

## Strengthening the Corporate Social Responsibility Regime in Indonesia

Marianne Magda Ketaren  
Ph.D Candidate, Law Faculty  
North Sumatera University  
Indonesia

### Abstract

*This work is aimed at exploring and finding appropriate approaches and methods in strengthening and accelerating the implementation of corporate social responsibility in Indonesia. This approaches will be focused on the embodiment of the coherence theory and revitalization of local wisdom. It is relevant to harmonize and accommodate many diametrical interests in the implementation of corporate social responsibility, such as government, corporate and societies interests. This diametrical interes has blocked the implementation of corporate social responsibility optimally. In order to accommodate all related parties interests, as well as accelerating the implementation of corporate social responsibility, this work introduces normative approach through the embodiment of coherence principle: (i) consistency; (ii) comprehensiveness; and (iii) inter-linked among components. In addition to strengthen the implementation of corporate social responsibility, this work also offers cultural approach that emphasizes the importance of the revitalization of local wisdom. In answering and achieving the goals, in its research, this work uses normative approach in addressing normative question, while empirical approach to answer the empirical issues and constructing appropriate model in revitalizing local wisdom. At the substantive level, in validating the implementation of the corporate social responsibility, this work applies the utilitarian and social function theories. While, at the normative framework, this work configures the Indonesian 1945 Constitution, Articles 27, 28, and 33 as fundamental normative framework, which is followed by the Law No.40/2007, article 74 in implementing corporate social responsibility. The results of this work provide not only normative guidance in harmonizing all diametrical interests and norms, but also introducing the local wisdom as core component in making public policy that strengthen and accelerate the implementation of corporate social responsibility in Indonesia and other interest countries.\*\*\**

### 1. Introduction

The corporate social responsibility (CSR) regime in Indonesia has lied and provided strong contribution to the distribution of public welfare. This is because the constitutive elements of CSR oblige private companies to allocate part of their profits for public welfare. The elements refers to shared profits, moral obligation, social function and public interest. In this context, CSR is amoral and legal obligations to share a part of profits of companies for public welfare. Historically, the CSR movement has been practiced, nurtured and developed by Indonesian people from time to time. It roots at the Indonesian socio-cultural tradition, which emphasize the importance of moral values of collective life, such as unity, sustainability, public interest and social function.<sup>1</sup> Normatively, CSR has been endorsed and validated by the 1945 Constitution, Article 33 which underlines the greatest benefit for the greatest number of people as the highest collective goals of the nations. This article posits a positive obligations to the government for using and optimizing all national resources and potential, i.e., land, water, and other mineral resources, for supporting the creation of public welfare.

The above description shows that the corporate social responsibility regime is a product of the imperative norms that have been implemented since this country was founded.

---

<sup>1</sup>HayyanulHaq, Strengthening the philosophical and axiological legal framework of corporate social responsibility in Indonesia, in Lambooy, CSR in Indonesia: legislative development and case studies, constitute press, pp.14-20.

However, the detail implementation of the rules was just started since 2007, when the Indonesian government launched or introduced the Law No. 40/2007, concerning Limited Liability Company, as well as the Law No. 4/2009 concerning Mining, Law No. 32/2009 concerning Environment, Law No.17/2012 concerning Cooperative and so forth. Unfortunately, the implementation of those regulations does not optimal because of normative problems. This normative problem has been shown by many conflicts of laws among of those rules, either at the internal or external pattern, for example the tension between the Law No. 40/2007, article 74 and the Law No.32/2009 on Environment, articles 22-61.

In this case, those articles of Environmental Law oblige the corporation pay many expenses items, such as analysis of environmental impact (AMDAL), compensation for pollution or environmental destruction, tax, and CSR. If we compare to the structure of article 74 of the Indonesian corporation law and those articles, it can be seen that the environmental law separates compensation funding for pollution or environmental destruction and CSR funding, while the Indonesian Limited Liability Company Law NO. 40/2007 combined or mixed the two items. The article 74 of the Limited Liability Company Law obliges companies that exploit natural resources (and produce waste that may cause pollution) to allocate a special funding for CSR that would be calculated as appropriate or normal operational expenses. This law also introduces a sanction for any company that ignore their obligation. The structure and the meaning of the above concept indicate that the CSR obligation is merely compensation because the government oblige the companies which produce waste and create pollution to allocate CSR funding. Not because of pure legal obligation. Normatively, any company that causes pollutions and environmental destruction should pay and recover the damages. Not using CSR funding. Ideally, the government should oblige the companies to allocate the CSR funding without any requirement.

