

A Comparison of Limited Liability Partnership Regulations in the State of Delaware, USA, Malaysia & India

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Abstract. *Departing from the absence of regulations related to Limited Liability Partnership in the legislation in Indonesia, with the formulation of the problem in the form of (1) How is the regulation of Limited Liability Partnership in Delaware, United States, Malaysia and India?, and (2) How is the comparison of the regulation related to Limited Liability Partnership in Delaware, United States, Malaysia and India?. It has been found that many countries in the world have adopted the rules of Limited Liability Partnership into their positive laws for a long time, such as the United States which is the originator then Malaysia and India. From this we can see that to the extent of regulation of Limited Liability Partnerships in ASEAN and Asian countries, Indonesia is among the countries that do not keep up with world developments and leave their people with a set of legal tools that tend not to meet the needs and interests of the public. It is known that the form of civil partnership in Indonesia that is most similar to the form of Limited Liability Partnership is the form of Persekutuan dengan Firma. However, the Persekutuan with Firma adopted in Indonesia still applies the concept of unlimited liability. This means that in the event of a loss suffered by a partnership with a firm due to the fault or negligence of one of the allies, the compensation will not only utilize the assets of the partnership with the firm but also the assets of the partners, even the innocent partners among the three countries under comparison. Actually all three have similarities with each other because they are both based on the regulatory model first adopted by the United States.*

Keywords: *Comparative; Delaware; Liability; Partnerships.*

1. INTRODUCTION

A while ago, a law firm faced a lawsuit filed by one of its clients. Where the lawsuit was filed because the client felt that the legal opinion provided by the law office had caused him losses. Decision Number 410/Pdt.G/2013/PN. Jkt Sel identifies the parties involved in this case as (1) the Plaintiff, Sumatra Partners LLC, which is a company based in the United States that intends to invest in Indonesia and (2) the Defendant, Ali Budiarjo, Nugroho, Reksodiputro (ABNR) Law Firm. Sumatra Partners LLC dragged twenty-two

lawyers who were members of the ABNR Law Firm into allegations of malpractice¹.

Although in the end, the lawsuit filed by Sumatra Partners LLC was not granted by the Judges at the First Level Court which was then also upheld by the Judges of the Court of Appeal, this event can be a lesson for law firms in Indonesia. That if at that time the lawsuit filed by Sumatra Partners LLC is granted by the Judges and it is proven that there has been an unlawful act committed by the ABNR Law Firm so as to require the ABNR Law Firm to pay a loss of \$4 million dollars, then the person responsible for compensation is each founder or the firm personally².

This happened because Indonesia still adheres to the Unlimited Liability Partnership concept, as adopted by the United States before the collapse of the real estate sector and the decline in oil prices in the United States in the 1980s³. With this Unlimited Liability Partnership concept, in the event of a loss, the collection of compensation must first be collected from the partnership's assets, then if it is insufficient, the collection can be made to the personal property of each partner⁴. Reflecting on the case of Dallas Law Firm in the United States, where Dallas Law Firm is a law firm in the form of General Partnership or in Indonesia known as Persekutuan dalam Firma, which must face compensation due to the actions of one of its partner named Laurence Vineyard⁵. Due to the actions of this partner, even other partners in the Dallas Law Firm, including partners who have retired, partners who have changed law firms and other partners who have no connection with the Laurence Vineyard incident were also affected.

The case against ABNR is not the only case where the client filed a lawsuit against the law firm where the client conducted legal consultations, Hadiputranto Hadinoto and Partners (HHP) Law Firm, which is one of the largest law firms in Indonesia, has also received a tort lawsuit from a client alleging malpractice, and Adnan Buyung Nasution Law Firm had also experienced the same thing⁶. However, until now Indonesia does not have a law that specifically regulates Limited Liability Partnership (LLP). Of course, humans must always learn from history so that they do not have to experience the problem, and it would be better to take preventive steps rather than to wait for a problem to occur. So in this paper, the author will conduct a study of Limited Liability Partnership through a comparative study of Limited Liability Partnership regulations in several countries in the world such as the United States, Malaysia and India, with the following problem formulations:

a. How is the regulation of Limited Liability Partnership in Delaware, United States,

¹ Pengadilan Negeri Jakarta Selatan, Putusan No. 410/Pdt. G/2013/PN Jak. Sel, *Sumatra Partners LLC melawan ABNR Law Firm* (2013), p. 1-4.

² Hukum Online, "Kantor Advokat Indonesia Perlu Adopsi Konsep LLP," <https://www.hukumonline.com/berita/a/kantor-advokat-indonesia-perlu-adopsi-konsep-llp-lt552f64cada06c/>, accessed on 15 December 2023.

