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## ETHICS IN BUSINESS LAW: A PATERNALISTIC LEGAL PHILOSOPHY APPROACH FROM JOHN STUART MILL

Submitted:	Revised:	Published:
<b>Article Info</b>	<b>ABSTRACT</b>	
<b>Keywords:</b>  Paternalistic, Harm Principle, Regulation, Consumer, Environment.	<p><b>Introduction:</b> In the modern business world, John Stuart Mill's paternalistic legal philosophy, especially the "harm" principle, is very relevant to balance market freedom and protection of public interests, such as consumers, workers, and the environment, through regulations aimed at reducing the negative impacts of business activities.</p> <p><b>Purpose of The Research:</b> The purpose of this study is to analyze the application of John Stuart Mill's paternalistic principles in business law and to evaluate the relevance of Mill's legal philosophy to modern business regulation.</p> <p><b>Methode of Research:</b> This study uses normative legal methods to analyze the application of John Stuart Mill's paternalistic principles in business law, with conceptual, legislative, and case approaches, and utilizing primary, secondary, and tertiary legal materials analyzed qualitatively and deductively.</p> <p><b>Result of Research:</b> John Stuart Mill's paternalistic principles, particularly the harm principle, are highly relevant in modern business regulation as they balance market freedom with protection of the public interest, as seen in consumer protection, employment, corporate social responsibility (CSR), and environmental regulations, which aim to protect consumers, workers, and ecosystems. Despite challenges such as resistance from business actors, the application of this principle remains essential to ensure that freedom in business does not harm society and the environment, and supports sustainability and public welfare.</p>	

### 1. INTRODUCTION

In the modern business world, ethics is one of the issues that continues to receive attention, especially when faced with increasingly complex global economic developments. Business is no longer seen only as an instrument for achieving profit, but also as one of the pillars that influences the welfare of society at large.<sup>1</sup> However, the dynamics of the business world often give rise to various moral conflicts, especially when there is a conflict between the interests of corporate profitability and the social responsibilities that are carried out. This problem often arises in situations where existing regulations are unable to fully guarantee a balance between market freedom and the protection of the interests of the general public. In this modern era, issues related to labor exploitation, unfairness in the distribution of

<sup>1</sup> Arlupi Yulia Madyasari and Yuliani, "Tantangan Etika Dalam Bisnis Internasional Yang Penuh Persaingan Di Era Globalisasi," *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah* 15, no. 2 (2023), <https://doi.org/http://dx.doi.org/10.30863/aliqtishad.v15i2.5767>.



profits, and environmental impacts due to business activities are increasingly in the spotlight. This is where the role of law becomes important to provide boundaries and direction so that business practices remain within a corridor that is not only legal, but also ethical.<sup>2</sup> In this context, the paternalistic legal philosophy initiated by John Stuart Mill offers an interesting perspective. Through the "harm principle" or the principle of preventing harm, Mill asserts that state or legal authority intervention can only be justified if the actions of an individual, including business entities, have the potential to harm others. In other words, the freedom of an individual or entity may only be limited if it is necessary to protect the rights and freedoms of other individuals or the wider community.<sup>3</sup>

In the business world, this paternalistic approach is often implemented through various regulations designed to protect the interests of consumers, employees, and the environment. Real examples of this approach are consumer protection laws that require companies to provide transparent information about their products, as well as employment policies that prohibit discrimination and guarantee workers' rights. On the other hand, there are also environmental regulations that aim to limit the negative impacts of business activities on the ecosystem. However, the implementation of these policies often faces resistance, especially from business actors who consider government intervention as an obstacle to market freedom.<sup>4</sup> This issue becomes even more complex in the context of globalization, where business competition is no longer limited to the local level, but also involves cross-border competition. Multinational companies, for example, often take advantage of regulatory weaknesses in developing countries to exploit natural resources or cheap labor. In such situations, the absence of a strong paternalistic approach can lead to an increasingly sharp disparity between corporate profits and the welfare of local communities.<sup>5</sup>

