



## **Penal Policy of Corporate Social Responsibility in the Government Regulation of the Republic of Indonesia Number 47 Of 2012**

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### **Abstract**

The Corporate Social Responsibility stipulated in Act number 40 of 2007 concerning Limited Liability Companies and its Sanctions is regulated in the government regulation of Republic of Indonesia no. 47 of 2012 concerning Social and Environmental Responsibility. This aspect of law is the concerned issues in the present study, and thus the study highlights: 1) the regulation of corporate social responsibility within the Government Regulation of the Republic of Indonesia no. 47 of 2012 on Social and Environmental Responsibility of limited liability companies; 2) the conceptualization of penal in the Government Regulation of the Republic of Indonesia no. 47 of 2012 on Social and Environmental Responsibility of limited liability companies. The type of research used in this study is normative legal research, wherein the study is focused on an inventory of positive law, legal principles and doctrines, legal findings in the cases of concreto, systematic law, level of legal synchronization, legal comparison, and legal history. The materials used are primary materials, secondary materials and tertiary materials, which are analyzed by descriptive technique, comparative technique, evaluative technique, argumentative technique, and interpretive technique. The results of the study show that the regulation of corporate social responsibility in the Government Regulation of Republic of Indonesia no. 47 of 2012 is not in accordance with the provisions of article 74 paragraph 3 concerning Sanctions for Corporate Social Responsibility as stipulated in the Government Regulation of the Republic of Indonesia number 47 of 2012 concerning social and environmental responsibilities. Other fact is, a concept or draft regarding more stringent and coercive sanctions, such as criminal law sanctions is firmly necessary for the sake of legal certainty provision for the people's welfare.

**Keywords:** Corporate Social Responsibility; Indonesia Government Regulation; Penal Policy.

### **INTRODUCTION**

On average, individual investors lose money when they trade (Li, Geng, Subrahmanyam, & Yu, 2017). Behavioral finance researches suggest that futures trading behavior exerts obvious over-speculation bias to impact future prices (Zhou, Zhang, & Huang, 2018). Specifically, suitability assessment is required before providing investment advice or portfolio management services while appropriateness assessment is required before providing execution and transmission of orders on complex financial instruments (Bellofatto, D'Hondt, & De Winne, 2018).

Foreign institutional investors perform a critical role in the development of the tourism industry (Yeh, 2018). The economic literature on time preferences recognises that individuals may invest too little, either because they are myopic or, even when they do recognise the time inconsistency of preferences, because they face constraints induced by

their own future choices (Ongena & (Ania) Zalewska, 2018). While short-term investors tend to exit bad investments, long-term investors have a strong incentive and more leverage to monitor management and influence firm decisions (Mazur, Salganik-Shoshan, Walker, & Wang, 2018). An increase in a stock's visibility will attract the attention of more investors and increase the investor base, the cost of capital will then decrease as the aggregate risk of the stock is absorbed by more investors, which in turn leads to the increase of stock price (Gordon & Wu, 2018).

The increasing public demand for investment needs based on the principles of economic democracy has led to increased demands for legal certainty and demands for the development of a world of investment in accordance with the principles of good corporate governance. Good corporate governance is definitively a system that regulates and controls companies that create added value for all stakeholders. This is seen in the Decree of the Minister of State/Head of the Investment and Development Agency for State-Owned Enterprises Number. Kep. 23/MPM. PBUMN/2000, dated 31 May 2000, concerning the Practical Development of Good Corporate Governance in the Company, that what is meant by Good Corporate Governance is the principle of a healthy company and applied in the management of a company that is carried out solely to protect the interests company in order to achieve company intent and objectives<sup>1</sup>.

By referring to one of the principles of good corporate governance, especially the responsibility principle which states that companies must comply with the laws and regulations and carry out their responsibilities to the community and the environment, the company indirectly has implemented the Good Corporate Governance principle implemented into the concept of Corporate Social Responsibility.

The Corporate Social Responsibility itself was first put forward by Howard R. Bowen in 1953 which stated, "*it refers to the obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society*"<sup>2</sup>. Corporate Social Responsibility (abbreviated as CSR) which enters into legal products in Indonesia cannot be separated from the influence of economic and trade globalization and demands for the ratification of the World Trade Organization Agreement (WTO Agreement) including Indonesia in applying the principles of Good Corporate Governance and proportional to national economic development based on the 1945 Constitution of the Republic of Indonesia and the Constitutional Mandate.

