

Reconceptualization Ideal Model for the Construction of Corporate Social Responsibility in the Context of Realizing Social Justice

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ABSTRACT

The research results show that the model for implementing corporate social responsibility by the conditions of companies in Indonesia is legal responsibility by adopting a tax and capital social approach. In addition, corporate social responsibility reconceptualization is carried out in the context of realizing social justice, including reconceptualization of TJSL Implementation Ideas is carried out with the application of the concept of tax and social capital social, the clarity of the paradigm and the subject of Corporate Social Responsibility/TJSL, namely through the legal paradigm, and the determination of the subject of companies that are subject to corporate Social Responsibility / TJSL obligations, the form of Corporate Social Responsibility/TJSL is limited to two forms, namely environmental impact recovery and other activities, the reconceptualization of the implementation of TJSL, namely carried out by the application of the concept of tax and social capital social, reconceptualization of funding, reporting Transparency publication, namely the company submits a written report on the results of the implementation of TJSL to the TJSL forum in the province or district/city, the reconceptualization of the Duties of the Central Government and Local Governments, namely in the Implementation of TJSL, the Central Government is tasked with accommodating social, environmental responsibility funds, in addition to preparing policies, standards and guidelines in implementing TJSL, while the Regional Government is tasked with compiling a map of the social and environmental impacts of the company's business activities in regions, prepare data on the social and environmental conditions of the community, provide information on the TJSL the program needed by Beneficiaries, carry out monitoring and evaluation and disseminate policies, standards, and guidelines in implementing TJSL; coordinate with the TJSL forum; and give awards to the company for the proposed TJSL forum and the other.

Keywords: *Corporate Social Responsibility, Reconceptualization, Social Justice.*

1. INTRODUCTION

Article 4 of the Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 9 of 2020 concerning Corporate Social and Environmental Responsibility is precisely the same as Article 4 of the Minister of Social Affairs Regulation Number 6 of 2016, which regulates the revoked Social Responsibility targets, namely the Goals of Corporate Social and Environmental Responsibility. Business is intended for a person, group, or community who lives not worthy of humanity. Humanly unfit has the following criteria: a. poverty; b. neglect; c. disabilities; d. remoteness; e. social disabilities and behavioral deviations; f. disaster victims; and/or g. victims of violence, exploitation, and discrimination. Companies are forced to commit to

giving priority to work opportunities to people with social welfare problems around the company according to the needs and requirements of the Business Entity; b. provide support in the provision of various social facilities for the community, especially people with social welfare problems; c. support environmentally sustainable social development; d. prioritizing local resources in the environment, and e. carry out social empowerment for the environment around the company. It is as if the state is forcing the company to take responsibility, which is its responsibility.

2. DISCUSSION

The legal basis for implementing Corporate Social Responsibility must meet 3 (three) foundations, namely

philosophical, sociological, and juridical. Based on these three foundations, the legal basis for applying Corporate Social Responsibility is complete, obtaining philosophical, sociological, and juridical validity.¹

The objectives and functions of the Indonesian state are established explicitly in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia. According to Barda Nawawi Arief, when compacted, the objectives and functions of the Indonesian state are to social welfare and social defense. To achieve this, all Indonesians are guided by Pancasila as the Nation's Way of Life. The Indonesian people will not be able to achieve the goals they aspire to without the noble values it upholds as a way of life, namely Pancasila.²

The implementation of the obligation of Corporate Social Responsibility is carried out to realize the state's goals and functions by Pancasila. To explain briefly, that one of the principles in Pancasila is the Indonesian Unity. If this principle alone can be understood, to achieve the country's goals and functions, it would require action from all components of the nation to unite in helping the Government. Corporate Social Responsibility is a concrete form of effort to provide welfare to the community while protecting people in line with the values of the Indonesian Unity. The reality in society is the basis for the need to regulate Corporate Social Responsibility as business ethics. Empirically, Corporate Social Responsibility has a relationship with the community. Thus the existence of companies can be in dialogue with the community and the environment in which the company lives.

