

Legal Obligations of Mining Companies in the Implementation of CSR Based on Laws and Regulations

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ABSTRACT

Keywords: legal obligations, mining companies, corporate social responsibility.

The mining sector plays a crucial role in Indonesia's economy by significantly contributing to national income and employment. However, mining operations can also result in adverse environmental and social impacts. This study aims to examine the legal responsibilities of mining companies in implementing Corporate Social Responsibility (CSR) as stipulated by statutory regulations. Utilizing qualitative research methods with a normative and empirical legal study approach, the data collection method employed is a literature review. Collected data are analyzed through three stages: data reduction, data presentation, and conclusion. The results show that PT Bengalon Limestone has a legal obligation to implement Corporate Social Responsibility (CSR) through several concrete steps. First, the company must carry out the Community Development and Empowerment Program (PPm). In implementing this PPM, PT Bengalon Limestone refers to the Decree of the Minister of Energy and Mineral Resources No. 1824/2018 which includes eight main programs. Conclusion PT Bengalon Limestone has a legal obligation to implement Corporate Social Responsibility (CSR) through several concrete steps. First, the company must implement the Community Development and Empowerment Program.



Introduction

The mining sector includes extraction activities of natural resources such as coal, oil and gas, metals, rocks, clay, sand, salt, minerals, chemicals, fertilizers, as well as gypsum, asphalt, and limestone. This activity is an effort to explore and produce raw materials that can be processed into added value for the company, attracting investment from investors to obtain maximum profits. (Rutin et al., 2019). The mining sector is important in Indonesia because of its contribution as the main source of state income, which attracts investors' interest in investing. (Midesia, 2020). Indonesia's Gross Domestic Product (GDP) has now reached IDR 19,700 trillion, with most of it coming from the mining sector. BUMN Minister Erick Thohir stated that the mining sector's contribution to GDP reached IDR 2,300 trillion, or around 8.57% of total GDP.

However, mining activities can also have negative impacts on the environment and society. For example, intensive exploration and exploitation of natural resources can result in ecosystem damage, such as deforestation, destruction of wildlife habitat, and land and water degradation. In addition, the social impacts of mining activities include conflicts with local communities regarding land rights, increased uncontrolled migration, and public health problems due to air and water pollution. Therefore, mining companies need to implement socially and environmentally responsible practices or Corporate Social Responsibility to reduce these negative impacts.

Corporate Social Responsibility (CSR) is a concept where companies have responsibility for social and environmental impacts arising from their business operations, such as pollution, waste, and product safety issues. (Sekarwigati & Effendi, 2019). The Indonesian government has regulated the implementation of social responsibility in Law Number 40 of 2007 concerning Limited Liability Companies, specifically in Article 74 paragraph 1. This article emphasizes that companies operating in the natural resources sector are obliged to carry out social and environmental responsibilities. In implementing CSR, companies must pay attention to three main aspects, namely social, economic, and environmental.

Previous research by (Narwan, 2023) Indicates that the concept of corporate social and environmental responsibility (CSR) in Indonesia is governed by several laws, namely Law Number 40 of 2007 concerning Limited Liability Companies, Law Number 25 of 2007 concerning Capital Investment, and Law Number 19 of 2003 concerning State-Owned Enterprises (BUMN). These regulations reveal inconsistencies in CSR governance, leading to subsequent refinements in regulatory frameworks. Private companies and BUMNs are mandated to adhere to CSR practices outlined in these laws, despite the absence of explicit sanctions in the Capital Investment Law and State-Owned Enterprises Law.

Further research by (Dewi, 2015) Highlights several points: firstly, the rationale behind making CSR a legal obligation includes Indonesia's sovereignty to regulate corporate social responsibility amidst escalating environmental concerns and the societal role of companies. Secondly, the absence of sanctions accompanying these regulations implies a voluntary compliance approach. Lastly, Dewi argues for the introduction of criminal sanctions to enforce CSR as a mandatory legal obligation, ensuring its effective implementation across corporate entities. This research contributes to expanding the understanding of CSR implementation in the mining industry, which involves complexity in the relationship between companies, government, and local communities. This research aims to analyze the legal obligations of mining companies in implementing CSR based on statutory regulations.

