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Establishment of Regional Regulations on Corporate Social Responsibility as an Instrument of Corporate Responsibility for the Protection of Indigenous Peoples

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Abstract

Introduction: *This study examines the weak local government supervision of the implementation of Corporate Social and Environmental Responsibility (CSR) by oil and gas mining companies in Eastern Seram Regency, as well as its impact on the indigenous people of the Bati Tribe. The absence of a legal basis in the form of a Regional Regulation on Corporate Social Responsibility (CSR) is the root of the problem that causes suboptimal supervision, indifference to the rights of indigenous peoples, and triggers conflicts related to territories and natural resources.*
Purposes of the Research: *Identify the factors that cause the failure of local government supervision of the implementation of CSR and analyze the urgency of the establishment of a CSR Regional Regulation in order to realize corporate responsibility effectively and fairly for the indigenous peoples of the Bati Tribe.*
Methods of the Research: *The research method used is empirical-juridical with a legal sociological approach and case studies in Eastern Seram Regency. Primary data was obtained through in-depth interviews with indigenous peoples, local governments, and company representatives, as well as field observations. Data analysis was carried out in a thematic qualitative manner to illustrate the relationship between regional policies and CSR practices in the field.*
Results Main Findings of the Research: *The results of the study show that the absence of Regional Regulations on CSR is a crucial factor that paralyzes the supervisory function of local governments. This results in the neglect of indigenous peoples' rights, the lack of CSR contributions that are appropriate, and the increased potential for conflict. This research contributes originality through an in-depth analysis of the case of the Bati indigenous people and the specific identification of the factors of supervisory failure in the region. These findings confirm that the establishment of CSR Regional Regulations is urgent to strengthen the legal basis of supervision, protect the rights of indigenous peoples, and ensure the sustainability of natural resource management.*

Keywords: Corporate Social Responsibility Regional Regulations; Indigenous Peoples; Supervision of Local Governments.

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INTRODUCTION

The governance of mineral and petroleum resources in Indonesia is founded upon the constitutional principle of state control over natural resources, as stipulated in Article 33 (3) of the 1945 Constitution of the Republic of Indonesia. This constitutional mandate requires that the exploitation of natural resources be directed toward the greatest prosperity of the people. Consequently, the State bears the responsibility not only to maximize the economic benefits derived from natural resource extraction but also to safeguard the rights of communities, ensure equitable access to natural resources, and prevent activities that deprive citizens of their social, economic, and environmental rights.[1] Within this constitutional framework, the protection of Indigenous Peoples constitutes an integral component of the State's obligation to promote social welfare. Indigenous communities possess longstanding cultural, spiritual, and economic relationships with their customary territories and natural resources. Therefore, public welfare should not be understood merely as the fulfillment of material needs but also as the protection of existing rights, customary land tenure, cultural identity, and environmental sustainability. These principles are particularly significant in regions where extractive industries operate within customary territories.[2]

The government plays a central role in translating these constitutional objectives into development policies through legislation, administrative decisions, and regulatory instruments. In the extractive sector, this responsibility is reflected in the enactment of Law Number 22 of 2001 on Oil and Gas, Law Number 40 of 2007 on Limited Liability Companies, Law Number 25 of 2007 on Investment, and Government Regulation Number 47 of 2012, all of which impose obligations on companies to implement Corporate Social Responsibility (CSR), community development programs, and principles of Good Corporate Governance (GCG). These legal instruments recognize that while extractive industries contribute significantly to national economic development, they also generate substantial social and environmental risks for communities living in the vicinity of mining and petroleum operations.

In practice, however, the presence of oil and gas companies has frequently generated legal disputes, environmental degradation, and social conflicts rather than delivering equitable development benefits. Communities residing near extraction sites often experience environmental damage, loss of access to customary lands, and limited participation in development programs, while receiving only marginal benefits from corporate activities. These circumstances demonstrate that the existence of national CSR obligations alone is insufficient to ensure that corporate activities effectively promote sustainable development and protect community rights.

Accordingly, effective government supervision is essential to ensure that corporate social responsibility is implemented consistently and accountably. Within Indonesia's decentralized governance system, provincial and district governments function as intermediate levels of government responsible for supervising the implementation of national policies while accommodating local development priorities. The realization of these supervisory responsibilities requires an adequate legal framework capable of defining institutional authority, regulatory mechanisms, and enforcement procedures.

Regional Regulations therefore constitute an essential legal instrument for implementing regional autonomy and strengthening local governance. Beyond regulating social, political, and economic affairs, Regional Regulations provide the legal basis for local governments to coordinate, supervise, and evaluate corporate compliance with CSR obligations. In the absence of such regulations, local governments possess only limited authority to oversee CSR implementation, despite the existence of sanctions under national legislation for

[1] Abrar Saleng, *Hukum Pertambangan*, (Jakarta: UII Pressp, 2004), p. 54-55

[2] Helza Nova Lita, and Fatmie Utarie Nasution, "Perlindungan Hukum Masyarakat Adat di Wilayah Pertambangan", *Lex Jurnalica* 10, no. 3 (2013): 206-211.

companies that fail to fulfill their social and environmental responsibilities.[3] The establishment of a Regional Regulation on CSR is therefore expected to strengthen local government supervision, improve corporate accountability, promote community empowerment, and reduce social conflicts arising from extractive activities. Such a regulatory framework would enable CSR programs to be integrated into regional development planning while ensuring that communities affected by resource extraction receive tangible social and environmental benefits.