³ Yetty Komalasari Dewi, *Hukum Persekutuan di Indonesia: Teori dan Kasus*, (Depok: Badan Penerbit FHUI, 2017), p. 87-88.

⁴ Ibid, p. 39.

⁵ Ibid, p. 88.

⁶ Hukum Online, "Kantor Advokat Indonesia Perlu Adopsi Konsep LLP," <https://www.hukumonline.com/berita/a/kantor-advokat-indonesia-perlu-adopsi-konsep-llp-lt552f64cada06c/>, accessed on 15 December 2023.

Malaysia and India?

b. How is the comparison of the regulation related to Limited Liability Partnership in Delaware, United States, Malaysia and India?

2. RESEARCH METHODS

The methods use in this research articles are a combined methods consisting descriptive method and Comparative study. The author collected research through a case study followed by primary, secondary and tertiary data collection to complete the descriptive analysis and comparative study.

3. RESULTS AND DISCUSSION

3.1. Brief Explanation On Partnership Law In Indoensia And The Development Of Limited Liability Partnership

The most basic form of partnership in Indonesia is a Persekutuan Perdata (maatschap) which is regulated in the Civil Code Article 1618 up to Article 1652. This maatschap is an agreement between two or more people who bind themselves to put (1) money, (2) other goods or (3) their crafts into the partnership where the purpose of this partnership is to share profits. The formation of maatschap is not required to be done in writing, but can be done consensually orally even though this refers to KUHPer Article 1320. Since the maatschap is not a legal entity, the property of the partnership is the joint property of the partners.

Next is the Persekutuan dengan Firma where the Persekutuan dengan Firma is considered as a maatschap that is run under a joint name. The applicable regulations in the Civil Code Article 1618 up to Article 1652 also apply to this Persekutuan dengan Firma. In addition, an Association with a Firm is not a legal entity so of course there is no separation of assets from the Association with a Firm as an entity with the assets or assets of the partners incorporated in it. In addition, related to this Persekutuan dengan Firma, the applicable rules can also be seen in KUHD Article 16 through Article 25.

Then there is the Commanditer Partnership, where this agreement is made between people who want to run a business but also want to cooperate with a party who does not want to manage the business being carried out where the partner's task is only to provide money for business activities. Such a partner is referred to as a sleeping partner, where this partner is only responsible for his own income and the distribution of profits is limited to what he has input (inbreng). A Commanditer Partnership is also not a legal entity so there is no separation between the assets of the partnership and the assets of the partners.

Texas was the first state in the United States to embrace the concept of Limited Liability Partnership (LLP) to signify a recovery after the downturn that Texas experienced in the 1980s due to the decline in oil prices and the collapse of the real estate sector, precisely in 1991⁷. At the time of the creation of the LLP concept, it can be seen that the concept

⁷ Elizabeth S. Miller, "The Perils and Pitfalls of Practicing Law in a Texas Limited Liability Partnership," *Texas Tech Law Review*, Vol. 43 (2011),p. 564.

put forward by senators in Texas at that time was a modification of the General Partnership with a hybrid aspect that was more inclined to have similarities with corporation than the partnership concept itself⁸. It is said to be similar to the concept of a corporation because LLP is a legal entity that has a separate legal personality and the partners in it have limited liability⁹. The main purpose of creating the LLP concept is to protect the 'innocent partners' from the unlimited liability of the General Partners¹⁰. 'Innocent partners' refers to partners who are not at fault, such as in the case of Dallas Law Firm, the partners who actually have nothing to do with the actions of the partners that resulted in losses to third parties.

As mentioned in the previous section, there was a landmark case involving a very well-known and prominent law firm in Texas that was the catalyst for the birth of the LLP concept. After becoming a law in Texas in 1991, other states quickly followed suit and began adopting the Texas LLP Statute. Some states even made significant modifications from the Texas LLP Statute, such as at that time Texas allowed all kinds of partnerships in the form of LLPs but some other states made modifications where only professional partnerships were allowed to apply LLPs¹¹. As for the state of Texas itself, in the three years since the Texas LLP Statute was enacted, 1600 firms have changed their form of partnership to LLP¹². In fact, most of the changes came from law firms. This is because although the creation of LLP law does not aim to eliminate the possibilities of malpractice in the professional world, at least the presence of LLP law protects innocent partners from the possibility of participating in the losses incurred by other partners¹³.

