

TESTING THE IMPLEMENTATION OF CORPORATE RESPONSIBILITY IN REALIZING SOCIAL JUSTICE (A Case Study in Central Java, Indonesia)

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ABSTRACT

Some provisions on CSR have been set forth normatively in several laws, such as: article 74 of the Law of Limited Liability Company No. 40 of 2007, article 15 of the Investment Law No. 25 of 2007, article 3 of the Government Regulation No. 47 of 2012 on the Social and Environmental Responsibility of Limited Liability Company, and the Regional Regulation of East Java No. 4 of 2011 and the Draft of the Central Java Regulation. Partially, people can actually understand the philosophy of the mining industry, which is to optimize the profits for the industry to survive. However, the dynamics of society and changes in the political order also changed the way of view. People want transparency in the management of natural resources and economic activities. Politically the demands of society is very reasonable, because the natural resources owned by the Indonesian nation is only enjoyed by a small or a certain group, while most people live in poverty. This fact is supported by the results of research Carolyn Marr which expressed in paradox language that is rich Indonesia and Indonesia also poor (Indonesia of fabulously rich and Indonesia is desperately poor). From the results of the research that the authors get dii Central Java there is no regulation that regulates the good and specific about the cooperation among stakeholders in the provision and management of CSR, especially on communities directly affected by oil and gas company activity in the area of Central Java.

Problems:

How to build the CSR Policy that provides people welfare in realizing social justice?

The basic character of CSR voluntary and philanthropy. When it is made positive through law, the natures of voluntary and philanthropy will be shifted into forcing obligation and have the implication on misuses. Many CSRs were merely conducted for the sake of companies. The approach method used was Socio Legal that makes the concept of law as norms and behavior. The paradigm applied was the Constructivism of Guba and Lincoln, and the justice theory used was the justice theory of Notonagoro based on PANCASILA.

Keywords: CSR, Justice, Social Justice.

INTRODUCTION

CSR is an important element in the framework of sustainability that includes economic, social, and cultural aspects. CSR is an important concept in managing the cost and profitability of business activities with stakeholders both internally and externally, which is not limited to the concept of donor grants, but is a right and obligation shared by stakeholders. The presence of CSR is to maintain the balance of each interest through the compensation provided. Implementation of CSR so far in Central Java is more voluntary and philanthropy so that the scope of CSR programs is relatively limited and ineffective, even CSR programs are implemented as an effort to improve corporate image in the eyes of the community. While the Concept of CSR rolled out as a stimulus with the ultimate goal of the creation of economic independence of Indonesian society.

The regulation related to corporate social responsibility can be found in the Enactment Number 25 Year 2007 regarding Capital Investment Article 1 stated "Investor is a form of investment activity, either by domestic investor or foreign investor to do business in the territory of the Republic of Indonesia" and in Article V (b) of Limited Liability Companies Number 40 Year 2007 Article 74 on Social and Environmental Responsibility is stated "(1) The Personnel conducting its business activities In the field and / or related to natural resources shall be obliged to carry out the Social and Environmental Responsibility. (2) Social and Environmental Responsibility as referred to in paragraph (1) shall be the obligation of the company to be budgeted and calculated as the cost of the Company whose implementation is carried out with due attention to the properness and reasonableness. (3) A company that does not perform its obligations as referred to in paragraph (1) shall be liable to sanctions in accordance with the provisions of laws and regulations. (4) Further provisions on Social and Environmental Responsibility shall be governed by a Government Regulation. Government Regulation No. 47/2012 on Social and Environmental Responsibility of Limited Liability Company as the implementing regulation of the provisions of Article 74 paragraph (4) of Law Number 40 Year 2007 regarding Limited Liability Company, Article 2 stated "Every company as a legal subject has social responsibility and (1) the social and environmental responsibilities referred to in Article 2 shall be the obligation of the company carrying on its business activities in the field of and / or related to natural resources under the law. (2) The obligations as referred to in paragraph (1) shall be declared "Social and Environmental Responsibility shall be executed by the Board of Directors based on the Company's Annual Work Plan after obtaining approval from the Board of Commissioners or the General Meeting of Shareholders in accordance with the Budget Basis of the Company, unless it is stipulated by the other regulations." Paragraph (2) stated "The Annual Work Plan of the Company as referred to in paragraph (1) shall contain the activity plan and budget