Corporate Social Responsibility (CSR) has become an essential instrument for promoting sustainable development and balancing corporate interests with social and environmental responsibilities. In Indonesia, companies operating in the extractive sector are legally required to implement CSR as part of their commitment to sustainable development. [4] However, the effectiveness of CSR largely depends on governance mechanisms capable of ensuring that corporate programs respond to local development priorities and protect the rights of communities affected by resource extraction. In regions where indigenous peoples depend heavily on customary land and natural resources, ineffective CSR governance often leads to social conflict rather than shared benefits.[5] The urgency of such regulation is evident in East Seram Regency. A previous study conducted by the authors in 2023 concerning corporate social and environmental responsibility revealed that the rights of the Bati Indigenous People had been adversely affected by oil and gas exploration activities. The study concluded that companies undertaking exploration activities should remain obligated to implement CSR, even before entering the production stage, particularly where exploration has resulted in environmental degradation, as required under Indonesian law.[6]

The conflict was further exacerbated by fundamentally different perceptions regarding customary land. For the Bati Indigenous People, customary territory represents a sacred cultural and spiritual entity that must be protected from damage. By contrast, companies generally regard the same territory primarily as an economic asset containing exploitable natural resources.[7] This divergence in perspectives, coupled with the absence of legal provisions specifically regulating the CSR obligations of exploration companies, has become a major source of conflict between corporations and indigenous communities.

Subsequent research conducted by the authors in 2024 identified several additional companies operating in East Seram Regency, including Balam Energy Limited.Ltd, BGP, Ltd, Citic Seram Energy Limited, Ltd (Citic SEL), Karlez Petroleum Seram Limited, as well as quarry mining companies such as Abadi Sarana Nusa, Ltd. Bula Inti Seram, Ltd. and Cakrawala Multi Perkasa, Ltd. In addition, several state-owned banking institutions operating in the region are likewise subject to statutory CSR obligations.[8] Collectively, these companies possess significant potential to contribute to regional development through

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[3] Sirajuddin, *Hukum Administrasi Pemerintahan Daerah*. (Malang: Setara Press, 2016), p. 185.

[4] La Ode Muhammad Elwan, Irfan Ido, La Ode Alwi, and Hendrik Wanda Putra, "Kebijakan Corporate Social Responsibility (CSR) Pertambangan Dan Pengaruhnya Terhadap Kesejahteraan Masyarakat (Studi Kasus pada Desa Koeono, Kecamatan Palangga Selatan, Kabupaten Konawe Selatan)", *Jurnal Publicuho* 1, no. 1 (2018): 16-27, https://doi.org/10.35817/jpu.v1i1.5849

[5] Lilik Nur Sulistyowati, Yulia Effrisanti, Noor Fathuliansyah, and I Made Suparta, "Penerapan Csr Di Perusahaan Pertambangan Dan Pembangunan Ekonomi Berkelanjutan di Kalimantan Selatan", *Jurnal Ekonomi & Bisnis* 7, no. 2 (2022): 189-194, https://jurnal.untag-sby.ac.id/index.php/JEB17/article/view/7367/5179

[6] Nancy S. Haliwela, et.al. *Tanggung Jawab Pemegang Izin Usaha Pertambangan Migas Bagi Masyarakat Suku Bati di Kabupaten Seram Bagian Timur*, Research Report, Unpatti Faculty of Law, Ambon, 2023, p. 31

[7] Pieter J. Pelupessy, *Esurium Orang Bati*, (Salatiga: Universitas Satya Wacana, 2012), p. 49.

[8] Nancy S. Haliwela, et. al, "Bentuk Pengawasan Pemerintah Daerah Pada Pelaksanaan Tanggung Jawab Perusahaan Pemegang Izin Usaha Migas Terhadap Masyarakat *di Kabupaten Seram Bagian Timur*, Laporan Penelitian, Fakultas Hukum Unpatti, Ambon. 2024.

community empowerment programs and environmental restoration initiatives. Nevertheless, the absence of a Regional Regulation governing CSR has created a local regulatory gap that weakens local government supervision and undermines the effectiveness of CSR implementation. Even where companies claim to have implemented CSR programs, local governments lack sufficient legal authority to coordinate, supervise, and evaluate their implementation. Consequently, CSR remains fragmented, poorly integrated with regional development priorities, and unable to provide optimal protection for indigenous communities.

East Seram Regency represents one of the regions where CSR governance remains problematic. Oil and gas exploration activities undertaken by Balam Energy Limited, Ltd and BGP, Ltd within the customary territory of the Bati Indigenous People have generated prolonged disputes concerning customary land, environmental impacts, and the distribution of CSR benefits. Despite national legislation requiring corporate social responsibility, local governments have experienced difficulties in coordinating and supervising CSR implementation due to the absence of a Regional Regulation specifically governing CSR.

Previous studies have mainly examined CSR from the perspectives of corporate compliance, environmental sustainability, or stakeholder engagement. Other studies have discussed the legal obligations of companies under national legislation. However, limited attention has been given to how the absence of local regulatory frameworks affects CSR governance, weakens the supervisory authority of local governments, and influences the protection of indigenous peoples in extractive industries. Consequently, the relationship between local regulatory gaps and ineffective CSR governance remains insufficiently explored.

