

A CORPORATE SOCIAL RESPONSIBILITY (CSR) FUND MANAGEMENT MODEL IN LOCAL GOVERNMENT TO REALIZE JUSTICE AND LAW CERTAINTY

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ABSTRACT

The objectives of research were: (1) to find out the CSR fund management; (2) to find out the CSR fund management model that is effective and can realize justice and law certainty. This study was a juridical empirical research. Conclusion: (1) the management of CSR fund in Local Government should be improved in order to be consistent with the local people's need; (2) in managing CSR, a model is required to be able to create triple helix synergy between Government, Universities, and CSR so that CSR management can be effective and realize justice and law certainty within society.

Keywords: CSR, Triple Helix

Chapter I: Introduction

1.1 Background

Recently business realm pays attention not only to the company's financial record (single bottom line) but also to social and environment aspects usually called triple bottom line. Synergy between these three elements is the key to the concept of Sustainable Development (Wibisono, 2007)².

Corporate social responsibility or CSR is a corporate program committed to participate actively in sustainable economic development and growth to improve the quality of life and environment beneficial to the company itself, local community, and public in general.

The relevant concept of CSR (*Corporate Social Responsibility*) program in Indonesia, according to B Taman Achda, is in the form of community empowerment and development, called Community Development (CD). He said that CD program is recommended to be dedicated to: (economic) income or community welfare improvement, employment problems, education improvement, community health, local institution reinforcement and adequate basic infrastructure availability³.

CSR is a part of a company's management system making CSR the company's strategy in order to be profitable in the future and in medium- and long-term duration (Kartini, 2009: 48). Article 74 of Law No.40 of 2007 about Limited Incorporation mentions that all natural resource-related companies compulsorily implement social and environmental responsibilities to attract the community's sympathy. Meanwhile, Article 2 of Government Regulation No.47 of 2012 about Social and Environmental Responsibilities of Limited Incorporation governs the social and environmental responsibilities aiming to realize the sustainable economic development in order to improve the quality of life and environment, beneficial to citizens and environment surrounding the corporation. Another regulation governing CSR is Article 15 (b) of Law No.25 of 2007 about Investment stating that investors obligatorily implements corporate social responsibility.

CSR is a form of business realm's participation in sustainable development to develop the company's care about surrounding people through creating and maintaining balance between profit orientation, social functions, and living environment maintenance. In other words, CSR is developed with *Tri Bottom Line* corridor including social, economic, and environmental aspects⁴.

The implementation of CSR in local area is handed over directly to Local government governed by Local Regulation. Decentralization policy, since the enactment of Law Number 22 of 1999 has exerted both positive and negative effect on political, economic, and social aspects. In its implementation, CSR is managed through Local Government program based on decentralization and local autonomy. Decentralization is the transfer of authority from Central Government to autonomous Local Government to govern and to deal with any governmental affairs in NKRI (*Negara Kesatuan Republik Indonesia* or Republic of Indonesia) system (Article 1 of Law No. 32 of 2004 about Local Government). The transfer of authority to Local Government, according to Law No. 5 of 1974, aims to achieve the efficient Government, and then to result in autonomy. Autonomy is the local community's freedom of governing and dealing with its own affairs. Any authorities and responsibilities transferred to Local Government become the local responsibility in its implementation, plan, and funding politically.

Financial problem is the very sensitive and crucial one in local autonomy implementation. Any government authority transferred to local government in the attempt of decentralization should be followed with funding transfer, infrastructure, and human resource corresponding to the authority transferred. The authority delegated to local leader in the attempt of deconcentration should be followed as well with funding corresponding to the authority transferred. The implementation of local autonomy transfers not only burden and responsibility to local area but also various authorities and rights mastered by the central government to local government. Even, in implementing autonomy agenda, local government and people are empowered with supporting facilities and fund necessary to support the implementation of local autonomy policy dully.

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²Angela, Ratna Vita and Dini Widyawati.2014. Efektivitas Penyaluran Dana *Corporate Social Responsibility* Sebagai Bentuk Akuntabilitas Publik.*Jurnal Ilmu & Riset Akuntansi*. Vol. 3 No. 6

³Hendrik Budi Untung. *Corporate Social Responsibility*.(Sinar Grafika, Jakarta. 2009) p. 16

⁴Anantan, Lina SE, Msi. Corporate Social Responsibility Tinjauan Teoritis dan Praktik di Indonesia. *Artikel*

Considering the result of previous studies, it could be seen that the management of CSR fund has not been effective yet, for example, CSR fund not managed yet by local government, CSR fund given in the form of monumental building thereby has not been appropriate-target as expected by local government.