The above laws restate Indonesian position that explicitly regulates the obligation of companies in implementing their CSR. In this respect, the corporate claimed that they have been obliged to pay tax to the state, but why they should allocate their funding for another expenses? They argued those obligation has burdened financially. So, it is not fair and just for them. Some of them assumed that CSR as artificial and superfluous program which is not relevant to economic profit. They believed that this CSR activities as a part of public relation (communication strategy) or philanthropical activities for building a good public image. Ironically, on one hand, the corporation allocates a special funding for building their public image, on the other hand, they ignore their workers welfare.<sup>2</sup>

Clearly, the above problems have raised longitudinal debates which are clustered in between whether CSR is mandatory or voluntary initiative of corporation. These different notions have impacted on its regulation at various normative levels, whether it is part of positive obligation or voluntary initiative, or combination both of notions. This debate sparks many controversial comments and apprehensions. Some scholars claimed that the CSR regulation is existed in the grey area. This interpretation left many problems and challenges at the implementation level, particularly in determining the boundaries of rights and obligations of related parties in manifesting CSR at the practical level. The blurred boundaries have sparked tensions and even conflict between government, society, i.e., local people and corporations in appreciating and manifesting CSR at the practical level.

The above description shows that the impact of multinational corporation's activities on the life of many people is increasingly stronger as they accumulate capital and interest in maximizing their profits. Consequently, those capitalizations in large corporations have widened and exacerbated inequity and the disparity of access to global resources<sup>3</sup>.

---

<sup>2</sup>HayyanulHaq, Ibid

<sup>3</sup>The Club of Rome in its 1976 report indicated the tremendous significance of the inequities in the international system. See: Nanyenya-Takirambudde, P., 1980, *Technology Transfer and International Law*, Praeger Publishers, New York, at 4-5. More than three decades, this gap indication has been warned by the Club of Rome. It means that the disparity is a classical global problem has been unsolvable issue. Therefore, all of social components are required to prevent the exacerbation of the discrepancies. This is because it is become our collective responsibility. For that reason, it is not surprisingly, if One of intellectual exponents, who laureate Nobel, JosephStiglitz's warn us about the importance of the need for laws and rules, internationally, regionally, and domestically, that focus on decent and equitable international relations and sustainable long-term development. He maintains that: "We are a global community, and like all communities have to follow some rules so that we can live together. These rules must be - and must be seen to be - fair and just, must pay due attention to the poor as well as

This inequity and disparity reexamines the main purpose of multi-national corporations' business and investment, particularly in accommodating and protecting private or economic and public or socio-cultural interests. Moreover, they demand a strong legal system allowing society to access resources in order to create global social justice. In line with the above description, it is not surprisingly that many industrialists began to reflect their social responsibilities based on philanthropic initiatives and even obligations inspired by moral and religious convictions, social concern.

In the light of the complexity of the above problems, this work tries to find an appropriate solution in order to bridge the interest of corporate and the interest of the government and society. In visualizing the above ideas, this work will discuss and elaborate some relevant methods and approaches to implement CSR in Indonesia. Those approaches will be concentrated into normative approach and cultural approach.

The normative approach refers to legal efforts in coherencing all diametrical interests and conflicted laws. While, cultural approach refers to intellectual efforts to revitalize local wisdom. In detailing the revitalization of the local wisdom, this work will elaborate the relationship among of the related parties in the implementation of CSR, such as government, corporate and society. It will discuss the rights and obligation of the parties. Moreover, this work describes the stages of the revitalization of the local wisdoms in implementing CSR, that are: (i) identification of local wisdom; (ii) formulation of proposed regulation; (iii) creation of regulatory model, which are relevant to the implementation of CSR.