It turns out that the concept of Limited Partnership is not a concept that has recently emerged in the modern world. Ancient Roman and Islamic law had already recognized the concept of limiting extended liability¹⁴. In Islamic law, this method of limited liability is known as the 'licensed slave' technique which has similarities with the peculium method adopted by ancient Roman law¹⁵. At that time, the master could authorize his slave to run a business. In running the business, the slave could perform various acts of trade such as buying and selling goods either in cash or on credit and then employing workers in the business and could also make credit loans on behalf of the business. Although the one who authorizes this slave is his employer, in the event of a dispute that results in the slave being sued, his employer is not responsible for the claims brought against the slave he employs. This concept is similar to the concept of limited liability adopted by LLP as a modification of general partnership.

⁸ Paul L. Davies, Sarah Worthington, and Christopher Hare, *Gower Principles of Modern Company Law*, ed. 11 (2021), (London: Thomson Reuters Sweet-Maxwell), p. 396.

⁹ Paul L. Davies, Sarah Worthington, and Christopher Hare, *Gower Principles of...*, P. 396.

¹⁰ Dewi, *Hukum Persekutuan di Indonesia...*, p. 89.

¹¹ Elizabeth S. Miller, "The Perils and Pitfalls of Practicing Law in a Texas Limited Liability Partnership," *Texas Tech Law Review*, Vol. 43 (2011), p. 564.

¹² Dewi, *Hukum Persekutuan di Indonesia...*, p. 90.

¹³ Naylor Joseph S, "Is the Limited Liability Partnership Now the Entity of Choice for Delaware Law Firms." *Delaware Journal of Corporate Law*, Vol. 24, No. 1(1999), p. 145.

¹⁴ S.W Hasanuzzaman, "Limited Liability of Shareholders: An Islamic Perspective", *Islamic Study*, Vol. 28(1989), p. 353.

¹⁵ Robert W. Hillman, "Limited Liability In Historical Perspective," *Washington and Lee Law Review*, Vol. 54, Isu. 2(1997), p. 620-621.

3.2. Regulation Of Limited Liability Partnership In The State Of Delaware, United States Of America

Before being triggered by the oil and real estate crisis in Texas, United States Law Offices widely used the general partnership form¹⁶. Through the Revised Uniform Partnership Act of 1997 (RUPA), Limited Liability Partnership is generally recognized in the United States. The regulation of LLP can be found in Article 10 Section 1001 to Section 1003 which basically regulates (1) the procedure for changing the status of partnership to limited liability partnership, (2) the provision of naming limited liability partnership which must end with words such as "Registered Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP," or "LLP" and (3) the provision of annual reporting¹⁷. As the United States is a federal country, more detailed regulations related to LLPs are given authority and autonomy to the states. In this paper, the author will use the State of Delaware as an example state.

Delaware adopted LLP regulation in 1993, third only to Louisiana¹⁸. Initially, the Delaware Supreme Court prohibited law firms containing lawyers from using the LLP concept although later law firms were allowed to operate under the LLP concept subject to the approval of the Delaware Supreme Court. This means that for a law firm to use the LLP concept, there must be prior approval from the Supreme Court. This is different from most other states. In 1997, an amendment was made and law firms in Delaware no longer have to require approval by the Supreme Court if they want to practice using the LLP concept. Regarding other professions, there are no restrictions, which means that all kinds of professions can form LLPs such as medical professions and accounting professions. The procedure for transitioning a partnership with a firm into an LLP is relatively easy and simple to do because it can be done only by using a few documents and fulfilling a few requirements such as a certificate of conversion from an LLP, then a statement of fulfillment of qualifications and others which must later be submitted to the state secretary's office.

In general, the concept of LLP in the United States is characterized by a combination of the concept of general partnership or in Indonesia commonly known as a persekutuan dengan firma with the concept of a corporation that adheres to limited liability. In essence, this LLP is a derivative of a partnership with a firm so that partners who are members of this LLP have the same obligations, profit sharing and duties as partners who are members of a partnership with a firm but the responsibility is only limited to what the partners do. Thus, the partners cannot be held liable for any wrongdoing that they did not directly commit.

US academics divide LLP regulations into two, namely (1) First Generation and (2) Second Generation. The first generation LLP regulation exempts allies from vicarious liability resulting from the negligence and misconduct of other partners as long as they are not directly involved in the negligence or misconduct. The second generation LLP regulation provides much broader protection which also includes protection for partners

¹⁶ Agus Sardjono, et.al, *Pengantar Hukum Dagang, Ed. 1, Cet.5*, (Depok: Penerbit FHUI, 2019), p. 49.

