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Risk and Benefit Analysis of Unsecured and Non-Contractual Lending Practices in the KOBATEKSI Cooperative: A Legal and Economic Perspective

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ABSTRACT

This study examines the practice of providing unsecured loans without written agreements at KOBATEKSI Cooperative, which operates based on social solidarity in Jombang. The research highlights the tension between social values, legal certainty, and financial risk management. Internal data and interviews indicate high economic risk (NPL increased from 14% to 27% between 2022–2024) and legal risk due to the absence of formal contracts. Findings suggest that trust-based strategies are effective in small communities but insufficient as the cooperative expands. The study recommends governance reforms through simple written agreements, risk-based loan SOPs, enhanced legal and financial literacy for members, and internal mediation mechanisms. This approach aims to balance social inclusion principles with legal certainty to ensure cooperative sustainability.

Keywords: cooperative, unsecured loan, social solidarity, legal risk, risk management, cooperative governance.

INTRODUCTION

The practice of granting loans without formal agreements or collateral has emerged within social solidarity-based cooperative ecosystems, as exemplified by the KOBATEKSI Cooperative. Initially, this practice aimed to facilitate financial access for cooperative members, particularly those lacking tangible assets to serve as loan guarantees. This concept aligns with the spirit of kinship and mutual assistance inherent in the cooperative movement, as mandated by Law No. 25 of 1992 on Cooperatives (Undang-Undang Republik Indonesia, 1992), which emphasizes the values of solidarity, economic democracy, and collective welfare. From a social perspective, this practice can also be interpreted as a form of community-based financial inclusion, namely an effort to extend financial services to small communities and microeconomic actors who are often marginalized by the formal banking system.

However, this socially oriented approach is not exempt from various legal and financial risks, especially when it is not supported by adequate institutional control and accountability mechanisms. The absence of formal legal documentation and physical collateral renders cooperatives highly vulnerable in cases of loan default. Under Articles 1313 and 1320 of the Indonesian Civil Code (KUHPerdata) (Perdata, n.d.), the existence of a valid and written agreement is essential as legal evidence of the contractual relationship between lenders and borrowers. Without such documentation, the cooperative's position in pursuing debt collection or dispute resolution becomes legally weak. This condition contradicts the prudential management principle, as reaffirmed in Government Regulation No. 9 of 1995 concerning the Implementation of Savings and Loan Business Activities by Cooperative (Pemerintah, 1995), which mandates the application of feasibility, transparency, and risk control principles in every lending activity.

Internal data from KOBATEKSI indicate that most loans disbursed in 2024 were not supported by official agreements and lacked collateral. Among the recorded borrowers, more than 45% experienced delays in repayment, and the majority had no written legal ties with the cooperative. This condition highlights weaknesses in the cooperative's governance structure and risk management practices. In the long term, such practices may erode institutional credibility among both existing and potential members and threaten the cooperative's socioeconomic sustainability.

From an economic standpoint, unsecured lending can be regarded as a progressive financial inclusion strategy, as it provides access to credit for vulnerable and marginalized groups. Nevertheless, without a transparent and accountable creditworthiness assessment system, such practices may generate risk asymmetry between the cooperative and its members. A high rate of loan default burdens the cooperative's

financial structure, reduces liquidity, increases the non-performing loan (NPL) ratio, and undermines members' trust in financial governance. Furthermore, the growing operational burden associated with debt collection and loan recovery processes becomes an unavoidable consequence.

When compared to other cooperatives that have implemented internal social collateral systems or simplified written loan agreements such as CU Lantang Tipo Credit Cooperative in West Kalimantan and Setia Budi Wanita Cooperative in Malang KOBATEKSI appears to remain at an early stage of institutional strengthening. These cooperatives have adopted hybrid models that integrate social solidarity principles with modern risk management, including standardized loan agreements, internal supervision, and membership-based credit scoring systems. This comparison demonstrates that social solidarity does not inherently conflict with prudential principles; rather, both can be synergized through adaptive governance innovation.

Given these conditions, a clear research gap exists in understanding how solidarity-based cooperatives like KOBATEKSI can balance social values and legal certainty in unsecured financing practices. Most studies on cooperatives in Indonesia still focus on macroeconomic aspects or social empowerment, while the legal dimension of contracts and micro-level institutional risk management remain underexplored. Therefore, this study contributes a multidisciplinary analysis combining legal and economic perspectives on unsecured cooperative lending, with the aim of formulating recommendations for strengthening a financing system that is both equitable and sustainable.

