

# Customary Law as a Pathway to Social Justice: A Comparative Analysis of Corporate Social Responsibility and Performance Requirements in Indonesian and Vietnamese Foreign Investment Frameworks

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## Abstract

**Introduction:** Economic globalization has strengthened foreign investment flows in developing countries such as Indonesia and Vietnam. However, investment policy orientations that overemphasize economic efficiency often ignore social justice for local communities. This inequality raises the need to revisit the legal framework that governs the relationship between foreign investors and the recipient community. Customary law is seen as a source of values and moral principles that can strengthen social legitimacy in the practice of foreign direct investment (FDI).

**Purposes of the Research:** This study aims to analyze how customary law can play a role in restoring social justice through the implementation of corporate social responsibility (CSR) and performance requirements in foreign investment, by comparing the legal frameworks of Indonesia and Vietnam, this study seeks to find a model of customary law integration that is able to balance economic interests with the social and cultural values of local communities.

**Methods of the Research:** This study uses a normative-comparative legal approach by analyzing laws and regulations, policy documents, and CSR implementation practices in Indonesia and Vietnam. Data was collected through literature studies and content analysis of various primary and secondary legal sources. A comparative approach is used to identify similarities and differences in the application of customary law as the basis for foreign investment policies in both countries.

**Results of the Research:** The results of the study show that Indonesia has adopted customary law principles, such as mutual cooperation and social justice, within the legal framework of CSR and investment performance requirements. In contrast, Vietnam still emphasizes socialist state policies without explicit recognition of local customary law values. The integration of customary law has been proven to strengthen the social legitimacy and sustainability of investments, as it fosters corporate social responsibility that is in line with community values and promotes more equitable and inclusive development.

**Keywords:** Customary Law; Social Justice; Corporate Social Responsibility.

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## INTRODUCTION

Economic developments have brought major changes to the economic dynamics of developing countries, especially in terms of openness to foreign direct investment. *Foreign Direct Investment* (FDI) is an important instrument for countries such as Indonesia and Vietnam in accelerating industrialization, technology transfer, and job creation. Foreign

investment flows are considered a catalyst for economic growth and modernization of the productive sector, in line with the integration of the two countries into the global trading system. Indonesia and Vietnam are trying to attract foreign investors through market-friendly policies and various economic incentives<sup>1</sup>. However, policy orientations that focus on efficiency and growth often ignore the social and cultural impacts that arise from investment activities. Dependence on foreign capital has the potential to weaken the position of local communities, especially when social, environmental, and customary rights are not adequately protected. This phenomenon shows that the flow of economic globalization is not only economic, but also has an impact on the social and legal structure of a country. It is therefore important to re-examine the role of customary law values as a moral and normative basis in balancing global economic interests and social justice at the local level<sup>2</sup>.

The entry of foreign investors into the area receiving investment often has complex social, environmental, and economic consequences. Social inequality arises when the economic benefits from investment are enjoyed more by capital owners and local elites, while surrounding communities face negative impacts such as land loss, rising cost of living, or limited access to resources. From an environmental perspective, investment projects often result in ecosystem degradation, pollution, and excessive exploitation of natural resources without adequate recovery mechanisms. Dependence on foreign capital economically can weaken local independence and deepen the development gap between regions. This imbalance demonstrates the need for investment regulation that is not only growth-oriented, but also ensures social protection, environmental justice, and economic sustainability for local communities<sup>3</sup>.

The phenomenon of natural resource exploitation, eviction of indigenous peoples, and social damage is clear evidence of the weak implementation of *corporate social responsibility* in foreign investment practices. Many companies operate with a purely profit orientation without regard for the ecological balance and the rights of the affected local communities, in this context indigenous peoples are often the most disadvantaged due to the loss of living space, cultural identity, and access to traditional livelihoods. The absence of substantive corporate social responsibility makes development exploitative and unsustainable. As a result, the relationship between corporations and local communities becomes uneven, giving rise to social conflicts rooted in structural injustices and the failure of the state to uphold the principles of social justice within the framework of investment law<sup>4</sup>.

The tendency of state policies to be more in favour of macroeconomic stability reflects a development paradigm that places growth as a key indicator of success, while the protection of local communities is often a secondary priority. The government seeks to maintain an investment climate that remains conducive to foreign investors through deregulation and economic incentives, but ignores social aspects such as indigenous peoples' rights, fair distribution of benefits, and environmental sustainability. This kind of policy orientation creates an inequality between the national interest in attracting investment and the state's

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<sup>1</sup> Thanh Tiep Le et al., "Corporate Social Responsibility, Green Innovation, Environment Strategy and Corporate Sustainable Development," *Operations Management Research* 17, no. 1 (2024): 114-34, doi:10.1007/s12063-023-00411-x.

<sup>2</sup> Hyung Min Kim, "Foreign Direct Investment and Urban Growth in Vietnam: Spatial, Economic, and Demographic Perspectives," *Asian Geographer* 41, no. 2 (2024): 167-84, doi:10.1080/10225706.2023.2244946.

<sup>3</sup> Le et al., "Corporate Social Responsibility, Green Innovation, Environment Strategy and Corporate Sustainable Development."

<sup>4</sup> *Ibid.*

responsibility to protect its citizens from the negative impacts of development<sup>5</sup>. The concept of *Corporate Social Responsibility* (CSR) emerged in response to the demand that economic activities are not only profit-oriented, but also provide real benefits to society and the environment. CSR serves as a legal and moral mechanism that encourages companies to carry out their social responsibilities in a sustainable manner for the communities around their operational areas. CSR in the legal context is seen as a regulatory instrument that balances business interests and social responsibility. While morally, it reflects the company's ethical commitment to human values and sustainability<sup>6</sup>.

The implementation of *Corporate Social Responsibility* (CSR) in Indonesia has gained strong legitimacy through legal provisions in Law Number 40 of 2007 concerning Limited Liability Companies and Law Number 25 of 2007 concerning Investment. Both regulations affirm that every company, especially those engaged in or related to natural resources, has a legal obligation to carry out social responsibility as part of its business activities. However, the effectiveness of CSR implementation in Indonesia still faces challenges, especially in terms of supervision and alignment between corporate interests and the needs of local communities<sup>7</sup>. Meanwhile, the implementation of *Corporate Social Responsibility* (CSR) in Vietnam is still normative and is seen as more of a moral responsibility than a binding legal obligation. The Vietnamese government encourages businesses to implement CSR practices through voluntary policies oriented to business ethics and social development, but there is no legal instrument that explicitly mandates or strictly regulates its implementation. Despite this, Vietnam is beginning to show progress in integrating CSR principles. But without a strong legal framework, CSR implementation in Vietnam still faces challenges in terms of consistency, accountability, and protection of the interests of local communities<sup>8</sup>.

