

# Mineral Mining Resource Management Company's Social And Environmental Responsibility Policy Associated With The Justice Principle

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## **Abstract**

*The social and environmental responsibilities of mineral mining resources management companies need supervision in the implementation to not deviate from the state's objectives. This research is about how the policy of social and environmental responsibilities of mineral mining resources management company associates with the local community's principle of justice. This research is research with the normative juridical approach by reviewing legislation relating to corporate social responsibility and the environment. The results show that the social responsibility policy in mineral mining resources management focuses on environmental development programs but does not stand out due to the absence of standards and uniform indicators. The emphasis of policy focus is more on compliance with the Environmental Protection and Management Act. Suggestions for the sake of fulfilling the principle of justice and for legal certainty, the policy of Government Regulation governing social and environmental responsibility needs to be published soon.*

## **1. INTRODUCTION**

Corporate Social Responsibility (CSR) is busy discussed lately, triggered by the new provisions regulated in Law Number 40 the Year 2007 regarding Limited Liability Company (PT) Law specifically Article 74 paragraph (1) mentioned, any company which carries out activities in the field or related to natural resources shall be obligated to carry out social and environmental responsibility. On the one hand, this regulation is considered discriminatory, and CSR arrangements are generally considered to be less precise and violate the prevalence of international business. The CSR listed in the Limited Liability Company Law (PT Law) limits the entrepreneur's awareness. Given that corporate social responsibility towards the

environment is done. Still, with CSR's rules in the Law of PT, each company's understanding is only limited to those listed in the Act.(I. Gusti Ayu Ketut Rachmi Handayani et al. 2018) Regulations on the duty to fix environmental impacts such as waste and others are very understandable, according to business circles. The importance of reforestation in repairing the damage is also very important. Using force to handle the responsibility to improve the health of the local population, however, seems to be less fitting. Not because they disagree on substance, but rather because of differences in tradition and policy. Above all, CSR must arise naturally from within the business community and cannot be coerced. So it's more voluntary. Many businesses in international business circles are starting to recognize the value of considering other priorities, such as benefit, human capital, and the environment. Such businesses are known to believe in the "triple bottom line," which includes benefit, people (human), and the planet/environment.(Hanum 2020)

Values and ideologies are normally established over time in large corporations. They must still incorporate social responsibility as part of the community's engagement in their mission and vision because they cannot grow as large as they are now without it. The idea that corporations should have social and environmental responsibility emerged from this definition (TJSL). "Corporate Social Responsibility is a pledge by businesses to contribute to sustainable economic growth by collaborating with workers and their representatives, their families, the local community, and society at large to enhance the quality of life in ways that are both good for business and good for development," according to The World Bank Group. "Corporate Social Responsibility is basically a philosophy whereby businesses actively contribute to a healthier society and a cleaner climate," according to the European Commission.(Intaniasari 2020)

The image of an organization is shaped not only on the basis of its business operations, but also on its societal impact. Anyone who recognizes that they cannot survive and flourish without the world is part of the majority of society. It is also connected to a variety of other stakeholders, including manufacturers, staff, and others. Large corporations, too, have social obligations, but they are packaged differently. Scholarships, science research competitions, reforestation projects, health programs, and the advancement of cultural arts and sports are all available. Even if it should be included in legislative normative regulations, it should not be too complex and technical, as this might later become a burden.(Erina and Yanis 2020) Many types of businesses, especially those involved in the management of natural resources, such as mining, harm the environment in practice. When we look at Indonesia's mining activities, we can see that there are a lot of negative consequences. Consider the mining operations of PT Freeport Indonesia. So far, it has been established that the environmental damage is extremely serious.(Ismoyo 2020)

It is very time for Indonesia to end the colonialism and humiliation of PT Freeport Indonesia. There are many more examples of environmental damages caused by mineral mining companies' operations, such as the Buyat Bay pollution controversy. But Bay is the tailings disposal location or mine waste of PT Newmont Minahasa Raya (NMR) mine. The existence of legal obligations in applying CSR liabilities to companies other than stipulated in Law Number 40 the Year 2007 regarding Limited Liability Companies is also contained in Law

No. 25 of 2007 on Investment. The Government Regulation will govern both as an implementing regulation. These two rules of law will not be enforceable if there are no implementation rules. According to Law Number 32 the Year 2009 on Environmental Protection and Management, it is stated that the state, government, and all stakeholders are obliged to protect and manage the environment in the implementation of sustainable development so that the Indonesian environment can remain a source and life support for the people of Indonesia and other living things.(Karjoko, Winarno, et al. 2020)

