

Concretisation of the Equity Principle - Implementing Social and Environmental Responsibility on the Palm Oil Plantation Company in Aceh Province, Indonesia

Marlia Sastro^{a*}, Tan Kamello^b, Azhari Yahya^c, Sri Walny Rahayu^d,
^aDoctoral Program Faculty of Law, Universitas of Syiah Kuala, Banda Aceh-Indonesia, ^bFaculty of Law, Universitas Sumatera Utara, Medan-Indonesia, ^{c,d}Faculty of Law Universitas Syiah Kuala, Banda Aceh-Indonesia, Email: ^{a*}marliasastro@unimal.ac.id

This article studies the equity principle in conducting social and environmental responsibility of the Palm Oil Plantation Company in Aceh Province. The Equity principle is clearly stated in The Book of Civil Code Article 1339 and Article 74 Paragraph (2) Law Number 40 Year 2007 of the Limited Liability Company. Concretisation of the equity principle in implementing social and environmental responsibility is mandated in UUPT (Laws of a Limited Company), Plantation Statute, and of State-Owned Enterprise Laws (UU BUMN), and some Qanuns (Local Regulations) of a district/city in Aceh. Moreover, the concretisation of the equity principle of the Palm Oil Plantation Company in implementing social and environmental responsibility programs is in consideration of the financial capability of the company and the propriety applied in the Acehnese Community. The concretisation of the equity principle in the community is that social and environmental responsibility is based on the need for community and based on local community tradition. The concretisation of equity principles can be implemented based on a fair agreement between the company and the community in order to achieve justice for all parties.

Key words: *Equity, Social and Environmental Responsibility, Aceh.*

Background of the Problem

This research aims to discuss the concretisation of the equity principle in the implementation of the Social and Environmental Responsibility of the Palm Oil Plantation Company in the Province of Aceh. The Equity principle is the action in accordance with appropriateness and fairness according to the values applied in the local community. The determination of the relationship is stipulated by the sense of social justice, thereby the equity principle has to be maintained because with this principle the determination of the relationship is decided by the sense of justice in society (Mariam Darus Bardulzaman, 2001: 89).

Wery considers that propriety comprises all concerned that can be comprehended either intellectually or emotionally (Wery, 1990: 9). Principle is dealing closely with the provisions of the nature of one required agreement to achieve justice, tradition, as well as regulations. The Equity principle is stated in Article 1339 Book of Civil Code that “The agreement is not only bound for certain issues explicitly set in it, but also for the issues in accordance with the nature of the agreement, obliged by propriety, tradition, and statute”. This means that the agreement is not applied only based on the statement of an agreement, but also based on the nature of agreement that is obliged by propriety, tradition, or statute.

The Equity principle is derived from the billijkheid principle in legal agreement which is the principle that regulates the position, right, and responsibility between the parties adhered to a balance agreement, such as the sale of land between the seller and the buyer as contemplated in the land certificate (Rusmiyati & Antara Innaka, 2018: 17). Every person is obliged to have good intentions in implementing the agreement based on the norms of equity (Novalia Arnita Simamora, 2018: 94). The Equity principle is also mandated in the Regulation Article 74 Law No. 40 Year 2007, on a Limited Company.

Corporate Social Responsibility (CSR) empowers the capacity in establishing corporate building to lead the certainty of a going concern company including sensitivity (respect) of the systematic adoption of cultures (local wisdom) to company business strategy, including employees, society, and government (Nor Hadi, 2010: 47). Howard R Bowen (1953) defines CSR as the obligation of the company to formulate policy, to make the decision, or to take the action needed in terms of the objective and community values. The definition is updated by Keith Davis (1960) that “The decision and business action decided due to the reasons, or at least the half, exceed the economic interest or direct technique of company” (Totok Mardikanto, 2014: 84). Corporate Social Responsibility is the action in accordance with the ethical consideration of the company that is led to improve the economy and quality life of the community (Nor Hadi, 2010: 48). Corporate Social Responsibility is a legal responsibility whereby it becomes an obligation to the company (Umar Hasan, 2015: 1).



