, while the Indonesian people's sovereignty based on the principle of togetherness, like in a big family, carrying the collective mutualism. Move forward together, prosper together, in a consensus agreement. That economic democracy Article 33 UUD 1945 put the interests of state establishments in accordance understand, that "sovereignty is in the hands of the people", then according to the 1945 position of the people is not a substantial central-marginal-residuals. Western-style sovereignty based on liberalism, individualism or individual basis, while the Indonesian people's sovereignty based on the principle of togetherness, like in a big family, carrying the collective mutualism. Move forward together, prosper together, in a consensus agreement. That economic democracy Article 33 UUD 1945 put the interests of state establishments in accordance understand, that "sovereignty is in the hands of the people", then according to the 1945 position of the people is not a substantial central-marginal-residuals.

Economic democracy is defined as follows: "a democratic economic system refers to the principle of all four

Pancasila democracy led by the wisdom in the consultative / representative, where the economy of the people support the earnest partiality of the government". [8]

B. Implementation of Article 33 UUD 1945 in Indonesia were Tend Economic Law Leads to Competition-free

Implement this cooperative principle is that every time the economically, build a business, forming business entities, it must always take along a sense-together, worked together, go forward and prosper together. Here it should be enforced meaning of participation and economic emancipation. Therefore the idea Triple Co., the Co-ownership (participating in joint ownership), Co-determination (opt view and participate in determining the policy of the company), Co-responsibility (opt responsible). For example, the principle of Triple Co., prefers that Indosat shares as a national business should not be sold to private companies (foreign), but co-ownership put the interests of the customer (telephone service users, including customers of mobile phone owners). Thus the case of co-ownership and equity ownership¹⁶

Second, Paragraph (2) of Article 33 of the 1945 Constitution states: "branches of production that are important for the state and dominate the life of many controlled by the state". It is important for the country can be interpreted in terms of "the responsibility of the State, namely: to protect the people of Indonesia and to promote the general welfare, educating the nation and participate in the establishment of world order based on freedom, lasting peace and social justice". May be briefly said that "it is important for the country" is a strategic production branches. State enterprises mostly founded to implement Paragraph (2) of the 1945 Constitution Pasa 33, memamng there are some less related to Paragraph (2) of this. But still it must be noted that mendirikan state businesses (business and non-business) to not be traded or sold, otherwise is to secure the interests of the state and public needs (basic⁹ needs) people. The interpretation that the "controlled" by the state does not have to mean "owned" by the state (that may be owned by private comp¹¹ies or foreign) can only be received in the context of the spirit of Article 33 of the 1945 Constitution, sbahwa government is really in control so that Paragraph (3) Paasal 33 1945 accomplished. Moreover, in the global neoliberalistic rule of the game apply provisions that specify stock control of decision-making authority. sbahwa government is really in control so that Paragraph (3) Paasal 33 1945 accomplished. Moreover, in the global neoliberalistic rule of the game apply provisions that specify stock control of decision-making authority. sbahwa government is really in control so that Paragraph (3) Paasal 33 1945 accomplished. Moreover, in the global neoliberalistic rule of the game apply provisions that specify stock control of decision-making authority.²

Third, regarding Paragraph (3) of Article 33 of the 1945 Constitution: "The earth and water and natural resources contained therein are used for the greatest prosperity of the

people", confirms the entry into force of Daulat Rakyat and folk substantial position (main). Here the economic democracy acquire its justification, that the public interest is more important than the interests of individuals.

Fourth, the cooperatives as stated in the explanation of Article 33 UUD 1945, Cooperative is a "container" people's economy, which means that economic efforts of the people gathered in the cooperative to work together in a "collective effort based on the principle of family". In idiomatic cooperative mindset is cooperation (cooperation), not the competition (competition). This does not mean ignoring the meaning of cooperative competition. Cooperative rejects competition-free (free-competition or free-fight competition), but still does not ignore the competitiveness (efficiency). "Competition" or "competition" in a cooperative mindset limited to "race" (contest or concours) which does not kill the defeated or weak even maintain the permanence with each other mutual assistance.

It is important to note the analysis of Law Pennaman Foreign Investment and the Law on Investment, as follows: among others, in Article 4 of the Foreign Investment Act, specifies that the government set the region seeks capital firms Foreigners in Indonesia with regard to the development of national economy and regional economic, kind of company, the amount of investment and foreign capital owners desire. The results of the analysis shows that Article 33 UUD 1945 is not used as the legal basis in the legislation; Then, as amended by Act No. 25 of 2007 on Investment, in Article 18 of¹⁷ Investment Law determines the items a. This was done by the developed countries who are members of the OECD, the instrument national treatment commitments provide opportunities for member countries to hold exceptions to those commitments. Should the Investment Law, which is the act of a sovereign country it has reduced its sovereign himself by tying himself to the commitment of national treatment and non-discrimination in the field of investment, including with regard to the management of natural resources and production branches that dominate the life of many, as liberal, without revealing the exception of a substance for the purpose of the welfare of the people. A different opinion / dissenting opinion Constitutional Court. [9] which is the act of a sovereign country it has reduced its sovereign himself by tying himself to the commitment of national treatment and non-discrimination in the field of investment, including with regard to the management of natural resources and production branches that dominate the life of many, liberally, without revealing the exception the substance for the purpose of the welfare of the people. A different opinion / dissenting opinion Constitutional Court.[9] which is the act of a sovereign country it has reduced its sovereign himself by tying himself to the commitment of national treatment and non-discrimination in the field of investment, including with regard to the management of natural resources and production branches that dominate the life of many, liberally, without revealing the exception the substance for the purpose of the welfare of the people. A different opinion / dissenting opinion Constitutional Court. [9]

4. CONCLUSION

A. Being understanding cooperative principle (cooperation based on solidarity) as the foundation of democratic thought economic law, as stated Mohamad Hatta and set out in the original script Elucidation of Article 33 of the 1945 Constitution can be seen in the form of a cooperative effort.

B. Implementation of Article 33 of the 1945 Constitution to the economic law Indonesia is likely to lead to free competition (principle of individual / principle individualistik), seen from the inability of the company's state enterprises to implement the ideals of Paragraph (3) of Article 33 of the 1945 Constitution, in terms of both corporate management as well as from the legislation applicable to the state enterprises, should not mean giving justification for privatization.

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