

The Role of Local Governments as Regulators and Facilitators in Social Accountability Programs in Increasing Business Capacity in West Java Province

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Abstract: *Corporate Social Responsibility program is one of the corporation's programs to give feedback to a local society where the corporation does its business, so the corporate can give some positive impacts for the local community. The Corporate Social Responsibility program can help West Java Local Government to realize the West Java community's protection, empowerment, and prosperity. Active acts from West Java Local Government as regulator and facilitator are important so the program can make profits for all people. The government should be able to collaborate with all stakeholders so no one will get a disadvantage from this program. This Corporate Social Responsibility study is written detailed, systematically, and comprehensively based on rules that local government wrote while doing their role as regulator. This study also does research from West Java Local Government official documents and activities that have happened in society, like Local Medium-Term Development Plan documents and some research to Nagrog Village, as one of the role model villages for the Corporate Social Responsibility program in West Java. Based on the results of the study, it is known that West Java Local Government has executed the Corporate Social Responsibility program as a regulator in West Java well, with some notes for their role as facilitators that can be fixed and developed to make this program truly give impacts for communities. The government should also improve its partnerships with academics in the Corporate Social Responsibility program like their partnership with corporations and communities.*

Keywords: Corporate Social Responsibility, Local Government, Corporation.

1. Introduction

The company is the organizer of the social responsibility program. In carrying out social responsibility programs, companies need to comply with several regulations related to their business world. For example in banking companies, banking in Indonesia is currently controlled by several large companies, both BUMN and private companies. An example is a state-owned bank such as PT. Bank Mandiri (Persero) Tbk., PT. Bank Rakyat Indonesia (Persero) Tbk., Or PT. Bank Negara Indonesia (Persero) Tbk. Meanwhile, there is PT. Bank Central Asia Tbk. as an example of a private bank. As a company, it must comply with the provisions stipulated in Law Number 40 of 2007. However, as companies that carry out their business activities in the banking sector, these companies must also carry out banking-related regulations. One of them is Law Number 7 of 1992 concerning Banking jo. Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking. The Banking Law does not directly regulate CSR, but rather regulates community empowerment programs with the same objectives as the CSR program. Article 4 of the Banking Law states that banking in Indonesia aims to improve the welfare of the community at large, which is adjusted to the CSR principles in Article 74 of the Limited Liability Company Law.

Meanwhile, the government has two roles, namely as a regulator and as a facilitator. As a regulator, the government is expected to be able to create regulations in the region that are in line with the government's objectives of improving the welfare of the people in its area according to the CSR program, without neglecting the interests and capacities of businesses run by companies or cooperatives engaged in banking. In addition, the government also plays its role as a

facilitator by providing supporting facilities, both materially and immaterial, so that the CSR programs run by companies and the like in their region can run well and be able to help improve community welfare and empowerment, including community empowerment that supports development. sustainable economy.

In the context of West Java Province, the Regional Development Planning Agency (Bappeda) of West Java Province states that there are five development programs that can be funded through corporate social and environmental responsibility funds, namely education, health, environmental development, increased purchasing power, and rural infrastructure (Bappeda. jabarprov.go.id, 2019). The five fields are accessed and integrated with corporate partners who are obliged to organize CSR West Java Bappeda mentions the target focus in implementing CSR programs in West Java, namely eradicating poverty and hunger, equitable distribution of basic education for all, gender equality, and women's empowerment, reducing early mortality, increasing maternal health, control of infectious diseases such as HIV / AIDS and malaria, environmental sustainability, and global development partnerships (bappeda.jabarprov.go.id, 2019). A concrete example can be seen in Nagrog Village, Ciseupang Village, Cicalengka, Bandung Regency, wherein this case the government through the National Bank Association (Perbanas) implemented its CSR Program by assisting in the implementation of the development of a tourist village containing biodiversity (Taman Kehati).