Furthermore, it is reported that preventive measures in managing environmental impacts should be carried out using surveillance and licensing instruments to the fullest extent possible. In the event of pollution or environmental degradation, repressive actions in the form of realistic, consequential, and consistent law enforcement are required to combat corruption and environmental harm. Mineral mining resource management companies such as PT Freeport Indonesia, PT Newmont Minahasa Raya (NMR), and others that have secured approval from the Indonesian state/government must have their activities closely supervised to ensure that they do not deviate from the country's goals.(Karjoko, Gunawan, et al. 2020) The government has developed policies in the form of laws, such as the Law on Environmental Protection and Management, the Law on Investment, and the Law on Limited Liability Companies, to achieve this goal. Social and environmental responsibility is one of the company's responsibilities. To achieve the welfare state goals, implementation must take into account the idea of justice for the local community and promote environmental protection.(Najicha, Handayani, and Hartiwiningsih 2020)

Despite the shortcomings, weaknesses, and even manipulations in realizing its policies, it is hard to deny that today's global business practices have demonstrated the effort to internalize social and environmental considerations in business policy. However, the actual manifestation and direction of CSR policy implementation should remain highlighted and criticized. A critical attitude is necessary considering the practice of CSR manipulation, or the performance of a cosmetic nature is still widely encountered.(A. K. Jaelani et al. 2020)

## **2. DISCUSSION**

Some things underlie the government to adopt a policy of regulating social and environmental responsibilities. The first is the government's concern over corporate practices, which ignore the social aspects of the environment resulting in a loss on the community's part. The second is as a form of state entity's effort to determine environmental, social activity standards according to national and local contexts.(Soediro, Handayani, and Karjoko 2020) Government understanding tends to interpret CSR solely because of the company's financial resources opportunities to immediately pour to meet the obligations on the applicable regulations. Understanding CSR as only limited to financial resources will undoubtedly reduce the meaning of CSR itself.(Leonard et al. 2020)

As a result of this policy, corporate social responsibility activities will be a legal responsibility that ignores several prerequisites that enable the realization of CSR's primary meaning: conscious choice, freedom, and willingness to act. Requiring CSR, whatever the reason, is muzzling the whole available spaces of choice, along with community

opportunities to measure the degree of meaning in practice. (Zubaidi, Pratama, and Al-Fatih 2020) The following consequence is that CSR will mean only limited to prevention efforts and negative impacts of the existence of the company around the environment (depending on the core business of each) while seeing the development of CSR activities in Indonesia increasingly show the synergy of the CSR program with some government goals. The last thing that might happen is that CSR activities with such regulation will direct the program to the formality of fulfillment of obligations and impressed pleasantries. (Roestamy 2019)

Presumably, disincentives for poorly performing companies are now widely available. Our social movements do not put less pressure on poor performers. Unfortunately, many companies are also beginning to realize that improving social and environmental performance is not getting adequate incentives from various stakeholders. Even those who fundamentally want to change are being targeted. Being considered "softened," the company is often regarded as a source of money that can be taken anytime through various ways. CSR can reduce world problems that affect sustainable development. (Ismiyanto, Sudarwanto, and Handayani 2020) For example, European banks only lend to plantation companies in Asia if there is a company guarantee when opening a plantation is not done by burning the forest. (Prasetio et al. 2020)

Among the various government stakeholders. In addition to the numerous devices developed at the national level, several local governments have established a number of CSR forums. In some provinces, industrial relations regulations have also been created. On the one hand, this growth is promising because it reflects the government's increasing appreciation for the potential of development partnerships with businesses. On the other hand, there is concern that the government is shifting the burden of growth to the private sector. Rather than being an opportunity to improve their CSR efficiency, the various regulations produced have become additional new burdens for the organization. According to Aristotle, the aim of lawmaking is to advance popular happiness. As a result, all acts that have the ability to create and maintain group satisfaction are included. As a result, fairness and basic social ideals can be equated. (Karjoko, Winarno, et al. 2020)

Concerning the principles of justice, the social and environmental responsibilities, even though they have not been put into law, will not lead to injustice. Especially in the context of companies engaged in natural resources in Indonesia in general and mineral mining in specific, where social and environmental responsibilities have been included in the law, if not implemented, it is considered a crime and a cause of injustice. John Rawls, who wrote the book "A Theory of Justice," states two justice principles. First: everyone who has equal rights over the broadest fundamental freedoms is equal freedom for all. Second, social and economic inequality should be arranged so that (a) can be expected to benefit everyone and (b) all positions and offices are open to all. (I.G.A.K. Rachmi Handayani, Karjoko, and Jaelani 2019)

In John Rawls' philosophy of justice, the concept of social and environmental responsibility of freedom for all about liberty in its broadest sense is possessed equally by everyone. All has the right to a safe and healthy world in which to live. As a result, businesses whose activities have a social or environmental impact should balance their social and environmental

obligations and enhance the quality of life in their communities. There is a belief in social problems, which are the responsibility of government departments and officials.(Kajoko, Rosidah, and Handayani 2019) According to Mochtar Kusumaatmadja's Development Law Theory, in order to achieve rapid economic development in order to meet society's needs, the law must be capable of anticipating any change in order to be a representation of the role of law, among other things as a means of development and regeneration in the sense of channeling human activities in a better direction. Following Mochtar's ideas, the law of limited liability companies and investment law regulates social and environmental obligations / CSR.(Rosidah 2020)