Method

This study employs qualitative research methods using a normative and empirical legal study approach. Qualitative research is utilized to investigate natural object conditions, with the researcher acting as the primary instrument. Unlike quantitative

research, this approach begins with data, utilizes existing theories for explanatory purposes, and culminates in theory development (Pahleviannur et al., 2022). The data collection technique employed is a literature review, aimed at gaining a comprehensive understanding of previously studied issues, related theories, existing findings, and recent developments within the chosen field of study. Data were sourced from Google Scholar, covering publications from 2014 to 2024. The case study focuses on PT Bengalon Limestone in Selangkau Village, Kaliorang District, East Kutai Regency, East Kalimantan Province (Limestone Mining). Collected data are analyzed through three stages: data reduction, data presentation, and conclusion.

Results and Discussion

PT Bengalon Limestone is a company located in Selangkau Village, Kaliorang District, East Kutai Regency, East Kalimantan Province. PT Bengalon Limestone is one of the companies in Indonesia engaged in the limestone mining sector. Mining companies are defined as a type of company that focuses on the exploitation of natural resources to be processed so that they have added value. This sector plays an important role in supporting a country's economic development because it provides the energy resources needed for economic growth. (Israel et al., 2018). Selangkau Village has abundant natural resources in the form of limestone, which is utilized by PT Bengalon Limestone to conduct exploration. The abundance of natural resources can encourage the opening of opportunities for companies to conduct exploration and mining, supporting further economic development.

Mining sector companies provide a variety of raw materials used in everyday life, so it is no surprise that mining is one of the human activities with significant environmental and social impacts. Mining activities are varied and can leave different ecological footprints. These activities have caused environmental damage that is still visible today. (Carvalho, 2017). During exploration, mining companies often damage the surrounding natural environment. The worsening environmental crisis has increased public demand for more socially and ecologically responsible mining practices. Major mining companies have responded by developing the concept of a sustainable mining industry.

The concept of a sustainable company refers to the responsibility of a company that does not only focus on profit or profit but must also pay attention to its social and environmental responsibilities. If the community, especially those around the company, feels that the company does not pay attention to social and environmental aspects and does not make a positive contribution, even causing negative impacts, this can cause resistance or social turmoil. The company's commitment to contribute to the nation's development by paying attention to financial, social, and environmental aspects is referred to as corporate social responsibility (CSR) (Martin et al., 2017).

(Latapí Agudelo et al., 2019) Argue that companies have a responsibility to society regarding economic and human values. Then, it emphasizes that to a certain extent, corporate social responsibility (CSR) can contribute to the economic benefits of the

company. The importance of CSR indicates that corporate social responsibility must be balanced with corporate social power, and if ignored corporate social power may be reduced. This confirms that companies, especially mining companies such as PT Bengalon Limestone, must implement social responsibility and maintain social power in the eyes of society.

According to (Prayuda & Praditya, 2020), Corporate Social Responsibility (CSR) is defined as the commitment of companies or the business world to contribute to sustainable economic development by paying attention to corporate social responsibility. CSR emphasizes the importance of balance between attention to economic, social, and environmental aspects. Meanwhile, according to Jhonatan Sofian in (Martin et al., 2017), CSR is a concept that requires companies to fulfill and pay attention to the interests of stakeholders in their operations for profit. Stakeholders include employees, customers, communities, local communities, governments, and non-governmental organizations (NGOs). This means that CSR is a mutually beneficial relationship between the company and various stakeholders, and encourages sustainable and environmentally responsible business practices.

Corporate Social Responsibility (CSR) is an obligation that must be implemented by companies, including PT Bengalon Limestone. In Indonesia, the legal obligation for mining companies to implement CSR is regulated in several laws and regulations. For example, the following laws and regulations:

1. Law Number 40 of 2007 concerning Limited Liability Companies (PT Law).

Article 74 states that companies doing business in the field of natural resources are obliged to carry out social and environmental responsibilities. If not carried out, the company will be subject to sanctions by the provisions of laws and regulations.