As argued by Hadi, CSR should function as an instrument of economic redistribution linking business activities with moral and social responsibilities toward local communities.[9] Without effective government oversight, however, CSR risks becoming merely symbolic rather than delivering meaningful and sustainable benefits. This study therefore argues that establishing a Regional Regulation on Corporate Social Responsibility represents a critical institutional mechanism for strengthening local government authority, improving CSR governance, integrating corporate responsibility into regional development planning, and ensuring greater protection of the rights of Indigenous Peoples.

METHODS OF THE RESEARCH

This study employed an empirical legal research method using a socio-legal approach. The research examined the implementation of legal norms and regulations governing Corporate Social Responsibility (CSR) and their application in practice. A qualitative descriptive approach was adopted to analyze the relationship between the existing legal framework and its implementation in addressing the research problem. The study was conducted in Bula, East Seram Regency, Maluku Province, Indonesia, with particular emphasis on the role of the East Seram Regency Government in supervising the implementation of CSR.

[9] Amrie Firmansyah et. al, "Corporate Social Responsibility Disclosure in Indonesia: A Bibliographic Study", *International Journal of Sustainable Development & World Policy* 9, no. 9, 2020: 91-181, https://doi.org/10.18488/journal.26.2020.92.91.121

RESULTS AND DISCUSSION

A. Issuance of Regional Regulations CSR as a legal umbrella for Local Government Supervise CSR by the Company

Corporate Social and environmental responsibility or known as Corporate Social Responsibility (CSR), is one of the company's responsibilities to empower the community in a sustainable manner (sustainability). This responsibility covers economic, environmental and socio-cultural aspects for the benefit of the community and the environment around the company. Every company that has incorporated in the form of a limited liability company, has a responsibility in accordance with the provisions of the laws and regulations to have the obligation to implement CSR to the community and the surrounding environment.[10]

The implementation of CSR is a very effective alternative to accelerate the improvement of public welfare and environmental recovery, especially in the area around the place where the company's operations are carried out. The social fact that the community and the environment around the company are more affected by damage than by the benefits of the company's activities. Society and the surrounding environment become neglected, so it is often and continuously a trigger for conflicts with the company. Likewise, in mining companies whose activities often cause damage, both in the social aspects of society and environmental problems.

Government policies related to investment activities by oil and gas mining companies in Indonesia are required to have responsibility, as stipulated in the legislation. Corporate responsibility mining business license holders are encouraged to not only pursue profit/profit, but attached to the obligation of mining business license holders to carry out responsibilities on the implementation of good corporate governance (good corporate governance) and social and environmental responsibility to the community and the environment (corporate social responsibility/CSR). The company's responsibility is a provision stipulated in the legislation as a form of legal obligation for the company, based on various actual facts that occur, and harm the community and the environment due to the impact of mining company management activities, either directly or indirectly. Various problems occur as a result of the impact of losses on the company's activities, such as; legal, economic, social, and environmental problems, becoming a source of conflict, to disputes between the surrounding community and the company.

Indonesia has regulated Corporate Responsibility / CSR in legislation. Regulation in the law has required every investment company, to carry out corporate social responsibility, as stipulated in Law Number 25 of 2007 on Capital Investment and obligations for Limited Liability Companies. A limited liability company, hereinafter referred to as a company, is a legal entity that is a capital partnership, established under an agreement, conducts business activities with an authorized capital that is entirely divided into shares and meets the requirements set forth in Law Number 40 of 2007 on Limited Liability Companies and its Implementing Regulations. Regulation on corporate responsibility in law Number 25 of 2007 on Capital Investment, in Article 15 (b) known as the concept of Corporate Social Responsibility. Article 15 (b) of Law Number 25 of 2007 provides that; "every investor is obliged to carry out corporate social responsibility". Companies that do not carry out social

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[10] Archie B. Carroll, "The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders", *Business Horizons* 34, no. 4 (1991):39-48.

and environmental responsibilities, in accordance with the rules in Article 34 Paragraph 1 of the Capital Investment Law, stipulate that; business entities or individual businesses as referred to in Article 5 of the Capital Investment Law, which do not fulfill the obligations as specified in Article 15 of the Capital Investment Law may be subject to administrative sanctions in the form of: 1) Written warning; 2) Restrictions on business activities; 3) Freezing of business activities and / or investment facilities/or; 4) Revocation of business activities and/or investment facilities.

Corporate responsibility in Law Number 40 of 2007 on Limited Liability Companies, is defined as social and environmental responsibility. Based on the provisions of Article 1 of the Constitution, defines 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 beneficial environment, both for the company itself, the local community and the community in general ".

Furthermore, Article 74 of the company law specifically regulates social and environmental responsibility by Limited Liability Companies in Indonesia, stipulating that; Paragraph (1) the company carrying out its business activities in the field of and or related to natural resources shall carry out social and environmental responsibility. Paragraph (2) social and environmental responsibility as referred to is an obligation of the company which is budgeted and calculated as the cost of the company, the implementation of which is carried out with due regard to propriety and fairness. Paragraph (3) the company that does not carry out the obligations as meant in Paragraph (1) shall be sanctioned in accordance with the laws and regulations. Paragraph (4) further provisions on social and Environmental Responsibility shall be governed by a government regulation.

Further provisions related to the implementation of social and Environmental Responsibility / CSR are stipulated by Government Regulation Number 47 of 2012 on social and environmental responsibility of Limited Liability Companies. This Implementing Regulation is a Government Regulations that is stipulated as an implementing regulation of Article 74 of the Limited Liability Companies Law, which regulates the implementation of social and Environmental Responsibility/CSR in Indonesia. That to implement the provisions of Article 74 Paragraph (4) of Law Number 40 of 2007 concerning Limited Liability Companies, it is necessary to establish a government regulation on social and environmental responsibility of limited liability companies / CSR.