As a support for national economic development, one of which is organized in the form of a limited liability company based on economic democracy with the principle of togetherness, efficiency that is fair, sustainable, environmentally sound, independent, and maintaining the balance of national economic progress and goals aimed at realizing public welfare. To reach a prosperous society, the State of Indonesia, as an adherent to the concept of welfare state in building the wheels of the national economy with the aim of improving the welfare of the Indonesian people, forming regulations and Law no 40 of 2007 concerning Limited Liability Companies (UUPT) with consideration that "the national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining the balance of progress and national economic unity, it is necessary to be supported by strong economic institutions in the framework of realizing public welfare".

Corporate Social Responsibility is a voluntary or voluntary implementation for the company. According to Kotler and Lee in Ismail Solihin, Corporate Social Responsibility is a commitment to improve community well being through discretionary business practices and contribution of corporate resources"<sup>3</sup>. This is in line with Article 1 number 3 of Act Number 40 of 2007 concerning Limited Liability Companies (UUPT) which reads "Social and environmental responsibility is the company's commitment to participate in sustainable economic development in order to improve the quality of life and the environment that is beneficial, whether for the company itself, for the local community and/or for society in

1. Khairandy, Ridwan dan Malik Camelia, 2007, *Good Corporate Governance*, Penerbit PT. Total Media, Yogyakarta, p. 54.
2. Ismail Solihin, 2009, *Corporate Social Responsibility: from Charity to Sustainability*, Jakarta; Salemba Empat, p. 16.

general".

The embodiment of social and environmental responsibility is seen in Chapter V Article 74 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) stated, "The company that carries out its business activities in the field and/or related to natural resources must carry out its responsibilities social and environmental"; in paragraph (2) stated, "The social and environmental responsibility as referred to in paragraph (1) is a corporate obligation which is budgeted and counted as company costs, the implementation of which is carried out with due regard to propriety and fairness"; in paragraph (3) stated "The Company that does not carry out the obligations referred to in paragraph (1) subject to sanctions in accordance with the provisions of the legislation", and in paragraph (4) stated," Further provisions regarding social and environmental responsibility are regulated by government regulations".

The lack of clarity in the sanctions provisions can be seen from the fact that he is not specifically categorized into the continuation rules regarding Corporate Social Responsibility in the Government Regulation of the Republic of Indonesia Number 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies that are inappropriate with the concept of Corporate Social Responsibility and the absence of sanctions for companies. limited liability company. Regarding the Government Regulation of the Republic of Indonesia number 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies is stipulated and promulgated on April 4, 2012, State Sheet number 89, Additional State Gazette number. 5305. Purpose of Government Regulation of the Republic of Indonesia number 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies to implement the provisions of Article 74 paragraph (4) of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT). In Indonesia, it is often said that law enforcement depends on the legal substance in the form of legal arrangements that do not provide certainty for the community. The absence of legal certainty will certainly lead to uncertainty in business in Indonesia and this has an impact on the low interest of investors to invest in Indonesia, because the provisions of sanctions in Corporate Social Responsibility are not regulated but sanctions are imposed if Corporate Social Responsibility is not implemented. This results in ambiguity, for example, illegal levies that will act under the name Corporate Social Responsibility.

The occurrence of illegal levies by taking refuge in Corporate Social Responsibility is caused by the absence of legal certainty in the form of compelling legal norms. The compelling nature of the existing norm is the legal norm in the form of criminal sanctions regulated in the Criminal Code (KUHP), and basically, the types of criminal sanctions according to Article 10 of the Criminal Code which reads:

"The punishments are:

1. Basic Punishments:
  - a. Capital punishment;
  - b. imprisonment;
  - c. light imprisonment;
  - d. fine;
  - e. closure punishment.
2. Additional punishments:
  - a. Deprivation of certain rights;
  - b. Forfeiture of specific property;
  - c. Publication of judicial verdict.

As expressed by R.Soesilo in the book of Simon Nahak entitled "Criminal Law on Taxation (Penal Policy Concept of Criminal Acts of Taxation in the Criminal Law Renewal Perspective)", what is meant by punishment is an unpleasant feeling that is passed by the

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3. *Ibid.*, p. 5.

judge with verdict to people who have violated criminal law<sup>4</sup>.

Based on the above conditions, this study aims to examine how Corporate Social Responsibility is regulated in the Government Regulation of the Republic of Indonesia number 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies and to describe how penal policy is conceptualized in the Government Regulation of the Republic of Indonesia Number 47 Year 2012.

