

## DISHARMONY OF THE REGULATION OF CORPORATE SOCIAL RESPONSIBILITY AND CORPORATE INTEREST PROTECTION IN INDONESIA

Dr. Sigit Irianto  
Faculty of Law,  
University of 17 Agustus 1945 (UNTAG)  
Semarang, Indonesia  
Email: riantosigit100@yahoo.com

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### ABSTRACT

*Corporate social responsibility is now being a global issue, although there is no single understanding is acceptable globally. Corporate social responsibility is corporate responsibility towards stakeholders, as well as its responsibility to its shareholders. Corporate social responsibility is closely related to sustainable development, in order to improve the quality of human life and the environment is beneficial, for the company itself, the local community, and society in general. The regulation of corporate social responsibility is based on the principle of the family are still experiencing disharmony, for the arrangement is still overlap. Substantially the regulations were partial and not a unity, thus that the Act enforcement and legal protection for the company is still weak.*

Key words: disharmony, regulation, company, Corporate Social Responsibility.

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### Introduction

Laws and regulations governing corporate social responsibility do not indicate the presence of a unit as a system. The arrangement emphasizes the aspect of being regulated, and have not shown linkage with other regulations. This shows the persistence of the disharmony in the regulation of corporate social responsibility. Disharmony means the absence of the harmony; unity and togetherness are intertwined in the legislation in force, although it does not indicate opposition to one another. As a single unit applicable law, harmonization becomes important so that it will avoid overlapping application. Regulation on corporate social responsibility is important to remember that corporate social responsibility is a form of corporate responsibility to the environment, including care for the values and traditions of the local culture.

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### The purpose of writing :

1. Finding the concept of corporate social responsibility in the kinds of relevant legislation;
2. Finding the harmonization of regulation of corporate social responsibility in the relevant laws and regulations;
3. Finding the harmonization of the concept of welfare in legislation, especially in the Pancasila, the 1945 Constitution and legislation in the field of corporate social responsibility.

### Theoretical framework

Studies on corporate social responsibility can use a lot of theory, but in this discussion will only use 3 theory, namely the theory of harmonization of legal, welfare state theory and the theory of corporate citizenship.

The use of the theory of harmonization of law, as developed in the harmonization of The Act science that is used to show that in the world of law, government policy, and the relationship between them there is a diversity that can lead to disharmony. <sup>1</sup>The use of the theory of the welfare state, because in the state responsible for the prosperity of its people and prosperity can be achieved by integrating economic and social policies, and the use of the theory of corporate citizenship, because the business has a responsibility to do good, and it can be implemented in corporate social responsibility.

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<sup>1</sup>Goesniadhie S, Kusnu, 2006, *Harmonisasi Hukum Dalam Perspektif Peerundang-undangan (lex Specialis Suatu Masalah)*, hlm. 62.

**Research design**

Harmonization of laws in the field of corporate social responsibility is so diverse so can lead to disharmony. An Act to regulate and / or related to corporate social responsibility has not shown the unity and interconnected with one another. Company Law which is the principal legislation governing the company still shows the nature sector of corporate social responsibility because it is meant for companies engaged in the environmental field or that have an impact on the environment. The settings should not be necessary to have such a restriction, because it has become a part of the activities of the company to fulfill its social responsibility towards the community, environment, employees and others. Company Market Act only regulates social responsibility only on the verses in the article and it is also no further elaboration. These two main rules governing the company (Company Act and Capital Market Act) use different terms, namely social and environmental responsibility (Company Act) and corporate social responsibility. This suggests that the regulation of social responsibility has not been seriously implemented.

Table 1: Disharmony of the regulation of Corporate Social Responsibility

Act Number 40 of 2007 on Limited Liability Company	Article 1 paragraph 3	Social and Environmental Responsibility is the commitment of the Company to participate in sustainable economic development to improve the quality of life and environmentally beneficial, both for the Company's own, local community, and society in general.
Act Number 25 Year 2007 on the Investment	Article 15 letter c	investment to implement corporate social responsibility
Act Number 20 of 2008 on Micro, Small and Medium Enterprises	-	The regulation of corporate social responsibility does not exist.
Act Number. 19 of 2003 on State-Owned Enterprises / SOE Act	Article 88 paragraph (1)	SOE can set aside part of their net profit for the purpose of fostering small business / cooperative and community development around the SOEs.
Act Number 32 of 2009 on Protection and Environmental Management.	Article 44	Any drafting legislation at the national and regional levels shall take into account the protection of environmental functions and principles of environmental protection and management in accordance with the provisions set forth in this Act. Each company / companies are required to assume responsibility for the environment.
Government Regulation Number 47 of 2012 on Corporate Social Responsibility and Environmental Limited Company.	Articles 2 – 6.	Layes on social and environmental responsibility, in more detail