The main challenge in the implementation of *Corporate Social Responsibility* (CSR) lies in how to make it an instrument that truly reflects the social and cultural values of the local community, rather than just an administrative formality or corporate image strategy. Many CSR programs are run on a *top-down* basis without understanding the needs, social structure, and local wisdom of the communities in which the company operates. As a result, CSR activities are often unsustainable and fail to create significant social impact. For CSR to have substantive meaning, a participatory approach is needed that places local communities as subjects, not objects, of corporate social responsibility<sup>9</sup>.

Customary law in society has a fundamental position as a source of social justice value. It is not just a traditional norm system, but a reflection of the community's collective awareness of balance, togetherness, and social responsibility. Customary law, in the context of social justice, serves to balance the rights and obligations between individuals with the interests of the community, ensure a fair distribution of resources, and prevent the dominance of one group over another. Therefore, customary law values can be a normative

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<sup>5</sup> Yulius Kurnia Susanto, Astrid Rudyanto, and Deasy Ariyanti Rahayuningsih, "Redefining the Concept of Local Wisdom-Based CSR and Its Practice," *Sustainability (Switzerland)* 14, no. 19 (2022), doi:10.3390/su141912069.

<sup>6</sup> Le et al., "Corporate Social Responsibility, Green Innovation, Environment Strategy and Corporate Sustainable Development."

<sup>7</sup> Indah Sari, "Syarat-Syarat Penanaman Modal Asing (PMA) Di Indonesia Menurut Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal," *Jurnal Imiah Hukum Dirgantara* 10, no. 2 (2020).

<sup>8</sup> Hieu Thanh Nguyen, Thinh Gia Hoang, and Hiep Luu, "Corporate Social Responsibility in Vietnam: Opportunities and Innovation Experienced by Multinational Corporation Subsidiaries," *Social Responsibility Journal* 16, no. 6 (2020): 771-92, doi:10.1108/SRJ-02-2019-0082.

<sup>9</sup> Alexis Conesa et al., "Routes to Justice: Bridging Conceived and Perceived Public Transport Accessibility through User Participation," *Transportation*, 2025, doi:10.1007/s11116-025-10678-7.

alternative to the modern legal system which is often too formal and oriented towards purely economic interests<sup>10</sup>.

Research related to foreign investment and *Corporate Social Responsibility* (CSR) has been widely conducted but only focuses on economic aspects, positive law, and the effectiveness of formal policies. Research by M. Y. Aiyub Kadir and Alexander Murray in the *Asian Journal of International Law* examines resource nationalism in the Indonesian legal system (based on the 1945 Constitution Articles 33 and 18B (2)). The results show that resource nationalism is driven by *state-centric goals* and largely benefits only government elites as well as foreign investors, deviating from consideration of benefits to Indigenous Peoples<sup>11</sup>. Furthermore, research from Ratna Artha Windari and Yetty Komalasari Dewi in *Yustisia Jurnal Hukum* examines the effectiveness of mandatory CSR disclosure policies in Indonesia (based on Law Number 40 of 2007) in relation to the achievement of the Sustainable Development Goals (SDGs). It was found that despite the legal mandate, the achievement remained suboptimal due to the high levels of water pollution from industrial activities. This highlights that the regulatory focus only on disclosure does not produce a substantive impact<sup>12</sup>, and the third from I Gede Agus Kurniawan et al., in the *Lex Scientia Law Review* the study provides a comparative framework regarding business law regulations in Indonesia, Vietnam, and Ghana. It was emphasized that although the countries have different legal heritages, they share the same challenges in aligning domestic regulations with international standards to attract FDI and promote sustainable growth<sup>13</sup>.

Based on the limitations of previous research, it can be seen that there is still a lack of studies that examine the role of customary law values in restoring social justice in the midst of economic globalization. In both Indonesia and Vietnam, the integration between customary law and foreign investment legal frameworks has not been comparatively examined in the context of how local values can affect the social legitimacy and sustainability of development. This research *gap* shows the need for a multidimensional approach that not only assesses the performance of formal law, but also examines how customary norms can be the basis for social ethics in investment policies. The urgency of this research lies in its efforts to offer a more inclusive, equitable, and contextual model of investment legal framework, which not only attracts foreign capital, but also protects the rights of local communities and strengthens social harmony through customary law values. Based on this, this paper is designed to answer several main questions that are the focus of the study: 1) What is the role of customary law in restoring the principle of social justice through the implementation of *Corporate Social Responsibility* (CSR) and *performance requirements* in the framework of foreign investment in Indonesia and Vietnam?; 2) What are the differences in legal and implementation approaches between Indonesia and Vietnam in integrating social and cultural values into foreign investment policies to achieve equitable and sustainable development?

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<sup>10</sup> Himanshu Garg, "Criminal Justice System: Comparative Study among Different Nations," *International Journal of Law Management & Humanities* 7 (2024).

<sup>11</sup> M. Yakub Aiyub Kadir, Najwa Shafiya, and Eka Kurniasari, "Regulating Political Funding in Southeast Asia: A Comparative Legal Analysis of Transparency and Accountability in Malaysia and Indonesia," *Journal of Humanity and Social Justice* 7 (2025): 178-200, doi:10.38026/jhsj.v7i2.76.

<sup>12</sup> Ratna Artha Windari and Yetty Komalasari Dewi, "Evaluating Mandatory Corporate Social Responsibility Disclosure Policies and Sustainability Development Goals Achievement in Indonesia," *Yustisia Jurnal Hukum* 13, no. 1 (2024): 1-26, doi:10.20961/yustisia.

<sup>13</sup> I Gede Agus Kurniawan et al., "The Business Legal Policy in Indonesia, Ghana, and Vietnam: A Perspective from the Theory of Dignified Justice - Google Search," *Lex Scientia Law Review* 9 (2025), doi:https://doi.org/10.15294/lslr.v9i1.18096.