## METHOD

The type of research used in this study is normative legal research. Normative legal research is also called theoretical legal research, where the focus of the study in this study is an inventory of positive law, principles and doctrine of law, legal discovery in cases of concrete, systematic law, level of legal synchronization, legal comparison, and legal history. This research is also often referred to as doctrinal legal research. The basic consideration for choosing this type of research is that the author examines the existence of a form of regulation of sanctions provisions for corporate social responsibility or corporate social responsibility in the Government Regulation of the Republic of Indonesia Number 47 of 2012 which is perceived as having a vague nature and emptiness of norms with the above rules, namely Law number 40 of 2007 concerning Limited Liability Companies.

## RESULTS AND DISCUSSION

### Regulation of Corporate Social Responsibility in the Government Regulation of the Republic of Indonesia number 47 of 2012

The regulation of Corporate Social Responsibility for Limited Liability Companies in Indonesia is specifically regulated by Law No. 40 of 2007 concerning Limited Liability Companies known as "Social and Environmental Responsibility". In Article 3 it is stated 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 the environment that is beneficial, both for the company itself, the local community, and society in general ". Furthermore, the regulation of Corporate Social Responsibility for Limited Liability Companies becomes mandatory with the formulation of Article 74 UUPT (Limited Liability Company Act) which reads:

The UUPT, as said, is a company that carries out its business activities in the field and/or is related to natural resources must carry out social and environmental responsibilities;

1. "The social and environmental responsibilities as referred to in paragraph (1) are the obligations of the company that are budgeted and calculated as company costs whose implementation is carried out with due regard for propriety and fairness.";
2. "Companies that do not carry out the obligations as referred to in paragraph (1) are subject to sanctions in accordance with the provisions of the legislation"; and
3. "Further provisions regarding social and environmental responsibility are regulated by government regulations".

Basically there are a number of things that are behind the policy making regarding the regulation of social and environmental responsibility. First, government concerns over corporate practices that ignore the social environmental aspects that cause losses on the part of the community. Second is as a manifestation of the efforts of state entities in determining the standards of social environmental activities that are in accordance with national and local contexts.

During this transition period, when hearing the concept of Corporate Social Responsibility, there were many different perceptions in the minds of the owners of a company. Some view that Corporate Social Responsibility is synonymous with environmental activities. Perceptions that are still common can be corrected as a whole to

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4. Simon Nahak, 2014, *Hukum Pidana Perpajakan (Konsep Penal Policy Tindak Pidana Perpajakan dalam Persepektif Pembaharuan Hukum Pidana*, Setra Press, Malang, p. 55.

understand what Corporate Social Responsibility is. The following views are a summary that should be understood and lived critically by every implementer of Corporate Social Responsibility in Indonesia. The following concerns the issue of understanding of Corporate Social Responsibility cited from a thesis with the title "Kajian Yuridis terhadap Kewajiban Melaksanakan Tanggung Jawab Sosial Perusahaan (*Corporate Social Responsibility*) bagi Perseroan Terbatas."

It is very clear that Law No. 40 of 2007 concerning Limited Liability Companies (UUPT) mandates the Government Regulation of the Republic of Indonesia Number 47 of 2012 concerning Social and Environmental Responsibilities of Limited Liability Companies to state the existence of sanctions for each Company/Company that does not implement Corporate Social Responsibility or Social and Environmental Responsibility.

Moving on from the the view toward the theory of legal certainty, Peter Mahmud Marzuki expressed his opinion, namely<sup>5</sup>:

"Legal certainty contains two senses, namely first, the existence of general rules that make individuals know what actions are permissible or not, and secondly, in the form of legal security for individuals from government abuse because of the general rules that individuals can know anything which may be charged or carried out by the state against individuals. Legal certainty is not only in the form of articles in the law, but also consistency in the judge's decision between one decision and the other judge's decision for similar cases which have been decided."

Legal certainty is one of the conditions that must be met in terms of law enforcement, where the legal certainty in question is legal protection against arbitrary actions, which means that a person will be able to obtain something expected under certain conditions and circumstances<sup>6</sup>.

The rule of law that is able to create legal certainty is the law that is born from and reflects the culture of society. This legal certainty is called realistic legal certainty, which requires harmony between the state and the people in the orientation and understanding of the legal system. Non-conformity and uncertainty Government Regulation of the Republic of Indonesia number 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies that refers to the hierarchy of norms in accordance with Article 7 paragraph (1) of Law Number 12 of 2011 concerning the Establishment of Legislation (PPPP Law) mention that the types and hierarchies of Legislation consist of:

1. The 1945 Constitution of the Republic of Indonesia;
2. Decree of the People's Consultative Assembly;
3. Government Regulation/Act in Lieu of Law;
4. Government Regulation;
5. Presidential Decree;
6. Provincial Regulation; and
7. Regency/City Regional Regulation.