2. Law Number 25 Year 2007 on Capital Investment (PM Law).

Article 15 emphasizes that business actors are obliged to implement social and environmental responsibility. Social and environmental responsibility must be implemented by applicable legal norms and the values and culture of the local community.

3. Law No. 4/2009 on Mineral and Coal Mining (Minerba Law).

Article 108 states that holders of IUP (Mining Business License) and IUPK (Special Mining Business License) are required to develop and implement a community development and empowerment program around the company's license area. This program must include the construction and maintenance of public facilities and infrastructure, improving the quality of education and public health, developing small and medium enterprises, and preserving the environment.

4. Government Regulation No. 47/2012 on Social and Environmental Responsibility of Limited Liability Companies (PP 47/2012).

Article 2 states that every company as a legal subject has social and environmental responsibility. The Explanation of Article 2 states that every company, as a form of human activity in the field of business, must be morally responsible for creating a

harmonious and balanced relationship with the environment and the local community by the values, norms, and culture of the community.

5. Government Regulation Number 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities (PP 23/2010), as last amended by PP 8/2018.

Article 106 paragraph 1 to paragraph 5 states that IUP and IUPK holders must develop a community development and empowerment program around WIUP (Mining Business License Area) and WIUPK (Special Mining Business License Area). This program must be consulted with the central government, provincial government, regency/city government, and local communities. Then, the community can propose a community development and empowerment program to the local regent/mayor to be forwarded to the IUP or IUPK holder. Furthermore, CSR must be prioritized for communities around WIUP and WIUPK that are directly affected by mining activities. Priority is given to communities located close to mining operations, regardless of the administrative boundaries of the sub-district/regency.

These regulations emphasize the legal obligations of mining companies in implementing CSR. In this case, PT Bengalon Limestone can fulfill its obligations by integrating CSR into its operations. PT Bengalon Limestone ensures that the company has complied with various laws and government regulations governing corporate social and environmental obligations. In addition, the company also helps to create harmonious relationships with the community and the surrounding environment and contributes to sustainable development.

Based on the prevailing laws and regulations, PT Bengalon Limestone has a legal obligation to implement CSR with several concrete steps. First, the company must implement a Community Development and Empowerment Program. Development refers to efforts to improve the knowledge and skills of the community so that socio-economic conditions improve. The expected outcome of this program is the realization of independence in the lives of the empowered community. This means that the communities involved can be independent in improving the quality of life of their communities. (Rahmadani et al., 2018). The program should focus on communities that are directly affected by mining operations, regardless of the administrative boundaries of the sub-district or district.

In the implementation of community development and empowerment, PT Bengalon Limestone as a rock mining sector refers to the Minister of Energy and Mineral Resources Decree No. 1824 of 2018. This Decree requires companies holding mining IUPs to carry out community development and empowerment (CPD) which includes eight main programs. These programs include:

1. Education, including providing scholarships, education, basic skills and expertise training, educator assistance, educational facilities and/or infrastructure assistance, as well as training and community independence.
2. Health, including community health around the mine, health workers, and health facilities and/or infrastructure.

3. Increasing real income or employment, including providing economic activities according to professions such as trade, plantations, agriculture, animal husbandry, fisheries, and entrepreneurship, and prioritizing the use of labor from communities around the mine according to their competencies.
4. Economic independence, through increasing the capacity and access of local communities in small and medium enterprises, developing small and medium enterprises of communities around the mine, and providing opportunities for communities around the mine to participate in the development of small and medium enterprises according to their profession.
5. Social and cultural, such as assistance in the construction of worship facilities and/or infrastructure and relationships in the religious field, natural disaster assistance, and participation in the preservation of local culture and local wisdom.
6. Providing opportunities for local communities to participate in the sustainable management of the living environment of communities around the mine.
7. Establishment of community institutions to support PPM independence.
8. Infrastructure development that supports PPM.

PT Bengalon Limestone must develop and maintain public facilities including road infrastructure, which is a vital access for the local economy, given that the infrastructure in the area is still inadequate. Infrastructure itself is a physical system required to fulfill basic human needs in a social and economic context. Road infrastructure development is very important because good roads are needed to facilitate mobility from one place to another for the benefit of the surrounding community. The existence of well-lit roads and easy-to-reach access will make it easier for people to carry out various activities, especially in terms of economic exchange from one place to another. (Ompusunggu, 2018).

