

Company's Responsibility on Corporate Social Responsibility (CSR): Legal Arrangements and Their Consequences in the Sectors of Economics and Environment in Indonesia

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Abstract— Every company in Indonesia has an obligation to carry out a social and environmental responsibility, or on the other words it is known as Corporate Social Responsibility (CSR) as regulated in Law Number 40 of 2007 which concerns on 'Limited Liability Companies'. The problem that arises is that when the law only appears as to fulfill an obligation, however, regarding the sanctions, they are not clearly regulated in other related laws / regulations, though there is only an obscurity even overlapping the regulations governing this matter. The method used in this study was literature study. The results of this study showed that regarding to Corporate Social Responsibility (CSR) there are some rules that governs on corporate responsibility in the sectors of economic and environmental but only restricted to the form of moral roles. In addition, there is still a lack of level of corporate initiative in implementing Corporate Social Responsibility (CSR) hence, legal arrangements and consequences related to the implementation of Corporate Social Responsibility (CSR) need to be updated by adding and affirming sanctions in the form of fines against companies that do not implement Corporate Social Responsibility (CSR) in the economic field and environment. The sanctions can be in the form of fines in the form of compensation when not implementing CSR or social and moral sanctions in the form of community initiatives not to buy or use the company's products and eliminate pride in the company. Moreover, it is expected that the implementation of Corporate Social Responsibility (CSR) in Indonesia can run effectively and help to realize the prosperity of the Indonesian peoples based on the basic principles of economic development stated in Article 27 and Article 33 of the 1945 Constitution.

Keywords— Company; Corporate Social Responsibility; Sanctions

I. INTRODUCTION

As governed of the Limited Liability Company Law, or it is known as *PT*, is a very significant major step in the field of business law, this is due to; first, the existence of the Indonesian Company Law has abolished dualism in the field of corporate law in Indonesia, secondly, the *UUPT* promulgation shows that the government sees the importance of business entities with body status law, henceforth, it is expected that trade transactions do not take place between people and people but between legal entities and legal entities, and thirdly, the enactment of the Law on the *UUPT* has an international dimension namely in the context of harmonization with the legislation with Indonesia's trading partner countries. Limited Liability Company, or *Perseroan Terbatas (PT)* has better values in terms of its own economic aspects and juridical aspects. Both aspects complement each other. The legal aspect provides safeguards and regulates that the balance of interests of all parties can be applied in order to carry out the economic activities (Absori 2014).

Corporate Social Responsibility is regulated in Law Number 40 of 2007 concerning on the Limited Liability Companies, in Article 1 point 3, it is explained that CSR or

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 the community at large (Undang-Undang Nomor 40 tahun 2007). It can be concluded that, Corporate Social Responsibility / Environmental and Social Responsibility is a form of commitment of a company in order to achieve a welfare society and carried out based on two things, First, the agreement of the management of the company and Second, referring to the Articles of Association of the company.

However, at the level of implementation CSR is not fully implemented by the company even though there are rules that regulate this case such: Law Number 40 of 2007 concerning Limited Liability Companies, Government Regulation Number 47 of 2012 concerning Social and Environmental Responsibilities of Limited Liability Companies and in Law Number 25 of 2007 concerning the Investment. The regulation only requires, or encourages the company to implement a Social and Environmental Responsibility. Thus, within this case there are companies that implement and some are not due to unclear sanctions for those who do not implement them. Hence, the basic

principles which are located in Article 27 and Article 33 of the 1945 Constitution cannot be fully realized.

The problems on this paper, will be formulated as follows: (1) How are the arrangements of Corporate Social Responsibility (CSR) and its Legal Consequences in the sectors of Economics and Environment in Indonesia? (2) What is the Responsibility of the Company to Corporate Social Responsibility (CSR)?

II. RESEARCH METHOD

The research approach used in this paper is a normative research. The type of research is under descriptive qualitative. The type of data used is a secondary data. This research is also referred to as literature research or document studies, as this research is conducted or directed only on written regulations or other legal and written data materials. The data used consist of primary, secondary, and tertiary data. It is also stated to be a library research or document study because this research is mostly done on secondary data in libraries and journals and trusted information media. These secondary data can be private and public. In normative legal research, secondary data as information sources / materials can be primary legal materials, such as Laws and Regulations related to Limited Liability Company, in *Undang-Undang*, and *Peraturan Pemerintah* (Government Regulation); secondary law materials, in the form of expert opinions, scientific papers, journals and the results of a study; and tertiary legal materials such as encyclopedias, dictionaries and others. (Suratman dan Dillah 2013)

III. RESULTS AND DISCUSSION

A. Regulation of Corporate Social Responsibility (CSR) and its Legal Consequences in the Sectors of Economics and Environment in Indonesia

A series of deregulation packages that have been carried out by the government which have encouraged the private sector to play a greater role in the flow of economic activities. (Absori 2014). The economic field is the place of origin of secularization, especially in the economic sectors that are being formed by capitalistic processes and industrialization. *PT* as an economic activity institution, there are several provisions that allow it to guarantee a sense of security to be able to do economic efforts that will benefit all interested parties. (Bangsawan dan Imansyah 2017).

Law Number 40 of 2007 in Chapter V in Article 74 paragraphs (1), (2), (3), and (4) is mandatory for a company to carry out Environmental and Social Responsibility and regarding to the sanctions which are not specifically regulated, however in paragraph (4) states that: "Companies that do not carry out the obligations which referring in the paragraph (1) are subject to sanctions in accordance with the provisions of the legislation." Law Number 25 of 2007 concerning on the Investment in Article 15 letter (b) is also mentioned regarding the company's obligations, one of them is carrying out social responsibility. Other regulations

regarding sanctions, they do not carry out Social and Environmental Responsibilities (*TJSL*), namely in Government Regulation Number 47 of 2012 concerning the Social and Environmental Responsibility of Limited Liability Companies, in Article 7 states that the Company which does not carry out social and environmental responsibilities is subject to sanctions in accordance with the provisions of the regulations legislation.

