

THE CONVERGENCE AND DIVERSITY OF CSR NEED TO BE STANDARDIZED AS MANDATORY IN INDONESIA

Martono Anggusti

ABSTRACT

When tracing the understanding of CSR in its journey to meet human needs, the understanding up to now is, how humans have various forms of responsibility that are no limit in terms of morals and ethics to all stakeholders that are closely related to sustainable development. The understanding that must be realized by CSR actors is that the importance of sustainable development is a joint responsibility which carrying the development and growth needed by humans. When entering 100 years old, Indonesia will get a demographic bonus that is 70% of Indonesia's population in productive age (15-64 years), while the remaining 30% is unproductive population (under 14 years of age and over 65 years) at period 2020-2045, which mean need more job allocation. Then how the article entitled: THE CONVERGENCE AND DIVERSITY OF CSR NEED TO BE STANDARDIZED AS MANDATORY IN INDONESIA can meet the objectives of the Republic of Indonesia that clearly stated in the preamble of the 1945 Constitution in paragraph four.

Keywords: Education, Culture, 4 pillars of nationality, Law enforcement, ISO 26.000.

INTRODUCTION

Corporate Social Responsibility is a legislation program, that has a strong urgency in order to provide a stronger legal basis for the implementation of Corporate Social Responsibility. From the operational side, Corporate Social Responsibility is expected to optimize the implementation of programs and synergy between stakeholders, so that the objectives and benefits obtained, are truly able to improve the welfare of the communities.

With regards to corporate social responsibility, basically every business actor (corporations/companies) doing the social responsibility (*3P/Planet, Profit, People*) in conducting the business. This is because, in addition as a business institution, corporations/companies, also cannot be separated from their existence as social entities (*corporate citizenship*), that influence and are influenced by, the surrounding environment. Therefore, the existence of the corporations/companies should provide the general benefits for more peoples. In the Theory of Bentham, he treats the greatest happiness of the greatest number of people as the purpose of life, its moral criteria and the rationally organized form of being, which is formed by people's actions, interests and inner preferences. Bentham's utilitarianism of action identifies rationality as the essential moral quality and the condition for morality to exist. For him, morality is prior to action, in that moral intellect not only evaluates a utilitarian action according to its consequences, that is, according to how and how much it contributes to the increase in happiness, but also dictates certain rules of behaviour which depend on circumstantial utility and therefore acquire an ever-changing meaning. In this way, Bentham treats material wellbeing as the basis for morality, noting that moral good becomes good only due to its capacity to produce physical wellbeing. Bentham asserted the relativity of moral norms, not taking any of their judgements as absolute. Bentham treats morality as a social product whereby the individual and society understand the ideal of the greatest happiness in the context of another's interests. He grounds morality on arguments by reason, but morality is not an outcome of reasoning nor a simple calculation. Its origins lie in intelligent egoism, which is conscious of the utilitarian capacity to sacrifice on behalf of other people's happiness. Bentham unjustifiably believes that an individual, consciously heeding society, with a guaranteed enthusiasm accepts and applies society's dictated moral principles related to the pursuit of the greatest happiness. Such an enlightened interest is as if necessarily guaranteed by the *modus vivendi* of that state which seeks the greatest happiness. The lack of such motivation arises from the lack of education.

Especially for the surrounding communities where the corporations/companies, carries out its business' activities and as a profit-oriented companies. The form to manifest its concern for the communities and the company's environment is by implementing Corporate Social Responsibility.

The emergence idea of corporate social responsibility departs from world concerns in the 1950s, where poverty and environmental damage were widespread worldwide. In 1966, Lester Thurow wrote a book about "*The Future Capitalism*" which emphasized the existence of accountability in the capitalism system in which corporations were not merely incentivized by stimulating economic profits in doing business but needed to pay attention to social aspects.

Bowen (1953) was the first person who tried to formulate the meaning of CSR in his book of Social Responsibilities of the Businessman (1953), so Bowen was dubbed as the Father of Corporate Social Responsibility.

Furthermore, ISO 26000 mentions seven main subjects of CSR, namely organizational governance, human rights, labor practices, fair business practices, consumer issues, the environment, as well as community involvement and development.

The development of CSR implementation in Indonesia can be marked by many companies implementing CSR. More and more companies are implementing CSR both in the form of charity, as well as empowerment. At least it can be seen from the intense publication related to the implementation of CSR in print and electronic media. The development of CSR in Indonesia can be seen

from the various efforts of the Provincial, Regency and City Governments to issue laws and regulations relating to the implementation of CSR in the relevant Province, Regency and City areas.

