



# Corporate Social Responsibility (Csr) Perspective from Environmental Law Compliance and Enforcement for Sustainable Development

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**ABSTRACT:** *Environmental problem in Indonesia cause by many aspect. The most influence cause from development especially from business and/ or activity is exploit natural resources such as plantation, mining, forestry, etc. Every activity in Environmental Law compliance system in Indonesia must through the licensing mechanism. As a controller purposes and supervision function from the government, licensing mechanism is the most important process that influence and cause the environmental problem and degradation in Indonesia.*

*Basically every activity have a impact to environment, but in Indonesia the definition of pollution in environmental law depend of environmental quality standard that regulate by the government. Today, when Corporate Social Responsibility (CSR) practise, it's tend to be done because of their perspective their business and/ or activity influence the human directly, but not in perspective of environment pollution or descruption that may cause by the activity can harm or impact to environment generally such as ecosystem and other life form including culture.*

*Environmental law purpose is to preservation of environmental functions, so in perspective of every activity impact to environment without consider how much impact that influence by activity, the responsibility concept in CSR must be interpreted as liability from the corporate, not only responsible for society but also to preservation of environmental function that impact by the corporate activity.*

*The regulation in Indonesia today is already consider about the CSR implementation through the Law No. 40/2007 on Incorporated Company (PT) that obligate the social and environment responsibility, but not effectively implementation especially for the responsibility for the environmental aspect because of the shape and mechanism of CSR is not regulate clearly. The sanction concept is also must be develop when the CSR not imply properly based of environment perspective by the corporate.*

*Finally, the government from the state responsibility principle perspective must be support and develop every instruments to protect their country from any threat including environmental degradation. Environmental law regulation must be develop to support the sustainable development concept and equity for present and the next generation.*

## INTRODUCTION

Environmental problems is already consent national and international society. Degradation quality, supportive and carrying capacity slowly and naturally happen, but in other side pollution and destruction of environmental source by human activity give significant contribution to decrease quality and function of environment to support life.

Indonesia as a developed country, need every resources to fulfill the national needs for welfare purposes. Management of environment today in Indonesia, cause several problem to degradation quality of environment. In Principles, every bussiness activity do for economic purposes. "Garret Hardin in his paper the tragedy of the common says that economic reasons move the human behavior and take a decision to

mon property in the sense of natural resources that can't admit as individual right."<sup>1</sup>

In principles, every bussiness activity cause a impact to the environment in the sense of society and environment (ecosystem perspective) that cause environment degradation. So in environmental legal system, licensing mechanism is one of important instrument in environmental law compliance system to control and assess impact possibility from bussiness activity that management and exploited natural resources.

<sup>1</sup> Takdir Rahmadi, *Hukum Lingkungan di Indonesia*, PT. Rajagrafindo Persada, Jakarta, 2011, p.8



In West Java Province Indonesia, a lot case related to pollution and destruction of environment that involve corporate activity. Several case is already enter to national court and verdict by court and other case still on process. For example case related pollution of Citarum River that pollute from headwaters until downstream by the livestock business and/ or activity, Industry and manufacture business.<sup>2</sup> The other case related to corporate business and/ or activity that pollute and destruct of environment is PT Kahatex case locate in Sumedang West Java Province that be charged in coal waste in Garut Court and also presumption of pollution of Cikajang River by industrial hazardous waste and also already take a alternatif dispute resolution facilitate by the government ( Management of Environment Agency West Java Province).

Every business and/ or activity must have risk to the society and environment, in one side is an economic benefit and also risk to environment in other side. Because of their act influence society and environment direct and indirecly, there is evolve responsibility concept from the corporation for the society. Related to it, in Indonesia recognize three terminology related to responsibility from the corporation, namely Community Development (CD), Corporate Social Responsibility (CSR) and Social and Environment Responsibility (TJSL).

Based of the CSR Guideline in Environment Sector publish by Ministry of Environment Republic of Indonesia, there is a Relation between CD, TJSL and CSR, namely:<sup>3</sup>

1. Community Development (CD) or well known as *Comdev* or community development is a process designed to create progress on economy and social condition of community through active participation, which at the end will foster initiative and independence of the community itself.
2. CSR concept is closely related to community development (*Comdev*) concept, whereas *Comdev* has became important part in implementation process of

CSR activities. Meanwhile Social and Environment Responsibility (TJSL), as stated in Article 74 Law No. 40/2007 on Incorporated Company (PT) is company's compliance toward existing sectoral regulation.