The principle of "harm" proposed by Mill is also relevant to answer the ethical dilemmas faced by companies in carrying out corporate social responsibility (CSR).<sup>6</sup> In practice, CSR often becomes just a marketing strategy or an image tool without any real impact on society.<sup>7</sup> For example, a large corporation may contribute funds to social activities, but at the same time engage in environmentally damaging business practices. Using Mill's paternalistic approach, regulations can be designed to ensure that CSR is not just a formality, but truly becomes an integral part of a business strategy that is oriented towards the public interest. In addition, the paternalistic approach also plays an important role in supporting business sustainability. In recent decades, the concept of sustainability has become a major concern in discussions about business ethics.<sup>8</sup> Companies are required to focus not only on short-term profits, but also on the long-term impacts of their activities on society and the environment. Regulation based on paternalistic principles can be a tool

<sup>2</sup> Muchamad Taufiq, *Tantangan Hukum Tata Negara Dalam Pengaturan Pertambangan Di Era Globalisasi* (Kota Medan: PT Media Penerbit Indonesia, 2024).

<sup>3</sup> Rizky Anandasigit Nugraha, *Kebebasan Dan Paternalisme : Penilaian Terhadap Harm Principles John Stuart Mill* (Yogyakarta: Universitas Gadjah Mada, 2019).

<sup>4</sup> Sitti Faoziyah, *Pembangunan Kawasan Industri Migas Berkonsep Sustainability* (Bandar Lampung: Pusaka Media, 2023).

<sup>5</sup> Rahayu Puji Suci, *Manajemen Internasional* (Malang: PT. Literasi Nusantara Abadi Grup, 2024).

<sup>6</sup> Agus Widodo, *Rekonstruksi Kebijakan Penataan Ruang Terbuka Hijau (Rth) Yang Berbasis Nilai Keadilan* (Semarang: Universitas Sultan Agung, 2021).

<sup>7</sup> Honglei Mu and Youngchan Lee, "Greenwashing in Corporate Social Responsibility: A Dual-Faceted Analysis of Its Impact on Employee Trust and Identification," *Sustainability* 15, no. 22 (November 7, 2023): 15693, <https://doi.org/10.3390/su152215693>.

<sup>8</sup> Miftahuddin, *Dynamic Governance Pada Program Corporate Social Responsibility Pt. Vale Indonesia Tbk Kabupaten Luwu Timur* (Makassar: Universitas Hasanuddin, 2022).

to ensure that companies do not sacrifice the rights of future generations for the sake of current economic interests. For example, policies that require companies to reduce carbon emissions or use renewable energy reflect efforts to protect the wider public interest. However, the application of this paternalistic approach is not without challenges and criticisms. One of the main criticisms is that too strong intervention can limit innovation and market efficiency.<sup>9</sup> In some cases, overly strict regulation actually makes it difficult for companies to compete, especially in the global market.

In addition, there is also concern that the paternalistic approach can be used as a tool to strengthen state control over the private sector, which can ultimately reduce the freedom of individuals and business actors. However, it is important to remember that the paternalistic approach is not about eliminating freedom, but rather about creating a balance between individual freedom and protecting the public interest. In Mill's view, individual freedom should not be used as an excuse to violate the rights of others. This principle can be applied in business law to ensure that market freedom does not compromise ethical values and justice.<sup>10</sup> In other words, business law based on paternalistic principles is a law that not only respects freedom, but is also responsible for protecting common interests.

The study of ethics in business law through Mill's paternalistic legal philosophy approach is not only relevant, but also urgent to be carried out. In the ever-changing global context, the ethical challenges faced by the business world require solutions that are not only based on formal law, but also on the moral values that underlie society.<sup>11</sup> Based on the background explanation above, the author is interested in conducting a study entitled "Ethics in Business Law: The Paternalistic Legal Philosophy Approach of John Stuart Mill". The formulation of the problem in this study is:

1. How is the application of John Stuart Mill's paternalistic principle in business law?
2. How is John Stuart Mill's legal philosophy relevant to modern business regulation?