required for the implementation of Social and Environmental Responsibility." Article 5 shall be declared "(1) And / or related to natural resources, in preparing and stipulating activity plan and budget as referred to in Article 4 paragraph (2) shall pay attention to decency and fairness. (2) The realization of the budget for the implementation of Social and Environmental Responsibility carried out by the Company as referred to in paragraph (1) shall be calculated as the cost of the Company." Article 6 states "Implementation of social and environmental responsibility is contained in the annual report of the company and accountable to the General Meeting of Shareholders (GMS). Article 7 states that "the Company referred to in Article 3 which does not carry out social and environmental responsibility is subject to sanctions in accordance with the provisions of the legislation." Article 8 stated "(1) The social and environmental responsibilities referred to in Article 3 shall not prevent the company from participating and carrying out the social and environmental responsibilities referred to in Article 2. (2) The Company which has participated in carrying out the social and environmental responsibilities referred to in paragraph (1) may be awarded by the competent authority. "

The existence of various regulations that have been described above is conceptualized as a mutually supportive and complementary regulation specifically for the implementation of Social and Environmental Responsibility in Central Java which must be implemented by companies engaged in and / or related to natural resources. The mandatory nature of the objective is to minimize the negative impact of the existence of the company and to optimize the positive impact of the existence of the company, to protect the company from illegal levies by unauthorized parties, to provide legal certainty and protection for business leaders in the implementation of social and environmental responsibility programs by companies in Central Java , to provide guidance as well as the realization of clear restrictions on corporate social and environmental responsibilities and its parties, ensuring the implementation of recovery and / or enhancement of environmental function in which the company is located and spurring the growth of a population-based quality economy in harmony with the government programs.

The mining industry is required to realize the "mistake" of a past approach that tends to be repressive, replaced by a socio-cultural approach, resulting in a harmonious relationship between the mining industry and its strategic environment. The fallacy in question is that the mining industry is still profit oriented and leads to corporate image that puts corporate social responsibility (CSR) at stake. This paradigm shift means that the company is no longer a selfish entity, an alienation and / or exclusivity of a society, but an entity that is obliged to adapt socio-cultural to the environment in which it is located, and be held accountable like a legal subject in general. On the basis of the paradigm CSR which has been implemented in the meaning of voluntary changed to be mandatory.

The company's concern is reflected in the company's commitment to account for any impacts of its business activities on the economic, social and environmental (triple bottom line) dimensions. For a company that consistently implements CSR in its activities, in the long term it will benefit in the form of trust from its stakeholders. Empirical facts show so many mining companies that have undermined the environmental order and social structure of society. Like the Lapindo mudflow case in Porong, the Papuan conflict with PT Freeport Indonesia, the Acehese conflict with Exxon Mobile, the environmental pollution by Newmont in Buyat Bay, and so on.

Paradigm for the company to implement the CSR more fully based on the results of a survey conducted by Suprpto and Siti Adiprigadi Adiwoso in 2005 to 375 companies in Jakarta. The survey results show that 166 companies declare not to conduct CSR activities and 209 companies do CSR activities. The forms of CSR conducted are family activities (116 companies), donations to religious institutions (50 companies), donations to social foundations (39 companies), community development (4 companies). This survey also shows that CSR conducted by the company is very dependent on the desire of the company management. While the results of the Kompas survey in 2007 showed that CSR activities only \pm 30% of all companies operating in Indonesia and its activities more focused on generosity and generosity in order to help victims of natural disasters. Also in 2017 the authors' survey results for dissertation research at various oil and gas companies in Central Java show that CSR activities are only done on the basis of the request of the local community in which the company operates or in support of incidental and non-sustainable local government programs, for example CSR in order to celebrate Indonesia's national independence day. It is therefore necessary to establish a policy that is well-accommodated and specific about CSR.