3. TJSL is mandatory meaning in its implementation, company should refer to all laws and other regulations related to environmental, such as Law No.32/2009 on the Protection and Management of Environmental (PPLH); Law No. 18/2008 on Waste Management, Government Regulation (PP) No. 82/2001 on Water Pollution Control and PP No. 41/1999 on Air Pollution Control.
4. After the company did all its TJSL; by complying all existing laws and regulations in relation with its business type, MoE as a government institution that responsible on environmental sector, will continuously encourage the company to implement its CSR activities in environmental sector.

Focus on TJSL, In Indonesia Law No. 40/2007 on Incorporated Company (PT) regulate shape of corporate responsibility call Corporate Social and Environment Responsibility as a commitment from the corporation to participate in sustainable economic development to improve the quality of life and environment is beneficial, both for the company itself, the local community, and society at large.<sup>4</sup> Further To operate the Company's business in the field and / or related to the natural resources required to implement the Social and Environmental Responsibility is the obligation of the Company and are budgeted and accounted for as an expense of the Company are carried out with respect to implementation of decency and fairness.<sup>5</sup>

Social and Environmental Responsibility aimed at realizing sustainable economic development to improve the quality of life and environment for the benefit of the Company itself, the local community and society at large. This provision is intended to support the Company's relations are harmonious, balanced, and in accordance with the environment, values, norms, and culture of the local community, it is determined that the Company's business activities in the field and / or

<sup>2</sup> Amiruddin A. Dajaan Imami, et.al, *Model Harmonisasi dan Sinkronisasi Peraturan Perundang-undangan di Bidang Pengelolaan lingkungan Hidup dalam Pembangunan Berkelanjutan (Studi Kasus DAS Citarum)*, Laporan Penelitian Andalan LPPM UNPAD, 2009.

<sup>3</sup> Ministry of Environment Republic of Indonesia, CSR Guideline for Environment Sector, 2011, p. 31.

<sup>4</sup> Article 1 Point 3, Law No. 40/2007 on Incorporated Company (PT)

<sup>5</sup> Article 74, Law No. 40/2007 on Incorporated Company (PT)



related to the natural resources required to implement and Social Responsibility environment.<sup>6</sup>

From the environment law perspective, the problem is not from the responsibility from the company for the society with Community Development and CSR, but the responsibility from the corporation for their activity that presumpt based of environmental iImpact assesment (compliance process) change, pollute and destruct the environment and resulting the degradation of environmental quality function to support life. So in this perspective, TJSL concept that Indonesia Law No. 40/2007 on Incorporated Company (PT) legally binding especially for environment protection sector. Today, environment sometimes not will be consideration for corporate to resposable for their activity that already influence and give an impact to ecosystem.

Further more, there is a problem from position of Community Development (CD), Corporate Social Responsibility (CSR) and Social and Environment Responsibility (TJSL) in the environmental legal system in Indonesia (compliance and enforcement perspective). This problem is cause by definition of the pollution. Law No.32/2009 on the Protection and Management of Environmental (PPLH), regulate environmental pollution shall be "a process wherein creature, substances, energy and/or other components come into or are included into the environment by human activity thus exceeding the stipulated environmental quality standard."

So based of Law No.32/2009 on the Protection and Management of Environmental (Positif Law) a condition can be said as a pollution if the waste or other substance come into environment upper the environmental quality standard. But technically every business and/ or activity surely cause impact to environment. So there is a lot of obligation must be obey by the corporation when through compliance proces such as licensing mechanism and also environmental impact assesment to keep the quality of environment that impact by the business and/ or activity still under the environmental quality standard. For example, every corporation must be established wastewater treatment plant (IPAL) to process waste water before discarded to environment.