## 2. METHOD

Normative legal research, also known as doctrinal legal research, is a research method that focuses on the study of legal materials as the main source.<sup>12</sup> This approach aims to analyze the concepts, principles, norms, and regulations that apply in the legal system, both written and unwritten. In the context of this research, the normative method is used to understand how John Stuart Mill's paternalistic principles can be applied in business law and their relevance to ethics in the modern business world. This research focuses on the exploration, interpretation, and analysis of relevant legal regulations, legal doctrines, and the underlying legal philosophical thinking. This research uses several approaches within the normative legal framework. First, the conceptual approach aims to understand the theory and concept of paternalistic law from the perspective of legal philosophy, especially the "harm principle" developed by John Stuart Mill. Second, the statute approach is used to analyze laws and regulations related to business law, such as consumer protection, employment, and environmental laws. Third, the case approach is carried out to review

<sup>9</sup> Andreas Kokkinis and Konstantinos Sergakis, "Investor Personhood: The Case against Paternalism and Welfarism in Corporate Law," *Journal of Corporate Law Studies* 24, no. 1 (January 2, 2024): 97–136, <https://doi.org/10.1080/14735970.2024.2373463>.

<sup>10</sup> Alan Wertheimer, "(Why) Should We Require Consent to Participation in Research?," *Journal of Law and the Biosciences* 1, no. 2 (June 1, 2014): 137–82, <https://doi.org/10.1093/jlb/lbu008>.

<sup>11</sup> Rustandi Rustandi and RR Amanna Dzikirallah LAH, "Implikasi Hukum Bisnis Terhadap Praktik Etika Bisnis Di Indonesia," *Jurnal Bisnis Dan Kewirausahaan* 19, no. 2 (July 31, 2023): 163–72, <https://doi.org/10.31940/jbk.v19i2.163-172>.

<sup>12</sup> Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Jakarta: Kencana, 2021).

relevant legal cases in business practice in order to identify the application of paternalistic principles in real contexts.<sup>13</sup>

The sources of legal materials in this study are divided into three main categories: primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations, such as laws related to business, consumer protection, and the environment, as well as relevant court decisions. Secondary legal materials include legal literature, textbooks, journal articles, and other academic documents that discuss paternalistic legal theory and the principle of "harm." Meanwhile, tertiary legal materials such as legal dictionaries and encyclopedias are used to provide additional understanding and context to the terms and concepts used in this study.<sup>14</sup>

Data in this normative legal research is obtained through document studies (library research). This process includes collecting, sorting, and reviewing legal materials from various sources, including legal documents, academic literature, and previous research reports.<sup>15</sup> Data were collected systematically to ensure the completeness and relevance of the required information. In addition, data obtained through case analysis were also reviewed to understand how the paternalistic principle is applied in the context of business law. Data analysis in this normative legal research was conducted qualitatively with a deductive approach.<sup>16</sup> The process begins with analyzing relevant paternalistic legal theories and concepts, then comparing them with existing laws and legal cases. Data are critically analyzed to find a match between theory and practice, and to identify weaknesses or challenges in the application of paternalistic principles in business law. Legal interpretation techniques are used to understand the norms contained in the regulations, while argumentative analysis is used to link paternalistic legal concepts with business ethics issues that are the focus of the research.

### 3. RESULTS AND DISCUSSION

#### 3.1. Application of John Stuart Mill's Paternalistic Principles in Business Law

The paternalistic principle initiated by John Stuart Mill through the concept of the harm principle has a significant influence on various aspects of law, including business law. This principle emphasizes that the freedom of individuals or groups can only be limited if the action causes harm to other parties. In the context of business law, this paternalistic approach is applied to create a balance between the freedom of business actors in running a business and the protection of the rights and interests of the community.<sup>17</sup> This approach is important to prevent excesses arising from uncontrolled market freedom, such as labor exploitation, environmental damage, and injustice in consumer and producer relations. The application of the paternalistic principle in business law can be seen through consumer protection regulations. Consumer protection laws are designed to protect consumers from unfair or potentially detrimental business practices. For example, the obligation for companies to provide clear, correct, and non-misleading information about the products or services they offer is a concrete form of the paternalistic approach. This regulation aims to protect consumers who are often in a weaker position in their relationship with producers

<sup>13</sup> Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

<sup>14</sup> Ani Purwati, *Metode Penelitian Hukum Teori Dan Praktek*, 1st ed. (Surabaya: CV. Jakad Media Publishing, 2020), [http://eprints.uwp.ac.id/id/eprint/2819/1/Untitled\\_buku\\_bu\\_ani.pdf](http://eprints.uwp.ac.id/id/eprint/2819/1/Untitled_buku_bu_ani.pdf).

