

CORPORATE SOCIAL RESPONSIBILITY (CSR) EFFICIENCY APPROACH WITH THE ESTABLISHMENT OF A STATE INSTITUTION MANAGING FUNDING AND CSR PROGRAMS

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Abstract

CSR is an activity that provides broader benefits in various social aspects such as education, health, community empowerment or environmental preservation. CSR actions applied as a strategy will only cause irregularities in the use of funds owned by the company which can trigger to damage to the company's financial performance. This is thought to be due to the fact that there are quite a lot of funds budgeted with the CSR implementation, which is not supervised, which causes inefficiency. This study aims to determine and analyze the provisions of the laws and regulations that govern CSR related to the obligations of Limited Liability Companies in the Indonesian legal system and to find out and analyze the implementation of company obligations to implement CSR in Indonesia and find solutions to corporate liability arrangements such as Limited Liability Companies (PT), Enterprises. Micro, Small and Medium Enterprises (UMKM) and other businesses carry out CSR to be useful in accordance with that CSR. The approach used is the Legislative Law approach and the case approach. From the research results it is known that 1). CSR regulations concerning the obligation of PT to implement it in the Indonesian legal framework are regulated in several laws but there are 2 (two) laws that specifically regulate CSR but the two laws are inconsistent with regard to sanctions if these obligations are violated, 2) Implementation of PT obligations implementing CSR in Indonesia is a program carried out by the company that is not in accordance with the community needs, is carried out individually, is moving and it's not sustainable, there is no provision that regulates the amount of funds and there is no supervision from the local government in managing CSR. The occurrence of overlapping laws and regulations so that the implementation of the CSR program does not match the policies issued by the local government. CSR funds are misused and even corrupted by local officials and there is no evaluation by the company because it is more concerned with profit in carrying out CSR. 3). Regulating company obligations such as Limited Liability Companies (PT), Micro, Small and Medium Enterprises (MSMEs) and other businesses implementing CSR so that it is useful, it is necessary to establish a state institution that manages CSR and accommodates the companies', governments and society interests so that the CSR program can run efficiently, precisely targeted and continuously.

Keywords: *Efficiency, Social Responsibility, State Institution*

1. INTRODUCTION

The CSR concept or social and environmental responsibility is a form of corporate responsibility with the government to address social problems that occur in society. CSR is a commitment from the business community to contribute to community development both in social, economic and environmental aspects. In the past, the responsibility for overcoming social problems was entirely the responsibility of the government, because the business world

has contributed to the community in the form of providing labor, meeting community needs through products produced by companies and paying taxes to the state¹.

CSR actions applied as a strategy will only cause irregularities in the funds usage owned by a company which can trigger to damage to the company's financial performance. This is presumably because the budgeted funds are quite a lot with the CSR implementation which is not supervised, which causes inefficiency. The CSR implementation that is not supervised has resulted in the misuse of funds used for opportunistic behavior by the implementers of the CSR².

The potential for corporate social responsibility (CSR) funds to reduce the poverty rate per year reaches IDR 20 trillion. With this potential, Indonesia actually does not need to borrow from abroad. However, CSR funds are still not fully managed in a directed manner. The potential comes from CSR State-Owned Enterprises and around 700 private companies. The amount of CRD funds from BUMN is set at the amount of CSR at 5 percent of profits, while for the private sector the percentage is not determined but it is required to set aside a portion of the profit for CSR³. Apart from the central government budget and CSR funds, there is actually another potential, namely the local government role. The role of funds from local governments is only around 12 percent.

Currently, CSR distribution lacks synergy with local government programs, so it is necessary to organize the management of CSR funds so that they are right on target. The distribution of CSR funds must be even and sustainable. The fund distribution can be managed by the company itself, but it must be in accordance with the vision and mission of the company's domicile area and the funds are channeled not only in the fields of education, health, economy and the environment. In order for the CSR implementation to run efficiently, a state institution that is capable of realizing the community welfare is needed, so that the issuance of CSR funds does not only carry out company obligations in regulations / laws, but also issues CSR as a tangible manifestation of the Company's contribution to participate in the welfare of the nation and patriotic life.

Based on the description that has been described in the background as stated above, the researchers identified several problems in this study in the following matters:

1. What are the laws and regulations governing CSR related to the obligations of a Limited Liability Company (PT) in the Indonesian legal framework?
2. How is the implementation of the obligations of a Limited Liability Company (PT) to implement CSR in Indonesia?
3. How should the regulation of company obligations such as Limited Liability Companies (PT), Micro, Small and Medium Enterprises (MSMEs) and other businesses carry out CSR so that it is useful in accordance with the CSR?

¹ Yusuf Wibisono, *Membelah Konsep Dan Aplikasi Corporate Social Responsibility* (Gresik: Fascho Publishing, 2007), 4.

² Farah Margaretha and Chandra Gunadi Witedjo, "Corporate Social Responsibility, Nilai Perusahaan Dan Kinerja Keuangan Perusahaan," *Media Riset Akuntansi, Auditing dan Informasi* 14, no. 1 (May 3, 2017): 89–114, <http://www.trijurnal.lemlit.trisakti.ac.id/index.php/mraai/article/view/1754>.

³ I Made Asdhiana, "Dana CSR Belum Dikelola Optimal," *Kompas*, last modified 2010, <https://lifestyle.kompas.com/read/2010/10/20/21513650/dana.csr.belum.dikelola.optimal>.