Corporate social and environmental responsibility in Indonesia is regulated in Article 74 Law Number 40 Year 2007 concerning a Limited Company. The regulation of Social and Environmental Responsibility (TJSL) must not contradict free trade principles in accordance with the frame of the General Agreement on Tariffs and Trade (GATT) or World Trade Organisation (WTO) (Taufiqurrahman, 2013: 45).

The determination of propriety and fairness in terms of social responsibility is stated in Article 74 Paragraph (2) UUPT abstractly. It is believed that the determination of propriety and fairness is incompatible because the initial purpose is to normalise the stipulation of Corporate Social Responsibility contemplated in the Constitution so that the preservation of environmental function is achieved (Yeti Sumiyati, 2015: 401). Therefore, the concretisation of the equity principle in implementing corporate social and environmental responsibility based on values, norms, and the cultures of the local community is needed.

The concept of propriety in terms of Social and Environmental Responsibility (TJSL) is company policy that is adjusted based on financial capabilities of a company, and risk potency that results in social and environmental responsibility of a company that has to be taken into account by a company based on activities carried on by the company, whereas this does not decrease the obligation of the company mandated in the Statute concerning the business activity carried out by the company (Sulaeman, 2016). The implementation of the Corporate Social Responsibility (CSR) principle in the future refers to the concept of sustainable development, besides, CSR combines shareholders' and stakeholders' interests as well as considers local wisdom of the community around the company (Marianne Magda Ketaren, 2014: 275).

CSR in a developing country has developed as part of significance science that maintains the nuance and typicality as the platform for the scientific generation (Dima Jamali and Charlotte Karam, 2018: 50) and the more disclosure CSR, the better profitability of the company will be (Elena Platonova et.al, 2018: 466).

Indonesia is a developing country as well as one of the countries that produce the biggest palm oil production along with Malaysia, Thailand, Colombia, and Nigeria. In accordance with the regulations, the Palm Oil Plantation Company is obliged to conduct Social and Environmental Responsibility for the community around the plantation company.

The number of Palm Oil Plantation Company in 2017 is 27 companies that are located in thirteen districts/cities in Aceh Province. The Palm Oil Plantation Company is a State-Ownership Company (BUMN) and a Limited Company (private company) (<http://aceh.bps.go.id>). The research conducted in some districts/cities revealed that the existence of the Palm Oil Plantation Company in Aceh has not yet implemented TJSL based

on the propriety in community; it is proven by the existence of poor community around Palm Oil Plantation (<http://aceh.tribunnews.com/2016>), threatening the existence of peat swamp forest and land disputes between customary community and the palm oil plantation company (<http://walhiaceh.or.id>).

In reality, the Palm Oil Plantation Company, in accordance with the implementation of social and environmental responsibility, just conducts the routine programs and sudden charity so it cannot reflect community fairness around the company. Consequently, the concretisation concept of the equity principle in implementing social and environmental responsibility is needed to be formulated that accommodates the interests of all parties. Therefore, the analysis of the concretisation of the equity principle is essential in implementing TJSL by the Palm Oil Plantation Company in Aceh Province.

Research Methodology

The study employed a juridical normative method by adopting secondary data as the main data of research, and field data as supporting data. Legal resources were gathered from primary, secondary and tertiary legal resources. The data collecting technique was conducted based on interviewing the interviewees. The data were analysed qualitatively, by establishing the arguments (legal reasoning) based on legal philosophy as well as legal theory, and other legal principles.

Previous Study

A previous study is previous research which becomes a guideline of the article that will be later on discussed. Some previous studies, related to the equity principle and social and environmental responsibility are as follows:

Novalia Arnita Simamora, et.al. (2015) express that in implementing the agreement, every person is obliged to possess good intention in conducting the agreement referred to the equity norm (Novalia Arnita Simamora, et.al., 2015: 94).