Basically environmental protection is the participation and responsibility of all citizens, but the state has a duty and responsibility by the constitution. In environmental

conditions has decreased quite apprehensive due to development is not environmentally sustainable, the state should be able to provide solutions and emphasis on issues of environmental protection through a variety of efforts including setting clear and firm in legislation both in the constitution, laws legislation or other implementation regulations.<sup>7</sup>

Sometimes environmental management is not currently reflect justice. The concept of justice in Indonesia country guided by the *Pancasila* as the state philosophy that emphasizes justice for all Indonesian people. Justice in environmental aspects should be defined as fairness in the protection and management of the environment for the well-being of people and the environment that has given its function in supporting human life and other living creatures. Environmental justice as fairness is reflected in the statutory sector that puts the interests of the sector. "So the state has a major role in delivering justice for the environment and society in the concept of a unitary state insightful archipelago (*wawasan nusantara*)"<sup>8</sup>.

Environment is a legacy for all humanity (the common heritage of mankind), so protection becomes a priority for every human being for the benefit of future generations. In the concept of sustainable development as agreed in the Rio de Janeiro Conference of 1992 put forward the development that meets the needs of the present without compromising the ability of future generations to meet their own needs so ensuring environmental justice for generations to come.<sup>9</sup>

Based of the problem describe before, this paper will analyze two main problem, namely the position of Community Development or CSR or TJSL in environmental Law compliance and enforcement perspective and the relation and function to support sustainable development in

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<sup>7</sup> Maret Priyanta, *Tanggung Jawab Negara Dalam Perlindungan Lingkungan Yang Berkeadilan Bagi Generasi Yang Akan Datang, Konferensi dan Dialog Nasional dalam rangka Satu Dasawarsa Amandemen UUD 1945 "NEGARA HUKUM INDONESIA KE MANA AKAN MELANGKAH?"* diselenggarakan di Hotel Bidakara, Jakarta pada tanggal 9-10 Oktober 2012

<sup>8</sup> Danusaputro, Munadjat, *Hukum Lingkungan Nusantara Buku V: Sektoral Jilid 2*, Cetakan Pertama, Putra A Bardin, 1984. p.102.

<sup>9</sup> Hardjasoemantri, Koenadi 2004, Kuliah umum Program Pasca Sarjana Ilmu Hukum UNLAM, Tanggal 31 Mei 2004.

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<sup>6</sup> Annex, Law No. 40/2007 on Incorporated Company (PT)



Indonesia, also the perspective that responsibility concept for their business and/ or activity that impact to environment (ecosystem) must be consider to be a liability to keep the quality of environment that influence and change cause by the corporate activity.

## ANALYSIS

Indonesia is a state law (*rechtstaat*), every activity that involve the public interest is regulate by law. "In Indonesia, various law schools develop a concept of law in society, so that by Mochtar Kusumaatmadja, law is not just the overall law principles and rules that govern human life in society, but also includes institutions and processes which embodies those principles into effect in reality."<sup>10</sup>

The environment is essentially an ecosystem, the laws governing environmental aspects should also be viewed as a system. "The legal system consists of sub-systems - sub-system of law, among others, is a sub system of environmental law. "<sup>11</sup> The legal system is also an integrated entity which is composed of the parts of completeness according to a definite purpose.<sup>12</sup> Environmental Law in Indonesia in the strict sense, the legislation includes a provision that hierarchy<sup>13</sup> where most sourced with the provisions of a degree that the implementation in Indonesia is regulated by Law No. 12 of year 2011 on the establishment of legislation

"Definition of law and legal functions in society can be restored to the basic question about the purpose of the law itself. The main objective of law is the order, the need for order is a basic requirement for the existence of an organized society. Man, society and the law is a notion that can't be separated (*ubi societas ibi ius*)"<sup>14</sup>. In the conception of law as a means to reform society in Indonesia, renewal of society through legislation. The conception of law

underlying legal policy and legislation (*recht politics*) can be explained by terminology and modern conception or theory, but in fact the concept is born of the Indonesian people themselves based on immediate need and influenced factors rooted in the history of the community and nation Indonesia<sup>15</sup>. "Accordingly, the purpose of the legal system is bound rather than the objectives contained in the law itself, namely order, balance and harmony, and justice"<sup>16</sup>.