METHOD

Contract Law Theory

Contract law is a branch of civil law that regulates the legal relationship between two or more parties who mutually bind themselves to perform or refrain from performing a particular act. In the context of cooperatives particularly savings and loan cooperatives the lending agreement serves as the primary legal foundation in the credit disbursement process to members. According to Article 1313 of the Indonesian Civil Code (KUHPerduta), a contract is defined as an act by which one or more persons bind themselves to one or more other persons. This definition emphasizes the importance of mutual consent, legal capacity, a specific object, and a lawful cause, as required under Article 1320 of the Civil Code. These four essential elements confirm that a valid legal relationship does not merely depend on goodwill but must also be supported by formal legal evidence that ensures justice and legal certainty for all parties involved (Badrulzaman, 1994; Kadir Muhammad, 1992; Subekti, 1987).

In cooperative practices such as those of KOBATEKSI, the element of "consent" is often manifested orally, based on mutual social trust among members. This pattern reflects the values of social solidarity and mutual cooperation inherent in the cooperative movement, yet simultaneously blurs the boundary between moral and legal obligations. When a borrower fails to fulfill repayment obligations, the absence of written evidence makes it difficult for the cooperative to pursue legal action. From the perspective of evidentiary law, a written agreement possesses greater legal force than an oral one (Article 1866 of the Civil Code). Thus, the absence of a written contract not only weakens the cooperative's legal standing but also creates an asymmetry of responsibility between management and members.

However, to fully comprehend the root of this issue, the analysis cannot be limited to the domain of contract law alone. The New Institutional Economics (NIE) framework, as articulated by (North, 1990), posits that the "rules of the game" within organizations are often shaped by informal norms, customs, and social trust, which may operate alongside or even substitute formal rules. In the case of KOBATEKSI, values of solidarity and community trust function as informal institutions governing members' economic behavior. Consequently, these social "rules of the game" often supplant the role of formal contractual law, which should ideally serve as the foundation of financial transactions.

This imbalance between social norms and legal norms also affects the cooperative's risk management framework. According to financial risk management theory, each lending decision should ideally be based on principles of risk assessment including feasibility evaluation, repayment capacity, and risk mitigation (Kaplan & Mikes, 2012). However, within KOBATEKSI, lending decisions are more strongly influenced by moral considerations and social proximity rather than by rational analysis of the borrower's financial capability. A tension emerges here among three systems of rationality: social rationality, which emphasizes solidarity and mutual assistance; legal rationality, which prioritizes contractual certainty; and economic rationality, which is concerned with risk management.



Figure 1. The Integrative Model of Law–Institution–Risk in the KOBATEKSI Cooperative

Through the integration of these three theoretical perspectives, an analytical model can be constructed to illustrate the institutional dynamics of KOBATEKSI. At the micro level, relationships among members are governed by social norms grounded in institutional trust. Moving to the meso level, the cooperative functions as an economic institution that transforms social capital into financial capital but lacks a strong formal legal framework. Finally, at the macro level, weaknesses in contractual law and risk management create an institutional void—a gap in formal governance structures that may jeopardize the cooperative’s long-term sustainability.

This model illustrates the reciprocal relationship between social norms (micro level), institutional legal structures (meso level), and risk management systems (macro level). These three dimensions interact dynamically in shaping the practice of unsecured lending within the KOBATEKSI Cooperative. Social norms rooted in trust strengthen member solidarity but simultaneously weaken formal legality. The weakness of formal legality generates institutional and financial risks, ultimately requiring legal reform and governance innovation to ensure that the cooperative remains both inclusive and accountable.

By understanding the interrelation among these levels, this study perceives contracts not merely as legal documents but as institutional governance mechanisms that link social norms with modern economic discipline. This interpretation aligns with the views of John Austin and Salmond (Salmond, n.d.), who emphasized that contracts function not only as legal instruments but also as socio-economic control tools that create order and predictability in transactional relationships.

Furthermore, it is essential to examine the potential for legal reform that strengthens cooperative lending practices without undermining the value of social solidarity. One possible alternative is the implementation of simplified contracts or digitally based memoranda of understanding (MoU), authorized by cooperative management. This model has been adopted by several credit and Islamic cooperatives in Indonesia, leveraging information technology to document transactions electronically and efficiently, without imposing administrative burdens on small members. In addition, the development of internal cooperative mediation mechanisms (dispute resolution), as regulated in Minister of Cooperatives and SMEs Regulation No. 19 of 2015, offers a form of non-litigation legal protection consistent with the cooperative’s familial values (UKM, 2015).