## **2. Normative Framework of Corporate Social Responsibility in Indonesia**

One of the core problems in the implementation of CSR in Indonesia is the uncertainty of its regulation. Its has been noted that, even though, normatively, Indonesia already introduced the CSR as a part of legal obligation of the corporation in Indonesia, it still left many challenges at its implementation level. This is because some of the above Indonesian laws regulate CSR in 'the grey area'. They insert 'mandatory' and 'voluntary' notion in the term of CSR in Indonesia.<sup>4</sup> Consequently, some articles that regulate CSR are categorized as open norms. In addition, many of those regulations are not followed by sufficient implementation regulation related to the detail implementation of CSR. Consequently, at the practical level, not all companies implement their CSR obligations properly.<sup>5</sup>

For strengthening the implementation of CSR, the Indonesian government has clearly constructed the architecture of the CSR regulation. Under Indonesian positive laws, Law No. 12/2011 concerning hierarchy of positive norms, it can be seen that the Pancasila become the highest grand-norm and the main sources of Indonesian positive laws.<sup>6</sup> It also contains the ultimate goals of Indonesian people.

---

the powerful, must reflect a basic sense of decency and social justice". See: Stiglitz, J.E., 2002, *Globalization and Its Discontents*, W.W. Norton & Co., New York, 2002, at xv., in HayyanulHaq, Note 1.

<sup>4</sup> Under the Indonesian corporate regime, CSR is considered as the regulation that introduces mandatory obligation, which encourages voluntary initiative. In this respect, even though the regulation put a positive obligation to the company in implementing their CSR, it also is perceived as a voluntary initiative and then positive activity for company to participate in developing and empowering community and as well as maintaining environmental sustainability. See: The 3<sup>rd</sup> National Conference Corporate Forum for Community Development and Corporate Social Responsibility, 2011.

<sup>5</sup> For that reason, many governments try to explore some alternative regulatory techniques. These include self-regulation, use of incentives, awards and accreditation systems, market-based initiatives, disclosure obligations, publication of league tables, allocation of private statutory rights, statutory compensation schemes, publicity and government-sponsored information and education campaigns. See: Zerk, 2006, at 37. See also HayyanulHaq, Note 1.

<sup>6</sup> The Pancasila is the philosophical basis of the Indonesian State, which comprises five inseparable and interrelated principles. Every Indonesian citizen should: (i) Believe in the one and only God the Almighty; (ii) strive to achieve a just and civilised humanity; (iii) maintain Indonesian unity; (iv) adhere to Democracy guided by an inner wisdom in the unanimity arising out of deliberations amongst representatives; and (v) strive to achieve social justice for the whole of the people of Indonesia. These principles are sacred values of the Pancasila. It is a cultural principle, which should be respected

If we scrutinize the detail elements of Pancasila, it could be found that the second principle of Pancasila that is Civilized Humanities and the Fifth Principle of Pancasila, that is Social Justice for Indonesians become the meta-norms which provide positive obligation to the government in ascertaining the coherence of the manifestation of ultimate goals. Under Indonesian constitution system, the Pancasila is elaborated and constructed by the constitution. Related to the CSR implementation, the main legal sources of the CSR under the 1945 Constitution, could be found at the article 33. Theoretically, all regulation under constitution should be coherence with the article 33 that emphasizes the greatest benefit for the greatest number of people. Thus, all policies, laws and implementation regulation should support the manifestation of the greatest benefit for the greatest number of people. The consequence is any policy, law and regulation that contradict to the constitution and Pancasila become invalid.

Even though Indonesia has quite adequate normative infrastructure, the implementation of CSR still remains problem. This is because the government doubts to introduce CSR as absolute positive obligation.

Not only the blurred of the concept and the obligation of CSR, but also the overlapped elements of CSR that can be seen and analyzed through the existence of the Indonesian Limited Liability Company No. 40/2007, article 74 and Indonesian Environmental Law No. 32/2009, articles 22-61.<sup>7</sup>