The implementation of CSR by a Limited Liability Company is based on Government Regulations 47 of 2012 on social and environmental responsibility of Limited Liability Companies. Article 1 Government Regulations Number 12 of 2012 provides an understanding of a Limited Liability Company, as a legal entity that has the obligation to implement CSR. Article 2 Government Regulations 47/2012 stipulates that every company as a legal subject has social and Environmental Responsibility / CSR. The provisions for limited liability companies related to CSR are regulated in Article 3 of government regulation Number 12 of 2012. Article 3 of Regulation 12 of 2012 stipulates that: "Paragraph (1) Social and environmental responsibility as referred to in Article 2 becomes an obligation for the company conducting its business activities in the field of and/or related to natural resources under the law. Paragraph (2) the obligations as meant in Paragraph (1) shall be carried out both within and outside the company".

Based on the regulation of the rules of law on Corporate Responsibility / CSR, has not been optimally applied by the company for the community and the surrounding environment. Precisely based on the results of research conducted at Balam Energy, Ltd and Bureu Goophysical Prospecting (BGP), Ltd., as the holder of an oil and gas exploration permit in the Batu Tribe area, in East Seram Regency, Maluku province. The company has been active in conducting exploration activities, including various actions to hollow out the soil using dynamite, felling trees in the sacred forest area of the Bati tribe for helipad construction activities and Camp construction. The presence of the company is not known by the surrounding community, because there is no approval from the community. This became a trigger for conflict until there was a rejection of the company's activities in the territory of the Bati Tribe.

The results also showed that Balam Energy, Ltd and Bureu Goophysical Prospecting (BGP), Ltd, as holders of oil and gas mining exploration licenses, do not carry out social and Environmental Responsibility/CSR, as stipulated in the provisions of Article 15 letter b of the Investment Law and Article 74 of the Limited Liability Companies Law, as well as Government Regulations 12 of 2012 as a form of obligation for the company. Under this provision, Balam Energy, Ltd and Bureu Goophysical Prospecting (BGP), Ltd., as holders of oil and gas exploration permits, carry out social and Environmental Responsibility/CSR obligations for the Bati Tribe. CSR obligations must be carried out since the company conducts exploration activities, as specified in Article 15 letter b of the Investment Law, stipulates that "every investor is obliged to carry out corporate social responsibility". Similarly, in Article 74 paragraph (1) of the Company Law regulates that "companies that carry out their business activities in the field of and or related to natural resources must carry out social and environmental responsibilities."

Based on the results of the study, which has been conducted by a team of researchers, since 2023, and continued in 2024. It was found that the implementation of social and Environmental Responsibility/CSR has not been carried out by companies that carry out investment activities in the regions. Instead, the community has received the impact of damage to the environment, and the rights of the community are neglected. This then leads to conflict, as there is no harmonious relationship between society and the company. The investment climate is disrupted, and of course companies also experience obstacles in carrying out their activities, and also have an impact on income for the country and region.

Based on the fact that the results of the research, the research team proposed the idea for the Regional Government of East Seram Regency, Maluku province, to immediately recommend the formation of CSR regulations to be able to oversee the implementation of CSR by the company to the community and the surrounding environment. Considering that CSR has become an obligation for limited liability companies regulated in laws and regulations to be regulated by the Maluku provincial government in the form of local regulations.

Supervision by local governments on the implementation of social and environmental responsibility by Limited Liability Companies, of course, is an important factor to supervise and control the implementation of CSR by companies that are legal entities of limited liability companies. The essence of local government supervision in the implementation of social and Environmental Responsibility/CSR, essentially because it involves the implementation of Local Government to provide protection and fulfillment of the rights of the community, the protection of the environment and maintain a balance between rights and obligations.[11]

The establishment of Local Regulations on Corporate Social Responsibility (CSR) is an important instrument for local governments in upholding the principles of good governance (good governance). In the legal system of regional autonomy, local regulations serve as a complement to national policies to adjust the implementation of regulations to local characteristics and the needs of local communities. As stated by Sirajuddin, the main function of the regional regulation is as a means of regulation that gives legitimacy to local governments to exercise their authority independently in regulating and supervising development activities in their regions. Thus, the existence of CSR is the legal basis that overshadows the government's supervision of the implementation of social obligations by companies.

In the perspective of administrative law, supervision of the implementation of CSR is part of the bestuurszorg function that embodies the state's concern for the people. Local governments have a responsibility not only in enforcing regulations, but also ensuring a balance between economic interests and social justice. Peter Mahmud Marzuki states that the enforceability of law is determined not only by the existence of norms, but also by the effectiveness of institutions that carry out these norms.[12] Therefore, without the CSR regulation, the supervisory function of the company is only administrative without adequate legal force.

The issuance of regional regulation CSR also reflects the application of the principle of decentralization and broad autonomy as stipulated in Article 18 paragraph (5) of the Indonesian constitution of 1945 and Article 12 paragraph (2) of Law Number 23 of 2014 on Local Government. In this provision, it is emphasized that the regions have the authority to regulate government affairs in the fields of investment, environment, and Community Empowerment. Based on this principle, local governments have the right to issue policies that are able to regulate the implementation of CSR more effectively in their regions, including supervision of companies operating in the field of oil and gas mining such as Balam Energy, Ltd and BGP, Ltd.