Considering the background of problem above, the author will find a CSR fund management model expected to realize justice and law certainty.

1.2 Problem Statements

1. What is CSR fund management existing in Local Government today?
2. What is CSR fund management model that can realize justice and law certainty?

1.3 Objectives

1. To find out CSR fund management in local area
2. To find out CSR fund management model that can realize justice and law certainty.

CHAPTER 2. METHODS

This study was an empirical juridical research as it was based on the empirical data in the field. This research was taken place in Surakarta City, Central Java Province, Indonesia. Data source was based on primary data collected through observation, interview, and focus group discussion (FGD) with officials and those involved in CSR fund management. The data was then analyzed using an interactive model of analysis, encompassing data reduction, data display, and conclusion drawing.

CHAPTER 3. DISCUSSION

3.1. CSR Fund in Local Area

So many companies investing and operating in Surakarta exert some effects. On the one hand, the city's economic activity develops more rapidly, but on the other hand, there is also inevitable nurturant effect of the company's existence, viewed from social and environmental aspect. Therefore, company should have social and environmental responsibilities, as included in Chapter V Article 74 clause 1 of Law Number 40 of 2007, mentioning that corporation operating its business in natural resource and/or related to natural resource field obligatorily implements social and environmental responsibility (CSR).

Social and environmental responsibility, according to Article 1 number (3) of UPPT (Limited Incorporation Law), is the corporate commitment to participate in sustainable economic development in order to improve the quality of life and environment beneficial to corporate itself, local community, and public in general. CSR is defined as everyone or company committed to contributing to building economy sustainably aiming in their business activity aiming to improve the quality of life of not only their employees or represented by their family but also local and global people, in which economic development commitment is integrated into CSR program or activity. In other words, CSR can be an alternative to development funding source.

CSR is very important to the company's sustainability in looking for profit. Archie B. Carrol develops a concept providing theoretical and logical justification on why a company should apply CSR to surrounding community. In Carrol's opinion, CSR is the peak of pyramid closely related to and even identical with philanthropic responsibility⁵.



Notes:

- a. Economic responsibility (make a profit). Company should have economic added value as the requirement for the company to keep living and developing.
- b. Legal responsibility (obey the law). In the process of making profit, the company may not break the law and policy specified by the government.
- c. Ethical responsibility (be ethical). The company has an obligation of running good, just, and fair business practice.
- d. Philanthropic responsibility (be good citizen). The company is required to give contribution that can be felt directly by community, aiming to improve the quality of all people's life.

⁵Mapinsangka, Andi. 2009. Implementasi CSR Terhadap Kesejahteraan Hidup Masyarakat. *JESP Vol. 1, No. 1*

Considering the information above, it can be seen clearly that the company has an obligation to improve the life quality of surrounding people. As the peak of pyramid, CSR plays an important role to the company in implementing their activities to make a profit as the company's foundation.

Local government development funding still relies on the budget originating from conventional fund such as tax and retribution. Government still relies on the increased local original income (PAD) in dealing with the limited fund of development). It indicates that government has not been capable in the terms of its finance. The development budgeting allocation system used is incrementalism system and line item, in which development budget allocation is given to governmental institutions based on the budget used in previous year the using technique of which is submitted to the corresponding institution.

The use of development fund particularly the one deriving from people, in addition to be an alternative local development fund that can reduce the dependency on conventional funding source, also aims to encourage the people benefiting from the development of public infrastructure to assume the fund. It of course will benefit the local government doubly in which in addition to dealing with the limited development fund, it can lead the people to participate in taking care of and maintaining every development conducted because some of the fund used come from them, thereby preventing them from damaging the infrastructures constructed using some of their fund.

This attempt is called Infrastructure Financing Facilities (IFF) that can distribute fund directly (direct funding) using equity instrument, senior, subordinated debt, grant, political risk security cost and other risks (contingency support. Those involved in IFF are funder, government, infrastructure construction project manager, investor, and creditor.

