



The obligation to carry out social and environmental responsibility as a burden for companies with business licenses

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Abstract

Corporate social responsibility is not just a legal obligation for certain companies, but is a responsibility inherent in every company as a form of devotion to the legal ideals and goals of the nation. In addition to the legal aspects of corporate social responsibility, the implementation of more inclusive corporate social responsibility is expected to have a more significant effect in creating environmental balance and sustainability as well as strengthening social ties between companies and the community. The purpose of writing this article is to find out social responsibility based on Indonesian legal ideals and the concept of regulating corporate social responsibility based on legal aspects. The research findings indicate that corporate social responsibility regulations in Indonesia need to be reviewed and expanded to ensure a more inclusive and equitable implementation. Expanding corporate social responsibility obligations to all companies is expected to enhance corporate contributions to achieving sustainability goals and overall societal well-being. Only with an inclusive and integrated approach can corporate social responsibility become an effective instrument to support sustainable national development and achieve the legal ideals of the Indonesian nation, which uphold social justice, prosperity, and shared well-being.

Keywords: Social, environmental, responsibility, obligation, business, companies

Introduction

In the era of globalization, corporate social responsibility (CSR) has become a crucial aspect for a company's sustainability and public acceptance. It's no longer sufficient for companies to focus solely on profit; they must now also consider the impact of their activities on the environment and surrounding communities. CSR has evolved as a form of corporate commitment to balancing three key aspects of their operations: economic, social, and environmental, known as the triple bottom line or "3P" concept—profit, people, and planet. This concept encourages companies to conduct their businesses ethically and responsibly, in accordance with the principles of sustainability, which are oriented not only toward profit but also toward positive social and environmental contributions.

In Indonesia, the implementation of CSR has received special attention from various parties, including the government, the public, and academics. The government has issued several regulations governing CSR implementation obligations, particularly for companies involved in natural resources. Law Number 40 of 2007 concerning Limited Liability Companies, through Article 74, stipulates that companies operating in or related to natural resources are required to implement social and environmental responsibilities. Furthermore, provisions in the Investment Law and Government Regulation Number 47 of 2012 further regulate the implementation of social and environmental responsibilities for companies.

However, these regulations have raised various questions and debates. One of the main criticisms of CSR regulations in Indonesia is the limitation of CSR obligations only to companies directly involved in natural resources. In fact, the concept of CSR universally requires all companies, regardless of industry sector, to have proportionate social and environmental responsibilities. This limitation is considered inconsistent with the ideals of Indonesian law, which, based on Pancasila and the 1945 Constitution,

upholds social justice, welfare, and equality for all levels of society. In this view, corporate social responsibility should apply equally to all business entities operating in Indonesia as part of their moral and ethical obligation to make a positive contribution to the communities and environments in which they operate.

Indonesia's legal ideals, embodied in the constitution and national philosophy, direct all economic activities to benefit the common good and uphold social justice. This principle is reflected in Article 33 of the 1945 Constitution, which mandates that the economy be organized as a joint venture based on the principle of kinship and aimed at the common good. Therefore, ideally, CSR is not merely a legal obligation for certain companies, but rather an inherent responsibility of every company as a form of devotion to the legal ideals and goals of the nation.^[9]

Beyond legal aspects, a more inclusive implementation of CSR is expected to have a more significant impact on creating environmental balance and sustainability, as well as strengthening social bonds between companies and communities. This is crucial given the numerous negative impacts of business activities, such as environmental pollution, social inequality, and natural resource depletion, which directly and indirectly impact the quality of life of the wider community. On the other hand, when companies demonstrate a real commitment to CSR, the impact will improve the company's image, build good relationships with the community, and foster public trust. Therefore, comprehensive and inclusive CSR implementation is also a strategy for strengthening long-term corporate sustainability.