THEORY AND METHOD FRAMEWORK

This research is focused on companies engaged in the management of oil and gas resources located in Central Java by using qualitative analysis, data objects obtained through interview and observation process. The method used is Socio Legal. Banakar & Travers (2005) mentions the word 'socio' in socio-legal studies representing inter-contractual relationships where the law is an interface with a context within which law exists. Theoretical perspective and methodology in socio-legal studies are structured on the basis of research conducted with different disciplines (interdisciplinary) so that complicated social issues can be answered through this method, a method which capable of explaining the relationship between law and society.

The paradigm used is the constructive paradigm of Guba and Lincoln. The paradigm of constructivism understands that the existing reality is false and cannot be generalized to a context in a given time. This constructivism paradigm puts the position of the researcher parallel to the reality or the object under study and so on in order to understand and construct something into the understanding of the subject under study.

THE SOCIAL JUSTICE CONCEPT OF PANCASILA

Notonagoro defines justice as the ability to give to oneself and to others what it should be, what is rightfully (Notonagoro 1971: 98). Justice arises as a consequence when man try to realize his goal must execute relations and cooperation with other human beings. Justice relationships arise in every organization in which humans live together as a container of the unity of their citizens. Organizations for human beings need to be there. Organization serves as a tool to share and distribute justice.

According to Notonagoro, the relationship between humans in an organization involved in the administration of justice was formed in a pattern called triangular justice relations. As the name suggests, triangular justice consists of three aspects. The first facet of so-called distributive justice, the second is termed justice or legal justice, and the third is commutative justice. Distributive justice regulates obligations to society, nation and state to either divide up or give to its citizens it is entitled to, under the conditions of all things including the obligatory and the power or the environment of the people, the nation and the state fulfilled in all respects. Social institutions at the national, social, and state level are required to fulfill the obligation to provide justice distribution services in the form of goods and services to their citizens. Legal justice or obedience is the obligation to fulfill the justice of citizens, citizens to the state. Legal justice demands the adherence of citizens to the nation, the social, and the state because the nation, the social, and the state have fulfilled the obligation to fulfill the right to the citizens and the citizens are obliged to obey the state by complying with all applicable regulations. Commutative justice is called mutual justice is to give to fellow citizens and citizens, everything that has become the right of each according to the similarity of value between things or goods that must be given and things that received as his right.

In order to realize its purpose in life, individual citizens are not enough just to connect with the state, but with fellow citizens either to share or give each other and exchange ideas, goods and services through the implementation of commutative justice with fellow citizens. The view explains that justice is needed when people have to live with others. In distributive justice the state institutions become the main actors of justice actors, in legal justice the institutions of citizens become the main actors of justice, whereas in commutative justice citizens become the main actors of justice.

According to Notonagoro, fair behavior toward oneself, fellow human being and God Almighty is also intended as evidence that Indonesia is concerned about human values. Human values are seen as essential to manifest a civilized human being. Notonagoro provides the limits of civilized human beings namely "the realization of the elements of the nature of human, body, mind, and the nature of individual nature and social creature, besides the position of personal nature stands alone and creatures of God Almighty as *causa prima* in single compound unity, it is in the form and conduct of life with the highest dignity ". Concerning Justice in the second principle of Pancasila, it implies that the attitude and fair behavior are needed by Indonesian people in actualizing their human dignity. Regarding the fifth principle of Pancasila, social justice for all the people of Indonesia, Notonagoro explains that there are three kinds of relationship in human life; those are against oneself, against God, and fellow human beings. This relationship of life among human beings is about social justice. The right and obligation of social justice is the right and obligation of every human being to the fellow human beings and each party in the coexistence, the society, the nation, the state, and the groups within it.