The Limited Liability Company Law states in paragraph (4) of Article 74 that its application is pending government regulation (PP). As a result, the majority of parties are waiting to see how the PP is made, whilst a small percentage is attempting to supervise the operation. Those guarding the PP see it as a good sign since it will not add additional pressures and will not include funding commitments in either absolute value or proportion of income. However, since the constitution has been amended several times, the PP results do not necessarily reflect these changes. If the PP includes several elements that are deemed harmful to the business world, it will be rejected. Unfortunately, the government has not made the PP public, which has led to confusion among many political parties.(A. K. Jaelani, Rachmi Handayani, and Karjoko 2019)

The concept of "subject to sanction" under Article 74 paragraph (3) is defined as "subject to sanction in accordance with the provisions of the legislation." However, since the government has yet to issue a rule on environmental and social responsibility, it is unclear what penalties businesses will face if they fail to meet their social and environmental obligations. According to William C. Frederick, corporate social responsibility (CSR) is the principle that corporations should be held responsible to society for their decisions and actions. (William C. Frederick, 2006: William C. Frederick, 2006: William C. Frederick, 2006: Willi In the event of criminal offenses, mineral mining companies can face administrative and criminal penalties under Law No. 32 of 2009 on Environmental Protection and Management and/or Law No. 4 of 2009 on Mineral and Coal Mining. In contrast, CSR is not only regulated in Indonesia but also in other countries. In the United Kingdom, the Corporate Social Responsibility Bill was enacted in 2003. (CSR Bill).(Karjoko and Winarno 2020)

Article 2 of the CSR Bill governs the use of extraterritorial CSR in all areas. It is the responsibility of companies to meet with stakeholders and to contribute to publishing company reports to the public (annual social news). Furthermore, Article 6 imposes obligations on the holding company and its subsidiaries not to combine, acquire, or restructure in a way that harms the parties, the environment, or society in the United Kingdom. The Board of Directors' responsibilities on social and environmental issues are emphasized in Articles 7 and 8. The same is true for investments that take into account social, financial, or ethical problems when making decisions. The Companies Act 2006 was passed by the British Parliament in 2006. The Board of Directors' duty to make a report was stated in Chapter 5 Section 417. (business review).(Wibowo, Sulistiyono, and Karjoko 2019)

Margaret Hodge, UK minister of industrial and regional affairs, explained that the Companies Act 2006 also mandated the boards of directors to carry out corporate social responsibility. The Companies Act 2006 also requires companies listed on the stock exchange to report company performance (economic and financial performance) and social and environmental performance. The implementation of CD with tri-sector partnership nuances involves local government, community, and enterprise administration elements.(Wibowo 2020) As in the Republic of the Russian Federation, in Indonesia itself, it is felt that a tri-sector partnership is the ideal vehicle of CSR. The tri-sector collaboration in CSR discourse and practice implies cooperation based on the efficient and complimentary allocation of resources between companies, governments, and civil society, concerning sustainability development. The surviving companies are not the only companies that make a profit.(Susanti 2020)

For government agencies, companies are often perceived as "fields" of money. The delegation of authority of the central government to local governments is not balanced with the same power to obtain and manage its finances. Such a situation is unfavorable for creating a healthy partnership because of the dominance of one party, especially since the company is deemed to be financially obliged to the government. The possible consequences are the burden of financing for community development programs, for example, to be more on the company side. Government office staffs also often view the activity as a project in which they expect their involvement to be rewarded for certain unlawful economic benefits.(Husna TR 2018)

On the one hand, civil society organizations, particularly those engaged in advocacy, often avoid intense engagement with companies. Generally, the community development program activities are considered to be nothing more than covering up mistakes and strengthening the legitimacy of the company's business. Instead of a partnership, the confrontation is chosen to show that the function performed is a faithful watchdog. The success of the policy and implementation of mineral mining companies' social and environmental responsibilities can be measured from better local life after closing mining operations.(A. Jaelani and Basuki 2014)

### **3. CONCLUSION**

The policy on social responsibility of natural resources companies in mineral mining focuses on environmental development programs. Still, it does not stand out because of the absence of standards and uniform indicators. The emphasis of policy focus is more on the aspect of environmental responsibilities, which are in the form of compliance with the law of Environmental Protection and Management; Concerning the sanction resulting from the neglect of social and ecological duties is also unclear as to present time the Government Regulation governing it has not yet been issued. The companies in natural mineral resources can only be subject to administrative sanctions and criminal sanctions in violation of environmental laws provided for in the Environmental Protection and Management Act and if violating mining, mineral, and coal laws. To fulfill the principle of justice and legal certainty, this Government Regulation governing these Social and Environmental Responsibilities needs to be published soon. The suggestion is that The Government Regulation governing the

implementation of Social and Environmental Responsibility obligations needs to be quickly disseminated to clarify the field's performance. Besides, it is also to facilitate sanctions against companies that ignore social and environmental responsibility obligations.

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