Some developing countries have applied IFF: Pakistan, India, and Columbia. The success of IFF in those countries is due to, among others: strong guarantee given by government without their much intervention, transparent and systematic infrastructure construction, and risk allocation to those competent in dealing with it. For that reasons, government should take some attempts to ensure the successful implementation of IFF, among others: improving investment environment into the more conducive one, stabilizing political environment, improving macroeconomic condition, reinforcing financial institution policy, and reinforcing the concept of infrastructure construction to be developed (Makmud:2015).

So far, the implementation of CSR fund management in Surakarta City still runs independently in each of companies. Until 2013, Surakarta City Government, through Mayor Regulation No.12 of 2013 governs the implementation of CSR in Surakarta. This Mayor Regulation was renewed with Local Regulation of Surakarta City No.2 of 2015 about Corporate Social Responsibility, the activity implementation of which attempts to involve companies to participate through their CSR program.

Nevertheless, not all CSR activities in Surakarta have been coordinated by Social-Cultural and Government Division of Bappeda (Local Development Plan Agency) through this Local Regulation. In addition, the attempt of involving companies' CSR into other SKPD's programs/activities has not shown good achievement. Most involvements of Companies' CSR into SKPD's program/activity are incidental and unsustainable in nature. In other words, many CSR activities of companies and other institutions have not been documented by city government.

In 2016, Surakarta City Government issued Mayor Regulation Number 3-A of 206 about the Operational Manual of Surakarta City's Local Regulation Number 2 of 2015 about Corporate Social Responsibility. Chapter V of Mayor Regulation Number 3-A of 2016 contains the forum with the following duties: arranging program; collecting program data; and arranging priority scale of CSR both from company and from Surakarta City Government.

Through this forum establishment, the company is expected to implement CSR more actively. In addition, Surakarta City government will also appreciate the companies implementing CSR actively in Surakarta.

Then, in the same year the Surakarta Mayor issued Surakarta Mayor Regulation Number 460/13.21/1/2016 about the establishment of Corporate Social Responsibility Communication Forum to confirm this CSR forum establishment. This forum is established to monitor and to transfer City Government's policy related to the CSR management. This forum consists of many companies existing in Surakarta. It becomes a medium of communication between companies and City Government and a means of giving input to CSR programs.

The implementation of CSR is governed in Chapter IV Article 4 of Mayor Regulation Number 3-A of 2016. The procedure is as follows:

- a. Company running business in a region, either BUMN/BUMD (state-/local government-owned enterprises) or private companies with legal entity producing product or service obligatorily conducts Corporate Social Responsibility).
- b. Company gives the forum the information on Corporate Social Responsibility program/activity and fund amount.
- c. CSR program/activity includes health, living environment, education, economic, and poverty alleviation sectors.
- d. Local government and/or community submit the proposal of activity to the Forum.
- e. An agreement is made by Local Government and companies/business performers organizing CSR, so is Local Grant Agreement and Product Transferring Document.

Meanwhile, the procedure of applying for CSR is governed in chapter VII Articles 11-15:

- a. Local government and community group/association/organization inventory the activities in health, education, living environment, economic, and social welfare sectors.
- b. Business performers give CSR fund to the Forum
- c. Local Government and community group/association/organization prepare proposal for applying for grant to be submitted to the Forum
- d. The application is submitted referring to:
 - Result of development plan discussion in previous year
 - The proposal is prepared incidentally from community group/association/organization.
 - Result of SKPD's proposal
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- e. The applicants of CSR should meet the following requirements:
 - Enclosing the leadership structure of community group/association/organization.
 - Approval from Village Head, Sub District Head, and LPMK
- f. After the forum has received the proposal of grant and gotten approval, it is followed up with the signing of agreement between business performers and mayors.

- g. During transferring CSR in the form of product, Transfer Document is prepared and signed by business performers organizing CSR and Local Secretary.
- h. The transfer of CSR in the form of product should be accompanied with Local Grant Agreement containing at least type, money amount, and product value, signed by CSR organizer and Local Secretary.
- i. Before signing the transferring document and grant agreement, SKPD that later will received CSR should verify the products to be given.
- j. Local secretary prepares local product transferring document to SKPD and then records it in SKPD Balance and Local Balance.
- k. After the forum has received the proposal of grant and gotten approval, it is followed up with Transfer Document between Forum and community group/association/organization.
- l. Transfer document signed by companies/business performers/forum organizing CSR and CSR beneficiaries is prepared for the transfer of CSR in the form of product/money.
- m. CSR beneficiary should submit responsibility report to Forum.