**Matrix1: Normative Instruments of Corporate Social Responsibility in Indonesia**

| Investment Law<br>Law No.25/2007  | Limited Liability Company Law<br>Law No. 40/2007   | State–Owned<br>Company Law<br>(Law No. 19/2003  | Government<br>Regulation/Ministerial Decree,<br>Local and Governmental<br>Regulation  |
|---|--|---|---|
| <p>Article 15 (b)<br/>Implementation CSR</p> <p>Article 15(d)<br/>Respecting the cultural traditions of the communities in the locality of capital investment, business activities</p> <p>Article 34 introduces sanction on the failure to comply that may lead to restricted or frozen or terminated investment activities.</p> <p>Article 16 every investor shall be liable to (d) preserve the environment</p> | <p>Article 74</p> <p>(1) The company doing business in the natural resources field and/ or related to natural resources must exercise social and environmental responsibility</p> <p>(2) The environmental responsibility constitutes an obligation for the company which is allocated to the cost of which are borne by the company, which shall be budgeted for and calculated as the costs of the company, and the performance of which shall be carried out with due attention being paid to the decency and fairness.</p> <p>(3) Sanction to the companies which do not carry out their obligation as provided in paragraph (1).</p> <p>(4) The government will regulate Environmental and Social Responsibility (ESR).</p> | <p>Article 88. the allocated funding of the net profits of the State-Owned Company for developing Small Medium Enterprises (SMEs), cooperatives and the social environment.</p> | <p>(1) Government regulation No.47/2012 about ESR and the implementation of article 74 of the Limited Liability Company Law (Law No.40/2007)</p> <p>(2) Ministerial Decree No. Kep.236/MBU/2003 concerning partnership and development programme of State-Owned Companies with small and medium sized Enterprises, cooperative and the local communities.</p> <p>(3) Ministerial Regulation No. concerning partnership and development environment programme of state-owed enterprises with small and medium sized enterprises.</p> |

by every Indonesian because it is the ideology of the state and the life philosophy of Indonesian society. Based on the People Consultative Assembly Decree No.XX/1966 (TAP MPRS No.XX/MPRS/1966) on Hierarchy on Positive Laws and and Regulation, Pancasila is the source of the positive law sources; *See also*: People Consultative Assembly Decree No. II/1978 (TAP MPR RI No.II/1978) on Guidance for Understanding and Internalising Pancasila.

<sup>7</sup>See Section 1. Introduction, Second paragraph of this work.

Matrix 1 Shows that the various normative sources that regulate CSR.<sup>8</sup> Some of those obligations are regulated in different regulations. Thus, the government need to coherencing them in order to not only simplify the regulation, but also to create more certainty in its regulation. In addition, this coherence approach should be strengthened through cultural approach that is revitalization of CSR.

In line with the above description, it is relevant if this work explores and elaborates any national potential, including values that existing in the Indonesian live, in order to accelerate the implementation of the CSR in Indonesia. In this case, this work shows the role of local wisdom that could be fundamental foundation for the implementation and control of the national development. In detail, this work will revitalize some significant local wisdoms that match with the universal values. It is required to strengthen the implementation of CSR as well as avoiding conflicts with any related parties. This because the local wisdom has universal acceptability, not only at the regional or local level, but also at the national and international level.

Those local values, for example, contains egalitarian and unity (*Dalihan Na Tolu*), cooperation and participation (*Marsalapari*); and conservation environment, harmony for sustainability (*HaranganRarangan*) have link and match with the national laws paradigm and International values or norms, such as unity and sustainability. Those local wisdoms, particularly, harmony, may create and nurture a balanced relationship between rights and obligation.

This is important because, in the implementation of CSR, for example, the companies cannot operate in isolation or in a social vacuum.<sup>9</sup>This work shows that some significant Sumatera's local wisdoms, such as unity, sustainability and harmony, egalitarian or equity serve as ethical and legal measures to nurture an appropriate framework for developing business and utilizing natural resources in Sumatera.

### **3. Problems and Challenges in the Implementation of CSR in Indonesia**

The implementation of CSR in Indonesia has been blocked by various problems and challenges which are clustered at the normative and implementation level. At the normative level, the challenges stemmed from uncertainty of regulation of CSR. In this context the CSR regulation as if existed in 'the grey area'. It is caused by the interpretation of CSR in the mid of obligatory and voluntary program. Some regulation construct the CSR as positive obligation of corporation. The other rules posit the CSR as part of voluntary initiative of corporation. The third national conference corporate forum for community development and corporate social responsibility in 2011 indicated that CSR is part of mandatory obligations which encourage voluntary initiative. In this respect, even though the regulation put a positive obligation to the company in implementing the CSR, it is also perceived as a voluntary initiative and then positive activity for company to participate in developing and empowering people, as well as maintaining environmental sustainability.