Limited Liability Company Law no. 40 year 2007 and Government Regulation of the Republic of Indonesia No. 47 year 2012 concerning Social and Environmental Responsibility has not provided legal certainty in its clear implementation. Means most of the CSR done by the companies mostly because of the market issues.

Current development paradigms and strategic issues of sustainable development, among others, in State-owned enterprises (BUMN) are the active role of the communities, and the involvement of financing to the communities and the businesses through CSR programs or by the Partnership and Community Development Program (PKBL). The principle's of the social and environmental responsibility (TJSL) is an effort to improve the quality of life in various components in the communities (*stakeholders*) related to the development activities carried out, and the commitment to preserve the environment and empower the communities so that it can guarantee the sustainability, and maximum the benefits, for the entire communities, as echoed by Philosopher Jeremy Bentham, on the theory of Utilitarianism, "*The Greatest Happiness of the greatest number.*"

This principle is in line with the spirit of Pancasila (Indonesian State Ideology) values, namely the fifth of the Pancasila's principle: "*social justice for all Indonesian people*". Strictly speaking, the basic principle is seen in the opening of the 1945 Constitution in the fourth paragraph which stated:

"protecting all blood spilled in the opening of the 1945 Constitution, particularly those relating to the fourth paragraph containing the objectives of independence and the formation of the state, namely forming an Indonesian Government protect all the people of Indonesia and all Indonesian blood and to promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace and social justice."

In addition to the preamble, the norms in the body of the 1945 Constitution regulate the rights of citizens in line with, the values of CSR. Among them is Article 28H which guarantees the rights of every citizen living physically and mentally, living, getting a good and healthy environment and entitled to obtain health services. Article 28C paragraph (2) also guarantees the right of every citizen to advance himself in fighting for his collective right to develop society, nation and state.

The economic development model based on the provisions of Article 33 paragraph (1) of the 1945 Constitution outlines: "*The economy is structured as a joint effort based on the principle of kinship*". Furthermore, in paragraph (4), stated, "*The national economy is organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainable, environmentally friendly, independent, and by maintaining a balance of progress and national economic unity*". These democratic principles are in line with the values of CSR, which are also oriented towards environmental preservation, community empowerment and sustainable development.

In the provisions concerning social welfare, the provisions of Article 34 paragraph (1) and paragraph (2), "*the state bear the citizens who are poor and neglected by developing a social security system and empowering people who are weak and unable to comply with human dignity.*"

There are at least twelve companies' laws and a lot more CSR regulations issued by each provinces, city and district. But still, because of, CSR not yet having a unity view, and everybody give a different interpretation, causing the implementation of CSR cannot be maximized and instead becomes a venue of financial game.

Indonesia since the 19th century, experienced various shocks that began with globalization, the Industrial Revolution 4.0 and facing the covid-19 pandemic. The impact of these concurrent problems results, in a very heavy and high pressure, on the development of Indonesia in all fields of businesses. A lot of companies are closed, from large to medium-sized companies, every day can be read about the layoffs of labors. Many companies will only be able to survive until the next 2-3 months and finally, jobless peoples going booming again. The people it will be difficult to meet daily needs which will result in people starving. In July 1998, the rupiah continued to decline, US \$ 1 equivalent to Rp 14,150. The monetary crisis or financial crisis in Indonesia occurred because of the 1997-1998 Asian financial crisis. Rupiah inflation and a large increase in food prices have caused chaos in Indonesia, and and its slump has not returned to normal. And on March 27, 2020, for the first time in the last 22 years or since the 1998 crisis, the rupiah had touched Rp. 16,575 per US dollar. That level is only 75 points away to the lowest level of rupiah in history. This signifies a financial problem that will result in a financial crisis and continue into the economic crisis again.

Another problem coming and create several factors causes: economic, cultural, biological, and psychological factors. Impact of social problems will occur; juvenile delinquency, poverty, unemployment, etc. The impact; group divisions, deviant behavior, and increased crime. Social Problems are the difference between expectations and reality or as a gap between the existing situation and the situation that should be. Social problems are seen by some people in society as an unexpected condition. A social problem is a discrepancy between elements of culture or society, which endangers the lives of social groups. If there is a clash between the elements that can cause disruption of social relations such as shakiness in the life of a group or community.

It has been noted that there have been 6 world's companies (Chevrolet, Ford, Nissan, Panasonic, Toshiba, Pepsi) that have left Indonesia. This means the CSR also gone. The business sector that is involved is also quite diverse. There are from the automotive sector, soft drinks and also electronics. The high level of sales competition and the high price of raw materials, licensing issues and the high cost of stealth costs, are thought to be one of the causes of the cessation of operations of these companies.