The norming of corporate social responsibility in Article 74 of Law 40/2007 has reflected social justice. John Rawls connects the concept of justice with two fundamental values of social order, namely freedom, and equality. Everyone has the same right to the most basic guarantees of freedom. In a society that runs the free market competition, where there are different interests due to socio-economic differences, the policy must prioritize the interests of the least benefited (the slightest advantage). Thus, social inequality does not get more expansive, and it will bring social justice closer. Corporate Social Responsibility can be seen as a means of creating justice while providing justice for future generations.³

To carry out the distribution of state justice must create institutions that are built based on three backgrounds, namely:

- a. Just laws and regulations that can guarantee freedom to equal citizenship, freedom of consciousness and non-negotiable freedom of thought, and freedom in politics;
- b. Equal and fair opportunities and opportunities in the fields of education, culture by providing

subsidies to private schools or through the establishment of public schools, providing equal opportunities and opportunities in economic activity, employment, and preventing monopoly on jobs that are in high demand (desirable position);

- c. The government can guarantee a minimum social income and special treatment for the sick by making a subsidy scheme.⁴

Based on that background, Rawls suggested that the government be divided into four branches: 1. The allocation branch, 2. The stabilization branch, 3. The transfer branch, 4. The distribution branch. The first branch is tasked with maintaining a competitive tariff system to prevent unreasonable market forces.

The second branch is in charge of providing rational employment to needy people based on free choice of employment. The third branch functions to ensure the creation of minimal social needs by providing the services needed. The fourth branch is responsible for maintaining fair tax enforcement and guaranteed ownership rights. This fourth branch institution plays a role in ensuring the realization of the three previous backgrounds.

The meaning and purpose of Pancasila for Indonesia: Divinity, Humanity, Unity, Democracy, and Justice are general and universal characteristics that apply not only to Indonesian people but to people throughout the world. Meanwhile, as a practical guide for Indonesia, Pancasila is collective in general.⁵ At a practical level, although there have been many views stating that Corporate Social Responsibility activities provide many benefits for both the community and the company itself, many companies have still not implemented it. As a result, the community's contribution from Corporate Social Responsibility has not been maximally felt. Corporate Social Responsibility programs that reflect social justice in reality still have to be seriously fought for, given the many facts that show otherwise, namely the existence of disharmony between the company and the community and between the company and its environment. This disharmony in the relationship between the company and the community and/or the environment is often manifested in the form of various conflicts that we currently encounter in Indonesia. The condition of the environment, which is increasingly worrisome, is one of the reasons for the need for the government to establish regulations that support environmental sustainability by Article 33 of the 1945 Constitution of the Republic of Indonesia. Economic development at the expense of the environment will have a terrible impact. Environmental damage will reduce the benefits of economic growth due to the depletion of natural resources and vulnerability to climate change. Therefore, issues concerning economic development and community welfare should be regulated in Law.

Good economic growth and climate are some things that support the growth and development of a company's

business. So, social responsibility carried out by a company can be said to be an activity that does not just waste funds or costs because there is a profit that will be obtained by the company that runs it. The concept of Corporate Social Responsibility reminds companies that it is not only profit that is pursued, but also must contribute and provide benefits to society (people) and also pay attention to environmental sustainability (planet) or what is called the "3P" concept as suggested by John Elkington.

Based on the description above, the ideal model of Corporate Social Responsibility in the implications of the sustainability of community life in the context of realizing social justice is as follows:

2.1 Reconceptualization of Implementation Ideas TJSL

Taxes are public contributions to the state (which can be imposed) owed by those who are obliged to pay them according to general regulations (laws) with no return of achievement that can be directly appointed and whose use is to finance general expenses related to the state's duties to run the government. According to Rochmat Soemitro, the definition of *tax* is the people's contribution to the state treasury based on the Law (which can be enforced) without receiving lead services (counter-achievement) which can be directly demonstrated and used to pay for general expenses. 8

The government, as the central facilitator, will later connect the TJSL forum with companies. Indonesia is a country that prioritizes deliberation to reach consensus, so the preparation of a budget allocation plan is also carried out through deliberation, where later the steps to operationalize the Corporate Social Responsibility/TJSL fund can be realized either in environmental impact recovery activities or other objectives.