According to Rahmawati, Regional Regulations CSR serves two functions: first, as a legal instrument to strengthen corporate responsibility towards the surrounding community; second, as a means of government control in enforcing the principle of corporate social accountability.[13] With the Regional Regulations CSR, every company is required to report CSR activities to the local government as a form of public transparency. This report is the basis for evaluation and supervision of the effectiveness of CSR programs on community welfare.

Furthermore, Yuliana and Kadir argue that local regulation-based CSR supervision can strengthen community participation mechanisms.[14] Local governments have the legitimacy to facilitate public involvement in assessing the benefits of CSR programs. Thus, the CSR

[11] Nancy Silvana Haliwela , et. al, *Op. Cit,* p. 20
[12] Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana, 2007), p. 35.
[13] Rahmawati, "Kewenangan Pemerintah Daerah dalam Implementasi CSR," *Jurnal Ilmu Pemerintahan* 6, no. 1 (2020), p. 46.
[14] Yuliana & Kadir, "Efektivitas CSR Berbasis Hukum Daerah," *Jurnal Hukum Responsif* 4, no. 3 (2022), p. 71.

regulation acts as a juridical means that bridges the interests of the government, the business world, and the community simultaneously. In the context of East Seram Regency, this supervision is very important because the company's activities in the oil and gas sector have caused social and environmental impacts that require strong legal protection.

In addition to administrative aspects, the issuance of regional regulation CSR also has a dimension of sustainable development. According to Soetandyo Wignjosoebroto, development law should serve as a social engineering tool that balances economic interests with social justice and environmental sustainability.[15] Therefore, regional regulation CSR is not just a regional policy, but also a representation of the responsibility of the state in ensuring the welfare of society through arrangements that favor the public and the environment.

Juridical Environmental Protection is the responsibility of the central government and local governments that can be realized through various forms of supervision. This is in accordance with Article 71 of Law Number 32 of 2009 on Environmental Protection and management (Environmental Protection and Management Act), regulates that the authority to: a) Central Government; b) Provincial and district/city governments. Supervision is carried out based on authority as an effort to protect and manage the environment. Supervision is also carried out based on the company's activities to behave morally and ethically towards the community and the surrounding environment.

The legal basis for the regulation of CSR obligations by companies is actually very comprehensive, but the implementation is not as expected. Even in the results of research on several companies in the eastern part of the province of Maluku Seram, there has been no concrete evidence of companies that conduct CSR programs consistently. The community and the surrounding environment have not received CSR activities from companies that have conducted business activities in their regions. Companies that have carried out CSR activities are only partially carried out, and are directed to the community and the environment that is not around the company. For this reason, the role of local governments is needed to oversee the implementation of CSR by companies. Corporate CSR must be carried out comprehensively and coordinated on an ongoing basis with the Local Government as the party responsible for the community and region.

The Government of the eastern part of Seram, as an area that continues to fix its area and has abundant natural resources, so it has become a destination for investment activities in mining. Local governments must respond and commit to encouraging the birth of local regulations governing CSR by companies. The implementation of Social Responsibility / CSR is time to be regulated in local regulations, in order to provide benefits, legal certainty and justice for the community and the environment, especially around the company or throughout the Eastern Seram Local Government Area of Maluku province.

Through the plan of the East Seram Regional Government together with Regional Representatives through the initiative of drafting local regulations on Corporate Social and Environmental Responsibility, this academic paper will study it academically, by paying attention and observing the Regional Medium-Term Development Plan of East Seram Regency, Maluku province, in which there are goals, directions and development strategies

[15] Soetandyo Wignjosoebroto, *Hukum, Paradigma dan Dinamika Sosial*, (Jakarta: LP3ES, 2010), p. 68.

that are oriented to regional development efforts, especially communities in various places at the location of the company's investment activities.

If the integrity of the company and the government can be built together in the implementation of CSR, then the important thing is the CSR regulation, as a legal umbrella to regulate the mechanism to regulate sanctions. In addition, the Regional Regulations CSR will be the basis of legitimacy for the Local Government of Seram Regency in the eastern part of Maluku province, to oversee CSR activities to be carried out by the company, thus the implementation of CSR will be more optimal for the community and the surrounding environment. Implementation of CSR by the company will continue to be sustainable and no longer partially. This is in line with the substance of the CSR regulation that has been regulated in the legislation. Companies that will conduct CSR activities will be easier to obtain data and needs needed by the community and the environment, because it is available by The Local Government. With the data from The Local Government will make it easier for companies to implement CSR as a legal obligation demands that must be done. The Regional Government of East Seram Regency, Maluku province will play a more coordinating role to supervise and also play a role in promoting the company's CSR performance to the media. This will contribute to greater profits for the company's image and sustainability of the company's business activities in the region.