This study aims to analyze the role of customary law as a normative basis in realizing social justice in the midst of foreign investment practices in Indonesia and Vietnam, through the integration of CSR principles and performance requirements in the legal framework of each country. In addition, this study seeks to identify differences in approaches between the two countries in adopting local social and cultural values into investment policies. The results of the study are expected to make a theoretical and practical contribution to the development of a foreign investment policy model that is not only oriented towards economic growth, but also upholds social justice, preserves local values, and creates inclusive and sustainable development.

## METHODS OF THE RESEARCH

This study uses a juridical-normative approach method with the support of a comparative approach. A juridical-normative approach was used to analyze the legal provisions governing *Corporate Social Responsibility (CSR)*, *performance requirements*, and customary law recognition in the framework of foreign investment in Indonesia and Vietnam. The main source of data comes from primary legal materials in the form of laws and regulations, international conventions, and related decisions, while secondary legal materials include academic literature, scientific journals, and relevant previous research results. The analysis was carried out qualitatively by examining the relationship between positive legal norms and customary law values in the context of applying the principles of social justice. Furthermore, a comparative approach is used to compare the legal structure and foreign investment policies between Indonesia and Vietnam, especially in the implementation of CSR and the integration of local socio-cultural values. Through this comparison, the research seeks to identify the similarities, differences, and advantages of each legal system in accommodating the value of social justice. The results of the analysis are expected to produce conceptual findings that can be used to formulate a foreign investment policy model based on customary law and ensure a balance between economic growth and social protection.

## RESULTS AND DISCUSSION

### A. Legal Framework for Foreign Investment in Indonesia and Vietnam

Foreign investment policies in Indonesia and Vietnam are basically oriented towards increasing national economic growth through the creation of a conducive business climate for investors. Indonesia regulates foreign investment through Law Number 25 of 2007 concerning Investment which emphasizes legal certainty, openness, and equality for domestic and foreign investors. The main focus of this policy is to attract investment in strategic sectors while maintaining the principles of sustainable development<sup>14</sup>. Meanwhile, Vietnam regulates foreign investment through the Law on Investment (2014, revised 2020), which is oriented towards economic liberalization after Doi Moi's reforms. The country emphasizes simplifying licensing and providing fiscal incentives to accelerate industrialization and exports, especially in the manufacturing and technology sectors<sup>15</sup>.

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<sup>14</sup> Sari, "Syarat-Syarat Penanaman Modal Asing (Pma) Di Indonesia Menurut Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal."

<sup>15</sup> Tran Thang Long and Pham Le Tram Anh, "The Principle Of Sustainable Development In International Investment Law: A Study From Vietnamese Perspective," *Indonesia Law Review* 14, no. 4 (2024), doi:10.15742/ilrev.v14se.5.

Indonesia and Vietnam have similar goals, but the approaches of the two countries differ in terms of ideology and implementation. Indonesia places investment in the Pancasila economic framework that balances economic and social interests<sup>16</sup>. Meanwhile, Vietnam bases its policies on a market economy with the orientation of state socialism<sup>17</sup>. These differences affect how investment policies are implemented in the field, especially related to the protection of local communities and the implementation of corporate social responsibility. Indonesia tends to regulate the relationship between investment and society through clearer legal instruments<sup>18</sup>. Meanwhile, Vietnam still relies on a moral policy approach and corporate awareness<sup>19</sup>. Therefore, while both have succeeded in increasing foreign investment flows, the main challenges remain related to social inequality and the need to integrate local values in investment policies in order to achieve sustainable social justice.

The main legal basis that regulates *Foreign Direct Investment* (FDI) in Indonesia is rooted in Law Number 25 of 2007 concerning Investment which affirms the principles of legal certainty, openness, and equal treatment for investors. This regulation is followed by various derivative regulations such as Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing, which simplifies investment procedures through the *Online Single Submission* (OSS) system. Indonesia, in the context of *performance requirements*, requires foreign investors to fulfill certain obligations such as technology transfer, absorption of local labor, and partnerships with domestic business actors. This provision reflects the state's efforts to ensure foreign investment is not only oriented towards economic gains, but also contributes to national development and the social welfare of the community<sup>20</sup>. The legal basis for foreign investment in Vietnam is regulated through the *Law on Investment* (2014, revised 2020) and the *Enterprise Law* (2020) which aims to create a more open investment system but still controlled by the state. Vietnam uses *performance requirements* to drive efficiency and increased value-added, especially in the high-tech and export sectors. The government provides tax incentives and land easements to investors who meet certain socio-economic criteria, such as local workforce training or environmental sustainability. Although the legal framework is relatively progressive, its implementation still faces challenges in terms of supervision and compliance with social standards<sup>21</sup>. Therefore, in both Indonesia and Vietnam, *performance requirements* function as a strategic instrument to balance national economic interests with the principles of social justice and sustainable development.

The government plays an important role as a regulator as well as a balancer in the relationship between foreign investors and local communities so that investment activities

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<sup>16</sup> Windari and Dewi, "Evaluating Mandatory Corporate Social Responsibility Disclosure Policies and Sustainability Development Goals Achievement in Indonesia."

<sup>17</sup> Phi Dinh Hoang et al., "Corporate Governance for Sustainable Development in Vietnam: Criteria for SOEs Based on MCDM Approach," *PLoS ONE* 19, no. 5 May (2024), doi:10.1371/journal.pone.0302306.

<sup>18</sup> Andika Prawira Buana and Moch Andry Wikra Wardhana Mamonto, "The Role of Customary Law in Natural Resource Management: A Comparative Study between Indonesia and Australia," *Golden Ratio of Mapping Idea and Literature Format* 3, no. 2 (2023): 167-86, doi:10.52970/grmilf.v3i2.400.

<sup>19</sup> Mai Ngoc Khuong, Nguyen Khoa Truong an, and Tran Thi Thanh Hang, "Stakeholders and Corporate Social Responsibility (CSR) Programme as Key Sustainable Development Strategies to Promote Corporate Reputation—Evidence from Vietnam," *Cogent Business and Management* 8, no. 1 (2021), doi:10.1080/23311975.2021.1917333.