Thus, the theories of contract law, institutional economics, and risk management are no longer treated as separate frameworks but are integrated into a single analytical model that explains how KOBATEKSI manages the tension between social solidarity, legal certainty, and economic rationality. Institutional reform grounded in legal empowerment and information technology becomes an essential step for cooperatives to remain inclusive without sacrificing prudential and legal accountability principles.

Risk Management Theory

Risk management theory focuses on how organizations identify, analyze, evaluate, and control uncertainties that may affect the achievement of their objectives. In the context of cooperatives such as KOBATEKSI, the greatest risk lies in the uncertainty of loan repayment due to the absence of both collateral and written agreements.

According to Tandililin (2010), credit risk can be mitigated through three principal pillars: collateral that can minimize potential losses, borrower feasibility analysis based on data and behavioral indicators, and legally binding contracts that serve as instruments of financial discipline.

When these three aspects are neglected, the entire risk burden shifts to the cooperative. For instance, KOBATEKSI faces the problem of moral hazard, namely the tendency of some members to disregard

repayment obligations because no formal legal sanctions exist.

In modern risk management, soft controls based on social values such as trust are indeed important but must be complemented by hard controls in the form of formal systems and procedures. Therefore, the prudential principle serves as a critical foundation for all microfinance institutions, including cooperatives.

Integrating this theory with contract law theory leads to the understanding that contracts are not merely legal documents but also risk mitigation instruments. Through valid and transparent agreements, cooperatives can minimize uncertainty, promote financial discipline, and strengthen mutual trust among members. Consequently, risk management in cooperatives cannot be separated from sound legal governance and strong social institutions (Simons, 2000).

Institutional Economics Theory

Institutional economics theory, as articulated by Douglass C. North (1990), posits that institutions are the “rules of the game” that shape economic behavior within society. Institutions are not limited to formal legal frameworks but also include social norms, traditions, and trust mechanisms. Within cooperatives, institutions encompass bylaws (AD/ART), standard operating procedures (SOPs), sanction mechanisms, and organizational culture, all of which determine how members and management behave in collective economic processes.

The practice of unsecured and unwritten lending in KOBATEKSI exemplifies how informal rules can substitute for formal regulations. Although values of solidarity and social trust form the foundation of member relationships, institutionally this weakens efficiency and creates potential for moral hazard (Rahardjo, 1980). When social norms are not balanced with formal legal systems, economic behavior tends to become less disciplined, and institutional trust may deteriorate (Rahardjo, 1982).

According to North’s approach (North, 1990), institutional reform must guide cooperatives from trust-based governance toward rule-based governance a system that still respects social values but operates on clear, written, and measurable rules. In the context of KOBATEKSI, this means strengthening formal institutions (regulations and contracts) without eroding informal institutions (mutual cooperation and solidarity) (Maksu, 2020).

RESULT AND DISCUSSION

The Reality of Lending Practices in KOBATEKSI

The KOBATEKSI Cooperative was founded upon the principles of kinship and mutual social trust among its members. Based on data from 2022–2024, the lending pattern exhibited a significant upward trend. The total loan amount increased from IDR 1.12 billion in 2022 to IDR 1.45 billion in 2024, while the number of active borrowers rose from 73 to 96 members. However, this growth was not accompanied by improvements in administrative governance. Most loans continued to be issued without written agreements or collateral, and administrative records were often incomplete or poorly documented.

Financial data analysis revealed that the non-performing loan (NPL) ratio rose from 14 percent in 2022 to 27 percent in 2024, indicating an escalating financial risk. Interviews with cooperative officers suggested that this practice was not due to ignorance of risk, but rather a deliberate compromise between social values and operational efficiency.

“If everything had to involve official papers and collateral, members would feel uncomfortable. We rely on mutual trust.” (Interview, Cooperative Officer, April 2024)

“We’re more afraid of being seen as distrustful than of losing money.” (Interview, Senior Member, May 2024)

These statements reveal that social trust is the key variable in the cooperative’s financial behavior. In other words, legal risk is perceived as less severe than the social risk of damaging interpersonal trust. This explains why the practice of lending without contracts persists, despite its evident economic risks.