Marasamin Ritonga, et.al. (2016), state that the equity principle is implemented by a Judge to guarantee justice for a community whose land is traversed by a cable channel network of extra high voltage in order to composite and to give indemnity of land provision that is given by the PLN (State Electricity Company). The rule of law regulates “appropriate indemnity”, and the formulation of laws has to be prioritised to achieve a sense of justice (Marasamin Ritonga, et.al., 2016: 12).

Lorenzo Sacconi & Marco Faillo (2010) explain that the obedience of social norms is a self-empowerment issue and endogenous motivation to do self-adjustment relevantly, not only with social norms but also with other institutions (Lorenzo Sacconi & Marco Faillo, 2010: 117).

Dima Jamali and Charlotte Karam (2018) point out that complex CSR is contextualised and locally formulated by multi-level factors, as well as the boundary between face to face business-community that is applicable, comprehended, and changeable. Accordingly, it is developed intensively in developing countries.

Sulaeman (2016) explains that equity concept in social and environmental responsibility is company policy, which is adjusted based on the financial capability of company, and the risk potency that leads to the social and environmental responsibility, that has to be obliged to the company in accordance with business activities carried out by the company which does not decrease its responsibility contemplated in the Statute regarding activities carried out by the company. The determination of the budget on Social and Environmental Responsibility (TJSL) is stipulated by the company based on the profit earned by the company. Therefore, propriety is considered as the appropriateness and fairness of good intention of the company in implementing TJSL.

Elena Platonova, et.al, (2018) in her study expresses that a positive relationship is significant between the disclosure of CSR and the work performance of the Sharia Bank in GCC countries.

Armando García-Chiang (2018) explains that participation of the private sector leads to the need for evaluating the social and environmental impact of the company activity on the surrounding area. The objective is to project the social and environmental responsibility scheme of the company. It is found that the participation of a private oil company in a CSR scheme can give a contribution to local development, but the implementation of CSR cannot imply the impact of local development.

Oana & Staiculescu (2014) state that CSR is the way the company promotes its production quality. The rational allocation of CSR principles in the auto mobile industry shows prime quality with low operational costs. So, every company is interested in promoting its quality and equal social responsibility as two prominent components in ensuring a sustainable future for everyone.

Jumadiyah, et.al, (2017) in their research state that the CSR program in Aceh Barat District is conducted based on local wisdom of the local community. Jumadiyah, et.al. (2018) point out

that the programs implemented by the company in Aceh province are based on cultural and religious values of the Acehnese community which is based on Sharia Law.

According to the previous study which has been discussed above, the different analysis is found in an article with title “Equity principle in implementing social and environmental responsibility of Palm Oil Plantation Company in Province of Aceh”. The differences from previous studies are:

- a. The CSR concept in Indonesia currently is based on the propriety from company financial capability only; it does not accommodate the propriety based on the local community. Meanwhile, this article discusses the concretisation of the equity principle in conducting social and environmental responsibility which accommodates the appropriateness of company and community. Therefore, this is a different issue from previous studies.
- b. The main point in this analysis is based on community values in implementing social and environmental responsibility that is going to be conducted in Indonesia so that the implementation of the social and environmental responsibility principle can be conducted and is beneficial for both the company and the community.

Discussion

Concretisation of the Equity Principle in Accordance with Regulations of Social and Environmental Responsibility

The Equity principle (in Dutch; *redekelijkheid en billijkheid*) is the principle that leads to justice which emphasises the positive side of good intention and ignores the subjective side of good intention. The Equity principle has become the legal norm which is explicitly stated in Indonesian Law. One of the principles stated in Regulations Article 74 Paragraph (2) UUPT (Laws of Limited Company), is the equity principle.

Concretisation of the equity principle in Article 74 Paragraph(2) UUPT, defines that the implementation of Corporate Social Responsibility (CSR) is based on the company capability which is relocated and calculated by the Company based on company capability. The propriety in conducting social and environmental responsibility has to be adjusted based on company capability, that the programs of social and environmental responsibility are planned and budgeted initially, so the program can be implemented totally afterwards.