2. RESEARCH METHODS

2.1. Theoretical Framework

a. Theory of Welfare State

In general, Welfare State concept can be classified as follows:

1. Ramesh Mishra, Lawrence M. Friedman and M Boekman, Welfare State is the responsibility and state obligation which includes: (1) Fulfilling basic needs of life (basic needs); (2). Social services, and (3). Market economy intervention.
2. Meanwhile, according to Ross Cranston, Welfare State is more focused on the state responsibility in the welfare of its citizens in meeting basic needs and social services.
3. Wilhelm Aubert gave the definition of Welfare State only as a state obligation in fulfilling citizens' rights related to fulfilling basic needs. New state obligations arise when there are claims from citizens who claim these rights.

In this concept of the Welfare State, the state is required to expand its responsibilities to the socio-economic problems faced by the people at large.

b. Theory of Legal State

Muhammad Yamin uses the same words of law state as *rechtsstaat* or government of law, as quoted from the following opinion: "the police or military state, where the police and soldiers hold the government and justice, is also not the Republic of Indonesia is a state of law (*rechtsstaat*, government of law). where written justice place prevails, it is not a state of power (*machtsstaat*) in which the arms and power of the body perform arbitrarily⁴.

Hadjon⁵, John divides the laws rule into two terms, i.e. *rechtsstaat* and the rule of law, which are supported by a different legal system background. The term *Rechtsstaat* is a thought to oppose absolutism, which is revolutionary in nature and rests on a continental legal system called civil law. On the other hand, the rule of law develops in an evolutionary manner, which rests on the common law legal system. However, the difference between the two is now no longer questionable, because it leads to the same goal, i.e. the protection of human rights.

Although there is a difference in the understanding background between *rechtsstaat* or *etat de droit* and the rule of law, it cannot be denied that the presence of the term "rule of law" or in terms of the explanation of the 1945 Constitution is called "a state based on law (*rechtsstaat*)", cannot be separated from the influence of these two ideologies. The concept of a rule of law (*rechtsstaat* or the rule of law), which contains the principle of legality, the principle of separation (division) of power, and the principle of independent judicial power, all of which aim to control the state or government from the possibility of acting arbitrarily, tyrannically, or abuse power.

⁴ Margaretha and Witedjo, "Corporate Social Responsibility, Nilai Perusahaan Dan Kinerja Keuangan Perusahaan," 72.

⁵ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Sebuah Studi Tentang Penanganannya Oleh Pengadilan Dalam Lingkungan Peradilan Umum Dan Pembentukan Peradilan Administrasi Negara* (Surabaya: Bina Ilmu, 1982), 72.

2.2. Concepts

a. Concept of Legal Body

The importance of describing the parts of the concept of a legal entity aims to describe every aspect of a legal entity which is a legal subject formed by a group of people authorized by the government through laws and regulations. Legal subjects have a very important position and role in the law field, especially civil law because these legal subjects can have legal authority. The term legal subject comes from the Dutch translation, i.e. *rechtsubject* or law of subject (English). In general, *rechtsubject* is defined as supporting rights and obligations, namely humans and legal entities⁶.

The subject of law is anything that basically has rights and obligations in legal traffic. What is included in the legal subjects definition is: human (*natuurlijke person*) and legal entity (*rechtspersoon*), such as for example PT (Limited Liability Company), PN (State Company) / BUMN (State-Owned Enterprise), Foundation, Government Agencies and so on⁷.

According to Sri Soedewi Masjchoen⁸, a legal entity is a group of people who jointly aim to establish an entity, i.e.: (1) in the form of an association, and (2) assets that are isolated for a specific purpose, and are known as foundations. Meanwhile Salim H. S.⁹ has an the opinion that a legal entity is a group of people who have certain goals (the direction to be achieved), assets, as well as rights and obligations. Based on the description, it can be argued that the elements of a legal entity include: (1) Having an association; (2) Have a specific purpose; (3) Having assets; (4) Have rights and obligations; and (5) Has the right to sue and be sued.

b. Concept of State Institution

State institutions are sometimes referred to as government agencies, non-departmental government agencies, or only state institutions. Some were formed based on or because they were given powers by the Constitution, some were formed and got their powers from the laws, and some were even formed based on a Presidential Decree.

Montesquieu introduced the five functions of state power. The five are (i) the diplomatic function; (ii) indencie function; (iii) nancie function; (iv) the justicie function; and (v) the policie function¹⁰. By John Locke at a later date, the conception of state power was divided into four, i.e. (i) legislative function; (ii) executive; (iii) federative functions. For John Locke, the judiciary function was included in the executive function or government, however, by Montesquieu it was separated by itself, while the federative function was considered as part of the executive function.

⁶ Titik Triwulan Tutik, *Hukum Perdata Dalam Sistem Hukum Nasional* (Jakarta: Prenada Media Group, 2008), 40.

⁷ A. Ridwan Halim, *Hukum Perdata Dalam Tanya Jawab*, 2nd ed. (Jakarta: Ghalia Indonesia, 1985), 29.

⁸ H. S. Salim, *Pengantar Hukum Perdata Tertulis (BW)* (Jakarta: Sinar Grafika, 2008), 26.

⁹ Ibid.

¹⁰ Lukman Hakim, "Rekonstruksi Peran Negara Dalam Penyelenggaraan Negara Secara Konstitusional," *Masalah-Masalah Hukum* 40, no. 2 (2011): 248, <https://ejournal.undip.ac.id/index.php/mmh/article/view/10476>.

Therefore, in the trias politica Montesquieu, the three functions of state power consist of (i) legislative functions; (ii) executive functions; and (iii) judicial function yudisial¹¹.