It can be concluded that Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) and Government Regulation of the Republic of Indonesia Number 47 of 2012 concerning Social Responsibility is out of sync with the Company's Environment because it does not include sanctions that have a meaningless norm. Moving on with the existence of the legal system theory, the law must be arranged in a hierarchical legal norms and must not be contradictory to its legal norms, both vertically and horizontally. So, if there is a conflict between these norms, the solution is subject to its logical norms, namely the basic norms in the constitution. Republic of Indonesia Government Regulation number 47 of 2012 concerning Social and Environmental Responsibilities of Limited Liability Companies that do not contain sanctions to make Corporate Social Responsibility non-binding. This is very different from Article 3 paragraph (1), namely "The social and

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5. Peter Mahmud Marzuki, *Op.Cit.*

6. Fernando M. Manullang, *Op.Cit.*

environmental responsibility as referred to in Article 2 becomes an obligation for the Company to carry out its business activities in the field and/ r relating to natural resources based on the Law".

### **CSR Penal Policy in Republic of Indonesia Government Regulation number 47 of 2012**

The politics of criminal law (penal policy) is an art that ultimately has a practical purpose to enable the regulation of positive law to be formulated better and to provide guidance not only to law makers, but also to the apparatus implementing the law. Criminal law politics covers a broad scope of policy, which covers the field of criminal law that cannot be separated from criminal law reform. Criminal Law Politics has the core of three stages, namely the formulation stage, application stage and execution stage.

When viewed from the perspective of criminal law, the formulation policy must pay attention to internal harmonization with the criminal law system or the general punishment rules that apply today. It cannot be said that harmonization or synchronization will occur if the formulation policy is outside the current criminal law system. Formulation policy is the most strategic stage of the reasoning policy because at that stage, the legislature is authorized in terms of determining or formulating what can be convicted that is oriented to the main issues of criminal law covering actions that are illegal, wrong, criminal liability and what sanctions can be worn. Efforts and policies to establish a criminal law that is good for its rights cannot be separated from the purpose of crime prevention. Efforts to tackle crime with criminal law are essentially also part of law enforcement efforts (especially criminal law enforcement). Two central problems in criminal policy by using penal policy, namely concerning the determination:

1. What actions should be a criminal act,
2. What sanctions should be used or imposed on the offender<sup>7</sup>.

When viewed from the reason policy concept (criminal law), namely regarding the determination, the author performs Statute Approach and Conceptual Approach to examine it, so that it becomes:

- a. What actions should be a criminal act;

Grounded the existence of implementing arrangements that are based on and adapted to the hierarchy of laws and regulations, it is a crime for the environment. For this reason, the author states with a concise and straightforward merger that this is contained in a general explanation of Law Number 40 of 2007 concerning Limited Liability Companies and the Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management which states "National economic development held based on economic democracy with the principles of togetherness, efficiency that is just, sustainable, environmentally sound, independent, and maintaining the balance of progress and national economic unity aimed at realizing the welfare of society.

In Law Number 40 of 2007 concerning Limited Liability Companies regulated on Social and Environmental Responsibility which aims to realize sustainable economic development in order to improve the quality of life and the environment that is beneficial to the Company itself, the local community and society in general. This provision is intended to support the establishment of a harmonious, balanced and in line relationship with the environment, values, norms and culture of the local community. Therefore, it is determined that the company, whose business activities are in the field and / or related to natural resources, is obliged to implement Social and Environmental Responsibility. To carry out the Company's obligations, the Social and Environmental Responsibility activities must be budgeted and calculated as the Company's costs carried out with due regard to propriety and fairness. The activity was published in the company's annual report. In the event that the company does not carry out Social and Environmental Responsibility, the Company concerned is subject to sanctions in accordance with the provisions of the legislation. All forms of legislation, including realizing preventive measures in the context of controlling

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7. Barda Nawawi Arief, 2014, *Kebijakan Hukum Pidana (Perkembangan Penyusunan Konsep KUHP Baru)*, Prenada Media Group, Semarang, p. 36.