Nagrog Village is one of the villages located in Cicalengka District, Bandung Regency. The area of Nagrog Village, Kampung Ciseupang can be called strategic (located on an arterial road), quite wide, and has various kinds of potential

that make this village even more advanced. The potential of Nagrog Village is a plantation, agriculture, fishery, and various other productive activities carried out by Nagrog Village residents. In the development of Taman Kehati in Nagrog Village, the Government involved several service agencies, including the Village Community Development Agency (DPMD) in relation to community development, the Environmental Service (DLH) related to the development of natural tourism in Nagrog Village, the Regional Revenue Service (Dispenda) in managing retribution from tourist sites that can boost the economy of Nagrog Village, Perbanas as a bank that helps with bookkeeping and funding for the development of Taman Kehati, Regional Development Agency (Bappeda) in helping to develop villages now and in the future, Village-Owned Enterprises (BUMDes), related RT-RW, community leaders, village community organizations, youth organizations, and other stakeholders. The development felt by villages, such as Desa Nagrog above, helps improve the welfare of the community. Welfare has become a major factor in assessing the success and success of running a country. The welfare of the community, in general, is included as one of the most important economic factors in assessing whether the local government is able to make the country happy and run according to the interests and wishes of the general public. Karl Marx and Engels argued that economic factors have an absolute influence on social development (Gilissen&Gorle, 2011). And the government is the representative of the state, so it can be said that a successful country is a country whose government is able to make its people prosperous.

So far the government has implemented several programs that help rural development, such as the allocation of Village Funds. The allocation of Village Funds has been carried out by the Ministry of Villages for a long time, with one of which is allocated as the budget for Village-Owned Enterprises (BUMDes). The funds then become the responsibility of the Village Head to be used for the welfare of the village community. For example, the use of Village Funds, according to President Joko Widodo's statement on Sunday, February 17, 2019, has built 191,000 km of roads with funds that have been disbursed of IDR. 187 trillion (www.cnbcindonesia.com, 2019).

2. Theoretical Basis

All legal events that occur in society cannot be separated from the legal provisions governing them. This is in line with the provisions of Article 1 paragraph (3) of the 1945 Constitution which emphasizes that Indonesia is a rule of law, where the law must be able to play a role in protecting and prioritizing the interests of all people, including one related to welfare.

The implementation of a regional government in a unitary state with a decentralized system cannot be separated from the concept of autonomy. This is because decentralization is not just a dispersion of authority (spreiding van bevoegheid) but also contains a division of power (scheiding van machten) to regulate and manage state governance between the central government and local governments (Manan, 2001). According to Manan (2001), autonomy does not only play a role as a state administrative order (administratief-

rechteleijk), but is a constitutional order (staatsrechteleijk), so that autonomy is related to the foundations of a state and the structure of state organizations. Therefore, in the context of a state, the existence of regional autonomy is very important as a form of governance by local governments in relation to the central government (Affandi, 2019).

The existence of the TJSL program is basically based on the background of the history in which companies in carrying out their operational activities are obliged to carry out their business in line with the values and goals to be achieved by the community where the company operates (Untung, 2008). TJSL appears as a "reciprocal" effort from the company to the communities in the areas where they carry out their activities so that the relationship between the company and the local community is good. This is then used by the government to help create public welfare which is the responsibility of the state. Of course, this implementation must be in accordance with the applicable TJSL principles so as not to burden the company, especially for profit-based companies.

With regional autonomy, the West Java Provincial Government (West Java Provincial Government) can carry out its role as a regulator and facilitator in the implementation of the TJSL program. As a regulator, the West Java Provincial Government regulates the TJSL program in West Java Regional Regulation Number 2 of 2013 concerning Guidelines for Corporate Social and Environmental Responsibility and Partnership and Environmental Development Programs in West Java. As a facilitator, the West Java Provincial Government implements the TJSL program as regulated in West Java Governor Regulation Number 30 of 2011 concerning Facilitation for the Implementation of Corporate Social and Environmental Responsibility in West Java. It is hoped that the implementation of the TJSL program can be based on existing regulations.

In addition, the government also collaborates with other stakeholders so that this social responsibility program can run according to development goals. In a social responsibility program, there are four parties involved in it, which is known as the Quadro helix theory. These four parties carry out their respective roles that are interrelated with each other in order to create social programs that are in accordance with the principles and provisions stipulated in CSR and related laws and regulations. The four parties are the local government (local), academics, companies (in this case banking companies), and the business community. A good CSR program will involve the four parties, so that the social responsibility program implemented can provide tangible benefits to the community, not only as a form of formality in implementing the provisions of existing laws and regulations. With the involvement and synergy of the four parties, the implementation of the CSR program will also not be a burden and cause harm to either party.