In accordance with the principle that the Indonesian state adheres to a system of power separation, with this system of powers separation, state institutions become powers that are designated as functions of state institutions that are equal and control one another¹². So state institutions have separate powers from other state institutions. This is intended so that there is no monopoly of power over the authority of other state institutions, in accordance with the principle of checks and balances.

c. Efficiency Concepts

In general, efficiency can be directed to a concept of achieving an outcome with optimal resources usage. According to Ibnu Syamsi¹³, efficiency is the best comparison between a result and its effort. This comparison can be seen from two aspects of results and effort. Adiwarman A. Karim said that "Efficient is doing the things right", which means that doing everything in the right way to get optimal results. Efficiency is a success measurement that is assessed in terms of the amount of resources / costs to achieve the results of the activities carried out.

d. Concept of Corporate Social Responsibility

The CSR concept has been adopted by many companies, both domestic and multinational. However, debates around the corporate paradigm still accompany the application of this concept. The discourse dichotomy that emphasizes market or profit with stakeholder priorities with moral arguments that pay attention to stakeholders, has yet to find a conceptual solution. The group that refuses to argue that the company is a profit-seeking organization and not a person or group of people like social organizations. On the other hand, groups that support CSR argue that companies should not only be thinking about profit for the company. But also, must have concern for the society, especially the people who live around company¹⁴.

The CSR concept is also based on moral arguments. Not a single company lives in a vacuum and lives in isolation. Carrying out social responsibility normatively is a moral obligation for any type of company. When a company as a new community intervenes in local communities, it is imperative to adapt and contribute, because its existence has had both positive and negative impacts.

¹¹ Jimly Asshiddiqie, *Perkembangan & Konsolidasi Lembaga Negara Pasca Amandemen* (Jakarta: Sinar Grafika, 2010), 29.

¹² Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia* (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi Republik Indonesia, 2006), 58.

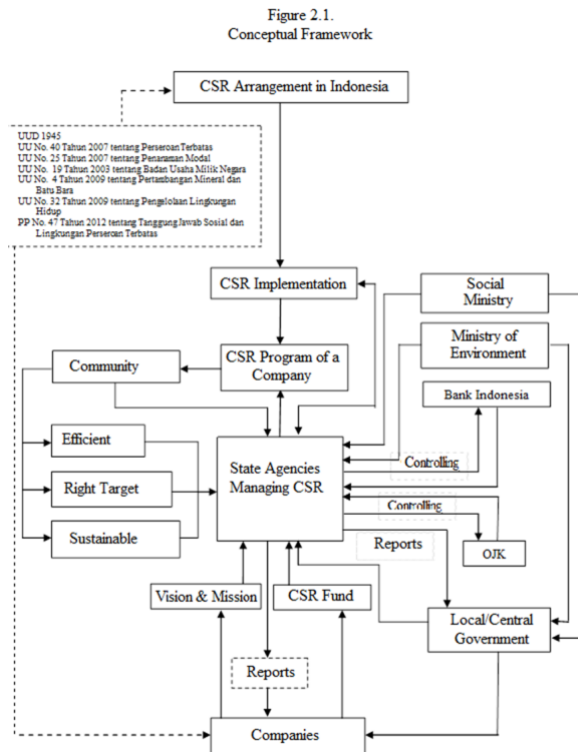
¹³ Ibnu Syamsi, *Efisiensi, Sistem, Dan Prosedur Kerja* (Jakarta: PT. Bumi Aksara, 2004), 4.

¹⁴ Ujang Rusdianto, *CSR Communications* (Yogyakarta: Graha Ilmu, 2013), 9.

2.3. Conceptual Framework and Library Review

2.3.1 Conceptual Framework

The conceptual framework in this study is described as follows:



2.3.2 Library Review

2.3.2.1 Corporate Social Responsibility

The presence of CSR in the company's business is in line with the globalization development. This can be seen from the existence of¹⁵: Risk management; Protecting and enhancing the company's reputation and image; Build trust and a license to operate for companies; Increase the efficiency of existing resources and increase access to capital; Respond to or comply with applicable regulations; Fostering good relationships with stakeholders such as employees, consumers, business partners, socially responsible investors, regulators and the communities in which the company operates; Encourage innovative thinking; and Build opportunities to follow future markets.

Sony Keraf divides the contents of corporate social responsibility into two categories, i.e.¹⁶:

1. Concerning primary relationships, for example fulfilling contracts that have been made with other companies, fulfilling promises, paying debts, providing satisfactory services to consumers and customers, being responsible for offering goods and services to the community with good quality, paying attention to employee rights, employees' welfare and their families, improve employee skills and education and so on.

¹⁵ Kristina K. Hermann, "Corporate Social Responsibility and Sustainable Development: The European Union Initiative as a Case Study," *Indiana Journal of Global Legal Studies* 11, no. 2 (2004): 207, <https://www.repository.law.indiana.edu/ijgls/vol11/iss2/6/>.

¹⁶ Sony Keraf and Robert Haryono Imam, *Etika Bisnis* (Yogyakarta: Pustaka Filsafat Kanisius, 1993), 97–98.

2. Against secondary relations. Responsible for the operation and impact of the business on society in general, for social problems, such as: employment, education, social infrastructure and taxes.