Business people say that the durability of their business is getting worse from the corona pandemic. Some have already been laid off in March, some have survived only until April by stopping production, even at most only in June 2020. Chairman of the Indonesian Employers' Association (Apindo) Hariyadi Sukamdani, said that almost all sectors were affected by Covid-19. In the field of tourism, 698 hotels have been closed, regional transportation operating only 10% to the manufacturing industry that is experiencing cash flow difficulties or even a minus because production is not optimal even stop. Apindo also mentioned that the industry's resilience is projected only until June 2020. Hariyadi said the situation was getting worse because of covid-19.

At present the social problems that is starting to hit Indonesia will turn into an economic crisis, namely the paralysis of economic activity because more companies are closing down and an increasing number of unemployed workers. Indeed, this crisis was not entirely caused by the disaster, because partly exacerbated by various national calamities that came in a barrage amid economic difficulties such as rice crop failures in many places due to the long dry season, pests, massive forest fires, and the peak of the nation hunger crisis and corona virus outbreak (covid-19) will occur in mid of 2020. Most companies can't survive more than mid of 2020.

State problems such as the above incident cannot only be solved by the state, but require the more parties to work together, in solving them, especially the entrepreneurs/companies/corporations supporting, which is so important in the moment. State security's obligation of the state is, to protect its citizens from any danger that will threaten national security, especially the daily living needs of the peoples, as stated in Article 34 paragraph (1) of the 1945 Constitution of the Republic of Indonesia mandates the state's obligation to care for the poor and neglected children. And coupled with laws that oblige companies to carry out corporate social responsibility. Among these laws, only Law no. 25 year 2007 concerning Investment, which uses the term "business entity". Law no. 40 year 2007 regarding Limited Liability Companies, requires corporate social responsibility that carries out business activities in the field of and/or related to natural resources. Meanwhile, Law no. 4 year 2009 concerning Mineral and Coal Mining, uses the term business entity, but what is meant that a legal entity operating in the mining sector established under Indonesian law and domiciled in the territory of the Republic of Indonesia.

However, that does not mean citizens do nothing in terms of mutual security. In Article 30 paragraph 1 of the 1945 Constitution stated: Every citizen has the right and duty to participate in the country's defense and security efforts. The citizen especially in the companies as stated in the Government Regulation on Corporate Social and Environmental Responsibility (TJSL) as mandated in Article 74 paragraph (4) of Law Number 40 Year 2007 concerning Limited Liability Companies. These crucial issues are: (a) the scope of the company that is required to implement CSR (TJSL); (b) synchronization and harmonization of laws and regulations that govern the substance of CSR (TJSL); (c) legal sanctions for companies that do not implement CSR (TJSL), and (d) the relationship between and The Partnership and Community Development Program specifically applies to companies in the form of SOEs.

FINDINGS

1. The biggest mistake in Pancasila Philosophy lost. Today's people claim of Human rights, freedom, liberalism.
2. Indonesia does not yet have a Standard Unity Guide on the Implementation of Mandatory CSR Policies, although the policy has been implemented since 2007 through Law No.40 / 2007 concerning Limited Liability Companies.
3. There are at least twelve laws and a lot of local government regulations governing CSR.
4. The culture of corruption lead to huge pressure for companies as a tool of social extortion, because of the CSR.
5. The next generation of Indonesian people who have left the ideology of the Pancasila; "the principle of togetherness, the principle of mutual cooperation and the principle of kinship," should teach from child, either at home or school.
6. The next generation of Indonesia who adheres more to the principles of capitalist, liberalist and individualist. And follows the consumptive lifestyle.
7. The Law Enforcement, which is still selective, sharp downward and blunt upward.
8. The Limitations of professionals. Moral problems. Who can carry out tasks in planning, utilization, control, maintenance, supervision and law enforcement that are in line with the dreams of the Indonesian people as a whole, according to the objectives of the Indonesian state as stipulated in the 1945 constitution.
9. In the country of heaven on earth with abundant natural resources hiding groups of Indonesian people who keep on destroying it.

CONCLUSION

1. The experience of the crisis in 1998 provided experiences for all Indonesian people due to starvation which caused chaos and now all over Indonesia can be seen by both the authorities, businesses peoples, organizations, non-governmental organizations, places of worship, members of the communities, together to jointly provide foods to the people who affected by the industrial revolution 4.0 and covid-19 by using the CSR funds.
2. Recently, proven that CSR funds are appropriate to assist critical conditions without have to wait for government funds, and companies and/or the entrepreneurs can actively provide solutions to overcome the social responsibilities.
3. Academic drafts and laws for CSR must be prioritized in the discussion of the House of Representatives to be immediately invited as a CSR Act that can resolve the convergence and diversity of CSR in Indonesia.
4. CSR funds are recommended to be standardized with the following criteria:
 - a. CSR funds are set aside from profits and managed by entrepreneurs;
 - b. The company must appoint a CSR director;
 - c. The government as a supervisor together with academics by creating a CSR project project table.
 - d. CSR funds are determined to be a maximum of 1% of last year net profit.