Consequently, uncertainty at the normative level has caused inconsistence implementation of corporate social responsibility. This inconsistence has created many obstacles in the acceleration of CSR. For example, related to the amount of the budget that should be allocated by the corporation. In the main regulation, the allocation of CSR amount should be calculated from the budget of work plan of corporation (RKAP), not from the profit.<sup>10</sup>

---

<sup>8</sup>See: FirdausSukmono on Regulation of Corporate Social Responsibility in Lambooy, CSR in Indonesia: legislative development and case studies, constitute press, pp.30-35.

<sup>9</sup>HayyanulHaq, Note 1.Those corporations receive inputs from society in the form of skilled/unskilled labour, raw material and natural resources, and, in turn, offer goods and services to society. Thus, businesses depend on society for their existence and it is in their interest to take care of society. They need to consider the interests of groups other than shareholders in order to maintain their longer-term sustainability. See also: Christine A. Mallin, Corporate Social Responsibility: A case Study approach, Edward Elgar, p.2.

<sup>10</sup>Personal communication with Dr. H. Idham, SH.,M.Kn, on 20 July 2014 in Medan. Idham is a former parliament member of Republic of Indonesia, period 2004-2009, who involved in formulating and drafting the Law No. 40/2009 concerning limited liability company.

However, in its implementation, I found that there is no clear and exact amount of the CSR funding whether they should be allocated from the budget or from the profit. This is because of the absent of the clear implementation regulation related to the amount of allocated funding. Even though the government already introduced many implementation regulations, they failed agreed and decided the exact amount of the allocated CSR funding. Further implication of the above uncertainty has impacted on the attitude and confidence all related parties in the implementation of CSR. In this respect the government, corporate or private sectors and society has no clear guidance in optimizing those CSR funding.

#### **4. Acceleration the Implementation of Corporate Social Responsibility in Indonesia**

Scrutinizing the normative framework in Indonesia, it is clear that indeed the normative infrastructure is quite adequate. Now, the challenge is how to accelerate the implementation of CSR in Indonesia. In the previous section, I have already noted the importance of two approaches: (i) normative approach ; and (ii) cultural approach, to accelerate the implementation of CSR in Indonesia. The normative approach refers to legal efforts in coherencing all diametrical and conflicted laws, while cultural approach will be focused on revitalization of local wisdom.

##### **4.1. Coherencing Normative Framework of Corporate Social Responsibility in Indonesia**

In the light of many conflicted laws, either written or unwritten laws, that may inhibit the national development programs, particularly, in implementing CSR, so the government should reidentify, reexamine and restructure the ideal architecture of CSR regulation. This could be started from identification of the conflicted laws. Then, the government and parliament need to analyze, classify and categorize the regulation based on the thematic issue and domain. Afterwards, the authority parties should reassess those regulations based on coherence principle. The coherence principle is a method in determining the truth.<sup>11</sup>

At the operational level, the coherence theory must be used to ascertain the consistency of the existing regulations, from the Grand Norm to legal practices. Haq claims that the coherence is an effective and rational method to integrate ideal values in constructing the legal truth. This can be manifested by considering three core elements of coherence: (i) consistency; (ii) comprehensiveness; (iii) interlink among components.<sup>12</sup> In this case, all elements should be considered simultaneously. Thus, all positive regulation that govern CSR, such as Indonesian Limited Liability Company Law, Indonesian Environmental Law, Indonesian Taxation Law, Indonesian Cooperative Law, Indonesian State-Owned Company Law, Indonesian Mining Law and so forth, should be subsumed and restructured coherently.

##### **4.2. Revitalizing Local Wisdom in Implementing and Strengthening the Implementation of CSR in Indonesia**

Having noted that the local wisdom have strong potentials in supporting the government disseminate the core message of national development, particularly in accelerating the implementation of CSR. This is because, local wisdom is the core characteristics of socio-cultural life of society.<sup>13</sup> In addition, the core messages of those local wisdoms are relevant with the universal values, such as cooperation, participatory, unity, sustainability, harmony and so forth. Therefore, it I relevant if this works try to visualize the efforts in revitalizing and embodying the local wisdom into regulatory model in the implementation of CSR.