<sup>15</sup> Sugiyono, "Metode Penelitian Kuantitatif, Kualitatif, Dan R&D," *Bandung: CV. Alfabeta*, 2019.

<sup>16</sup> Lexy J. Moleong, *Metodologi Penelitian Kualitatif* (Bandung: PT Remaja Rosdakarya, 2017).

<sup>17</sup> Aniceto Masferrer, "The Decline of Freedom of Expression and Social Vulnerability in Western Democracy," *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique* 36, no. 4 (August 12, 2023): 1443–75, <https://doi.org/10.1007/s11196-023-09990-1>.

or business actors.<sup>18</sup> In this case, the government acts as a regulator that ensures that the information provided to consumers is sufficient to help them make wise decisions and protect themselves from potential harm. In addition to consumer protection, the paternalistic principle also plays an important role in labor regulations. Minimum wage standards, protection against discrimination, and reasonable working hours are examples of how paternalistic laws are applied in the world of work. Such regulations aim to protect workers from exploitation that often occurs in economic systems that place efficiency and profit as the main priority.<sup>19</sup> By limiting the freedom of business actors to determine their labor policies, paternalistic law ensures that the basic rights of workers are respected and protected.

The paternalistic approach is also applied in environmental protection through various regulations that regulate business activities that have the potential to damage the ecosystem. For example, restrictions on carbon emissions, waste management obligations, and bans on the use of certain chemicals are forms of state intervention to protect the environment from damage caused by business activities. Mill's "harm" principle is the basis for limiting the freedom of business actors to exploit natural resources, especially when such actions can cause harm to society or future generations.<sup>20</sup> By adopting this approach, environmental regulation serves as an instrument to create a balance between economic interests and environmental sustainability. In some cases, the paternalistic principle is also applied through corporate social responsibility (CSR) regulations. In some countries, CSR is required as part of the legal framework for business. Companies are required to set aside part of their profits to support social or environmental programs aimed at improving the welfare of society. This approach reflects the view that companies are not only responsible to shareholders, but also to the wider community. Through paternalistic-based regulation, CSR is transformed from a mere voluntary initiative into a legal obligation aimed at encouraging business actors to contribute to sustainable social and environmental development.<sup>21</sup>

However, the application of the paternalistic principle in business law is not without challenges. One of the main challenges is resistance from business actors who consider regulation as an obstacle to market freedom. In a free market-based economic system, the freedom of business actors is considered a principle underlying innovation and efficiency. Government intervention through paternalistic regulation is often seen as a restriction that can reduce the competitiveness of companies. In addition, regulations that are too strict have the potential to create additional burdens for business actors, such as increased production costs, which can ultimately burden consumers in the form of higher prices.<sup>22</sup> Another challenge is determining the appropriate limits in the application of paternalistic principles. In some cases, excessive intervention can hinder business development and create an

<sup>18</sup> Edy Purwito, "Konsep Perlindungan Hukum Konsumen Dan Tanggung Jawab Hukum Pelaku Usaha Terhadap Produk Gula Pasir Kadaluaras Di Kota Surabaya," *Jurnal Magister Ilmu Hukum* 13, no. 1 (June 30, 2023): 109–29, <https://doi.org/10.56943/dekrit.v13n1.152>.

<sup>19</sup> Suhartoyo, "Perlindungan Hukum Mengenai Pengupahan Terhadap Pekerja/Buruh Dengan Perjanjian Kerja Waktu Tertentu," *Administrative Law & Governance Journal* 3, no. 3 (2020), <https://doi.org/https://doi.org/10.14710/alj.v3i3.494%20%20-%20503>.

<sup>20</sup> Azwardi, *Ekonomi Sumber Daya Alam Dan Lingkungan* (Yogyakarta: CV. Budi Utama, 2022).

<sup>21</sup> Aan Setiadarma, "Etika Dalam Melakukan Kegiatan Corporate Social Responsibility (CSR)," *Ikon - Jurnal Ilmiah Ilmu Komunikasi* 26, no. 1 (2021).