<sup>20</sup> Sari, "Syarat-Syarat Penanaman Modal Asing (PMA) Di Indonesia Menurut Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal."

<sup>21</sup> John Gillespie and Hong Thi Quang Tran, "Legal Pluralism and the Struggle for Customary Law in the Vietnamese Highlands," *American Journal of Comparative Law* 70, no. 1 (2022): 1-42, doi:10.1093/ajcl/avac024.

do not cause social and economic inequality. This role in Indonesia is realized through affirmative policies that require Corporate *Social Responsibility*, community involvement in the project planning process, and protection of the rights of affected indigenous peoples. The central and local governments have an obligation to ensure that incoming investments provide direct benefits to the community, for example through the provision of jobs, the development of public infrastructure, and the empowerment of the local economy. The government acts not only as a facilitator of investment, but also as a watchdog who maintains a balance between economic interests and social justice<sup>22</sup>.

Meanwhile, in Vietnam, the government carries out a more centralized and coordinated function in controlling interactions between investors and local communities. State policies are directed to ensure that each investment project is in line with national development priorities and does not harm the surrounding community. Although not as strong as Indonesia in enforcing social and environmental aspects, Vietnam has begun to strengthen public consultation mechanisms and foster social responsibility awareness through regulations and incentives. The two countries face essentially the same challenge, which is to create a balance between a competitive investment climate and the protection of local communities. Therefore, the government's active role in mediation, regulation, and supervision is key to ensuring that investment activities run in a fair and sustainable manner<sup>23</sup>.

The main challenge in the implementation of investment regulations on social protection in Indonesia and Vietnam lies in the gap between legal norms and practices on the ground. Many policies normatively guarantee the protection of local communities, but their implementation is still weak due to overlapping authority between agencies, weak oversight mechanisms, and low public participation in the decision-making process. The principles of corporate social responsibility in Indonesia are regulated by law, but supervision of their implementation is often administrative and insubstantial. As a result, many companies carry out CSR simply as a formality to fulfill legal obligations without really paying attention to the social and environmental impact of their investment activities<sup>24</sup>. A similar challenge occurred in Vietnam in the form of limited capacity of local government institutions to enforce social regulations amid a strong push for economic liberalization. The government is trying to create a competitive investment climate, but monitoring of social and environmental impacts is still not optimal. This has led to the emergence of various problems such as inequality in development between regions, relocation of communities without adequate compensation, and environmental degradation around industrial areas. In both Indonesia and Vietnam, these implementation challenges demonstrate the need for policy reforms that not only emphasize legal certainty for investors, but also strengthen social protection instruments based on community participation and local values so that social justice is truly realized in foreign investment practices<sup>25</sup>.

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<sup>22</sup> Windari and Dewi, "Evaluating Mandatory Corporate Social Responsibility Disclosure Policies and Sustainability Development Goals Achievement in Indonesia."

<sup>23</sup> Hoang et al., "Corporate Governance for Sustainable Development in Vietnam: Criteria for SOEs Based on MCDM Approach."

<sup>24</sup> Suharyono Suharyono, Arumega Zarefar, and Atika Zarefar, "Analysis of Corporate Governance and Corporate Sustainability Performance in The Indonesian Context," *Business: Theory and Practice* 24, no. 1 (2023): 137–47, doi:10.3846/btp.2023.16898.

<sup>25</sup> Nguyen Minh et al., "Corporate Social Responsibility among Service Sector SMEs in Vietnam: Exploring the Influence of National Context," *Quality and Quantity* 59, no. 5 (2025): 3977–4001, doi:10.1007/s11135-025-02156-0.

A comparison of the economic orientation between Indonesia and Vietnam shows fundamental differences in their ideological foundations and legal policy directions. Indonesia developed an economic system based on Pancasila that emphasizes the balance between economic efficiency and social justice. This principle is reflected in investment policies that require contributions to community welfare, environmental conservation, and protection of local rights, in practice Indonesian investment law seeks to place the state as a regulator and guardian so that the public interest is not marginalized by the interests of capital, thus social justice becomes the main pillar in resource management and investment, although challenges still arise in the implementation and consistency of policies at various levels of government<sup>26</sup>.

Vietnam adopts a socialist-oriented market economy approach, in which the state remains the main actor in determining the direction and scale of economic activities. Investment law in Vietnam places collective welfare and social stability as a priority, but in a more centralized and state-controlled framework. The government plays a role as a facilitator as well as a regulator that ensures that foreign investment runs in line with the national development agenda. Although both countries seek to equitably distribute economic benefits, ideological differences cause variations in the form of state intervention. Indonesia tends to prioritize social justice based on law and customary values, while Vietnam focuses more on state control and economic policy discipline. This comparison confirms that social justice can be realized through different channels, depending on the character of the legal system and the economic ideology embraced by each country<sup>27</sup>.

## **B. Corporate Social Responsibility Implementation and Challenges in the Foreign Investment Framework**

The implementation of *Corporate Social Responsibility* (CSR) in Indonesia has a strong legal basis through two main laws, namely Law Number 40 of 2007 concerning Limited Liability Companies and Law Number 25 of 2007 concerning Investment. Both regulations make CSR a legal obligation, not just a company's moral commitment<sup>28</sup>. Article 74 of the Limited Liability Company Law emphasizes that every company that carries out business activities in the field or related to natural resources is obliged to carry out social and environmental responsibilities. This provision is strengthened by the Investment Law which stipulates that investors must pay attention to the principles of sustainable development and the welfare of local communities, thus CSR in Indonesia is positioned as a juridical instrument to ensure that economic activities provide real social benefits, not only for shareholders, but also for the community and the surrounding environment<sup>29</sup>.

The implementation of CSR in practice in Indonesia shows considerable variation between companies and sectors. Some companies carry out CSR programs with a sustainability orientation such as community empowerment, education, and environmental conservation, but others are still symbolic and administrative. The main challenge lies in the

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<sup>26</sup> Bambang Tjahjadi, Noorlailie Soewarno, and Febriani Mustikaningtiyas, "Good Corporate Governance and Corporate Sustainability Performance in Indonesia: A Triple Bottom Line Approach," *Heliyon* 7, no. 3 (2021), doi:10.1016/j.heliyon.2021.e06453.