¹⁷ National Conference of Commissioners on Uniform State Laws, Uniform Partnership Act (1997).

¹⁸ Naylor Joseph S, "Is the Limited Liability Partnership Now the Entity of Choice for Delaware Law Firms." *Delaware Journal of Corporate Law*, Vol. 24, No. 1(1999), p. 150.

in the event of a partner's transaction or activity that results in debt for the partnership¹⁹. So in essence the difference lies in the protection of the partners for liability from various types of transactions or activities of other partners. The first generation such as the state of Texas only protects partners from liability for the unusual actions of other partners, while the second generation such as the state of Minnesota protects partners from the ordinary²⁰.

In relation to the concept of liability in an LLP adopted by Delaware through Delaware RUPA, it is known that liabilities arising in an LLP, whether arising from agreements, tort and other matters are the liabilities of the LLP. The partners are not personally liable for such losses. An interesting aspect of the LLP arrangement in the United States is the obligation of the LLP to have liability insurance, this arrangement existed even before the LLP concept was initiated. Liability insurance is an insurance that obliges the insurer (insurance company) to pay compensation due to negligence committed by the insured (insurance policy owner) that causes harm to third parties. The minimum amount of insurance that an LLP must have in the state of Delaware is \$1 million dollars.

Similar to the formation procedure of a partnership, Delaware RUPA regulates that LLP consists of 2 or more partners where the purpose of the LLP formation is divided into two, namely (1) the purpose of forming a business for profit and (2) the purpose of carrying out non-profit activities. This means that Delaware RUPA does not limit the purpose of forming an LLP. After the formation of LLP, the important thing to note is regarding profit sharing. This is regulated in Subchapter VII of Delaware RUPA, where it is emphasized that all or part of the profits belonging to the LLP can be transferred, however, this transfer does not result in the dissolution of the LLP or the transfer of authority to run the LLP. This transfer of profits entitles the recipient to participate in the LLP. If the entire profits of a partner are transferred to another party, the partner is no longer a partner who has the authority of a partner.

Related to the rights and responsibilities owned by the partners in the LLP are regulated in Subchapter IV Delaware RUPA which is more or less detailed as follows (1) Each partner has the same rights in the field of management and management of the LLP, (2) Each partner is entitled to the same share of profits and also the same share of losses as other partners, (3) In the event that there will be additional partners, all partners who have joined the LLP must give their approval, (4) The use of property belonging to the LLP by one or more partners must be in the name of the LLP, and many other authorities.

There are several schemes of dissolution of an LLP regulated in Delaware RUPA, namely through a dissolution scheme where this scheme can be followed by winding-up and also fulfillment of obligations to each partner. Overall, the approach used by LLP-related legislation in the United States is more inclined towards LLPs as a form of corporation

¹⁹ Naylor Joseph S, "Is the Limited Liability Partnership Now the Entity of Choice for Delaware Law Firms." *Delaware Journal of Corporate Law*, Vol. 24, No. 1(1999), p. 155

²⁰ Naylor Joseph S, "Is the Limited Liability Partnership Now the Entity of Choice for Delaware Law Firms." *Delaware Journal of Corporate Law*, Vol. 24, No. 1(1999), p. 156

(companies). This is in contrast to the approach adopted by the UK which is more inclined towards LLP as a form of partnership²¹.

3.3. Regulation Of Limited Liability Partnerships In Malaysia

In 2012, Malaysia officially adopted the Limited Liability Partnership through the Partnership Act 2012. The concept of LLP in Malaysia combines the concept of partnership and the concept of corporation²². Basically, the LLP concept in Malaysia is the same as the LLP concept in the United States, which is a legal entity in the form of a corporation (body corporate) that has legal responsibilities that are separate from the responsibilities of its partners. The LLP concept in Malaysia was formed due to the needs of the public at that time, where a flexible and dynamically evolving form of business was needed to encourage national economic development²³. Prior to the adoption of the LLP concept into Malaysian legislation, the form of partnership that was commonly used was the conventional civil partnership form. The concept of conventional civil partnership (General Partnership) applicable in Malaysia is similar to the concept of persekutuan dengan firma.

The initial requirement to establish an LLP is set out in the Partnership Act 2012, that an LLP may be established with two or more persons consisting of individuals or organizations, either in whole or in part to carry on an lawful business for the purpose of making a profit. Based on this provision, individuals as well as a corporate body that has been previously formed beforehand can create a business with the form of an LLP. Forming an LLP with less members than the initial requirement is allowed only for a period not exceeding six months, but can later be extended based on government policy.