Funding for Corporate Social Responsibility using this mechanism is known as social capital. As a sociological concept, social capital is an approach that is increasingly being used in overcoming poverty in many countries, including Indonesia. Starting from this thought, this paper will describe the notion of the concept of social capital and how this concept has been applied in various efforts to improve the welfare of society.

2.2 Harmonization of Corporate Social Responsibility Regulations with the Concept of Social Justice based on Tax and Capital social

Based on the concept of social justice based on tax and capital social, the Government as the central facilitator, will later connect the TJSL forum with companies. The income of corporate social responsibility funds will later be managed by the Government and channeled to the Corporate Social Responsibility.

Forum/TJSL to be distributed to the community or even used as a recovery for environmental impacts

resulting from company operations. This concept will later become a blueprint and can be applied simultaneously in each region by changing the social responsibility regulations that have been regulated and implemented so far.

2.3 Clarity of Paradigm and the subject of Corporate Social Responsibility/TJSL

Corporate Social Responsibility is not just voluntary (voluntary) but is a legal obligation. The relationship between morals and ethics with Law is gradual, where Law is the formalization or legalization of moral values. In this connection, moral and ethical values accepted voluntarily (voluntary) and considered essential can be changed gradually into Law or legislation to make it more binding.

Corporate Social Responsibility, which was initially a moral, ethical, and voluntary (voluntary) provision, was later used as content material in the Law; this is solely so that the provisions of Corporate Social Responsibility (Corporate Social Responsibility) become a legal obligation, which is obeyed. The TJSL regulation with legal obligations has more legal certainty when compared to voluntary corporate social responsibility, so the built paradigm is solely the legal paradigm for social justice.

The Corporate Social Responsibility Program / TJSL is part of the obligations and social care for every large and small scale company, so it is appropriate to make company categorization rules that oblige Corporate Social Responsibility. This is also to avoid misperceptions about companies that are obliged to carry out responsibility Corporate Social.

Categories can be defined based on the primary type of activity, namely activities related to using natural resources. In addition, categorization can also be carried out based on the size of the investment or the form of the company. In this case, it is aimed at companies that have significant and medium SIUP. With the categorization of companies, it is expected to regulate the categories of companies that carry out Corporate Social Responsibility / TJSL because if you pay attention to the PT Law No. 40 of 2007, actually almost all forms of business are required to implement TJSL from the service sector to manufacturing, as well as need to scale (range) based on the company's ability to carry out Corporate Social Responsibility.

2.4 Forms of Corporate Social Responsibility/TJSL

TJSL must be a shared need between the government, society, and companies based on the principle of mutual benefit (partnership). Not solely based on charity but more on the development of the community in a sustainable manner. Corporate Social Responsibility has positive implications for improving community welfare, reducing the burden on government financing and development, strengthening corporate investment, and

strengthening partnership networks between communities, government, and companies.

The form of Corporate Social Responsibility/TJSL with the capital social and tax approach, which the author means, can be defined into two forms, namely environmental impact recovery and other activities. Environmental impact recovery includes floods, landslides, water pollution, sea pollution, air pollution, reforestation of forests, and bioremediation. Other activities include educational activities, skills, employment, community welfare, supporting community events, and building community infrastructure.

2.5 Funding Reconceptualization

Corporate Social Responsibility can be a competitive advantage and not a burden. If a company can manage the environment well and build community relations in harmony, it will foster a good image. If the image is good, the product is loved by consumers, so that, in turn, it will increase productivity and multiple profits.