<sup>27</sup> Nguyen, Hoang, and Luu, "Corporate Social Responsibility in Vietnam: Opportunities and Innovation Experienced by Multinational Corporation Subsidiaries."

<sup>28</sup> Yeremia Tangkere, "Tanggung Jawab Sosial Dan Lingkungan Berdasarkan Undang-Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas," *Lex Privatum VII* (2019).

<sup>29</sup> M. Y. Aiyub Kadir and Alexander Murray, "Resource Nationalism in the Law and Policies of Indonesia: A Contest of State, Foreign Investors, and Indigenous Peoples," *Asian Journal of International Law* 9, no. 2 (2019): 298-333, doi:10.1017/S204425131900002X.

weak monitoring mechanism and the lack of measurable evaluation indicators on the social impact of CSR programs. In addition, coordination between the central government, the region, and the business world is often out of sync. So that the implementation in the field does not fully reflect the spirit of social justice as referred to in the regulations. Therefore, although the CSR legal framework in Indonesia has been comprehensive, its effectiveness still depends on strengthening law enforcement, transparency, and community participation at every stage of implementation<sup>30</sup>.

The implementation of *Corporate Social Responsibility* (CSR) in Vietnam is still voluntary and driven more by moral awareness than legal obligation. Although the Vietnamese government has issued several sustainable development guidelines and strategies, such as the *National Green Growth Strategy* (2012) and the *Sustainable Development Goals Action Plan* (2017), there is no regulation that explicitly mandates the implementation of CSR for companies. As a result, many companies carry out CSR based on global market pressures, reputation demands, or encouragement from international business partners. Multinational companies are usually more consistent in carrying out CSR because it follows global standards, while domestic companies tend to carry out small-scale social activities oriented towards the Company's image, thus CSR in Vietnam develops through a moral approach and voluntary practices, rather than through binding legal mechanisms<sup>31</sup>.

The Vietnamese government is gradually encouraging CSR practices through the integration of social responsibility principles in industrial and trade policies, although it does not yet have a strong legal foundation. Support is provided through non-fiscal incentives, such as public recognition for companies that contribute to social and environmental development. The main challenge in this context is the lack of uniformity in CSR reporting standards and the lack of capacity of government agencies to monitor their implementation. As a result, the social impact of CSR is often difficult to measure and does not always touch the needs of local communities. However, the trend of economic globalization and increasing public awareness have made CSR in Vietnam continue to evolve towards a more structured and transparent approach. CSR policies have the potential to be strengthened as a legal instrument to ensure the involvement of companies in realizing inclusive and socially just development<sup>32</sup>. The effectiveness and social commitment of companies in the implementation of *Corporate Social Responsibility* (CSR) in Indonesia and Vietnam show significant differences. Indonesia's legal obligations to CSR create a clear regulatory basis, but their effectiveness is often influenced by the extent to which companies understand and apply sustainability principles substantially. Several large companies, especially in the energy and mining sectors, have shown strong commitment through long-term oriented community empowerment and environmental preservation programs. However, some business actors still see CSR as an administrative burden without integration with core business strategies. This leads to inequality in social outcomes between regions and shows the need to strengthen institutional capacity to ensure the implementation of CSR in accordance with social justice values<sup>33</sup>.

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<sup>30</sup> Buana and Mamonto, "The Role of Customary Law in Natural Resource Management: A Comparative Study between Indonesia and Australia."

<sup>31</sup> Kim, "Foreign Direct Investment and Urban Growth in Vietnam: Spatial, Economic, and Demographic Perspectives."

<sup>32</sup> Minh et al., "Corporate Social Responsibility among Service Sector SMEs in Vietnam: Exploring the Influence of National Context."

<sup>33</sup> I. Gede Agus Kurniawan et al., "The Business Law in Contemporary Times: A Comparison of Indonesia, Vietnam, and Ghana," *Substantive Justice International Journal of Law* 7, no. 2 (2024): 114–41, doi:10.56087/substantivejustice.v7i2.297.

Corporate social commitment in Vietnam relies more on corporate awareness and external pressures, especially from global trading partners and international organizations. Export-oriented companies, such as those in the textile and manufacturing sectors, are generally more active in implementing CSR due to the demands of global supply chains that emphasize business ethics and labor protection. However, the implementation of CSR at the domestic level is still limited and uneven due to the lack of binding regulations and the lack of incentives from the government. Despite this, the trend shows an increase in social awareness among young companies and multinationals operating in Vietnam. This comparison shows that formal regulations such as those in Indonesia can strengthen corporate social responsibility. While voluntary approaches such as those in Vietnam tend to result in more flexible implementation, they are not always consistent<sup>34</sup>.

The main obstacle in the implementation of *Corporate Social Responsibility* (CSR) in Indonesia and Vietnam lies in the tendency of its implementation to be an administrative formality without real community involvement. Many companies carry out CSR only to meet annual reporting obligations or maintain corporate image, not as a form of ethical commitment to social development. This condition occurs because there is no clear evaluation mechanism for the social impact of CSR programs and weak coordination between government agencies in conducting supervision. In Indonesia, for example, CSR reports are often only descriptive without measurable indicators of success. As a result, the programs run are not always in accordance with local needs and often stop after administrative targets are achieved<sup>35</sup>.

Another weakness arises in the aspect of community participation and the role of the state as a supervisor. Local communities in Indonesia and India are rarely actively involved in the planning, implementation, and evaluation of CSR programs, so the benefits generated are not sustainable. On the other hand, the capacity of government institutions to supervise and enforce rules is still limited, both in terms of human resources and clarity of legal sanctions for companies that ignore their social responsibilities. This weak transparency and accountability makes CSR vulnerable to becoming a means of legitimizing business activities rather than an instrument of social recovery. For this reason, strengthening community-based supervision and increasing community involvement is key so that CSR can truly function as a means of social equity and inclusive development<sup>36</sup>.

