

Legal Pluralism in Corporate Social Responsibility (CSR) Based on Tri Hita Karana in Bali

I Wayan Suarjana

1. Dhyana Pura University, Indonesia

*Email: suarjana66.acc@undhirabali.ac.id

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Abstract. Corporate social responsibility based on Tri Hita Karana in Bali creates a unique coexistence between positive law and customary law in corporate governance. This study analyzes the legal coexistence in Tri Hita Karana CSR, examines normative conflict resolution mechanisms, and evaluates the consistency of legal pluralism. The normative juridical method uses legal materials analysis through regulatory, conceptual, and comparative approaches. The results indicate that coexistence manifests in three constructions: complementary harmonization, selective adaptation, and continuous negotiation. Conflict resolution is regulated through a hybrid legal structure with strong legitimacy in the hierarchy of norms. Legal pluralism creates systemic consistency that integrates local values with national standards.

Keywords: corporate social responsibility; customary law; legal coexistence; legal pluralism; tri hita karana

1. INTRODUCTION

The implementation of CSR in Indonesia faces legal complexities when interacting with local normative systems. In Bali, this phenomenon manifests in the CSR legal structure based on Tri Hita Karana, which creates a coexistence between positive law (Law No. 40 of 2007 concerning Limited Liability Companies) and the Balinese customary law system that has constitutional legitimacy (Article 18B of the 1945 Constitution). (Windia & Sudantra, 2020).

Tri Hita Karana as a philosophy that emphasizes the harmony of relationships with God (parahyangan), fellow humans (pawongan), and nature (palemahan) has received formal recognition in the Bali

Provincial Regulation No. 4 of 2019 as a normative framework for CSR. (Pitana, 2021). This formalization creates a legal obligation that requires the normative restructuring of corporate governance.

This complexity creates a normative duality where companies must fulfill legal CSR obligations while also adhering to customary norms that have legal backing but still maintain unwritten characteristics. (Rahardjo, 2020). Theory of legal pluralism (Merry, 2020; Tamanaha, 2021) providing a theoretical framework to understand this normative coexistence.

Research gaps are identified in the lack of normative legal studies on the mechanism of legal coexistence within the regulatory structure of CSR based on local wisdom. (Sitompul, 2021). Indonesia, with

the diversity of customary legal systems recognized by the constitution, has the potential to be a pioneer in CSR regulatory models that integrate legal pluralism within a coherent normative framework. (Muhammad, 2021).

2. METHOD

The research uses a normative juridical method to analyze the legal coexistence in the Tri Hita Karana CSR. (Marzuki, 2019), with three approaches: statutory approach, conceptual approach, and comparative approach.

Legal materials consist of primary legal materials in the form of legislation related to CSR and customary law, as well as village customary regulations. Secondary legal materials include academic literature on legal pluralism, corporate governance, and customary law. The analysis technique uses descriptive, interpretative, comparative, and evaluative analysis with validity through construct, internal, and external validity. (Budiono, 2020).

3. RESULT AND DISCUSSION

The Juridical Construction of the Tri Hita Karana Legal Framework in the Hierarchy of Regulations

The implementation of CSR based on Tri Hita Karana gains constitutional legitimacy through Law No. 15 of 2023 concerning the Province of Bali as a special law (*lex specialis*) that provides the highest recognition of the uniqueness of the Province of Bali in terms of culture and governance based on local values. (Republik Indonesia, 2023).

Article 38 of Law No. 15 of 2023 explicitly states that "The Provincial Government of Bali implements development based on the philosophy of Tri Hita Karana as a guideline in the administration of government and development." Article 39 mandates that "every development activity in the Province of Bali must pay attention to the balance and harmony of the relationship between humans and God Almighty (*parahyangan*), relationships among humans (*pawongan*), and the relationship between humans and the environment (*palemahan*)."

The regulatory framework of Tri Hita Karana is constructed through a series of interrelated regional regulations:

Bali Provincial Regulation No. 9 of 2012 on Corporate Social Responsibility serves as a foundation that regulates the obligations of companies to implement CSR while considering local cultural values. (Pemerintah Provinsi Bali, 2012).

Bali Provincial Regulation No. 4 of 2019 on Mainstreaming Tri Hita Karana in Development, reinforced by Regional Regulation No. 4 of 2019 on Traditional Villages, provides a framework of values and institutional legitimacy. (Pemerintah Provinsi Bali, 2019).

Bali Provincial Regulation No. 5 of 2020 concerning the Standards for the Implementation of Customary Village Governance is supplemented with an operational mechanism for interaction between companies and customary village institutions. (Pemerintah Provinsi Bali, 2020).