Economic and Social Incentives Behind Unsecured Lending

Economically, there are implicit incentives for management to maintain the informal system. KOBATEKSI’s performance evaluation relies more heavily on member satisfaction and participation rates than on financial outcomes. Thus, policies that make lending “easier” enhance the social reputation of cooperative leaders in the eyes of members.

In addition to administrative burdens, implementing formal contracts entails substantial social costs. Within tightly bonded communities, requests for signatures or collateral are often perceived as signs of distrust. As a result, enforcing formal contractual systems requires not only financial resources but also risks disrupting community harmony.

From an institutional economics perspective, KOBATEKSI’s behavior represents a rational response

to local institutional constraints where formal legal enforcement is costly and ineffective, while social sanctions are cheaper and more efficient. However, this mechanism becomes ineffective once members lose the sense of shame or when the cooperative expands, as social closeness declines.

Legal and Institutional Risks

The absence of written contracts poses serious legal risks for the cooperative. Interviews revealed several default cases that could not be legally pursued due to the lack of official documentation admissible as legal evidence.

"If we went to court, we'd have no written proof. So, we just resolve it through deliberation."
(Interview, Cooperative Secretary, May 2024)

Such conditions violate the prudential principle outlined in Law No. 25 of 1992 on Cooperatives and contradict the principles of good cooperative governance, which emphasize transparency, accountability, and equity. Without standardized loan SOPs, credit approval decisions often rely on personal relationships and managerial subjectivity. Consequently, implicit discrimination arises among members with stronger social ties obtain loans more easily, while equally qualified members face longer waiting times. This fosters inequity and internal conflict (Harjowidigno, 1993).

These institutional weaknesses indicate that the cooperative has not yet fully internalized contractual law principles as part of systematic risk management. Cooperative governance literature highlights that institutional maturity is characterized by a shift from trust-based systems, reliant on personal relationships, to rule-based governance, emphasizing formal procedures, documentation, and legal certainty. Currently, KOBATEKSI remains in the early stages of this transition, making it vulnerable to legal risk, internal inequity, and potential financial loss that could erode member confidence (Mertokusumo, 1988).

Economic Risks and Implications for Sustainability

Financial data from 2023–2024 show that about 27 percent of loans were overdue for more than 90 days, with 12 percent classified as potentially uncollectible. The repayment rate declined from 86 percent in 2023 to 73 percent in 2024. This decline disrupted member fund circulation, delayed voluntary savings disbursement, and reduced profit-sharing (SHU) payouts. These indicators reflect emerging liquidity pressures within the cooperative's daily operations.

Such trends confirm that the cooperative's economic risks are systemic and cannot be ignored. Without proper intervention, KOBATEKSI may face a liquidity mismatch and an imbalance between incoming cash flows from loan repayments and outgoing obligations to member deposits. Over time, this threatens the cooperative's trust capital, its core social asset, leading to diminished member confidence and institutional fragility (Fuady, 2005).

Beyond financial losses, these conditions generate psychological and cultural effects. Members who fulfill repayment obligations perceive injustice when violators face no sanctions. This collective demoralization reduces member participation in cooperative activities and weakens social attachment. If left unaddressed, it can erode internal cohesion, solidarity, and organizational resilience in the face of internal and external pressures.

Comparison with Other Cooperatives and Governance Reform Recommendations

Several cooperatives in Jombang and Mojokerto that adopted simplified contractual SOPs demonstrated significant improvements. For instance, the "Mitra Sejahtera" Employees' Cooperative (Jombang) successfully reduced its default ratio from 28 percent to 9 percent within two years. This improvement resulted from the introduction of simple one-page electronic contracts, which streamlined procedures while preserving personal relationships among members (Maksum, 2024).

This comparison indicates that cooperative governance reform does not necessarily erode social trust, provided it is implemented through effective communication and member participation. Simple, concise, and transparent contracts can enhance legal certainty while minimizing default risk. A participatory approach helps members understand procedures without feeling distrusted. This demonstrates that good governance principles and social trust can coexist, mutually reinforcing financial stability and long-term sustainability (Gunawan, 2001).

Accordingly, KOBATEKSI's improvement strategy should include Administrative Normalization by implementing simple loan contracts (one-page format) and lightweight digital signatures. It should also incorporate Compliance Incentives, rewarding punctual borrowers with participation or loyalty points, and establish Formal Internal Mediation through a cooperative ethics board for non-litigation dispute resolution. Finally, the strategy requires Training in Risk and Contract Law Management to build managerial competence in legal and financial governance.