An evaluation of the contribution of *Corporate Social Responsibility* (CSR) to social justice and sustainability shows that the implementation of CSR in Indonesia and Vietnam is still partial and has not fully addressed the root causes of social inequality at the local level. Despite progress through regulation and an increase in the number of CSR programs in Indonesia, on the other hand, many activities still focus on short-term philanthropic assistance such as donations and the construction of simple public facilities. This approach has not touched on the aspect of structural empowerment that can strengthen the economic independence of the community. In contrast, successful CSR programs are typically carried out by companies that make social responsibility part of their sustainable business strategy, such as skills training, environmental management, and support for micro-enterprises. This

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<sup>34</sup> *Ibid.*

<sup>35</sup> Hoang et al., "Corporate Governance for Sustainable Development in Vietnam: Criteria for SOEs Based on MCDM Approach."

<sup>36</sup> Nguyen, Hoang, and Luu, "Corporate Social Responsibility in Vietnam: Opportunities and Innovation Experienced by Multinational Corporation Subsidiaries."

means that the effectiveness of CSR is highly dependent on the extent to which the company integrates social values into its business practices<sup>37</sup>.

CSR's contribution to social justice in Vietnam also shows a similar pattern. Multinational corporations and exporters that are bound by international standards generally provide a more positive social and environmental impact, especially in improving worker welfare and reducing carbon footprints. Yet most local companies still consider CSR to be a voluntary moral obligation without clear benchmarks<sup>38</sup>. As a result, contributions to sustainability are still limited and often unsustainable after the program ends. In both Indonesia and Vietnam, CSR only has a significant impact when synergized with community participation, public policy support, and transparent supervision. Therefore, to achieve social justice and sustainable development, CSR needs to be transformed from ceremonial activities into strategic instruments of development based on local values and social ethics<sup>39</sup>.

### C. Customary Law as an Instrument for Restoring Social Justice

Customary law values such as mutual cooperation, balance, and communal responsibility represent the foundations of social justice that live in Indonesian society and most traditional communities in Southeast Asia, including Vietnam. The principle of mutual cooperation emphasizes cooperation and solidarity between community members as a way to maintain social harmony and reduce economic inequality. The value of balance serves as an ethical guideline in regulating the relationship between humans, nature, and power, so that economic activities are judged not only by material gains but also by their impact on social and environmental sustainability. Communal responsibility affirms that welfare is not a matter of the individual, but rather the collective responsibility of all members of the community, these values in the legal context become the moral basis for assessing social and economic behavior that is in harmony with distributive justice and the common good<sup>40</sup>.

Customary law values, when associated with foreign investment practices and corporate social responsibility, can serve as a normative guide for business actors in building ethical and sustainable relationships with local communities. Gotong royong can be translated into a form of social partnership between companies and communities, balance can be a principle in the sustainable management of natural resources, while communal responsibility can be realized through CSR programs that empower communities, not just providing assistance, thus customary law not only functions as a cultural heritage, but also as a source of modern economic ethics that is able to strengthen social legitimacy and create harmony between the interests of corporations, society, and the state<sup>41</sup>.

The relevance of customary law in the context of modern development and investment lies in its ability to provide an ethical and social foundation for the creation of equitable relationships between investors, communities, and the state. Customary law in the era of economic globalization can act as a social control mechanism against the negative impacts

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<sup>37</sup> Susanto, Rudyanto, and Rahayuningsih, "Redefining the Concept of Local Wisdom-Based CSR and Its Practice."

<sup>38</sup> Khuong, Truong an, and Thanh Hang, "Stakeholders and Corporate Social Responsibility (CSR) Programme as Key Sustainable Development Strategies to Promote Corporate Reputation – Evidence from Vietnam."

<sup>39</sup> Tjahjadi, Soewarno, and Mustikaningtyas, "Good Corporate Governance and Corporate Sustainability Performance in Indonesia: A Triple Bottom Line Approach."

<sup>40</sup> Deni Yusup Permana et al., "Integrating Indigenous Wisdom and Village Authority in Environmental Protection: A Case Study of Indonesia," *Jambura Law Review* 7 (2025).

<sup>41</sup> R. Rulick SETYAHADI and I. Made NARSA, "Corporate Governance and Sustainability in Indonesia," *Journal of Asian Finance, Economics and Business* 7, no. 12 (2020): 885–94, doi:10.13106/JAFEB.2020.VOL7.NO12.885.

of capital-oriented development. The values contained in customary law such as the balance between humans and nature and communal responsibility are able to fill moral voids that are often not covered in positive laws that tend to be formal and economically oriented, thus customary law can be integrated as a normative principle in investment policies to ensure that development runs in accordance with the values of humanity, sustainability, and local wisdom that have long lived in the community<sup>42</sup>.

The application of customary law principles in modern investment practices can strengthen the social legitimacy of the company while encouraging the active participation of the community in the development process. This approach based on local wisdom allows for the realization of an inclusive development model, where economic interests do not sacrifice the social and cultural rights of the community. The recognition of customary law in the context of public policy also opens up space for the formation of investment regulations that are more sensitive to social and environmental contexts. This means that the integration of customary law is not just an effort to preserve traditions, but an adaptive strategy to bring a balance between economic growth and social justice in an increasingly complex global investment order<sup>43</sup>.

The recognition of customary law in the Indonesian legal system, as stated in Article 18B paragraph (2) of the 1945 Constitution, affirms that the state recognizes and respects the units of customary law communities 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 provision shows that customary law has a constitutional position as a legitimate source of law and functions to complement national law. This recognition provides a legitimacy basis for the application of local social, cultural, and justice values in public policy, including in the areas of investment and corporate social responsibility<sup>44</sup>. In practice, recognition of customary law is also a means of maintaining a balance between the interests of national development and the protection of the rights of local communities who are often affected by economic expansion. However, the implementation of customary law recognition in the context of positive law still faces structural and institutional challenges. Although the constitution has provided a solid foundation, its implementation is often inconsistent due to overlapping with sectoral regulations and the country's economic interests. Many indigenous peoples have not yet received formal recognition of their territories and traditional rights, especially in areas rich in natural resources. This shows that constitutional recognition needs to be accompanied by derivative policies that are operational and in favor of indigenous peoples, by substantively strengthening the position of customary law, Indonesia can direct development and investment towards a more inclusive, just, and in accordance with the constitutional mandate of social justice for all people<sup>45</sup>.

Traditional values in the Vietnamese context such as community solidarity, social harmony, and respect for social hierarchy have similarities with the principles of customary

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<sup>42</sup> Kurniawan et al., "The Business Legal Policy in Indonesia, Ghana, and Vietnam: A Perspective from the Theory of Dignified Justice - Google Search."