The result of the study shows that the Government of Aceh Barat District attempts to improve the welfare and prosperity of the community as well as to preserve environmental function by formulating partnership regulation among local government, businessmen, and the

community. Qanun Number 10 in the Year 2015 concerning social and environmental responsibility, tends to improve community welfare as well as to preserve environmental function. The aim of social and environmental responsibility is to improve community empowerment, quality of life, and environmental preservation that is useful for the the government, the company, the surrounding community, and the community in general (Article 3 Qanun Barat Aceh Regency Number 10 Year 2015).

Besides being obliged to implement social and environmental responsibility, the company also has the right to have protection and guarantee of legal certainty in conducting it's business activity and gains self-esteem from the district government (Article14 Paragraph of (1) Qanun Aceh Barat District Number 10 Year 2015). In order to enable the company to implement social and environmental responsibility programs, the district government formulates a social and environmental responsibility company forum (FTJSL) that is responsible for main tasks and coordination function, supervision, controlling, and evaluating the implementation of TJSL (Article15 Qanun of Aceh Barat District Number 10 Year 2015). Concretisation of the equity principle is stated in Article 5 Paragraph (3), Article 7, Article 8, Article 14 Paragraph (1) and Article15 Qanun Number 10 Year 2015.

This research shows that the Government of Aceh Utara District has made regulations about social and environmental responsibility in the form of qanun. It aims to achieve the prosperity and welfare as well as the preservation of environmental function, which is an integral part of the government administration in Aceh Utara District, including business as partnership and subject to laws that have social and environmental responsibility in order to empower the community by utilising the activity that is conducted well and synergically.

This study indicates that the government of Aceh Timur is one of the Districts that has made the regulation of the implantation of social and environmental responsibility; it aims to achieve legal certainty and to synergize the Social and Environmental Responsibility Program that is conducted for regional development. The regulation made by the Government of Aceh Timur District is Qanun Number 12 Year 2016 of Social and Environmental Responsibility of Company. Article 6 Paragraph (1) Qanun Number 12 Year 2016 states that the program of social and environmental responsibility of a company (TJSLP) comprises of social and environmental development, small business partnership and cooperative, and a direct program for the community.

Based on Article 6 Paragraph (1) point c, the programs that are directly aimed at the community are grants, awards, subsidies, social assistance, social service, and social protection (Article 9 Paragraph (1) Qanun of Aceh Timur District Number 12 Year 2016).

Concretisation of the equity principle in Qanun Number 12 Year 2016 as stated in Article 9 Paragraph (1) is a direct program that is directly addressed to the community which is grants, educational costs, subsidies, social service, social assistance, and social protection.

A company located in Aceh Timur District is obliged to implement social and environmental responsibility by emphasising the interest of all parties which are a company, government, community, and environmental preservation. If the company does not implement social and environmental responsibility, the company will get sanctioned in a warning letter, activity restrictions, and revocation of a business permit.

Concretisation of the Equity Principle of Palm Oil Plantation Company In Province of Aceh

The implementation of social and environmental responsibility by the Palm Oil Plantation Company is to manage the company well, based on the principles of good corporate governance. The implementation of social and environmental responsibility is to minimise the problems happening between the Palm Oil Plantation Company and the community as well as the environment around the company. In implementing the programs of social and environmental responsibility both companies (private limited company and PTPN I (State Plantation Limited Company)) have a different legal basis and budget resources.

The State Plantation Limited Company I (PTPN I) is located in some districts/capitals in Aceh including, the City of Langsa, Aceh Utara District, Aceh Tamiang District, Aceh Barat District, Aceh Timur District, and Aceh Selatan District. The PTPN I Langsa is the head office of the central administration which oversees other PTPN I in Aceh. The PTPN I Langsa has the authority to make management policies to be implemented by the PTPN I in other areas.