In this context, there is an urgent need to review CSR regulations in Indonesia to better align them with the legal ideals underlying the national legal system. This study explores how corporate social responsibility should be regulated within a legal framework that aligns with the values of justice, welfare, and sustainability that underlie

Indonesian law. Furthermore, this study aims to formulate an ideal CSR regulatory concept that is not only legally relevant but also responsive to the needs of society and the environment. With more comprehensive regulations aligned with the principles of social justice, it is hoped that CSR can become an effective instrument in supporting sustainable development and creating more equitable prosperity in Indonesia.

Therefore, it is important to answer the following research questions: How is corporate social responsibility defined according to Indonesian legal ideals? And, what is the legal concept of CSR regulation? These questions will form the basis for a more in-depth study of CSR policy development in Indonesia. It is hoped that this study can make a significant contribution to legal development in Indonesia, particularly in formulating more inclusive and equitable CSR regulations, in order to achieve the nation's legal ideals that align with the principles of prosperity, justice, and sustainability.

Method

This research uses a normative legal method because the focus of the research is based on norm ambiguity. The approach used is a statutory approach. This research understands legal phenomena occurring in the field and conducts legal analysis using legal sources relevant to the problem being studied. This type of research aims to analyze and understand legal phenomena using data obtained directly from situations or sources relevant to the legal problem being studied, which are then interpreted argumentatively.

Results and Discussion

1. Social Responsibility Based on Indonesian Legal Ideals

Indonesia's legal ideal is Pancasila. Pancasila is a particular ideology, namely the state ideology (*staatsidee*) of Indonesia. The idea of Pancasila as a *staatsidee* was first discussed at the first general session of the Investigating Committee for Preparatory Work for Indonesian Independence (BPUPKI), from May 29 to June 10, 1945. BPUPKI was a body established by the Japanese government on March 1, 1945. This body was tasked with studying political, economic, and governance aspects, and other aspects necessary for the establishment of an independent Indonesian state.

During the session, approximately three groups of ideological ideas emerged, proposing the basic concepts for the establishment of an independent Republic of Indonesia. These ideas, presented by Muh Yamin, presented the idea of a state and nation based on God, the state and nation as a system, and the idea of humanity, nationality, and prosperity based on God's values. Muh Yamin's ideas encompassed five ideological concepts: Nationality; Humanity; Belief in God; Democracy; and People's Welfare.

These ideas, according to Muh Yamin, must be based on and originate from the Indonesian nation's own civilization. These ideas were then formulated into five fundamental principles of the state, namely: Belief in the One and Only God; Unity in Indonesian Nationhood; Just and Civilized Humanity; Democracy guided by the wisdom of deliberation and representation; Social Justice for All Indonesian People.

According to Soepomo, the idea of a fundamental state is essentially an idea about the ideals of the state (*staatsidee*), and this idea of the state is closely related to the history of law (*rechtsgeschiede*) and social institutions (*sociale structuur*) of that state. Each country has its own unique characteristics related to the character of its society. The original Indonesian social structure is one born from existing Indonesian culture and is embedded within the thoughts or spiritual spirit of the Indonesian people. This spiritual spirit includes: the ideal of unity in life; balance between the physical and spiritual; a leader who is united in spirit with the people; deliberation; An atmosphere of unity between the people and their leaders, between one group of people and another group of people; All groups are imbued with the spirit of mutual cooperation and family spirit.^[15]

The state is not opposed to the individual. According to Soepomo, the idea of "the greatest happiness of the greatest number" is inconsistent with Indonesian thought. Therefore, the idea of an Indonesian state is one that is united with all its people, transcending all groups and all spheres (the idea of an integralist state ideology), and the state does not unite itself with individuals, the largest or most powerful groups in society. Soekarno distinguished between *Philosofische grondslag* and *Weltanschauung*. *Philosofische grondslag* is the basis of the state, namely the foundation, philosophy, deepest thought, soul, and deepest desire, upon which the eternal and everlasting edifice of an Independent Indonesia is erected. While *Weltanschauung* is the philosophy of an Independent Indonesian State.

Soekarno outlined five basic ideological ideas for an independent Indonesia: Indonesian nationality; internationalism or humanity; consensus or democracy; social welfare; and the principle of divinity.