<sup>43</sup> Susanto, Rudyanto, and Rahayuningsih, "Redefining the Concept of Local Wisdom-Based CSR and Its Practice."

<sup>44</sup> Suharyono, Zarefar, and Zarefar, "Analysis of Corporate Governance and Corporate Sustainability Performance in The Indonesian Context."

<sup>45</sup> Tjahjadi, Soewarno, and Mustikaningtiyas, "Good Corporate Governance and Corporate Sustainability Performance in Indonesia: A Triple Bottom Line Approach."

law in Indonesia, but are integrated within the ideological framework of state socialism. The system of socialism in Vietnam places the state as the main arbiter of economic and social relations, so that social responsibility is not only imposed on individuals or corporations but also becomes part of the collective mission of national development. Values such as *tinh than tap the* (collective spirit) and *doan ket* (unity) strengthen social structures that emphasize togetherness and equitable distribution of welfare<sup>46</sup>, thus, although not recognized in the form of customary law as in Indonesia, traditional Vietnamese values serve similarly as a moral foundation in maintaining a balance between economic development and social stability. However, the approach to state socialism also has its own consequences for the dynamics of society and corporate social responsibility. Because the state has a dominant role in regulating the economy, the space for local community participation in determining the direction of development tends to be limited. This makes the implementation of *Corporate Social Responsibility* (CSR) in Vietnam often function as a complement to state policies, not as an independent initiative of the company. However, this system provides stability in the implementation of social programs due to strong coordination between the government and the private sector, with a background of socialism that emphasizes collective interests, traditional Vietnamese values remain a cultural force that maintains social solidarity, although the practice is more centralized than the community-based approach in Indonesian customary law<sup>47</sup>.

Customary law has great potential as a mechanism of social legitimacy and ethical control over investment activities, especially in areas that have strong ties to communal values and local wisdom. Through principles such as balance, shared responsibility, and deliberation, customary law can serve as a tool of social supervision that complements the formal legal system. The application of customary norms in the context of foreign investment, allows for a process of consultation and approval of local communities before the project begins. Thus creating moral and social legitimacy for economic activities, thus customary law is not only a cultural instrument, but also an ethical framework that is able to prevent exploitative practices and ensure that development outcomes really bring benefits to the directly affected communities<sup>48</sup>.

The integration of customary law into investment policies can strengthen the concepts of *good governance* and social sustainability. The existence of customary norms allows the development of community-based supervisory mechanisms that are more adaptive to local contexts than general state regulations, in situations where government officials are often ineffective in supervising investment practices, customary law can act as a moral controller that suppresses deviant behavior from both investors and public officials. In addition, recognition of indigenous authorities also strengthens community ownership of development projects, increases social *trust*, and fosters long-term collaboration between companies and local communities. Therefore, customary law has the strategic potential to be a bridge between global economic interests and the principle of social justice based on local values<sup>49</sup>.

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<sup>46</sup> Gillespie and Quang Tran, "Legal Pluralism and the Struggle for Customary Law in the Vietnamese Highlands."

<sup>47</sup> Nguyen, Hoang, and Luu, "Corporate Social Responsibility in Vietnam: Opportunities and Innovation Experienced by Multinational Corporation Subsidiaries."

<sup>48</sup> Surjanti Surjanti et al., "Customary Law in Indonesia: A Legacy for a Sustainable Future," *Journal Evidence of Law* 4 (2025), <https://jurnal.erapublikasi.id/index.php/JEL>.

<sup>49</sup> Susanto, Rudyanto, and Rahayuningsih, "Redefining the Concept of Local Wisdom-Based CSR and Its Practice."

## D. Model of Integration of Corporate Social Responsibility and Customary Law to Realize Social Justice

The conceptualization of the relationship between *Corporate Social Responsibility (CSR)*, customary law, and *performance requirements* reflects the effort to integrate local social values and ethics into a modern investment law framework. CSR serves as a policy instrument that requires companies to contribute to social and environmental development. Meanwhile, *performance requirements* set certain standards or obligations for investors, such as technology transfer, the use of local labor, or contributions to community development. In this context, customary law can provide a normative and moral dimension for the implementation of CSR and *performance requirements* so that it is not purely administrative, but truly reflects the needs, values, and interests of the local community. In other words, customary law becomes a bridge between formal regulation and living social values, so that investment activities are not only legally legal, but also morally and culturally legitimate<sup>50</sup>.

The integration of these three elements creates a more sustainable and equitable development framework. CSR provides direction for corporate social responsibility, *performance requirements* ensure a concrete contribution to the local economy, and customary law upholds the principles of social balance and community sustainability. This synergy can be an ideal regulatory model for developing countries such as Indonesia and Vietnam, where global pressure on sustainable investment is increasing, by using customary law as an ethical foundation, countries can strengthen their legal position in upholding social standards without hindering the investment climate. Therefore, the relationship between CSR, customary law, and *performance requirements* is not just a legal concept but also a reflection of a new development paradigm that places people and local culture at the center of economic activities<sup>51</sup>.

The ideal investment policy model for developing countries such as Indonesia and Vietnam is one that systematically integrates customary law values with the principles of corporate social responsibility within the national legal framework. This integration can be done through strengthening regulations that require investors to respect local social and cultural norms at every stage of investment activities, from planning to implementation. The government can establish a *customary law*-based community consent mechanism as a condition for investment eligibility, where local community decisions have recognized legal value<sup>52</sup>. In addition, CSR needs to be directed not only to philanthropic activities, but also to empowerment programs based on indigenous peoples' participation. So that the economic and social benefits of investment can be enjoyed fairly, in this way investment policies are not only growth-oriented, but also reflect social justice and environmental sustainability<sup>53</sup>.

The policy model also requires synergy between the government, the private sector, and customary institutions in supervising the implementation of investments. The government acts as a regulator and facilitator, while customary institutions function as moral and social controllers over corporate behavior, in practice this can be realized through the

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<sup>50</sup> *Ibid.*

<sup>51</sup> Kurniawan et al., "The Business Legal Policy in Indonesia, Ghana, and Vietnam: A Perspective from the Theory of Dignified Justice - Google Search."

<sup>52</sup> Kurniawan et al., "The Business Law in Contemporary Times: A Comparison of Indonesia, Vietnam, and Ghana."