According to Abdul Mutahalib, this study shows that the implementation of social and environmental responsibility of the PTPN I Cot Girek, Aceh Utara, has to be approved by President Director of the PTPN I. This happens due to the PTPN I Cot Girek Aceh Utara being a unit. Therefore, the programs cannot be implemented directly by the plantation unit. The implementation of social and environmental responsibility of the State Plantation Limited Company I (PTPN) cannot be conducted maximally yet, due to the decreasing of productivity lately which caused the declining of profit. Thus, the social and environmental responsibility planned cannot be implemented totally. According to the interviewee, the implementation of social and environmental responsibility of the PTPN I refers to the instruction of the SOE Minister although some local regulations which are in the District of Qanun cannot be implemented, due to the PTPN I being a BUMN (State-Owned Enterprise) which has its own regulations. Some programs based on the instruction of the SOE Minister

has been conducted by the PTPN I Aceh which is natural disaster, education and training, health improvement, public facility, worship facility, natural conservation, social and community, and some other community activities based on community request. The following table presents the plan and the realisation of the Partnership and Environmental Development Program (PKBL) of the PTPN I Aceh.

Table 1: Fund Distribution List Of PKBL PTPN I

No	Assistance Sector	Year					
		2005		2016		2017	
		Plan	Realisation	Plan	Realisation	Plan	Realisation
1	Natural Disaster	125.000.000	5.000.000	80.000.000	122.550.000	80.000.000	49.600.000
2	Education and Training	160.000.000	18.300.000	100.000.000	14.000.000	80.000.000	11.500.000
3	Health Improvement	125.000.000	-	75.000.000	-	35.000.000	-
4	Public Facility	240.000.000	39.710.000	70.000.000	28.315.000	80.000.000	318.694.000
5	Worship Facility	200.000.000	11.400.000	70.000.000	2.000.000	80.000.000	215.000.000
6	Natural Conservation	125.000.000	-	40.000.000	-	35.000.000	-
7	Social and Community	350.000.000	56.525.000	250.000.000	56.120.000	150.000.000	439.887.000
8	Other	-	-	-	-	-	-
	Total	1.325.000.000	130.935.000	685.000.000	222.985.000	540.000.000	1.034.681.000

Source of Data: SECTION of PKBL/CSR PTPN I

Langsa

The result of study at the State Plantation Limited Company I (PTPN I) located in Aceh Timur District, shows that the implementation of social and environmental responsibility in 2017 has not yet been conducted due to the funds having not been disbursed because the company faced some financial difficulties in 2015, and had to pay its debt. The implementation of social and environmental responsibility is based on the profit of 2%. In 2017 the activity was focused on community and environment which is building the mosque, and mushalla (prayer room), however the program was terminated temporarily because of the earthquake in Pidie Jaya, so the assistance for the surrounding community was diverted for Pidie Jaya (information from Head Office).

The study indicates that the implementation of social and environmental responsibility in the Aceh Barat District has been conducted from 2015 to the present. In 2015, there were 15 private companies in the Aceh Barat District that participated in implementing social and environmental responsibility by allocating the budget of 22 billion IDR. In 2016 there were 15 private companies that participated in implementing social and environmental responsibility by allocating the budget of 4.1 billion IDR, furthermore, in 2017 budget allocation was 4.9 billion IDR. The realisation in 2016 was about 76 percent that is expected to be increased in 2017 by good management on target of the CSR budget and focuses on community empowerment, for instance economic empowerment, health, education, and social culture (Regional Planning Body, Profile CSR District of Aceh Barat, 2017).

According to Sri Eria Murti, the companies in Aceh Barat have conducted social and environmental responsibility in collaboration with the government and community. The planning program of social and environmental responsibility is conducted by the Social and Environmental Responsibility Forum of the Company (Article 11 Qanun of Aceh Barat District Number 10 Year 2015). The forum is responsible to do supervision, coordination, controlling, and evaluation of social and environmental responsibility of the environment (Article 11 Qanun of Aceh Barat District Number 10 Year 2015). The formulation of the Social and Environmental Responsibility Forum as stipulated previously is aligned with the regulations stated in Article 16 District Qanun of Aceh Barat Number 10 Year 2015. The formation of social and environmental forums is essential in every area in order to plan social and environmental responsibility harmoniously and efficiently.