Unlike LLPs in the United States which always have to end with the words "Registered Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP," or "LLP", all LLPs in Malaysia must end with "Perkongsian Liability Terhad" or "PLT" at the end of the LLP name²⁴. The designation of LLP is not restricted in other words, any field of business can use LLP as a partnership model. However, for partnerships covering professions, Malaysia limits the professions that can use LLP as a partnership model to Accountants, Advocates, and Company Secretaries with the condition that the allies incorporated in the LLP must have the same profession and also have insurance claims of the same amount.

Any liability arising out of the LLP whether from agreements and tort or otherwise is the liability of the LLP (out of the assets of the LLP as a legal entity), so the partners in the LLP are not personally liable to indemnify or contribute to the loss incurred by the LLP. However, in the event that the loss incurred by the LLP is caused by one of the partners, the partner who caused the loss shall be liable and the other partners who did not participate in the misconduct that caused the loss shall not be liable for the loss. The

²¹ Majmudar, Suvansh, "The Era of Limited Liability Partnership," *International Journal of Law Management & Humanities*, Vol. 4 (2021), P. 4589

²² Rizha Claudilla Putri, "Bentuk Hukum Perusahaan Persekutuan di Indonesia dan Perbandingannya di Malaysia." *Cepalo*, Vol. 4, No. 1 (2020), P. 20.

²³ Majmudar, Suvansh, "The Era of Limited Liability Partnership," *International Journal of Law Management & Humanities*, Vol. 4 (2021), P. 4589

²⁴ Malaysia, Limited Liability Partnership Act 2012, Art. 13.

LLP is not liable for the errors/negligence of a partner if (1) the partner acted without authority, (2) a third party in contact with the partner in relation to the first point, knew that the partner acted without authority or did not know at all. Therefore, in the event of a case where a partner acts without authority and causes a loss, it is not solely the responsibility of the LLP but must first look at the points that have been written previously. Even with limited liability and the principle of separate legal entity, there is still protection for the LLP itself²⁵.

In the event of bankruptcy by a partner who is a member of the LLP, this bankruptcy does not necessarily result in the end of the partners' membership in the LLP²⁶. Debt repayment of the partner can also be taken in accordance with their portion from the LLP, but keep in mind that the debt repayment is only limited to the partner's share in the LLP, not the entire assets of the LLP. Furthermore, the distribution of profits in the LLP is regulated as the concept of general partnership that preceded it, namely the distribution of profits is calculated according to the contribution of each ally.

Malaysia also recognizes Foreign Limited Liability Partnership (Foreign LLP) which must register its partnership with the Malaysian government first in order to operate in Malaysia. The requirement to open a Foreign LLP in Malaysia is that there must be the appointment of at least one managing officer who is (1) a Malaysian citizen or permanently resident in Malaysia and (2) ordinarily resident in Malaysia.

In the Malaysia Partnership Act 2012, at the end of the act there are provisions on criminal offenses and penalties. This is a contentious concept among academics in Malaysia, given that LLP in Malaysia adheres to the concept of separated legal entity with limited liability which the regulation related to criminal offenses by allies incorporated in the LLP seems to be counter to the LLP concept itself²⁷.

Things that can be done to dissolve an LLP are (1) Winding-Up, (2) Dissolution and (3) Striking-off. Winding-Up is the most commonly used method to dissolve an LLP, where usually this method is carried out by partner or partners jointly against an LLP that is no longer operating and has settled and discharged all of its debts and obligations. To conduct this winding-up, the partners must make a declaration that the LLP in question has ceased operations and has settled and discharged all liabilities and debts. Furthermore, the partner may report this to the relevant authorities²⁸. If there are creditors or parties either internal (partners) or external parties who disagree with this plan, they can write an objection.

The next dissolution is through the striking-off mechanism, where the following are the reasons considered by the authorities to be sufficient reasons for dissolving an LLP, namely (1) if the authorities are of the opinion that an LLP is no longer carrying out its business or even not operating at all, (2) an LLP has violated the Partnership Act 2012,

²⁵ Mohammad Rizal Salim, "Limited Liability Partnership in Malaysia: A Corporate Governance Perspective," *I.C.C.L.R.*, Vol. 24, Issue 12(2013), p. 422.

²⁶ Malaysia, Limited Liability Partnership Act 2012, Art. 25.

²⁷ Mohammad Rizal Salim, "Limited Liability Partnership in Malaysia: A Corporate Governance Perspective," *I.C.C.L.R.*, Vol. 24, Issue 12(2013), p. 422.