Sukarno sequentially explained the conceptual framework of the basic components of his proposed state philosophy. He stated that the first and most appropriate foundation for the state is the national principle, namely, the Indonesian Nation State. However, a nation state is not a nation state separated from other nations, but rather a nation state that is part of, lives in, and collaborates with other nations, leading to a family of nations. Therefore, the second appropriate foundation is internationalism.

The third idea is the idea of Indonesia as a nation for all, not one nation for one group. One for all and all for one. Therefore, the third ideological idea for building and maintaining a strong Indonesian state is deliberation and representation. The fourth idea is the idea of *sociale rechtvaardigheid*, an idea that recognizes not only equality in the political sphere but also in the economic sphere, the principle of no one being poor in an independent Indonesia. Therefore, the fourth idea is the idea of welfare. The fifth idea is the idea of God, namely that the Indonesian nation is a godly nation, each Indonesian is a godly person according to their respective religion, a country where each citizen can worship their God freely, a godly culture, that is, a godliness without religious egoism. Therefore, the fifth idea is a free way, a godly state with the idea of a godly state.

In general, the basic values of the legal ideals of the Indonesian nation can be formulated as follows; (1) National law is built by considering rational criteria, and upholding spiritual, ethical and moral values to maintain noble human character and uphold the noble moral ideals of the people, (2) National law is built on the principle of respect for human dignity by providing guarantees for

citizens' basic rights and social rights in a harmonious, balanced and balanced manner. National law must be able to prevent the emergence of injustice in society. Concluded from the principle of just and civilized humanity and the second and fourth main ideas of the 1945 Constitution, (3) National law protects all Indonesian people. All the blood of an independent, united, sovereign, just and prosperous Indonesia, strengthening the unity and oneness of the nation where there is only one national law that serves the national interest. It is concluded from the principle of the Unity of Indonesia and the first principle of the Preamble to the 1945 Constitution, (4) National law is formed in accordance with the principle of a state with popular sovereignty, meaning with the consent of the people through deliberation and representation, so that national law is in accordance with the aspirations of the people so that it can become a means to develop awareness, responsibility and stimulate participation in development and foster the dynamics of national life in an orderly and regular atmosphere. It is concluded from the principle of democracy guided by the wisdom of deliberation/representation. and the third principle of the Preamble to the 1945 Constitution, (5) National law emphasizes the value of social justice in the sense that national law paves the way for the realization of equality, social justice for all Indonesian people. It is concluded from the principle of social justice for all Indonesian people and the second principle of the Preamble to the 1945 Constitution.

A. Hamid S. Attamimi, citing the opinion of H.J. Van Eikema Hommes, states that although it is an impossible end point, the ideal of law is beneficial because it contains two sides; First, the legal ideals of prevailing positive law can be tested. Second, positive law, as an effort towards justice through coercive sanctions, can be guided by these legal ideals. Furthermore, echoing Gustav Radbruch's opinion, it is emphasized that legal ideals not only serve as a regulative benchmark, namely, testing whether a positive law is just or not, but also serve as a constitutive basis, namely, determining that without legal ideals, law will lose its meaning as law.

The legal ideals of Pancasila, as established by the founders of the Republic of Indonesia at the time of the proclamation and enactment of the 1945 Constitution, are designated as the highest norm in the governance of the state. Pancasila serves as the basic norm of the state and as the fundamental basic norm of the state. These values serve as legal ideals, and these values are then established as the highest norms within the state. Thus, the Indonesian people and state have a foundation for living in society, nation, and state.

2. CSR Regulation Concept Based on Legal Aspects.

Corporate Social Responsibility (CSR) is a company's commitment to formulating policies, making decisions, and implementing actions that have a positive impact on society, the environment, and its stakeholders. CSR is an integral part of a company's sustainability strategy, which aims to create a balance between economic, social, and environmental goals. This concept aligns with the principles of sustainability, known as the "3Ps" or triple bottom line: profit, planet, and people. These three elements reflect a company's responsibility to focus not only on financial gain but also on contributing to environmental preservation and broader social well-being.