In fact, the implementation of CSR fund in Surakarta has run independently in each company so far. In 2013, Surakarta City Government, through Mayor Regulation No.12 of 2013, governed the implementation of CSR in Surakarta. This Mayor Regulation was then amended with Local Regulation of Surakarta City No.2 of 2015 about Corporate Social Responsibility, the activity implementation of which attempts to involve companies to participate through CSR of each company.

The second constraint is the reluctance of the company, as stakeholders providing CSR fund, to be merged with other companies. It is because the company worries that people will recognize the part of the company giving the fund difficultly. Meanwhile, the logo of company symbolizing the company providing CSR fund can be a strategy to promote the company. In this case, the company needs corporate image.

The objective of CSR is to realize the sustainable economic development in order to improve the quality of life and environment beneficial to citizen and environment surrounding. However, it is well established that CSR can create a good image all at once among the community, thereby is considered as an effective way to introduce (to promote) the company.

The third constraint is that the communication forum established by City Government as mediator for both City Government and stakeholders has not functioned maximally yet. Corporate Social Responsibility Communication Forum is in charge of firstly coordinating and communicating the allocation and the location of CSR program and activity held by private and state-owned enterprises (BUMN/BUMD) in Surakarta City, in order to be synergistic with the development plan made by Surakarta City Government.

Secondly, it also functions to improve synergy and coherence in planning, implementing, and controlling CSR program and activity held by private and state-owned enterprises (BUMN/BUMD).

Thirdly, this forum serves to optimize the implementation of corporate social responsibility program and activity corresponding to the territorial need and characteristic based on appropriate target, benefit, time, and quality. Fourthly, it functions to control the implementation of corporate social responsibility in Surakarta City through monitoring, evaluating, and reporting more intensively, integratively, efficiently, and effectively. Unfortunately, this forum has not functioned maximally yet.

The fourth constraint is that not all companies existing in Surakarta have been registered, so that City Government cannot control them adequately. Many companies that should implement CSR do not report their CSR implementation to City Government. Therefore, considering the data received by City Government, only large and branded companies implement CSR. Those having implemented CSR are, on average, state-owned enterprises (BUMD) and banking companies, while only a few of private, franchises, and hotel companies have implemented it.

The fifth constraint concerns the poor internal coordination in City Government between related services (Economics Service and other executive services). Because there is no good cooperation between related services, those dealing with CSR in City Government has inadequate knowledge about the implementation of CSR based on the valid data. It is because the third party dealing with its distribution technique does not report to the one dealing with CSR. Meanwhile, the reporting procedure should pass through Economics Service. However, in fact most related services do not report to Economics Service.

Next, CSR beneficiaries file grant proposal without City Government's recognition. It makes the data of communities and company uncovered. It is in contradiction with the procedure governed in Perwali requiring the reporting to City Government.

The seventh constraint is that the grants given by companies are largely in physical form (park, column, monument, and etc) unsurely necessary to the community. For example, the development of Kelurahan park becomes transient euphoria only because thereafter there is no maintenance for it. Additionally, some other CSR program can be enjoyed by certain groups of communities only and is unsustainable.

Many constraints with the implementation of CSR result in asynchrony between the program expected by City Government and those expected by company and community. In addition, there has been no indicator to measure the community's interest needing CSR grant fund. Many programs out of the community's need make CSR fund not having sustainable benefit.

Surakarta City Government does not manage the fund directly. It means that Surakarta City Government does not receive CSR fund in cash but in the form of local asset that will be a building to support the local people's need. Because CSR fund may not be managed by City Government, the fund given by the company in the form of construction material to the community through the proposal prepared by City Government. However, the company can give CSR fund directly to the community through some programs prepared by the company itself. City Government is not allowed to manage CSR fund directly because CSR fund is very vulnerable to corruption. It can be said that in this case City Government acts as symbolic distributor of cooperation between City Government and stakeholders to the community.