According to Kotler and Lee in Poerwanto¹⁷, CSR is a commitment to improve community welfare through business policy practices and with engagements from company sources, meanwhile John Elkington issued a bottom line concept, that in CSR it must still pay attention to the 3Ps, i.e.: (1) Profit. Companies must still be oriented to seek economic benefits that allow them to continue to operate and develop (2) People. Companies must have concern for human welfare, especially for residents around the company (3) Planet. The company cares for the environment and sustainable biodiversity. Some other thoughts about CSR were also born from world organizations such as The World Business Council for Sustainable Development, defining CSR as a commitment from the business world to continue to act ethically, operate legally and contribute to economic improvement, along with improving the quality of life of employees and their families at the same time while also enhancing the quality of local communities and society at large¹⁸.

Wibisono¹⁹, there are four stages of CSR, i.e. 1. Planning stage, 2. Implementation stage, 3. Evaluation phase and 4. Reporting. While benefits according to Wibisono are as follows: (1) Influencing and enhancing the company's reputation and brand image (2) Eligible for a social license to operate (3) Reducing the company's business risk (4) Expanding access to resources (5) Expanding access to the market (6) Reducing costs (7) Improving relations with stakeholders (8) Improving relations with regulators (9) Increasing employee morale and productivity (10) Opportunity to get rewards.

2.3.2.2 Establishment of State Institutions

The objective of the establishment of State Institutions in Indonesia is to realize that sovereignty is in the hands of the people and implemented according to the 1945 Constitution. The manifestation is carried out by forming in the 1945 Constitution state institutions that will assist the government to achieve common goals for the benefit of the state. The state institutions function is to assist the government in realizing its goals to build the Unitary State of the Republic of Indonesia to become a developed country and to build welfare in society in providing facilities to the community and to achieve various other goals that the government has.

2.4. Research Methods

This research is empirical-normative legal research. Empirical-normative legal research is legal research on the application of normative legal provisions (codification, law or contract) in action at any particular legal event that occurs in society²⁰. The approaches used in legal

¹⁷ Poerwanto, *Corporate Social Responsibility: Menjinakkan Gejolak Sosial Di Era Pornografi* (Yogyakarta: Pustaka Pelajar, 2010), 18.

¹⁸ Wibisono, *Membelah Konsep Dan Aplikasi Corporate Social Responsibility*, 7.

¹⁹ *Ibid.*, 121–124.

²⁰ Abdulkadir Muhammad, *Hukum Dan Penelitian Hukum* (Bandung: P.T. Citra Aditya Bakti, 2004), 134.

research are the statute approach, the case approach, the historical approach and the conceptual approach²¹.

As for the interviewees as a subject of this study consisted of internal and external parties. Internal parties in this study were taken from the company while external parties were taken from the party where the CSR was carried out. Internal parties are companies that implement CSR, large companies are taken by 2 (two companies), medium companies are taken by 2 (two companies) and 2 (two) small companies, i.e. SMEs and private companies. Internal parties in this study were PT (Persero) Pertamina Tbk, PT Maybank Indonesia Tbk, PT Gunung Sawit Bina Lestari (GSBL), PT Tugu Pratama Indonesia, UKM Batik Pandak and PT Gold Coin Specialties. Meanwhile, the internal government officials in the regions who are deemed authorized to provide an assessment of the CSR implementation taken by each 1 (one) person at the location (where) the CSR is carried out.

There are two types of data used in this study, i.e. primary data and secondary data. Primary data is data obtained by researcher from the first source, either individual or individuals, such as the of interview results usually conducted by researcher. In this study, the primary data is data related to promotion, image differentiation and interest. To obtain this data, the researcher conducted interviews with the Company. Secondary Legal Materials, i.e. legal materials that provide instructions and explanations for primary legal materials, consisting of literature books, papers, articles, legal journals containing research results and other scientific works related to this research. Tertiary legal materials, namely legal materials that provide guidance and explanation for primary and secondary legal materials.

Data collection techniques used in this study were library research and field research. The processing procedure in normative juridical legal research is the processing of legal materials, namely primary legal materials, secondary legal materials and tertiary legal materials as well as data from interviews with research sources. The data analysis technique used in this study is to use a qualitative approach, namely a discussion that is carried out by combining library research and field research.

3. ANALYSIS AND DISCUSSION

3.1. CSR Arrangement in Indonesian Legal Order

a. Laws Number 40 Year of 2007 concerning Limited Liability Companies

Article 1 point 3 of Law Number 40 Year 2007 concerning Limited Liability Companies states that CSR is a "corporate commitment". However, Article 74 paragraph (1) and paragraph (2) of Law Number 40 of 2007 concerning Limited Liability Companies formulates it as an obligation for companies to carry out CSR and is obliged to budget for CSR costs which also creates confusion, because CSR is defined as if it was only an activity which occurs as an expense only. Meanwhile, in practice, there are so many CSR activities that do not always have cost consequences, and can even save costs, such as energy and water saving efforts, community empowerment by involving microfinance institutions and treating employees more humanly²².

²¹ Peter Mahmud Marzuki, *Penelitian Hukum*, Revisi. (Jakarta: Kencana, 2010), 93.

²² Mukti Fajar, *Tanggung Jawab Sosial Perusahaan Di Indonesia, Mandatory vs Voluntary, Study about Application of Corporate Social Responsibility Provisions on Multi Nasional Company, Swasta Nasional Dan Badan Usaha Milik Negara* (Yogyakarta: Pustaka Pelajar, 2009), 307.

b. Laws Number 25 Year of 2007 concerning Capital Investment

Investment in the Capital Investment Law No. 25 of 2007, Article 1 point 1 states that "Investment is all forms of investment activities, either by domestic investors or foreign investors to conduct business in the territory of the Republic of Indonesia". The presence of the Investment Law No. 25 of 2007 concerning Investment is expected to be able to provide fresh air to investors and provide an exciting investment climate.