<sup>11</sup>See: HayyanulHaq Ibid. See also Aulis Aarnio, *The Rational as Reasonable: A Treatise on Legal Justification*; See also: JaapHage, *Two Conceptions of Law and their Implications for Legal Truth*, See also: Alexander Peczenic, *On Law and Reason*, Springer. JaapHage's work on Coherence Theory.

<sup>12</sup>Personal communication and consultation with HayyanulHaq, a legal lecturer on Epistemology, Legal Reasoning, Legal Research in various universities in Indonesia, on 28-29 June 2014.

<sup>13</sup>MunsiLampe, menggali kearifan local disulawesi selatan, belajar dari kasus komunitas petani dan nelayan tradisional, makalah disampaikan pada loka karya menggali kearifan lokal lingkungan nelayan pada lab antropologi bekerjasama dengan pusat pengelolaan lingkungan hidup regional Sulawesi, Maluku dan Papua, Makasar, 10 agustus 2006.

From the empirical research, this work found several significant local wisdoms that match and relevant to the implementation of national development, particularly in accelerating the implementation of CSR in Indonesia. This is because, At this point , clearly, those local wisdoms are part of national potentials that can be embodied into governmental regulations.

| Local wisdom                         | Proposed regulation  | Regulatory model   |
|--------------------------------------|--|--|
| Marsalapari                          | Any development activity should require cooperation of all related components or parties in social sistem, such as government, privat sector and local people.   | All regional development should introduce principles of parcipatory, transparancy, accountability and responsibility.  |
| Harangan rarangan and Naborgo -borgo | Relevant sectors that could be exploited and used should be limited in instrumental sectors such as creative works, trading, not fundamental sectors, such as water, air, gold, oil, and so forth.   | Government only provides liseneces to privat companies in doing bussines at instrumental sectors.<br>All development activities should maintain andconservate environment to protect strategic resources of collective life. |
| Dalihannatolu                        | Any development activity should concider dynamic egalitarian and unity principles. In this case, the implementation of CSR should strengthen and maintain dynamic society by inviting all societies participation based on egalitarian principles and respecting unity of social system. | All development activities should insert egalitarian and unity as metanorm that oblige government to implement all national development programes based on unity principle.  |

*Marsalapari* is local wisdom of Mandailing people in South Tapanuli. It emphasize the importance of cooperation to help each other<sup>14</sup>. All of those activities are conducted based on voluntary and happines principles.<sup>15</sup> Harangan rarangan and Naborgo-borgo is a local wisdom of South Tapanuli people who live surrounding BatangGadis and Batang Toru rivers<sup>16</sup>.

<sup>14</sup> The application of *marsalapari* has been practice by Barumon Agro Sentosa( BAS) corporation that empower the potential of mandailing people who work at its agro palm plantation. In this respect, barumonagrosentosa has maintain and develop the local wisdom of *marsalapari* by avoiding the disturbance or block the local palm farmer's activities. In addition the BAS accomodate and buying all yields of palm from local people who stay surrounding the plantation area by refering standart or normal price. In this context, the corporation has initiated and nurtured the mutual corporation with local people to create sustainable development.