Corporate Social Responsibility is essential not only because society is increasingly critical but also in line with Law Number 40 of 2007 concerning Limited Liability Companies, Article 47, that Corporate Social Responsibility must be carried out by companies that run their business related to natural resources. Based on this Law, the Minister of State-Owned Enterprises (BUMN) issued Decree Number 9 of 2015, which stipulates that companies under BUMN must allocate a maximum of 4% of Corporate Social Responsibility funds of gross profit.

To support TJSL activities, regulations regarding funding are required. Social responsibility should be directed so that CSR funds are calculated as costs and budgeted in the company's work plan and budget. The budgeting and calculation of TJSL funds are carried out with due observance of appropriateness and fairness as determined by the decision-making mechanism of the company concerned. Meanwhile, the accountability for the use of TJSL funds is carried out through the company's decision-making mechanism.

2.6 Reporting Transparency Publications

Supervision and Imposing Sanctions The weakness of the current model for implementing Corporate Social Responsibility in Indonesia is the absence of supervision. The Law only requires accountability through an annual report submitted to the GMS. The Investment Law mandates administrative sanctions. However, the Capital Investment Law does not regulate the measuring instrument. Therefore, the government must be present to cover these weaknesses. His first attendance was to actively supervise the implementation of Corporate Social Responsibility, preceded by setting clear standards. Second, the government must have the courage to apply the sanctions in the Capital Investment Law.

The company submits a report on the implementation of TJSL in writing to the TJSL forum in the province or district/city. The submission of reports on the results of the implementation of TJSL contains at least:

- 1) Targets achieved in the implementation of TJSL;
- 2) The number of TJSL beneficiaries; and
- 3) Realization of the TJSL implementation budget.

2.7 Reconceptualization of Central Government and Local Government Duties

The answer lies in the awareness and conscience of the officials, especially as individuals. The reason is apparent: officials' various decisions in the public domain cannot be separated from their conscience as human beings who have social relations with other humans. Developing a caring relationship regarding the lives of others is an aspect that should not be abandoned and left just like that. The concern is what develops responsibility to others, more so if the individual is an official. Because no one cares about others, no one should be allowed to feel the injustice in the existing systems and procedures. Instead, he focused on *rechtsidee*, namely justice. As pointed out by Aristotle, Justice as a mind cannot say anything other than: "the same is treated equally, and the unequal are treated unequally." To fill this ideal of justice with factual content, one has to look at the aspect of its finality. Moreover, to complete justice and finality, certainty is needed. So for Radbruch, Law has three aspects, namely justice, finality, and certainty.⁹

The aspect of justice refers to "equal rights before the law." The aspect of finality points to the goal of justice, which is to promote goodness in human life. This aspect determines the content of the Law. While certainty refers to the guarantee that Law (which contains justice and norms that promote goodness) functions as a rule obeyed. It can be said that the first two aspects are the ideal framework of Law. Meanwhile, the third aspect (certainty) is the legal, operational framework.

2.8 Reconceptualization TJSL Forum

Corporate Social Responsibility must contribute to improving the welfare of the community. For the SCR program to be more focused, it must actively involve the community's participation. The concept of community development itself has an empowerment goal. The community development process invites the community to participate in developing.

In implementing Corporate Social Responsibility, companies must stay away from the model of merely assisting. Corporate Social Responsibility Funds provided to the community must be prepared together and implemented because the community knows and understands their needs best. This is called the concept of Community Development, which invites and embraces all communities to work together and participate fully in community development and development through the Corporate Social Responsibility program. The target of

this involvement is that the community becomes more independent, the mapping of problems is more explicit, the programming is more focused.

At this time, Corporate Social Responsibility can be considered as a future investment for the company. The interest of capital owners in investing in companies that have implemented Corporate Social Responsibility is more significant than those that do not implement Corporate Social Responsibility. Effective communication can be built through the Corporate Social Responsibility program and a harmonious relationship between the company and the community.