Furthermore, PT Bengalon Limestone must build and maintain public facilities and infrastructure which includes improving the quality of education and public health. The company is also required to develop small and medium enterprises and preserve the environment. According to (Rahman & Palinggi, 2022), CSR activities are now diverse and tailored to the needs of the local community based on a needs assessment. These include the construction of education and health facilities, providing business capital for SMEs, restoring social forests, such as planting thousands of trees and butterfly breeding activities, providing scholarships, HIV/AIDS counseling, strengthening local wisdom, and community-based social development and protection. There are many other forms of CSR activities carried out to fulfill various community needs holistically and sustainably.

Furthermore, the company's social and environmental responsibilities must be carried out by applicable legal provisions, as well as considering the values and culture of the local community. The implementation of CSR must also be based on the principles of accountability and transparency so that all activities and programs can be accounted for and carried out with openness. Finally, social and environmental responsibility must be carried out sustainably, ensuring that CSR programs provide sustainable benefits to the community and the surrounding environment. (Fauzi & Manao, 2023).

If PT Bengalon Limestone does not carry out its CSR legal obligations, the company may be subject to sanctions by applicable laws and regulations. Based on the PT Law and PP 47/2012, companies that do not carry out their social and environmental responsibilities may be subject to sanctions by the provisions of the relevant laws and regulations. As PT Bengalon Limestone is engaged in the mining sector, the regulation in question is PP 23/2010 and its amendments. For mining companies that do not carry out their social and environmental responsibility obligations, the administrative sanctions that can be imposed include:

1. Written warning
2. Temporary suspension of IUP Production Operation or IUPK Production Operation of mineral or coal
3. Revocation of IUP or IUPK

So, if PT Bengalon Limestone does not carry out its legal obligations related to CSR, the company could face sanctions such as written warnings, suspension of business licenses, and revocation of business licenses. These sanctions are imposed by the minister responsible for government affairs in the field of mineral and coal mining, the governor, or regent/mayor by their respective authorities.

The implementation of CSR by PT Bengalon Limestone in Selangkau Village will result in significant benefits for both the local community and the company itself. One of the main benefits of CSR is improving community welfare (Deigh et al., 2016). With efforts such as education, health, and support for small businesses, the company can improve the quality of human resources in the village. This means that the company is helping to improve the community's access to quality education, and adequate health services, as well as opportunities to develop their businesses.

In addition, through CSR activities that focus on preserving nature and natural resources in the village, PT Bengalon Limestone will also help preserve the existing environment and natural resources. (Nassani et al., 2022). This effort is important to ensure that mining activities are not only economically impactful but also environmentally sustainable. Another benefit of implementing CSR is the improvement of the company's image. (Ma'f'ulla & Rachmawati, 2024). By taking responsibility for the community and the environment, PT Bengalon Limestone can improve its reputation and positive image in the eyes of the community and other stakeholders. This can not only increase the competitiveness of the company but also attract investors who care about socially and environmentally responsible business practices. These benefits provide a strong impetus for PT Bengalon Limestone to implement CSR as part of its legal obligations. It also reflects the company's commitment to not only seek economic profit but also make a sustainable positive contribution to the surrounding community and environment.

Conclusion

PT Bengalon Limestone has a legal obligation to implement Corporate Social Responsibility (CSR) through several concrete steps. First, the company must carry out a Community Development and Empowerment Program. Furthermore, PT Bengalon Limestone is required to build and maintain public facilities and infrastructure which includes improving the quality of infrastructure, education, and public health. Corporate social and environmental responsibility must be carried out by applicable legal provisions, including Law Number 40 of 2007 concerning Limited Liability Companies (UU PT), Law Number 25 of 2007 concerning Capital Investment (UU PM), Law Number 4 of 2009 concerning Mineral and Coal Mining (UU Minerba), Government Regulation Number 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies (PP 47/2012), and Government Regulation Number 23 of 2010 concerning Implementation of Mineral and Coal Mining Business Activities (PP 23/2010), as last amended by PP 8/2018.

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