In accordance with research conducted by a team of researchers at the Local Government of East Seram Regency, Maluku province. Starting from the District House of Representatives of East Seram Regency, Maluku province, the results showed that related to the implementation of social and Environmental Responsibility/CSR by the company, the District House of Representatives will use the right of initiative to immediately prepare and form a CSR regulation, for the benefit of the region and the community. Therefore, together with the researchers will be conducted a study of academic papers, which have been made for the draft CSR regulations. Regional Regulations CSR to be a legal umbrella, so that supervision can be carried out to control and evaluate the implementation of CSR by the company, both by Balam Energy, Ltd and Bureu Goophysical Prospecting (BGP), Ltd., also by other companies that conduct investment activities in East Seram Regency, Maluku province. Through District House of Representatives institutions that will be formed to carry out tasks in the period 2024-2029. By the chairman of, representatives of District House of Representatives and members of District House of Representatives who have been elected, have expressed their desire to plan the agenda for the formation of Regional Regulations CSR through District House of Representatives initiative rights. The goal is to speed up the process of forming a CSR regulation to be published. This is done because CSR has become a legal obligation by a Limited Liability Company, and has been stipulated by legal provisions in laws and regulations. Similarly, it has been established by the Maluku provincial government through Regional Regulations Number 9 of 2015 on guidelines for the implementation of social and Environmental Responsibility in Maluku province. Thus, it will be a source of legal basis for the formation of CSR regulations in East Seram regency, Maluku province.

The study was also conducted on the Local Government of east Seram regency, Maluku province. The researcher has submitted an academic paper to the Regent of East Seram Regency, Maluku province, and has given a response related to the proposal of the research team to initiate the Local Government to form a CSR regulation to conduct supervision the implementation of CSR by a Limited Liability Company in the East Seram Regency, Maluku province, so that it will provide an effective, optimal and targeted CSR implementation. According to the Regent, proposal is very beneficial for the East Seram Regency, Maluku province. Considering the potential of natural resources (natural resources, both mining and oil and gas, banking, and other investments have carried out their activities. However, the contribution of CSR by the company has not been optimally obtained by the community and the environment around the area of the company's activities. This is also a source of conflict between the company and the surrounding community, as happened to the Bati Tribe and Balam Energy, Ltd and Bureu Goophysical Prospecting (BGP), Ltd. The community received the impact of damage, due to exploration activities by the company, but the contribution from the implementation of CSR by the company was not accepted at all. With the establishment of regional regulation CSR, it will be the basis of legitimacy for local governments to conduct CSR supervision, to evaluate the implementation of CSR. This needs to be done considering the potential of Natural Resources in the eastern part of Seram Regency, Maluku province, which has the potential, it will be the purpose of investment activities by the company.

The research was also conducted on the heads of Related Agencies and a number of leaders of the East Seram district Regional Apparatus Organization scope, such as; the Inspectorate, law Bureau, One-Stop Integrated Investment and Service Office, Environment Office, Regional Development Planning Agency, Education Office, Economic Section. The aim is to review and analyze academic papers and contribute ideas based on the results of previous years ' research, and convey contribution thoughts related to ideas for the formation of social and Environmental Responsibility/CSR regulations by Limited Liability Companies, through the creation of regulations, as a legal umbrella, and provide input related to the flow and mechanism of supervision forms of supervision that can be formed through the "CSR Forum" consisting of local governments, communities and companies. This proposal received a very good response, for the Local Government in East Seram Regency, Maluku province together with the District House of Representatives set a CSR regulation, to be used as a legal basis for the implementation of CSR by the company. Local governments can establish a "CSR Forum" as a body for coordination and synergy. The local government may establish a Corporate Social Responsibility (CSR) Forum as an institutional mechanism to promote coordination, collaboration, and synergy among stakeholders involved in CSR implementation. At the regency level, the CSR Forum may be established through a Regent Regulation and comprise representatives from the local government, as well as representatives of local communities and other stakeholders. Through the CSR Forum can develop programs that can not be financed by the Budget Regional Revenue and Expenditure budget, can be programs from the implementation of CSR activities by the company. These programs will certainly be proposed by each related service in a cross-sectoral manner, taking into account the needs of the community, especially the community and the surrounding environment, which are close to the company's area of activity.

With the preparation of academic texts for the formation of CSR regulations, CSR programs will be carried out on an ongoing basis, so that their implementation will be optimal, and the community and the environment can receive direct contributions from the CSR. Thus, the implementation of CSR by the company will be the right target, because it is in accordance with the needs of the community and the surrounding environment. Through

CSR activities by the company to the community and the surrounding environment, will create a harmonious relationship between the community and the company. This relationship is created, because the community directly receives the benefits and contributions of CSR implementation from the company. The community will also be involved either directly or indirectly as CSR supervision, local governments will receive various inputs from the community related to the implementation of CSR by the company.

B. Establishment of CSR regulations by The Local Government to Realize Corporate Responsibility Towards Indigenous Peoples

The establishment of Regional Regulations CSR is basically a manifestation of the principle of the rule of law that ensures the protection of the rights of indigenous peoples as stipulated in Article 18b paragraph (2) of the Indonesian constitution of 1945. In this article, it is emphasized that the state respects and protects the unity of indigenous peoples and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia. This norm provides a constitutional basis for local governments to ensure that the activities of corporations do not harm the indigenous peoples of their territories.

Pelupessy explained that the Bati people in Eastern Seram Regency have very strong ecological and spiritual ties to the surrounding land and Natural Resources.[16] In their view, land is not only an economic resource, but a symbol of identity and continuity of life. When companies conduct exploration without fair consent or compensation, it is seen as a violation of the collective rights of Indigenous Peoples. Therefore, Regional Regulations CSR becomes a legal instrument that ensures the involvement of indigenous peoples in every stage of planning and implementation of CSR programs by companies.