3. Research Methods

The approach method used in this research is the normative juridical approach, which is a research method that emphasizes the science of law, besides examining the legal

principles that apply in society (Sumitro, 1990) with a descriptive-analytical research specification. Collecting data in this study will use literature study techniques, virtual studies, and interviews. The analysis was carried out using qualitative juridical methods, namely by reviewing and analyzing data based on legal aspects.

4. Result and Discussion

The regulation of CSR itself in the laws and regulations in Indonesia is known as Social and Environmental Responsibility (TJSL). Regarding TJSL, this is regulated in Law Number 40 of 2007 concerning Limited Liability Companies (UUPT). It is stated in Article 1 point 3 that Social and Environmental Responsibility is the Company's commitment to participate in sustainable economic development in order to improve the quality of life and a beneficial environment, both for the Company itself, the local community, and society in general.

Then specifically regarding TJSL is regulated in Article 74 of the Company Law, namely as follows:

- 1) Companies that carry out their business activities in the fields and/or related to natural resources are obliged to carry out Social and Environmental Responsibility.
- 2) Social and Environmental Responsibility as referred to in paragraph (1) is the obligation of the Company which is budgeted and calculated as the cost of the Company, the implementation of which is carried out with due regard to appropriateness and fairness.
- 3) Companies that do not carry out the obligations as referred to in paragraph (1) will be subject to sanctions in accordance with the provisions of laws and regulations.
- 4) Further provisions regarding Social and Environmental Responsibility shall be regulated in a Government Regulation.

It is stated in Article 74 paragraph (1) that a company that is obliged to carry out Social and Environmental Responsibility is a company that carries out its business activities in the field of natural resources. This is intended to create a balance between local values, norms, environment, culture, and company operations that utilize local natural resources. Companies that carry out their business activities in the field and/or related to natural resources here are not only companies that manage and utilize natural resources, but also companies whose business activities have an impact on the function of natural resource capabilities.

Then there is Article 74 paragraph (2) which regulates how the company budgets the costs that must be incurred to implement this TJSL program, in which implementation must be carried out with due regard to appropriateness and reasonableness. The elucidation of Article 74 paragraph (2) also states that TJSL activities must be properly and fairly budgeted for and calculated as Company costs, which are generally contained in the Company's annual report.

If the Company does not carry out its obligations in implementing the TJSL program, then as referred to in

Article 74 paragraph (3), the Company may be subject to sanctions in accordance with the provisions of the relevant laws and regulations. Meanwhile, the technical issues regarding the implementation of the TJSL program, as regulated in Article 74 paragraph (4), shall be further regulated in the form of a Government Regulation. This article was then realized with the formation of Government Regulation Number 47 of 2012 concerning the Implementation of Limited Liability Company Social and Environmental Responsibility.

The Regional Government of West Java Province acts as a regulator based on the legal basis of Law Number 11 of 1950 concerning the Formation of West Java Province, which regulates the West Java Provincial Government to run the government according to the Regional Government Law in the West Java region. In-Law Number 11 of 1950, it is also explained that the Regional Government through the principle of autonomy has the right to regulate and manage Government Affairs and the interests of the people in its territory to protect, serve, empower and prosper the community. The regulation also regulates which areas can be regulated by the West Java Provincial Government, so that there is a division of authority and power in accordance with the existing socio-cultural conditions in society. For example, of course, there are differences in shaping and regulating people who have Sundanese culture and customs with Javanese culture and customs in Central Java or Betawi in DKI Jakarta Province.

To carry out these governmental affairs, the government plays its role as a regulator in regulating community activities. This is done so that the implementation of government activities can run in a structured, planned, directed, effective, efficient manner, and most importantly, to realize the goals of government, namely realizing the welfare of the community. Besides that, the government also plays an active and passive role in carrying out community activities that are in line with Government Affairs at its level. The government is actively carrying out activities that empower the community directly, and indirectly by carrying out its role as a facilitator so that actors and community leaders can carry out community life well.