<sup>22</sup> Amirulhaq, "Wawasan Tentang Relevansi Sistem-Sistem Ekonomi," *BANCO: Jurnal Manajemen Dan Perbankan Syariah* 4, no. 1 (2022).



unhealthy dependence on government regulation.<sup>23</sup> Therefore, the application of the paternalistic principle must consider the balance between the need to protect society and the need to maintain economic sustainability. Regulations designed based on this principle must be proportional, targeted, and supported by effective law enforcement mechanisms. The law enforcement system is also an important factor in the success of the application of the paternalistic principle in business law. Good regulation without effective enforcement will not have a significant impact. In this case, the government needs to ensure that institutions responsible for supervision and law enforcement, such as consumer protection authorities and environmental supervisory bodies, have sufficient capacity to carry out their duties. Strict supervision and strict sanctions against violations of the law are key to ensuring that paternalistic-based regulations can run according to their objectives.<sup>24</sup>

In addition, the paternalistic approach also requires support from the community and business actors. Regulations that only rely on state intervention without involving community participation are often ineffective.<sup>25</sup> Therefore, it is important to create awareness among business people about the importance of social responsibility and ethics in business. Education and awareness campaigns about paternalistic principles can help create a business culture that is more oriented towards the welfare of society and environmental sustainability. Overall, the paternalistic principles initiated by John Stuart Mill provide a strong framework for regulating the relationship between business people, consumers, workers, and society in the context of business law. This principle ensures that economic freedom is not used as an excuse to ignore social and ethical responsibilities. Despite the challenges in its implementation, the paternalistic approach remains relevant in dealing with the complex issues that arise in the modern business world. In the long run, the application of paternalistic principles can help create a more equitable and sustainable business ecosystem. By adopting this approach, business law not only functions as an instrument to regulate economic transactions, but also as a tool to protect the public interest and build trust between business people and society. This principle provides a foundation for creating a legal framework that is able to address ethical challenges in business, while encouraging responsible economic growth. Ultimately, Mill's paternalistic principles show that business law based on moral values and justice not only functions to regulate, but also to create common prosperity. With the right approach, paternalistic-based regulation can be an effective tool to encourage business actors to contribute to social and environmental development, while maintaining long-term business sustainability.

### 3.2. The Relevance of John Stuart Mill's Legal Philosophy to Modern Business Regulation

John Stuart Mill's legal philosophy, particularly as embodied in the harm principle, has become the basis for many principles in modern legal systems, particularly in relation to business regulation. Mill argued that individual liberty is a fundamental principle that must be respected in a democratic society. However, this liberty is not absolute. Mill argued that an individual's liberty can only be restricted if their actions harm others. In this context, Mill's philosophy offers a highly relevant perspective for business law regulation that seeks to balance market freedom with the protection of the public interest. For example, while businesses have the freedom to operate in the marketplace, governments need to regulate

<sup>23</sup> Kokkinis and Sergakis, "Investor Personhood: The Case against Paternalism and Welfarism in Corporate Law."

<sup>24</sup> Marten Bunga et al., "Urgensi Peran Serta Masyarakat Dalam Upaya Pencegahan Dan Pemberantasan Tindak Pidana Korupsi," *Law Reform* 15, no. 1 (May 27, 2019): 85, <https://doi.org/10.14710/lr.v15i1.23356>.

<sup>25</sup> Iseu Siti Aisyah et al., *Masyarakat Sehat, Masyarakat Berdaya Upaya Pemberdayaan Dalam Bidang Kesehatan* (Padang: Get Press Indonesia, 2023).

to prevent harm caused by unethical business activities, consumer exploitation, or environmental degradation.<sup>26</sup> Therefore, Mill's legal philosophy becomes an important guideline in designing business regulations that are oriented towards sustainability and public welfare.

One of the most important principles in Mill's legal philosophy is the harm principle, which states that the freedom of individuals or groups can only be limited if their actions cause harm or danger to others. In the business context, this means that the government or legal authority has the right to regulate or limit the freedom of business actors if their actions have a negative impact on consumers, workers, or the environment.<sup>27</sup> For example, in the context of modern business, regulations that limit the freedom of companies to disseminate false or inaccurate information about their products, such as those stipulated in consumer protection laws, can be seen as an application of the harm principle. This is in line with Mill's philosophy that it is the duty of the state or government to protect the weaker party, such as consumers who are less informed. Furthermore, Mill's principle is applied in the supervision of companies that have a large influence on the market and the economy. In a free market system, business freedom is often at stake in the pursuit of profit that can harm many parties.<sup>28</sup> For example, in the energy sector, companies may over-exploit natural resources without considering the impact on ecosystems or local communities. In such cases, the application of Mill's harm principle allows for regulations that limit the freedom of companies to exploit nature for personal gain, under the pretext of protecting society and the environment from greater harm. Mill's legal philosophy plays a major role in regulations that protect consumers from the excesses that can result from business practices. Mill believed that a person's freedom to act should not harm others, especially in this case consumers who are often in a weaker position compared to business actors.<sup>29</sup>