To implement TJSL activities to be effective, efficient, and right on target, it is necessary to establish a TJSL Forum facilitated by local governments by their respective authorities. The TJSL forum is a coordinative forum for the effectiveness, efficiency, and accuracy of targeting the implementation of TJSL.

The TJSL forum consists of representatives from companies or company associations. Meanwhile, the operational costs for the TJSL forum come from company fees. TJSL forums were formed in provinces and districts/cities. In relation to the TJSL Forum in districts/cities, it will only be formed for companies whose operational areas are located within the district/city. Meanwhile, the TJSL Forum in the provinces will be formed if companies whose operational areas are located across districts/cities. The TJSL forum can hold regular meetings for:

- 1) Synergize the TJSL program between companies;
- 2) Developing the TJSL program;
- 3) Reporting the implementation of the Company's CSRR to the Regional Government;
- 4) Provide recommendations to the Regional Government for awarding; an
- 5) Report the implementation of activities to the Regional Government.

2.9 Reconceptualization of Awards

The Regional Government will give companies that have implemented TJSL well an award in an award certificate. The award in the form of a charter was given based on a recommendation from the TJSL Forum. The compensation that the government can provide can also be in the form of:

- a. Withholding tax, tax reduction, or even tax amnesty, which can be included in the formulation of the Tax Amnesty Law;
- b. Providing awards for the company's appreciation and actions in carrying out Corporate Social Responsibility;
- c. Provide easy access to loans and various other forms of compensation.

2.10 Punishment Reconceptualization

Law is a norm that regulates people's life. The existence of Law, long before it entered the era of positivism, along with the development of human civilization, is believed to be a means of solving concrete problems in society. Justice is an essential factor for a reason for the existence of law enforcement. The purpose of Law is to bring about justice, and for that, law enforcement is needed.

Based on this, it is necessary to provide administrative sanctions for companies that do not implement TJSL to be subject to administrative sanctions in the form of:

- 1) Written warning;
- 2) Restrictions on business activities;
- 3) Suspension of business activities/temporary suspension of business licenses; or
- 4) Revocation of business license

3. CONCLUSION

The model for implementing corporate social responsibility by the conditions of companies in Indonesia is legal responsibility by adopting a tax and capital social approach. In addition, corporate social responsibility reconceptualization is carried out in the context of realizing social justice, including:

1. Reconceptualization of TJSL Implementation Ideas is carried out with the application of the concept of tax and social capital social
2. The clarity of the Paradigm and the subject of Corporate Social Responsibility/TJSL, namely through the legal paradigm, and the determination of companies subject to corporate Social Responsibility/TJSL obligations.
3. The form of Corporate Social Responsibility/TJSL is limited to two forms, namely environmental impact recovery and other activities
4. Reconceptualization of the implementation of TJSL, namely carried out by applying the concept of tax and social capital social.
5. Reconceptualization of Funding, namely TJSL funding, is calculated as a cost and budgeted in the company's work plan and budget
6. Reporting Transparency publication, namely, the company submits a written report on the implementation of TJSL to the TJSL forum in the province or district/city.
7. Reconceptualization of the Duties of the Central Government and Local Governments, namely in the Implementation of TJSL, the Central Government is tasked with accommodating social, environmental responsibility funds and preparing policies, standards, and guidelines in implementing TJSL. In contrast, the Regional Government is tasked with compiling a map of the social and environmental impacts of the

company's business activities in regions, prepare data on the social and environmental conditions of the community, provide information on the TJSL program needed by Beneficiaries, carry out monitoring and evaluation and disseminate policies, standards, and guidelines in implementing TJSL; coordinate with the TJSL forum; and give awards to the company for the proposed TJSL forum.