One of the collaborations is carried out with business actors, ranging from small business actors such as MSMEs to multinational companies that run their business in Indonesia. In addition to cooperation, another form of action by business entities in helping to carry out government tasks is through Corporate Social Responsibility (CSR), or in Indonesia known as Corporate Social and Environmental Responsibility (TJSL). Therefore, there is a need for the role of local governments as regulators and facilitators in regulating and implementing TJSL in each region, including the Regional Government of West Java Province, which carries out Government Affairs by acting as a regulator and facilitator in accordance with Law Number 23 of 2014.

In carrying out its role as a regulator, the Regional Government of West Java Province has created several

regulations for the implementation of social responsibility programs in the West Java region. This is in accordance with Article 17 of Law No. 23 of 2014. The rules made are intended for all stakeholders, be it the community, companies implementing social responsibility programs, or for the government itself.

Apart from that, each Regional Government also forms their respective regional regulations, in the form of Regional Regulations (Perda) or Regional Head Regulations (Perkada). In West Java Province, there are at least two regulations governing the implementation of TJSL activities in West Java. The two regulations include West Java Regional Regulation Number 2 of 2013 concerning Guidelines for Corporate Social and Environmental Responsibility and Partnership and Community Development Programs in West Java, as well as West Java Governor Regulation Number 30 of 2011 concerning Facilitating the Implementation of Corporate Social and Environmental Responsibility in Java. West. In addition, at the district/city level, there are also several regional regulations and Perwalkot/Perbup that regulate TJSL, so that the implementation of TJSL in each region can be right on target and according to the basic objectives of TJSL in increasing business capacity in the form of sustainable economic growth and development and improving the quality of life. and an environment that is beneficial to society, without neglecting the principles of governance and the principles of implementing Corporate Social Responsibility.

As for the formation of Perda No. 2 of 2013 in accordance with the regulations for Regional Policy-Making as stated in Article 17 of Law Number 23 of 2014. The formation of Perda No. 2 of 2013 has become the authority of the Regions in accordance with Article 17 paragraph (1) of Law Number 23 the Year 2014. Perda No. 2/2013 has also been guided by the norms, standards, procedures, and criteria that have been established by the Central Government, in this case referring to the Law No. 40/2007. West Java Province and DPRD Level I West Java Province, where the Regional Head acts in accordance with what is stated in Article 65 paragraph (1) of Law Number 23 the Year 2014. With the fulfillment of this Article, the author assesses West Java Regional Regulation Number 2 of 2013 can be called a form of West Java Provincial Government in carrying out its role as a regulator.

The Facilitation Team is tasked with monitoring and evaluating the implementation of TJSL so that there are no deviations, and also so that it is right on target so that it actually has an impact and benefits for the community not only for the short term economy but also in the medium and long term. The Facilitation Team also assesses companies that deserve to be rewarded for the TJSL program they carry out, with the criteria of companies whose TJSL programs and activities are consistent with the declarations and agreements that have been made, as well as synergize with the Provincial and Regency / City TJSL programs and have felt the benefits by Public. This award is one of the

Government's efforts to encourage the active participation of companies in implementing the TJSL program and helping the government increase business capacity in West Java. So, even though TJSL is held in a charity manner, there is also the application of the Stewardship Principle which is able to balance the various interests and needs of each group.

Then there are other arrangements in West Java Governor Regulation Number 30 of 2011 concerning Facilitating the Implementation of Corporate Social and Environmental Responsibility in West Java. Pergub No. 30 of 2011 is a form of implementation of Regional Regulation No. 2 of 2013 on Guidelines for Corporate Social and Environmental Responsibility and Partnership and Community Development Programs in West Java. This Pergub tends to regulate government actions in helping support the implementation of the TJSL program by facilitating all the needs to realize TJSL which results in community welfare and optimization of development programs in the regions. In addition, based on the time of creation, this Pergub was drawn up before Perda No. 2/2013, so that the contents in Perda No. 2/2013 also complement and explain more complexities than this Pergub regarding TJSL.