1. Achieving the goal of achieving sustainable profits,
2. Using business strengths responsibly,
3. Integrating social needs,
4. Contributing to society by acting ethically.

The environment, or planet in the triple bottom line concept, receives special attention within corporate obligations. The environment is where companies operate, so it is a logical consequence for companies to contribute to ensuring environmental sustainability. The legal obligation to implement CSR for the environment can be seen in several provisions of Indonesian laws and regulations, namely: (1) 1945 Constitution. Article 28H paragraph (1) states, "Everyone has the right to live in physical and spiritual prosperity, to have a home, and to enjoy a good and healthy environment, and has the right to receive health services." (2) Law No. 39 of 1999 concerning Human Rights. Article 9 paragraph (2) states, "Everyone has the right to live in peace, security, happiness, and physical and spiritual prosperity. Paragraph (3) Everyone has the right to a good and healthy environment." (3) Law No. 40 of 2007 concerning Limited Liability Companies. Provisions regarding CSR are regulated in Article 74, which states: (a) Companies conducting business activities in and/or related to natural resources are required to implement Social and Environmental Responsibility, (b) Social and Environmental Responsibility as referred to in paragraph (1) is a Company obligation that is budgeted and calculated as a Company expense, the implementation of which is carried out with due regard to propriety and fairness, (c) Companies that fail to fulfill the obligations referred to in paragraph (1) will be subject to sanctions in accordance with statutory provisions. Further provisions regarding Social and Environmental Responsibility are regulated by Government Regulation. These provisions were then implemented by Government Regulation No. 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies, (d) Law Number 25 of 2007 concerning Investment. Article 15b states, "Every investor is obliged to: implement corporate social responsibility." Article 16d states, "Every investor is responsible for: maintaining environmental sustainability." (e) Law Number 32 of 2009 concerning environmental protection and management, (f) Law Number 21 of 2014 concerning Geothermal Energy, Article 65 paragraph (2) letter b states: "In the implementation of Geothermal energy, the community has the right to: obtain benefits from Geothermal business activities through the company's obligation to fulfill corporate social responsibility and/or develop the surrounding community, (g) Regulation of the Minister of State-Owned Enterprises No. PER-05/MBU/2007 of 2007 concerning the Partnership Program between State-Owned Enterprises and Small Businesses and the Community Development Program as last amended by Regulation of the Minister of State-Owned Enterprises No. PER-08/MBU/2013 of 2013 concerning the Fourth Amendment to Regulation of the Minister of State-Owned Enterprises No. PER-05/MBU/2007 concerning the Partnership Program between State-Owned Enterprises and Small Businesses and the Community Development Program. Article 2 of Regulation of the Minister of State-Owned Enterprises 5/2007, Limited Liability Companies (Perusahaan Perseroan Terbatas) and Public Companies are

required to implement the Partnership Program between State-Owned Enterprises and Small Businesses and the Community Development Program. Meanwhile, Public Limited Liability Companies may implement the Partnership Program between State-Owned Enterprises and Small Businesses and the Community Development Program with based on the Regulation of the Minister of State-Owned Enterprises 5/2007 which was determined based on the decision of the General Meeting of Shareholders.

The CSR regulation in Article 74 of the Company Law, which only requires CSR for limited liability companies operating in or related to natural resources, is inconsistent with the concept of CSR (Corporate Social Responsibility) for Limited Liability Companies (LLCs) based on Indonesian law. Therefore, it must be amended by returning the CSR concept to its original concept, which mandates CSR for all Limited Liability Companies operating in Indonesia.

A legal norm must be constructed based on its source and context. A norm must be sourced, must be appropriate, and must not contradict its source. The test to determine the level of provenance, suitability, and consistency of a legal norm with its source is called a validity test. A norm must also be constructed based on the needs of its context, based on the expectations and interests of the community where the law will be applied. The test to determine whether or not the needs, interests, and expectations of the context are met is called a context test.