The concept of Corporate Social Responsibility (CSR) has been considered to be incompatible with current conditions. (Hamdani 2018). This was agreed by the Minister of Energy and Mineral Resources Ignasius Jonan who formulates the concept of Corporate Social Responsibility (CSR) as he said that currently CSR does not have an impact on the creation of employment. In line with this statement, there are needs to be an overall reform especially the sanctioning arrangements for companies that do not implement Corporate Social Responsibility (CSR) clearly which will influence each company and help accelerate the joint development of the government. The addition of sanctions is intended as an effective way to encourage an increase in the enthusiasm of each company in the implementation of Corporate Social Responsibility (CSR).

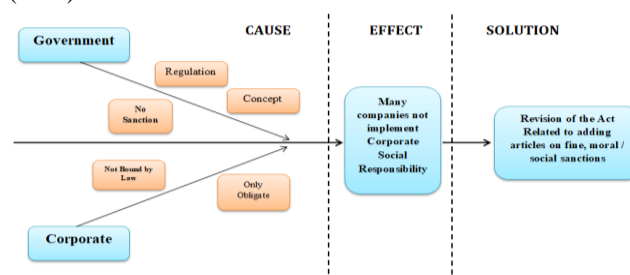


Fig. 1. Fishbone Problems, Impacts and CSR Solutions

Based on the diagram above, the problem arises from 2 parties, namely the Government and the Company. First, from the Government side, it is caused by the regulation that regulates CSR intensely, besides, there are no sanctions included in the regulation, then the CSR concept that needs to be updated. Second, in terms of the company because CSR is only an obligation, the company automatically does not feel fully bound by the existence of the policy because there are no sanctions that can actually bind it. So the effect is that many companies do not implement CSR and therefore the solution that can be offered is to revise the relevant laws and regulations by adding articles on penalties in the form of fines as a result of violations of policies set by the Government.

B. Corporate Responsibility for Corporate Social Responsibility (CSR)

The cornerstone of Pancasila emphasizes that economic development is human development in order to utilize natural potential or wealth as God's gift, which is done by upholding the human dignity of all Indonesian people with the aim of achieving social justice (Absori 2014). The essence is clear that any economic development must always be in favor of the people, both the legal regulations and the system, which should not conflict with the basic principles in the implementation of

economic democracy. Article 27 and Article 33 of the 1945 Constitution are one of the basic principles of developing economic law. According to Sumantoro, the basic principle that lies in Article 27 and Article 33 of the 1945 Constitution, is a manifestation of economic democracy that has positive characteristics, one of which is the Earth, water and natural resources contained in it controlled by the state and used for the magnitude of people's prosperity (Absori 2014). Therefore, we can conclude there is a huge state responsibility in realizing the economy, namely the responsibility in order to realize the prosperity of the people through the economy.

Although not all companies in Indonesia run a corporate social responsibility program properly, this is in line with the statement of the Chairperson of the Corporate Forum for Community Development (CFCD) stating that members joined the new Corporate Forum for Community Development (CFCD) as many as 253 companies (Ant 2014). Based on this statement, we can understand that the level of regulation that is not strict has an impact on non-compliance for many companies in implementing CSR. Even though some companies have implemented CSR and can be seen from the following CSR examples:

1. PT. Pelindo III (Persero); in the form of partnership programs and environmental development programs. (Afiansyah, Cahyaningsih dan Djuwityastuti 2015)
2. PT. Harmoni Dinamik Indonesia; in the form of a free school program for Indonesian Happy Morning School for orphaned and orphaned children. (Handjaja 2013)
3. PT. Bank Negara Indonesia (Persero), Tbk; namely the 'Kampoeng BNI' program since 2007, the aim is to develop economic potential in a rural area. (Riyantie 2013)
4. PT. Bank Mayapada; level bus for city tour in Solo. This bus will be directed to serve passengers from Solo to the main center in other areas in Soloraya. (Adhi 2018)
5. PT Semen Gresik (persero) Tbk; namely in the form of community empowerment programs; (a) Environmental field (physical); (b) Social field, (charity); and (c) Economics. (Ariefianto 2015)
6. PT. Djarum; The Djarum Foundation program as a form of devotion to the nation, participate in building the Indonesian State which is not only strong economically but also boasts sports achievements, academic achievements, Djarum on cultural appreciation and environmental sustainability through efforts to conserve the environment, create shade, preserve ecosystems local, prevent soil erosion and to help catch water. (Anggriawan 2013)

IV. CONCLUSION

Regarding to Corporate Social Responsibility (CSR) as regulated in Law Number 40 of 2007, in Government Regulation Number 47 of 2012 concerning on Social and Environmental Responsibility of Limited Liability Companies or *PT*, in Law Number 25 of 2007 concerning

Investment, all is mentioned about One of the company's obligations is to carry out social responsibility. However, existing legal arrangements do not clearly regulate sanctions if the obligation is not implemented.

Moreover, regarding to the implementation of Corporate Social Responsibility (CSR) in Indonesia, there are only a limited number of companies, not all of them implement it, this is because all the legal regulations are only an appeal and there are no clear regulations regarding fines for companies that do not implement Corporate Social Responsibility (CSR). The solution that can be offered is to renew legal regulations related to Corporate Social Responsibility (CSR) by adding penalties in the form of fines as a result of violations of policies set by the Government. So this is intended as one of the effective ways to encourage the increase in the implementation of Corporate Social Responsibility (CSR) by each company after the determination of the sanctions.

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