<sup>53</sup> Susanto, Rudyanto, and Rahayuningsih, "Redefining the Concept of Local Wisdom-Based CSR and Its Practice."

establishment of *multi-stakeholder committees* involving representatives of indigenous peoples, academics, and business actors to assess compliance with ethical and social investment standards. The application of this model not only strengthens the social legitimacy of corporations, but also expands the function of customary law as a source of justice value in modern economic development, thus foreign investment is no longer a threat to local wisdom, but rather a collaborative instrument that supports inclusive and sustainable development based on cultural identity and social responsibility<sup>54</sup>.

The strategy of harmonization between national law and local values within the framework of foreign investment requires a policy approach that is able to bridge global economic interests with the social and cultural wisdom of local communities. This effort can be carried out through the reformulation of investment regulations to be more inclusive of the principles of social justice and environmental sustainability that are sourced from local values, including customary law. The government can adopt *local content policy* and *social safeguard mechanisms* that ensure investments not only comply with formal laws, but also respect the social structure and values of the communities in the area receiving investments. This strategy strengthens the country's position in regulating foreign investment without sacrificing national cultural identity and sovereignty<sup>55</sup>.

Legal harmonization also needs to be supported by institutional synergy between the central government, regions, and customary institutions in the process of licensing, supervision, and evaluating investments. Capacity building of local laws and recognition of the role of indigenous communities can encourage *co-regulation* processes, where national laws and customary norms complement each other. This approach provides space for local communities to participate in decision-making that directly impacts their lives, while strengthening the social legitimacy of investment activities, thus harmonizing national law and local values is not just a legal political strategy, but a normative foundation for a sustainable investment model that balances economic growth, cultural preservation, and social justice<sup>56</sup>.

The implication of this research for policymakers is the need to formulate an investment regulatory framework that not only focuses on economic aspects, but also places social and cultural values as a key component in assessing the feasibility of investment. The government needs to integrate the principles of social justice and customary law into the national legal system so that investment policies are able to create a balance between economic growth and the protection of local communities. In addition, regulations need to strengthen the mechanism of public participation and *community consent* so that indigenous peoples have a formal space to determine the direction of development in their territories. This approach not only strengthens the legal legitimacy of the country, but also expands social trust in public policy in the field of investment<sup>57</sup>. For business actors and indigenous peoples, the implication is the need for a more collaborative and ethical relationship pattern. Companies need to view corporate social responsibility not just as a legal obligation or reputation strategy, but as a form of long-term social investment that strengthens business

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<sup>54</sup> Le et al., "Corporate Social Responsibility, Green Innovation, Environment Strategy and Corporate Sustainable Development."

<sup>55</sup> Tjahjadi, Soewarno, and Mustikaningtyas, "Good Corporate Governance and Corporate Sustainability Performance in Indonesia: A Triple Bottom Line Approach."

<sup>56</sup> Nguyen, Hoang, and Luu, "Corporate Social Responsibility in Vietnam: Opportunities and Innovation Experienced by Multinational Corporation Subsidiaries."

<sup>57</sup> Surjanti et al., "Customary Law in Indonesia: A Legacy for a Sustainable Future."

sustainability. This can be achieved by actively involving indigenous peoples in every stage of economic activities from planning, implementation, to evaluation with respect for social structures, local wisdom, and communal rights. Meanwhile, indigenous peoples need to strengthen their legal and institutional capacity to be able to negotiate on an equal footing with investors. Synergy between state policies, corporate social awareness, and indigenous participation is the key to creating inclusive development that is fair, ethical, and sustainable<sup>58</sup>.

Future projections show that sustainable development based on social values and customary law is a strategic direction in designing investment policies in developing countries. This approach demands a paradigm shift from development oriented solely to a model that places social welfare, environmental conservation, and cultural justice as benchmarks for success. The integration of customary law in investment planning and implementation will strengthen social legitimacy and deepen the sense of community ownership of development projects, by making values such as balance, mutual cooperation, and communal responsibility as guidelines, development can be more adaptive to local contexts and sustainable in the long term<sup>59</sup>.

Strengthening social values and customary law in the global context is also in line with the *Sustainable Development Goals*, especially in the aspects of reducing inequality, social justice, and preserving ecosystems. Countries such as Indonesia and Vietnam have a great opportunity to become alternative models of development that combine local wisdom with modern economic governance. To realize this, cross-sectoral synergy is needed between the government, the private sector, and indigenous communities in creating an inclusive and sustainability-oriented legal and policy system, thus future development not only relies on technological innovation and financial capital, but also upholds moral foundations that come from the nation's social and cultural identity<sup>60</sup>.

## CONCLUSION

This study confirms that the integration of *Corporate Social Responsibility (CSR)*, customary law, and *performance requirements* is an effective approach to create a socially just investment framework in Indonesia and Vietnam. Customary law values such as mutual cooperation, balance, and communal responsibility have proven to be relevant in arranging the relationship between corporations, communities, and the state so that they are not only economically oriented, but also based on social ethics and local wisdom. The application of customary law principles in the context of policy can strengthen the social legitimacy of investment activities as well as become a mechanism for moral control over corporate behavior. As a follow-up, the government needs to build an investment policy model that combines formal regulations with local community-based participatory mechanisms. CSR must be directed to be an inclusive development instrument, not just the fulfillment of administrative obligations. For business actors, it is important to make social responsibility part of a long-term business strategy that is aligned with local values and sustainability principles. Meanwhile, indigenous peoples need to be strengthened in their legal capacity

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<sup>58</sup> Conesa et al., "Routes to Justice: Bridging Concealed and Perceived Public Transport Accessibility through User Participation."

<sup>59</sup> Nguyen, Hoang, and Luu, "Corporate Social Responsibility in Vietnam: Opportunities and Innovation Experienced by Multinational Corporation Subsidiaries."

<sup>60</sup> Suharyono, Zarefar, and Zarefar, "Analysis of Corporate Governance and Corporate Sustainability Performance in The Indonesian Context."

so that they can be actively and equally involved in the investment process. Through the synergy between state policies, corporate social awareness, and customary law values, the direction of development in the future can move towards a more just, sustainable, and rooted economic system rooted in the nation's cultural identity

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