environmental impacts, need to be implemented by maximizing the use of supervision and licensing instruments. In the event that pollution and environmental damage have occurred, repressive efforts in the form of effective, consistent and consistent law enforcement on pollution and environmental damage that have occurred shall be carried out.

b. What sanctions should be used or imposed on the offender;

By reviewing the provisions of Article 103 of the Indonesian Criminal Code (Criminal Code) which reads, "The provisions in Chapters I to Chapter VIII of this book also apply to acts which are threatened by criminal law, unless by law another stipulation ", vide Law No. 40 of 2007 concerning Limited Liability Company Article 74 paragraph (3), which reads "The Company which does not carry out the obligations referred to in paragraph (1) is subject to sanctions in accordance with the provisions of the legislation ", and Article 155, which reads, "Provisions regarding the responsibilities of the Board of Directors and / or Board of Commissioners for their errors and omissions set forth in this Law do not reduce the provisions stipulated in the Law on Criminal Law". By looking again, such a criminal sanction policy cannot be separated from the assumption that the Criminal Code is the parent of all criminal regulations, so that the legislative practice seems to use the criminal pattern according to the Criminal Code as a reference or guideline in making a regulation.

Criminal sanctions according to Article 10 of the Criminal Code (KUHP) are:

1) Basic punishments:

- Capital punishment;
- imprisonment;
- light punishment;
- fine;
- closure punishment.

2) Additional punishment:

- Deprivation of certain rights;
- Forfeiture of specific property;
- Publication of judicial verdict.

In essence, criminal sanctions (basic and additional) must reflect the values contained in Pancasila and the 1945 Constitution so that the Government Regulation of the Republic of Indonesia number 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies has forced power for perpetrators to comply with these norms.

The regulatory framework provides limits that the imposition of criminal sanctions is part of the criminal law policy. This is where the criminal law policy concerning Corporate Social Responsibility is an integral part of social policy and legal policy / politics regarding Corporate Social Responsibility. The policy of the central government which has not included criminal provisions in an act, in this case a violation of the Corporate Social Responsibility obligations, is a part of the reasoning policy called criminalization. Sudarto in Siswanto Sunarso emphasized several things when discussing central issues called criminalization, including:

1. The use of criminal law must pay attention to the objectives of national development, namely to realize a just and prosperous society that is materially and spiritually equitable based on Pancasila.
2. Actions that are attempted to be prevented or overcome by criminal law must constitute undesirable dressing, which is an act that brings harm (material and spiritual) to the community.
3. The use of criminal law must also take into account the principle of costs and results. For this reason, it is necessary to calculate the amount of costs incurred and the results expected to be achieved
4. The use of criminal law must pay attention to the capacity or ability of the work force of

law enforcement agencies, so that there is no overblasting<sup>8</sup>.

By reviewing the imposition of criminal sanctions, whether in the Government Regulation is an ideal sanction or just the opposite related to the Corporate Social Responsibility obligation for the company. In line with what was expressed by Teguh Prasetyo that the Government Regulation policy in formulating criminal provisions that contain criminal sanctions needs to be considered in order to make the implementation of sanctions in future Government Regulations effective that are useful to reduce the burden of the criminal justice system and can increase State revenues<sup>9</sup>.

Criminal law is predicted as an *ultimum remedium*, which is a last resort in the event that other efforts cannot be used anymore. Other efforts that are meant are administrative sanctions and civil sanctions. Criminal sanctions may be ideal to be applied in a Government Regulation or implementing regulations governing Corporate Social Responsibility, but it is necessary to consider various related matters, effectiveness, costs, and law enforcement capacity and finally in line with national development goals and regional development with their respective characteristics.

Furthermore, from what has been explained above, the author recommends ideas about better efforts in environmental management, namely by trying to apply the concept of corporate social responsibility in a more concrete form.

Considering:

1. that the national economic development is carried out based on economic democracy with the principles of togetherness, efficiency that is just, sustainable, environmentally sound, independent, and maintaining the balance of progress and national economic unity aims to realize the welfare of society;
2. that preventive efforts is necessary in the context of controlling environmental impacts need to be carried out by maximizing their utilization and repressive efforts in effective, consistent and consistent law enforcement of the environment carried out by the Company;
3. that to implement the provisions of Article 74 paragraph (4) of Law Number 40 of 2007 concerning Limited Liability Companies and Article 113 of the Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management.
  - In view of:
  - The 1945 Constitution of the Republic of Indonesia Article 1 paragraph (3);
  - Republic of Indonesia Law Number 39 of 1999 concerning Human Rights Article 9 paragraph (2);
  - Law Number 40 of 2007 concerning Limited Liability Company Article 74 paragraph (3) juncto Article 155;
  - Republic of Indonesia Law Number 32 of 2009 concerning Environmental Protection and Management Article 113.