Implementation of CSR obligations as stipulated in Law no. 25 of 2007 concerning Investment, Article 15 letter b states "Every investor is obliged to carry out corporate social responsibility". If this is not done, administrative sanctions in the form of written warnings, restrictions on business activities, suspension, and revocation of business activities and/or investment facilities can be imposed (Article 34 paragraph (1) of Law No. 25 of 2007). Meanwhile, what is meant by "corporate social responsibility" is the responsibility inherent in every investment company to continue to create harmonious, balanced relationships and in accordance with the environment, values, norms and culture of the local community²³.

c. Laws Number 19 year of 2003 concerning State-owned Enterprises

Law No. 19 of 2003 concerning State-Owned Enterprises and Regulation of the Minister of BUMN No. PER-05 / MBU / 2007 concerning the Partnership Program for State-Owned Enterprises with Small Businesses and the Community Development Program regulates the obligation to carry out corporate social responsibility for BUMN. Law No. 19 of 2003 concerning State Owned Enterprises does not explicitly regulate corporate social responsibility, Article 88 paragraph (1) only regulates the provision of profits for the purposes of fostering small businesses / cooperatives as well as fostering communities around BUMN.

d. Laws Number 32 year of 2009 Concerning Protection and Management of the Environment

Article 68 of Law 32/2009, every person conducting a business and/or activity is obliged to include: a. provides information related to environmental protection and management in a true, accurate, open and timely manner; b. maintaining the sustainability of environmental functions; and c. comply with the provisions on environmental quality standards and/or environmental damage standard criteria.

e. Laws Number 22 Year of 2001 concerning Oil and Natural Gas

This is stated clearly in Law No. 22 of 2001 on Oil and Gas. The upstream business activities carried out by a Business Entity or Permanent Establishment based on a Cooperation Contract with the Implementing Body must contain basic provisions, one of which is the provision regarding the development of the surrounding community and the

²³ DJPP, "Tanggung Jawab Sosial Perusahaan Dan Iklim Penanaman Modal," *Departemen Hukum Dan HAM Republik Indonesia*, accessed May 18, 2020, <http://www.djpp.depukumham.go.id/hukum-bisnis/84-tanggung-jawab-sosial-perusahaan-corporate-social-responsibility-dan-iklim-penanaman-modal.html>.

right guarantee of indigenous peoples (Article 11 paragraph (3) letter p Law 22/2001). In addition, Article 40 paragraph (5) of Law 22/2001 also states that business entities or permanent establishments that carry out Oil and Gas business activities (upstream business activities and downstream business activities) are also responsible for developing environment and local communities. The community development program for oil and gas industrial area by State-Owned Enterprises (BUMN) and Private-Owned Enterprises (BUMS) is more voluntary, now the community development program is legally mandatory.

f. Laws Number 4 year of 2009 concerning Pertambangan Mineral and Coal Mining

Law No. 4 of 2009 concerning Mineral and Coal Mining uses term "community empowerment". "Community empowerment is an effort to improve the capacity of the community, both individually and collectively so that their life level will be better"²⁴. This community empowerment seems to only emphasize increasing community capacity (social aspect). Added later in Article 8 paragraph (1) letter g: "The authority of the Regency / City government in the management of mineral and coal mining includes: (g) development and empowerment of local communities in mining businesses with due regard to environmental sustainability". So community empowerment does not only emphasize social aspects but also environmental aspects. Mining business licenses consist of two stages: (a) IUP Exploration includes general investigation, exploration and feasibility studies; (b) A Production Operation IUP includes construction, mining, processing and refining activities, as well as transportation and sales.²⁵

g. Legislation Problems and Constraints in the Implementation of CSR

Analysis of a number of laws and regulations that include the issue of corporate social responsibility, there is a mismatch in the concept and mechanism of implementing corporate social responsibility. These laws and regulations seem to complement each other, but there are different concepts that occur. The variety of CSR arrangements in positive law in Indonesia as stated above raises problems including the following: a. Legal uncertainty regarding the CSR implementation patterns, b. Legal uncertainty regarding the pattern of CSR fund allocation, c. Overlapping CSR obligations, d. Certainty of CSR obligations for companies that are not legal entities (not PT), and e. CSR implementation obligations are not predictable.

3.2. Implementation of Obligations of Limited Liability Companies Implementing CSR

Several forms of CSR implementation from companies in Indonesia, both large, small and medium companies.

a. PT (Persero) Pertamina Tbk

Pertamina manages Environmental Social Responsibility (TJSL) activities which include the Corporate Social Responsibility (CSR) program, Community Development program (BL) and the Partnership Program (PK). Strategic objective of Pertamina's CSR

²⁴ Article 1 number 28. Indonesia, *Law Number 4 Year 2009 Concerning Mineral and Coal Mining*, 2009.

²⁵ Article 36 paragraph (1) Law Number 4 Year 2009 concerning Mineral and Coal Mining.

program is to increase Pertamina's reputation and credibility through CSR activities that are integrated with business strategies. To achieve this goal, Pertamina implements major strategies, such as²⁶: a. Provide mutual benefits (fair shared value), b. Continuous, and c. Priority of operating areas and affected areas and Green energy development as responsibility for the impact of operations.