²⁸ Rizha Claudilla Putri, "Bentuk Hukum Perusahaan Persekutuan di Indonesia dan Perbandingannya di Malaysia," *Cepalo*, Vol. 4, No. 1 (2020).P. 24

(3) if the fact that an LLP is registered results in harm to the national interest, (4) there is no liquidator to conduct the winding-up of assets in the event of a winding-up or (5) there are no assets left to settle obligations in the event of dissolution.

3.4. Regulations Of Limited Liability Partnership In India

The establishment of the Limited Liability Partnership Act 2008 in India is closely related to the economic growth that occurred in India at that time²⁹. Unlike the previous two countries where the LLP Act was enacted to enhance economic growth, India enacted the LLP Act 2008 because of the rapid economic growth headed by entrepreneurs and professional people. At that time, India had a need to regulate LLPs so as not to be left behind by the advancement of the economy. By referring to the model laws of the UK and Singapore, India successfully passed the LLP Act 2008.

The beginnings of LLPs date back to the 1930s, where talks of this new form of partnership initially suggested only the concept of limited liability partnerships. This was based on the experiences of merchants at the time, where early partnership laws had too many restrictions which resulted in slow development in the field of commerce³⁰. The term LLP itself was only coined in 1997 by the Abid Hussein Committee which eventually became law in 2008 after a drafting process from 2006³¹. It was only in 2021 that there were amendments made by the Indian government to the LLP Act 2008 to become the LLP Act 2021³².

The formation of an LLP in India has several conditions that must be complied with such as the provision of the number of partners when establishing an LLP of at least two partners, where these two partners do not have to be individuals but can also be an organization. In the formation of an LLP, if the initial number of partners is only two individuals then one of them must be a permanent resident of India. Once the requirements regarding the minimum number of partners at the beginning of the formation are fulfilled, the LLP can then be registered with the central government. Once formed, the LLP is required to affix the words "LLP" at the end of the name of the partnership.

The concept of liability adopted by the LLP Act 2008 is limited liability. By using the LLP form of partnership, the partners in the LLP do not have to worry about the risk to their personal assets. In the event of a loss incurred by a partner, the LLP as a partnership is first liable and the partner is only liable to the extent of his/her contribution to the LLP. However, there is an exception, that in the event of a loss due to the actions of an

²⁹ Sen, Nivedita, and Neha Mathen, "Decoding the New Business Vehicle of India: The Limited Liability Partnership," *NUJS Law Review*, Vol. 4, no. 4, October-December (2011), P. 678.

³⁰ Mehul Varshney, "Has The Limited Liability Partnership Provided an Effective Alternative to the complexity of incorporation and the personal risks associated with partnership law," *International Journal of Law Management & Humanities*, Vol. 4 Iss. 4 (2021), P. 663.

³¹ Sen, Nivedita, and Neha Mathen, "Decoding the New Business Vehicle of India: The Limited Liability Partnership," *NUJS Law Review*, Vol. 4, no. 4, October-December (2011), Hlm 676.

³² Sanghavi, Nitya, "Need for Introduction of Limited Liability Partnership in India," *International Journal of Law Management & Humanities*, Vol. 5, 2022, P. 832.

partner who is not authorized to act, the partner may be liable to the extent of his/her personal assets.

Prior to the law, the general partnership model was widely used. So it is possible for the transformation of general partnership, private limited company, and unlisted public company to change into LLP. However, individual companies, societies and trusts may not transform into LLPs³³.

Based on the collection of data from primary and secondary legal sources as written in the previous section, the following is a comparison table between the three countries namely the state of Delaware, the United States, Malaysia and India:

	Delaware, USA	Malaysia	India
Formation	Formed with 2 or more allies.	Formed with 2 or more allies, not necessarily individuals but can be organizations ³⁴ .	Formed with 2 or more allies, not necessarily individuals but can be organizations ³⁵ .
Conversion	Transformation from a general partnership to a limited liability partnership is allowed by fulfilling the documents and requirements reported to the secretariat general.	General partnership, private limited company, and unlisted public company are allowed to transform into LLP.	Transformation from a general partnership to a limited liability partnership is allowed by fulfilling the documents and requirements reported to the secretariat general.
Naming	The naming should end with the words "Registered Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP," or "LLP" ³⁶ .	The naming must end with the words "Limited Liability Partnership" or "PLT".	The naming must end with the words "LLP"
Liability	LLP Liability derived from the wealth of the LLP is separate liability (limited liability) and also liability	The LLP's liability derived from the LLP's wealth is separate liability (limited liability) and also limited	Limited liability of the partnership extends to the allies but only to the extent of their own contributions.