Source : 2014 result research

Figure 1



**Analysis of Implementation of Corporate Social Responsibility in the Legislation in Indonesia.**

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Laws and regulations related to corporate social responsibility is no regulation specifically about corporate social responsibility. Capital Market Act is only concerned with protecting minority stakeholders, Act Number 32 of 2009 on Protection and Environmental Management related because each company has to pay attention to the environment and not set in isolation, MSME Act regulates the micro small and medium enterprises (SMEs) and does not provide responsibility corporate social responsibility. SMEs are the purpose of the implementation of corporate social responsibility. Only the SOE Act who has launched a corporate responsibility is to expressly set aside some of their profits.

In line with the disharmony of the legislation setting on corporate social responsibility can lead to its implementation not running optimally, because the company does not know about the large percentage of criteria that can be allocated and does not excuse a company engaged in the environmental field or related to the environment for not implement corporate social

responsibility. Basically the rules regarding corporate social responsibility are in the process of refinement rules because it's not binding the company in general yet.

A good company is a company that still pay attention and run corporate social responsibility, because in addition to being environmentally responsible and socially, as well as to protect the interests of the company itself. Many events that could hurt the company that does not empower the surrounding community, not respect the cultural values of the surrounding community, protests, road closures and even terror against the company. Corporate social responsibility is a social power company itself. It is analogous to corporate citizenship, that the company should do good.

The corporate citizenship theory of social responsibility argues that business has a responsibility to do good. That is, the business is responsible for helping to solve social problems that it did little, if anything, to cause. For example, under this theory, corporations owe a duty to subsidize schools and help educate children.<sup>2</sup> Further confirmed: corporations owe a duty to promote the same social goals as do the individual members of society. Proponents of the "do good" theory argue that corporations owe a debt to society to make it a better place and that this duty arises is because of the social power bestowed on them.

The company that runs corporate social responsibility means to realize the goals of the state in order to realize the people's welfare. Various views on the function of the state indicates that the state has an important role in every aspect of people's lives, which in turn empties into the public welfare.

Teachings of the welfare state is a concrete form of transitional *staatsonthouding* principles that limit the role of state and government to interfere in economic and social life of society becomes *staats-bemoeienis* who wanted the role of state and government is actively involved in the economic and social life of the community as a measure for the general welfare, in addition to maintaining order and security.<sup>3</sup>

Based on the teachings of the welfare state, the state still has the authority to regulate the state in carrying out its functions both in the sense of regular functions or function set. Authority of the state to its people, especially those related to social welfare set forth in the Preamble of the 1945 Constitution and The Acts under it can be manifested in many ways and one of them is the setting in the field of investment.

Welfare state may refer to an ideal model of development that is focused on improving the well-being through the provision of a more important role to the state in providing social services universally and comprehensively to its citizens. Spicker stated that the welfare state is ":

## Conclusion

Setting corporate responsibility legislation in Indonesia is still not united as a single entity rule of law, so as to cause disharmony. Disharmony can occur due to the enactment of legislation that is bound to be in harmony, harmonious fit between the regulation and the one with the other.

The implementation of corporate social responsibility will benefit the community, the state and also the company itself. Sustainability of the company also can not be separated from the surrounding community factors. Good relationship between the company and the community is the protection of the interests of the company in all its aspects.

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<sup>2</sup>Cheeseman, Henry R, 2001, *Business Law, Ethical, International & E-Commerce Environment*, Fourth Edition, Upper Saddle River, New Jersey 07458, p. 171.

<sup>3</sup>Ridwan, Khairandy, 2012, *Hukum Administrasi Negara*, UII Press, Yogyakarta, hlm. 14.