The application of international law or international agreements in most developing countries, including Indonesia slow to be implemented, "because many developing nations to sacrifice environmental protection for the sake of development, such as statements because of the urgent problems that many developing countries face, they have been slow to adopt stringent environmental laws or have been reluctant, once they adopt such laws, actually to enforce them. Lack of enforcement in developing countries is indicative of both the lack of capacity but also a certain lack of will, as many developing countries are content to sacrifice more of their environmental protection in the pursuit of their development goals."<sup>17</sup>

Environmental Law includes compliance and law enforcement, which covers the state administrative law, civil law, alternative dispute resolution and criminal law. "In terms of compliance with the terms have the meanings preemptive action, preventive and proactive. Is a preemptive action taken at the level of decision-making and planning, preventive action is taken at the implementation level through compliance with environmental standards of waste and / or economic instruments, while proactive action at the level of production is the application of environmental standards, such as ISO 14000."<sup>18</sup>

Enforcement meaning. Especially formulated between preventive repression it will exist in the form of sanctions.

<sup>10</sup> Kusumaatmadja, Mochtar, 1972, *Fungsi Dan Perkembangan Hukum dalam Pembangunan Nasional*, Bina Cipta, p.14.

<sup>11</sup> Sunaryati Hartono, 1991, *Politik Hukum Menuju Satu Sistem Hukum Nasional*, PT Alumni Bandung, p.46.

<sup>12</sup> Danusaputro, Munadjat *Op.Cit.*, p.6.

<sup>13</sup> Kelsen, Hans, *General Theory of Law and State*, Translated By Anders Wedberg, Russell and Russell, New York, 1973, p.134.

<sup>14</sup> Kusumaatmadja, Mochtar, *Op.Cit.*, p.2-3

<sup>15</sup> *Ibid*, p.10.

<sup>16</sup> Danusaputro, Munadjat, *Op.Cit.*, p.10.

<sup>17</sup> Elli Louka, *Environmental Law : Fairness, Effectiveness, and World Order*, Cambridge University Press, New York, 2006, p. 29

<sup>18</sup> Amiruddin A. Dajaan, *Asas Subsidiaritas, Kedudukan dan Implementasi dalam Penegakan Hukum Lingkungan*, Pusat Pengkajian Penyelesaian Sengkata Lingkungan – Bestari Bandung, 2009, p.1.



“Because it is essentially Environmental Law emphasizes the values of legal compliance to the preservation of the environment, compared to the values enforcement. The values of compliance with the law should be given strong weight and should be formalized into the formulation of legislation.”<sup>19</sup>

Based of Indonesia Constituion, “Earth and water and the natural riches contained therein shall be controlled by the state and used for the welfare of the people”<sup>20</sup>. This article sometime be a perspective to exploited natural resources without considering impact to environment. This article should be follow by the state responsibility that regulate in introduction (preamble) that define State Government of Indonesia which protect all the people of Indonesia and the entire country of Indonesia and to promote the general welfare. With regard to the statement of protecting the entire nation and the country of Indonesia from the perspective of environmental law, that the state has a responsibility towards conservation and environmental protection both of human resources, natural resources and cultural resources.<sup>21</sup>

Based of Law No.32/2009 on the Protection and Management of Environmental, environment and management shall be done on the basis of the following principles:

- a. State responsibility;
- b. Conservation and sustainability;
- c. Harmony and equilibrium;
- d. Intergration;
- e. Benefit;
- f. Prudence;
- g. Justice;
- h. Eco-region;
- i. Biological deversity;
- j. Polluter pays;
- k. Local wisdom;
- l. Good governance; and
- m. Regional autonomy.

<sup>19</sup> *Ibid.*

<sup>20</sup> Article 33 Paragraph 3, Indonesia Constitution 1945.

<sup>21</sup> *Ibid*, p.105.

Further, environment and management shall aim that:

- a. Protecting the territory of the unitary state Republic of Indonesia from environmental pollution and/ or damage;
- b. Guaranteeing human safety, health and life;
- c. Guaranteeing the continuation of life of creatures and ecosystem conservation;
- d. Preserving the function of the environment;
- e. Achieving environmental harmony, synchronization and equilibrium;
- f. Guaranteeing the fulfillment of justice for the present and future generation;
- g. Guaranteeing the fulfillment and protection of right to the environment as part of human right;
- h. Controlling the utilization of natural resources wisely.