Addition:

1. Corporate and Social Responsibility (Corporate Social Responsibility) is the obligation of the Company to participate in sustainable economic development in order to improve the quality of life and the environment that is beneficial, both for the Company itself, the local community, and society in general with due regard for propriety and fairness.
2. Each Company as a legal subject has an annual work plan before the commencement of the coming financial year for social and environmental responsibility activities (Corporate Social Responsibility).
3. Social and environmental responsibilities can be carried out in the form of goods and or money by considering the benefits, openness, integration and sustainability.
4. The social and environmental responsibilities as referred to in Number 2 shall be a

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8. Siswanto Sunarso, 1995, *Wawasan Penegakan Hukum di Indonesia*, PT. Citra Aditya Bhakti, Bandung, p.14

9. Teguh Prasetyo, 2013, *Kriminalisasi Dalam Hukum Pidana*, Nusamedia, Bandung, p.172

- requirement for the Company that carries out its business activities in the field and or relates to utilizing natural resources based on the Law contained in the Preparation of the Environmental Protection and Management Plan (RPPLH).
5. Social and environmental responsibility is carried out by the Board of Directors based on the annual work plan of the Company after obtaining approval from the Board of Commissioners or GMS in accordance with the Articles of Association of the Company by considering fairness.
  6. The social and environmental responsibility as referred to in Number 3 is a requirement for the Company to be carried out by the Board of Directors based on the Company's annual work plan after obtaining approval from the Board of Commissioners or GMS in accordance with the Company's articles of association by considering the Preparation of the Environmental Protection and Management Plan (RPPLH), Study Strategic Environment (KLHS) and mandatory Environmental Impact Assessment (AMDAL).
  7. Social and environmental responsibility (Corporate Social Responsibility) as referred to in Number 5 becomes a requirement for the Company to be carried out by the Board of Directors based on the annual work plan of the Company after obtaining approval from the Board of Commissioners or GMS in accordance with the articles of association of the Company must set aside a certain amount of net income every year books for reserves intended for environmental audits
  8. The Board of Directors submits an annual report to the GMS after being reviewed by the Board of Commissioners.
  9. The annual report referred to in Number 7 must contain a report on the implementation of Corporate Social Responsibility.
  10. The company as referred to in Number 8 which does not carry out social and environmental responsibilities is subject to criminal sanctions.
  11. The company as referred to in Number 1 which does not carry out social and environmental responsibilities is subject to a principal criminal sanction.
  12. The Company as referred to in Number 8 provides incorrect information and or reports in the implementation of Corporate Social Responsibility subject to principal and / or additional criminal sanctions.
  13. The meaning of criminal sanctions is not to reduce the provisions stipulated in the Law on Criminal Law.
  14. Every Company that does not implement the provisions of Social and Environmental Responsibility (Corporate Social Responsibility mentioned in the Criminal Act of the Company.
  15. Crime of the Company is the responsibility of the Board of Directors and / or the Board of Commissioners for errors and omissions set forth in this Regulation does not reduce the provisions stipulated in this Regulation.
  16. Every Company that violates the provisions of Number 2 shall be sentenced to imprisonment for a maximum of 1 (one) year and a fine of a maximum of Rp. 1,000,000,000.00 (One Billion Rupiah).
  17. Every company that violates the provisions of Number 9 shall be sentenced to a maximum of 6 months of imprisonment and a maximum fine of Rp. 500,000,000.00 (Five Hundred Million Rupiah).

This legal certainty is called realistic legal certainty, which requires harmony between the state and the people and the Company in orienting and understanding the legal system.

## **CONCLUSION**

Corporate Social Responsibility carried out by the company is still very minimal and not even existed because it is still voluntarily. Penal Policy is based on Government Regulation number 47 of 2012 as the implementing regulation of the parent law which Law No. 40 of 2007 concerning Limited Liability Companies can contain criminal sanctions.

Therefore, it is recommended that regulation regarding corporate social responsibility sanctions is corrected and even amended in accordance with the laws in Indonesia. We necessarily recommend that sanctions governing corporate social responsibility contained in the Government Regulation of the Republic of Indonesia no 47 of 2012 should be regulated and set forth in the form of regional regulations in which the company operates, so that the legal system and legal certainty can be enforced.

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