³³ Sen, Nivedita, and Neha Mathen. "Decoding the New Business Vehicle of India: The Limited Liability Partnership." NUJS Law Review, vol. 4, no. 4, October-December 2011, pp. 678

³⁴ Malaysia, Limited Liability Partnership Act 2012, Art. 6.

³⁵ Majmudar, Suvansh. "The Era of Limited Liability Partnership." International Journal of Law Management & Humanities, 4, 2021, pp. 4584-4597. P. 4595

³⁶ National Conference of Commissioners on Uniform State Laws, Uniform Partnership Act (1997), Art. 15-1102.

	limited to what the allies do ³⁷ .	liability to what the allies do with some exceptions.	However, there are certain exceptions.
Taxation	LLPs are taxed as general partnerships are taxed ³⁸ .	The application of tax in LLP in Malaysia tends to provide advantages to the LLP. Even the LLP partnership model tends to be used because of the advantages in the area of taxation ³⁹ .	In terms of taxation, the same concept as general partnership is used so that the one who is liable for tax is the LPP as an entity not an ally with assets in the LLP.

4. CONCLUSION

Until now, Indonesia has not adopted the form of Limited Liability Partnership. It is known that the form of civil partnership in Indonesia that is most similar to the form of Limited Liability Partnership is the form of Persekutuan dengan Firma. However, the Persekutuan dengan Firma adopted in Indonesia still applies the concept of unlimited liability. This means that in the event of a loss suffered by a partnership with a firm due to the fault or negligence of one of the allies, the compensation will not only utilize the assets of the partnership with the firm but also the assets of the partners, even the innocent partners. Therefore, based on the existing facts, it can be concluded that the legal provisions regarding partnership applicable in Indonesia have not been keeping up with the changing times and no longer accommodate the needs of the public. This means that it is time for the government to make a revision, because the existing form of partnership in Indonesia can actually be developed instead of creating a new form of partnership. The Government of Indonesia should start adopting the rules on Limited Liability Partnership in its Laws and Regulations as they tend to be outdated and the current laws do not accommodate the interests of the general public. This should be done to increase protection for the public, both professional and non-professional, in order to avoid the possibility of future harm.

5. REFERENCES

Journals:

Dewi, Yetty Komalasari. (2021). The need to adopt a limited liability partnership for the legal profession in the partnership law: A critical review from Indonesia's perspective. *Cogent Social Sciences*. Vol.7. Hlm. 1-19, Retrieved from <https://doi.org/10.1080/23311886.2021.1999005>.

³⁷ Sen, Nivedita, and Neha Mathen. "Decoding the New Business Vehicle of India: The Limited Liability Partnership." *NUJS Law Review*, vol. 4, no. 4, October-December 2011, P.677.

³⁸ Naylor Joseph S, "Is the Limited Liability Partnership Now the Entity of Choice for Delaware Law Firms." *Delaware Journal of Corporate Law*, Vol. 24, No. 1(1999), p. 153.

³⁹ Abdul Rahman Hamizah et al, "The Changing Aspect of Partnership Business Structure in Malaysia," *Jurnal Intelek*, p. 221.