Related to The definition of CSR operational used in Ministry of Environment Republic of Indonesia, CSR Guideline for Environment Sector, 2011, is any actions that go beyond compliance towards all laws and regulations relating to corporate business sectors, to:

1. Be committed to ethical business conduct to improve the quality of life of its stakeholders
2. Be contributed to the sustainability of economic, environmental, and social aspects as part of the sustainable development process

CSR according to the World Business Council for Sustainable Development (WBCSD)<sup>22</sup> is a sustained commitment from the business community to act ethically and contribute to economic development in the local community or public society, along with living standards improvement of employees and their entire family.

According to the ISO 26000<sup>23</sup> Characteristic of Social Responsibility is an organization's willingness to consider the social and environmental aspects in decision making and

<sup>22</sup> WBCSD is global association which consist of approximately 200 companies and particularly run in sustainable development sector,

<sup>23</sup> ISO 26000 is a guideline for every organization in conducting social responsibility. This guideline is created by experts from more than 90 countries and 40 international organizations by using multi-stakeholder approach.



responsible for the impact of decisions and activities that affect society and the environment. In the ISO 26000 Social Responsibility covers 7 (seven) main aspects, namely: organizational governance, human rights, labor, environment, fair business practices, consumer issues and the involvement and community development.

In the concept of sustainable development and the vision of intergenerational equity implies that all human activity or effort, not only for the present generation, but also must consider the needs and interests of future generations and equity within a generation that emphasizes the importance of fairness in the generations to meet basic human needs as well as other living beings.

“As a development concept, the definition and understanding of sustainable development is often considered to be unclear and / or floating. On the basis of this, Bruce Mitchell, B. Setiawan and Dwita Hadi Rahmi categorize the various views on the meaning of the concept of sustainable development for developing countries, among others:<sup>24</sup>

1. Prioritized development efforts on meeting the basic needs of people today, and ensure continuity of economic development itself
2. More emphasis on equity between generations rather than across generations, and
3. Developing countries are reluctant to meet the suggestions of developed countries to change their economic activities to protect the global environment. The leaders of developing countries found their people have the same right to meet their basic needs, and they should not be forbidden to do something that used to also do the developed countries to achieve a level of economic stability as it is now. Indonesia faces the problem of applying the concept of sustainable development as above. Fulfillment of basic human needs and sustainability of economic development that has been relying on the availability of natural resources, causing a variety of problems related to environmental issues and natural resource use. On the other hand, the meaning of the concept of sustainable development itself is not well understood by the stakeholders in Indonesia. “

### Position of Corporate Social Responsibility (CSR) in the Environmental legal System in Indonesia

Based of environmental legal system in Indonesia, every proponent of business and/ or activity must through the compliance process to obtain all license and requirement before the activity run. The important process related to environmental permit is environmental Impact Assessment

<sup>24</sup> Ida Nurlinda, *Prinsip-Prinsip Pembaruan Agraria “Perspektif Hukum”*, Rajawali Press, 2009, p.193-195.

(EIA) as a process for consideration of government to issue properness business and/ or activity. Today in Indonesia after Law No.32/2009 on the Protection and Management of Environmental implement, every activity must have an environmental permit as a condition to get a business license.

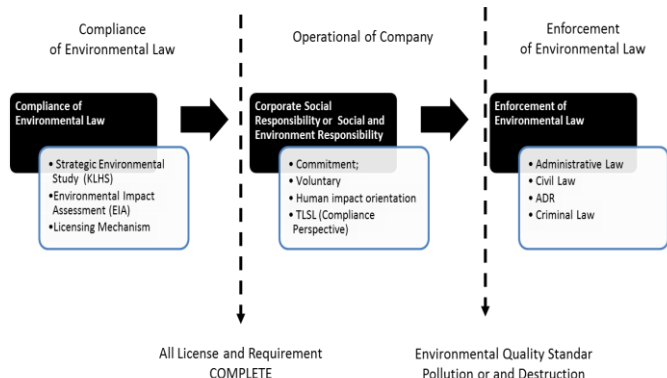
License mechanism in Indonesia today is complicated enough, every proponent must get a lot of license based on their business and/ or activity that regulated by difference law and regulation. In licensing regulation in Indonesia, there is no standard licensing system, integrative, and comprehensive. Meanwhile, the licensing arrangements in defers laws and regulations. So what happens is the misalignment between the horizontal well permits between sectors, such as the regulation in the forestry sector to sector regulation in the forest land uses such as oil and mining, as well as vertical misalignment, ie as between the central and local levels of government regulation, the regulation at the Provincial or District / City Government. While the licensing authority related to forests are at various agencies that add complexity permissions at the level of implementation.<sup>25</sup>