From the description above, it can be concluded that: 1. Justice becomes a vital value needed for human life because humans cannot meet all their own needs without the help of others. 2. Organizations become institutions that cannot be ruled out and highly needed by humans to cooperate in order to share justice in realizing the purpose of life. 3. In the concept of justice, Notonagoro distinguishes clearly and firmly the role of each institution in administering justice through triangular justice. 4. Fair, according to Notonagoro, is also described as being fair to oneself, to God, and to others. Justice is a balance other than the balance of the fulfillment of the monopluralis needs of the human nature yet the balance of personal needs, God, and others. 5. Justice can be realized if man has moral virtuous nature.

THE IMPLEMENTATION OF CORPORATE SOCIAL RESPONSIBILITY

The government, in the regulation of social responsibility, has authority under article 33 of the Constitution of the Republic of Indonesia 1945, which states: "(1) the economy is constituted as a joint effort based on the principle of kinship, (2) production branches that are important to the state and which controls the livelihood of the people dominated by the state, (3) the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people; (4) the national economy is organized on the basis of economic democracy with the principles of togetherness, fair efficiency, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity; (5) further provisions of this article shall be governed by law."

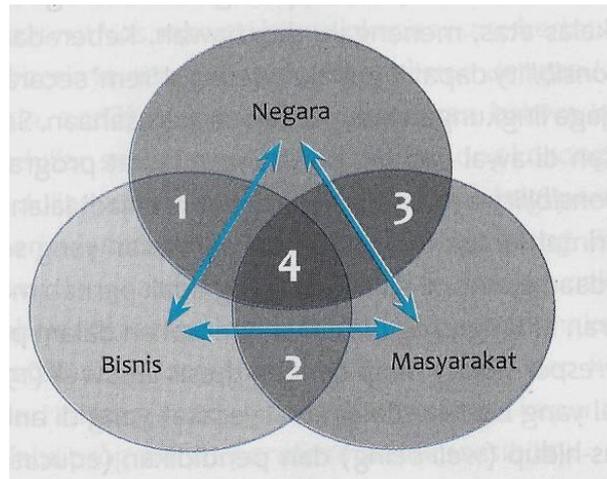
The rules on corporate social responsibility in the sharing of legislation were made by this basic authority. The government regulates but the substance of the rule is directed toward the achievement of social justice, which ultimately led to directed development (sustainability). The social responsibility carried out by the company is directed to be in accordance with the direction of national development (and generally applicable in every region, supporting regional development according to regional autonomy).

In an effort to get to it, the government only facilitates corporate social responsibility to be aligned with the direction of national (regional) development, the government does not intervene. Therefore it was raised / initiated a model, that is: Forum Corporate Social Responsibility. To establish a corporate social responsibility policy that meets the needs of the community, the government builds partnerships with companies by directing corporate social responsibility programs in accordance with the Medium Term Development Plan (RPJM) and Long Term Development Plan (RPJP). A concept was built that aims to strengthen, empower society and give the capital, the quality, and the access; the existence of cooperation among local governments (as an extension of regional autonomy) concerning the distribution of products and services throughout the country.

The Corporate Social Responsibility Forum contains an association of business people / corporations. In CSR, the Chairman of the Forum in cooperation with the Regional Government or Regional Development Planning Agency, which is a regional technical agency in the field of research and regional development planning led by a head of the body under and responsible to the Governor / Mayor through the Secretary of the Region.

In such cooperation, the Government directs corporate social responsibility program by providing list / data of field / place / area that require empowerment through corporate social responsibility program. Implementation of the social responsibility program prioritized in the area surrounding the company is primarily directly affected by the company's activities and then prioritized the areas / places / regions / villages left behind and / or the poorest outside the area where the company is located.