Article 74 of Law Number 40 of 2007 concerning Limited Liability Companies does not meet the contextual test because it fails to meet the value conformity test and the interest/needs fulfillment test. It fails to meet the value conformity test because Article 74 of Law Number 40 of 2007 concerning Limited Liability Companies does not align with the expected welfare values, failing to meet basic needs such as clothing, food, shelter, health, and education. It fails to meet the interest/needs fulfillment test because it fails to meet the interests/needs expectations of the community context in which Article 74 of Law Number 40 of 2007 concerning Limited Liability Companies is implemented, namely companies carrying out social and environmental responsibilities and the company's social environment, which consists of stakeholders and the company's business sustainability.

Based on the results of this test, the formulation of Article 74 of Law Number 40 of 2007 concerning Limited Liability Companies, which regulates the Social and Environmental Responsibility of Limited Liability Companies, is able to meet the validity test or is valid but does not meet the contextual test. Therefore, the formulation of Article 74 of Law Number 40 of 2007 concerning Limited Liability Companies, which regulates the Social and Environmental Responsibility of Limited Liability Companies, which stipulates that companies conducting business activities in and/or related to natural resources are required to implement Social and Environmental Responsibility based on legal science, remains applicable, but is amended by returning to the basic concept of corporate social responsibility and making it mandatory for all Limited Liability Companies operating in Indonesia.

Making corporate social responsibility mandatory for all Limited Liability Companies operating in Indonesia aims to

provide a sense of justice by providing all parties with everything they are entitled to, or should receive, so that each party has the opportunity to exercise their rights and obligations without hindrance. Providing to others everything they are entitled to or should receive, so that a state of mutual give and take arises (just exchange). Providing and implementing everything that advances prosperity and shared well-being as the absolute goal of society (social justice). Sharing all pleasures and burdens together equally and evenly, according to the harmony of the nature and level of spiritual and physical differences of citizens, both as individuals and groups, until the hope of equality is achieved (justice in sharing).

Conclusion

The obligation to implement social and environmental responsibility (CSR) in Indonesia is formally regulated in several laws and regulations. Specifically, Article 74 of the Limited Liability Company Law (UUPT) stipulates that companies engaged in natural resources or whose activities are related to natural resources are required to implement CSR. This regulation aims to ensure companies contribute to environmental preservation and the welfare of surrounding communities.

However, this study found that this regulation remains limited and does not fully reflect the fundamental principles underlying Indonesian legal ideals: social justice, community welfare, and environmental sustainability. Article 74 of the UUPT only requires companies in certain sectors to implement CSR, despite the fact that operational activities in various other industrial sectors also have the potential to significantly impact the environment and society. With these limitations, CSR obligations in Indonesia are not fully fair and inclusive, resulting in many companies not being directly required to implement CSR programs.

From the perspective of Indonesia's legal ideals, which are based on Pancasila and the 1945 Constitution, ideally all companies operating in Indonesia should have social and environmental responsibilities, regardless of their business sector. Pancasila, the state ideology, and Article 33 of the 1945 Constitution emphasize that the national economy must be organized for the common good, with the goal of creating equitable prosperity for all Indonesians. This principle is not only relevant for companies operating in the natural resources sector, but should apply to all business entities operating in Indonesia. This way, all companies can make a positive contribution to social and environmental development in their operational areas.

Furthermore, the concept of sustainability in CSR is known as the triple bottom line principle, which involves three main aspects: profit, people, and the planet. In the Indonesian context, these three aspects must be considered in every CSR-related policy. The government and relevant parties must develop policies that reflect this principle to ensure that all companies contribute to achieving a balance between economic, social, and environmental aspects.

Based on the results of this study, it can be concluded that CSR regulations in Indonesia need to be reviewed and expanded to be implemented more inclusively and fairly. Expanding CSR obligations to all companies is expected to increase companies' contributions to achieving sustainability goals and overall societal welfare. Only with an inclusive

and integrated approach can CSR become an effective instrument to support sustainable national development and achieve the legal ideals of the Indonesian nation, which uphold social justice, prosperity, and shared well-being...

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