Based of perspective of environmental legal system, there is not a problem even based of practice there is a difference terminology between Community Development (CD), Corporate Social Responsibility (CSR) and Social and Environment Responsibility (TJSL) in Indonesia, the most important aspect is responsibility from the corporation to the environment (ecosystem perspective) not only for human directly that influence by business and/ or activity.

The position of Community Development (CD) or Corporate Social Responsibility (CSR) or Social and Environment Responsibility (TJSL) can be seen in the picture below:

Picture 1 Position of of Community Development (CD) or Corporate Social Responsibility (CSR) or Social and Environment Responsibility (TJSL) in Environmental Legal System

<sup>25</sup> Feby Ivalerina, Maret Priyanta, et.al, *Perizinan Terpadu Untuk Perbaikan Tata Kelola Hutan di Indonesia* :, *Studi Kasus Kalimantan Tengah*, Indonesian Center For Environmental Law (ICEL) dan Kemitraan, 2012.



Sources: Analyze by the Author from several sources and regulation Community Development (CD) or Corporate Social Responsibility (CSR) or Social and Environment Responsibility (TJSL) implemented after all license and requirement get and completes by corporation and the activity if already run. In Indonesia law and regulation, CD/CSR/ TJSL required by law for corporation that their business and/ or activity involve natural resources. Realization of the budget for the implementation of social and environmental responsibility are carried out by the Company is calculated as the cost of the Company.<sup>26</sup>

The CD/CSR/TJSL implement after compliance process and before enforcement of environmental law. So in this condition the activity run normally and everything appropriate with all regulations related to environmental. The main problem in environmental law perspective is:

1. The pollution and/ or destruction of environment define by Law No.32/2009 on the Protection and Management of Environmental is condition if The pollution and/ or destruction upper environmental quality standard;
2. In the other hand, for business and/ or activity such as mining, plantation, forestry, etc. that involve management and exploitation of natural resources, even their management of impact below the environmental quality standard, the quality of environment will be decline to support life and ability of environment to supportive life will be disturbed.

Polluter pays principles, means every party in responsible for business and/ or activity causing environmental pollution and/ or damage is obligated to bear environmental recovery costs. In this perspective, even the pollution based of law must be upper the environmental quality standar, but in reality the company is already pollute the environment (ecosystem perspective) so the company also must be oblogated to fullfill the recovery so the environment function still support the human life.

Meanwhile, practice of CD/CSR/TJSL today focus into program as obligated to impact directly so society. Based of Ministry of Environment Republic of Indonesia, CSR Guideline for Environment Sector, 2011, Ministry of Environment Republic of Indonesia, CSR Guideline for Environment Sector, 2011 In planning any CSR activities in environmental sector, company can choose several field of CSR activities as follow:

1. Cleaner Production
2. Eco Office
3. Conservation of Energy and Natural Resources
4. Waste Management by 3R
5. Renewable Energy
6. Climate Change Adaptation
7. Education on Environmental

From the program related CSR based of guideline, the perspective is preventive program to prevent pollution and never view the impact and recovery activity or program to environment (ecosystem perspective).

Environment including natural resource is legacy especially for the next generation, in development process, every unwise utilizes of natural resources will affect for the future and cause unfairness for the next generation. Sustainable Development today must be implemented in every aspect that related to management of environment. Law No.32/2009 on the Protection and Management of Environmental recognize strategic environmental study as a series of systematic, comprehensive and participatory analyses to a certain that the sustainable development principles have come the basis and been integrated into the development of a region and/ or policy, plan and/ or program. Implementation of sustainable development not only government or state responsibility but also must be support and increase participation from the society including corporation and other party who utilize and manage natural resources.