Nurhadi's research confirms that CSR integrated with human rights principles can be a means of non-judicial remedy to resolve conflicts between companies and Indigenous Peoples.[17] Through dialogue mechanisms and public participation, conflicts can be minimized, while public confidence in companies and local governments increases. Nurhadi even proposed the establishment of a regional CSR Forum as a coordination forum consisting of elements of the government, Indigenous peoples, and companies, which serves to monitor and evaluate the implementation of CSR. [18] Rohmana and Damanik in their research showed that companies that implemented CSR based on local wisdom managed to significantly reduce the level of social conflict.[19] The implementation of CSR programs that pay attention to customary values not only provides social benefits, but also strengthens the sustainability of the company's business. It is proved that compliance with local norms is an integral part of the successful economic development of the region.

Thus, CSR regulations established by local governments have a strategic function: first, as a legal basis to ensure the company's obligations to Indigenous Peoples; second, as a means of reconciliation between the value of national law and customary law; third, as an effort to build synergy between corporations and communities to realize sustainable prosperity. As stated by Soerjono Soekanto, effective law is a law that is able to adjust to the

[16] Pieter J Pelupessy, *Esurium Orang Bati*, (Salatiga: Universitas Satya Wacana, 2012), p. 51.
[17] Nurhadi, "CSR dan Hak Masyarakat Adat dalam Perspektif HAM," *Jurnal HAM dan Keadilan Sosial* 7, no. 1 (2019), p. 39.
[18] *Ibid*
[19] Rohmana & Damanik, "CSR Berbasis Kearifan Lokal dalam Penyelesaian Konflik Adat," *Jurnal Hukum dan Kearifan Lokal* 3, no. 2 (2021), p. 43.

social values that live in the community.[20] Thus, the Regional Regulations CSR is not only a juridical instrument, but also a symbol of harmony between economic development and respect for the dignity of Indigenous Peoples.

CSR that has been implemented properly should be able to provide various impacts and benefits that are good for the lives of the people around the company's activities.[21] The benefits of CSR that can have an impact and be felt, such as; the existence of community rights that are valued, the community receives contributions in the form of assistance both physically and non-physically, the community does not receive damage, there is social assistance for public facilities. Balam Energy, Ltd and Bureu Goophysical Prospecting (BGP), Ltd which has conducted oil and gas exploration activities in the territory of indigenous peoples in East Seram Regency, Maluku province. The reality is that they have to face social conflicts with the community which lead to the rejection of the company's activities in the territory of the customary law community of the Bati tribe, due to conflicts with the company[22]. The company from the beginning did not involve the surrounding community, to provide socialization of the company's existence in the community area, there was no compensation for land that would be used as oil and gas exploration land. However, the company's exploration activities have been carried out, by perforating lands that are very close to community settlements, and even a helipad has been built at the oil and gas exploration site by the company.

Differences in point of view and treatment of the region and the absence of legal arrangements that specifically regulate the responsibility of companies holding oil and gas exploration business licenses are triggers for conflicts over natural resources, where the Bati Tribe views the land or region as a mother so that it is forbidden to be harmed or damaged[23], while the company views the area on which there are natural resources to be processed so that environmental damage as a result of exploration activities is not considered the responsibility of the company holding the exploration business license.

Various conflicts occurred because the company did not approach from the beginning to conduct exploration activities. The concept of CSR is not limited to social and humanitarian assistance, but is a humanitarian approach to establish harmonious relationships with the surrounding community, as a manifestation of its presence in the middle of the community area that existed before the company was present. The goal is for the community to receive and establish a harmonious relationship to jointly support the company's business activities in the community area. In addition to Balam Energy, Ltd and Bureu Goophysical Prospecting (BGP), Ltd., there are also companies that manage oil drilling, state-owned enterprises, banking companies. The eastern part of Seram Regency, Maluku province, is an area that has abundant natural resource potential, but the community and the surrounding environment have not optimally received the impact of the contribution of CSR obligations by the company.

Various conflicts between Indigenous peoples and companies have occurred in various regions in Indonesia, related to oil and gas management business activities and other

[20] Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, (Jakarta: Rajawali Press, 2012), p. 74.

[21] Daniri, *Standarisasi Tanggung Jawab Sosila Perusahaan Indonesia*, Kadain Indonesia, 2008, hal.36

[22] Nancy S Haliwela, et. al, *Tanggung Jawab Pemegang Izin Usaha Pertambangan Migas Bagi Masyarakat Suku Bati di Kabupaten Seram Bagian Timur*, Research Report, Unpatti Faculty of Law, Ambon, 2023, p. 31

[23] Pieter J. Pelupessy, *Op Cit*, p. 169-170

business activities. The fundamental factor of the conflict due to the absence of interweaving of hormones when the company is present in the territory of Indigenous Peoples. The company is acting because it adheres to the permission that has been received from the Central Government. The company does not have the recognition of Indigenous Peoples, which in fact has been recognized the existence and respect for the existence of indigenous peoples in the Constitution of the Republic of Indonesia in Article 18b Paragraph 2 of the 1945 constitution, stipulates that; the state respects and respects the unity of indigenous peoples and their traditional rights. This provision is the basis of legitimacy for the existence of indigenous peoples and their rights, including the territory and natural resources that are around its territory. The company may carry out corporate activities, to realize respect and recognition of the existence of indigenous peoples, who are in the vicinity of the location of the company's existence by contributing to advancing the rights of indigenous peoples that are beneficial to; protect the rights of indigenous peoples to natural resources that are the main source of people's lives, fulfill human rights policies, protect forests, reduce the impact of environmental damage, help improve welfare for communities, establish family relationships with local communities, and companies can establish mutually beneficial partnerships.