Effective socialization and publication In 2016, Pertamina focused on implementing CSR to support the PROPER achievement by prioritizing environmental aspects, both nature and society according to the requirements set by the Proper Council (Indonesian Ministry of Environment and Forestry). Pertamina's CSR focuses on four issues that become its pillars, i.e.: Pertamina Cerdas, Pertamina Sehati, Pertamina Hijau and Pertamina Berdikari. Arya Yusa Dwicandra²⁷ as Acting Unit Manager Communication, Relations, & CSR MOR VI Pertamina obtained information that legal provisions requiring companies to carry out CSR programs and activities are based on Law Number 40 of 2007 concerning Limited Liability Companies, Article 1 paragraph (3) of social and environmental responsibility is the company's commitment to participate in sustainable economic development in order to improve the quality of life and a beneficial environment, both for the company itself, the local community, and society in general.

b. PT Maybank Indonesia Tbk

Maybank Indonesia is committed to actively contributing to the socio-economic development of the community and the environment through various Corporate Responsibility (CR) programs. This commitment is a reflection of company's awareness as a business entity that has a concern for sustainable development.

Maybank Indonesia Tbk designed a social responsibility program based on the four guiding principles of CR, i.e. Community, Environment, Workplace and Marketplace. We build Maybank Indonesia's commitment to community empowerment and welfare based on the five pillars that guide the planning and implementation of Corporate Social Responsibility (CSR), i.e.: education, community empowerment, activities to support healthy living, preservation of arts and culture, and conservation of environment while still having sensitivity to situations that occur in the homeland such as in the event of a natural disaster²⁸.

c. PT Gunung Sawit Bina Lestari

PT Gunung Sawit Bina Lestari feels obliged to carry out the planned program after they get the benefits which can then be set aside for carrying out the CSR programs that have been made. Based on an interview with Ramli Sutanegara, based on Article 74 paragraph (1) of Company Law, there are 2 (two) criteria for the activity sector which obliges the Company to implement the CSR, i.e.: a. Companies that run their business in the field of natural resources, b. Companies that carry out their business

²⁶ Pertamina, "Tanggung Jawab Sosial Perusahaan," accessed October 1, 2019, <https://www.pertamina.com/id/tanggung-jawab-sosial-perusahaan>.

²⁷ Arya Yusa Dwicandra, interview by author, Cilacap, October 29, 2019.

²⁸ Maybank Indonesia, "Corporate Responsibility," accessed November 15, 2019, <https://www.maybank.co.id/corporateinformation/csr>.

activities related to natural resources. The provisions of Article 74 of the Company Law are intended to continue to create Company relationships that are harmonious, balanced and in accordance with the environment, values, norms and culture of the local community.

Ramli Sutanegara²⁹ said that the CSR Program run by Gunung Sawit is GSBL-Peduli Bersama Masyarakat to Support Village Development. The basis for implementing CSR activities in addition to the laws regulation which are the company's obligations are also related to the concept of sustainable development, due to the absence of standard rules and the same understanding of community empowerment, most corporations in Indonesia have not implemented true CSR principles.

d. PT Tugu Pratama Indonesia

In order to integrate CSR programs into corporate business activities, TPI is committed to: 1). Provide benefits of educational scholarships 2). Contributing to the improvement, especially in the areas of community economic empowerment, environmental conservation and greening (green environment), natural disaster emergency-response, health, religion, social culture, youth and sports, as well as nationalism / patriotism (development of moral values, fighting values or nationality values). 3). Prioritizing beneficiaries or contributions around the area closest to the company's operations and Shareholders, or those directly related to the impact of company activities. 4). Increase the Company's positive reputation, efficiency and business growth.

TPI is committed to realizing optimal financial performance and company growth, by consistently minimizing the company's negative impact on the environment and making a positive contribution to sustainable community development.

e. UKM Batik Pandak

MCMEs Batik in Pandak Bantul mostly have regular customers, they supply to several painting galleries and batik shops in Yogyakarta city. Based on the results of the author's interview with Supriyono³⁰ it is known that the mission of the Company (MKB) in implementing CSR is to transmit positive things and help provide alternative solutions to social problems to the community, especially people from pre-prosperous families and in the neighborhood where the company (MCB) is located, operated. The management of CSR activities carried out by companies (MCB) aims to improve the life quality of workers and their families, as well as local communities and society at large in managing CSR funds, it depends on the programs or activities created by these MCB.

²⁹ Ramli Sutanegara, interview by author, Jakarta, November 15, 2019.

³⁰ Supriyono, interview by author, Yogyakarta, November 21, 2019.

f. PT Gold Coin Specialities

Based on the interview with Heriyana³¹, a company cannot be separated from the social responsibility of the power holders in a company. This responsibility is a contribution from the company for the surrounding environment or the general public. The CSR program also aims to raise awareness of its employees to share with each other and have a sense of care and empathy for those in need. Employee concern for sharing is still very low. The purpose of the company's CSR program is to raise this awareness. This is in line with the opinion of Lia Erlina who in the interview said that the program was a strategy that many companies had taken in resolving, depoliticizing, and hiding conflicts. A CSR program that is properly implemented for the benefit of local residents will be able to minimize disputes, conflicts, or potential conflicts between the company and the community.