Since the implementation of the corporate social responsibility program aimed at empowering the community comes from funds budgeted by the company in accordance with the Company's Annual Work Plan (some companies, one of which is PT Blora Patra Gas Hulu in Blora Regency put it on the Non Operating Expenses column referring to the General Meeting), therefore the Government does not intervene in the implementation of the program but to support and to direct. The basic principle used is independence. The regulatory authority that exists in the state / government remains necessary; the rules on corporate social responsibility still exist but do not have any force. In the clause that regulates the corporate social responsibility is stipulated the principle of independence in which corporate social responsibility is allocated to the benefit of society as a synergy between the government, business actors, and the community.



The descriptions of the image above are as follows :

1. The relationship between State and Business / business actor
2. The relationship between Business / Businessmen and Community
3. The relationship between State and Society
4. The realm of corporate social responsibility

The existence of inter-elemental relationships within the ecosystem and corporate social responsibility is illustrated by the three elements, which show the triangular nature of corporate social responsibility whose implementation emphasizes the participation of the three parties.

CONCLUSION / FINDING / CLOSING

The current facts especially in Central Java have not yet established the Corporate Social Responsibility Forum as mentioned above. Major companies engaged in the oil and gas sector in Central Java do not have the same understanding of the meaning of corporate social responsibility and the existence of the Corporate Social Responsibility Forum. To date, each of these companies provides Corporate Social Responsibility in a sectoral and non-sustainable manner / community empowerment, only in accordance with what is requested by the local community and as a form of support to the local government program, incidental.

Below is the attached example of corporate social responsibility program that is incidental from one of the companies examined by the author:

CSR PT. BLORA PATRA ENERGI & PT. BANYUBANG BLORA ENERGI

YEAR	DESCRIPTIONS	BALANCE (Rp)
2013	1. Purchase of material and labor	3,700,000
	2. Participation for Gas at Deso Kedinding	1,000,000
	3. Orphanage Compensation / IPHI	1,000,000
	4. Purchase of sacrificial animals for Deso Kedinding	2,000,000
	5 The establishment of a water reservoir for Deso Kedinding	30,000,000
	TOTAL	37,700,000

2014	1. Construction of mosque - from PT. BanyubangBloraEnergi	20,000,000
	2. Lighting of street lights - from PT. BanyubangBloraEnergi	100,000,000
	3. Installation of electricity for water reservoir	1,700,000
	4. Purchase assistance for pedal stone for Desa Kalen	1,500,000
	5. CSR for desa Ngraho Kedinding	500,000
	6. CSR Training of PMII (The Movement of Indonesian Islamic Students) basic cadres	1,000,000
	7. CSR for Blora Regency Day event	2,200,000
	8. CSR Care for Banjar Country disaster	500,000
	9. CSR clean water to the villages - from PT. Banyubang Blora Energi	10,000,000
	TOTAL	137,400,000
2015	1. CSR for the Disabled	200,000
	2. CSR for consolidation of branch area of PMII	200,000
	3. CSR for forum care about Blora Sejahtera	500,000
	4. CSR to STAI Kunduran	250,000
	5. CSR for PMII basic cadre training	500,000
	6. CSR for Focus Group Discussion activities	400,000
	7. CSR for Musda LCKI Central Java	300,000
	8. CSR for Mother's Day's door prize	295,000
	TOTAL	2,645,000
2016	1. CSR for Maulid Nabi - PMII	300,000
	2. CSR for accompaniment of outstanding students - GP Anshor	250,000
	3. CSR for Harlah PMII	250,000
	4. CSR for Futsal activities at PWI Blora	250,000
	5. CSR for PMII Initiative and Seminar	300,000
	TOTAL	1,350,000

The Corporate social responsibility program which is running is still in the form of giving and generosity.

The future expectation is that the formation of Corporate Social Responsibility Forum is available not only in Central Java Province but also in all regions of regional autonomy in Indonesia so as to form a systemic and integrated situation in order to support national development.

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