It is known that, Indigenous peoples have inherited a deep understanding, passed down from generation to generation, of the natural environment and its characteristics that are the location of investment by companies. Each Indigenous community has had important insights about the diversity of Natural Resources and their management. Indigenous peoples have intrinsic value and know ways of interacting with nature. Thus, the company can establish a harmonious relationship, to create a form of partnership that will be mutually beneficial. However, indigenous knowledge and rights are often overlooked when companies operate in indigenous areas. In addition, companies that value and respect the rights of indigenous peoples around the location of their activities will gain community support and prevent conflicts. Conflict is a fact that is always faced by the company, when it will be present and operate in the territory of Indigenous Peoples. Various protest actions and attitudes of Indigenous Peoples rejection of the presence of companies in their territory. The presence of the company is a threat to indigenous peoples, when various phenomena of company activities that have an impact on the lives of Indigenous Peoples, both from social, environmental and Indigenous aspects, lose rights to land and Natural Resources, which have become hereditary heritage and the main source for the survival of Indigenous Peoples.

The implementation of CSR has the potential to provide trust and protect the community and can be an important factor in supporting sustainability. Similarly, as an effort to increase transparency and accountability to encourage improvement and optimization, innovation in the formulation of CSR programs. By integrating the rights of Indigenous Peoples, customary law provisions, and CSR programs as a form of implementing CSR activities as a corporate obligation, the company can build a responsible and sustainable business. The company will have an important role to play in creating a fair and sustainable future for all parties.

Therefore, accounting and respect for Indigenous Peoples is important to be respected also by companies whose activities are based on permits received from the government. Based on the license issued, making the company has a legal responsibility to implement all the provisions in accordance with the laws and regulations related to the company's obligation to implement CSR, as stipulated in Article 74 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) of Law Number 40 of 2007 concerning Limited Liability Companies, regulates that; companies that carry out resource management business activities and/ or related to natural resources are obliged to carry out social and environmental responsibilities, similarly, in Article 15B of Law Number 25 on capital investment, it is stipulated that companies that carry out investment activities are obliged to carry out social responsibilities. Regulation of social and environmental responsibility, then known with CSR concept. Various facts that occur, show the not optimal CSR by the company, even though it has been specified in the legislation as a legal obligation like a company that manages natural resources and/or impact due to the management of Natural Resources.

On the other hand, the authority of local governments over oil and gas management permit is no longer in the authority of local governments, because it has been withdrawn into the authority of the Central Government. Therefore, in relation to CSR, local governments must prepare and publish CSR regulations to become the basis for legitimacy to supervise the implementation of CSR by companies. This is done as a basis that the community is the responsibility of local governments, losses to the community will be the burden of local governments, not the Central Government. Without regional regulation CSR, it will be difficult for local governments to ask companies to implement CSR for the community around the location of oil and gas management activities carried out by the company. CSR is carried out by the company, but not on target because it is drawn by other parties, so that the community around the company does not receive contributions from the implementation of CSR. This happens because there is no authority from The Local Government over the implementation of CSR by the company. With the laws and regulations related to the company's obligation to implement CSR, The Local Government together with the District House of Representatives based on regional autonomy can issue CSR regulations as a legal umbrella, to be able to supervise the company to implement CSR to the community and the surrounding environment, in the area where the company operates.

Regional regulation CSR becomes the most important rule of law to be immediately established by local governments together with DPRD. Regional regulation CSR became one of the juridical based to optimize CSR implementation by the company as an obligation that has been determined by the legislation. Thus, the region is not only a place to bear the consequences of damage to the company's activities, both from social and environmental aspects. However, companies also have a legal responsibility to respect and protect the rights of local indigenous peoples. The implementation of CSR is carried out in the form of building partnerships as a form of concern for natural and human resources, protecting the rights of communities that have existed for generations, where the surrounding natural resources are also a place where life depends on Indigenous Peoples. The implementation of real and sustainable CSR will contribute to the company's business continuity. The company's interests and activities will receive support and participation from the community and local government.

CONCLUSION

The weak local government supervision of the implementation of CSR in Eastern Seram Regency is caused by the absence of specific CSR Regional Regulations as the legal basis for supervision. These dominant factors, coupled with limited local government capacity and differences of opinion between companies and indigenous peoples, have led to the neglect of the rights of indigenous people of the Bati tribe, the lack of effective CSR contributions, and the increased potential for conflict. Therefore, the establishment of a CSR Regional Regulation in Eastern Seram Regency is very urgent. This Regional Regulation will serve as a legal instrument that strengthens the legitimacy of local governments in overseeing the implementation of CSR, ensures the protection of indigenous peoples' rights, and creates a transparent and accountable mechanism for reporting and evaluating CSR programs. Implications and Recommendations: 1) For the Regional Government of Eastern Seram Regency: It is recommended to immediately prioritize the preparation and ratification of the CSR Regional Regulation as a strategic step for the protection of indigenous peoples and sustainable management of natural resources. 2) For Companies: It is expected to adopt a more participatory and responsive approach to the needs of indigenous peoples in designing and implementing CSR programs. 3) For Further Research: It is recommended to evaluate the impact of the implementation of CSR Regional Regulations after they are formed, as well as analyze partnership models between companies, governments, and indigenous peoples in natural resource management.

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