In 2017, the implementation of social and environmental responsibility in the Aceh Barat District is conducted by 14 (fourteen) companies with the total budget was 22.018.883.454 IDR (twenty billion, eighteen million, eight hundred eighty-three thousand four hundred forty-five IDR). The budget was allocated for some programs which were education, health, environment, economic and Micro and Medium-Scale Business (UMKM), social and public facility, worship facility and religious facility, culture, sport, and natural disaster.

Concretisation of the Equity Principle in Terms of Social and Environmental Responsibility in Accordance with Community Fairness in the Province of Aceh

Based on the study conducted in some districts/cities in the community around the Palm Oil Plantation Company, the community expresses their opinion regarding the implementation of social and environmental responsibility conducted by the company.

The district of Aceh Tamiang has applied a local regulation that regulates social and environmental responsibility which is Qanun Number 7 Year 2014 of social and environmental responsibility of a Limited Liability Company. The number of Palm Oil



Plantation Companies in the District of Aceh Tamiang is 27 companies comprising of a State-Owned Company (PT.Perkebunan Nusantara I) and private companies (Limited Companies). In reality, it is not all palm oil plantation companies in the District of Aceh Tamiang which conducts social and environmental responsibility, although the local regulations have explicitly and strictly regulated about social and environmental responsibility.

Concretisation of the equity principle according to the community is that the implementation of social and environmental responsibility has to be based on community demands, whereas the programs conducted are achievable and beneficial for the community.

According to the explanation above, the concretisation of the equity principle in implementing social and environmental responsibility by the Palm Oil Plantation Company in the Province of Aceh can be achieved by considering the following issues:

1. The propriety is adjusted according to the applied regulations.
2. The propriety is adapted based on community traditions either cultural tradition or tradition in sharia law ('urf).
3. The propriety is based on the financial capability of the company.
4. The propriety is based on community needs.
5. The propriety is based on government programs.

Referring to the issues above, therefore the concretisation of the equity principle in implementing social and environmental responsibility by the Palm Oil Plantation Company in the Province of Aceh can be attained by deliberation and consensus between community and company. It is done to meet the agreement and propriety between the need and the aspiration of the community and the financial capability of the company, thus the propriety is considered to be appropriate according to both community and company. Propriety is called the Propriety of Deliberation.

This concept is based on legal ideals stated in the fourth principle of Pancasila (foundational philosophical theory of the Indonesian State): "Democratic, led by the wisdom of the representatives of the people". It is also based on the fifth principle of Pancasila "Social justice is for all Indonesians". Therefore, it is considered that the propriety of deliberation is formulated based on the legal personality of the nation, which contains norms, traditions, and values of Indonesian society. The implementation of social and environmental responsibility is in accordance with the need of both company and community, which can be achieved by deliberation and concession so that justice for the community, company, and environment is accomplished.



Conclusion

Concretisation of the equity principle on social and environmental responsibility is explicitly stated in the regulations of UUPT (Laws of Limited Company), UUPA (Acehnese Government Regulation), Plantation Law, UU BUMN (Laws of SOE), as well as in some Qanuns of Districts/Cities in Aceh. Concretisation of the equity principle by the Palm Oil Plantation Company in the province of Aceh, is brought about by conducting social and environmental responsibility programs according to the company propriety and considering the propriety of the Acehnese Community. Concretisation of the equity principle in the community is the implementation of social and environmental responsibility that has to be adjusted with the need of the community and the propriety of the Acehnese community. Concretisation of the equity principles in implementing social and environmental responsibility in Aceh Province is based on the deliberation propriety between company and community so that consequently justice is achieved for all parties.

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