This is particularly relevant in the context of modern business where information inequality between businesses and consumers can create harm to consumers. For example, many companies take advantage of consumer ignorance by marketing products that do not match advertising claims or are even potentially harmful to health. This is where Mill's harm principle becomes the basis for consumer protection regulations. With laws regulating transparency in advertising, providing correct information about products, and regulations prohibiting fraudulent practices, the state acts to reduce the harm that may be caused by consumer ignorance.<sup>30</sup> For example, regulations requiring companies to list the ingredients in food or cosmetic products are a direct implementation of Mill's principle, which aims to protect consumers from harm caused by unsafe or misleading products. In addition, consumer protection also includes monitoring prices and unfair competition. When large companies dominate the market and practice monopoly, they can set prices that harm consumers or even reduce the quality of products. In this case, regulations that regulate

<sup>26</sup> Gregorius Rupang and Carolus Borromeus Mulyatno, "Prinsip-Prinsip Teori John Locke Dan John Stuart Mill Terhadap Penyelesaian Kasus Korupsi Di Indonesia," *Proceedings of The National Conference on Indonesian Philosophy and Theology* 2, no. 2 (September 1, 2024): 322–36, <https://doi.org/10.24071/snf.v2i2.8503>.

<sup>27</sup> Melina Constantine Bell, "John Stuart Mill's Harm Principle and Free Speech: Expanding the Notion of Harm," *Utilitas* 33, no. 2 (June 23, 2021): 162–79, <https://doi.org/10.1017/S0953820820000229>.

<sup>28</sup> Agus Priadin, *Pengaruh Pembangunan Manusia, Inflasi, Foreign Direct Investment Dan Kebebasan Ekonomi Terhadap Pertumbuhan Ekonomi (Studi Kasus 10 Negara Asean Periode 2013-2021)* (Yogyakarta: UIN Sunan Kalijaga, 2024).

<sup>29</sup> Vanessa Mathilde Harum and Gatot P. SOemartono, "Perlindungan Konsumen Dalam Transaksi Elektronik Kosmetik Tanpa Izin Edar," *JMPIS: Jurnal Manajemen Pendidikan Dan Ilmu Sosial* 5, no. 4 (2024), <https://doi.org/https://doi.org/10.38035/jmpis.v5i4>.

<sup>30</sup> Masrukhin, *Rekonstruksi Regulasi Tanggung Jawab Pelaku Usaha Dalam Rangka Mewujudkan Perlindungan Konsumen Yang Berbasis Nilai Keadilan* (Semarang: Universitas Islam Sultan Agung, 2023).

business competition and prevent monopolistic practices are essential to maintain a balance between business freedom and consumer protection. In Mill's framework, this is a way to prevent social harm that can occur if the market is allowed to operate without adequate supervision.<sup>31</sup>

The harm Mill principle is also relevant in regulations that protect workers from exploitation and adverse working conditions. In the context of modern business, especially in industries that are highly profit-oriented, workers are often the most vulnerable. This creates a need for employment regulations that not only protect workers' rights, but also ensure that companies act fairly.<sup>32</sup> For example, the minimum wage set by the government is a concrete form of the application of the harm Mill principle. Without this regulation, companies may pay workers very low wages, which is clearly detrimental to workers and has the potential to create social injustice. In addition, reasonable working hours, the right to take leave, and protection against discrimination in the workplace are things that are regulated to maintain worker welfare and reduce potential losses that can arise from the freedom of employers to determine employment policies.<sup>33</sup> In this context, the regulation reminds us that market freedom that is carried out without regard to workers' rights can lead to greater inequality and harm to society. In the context of modern business, one of the biggest challenges is environmental damage caused by uncontrolled industrial activity. Mill, in his legal philosophy, emphasized that individual freedom should be limited when their actions harm others. In the business world, this is very relevant to how companies exploit natural resources and affect people's quality of life through pollution, climate change, or other environmental damage.<sup>34</sup>