- e. CSR activities are reported to the tax office as costs that can be budgeted as expenses.
 - f. CSR funds which are not used in the running year, will be continue to be allocated as CSR funds.
 - g. The Tax Office is required to audit CSR activities that have been mandated in accordance with applicable company law.
 - h. If a company that has net profit, consecutively within two years did not hold CSR activities, then the CSR funds will be used for the projects designated by the team involve the parties of the government, the labours union, academics, commnities and NGO members.
5. The revolution and convergence of information technology needs to be approached and discussed through the approach of legal theory, legislation and regulation so that the objectives of the information society in Indonesia can be achieved based on Pancasila. And this can be used as a GCG CSR projects data base.
 6. Character education has an important role to advance human civilization. The purpose of the core character education is twofold, namely to make students into smart people as well as good people. If these goals can be achieved, human civilization will tend to be more advanced than before. Conversely, if the two or one of these goals are set aside, what happens is the destruction of the nation's civilization. and today the Indonesian nation is entangled in capitalist, liberalist and individualist conditions, far from civilizations based on kinship, mutual cooperation and togetherness, which are contained in Pancasila and the 1945 Constitution.
 7. Companies CSR funds have the strength to minimize the possibilities of poverty but need the support of the good and clean government.
 8. The law-enforcement that supported by the customary leaders and the others stakeholders' hand by hand (gotong royong), will give a good sustainable result to overcome the equitable distribution of people's economic development.
 9. The diversity of csr law applications that spread due to the interests of the authorities must be immediately stopped by the implementation of CSR standardization in Indonesia.
 10. The convergence and diversity of CSR need to be standardized as mandatory due to 3P (Planet, People, Profit) process of sustainable development in Indonesia.
 11. The problem in Indonesia, which consists of ethnic and cultural diversity and lives on the principle of "unity in diversity", can only be resolved by custom and law enforcement.
 12. The convergence and diversity of CSR topics is to restore the morale of the Indonesian people based on togetherness, on the basis of mutual cooperation and on the basis of kinship in building a populist economy of Indonesia towards a state goal as written in the fourth paragraph at the opening of the 1945 Constitution.

REFERENCES

- Alvi Syahrin, Martono Anggusti, Abdul Aziz Als (2018), *Hukum Lingkungan Di Indonesia (Suatu Pengantar)*, Jakarta Timur: Prenadamedia Group.
- Chua Mui Hoong (2018), *Singapore Disrupted*, Singapore: Straits Times Press Ltd.
- Danrivanto Budhijanto (2017), *Revolusi Cyberlaw Indonesia*, Bandung: PT. Refika Aditama.
- Finn Brunton (2019), *Digital Cash*, New Jersey: Princeton University Press.
- Jagdish Bhagwati (2007), *In Defense of Globalization*, New York: Oxford University Press, Inc.
- Klaus Schwab (2019), *Revolusi Industri Keempat*, Jakarta: PT. Gramedia Pustaka Utama.
- Martono Anggusti (2010), *Tanggung-Jawab Sosial Perusahaan*, Bandung: Books Terrace & Library.
- Mark Skilton, Felix Hovsepian (2018), *The 4th Industrial Revolution*, Macmillan: Palgrave.
- Rhenald Kasali (2017), *Disruption "Tidak Ada Yang Tak Bisa Diubah Sebelum Dihadapi Motivasi Saja Tidak Cukup"*, Jakarta: PT. Gramedia Pustaka Utama.
- S.Prakash Sethi (2003), *Setting Global Standards*, Canada: John Wiley & Sons, Inc.
- <https://www.cekaja.com/info/sejak-2016-sudah-6-perusahaan-dunia-henggang-dari-indonesia/>
- <https://www.cnbcindonesia.com/news/20200403105321-4-149571/duh-pengusaha-mulai-tumbang-tutup-hotel-stop-produksi-phk>
- <https://market.bisnis.com/read/20200327/93/1218868/naik-083-persen-akhir-pekan-yang-indah-buat-rupiah>

Martono Anggusti
Faculty of Law,
HKBP Nommensen University,
Medan, Indonesia