- Hamizah, Abdul Rahman et al. (2021). The Changing Aspect of Partnership Business Structure in Malaysia. *Jurnal Intelek* : Vol. 16 Iss. 1. hlm. 215-224. Retrieved from <http://10.0.94.127/ji.v16i1.383>.
- Hasanuzzaman, S.W. (1989). Limited Liability of Shareholders: An Islamic Perspective. *Islamic Study*. Vol. 28. Hlm. 353-361. Retrieved from <https://www.jstor.org/stable/20839968>.
- Hillman, Robert W. (1997). Limited Liability In Historical Perspective. *Washington and Lee Law Review*. Vol. 54. Isu. 2. Hlm. 613-627. Retrieved from <https://scholarlycommons.law.wlu.edu/wlulr/vol54/iss2/10>.
- Kusumatrinanda, Veldi. (2023). Perbandingan Hukum Perseroan di Indonesia dan di Malaysia. *UNES Journal of Swara Justitia* : Vol. 10, Isu. 10. Hlm. 626-636. Diakses dari <https://doi.org/10.31933/ujsj.v7i2.376>
- Mathen, Neha, Sen, and Nivedita. (2011). Decoding the New Business Vehicle of India: The Limited Liability Partnership. *NUJS Law Review*: Vol. 4. no. 4. Hlm. 669-689. Retrieved from <https://nujlawreview.org/wp-content/uploads/2016/12/nivedita-sen-neha-mathen.pdf>.
- Miller, Elizabeth S. (2011). The Perils and Pitfalls of Practicing Law in a Texas Limited Liability Partnership. *Texas Tech Law Review* : Vol. 43. Hlm. 563-586. Retrieved from <https://texastechlawreview.org/wp-content/uploads/Miller.pdf>.
- Muslih & Perdana, Andre. (2023). Tinjauan Regulasi Persekutuan Firma dan Persekutuan Komanditer pada Tatanan Hukum Indonesia. *Justicia Sains: Jurnal Ilmu Hukum* : Vol. 08, No. 01. Hlm. 164-183. Retrieved from <https://doi.org/10.24967/jcs.v8i1.2148>.
- Naylor, Joseph S. (1999). Is the Limited Liability Partnership Now the Entity of Choice for Delaware Law Firms. *Delaware Journal of Corporate Law*: Vol. 24, No. 1. Hlm 145-168.
- Nitya, Sanghavi. (2022). Need for Introduction of Limited Liability Partnership in India. *International Journal of Law Management & Humanities*: Vol. 5 (2022). Hlm. 830-845. Retrieved from <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ijlmhs20&div=73&id=&page=>.
- Putri, Rizha Claudilla. (2020). Bentuk Hukum Perusahaan Persekutuan di Indonesia dan Perbandingannya di Malaysia. *Cepalo*: Vol. 4, No. 1. Hlm. 15-28. Retrieved from <http://jurnal.fh.unila.ac.id/index.php/cepalo>.
- Salim, Mohammad Rizal. (2017). Limited Liability Partnership in Malaysia: A Corporate Governance Perspective. *I.C.C.L.R.*; Vol. 24, Issue 12. hlm. 421-427. Retrieved from <https://dx.doi.org/10.2139/ssrn.2329493>.
- Susetyo, Herman. (2021). Kedudukan Firma Dan CV Beserta Anggota Sekutunya Dalam Hukum Kepailitan. *Law, Development & Justice Review* : Vol.4, No.1. Hlm. 70-80. Retrieved from <https://doi.org/10.14710/ldjr.v4i1.11958>.
- Suvansh, Majmudar. (2021). The Era of Limited Liability Partnership. *International Journal of Law Management & Humanities*: Vol. 4. hlm. 4584-4597. Retrieved from <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ijlmhs11&div=403&id=&page=>.
- Wiratama, Mohammad Ghalib. (2023). Perbandingan Pertanggungjawaban para sekutu persekutuan perdata dan sekutu firma. *Jurnal Bevinding* : Vol 01, No. 08. Hlm. 46-59. Retrieved from <https://journal.uniba.ac.id/index.php/JPB/article/view/658>.

Books:

- Davies, Sarah Worthington, and Christopher Hare. (2021). *Gower Principles of Modern Company Law*, ed. 11. London: Thomson Reuters Sweet-Maxwell.
- Harahap, Yahya. (2019). *Hukum Perseroan Terbatas*, Cet ke-7. Jakarta: Sinar Grafika.
- Komalasari Dewi, Yetty. (2017). *Hukum Persekutuan di Indonesia: Teori dan Kasus*. Depok: Badan Penerbit FHUI.
- Muhammad, Abdulkadir. (2010). *Hukum Perusahaan Indonesia*, Cet. Ke-4. Bandung: Penerbit PT Citra Aditya Bakti.
- Sardjono, Agus, et.al. (2019). *Pengantar Hukum Dagang, Ed. 1, Cet.5*. Depok: Penerbit FHUI.

Decisions:

- Pengadilan Negeri Jakarta Selatan. Putusan No. 410/Pdt. G/2013/PN Jak. Sel. *Sumatra Partners LLC melawan ABNR Law Firm* (2013).

Internet:

- Hukum Online. "Kantor Advokat Indonesia Perlu Adopsi Konsep LLP." <https://www.hukumonline.com/berita/a/kantor-advokat-indonesia-perlu-adopsi-konsep-llp-lt552f64cada06c/>. Diakses pada 15 December 2023.
- Hukum Online. "Kantor Advokat Indonesia Perlu Adopsi Konsep LLP." <https://www.hukumonline.com/berita/a/kantor-advokat-indonesia-perlu-adopsi-konsep-llp-lt552f64cada06c/>. Diakses pada 15 December 2023.
- Otoritas Jasa Keuangan. "Asuransi Tanggung Gugat," <https://sikapiuangmu.ojk.go.id/FrontEnd/CMS/Article/102>. Diakses pada tanggal 16 December 2023.

Regulations:

- Malaysia, Limited Liability Partnership Act 2012.