8. Reconceptualization of the TJSL Forum, namely that the implementation of TJSL activities is effective, efficient, and right on target, it is necessary to establish a TJSL Forum facilitated by local governments in accordance with their respective authorities
9. Reconceptualization of awards, namely compensation that can be provided by the government, including tax cuts, tax deductions, or even tax amnesty, which can be included in the formulation of the Tax Amnesty Law, awards for company appreciation, and actions in carrying out corporate social responsibility and ease of access to loans and various kinds. Other forms of compensation.
10. Reconceptualization of administrative sanctions in the form of written warnings, restrictions on business activities, freezing of business activities/temporary suspension of business licenses, or revocation of business license.

REFERENCES

- [1] Assidiqqie, Jimly. 2010. *Economic Constitution*. Gramedia Compass. Jakarta.
- [2] Britton, Carl. *Philosophy And The Meaning Of Life*. Primasophie. Yogyakarta.
- [3] Chapra, M. Umar. 2001. *The Future of Economics; an Islamic Perspective*. Translated edition. Jakarta. SEBI.
- [4] Douglas-Scott, Sionaidh. 2013. *Law After Modernity*. Oxford and Portland Oregon.
- [5] Fajar ND, Mukti. 2010. *CSR in Indonesia. Study on the Implementation of Corporate Social Responsibility Provisions in Multi-National Companies*. National Private and State Owned Enterprises. Student Library. Yogyakarta.
- [6] Fukuyama, Francis. 2005. *State-Building. Governance and World Order in the 21st Century* Translated into *Strengthening the State Governance and World Order in the 21st Century*. ed. A. Zaim Rofiqi. Translate. Jakarta. Gramedia Pustaka Utama-Freedom Institute.
- [7] Indarti, Erlin. 2010. *Discretion and Paradigm. A Study of Legal Philosophy*.
- [8] Professor Inauguration Speech Delivered at the Acceptance Ceremony for Professorship in Philosophy of Law at the Faculty of Law, Diponegoro University.
- [9] Indrawati, Sri Mulyani. *A Note For Inclusive Green Growth*. <http://www.worldbank.org/in/news/speech/2015/06/09/the-case-for-inclusive-green-growth> published on June 9, 2015 at 09.30 WIB.
- [10] Kaelan. 2002. *Philosophy of Pancasila The Nation's View of Life*. Paradigm. Yogyakarta.
- [11] Mochtar. 2013. *The National State of Pancasila: Culture. Historical*.
- [12] Philosophical. *Juridical and its Actualization*. Paradigm Publisher. Yogyakarta.
- [13] Klein, Lawrence R. 1954. *The Keynesian Revolution*. New York. Macmillan. Chapter 7.
- [14] Notonagoro. 1967. *Some things about the philosophy of Pancasila*. Pantjuran Seven. Jakarta.
- [15] Rahardjo, Satjipto. 2006. *Legal Studies*. Alumni. Bandung.
- [16] Rawls, John. 2011. *A Theory of Justice. Justice Theory. The Basics of Political Philosophy to Realize Social Welfare in the State*. Student Library Publisher. Yogyakarta.
- [17] Rawls, John. 1971. *A Theory Of Justice*. Cambridge. Massachusetts. The
- [18] Belknap Press of Harvard University Press.
- [19] Risnain, Moh. *Increasing National Competitiveness Through Reform of Legal Development in Realizing the Ideals of a Welfare State*. RechtsVinding Journal. Vol. 5. No. 3. 2016.
- [20] Siahaan, Marihot Pahala. 2010. *Formal Tax Law*. Graha Ilmu. Yogyakarta
- [21] Suhardin, Yohanes. "The Role of Law in Realizing Community Welfare".
- [22] *Journal of Law Pro Justisia*. Vol. 25. No. 3. 2007.
- [23] Suharto, Eddie. 2007. *Social Policy as Public Policy*. Alfabeta. Bandung. Tanya, Bernard L. et al. 2010. *Legal Theory. Human Order Strategy Across Spaces and Generations*. Genta Publishing. Yogyakarta