Analytical Synthesis

Thus, the phenomenon of unsecured and unwritten lending in KOBATEKSI is not merely administrative negligence but a form of rational adaptation to the unique social, cultural, and legal context of its community. In the rural environment where the cooperative operates, trust-based relationships often hold greater value than formal mechanisms such as legal contracts. In such context's, written agreements are sometimes viewed as contrary to communal norms emphasizing kinship and mutual trust. Cooperative leaders, being members of the same community, tend to uphold these informal practices, believing that personal approaches are more effective for maintaining social harmony and member loyalty. In other words, the decision to avoid formalizing financial transactions represents a rational response to conditions in which the social cost the stigma of "distrusting fellow members" outweighs the administrative benefits of contractual formalization.

Nevertheless, this trust-based strategy has reached its limit. As the cooperative expands and the number of borrowers grows, traditional social mechanisms that once worked effectively in small groups become inadequate to manage moral hazard and default risks. Excessive reliance on social trust without a clear legal framework has created an imbalance between solidarity and accountability. Under these circumstances, governance reform becomes an urgent necessity not to eliminate the cooperative's familial values, but to balance them with modern legal and financial transparency principles. Without such reform, KOBATEKSI risks losing the very collective trust that constitutes its moral and social foundation for long-term sustainability.

CONCLUSIONS

This study reveals that the practice of providing unsecured loans without written agreements by the KOBATEKSI Cooperative carries significant legal and economic risks. Although motivated by goodwill to expand financial access and strengthen social solidarity, this practice structurally weakens the cooperative as both a legal entity and a financial institution. Administrative disorder, weak documentation, and reliance on personal relationships without formal systems have created a vulnerable environment prone to loan defaults, moral hazard, and legal uncertainty.

From an economic perspective, the growing number of overdue loans reflected in the decline of repayment rates from 86% in 2023 to 73% in 2024, with 27% of loans overdue for more than 90 days has placed pressure on the cooperative's liquidity, eroded member trust, and generated imbalances in the distribution of benefits and burdens. From a legal standpoint, the absence of written contracts prevents the cooperative from utilizing formal dispute resolution mechanisms.

Moreover, the research identifies psychological and organizational cultural effects: compliant members feel disadvantaged when rule violations go unpunished, leading to decreased participation and weakened social cohesion within the cooperative.

Limitations of the study: The analysis is confined to KOBATEKSI's 2023–2024 financial data and interviews with members and management. Therefore, the generalization of these findings to all Indonesian cooperatives requires further validation. Long-term impacts such as changes in organizational culture and the implementation of written Standard Operating Procedures (SOPs) necessitate extended empirical observation.

Overall, the findings underscore the need for a new governance approach that integrates cooperative values with modern risk management principles and professional legal frameworks. Systematic governance reform can reduce legal and economic risks without undermining the cooperative's foundation of social trust.

To address the identified challenges, the cooperative should implement a set of structured and strategic actions. First, the establishment of a legally valid written agreement system, beginning with a simple, one-page contract format that is easy for members to understand, applying it initially to new loans then gradually to existing ones, and utilizing electronic signatures to expedite the process. Second, the implementation of a risk-based lending SOP, which should be developed through participatory consultation involving management and members to cover criteria, terms, and monitoring, and then socialized thoroughly through regular meetings and materials. Third, the enhancement of legal and financial literacy must be conducted through regular training sessions, at least once per semester in collaboration with partner institutions, and supported by risk awareness campaigns using member forums and simulations. Fourth, the development of non-litigation dispute resolution mechanisms is needed, strengthening internal mediation and community-based forums, complete with written guidelines and proper documentation. Fifth, periodic evaluation of lending performance should be conducted quarterly, monitoring the NPL ratio, collection

effectiveness, and SOP compliance, using the results to refine strategies. Lastly, this will all be guided by a phased implementation plan: Phase 1 (0–3 months) for socialization and initial contract application; Phase 2 (4–6 months) for early monitoring and adjustment; Phase 3 (6–12 months) for impact assessment; and Phase 4 (beyond 12 months) for full implementation and digital integration. Through these steps, KOBATEKSI can effectively balance social principles with professional governance, reduce legal and financial risks, and reinforce social trust and cooperative sustainability.

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