Based of New Delhi Declaration of Principles of International Law Relating to Sustainable Development,

<sup>26</sup> Government Regulation Number 47 Year 2012 Concerning social and environmental responsibility.

State are under a duty to manage natural resources, including natural resources solely within their own territory or jurisdiction. "State must take in to account the need of future generations in determining the rate of use of natural resources in perspective that environment and also natural resources is common heritage of mankind".<sup>27</sup>

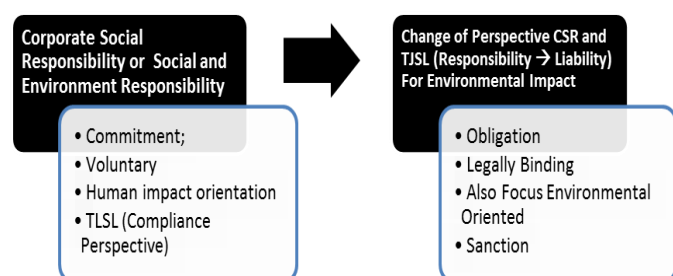
### Liability concept and perspective for Corporate Social Responsibility (CSR) in the Environmental legal System in Indonesia

Based of Indonesia Law No. 40/2007 on Incorporated Company (PT), the corporate responsibility call Corporate Social and Environment Responsibility is a commitment from the corporation to participate in sustainable economic development to improve the quality of life and environment is beneficial, both for the company itself, the local community, and society at large.

There is a difference meaning or terminology from legal perspective between responsibility and liability. In environmental law perspective, responsibility means voluntary act by business or activity, but liability implement if there is a presumption that business or activity pollute and or damage and the important aspect there is a Loss and /or damage for human and environment.

Picture 2

Liability concept and perspective for Corporate Social Responsibility (CSR) in the Environmental legal System in Indonesia



Sources:

Analyze by the Author from several sources and regulation

<sup>27</sup> Marie-Claire Cordonier Segger and Ashfaq Khaflan, *Sustainable Development Law : Principles, Practices and Prospect*, Oxfort University Press, 2004, P.99.

In order to protect environment for present and next generation, there is must be changing the concept and perspective related to Community Development (CD), Corporate Social Responsibility (CSR) and Social and Environment Responsibility (TJSL) in practice :

1. The commitment of company should be change to be obligatory or bound and legally binding for every company to implement the CD/CSR/TJSL. If The Company does not perform its obligation, there are sanctions in accordance with the provisions of the legislation. Unfortunately there in no other regulation related to sanction and how the form of sanction. Commitment meaning, is the act needed willingness from the company to obligate Corporate Social and Environment Responsibility. In law perspective cominitment does'nt have any sanction if company not implement.
2. The practice of CD/CSR/TJSL today that oriented for human impact only with a lot of activity program, should be focus to environment loss that cause by business or activity
3. The company with natural resources business activity must have allocated recovery cost in their program especially for pollution or and damage cause directly to environment (ecosystem perspective) even the pollution still under the environment quality standard
4. Indonesia regulation today already describe about sanction if the company does not implement their responsibility in CD/CSR/TJSL but still not specific and type of sanction. In environmental law enforcement, there is four remedies to enforce namely, administrative law, civil law, alternative dispute resolution and criminal law. But still unclear what kind or category of violation if the company not implement the CD/CSR/TJSL.

### CONCLUSION

Based of perspective of environmental legal system, the most important aspect is responsibility from the corporation to the environment (ecosystem perspective) not only for human directly that influence by business and/ or activity. The position CD/CSR/TJSL in environmental law system that CD/CSR/TJSL implement after compliance process and before enforcement of environmental law. But in reality the impact of business or activity already happen so the





company also must consider about recovery of environment (ecosystem perspective)

In the interest of environment protection and support sustainable development, there is must be change of mechanism and form of CD/CSR/TJSL perspective that the responsibility not only focus for human interest but also must focus to environmental oriented. The company with natural resources business activity must have allocated recovery cost in their program especially for pollution or and damage cause directly to environment (ecosystem perspective) even the pollution still under the environment quality standard because basically the environment already pollute, so the company must responsible or liable to recover the condition and function of environment to support life and keep quality of environment for present and next generation.

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