3.3. Some Cases in Implementing CSR Program

Some cases in the implementation of the CSR program include the following:

- a. PT Hutama Karya³² has been included in the list of the Supreme Audit Agency regarding the management of funds for the Community Development Program which has caused a number of problems. Program Bina Lingkungan of state-owned enterprises (BUMN) which has covered eight activity sectors since 2012, has largely failed to achieve its objectives. The program was then transferred to the paddy field printing program, sorghum development, and cow breeding.
- b. PT Ophir Medco Energy Company's CSR program³³ took place in Sumenep, which resulted in an action taking the road in front of the Sumenep DPRD building. The community considers that the CSR from the oil and gas company is considered to be of no benefit to the welfare of the local community.
- c. The case of misuse of PT Vale's CSR funds was revealed by a report from the Central Sulawesi Regional Youth Care Front (FPPD) which reported Central Sulawesi Governor Longki Djanggola to the Corruption Eradication Commission. Longki was reportedly related to the alleged corruption of PT Vale Indonesia's Corporate Social Responsibility (CSR) funds worth Rp 11.7 billion and dozens of other project cases.
- d. Misuse of CSR funds occurs in PT Sang Hyang's CSR funds, the Majalengka District Prosecutor's Office has named Ras a suspect in the alleged corruption of PT Sang Hyang Seri's 2014 CSR funds, around Rp. 2.6 billion.

3.4. Obstacles of CSR Giver (Company)

- a. lack of company commitment to social responsibility
- b. there is no division involved in implementing CSR management

³¹ Heriyana, interview by author, Bekasi, November 8, 2019.

³² Singgih Soares, "Dugaan CSR Salah Sasaran, BPK Periksa Hutama Karya," *Tempo*, last modified 2019, accessed November 12, 2019, <https://bisnis.tempo.co/read/670518/dugaan-csr-salah-sasaran-bpk-periksa-hutama-karya/full&view=ok>.

³³ Ara, "CSR KKS PT Ophir Dinilai Salah Sasaran, Warga Giligenting Demo," *Kabar Madura*, last modified 2019, accessed November 12, 2019, <https://kabarmadura.id/csr-kks-pt-ophir-dinilai-salah-sasaran-warga-giligenting-demo/>.

- c. lack of budget
- d. the implementation time is not in accordance with the budget disbursement process
- e. understanding of social responsibility is not optimal
- f. is not considered a responsibility, but rather to promote and promote corporate identity in society
- g. many are charitable so they are not productive

3.5. Obstacles from region (Regional Government)

- a. The local government with the company's target in the CSR program is sometimes not in line.
- b. Many companies are established in a certain area but divert their CSR programs to other areas.
- c. Local governments have difficulty or do not have the ability to communicate with companies, so that in every activity, there is no community participation and the business world in the program success.

3.6. Obstacles from CSR Users (Community)

- a. The community in general prefers instant assistance and is in the form of materials or goods.
- b. less disciplined community responsibility

3.7. Solution

- a. CSR funds must be properly organized according to regional needs. If in the area there are no signals that make it difficult for the community to communicate, that is the duty of the CSR funds to be used for communication procurement.
- b. In order for the implementation of CSR programs to run more efficiently, on target and sustainably, SMEs that carry out CSR must always be open to collaborating with similar SMEs or those that become business partners to jointly build a joint CSR program.
- c. In order for the CSR Program to run well, there are several stages that must be carried out by the company, i.e.: from the planning stage and the implementation stage,
- d. Collaboration through the construction of a board containing stakeholders and CSR launched by an MCB with other MCB CSR programs in other areas where perhaps the people of the two areas are connected to each other.
- e. In order for the implementation of CSR programs to run more efficiently, on target and sustainably, it is integrated with the company's strategy, through mentoring for micro, small and medium enterprises (MSMEs).
- f. The government may direct the CSR program to synergize with government programs. The use of CSR funds other than for programs and operations can be categorized as a criminal act, if managed by or for government officials it is categorized as corruption.

3.8. Inefficient implementation of CSR

Inefficient implementation of CSR are as follows:

- a. The program carried out by the company is not in accordance with the community's need and is only to fulfill the company's obligations as mandated by the law which requires companies to carry out CSR programs.
- b. CSR programs are carried out individually with limited funds hence CSR is also limited so that it cannot improve the welfare of the community.
- c. CSR programs carried out by the company are always moving and not sustainable so that they have not been able to change the social and economic conditions of the local community.
- d. The absence of the same statutory provisions in regulating the amount of funds that must be spent by companies to carry out CSR activities so that the company itself will determine the amount of funds spent for CSR implementation.
- e. The CSS funds issued by the company are directly distributed to the community so that there is no supervision from the regional government, so it is difficult to control their use.
- f. The occurrence of overlapping laws and regulations so that CSR in its implementation does not have the same provisions so that the results achieved have different standards.
- g. The incompatibility of the CSR program with the policies issued by the local government in improving the welfare of the community so that the CSR program does not help local government programs that have a priority scale in alleviating poverty.
- h. Lack of supervision from either companies or independent institutions so that the allocation of CSR funds is often misused and even corrupted by local officials.
- i. CSR is not carried out on target and its utilization is overlapping due to a lack of understanding of community conditions and a lack of coordination with local governments.
- j. Lack of supervision from both local governments and corporations on CSR programs and funds so that the expected CSR goals are not achieved.
- k. There is no evaluation of the CSR program that has been implemented considering the limited resources the company has.
- l. Many companies prioritize profit, so they do not want to run CSR programs because this CSR program certainly costs a lot of money, and is often considered to be an excessive cost to the company.

3.9. Establishment of CSR - State Institution

Efforts to form state institutions having a strong position in regulating and carrying out programs in accordance with the mandate to build the Nation and the State, practice and implement social justice for all Indonesian people, this is in line with the awareness of National and Multinational Private Companies to implement regulations. CSR, to manage and coordinate and distribute CSR funds in a transparent and accountable manner.