The Governor of West Java as the Head of the Region does have the authority to form a Regional Head Regulation (in this case a Governor Regulation). This is a form of the Government as a regulator, in addition to the formation of regional regulations. For the Pergub, the Governor of West Java-based his actions on Article 65 paragraph (2) point c, as a form of taking certain actions in urgent situations that are urgently needed by the Region and/or the community as mentioned in point d. The Pergub which regulates the Facilitation Team itself was eventually formulated into one with the TJSL arrangement in West Java in Perda No.2 of 2013.

The form of government action is the formation of a Facilitation Team, which is also regulated in Perda No. 2/2013. This is what distinguishes Pergub No. 30/2011 from Perda No. 2/2013, where Pergub No. 30/2011 focuses on the Facilitation Team, while Perda No. 2 of 2013 focuses on the guidelines for implementing TJSL by the Company.

Apart from the Facilitation Team, Pergub No. 30/2011 also regulates the role of TJSL Ambassadors. It is stated that the TJSL Ambassadors appointed by the Governor through the Governor's Decree are tasked with encouraging the role of companies as regional partners in carrying out corporate social and environmental responsibility; participate actively in the promotion of development programs in West Java to the business world and society; provide suggestions and thoughts on the development program plans needed in the synergy of the TJSL program; and coordination in the implementation of duties and functions with the TJSL Facilitation Team. Here the TJSL Ambassador becomes a form of the government facilitating the promotion and dissemination of information related to the TJSL program held by the Company so that it can also provide benefits to the company by maintaining and enhancing the company's

reputation and brand image.

It was explained in the previous analysis that in establishing West Java Regional Regulation Number 2 of 2013 concerning Guidelines for Corporate Social and Environmental Responsibility and Partnership and Community Development Programs in West Java, as well as West Java Governor Regulation Number 30 of 2011 concerning Facilitation for the Implementation of Corporate Social and Environmental Responsibility in West Java, the Government formed a Facilitation Team. The Facilitation Team was formed by the Governor to assist the implementation of the TJSL program in the West Java region. The regulations stated in Pergub No. 30/2011 are related to the TJSL function, namely facilitating program planning, facilitating implementation, controlling, and evaluating corporate social and environmental responsibility in the regions.

The functions of the Regional Government as a facilitator are also applied in the development of Nagrog Village. In this development in Nagrog Village, the planning function was proven by the planning of utilizing natural conditions by the Facilitation Team in Nagrog Village since 2018 to be processed into a Biodiversity Park. The implementation function is also carried out with the implementation of development in Nagrog Village, both the construction of Taman Kehati, the development of small businesses, and the processing of bamboo which is local wisdom. Then there is the control function, in which the Facilitation Team also controls the development of Taman Kehati through the Village Head and District Government. And finally, the evaluation function, which continues to be carried out by stakeholders so that the construction of Taman Kehati can attract tourists, is evidenced by the construction of supporting facilities.

Another village that has also experienced development through the TJSL program is Cikembang Village, Kertasari District, Bandung Regency. P.T. KeretaApi Indonesia carries out its obligations as a BUMN in implementing TJSL, with the form of village development in Cikembang Village. P.T. KAI invested one hundred million rupiahs in the form of the TJSL program to build a KAI-Assisted Tourism Village, wherein this village an area was built to utilize existing natural conditions such as the Citarum River route and natural contours to become tourist attractions, as planned for Nagrog Village, increase regional income, which of course can improve economic conditions and business capacity in the area. TJSL activities carried out by PT. KAI, which is of course held in accordance with the regulations in Perda No. 2/2013, is carried out on the basis of an agreement between the Regional Government through the Facilitation Team and PT. KAI., So it can be said that the Facilitation Team succeeded in establishing partnerships and utilizing TJSL funds to become capital in building tourist attractions that will provide regional income and benefits for the medium and long term.

The author highlights the fact that the use of TJSL funds is

not yet clearly directed. Although a lot of infrastructures is the result of TJSL funding, the author cannot conclude that the use of TJSL funds is in accordance with the definition of TJSL according to the UUPT which emphasizes the Company's commitment to sustainable economic development in order to improve the quality of life and a beneficial environment, because basically the Company invested heavily in TJSL as a form of complying with existing regulations, and were not really committed to sustainable economic development and business capacity building.