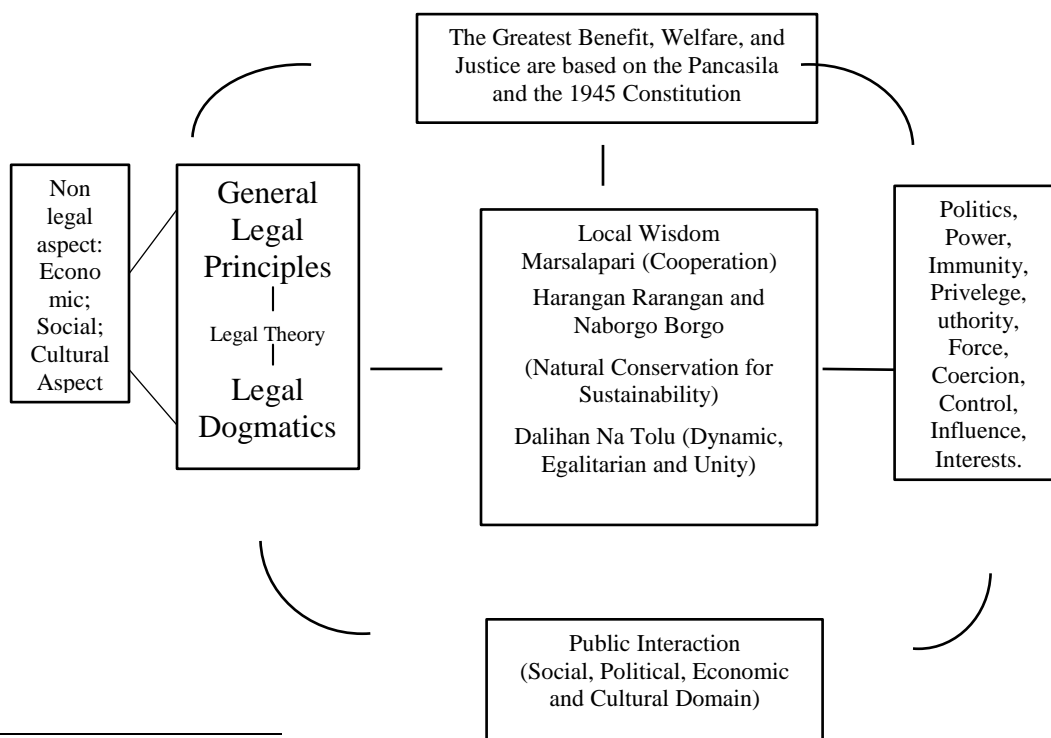
<sup>15</sup> Personal communication and interview with Drs.Zulkifli B Lubis.Msian lecturer and researcher in antropology, University of North Sumatera. Interview is held on 16 Januari 2014.

<sup>16</sup> PT. Agincourt Resources is a gold mining company that operated in the village of Batangtoru, North Sumatera. The Agincourt company thrown its mining's waste to the river of Batangtoru which is main water resources for people, particularly for daily live of people, irrigation, agriculture and fish pond for the local people. At the earlier stage of the mining activities, this company's action has sparked angriness (conflicts and clashes) of local people who assume that the waste is unsafe and it will damage the local tradition in the society. Therefore, the company is obliged to exam or to waste in a laboratory. In this respect, the company prove that the waste is not dangerous for people, and apply or use a certain technology to screen or purify the water and prove that the rice harvesting are not damaged. Moreover, to convince the people that the water is safe, witnessed by local people, the management of company dranked the water in the edge of the pipe. Afterwards, the people believed that the water safe and the company didn't detruct the environment..

The original meaning of this local wisdom is centralised to prohibition in exploiting and spoiling forest and fountains, which is core resource of collective life.<sup>17</sup> This local wisdom could be interpreted as the prohibition to exploit any strategic resources for public such as water, air, and other strategic mineral resources such as gold, oil and so forth. For that reason all of the strategic resources should be managed and optimized by the state or the government, either at the national or regional level properly. Dalihannatolu contains democratic values in collective decision making. Essentially, this local wisdom stemmed from family tradition in South Tapanuli. It consists of three elements: (i) kahanggi; (ii) anakboru; (iii) mora/hula-hula. Those elements play roles dynamically not static. In this context any component of family could change their status and position based on the role in maintaining and strengthening the cohesivity of the family.<sup>18</sup> Clearly, this local wisdom could be constructed as the foundation of regulation that emphasizes the importance of unity. At the normative level, the government should revitalize this local wisdom as a basic value in the development process. This concept obliges the government to ascertain that all development activities should maintain the unity of social system. Any kind of development that may wreak havoc disintegration of social system should be claimed as invalid. The consequence of the above thought, if it is applied in the CSR, it requires all allocated CSR funding should empower and improve collective awareness of people to participate, based on egalitarian principle, in creating dynamic community under the corridor of unity. The implication of this concept allowing the government to correct and to invalidate all development activity that may cause disintegration of social system. In detail, all political, social, and economical development activities should consider and strengthen the unity of social system. If we look at the structure and elements of those local wisdoms, they are relevant and not contradictory with the Pancasila, the grandnorm of Indonesian Positive Laws, which constructs civilized human and social justice as the foundation of the CSR existence in Indonesia.