For the program to be funded by CSR, stakeholders can prefer distributing the fund directly to the community or through the program prepared by City Government. The CSR fund distributed directly to the community can be scholarship or poverty alleviation grant just like the one conducted by Bank Jateng along with Surakarta City Government through Unlivable House Program. Meanwhile, City Government receives local asset such as Banjarsari Park funded by PT. Sritex's CSR.

Some other programs are 2 units of public mobile toilet funded by PT. Bank Mandiri, Manahan City Forest by PT. Bank BNI, Ponten Kestalan revitalization by PT. Bank Jateng, Night Market Ngarsopuro tent by PT. Pegadaian, parks in the flat by PT Protelindo, 18 shelter units in Dr. Soepomo Street, healthy market facilities in Sibela Market by PT. Bank Danamon, Unlivable House in Kelurahan Jagalan by PT. BTN, and etc. Meanwhile SMEs prefer being integrated into the same program such as distributing food staples for free to Surakarta people in fasting month.

3.2. A Fair CSR Fund Management Model to Realize Law Certainty

Triple Helix theory was originally popularized by Etzkowitz and Leydersdorff as the innovation-based policy development method. This theory emphasizes on the importance of synergy between three poles: intellectual, business, and government. Triple Helix, as the primary actor, should move in a circulation to create knowledge spaces, in which the three actors have had equal understanding and knowledge that will lead them to make consensus space for them to develop agreement and commitment to something that in turn will lead to the creation of innovation spaces that can be packaged into an economic-valued creative product.

"Triple Helix" concept is a functional formulation that can be used by democratic developing countries, in creating broader access to the public participation in creating transformation they want collectively. Improving the function of democracy for economic dynamics departs from the reinforcement of the relation between academic or research institution, business, and government.

In addition to the presence of triple helix, the management of CSR fund is confirmed with public participation theory. Public (community) participation theory is the community's participation in the process of identifying problem and potencies existing within society, selecting and making decision concerning the alternative solution to the problem, implementing the attempt of solving problem, and community orderliness in the process of evaluating the change occurring⁶.

To realize the successful development, the members of community's initiative and creativity are required, born from their awareness and responsibility as human beings living within society and expectedly growing and developing into participation. In relation to community participation in development, participation is the community's active engagement in the process of determining direction, and development policy strategy to be implemented by the government. It particularly occurs in political and social processes, relation between interest groups in community thereby is supported in its implementation.

Koentjaraningrat⁷ explains that an institution is an establishment of behavior or (ways) of life in a group of people, so that an institution is something stable, steady, and patterned, functioning to achieve certain objective within society, determined in traditional and modern social systems, or can be traditional and modern form, and functioning to make the social life efficient.

Triple Helix as the primary actor should keep moving to create circulation to establish knowledge space consisting of three elements:

1. Intellectuals, in this case Universities; how the engagement of Universities is in realizing three pillars of Universities; Universities are expected to participate actively in managing CSR fund. It can be done by participating in making policy about CSR regulation, supervising (monitoring) and evaluating CSR activity.
2. Business, in this case companies having obligation to spend CSR fund, in which they obligatorily spend CSR fund corresponding to the specified policy, participate in development, and engage actively in development implementation including in developing implementation plan and evaluating the development that is so important to be the parameter of CSR's ability to initiate the development conducted. In improving and encouraging the participation, it is noteworthy that CSR is the actual needs felt by individuals and communities. Thus, CSR's participation is expected to be felt directly by community and consistent with the community's need.
3. Government, according to the institutional theory, is an institution functioning to realize certain objectives within society and to make the social life efficient. In its role in managing CSR, government can synergize the role of these three elements well, so that the objective of CSR fund management can run well corresponding to the objective to be achieved.

CHAPTER 4. CONCLUSION

CSR fund management in Surakarta Local Government should be improved in order to be consistent with Surakarta City people's need. In CSR management, a model is required to synergize the triple helix of Government, Universities, and CSR so that CSR management can run effectively and can realize justice and law certainty within community.

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⁶Yuwono, Teguh. 2001. *Manajemen Otonomi Daerah : Membangun Daerah Berdasar Paradigma Baru*. Semarang: Ciyapps Diponegoro University

⁷Soemardjan, Selo and S. Soemardi. (1964). *Setangkai Bunga Sosiologi (Kumpulan Tulisan)*. Jakarta: Penerbit Fakultas Ekonomi Universitas Indonesia.

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