In addition to the actions taken by the Regional Government of West Java Province, the Regional Government at the district/city level in the West Java region has also implemented the TJSL program as a facilitator. The actions of the district/city Regional Governments, as stated in the RPJMD of each region, show that the TJSL which is carried out is in accordance with the regulations in Perda No. 30 of 2011. TJSL facilitation activities in each district/city, both those that have been implemented and those that are planned, are in accordance with the scope of the TJSL regulated in Article 5 of Perda No.2 of 2013 as well as in the areas of development programs that can be funded by TJSL as stated in Article 7 paragraph (1) Perda No 2 of 2013.

In implementing TJSL in West Java Province, the Regional Government of West Java Province through the Regional Medium-Term Development Plan has shown that there is a good partnership between the Regional Government and the Company as the implementer of the TJSL. This is evidenced by the presence of 3 BUMDs, 37 BUMN, and 95 private companies that invested and their companies for TJSL activities in West Java from 2013 to 2017. In addition, there is careful planning between the number of funds that have been invested and the TJSL activities that will be implemented, so that the TJSL program is in line and in line with the development programs carried out by the Regional Government of West Java Province and the Regional Government at the Regency / City level with the same goal, namely improving the welfare of the local community.

The partnership between the Government and the Community in implementing the TJSL program in the development of the Biodiversity Park is considered by the author to have met the elements in the Partnership. The principle of equality in the partnership between the Government and the community is seen in the existence of a relationship of mutual respect, respect, and trust between the Government and the Community, as evidenced by the lack of reports of citizen disapproval of the TJSL program in West Java, especially in the development of Taman Kehati. There is also transparency of both parties in accordance with the principle of openness, with the Government as the party responsible for reporting the TJSL program in the community has reported through the RPJMD and even informing the community directly regarding the TJSL program in the development of Taman Kehati, which also fulfills the principle of mutual benefit due to the development of Taman Kehati. This also helps improve the

welfare of the community by inviting active participation of the community to take advantage of the TJSL program for the development of Taman Kehati as a means of marketing local products.

5. Conclusion

The role of the Regional Government as a regulator in regulating social responsibility (CSR) programs in order to increase business capacity in West Java has been realized by the formation of Perda No. 2 of 2013 and Pergub No. 30 of 2011. The Regional Government of West Java Province has established Perda No. Pergub No. 30 of 2011 is in accordance with the conditions and situations in society and has assisted the Regional Government in realizing increased business capacity and sustainable economic development in West Java and contributing to improving the quality of life and a beneficial environment.

The role of the Regional Government as a facilitator in implementing social responsibility (CSR) programs in order to increase business capacity in West Java is implemented properly and fairly as stated in Article 74 paragraph (2) of Law Number 40 of 2007 concerning Limited Liability Companies. This is evidenced by the Regional Government by actively participating in its role to help provide opportunities in the form of projects that can be funded through the TJSL program so that the implementation of TJSL can be in accordance with the principles stipulated in Perda No.2 of 2013 and the Regional Government is not only waiting for the active role of the Company. only, but also "pick the ball" by inviting the Company to actively implement the TJSL program for the benefit of the community.

However, the role of TJSL Ambassadors facilitated by the Regional Government is not yet active enough and tends to be invisible. Even though the TJSL Ambassador can be a plus from the company's point of view to actively participate in the TJSL program.

Cooperation and responsibility of the local government to the company as a stakeholder in implementing social responsibility (CSR) programs in order to increase business capacity in West Java have been well established. The partnership between the local government and the company has fulfilled the three partnership principles and is classified as a mutualistic partnership.

Cooperation and responsibility of the local government to the community as stakeholders in the implementation of social responsibility (CSR) programs in order to increase business capacity in West Java is also well-established because it fulfills the elements in the partnership and can be classified into a pseudo partnership.

However, the cooperation and responsibility of the Regional Government to academics or educational institutions as stakeholders in the implementation of social responsibility (CSR) programs in order to increase business capacity in West Java is still lacking. Local governments are deemed less open and transparent in establishing communication with academics.

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