The existence of a state institution that was formed to manage CSR and act as a liaison body between the state and the community so that fund management and supervision can run efficiently. The institution is expected to encourage all companies to maximize CSR programs

so that the target set by the government through the regional medium-term program plan (RPJMD) makes the prosperous community.

There are supporting factors for the establishment of a CSR management institution including:

1. The government's commitment to reducing poverty and unemployment is supported by the company. Companies benefit from cooperation with the government, where the CSR program is more targeted, image is also obtained, besides that the company feels helped in implementing its CSR.
2. Contribution of each party is the driving force for the running of the organization and CSR programs. For this reason, the government must be committed to financing the operations of CSR institutions, by budgeting through the APBN / APBD, while companies finance CSR programs that are synergized.
3. Partnership patterns in CSR institutions lead to productive partnerships, where the company has high social and environmental concerns, while the government provides a conducive climate for cooperation.

While the inhibiting factors for the establishment of a CSR management institution among others:

1. Establishment status of a CSR management institution that does not yet have a legal position for it, therefore it is necessary to establish laws and regulations so that they have binding legal force, become the basis for other companies to become members of CSR, and CSR institutions remain sustainable.
2. Laws and regulations governing CSR are currently independent and divided based on the business sector such as the company law, the investment law, the State-Owned Enterprise Law, the Environmental Protection and Management Law, Law No. 22 of 2001 concerning Oil and Natural Gas, according to Mineral and Coal Mining, there are still inconsistencies between these laws.
3. Whereas the obstacle according to the viewpoint of companies that are not yet a member of CSR is due to the company's assumption that the responsibility for development and increasing welfare is the responsibility of the government, not the company. In addition, the company also feels that it has contributed to the regions through taxes and levies.

The benefits of this institution existence include 1) It makes it easier for companies to channel CSR funds so that they are on target 2). Helping corporations to focus more on playing their business, 3) Increasing the CSR program quality to be efficient, effective and sustainable 4). Helping good relations between corporate and the social environment; 5). Help improve the company's image in accordance with the company's mission and vision and 6). Helping government programs for the welfare of society

Funds obtained from companies received by institutions are managed in accordance with the institutional vision and mission of CSR and the management of funds are supervised by Bank Indonesia and OJK. The program results are then reported to the company and to the local/central government. Before the CSR program is implemented, it is discussed with the company to make it fit with the planning of CSR program.

4. CONCLUSION

From the discussion above, the following conclusions can be drawn, *first* CSR regulations regarding the obligations of Limited Liability Companies (PT) to implement them in the Indonesian legal system are regulated in several laws but there are 2 (two) laws that specifically regulate CSR, but the two laws are inconsistent with regard to sanctions if the obligation the consequences are violated, acting like volunteerism and compliance with legal norms becomes dependent on company. Although in Law no. 25 of 2007 concerning Investment and Law no. 4 of 2009 concerning Mineral and Coal Mining has regulated administrative sanctions against companies that do not implement them, but there is no strong force for companies to carry out corporate social responsibility. Sanctions that should also be regulated in laws and regulations if corporate social responsibility has become legal obligations, are criminal sanctions. *Second*, the obligations implementation of Limited Liability Companies (PT) to implement CSR in Indonesia are as follows the obligations implementation of a Limited Liability Company (PT) to implement CSR in Indonesia is as follows: a. Programs carried out by the company are not in accordance with the community's needs and only to fulfill company obligations; CSR programs are implemented individually with limited funds so that they cannot improve community welfare; and CSR programs carried out by companies are always moving and not sustainable so that they have not been able to change the social and economic conditions of the local community. *Third*, the absence of the same statutory provisions in regulating the amount of funds that must be spent by the company; CSR funds issued by the company are not supervised by the regional government so that it is difficult to control their use; the occurrence of overlapping laws and regulations; the incompatibility of the CSR program with policies issued by local governments; the allocation of CSR funds is misused and even corrupted by local officials; CSR is not carried out on target and its utilization is overlapping; there is no evaluation of the CSR program that has been implemented; many companies are more concerned with profit, so they do not want to carry out CSR programs; and lack of supervision from both local governments and corporations on CSR programs and funds so that the expected CSR goals are not achieved. *Last*, the establishment of a state institution that manages CSR is needed to accommodate the companies', government and society's interests so that the CSR program can run efficiently, on target and sustainably. These state institutions will surely have targeted CSR programs, and have access to local governments so that the implementation of the CSR program can run smoothly and with minimal obstacles so that the community welfare, which is the task of the state can be realized more quickly. Besides that, the advantage that the company gets is that the company does not need to spend energy and human resources to carry out the program.

Subsequently, the suggestions in this study are that social responsibility the company has to the community should not only be carried out by the corporate in the sense that the company is a large-scale legal entity. It does not rule out the possibility that individual companies that are not yet legally incorporated will also have significant social and environmental impacts on the surrounding community. If we use the term corporate social responsibility, it means corporate social responsibility regardless of how big the company is.

It is necessary to establish statutory regulations in the form of laws to accommodate the state institutions establishment to carry out CSR programs to be more efficient, right on target

and sustainable considering that CSR funds are a great potential to improve the life quality and the environment that is beneficial, both for the company, the local community, and the community in a sustainable manner. With the CSR law, state CSR institutions will have a legal position so that the company submits to the CSR agency.

Companies with medium and small scale can be embraced by state CSR agencies in order to maintain the environment and help the surrounding community prosper so that they can focus more on running their business without being too burdened with obligations in carrying out CSR.

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