At the legal technical level, the role of those local wisdoms could be figurised as follows:

**Figure.1. Embodying Local Wisdom into National Development Programe**



<sup>17</sup>Personal communication and interview with Drs.ZulkifliB Lubis. Msian lecturer and researcher in anthropology, University of North Sumatera. Interview is held on 15 Januari 2014.

<sup>18</sup>Personal communication and interview with Prof. Dr. H Syafruddin Kalo SH.,M.Hum, an expert in Adat and Land Law, University of North Sumatera, a society exponent of North Sumatera. Interview is held on 29 June 2014.



This scheme is adopted from HayyanulHaq's Scheme that embodying the Pancasila and the 1945 Constitution in Constructing Legal Framework for Utilising Natural Resources. See HayyanulHaq, Strengthening Philosophical and Axiological Legal Framework in the CSR Regime in Indonesia. Apparently, that HayyanulHaq started to strengthen the implementation of CSR from the the Grandnorm of Indonesian positive laws.

Figure 1 visualized the legal framework in embodying local wisdom into national development program. In this context all elements of the national development program should consider local wisdoms. This is because local wisdom elements are parallel and in line with national ideology and constitution. It can be seen from some significant elements of Pancasila, as the grandnorm, which introduce civilized humanities and social justice for Indonesian people.

### 5. Closing Remarks: Conclusion and Recommendation

Pancasila and the Indonesian 1945 constitution have lied down an imperative norm infrastructure for strengthening and accelerating the implementation of CSR in Indonesia. In the light of the importance of the CSR as instrument or device to distribute and cultivate public welfare, it is necessary to find out some appropriate methods or approaches in accelerating and strengthening the implementation of CSR in Indonesia. This work suggests that the acceleration of the implementation of CSR in Indonesia could be conducted through: (i) normative approach; and (ii) cultural approach. The normative approach refers to the legal efforts in coherencing all conflicted laws or regulations, while cultural approach refers to the importance of revitalization of local wisdoms.

Through normative approach, the Indonesian government may reduce uncertainty, such as the status of CSR,<sup>19</sup> the amount of the allocated funding, the way in implementing the CSR, and so forth. In this case, the government should re-visualize and embody all Pancasila principles and the 1945 Constitution, Article 28, 31 and 33 at the practical level. The embodiment of those articles will construct the status of CSR as mandatory. The mandatory concept is based on fundamental rights, the unity and sustainability principles, which rooted at the local wisdom of Indonesian people. Whereas, through cultural approach, the government and parliament may revitalize local wisdoms that emphasize unity, egalitarian, equity, (*DalihanNaTolu*), harmony, sustainability (*HaranganRarangan*), cooperation, participation (*Marsalapari*) and so forth. The revitalization of local wisdom will familiarize collective awareness of people in understanding and supporting the core message of the government's development programs. In embodying the local wisdom into regulatory models, the government may identify the detail characteristics of the local wisdom, then link and match them into national development programmes. At the end, the government could convert and constructed them into the regulatory model that may support the acceleration of the implementation of CSR in Indonesia.\*\*\*

### Bibliography

- Ade Saptomo, **Budaya Hukum dan Kearifan Lokal Sebuah Prespektif dan Perbandingan**, Jakarta, FHUP Press, 2014
- Ade Saptomo, **Hukum dan Kearifan Lokal Revitalisasi Hukum Adat Nusantara, (Law and the Revitalisation of Local Wisdom, Adat Law Nusantara** , Jakarta, Grasindo, 2010
- Bismar Nasution "Aspek Hukum Dalam Transparansi Pengelolaan Perusahaan BUMN/BUMD Sebagai Upaya Pemberantasan KKN", 2003,
- Christine A. Mallin, **Corporate Social Responsibility: A case Study approach**, Edward Elgar
- Hayyan ul Haq, **Strengthening the philosophical and axiological legal framework of corporate social responsibility in Indonesia**, in Lambooy, **CSR in Indonesia: legislative development and case studies**, constitute press.
- Munsi Lampe, **Menggali kearifan lokal disulawesi selatan, belajar dari kasus komunitas petani dan nelayan tradisional**, 2006.
- The 3<sup>rd</sup> National Conference Corporate Forum for Community Development and Corporate Social Responsibility 2011.

<sup>19</sup>Some say that CSR is a voluntary initiative of corporation, some claim that it is a positive obligation of corporation.