Bali Provincial Regulation No. 16 of 2009 concerning Spatial Planning provides a spatial framework that integrates the concept of Tri Hita Karana in regional planning.

Article 5 of Regional Regulation No. 4/2019 concerning THK states that "every development activity in the Province of Bali must integrate the values of Tri Hita Karana in planning, implementation, and evaluation," creating a legal obligation that binds all legal subjects conducting development activities in the Province of Bali.

Patterns of Normative Coexistence in THK Regulation

Doctrinal analysis identifies three main patterns of normative coexistence:

Complementary Harmonization Occurs when the provisions of positive law regarding CSR can be enriched with the values of Tri Hita Karana without causing normative conflicts. (Windia & Sudantra, 2020). The obligation of corporate social responsibility in Article 74 of Law No. 40 of 2007 is fulfilled through programs that integrate the principles of *parahyangan*, *pawongan*, and *palemahan*.

Selective adaptation occurs when one normative system makes adjustments to accommodate another system without compromising fundamental principles. (Rahardjo, 2020). Traditional governance structures such as village meetings are

adapted to involve representatives from companies in decision-making related to CSR..

Sustainable Interpretative Negotiation is the most complex pattern that occurs when there is potential for interpretative conflict requiring continuous interpretative dialogue and normative compromise. (Tamanaha, 2021). It is evident in the determination of the criteria 'harmonious relationship with God' which requires negotiation between a legal procedural approach and a substantial cultural approach.

Normative Conflict Resolution Mechanism

The THK regulatory structure provides a resolution mechanism that combines formal legal procedures with traditional dispute resolution mechanisms:

The Paruman Forum as a Hybrid Legal Institution has evolved into a hybrid legal institution that combines the characteristics of a traditional forum with decision-making functions that have legal implications. (Pitana, 2021). A decision-making structure that emphasizes consensus is adopted as an alternative dispute resolution (ADR) mechanism.

Mediation by Traditional Leaders in the Context of Legal Pluralism Mediation by traditional leaders obtains legal legitimacy through the recognition of regional regulations (Perda) of their traditional authority. Traditional leaders function as mediators who possess cultural competence to understand the values of Tri Hita Karana while also having the ability to communicate cultural expectations in the context of modern business. (Suharto, 2019).

The hybrid monitoring system of the Monitoring and Evaluation Team, which consists of elements from local government and traditional leaders, has the authority to oversee using formal legal standards as well as cultural criteria. The dual enforcement system includes formal administrative sanctions and traditional moral sanctions. (Sitompul, 2021).

Evaluation of Systemic Consistency of Legal Pluralism

The evaluation shows that the integration of dual normative systems can be carried out without sacrificing systemic coherence or legal certainty:

The systemic coherence of the THK regional regulation successfully creates a harmonious integration between positive law and customary law within the framework of a legitimate normative hierarchy. (Marzuki, 2019). The principles of Tri Hita Karana are positioned as specifications and concretizations of constitutional values and national legislation.

The legal certainty of the THK regulation maintains adequate legal certainty through the use of general clauses that provide interpretative flexibility, the establishment of interpretative institutions, and the development of soft law in the form of best practice guidelines. (Salman, 2020).

The legitimacy and effectiveness of the THK regulation is derived from three aspects: constitutional legitimacy through the recognition of customary law in the 1945 Constitution, legal legitimacy through regional authority, and social legitimacy through community acceptance. (Tamanaha, 2021). Effectiveness can be evaluated from the perspectives of legal effectiveness and social effectiveness, which show positive results. (Muhammad, 2021).

4. CONCLUSION

The coexistence of positive law and customary law in CSR based on Tri Hita Karana creates a model of legitimate legal pluralism, with Law No. 15 of 2023 as *lex specialis* providing the highest constitutional legitimacy. Three patterns of coexistence—complementary harmonization, selective adaptation, and ongoing negotiation—demonstrate that a dual normative system can operate productively without sacrificing legal certainty.

Conflict resolution mechanisms through hybrid institutions (community gatherings and mediation by customary leaders), along with a monitoring system that combines formal and traditional authority, create a unique law enforcement model within legal pluralism. THK regulations maintain systemic consistency through principles of interpretive harmonization and constitutional legitimacy.

The research contributes to the theoretical framework of legal pluralism in corporate regulation. It is recommended to develop operational guidelines, strengthen

interpretive institutions, and establish formal ADR mechanisms for normative conflicts.

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