The application of Mill's principles can be seen in regulations governing the environmental impact of business activities, such as restrictions on greenhouse gas emissions, the management of hazardous waste, or the requirement to conduct environmental impact tests before starting major projects. In many countries, environmental laws require companies to be held accountable for the damage they cause and to take steps to reduce their negative impact on the environment.<sup>35</sup> In this case, Mill's harm principle serves to protect society from the harm caused by excessive exploitation of natural resources, as well as to protect future generations from damage that could destroy the global ecosystem. Although Mill's legal philosophy offers a useful framework for modern business regulation, its implementation also faces various challenges. One of the biggest challenges is resistance from business actors who see regulation as an obstacle to market freedom and economic efficiency. In many cases, entrepreneurs may feel that overly strict regulation can

<sup>31</sup> Desta Adinda Rahmadhani and . Sakirman, "Perlindungan Hak Konsumen Terhadap Maraknya Monopoli Bisnis," *Siyasah Jurnal Hukum Tatanegara* 2, no. 1 (June 23, 2022): 13, <https://doi.org/10.32332/siyasah.v2i1.5114>.

<sup>32</sup> Rina Ayu Vildayanti et al., "Pengaruh Faktor Biaya, Faktor Pelayanan Dan Efektifitas Operasional Terhadap Performa Manajemen Logistik Perusahaan," *Jurnal Publikasi Ekonomi Dan Akuntansi* 4, no. 1 (January 9, 2024): 141–53, <https://doi.org/10.51903/jupea.v4i1.2286>.

<sup>33</sup> Niru Anita Sinaga and Tiberius Zaluchu, "Perlindungan Hukum Hak-Hak Pekerja Dalam Hubungan Ketenagakerjaan Di Indonesia," *Jurnal Teknologi Industri* 6, no. 2 (2017).

<sup>34</sup> Petrus Lermatan, "Utilitarianisme John Stuart Mill Dan Relevansinya Bagi Aktivitas Ekonomi (Perspektif Filsafat Ekonomi)," *Seri Mitra Refleksi Ilmiah-Pastoral* 3, no. 1 (2024).

<sup>35</sup> Billy Josiah Aruan, "Penerapan Akuntansi Lingkungan Terhadap Pengelolaan Limbah Pabrik Pakan Ternak PT Universal Agri Bisnisindo," *Perspektif Akuntansi* 3, no. 3 (February 28, 2021): 217–52, <https://doi.org/10.24246/persi.v3i3.p217-252>.

reduce their profits and stifle innovation.<sup>36</sup> This is often the case in industries that rely heavily on the freedom to operate in global markets, such as technology and finance.

However, this challenge can be overcome with a more balanced approach, where regulation acts not only as a constraint, but also as an enabler to create fairer and more sustainable markets.<sup>37</sup> For example, by encouraging companies to innovate in environmentally friendly technologies or safer products for consumers, regulation can create new, profitable opportunities. In addition, it is important for governments to ensure that regulations are not too burdensome for small or medium-sized businesses, which may not have the resources to meet stringent requirements. Overall, John Stuart Mill's legal philosophy has profound relevance in the modern business setting. His harm principle provides a strong philosophical basis for regulation that aims to protect the interests of society, maintaining a balance between economic freedom and social responsibility. In an increasingly complex business world, Mill's principle allows the law to limit the freedom of business actors when their actions harm others, whether in the form of environmental damage, worker exploitation, or consumer fraud. Despite the challenges in its application, Mill's legal philosophy remains an important foundation for policymakers in designing business regulations that are oriented towards sustainability, fairness, and the overall welfare of society.

## CONCLUSION

John Stuart Mill's paternalistic principle, which emphasizes that individual or group freedom can only be restricted if the action is detrimental to others, is very relevant in the application of business law. In the context of business law, this principle is used to balance market freedom with the protection of the public interest. The application of this principle can be seen in consumer protection regulations, where companies are required to provide honest and non-misleading information about the products or services they offer, as well as employment regulations that protect workers from exploitation. In addition, this principle is also applied in corporate social responsibility (CSR) regulations and environmental regulations that aim to protect the ecosystem. Although the application of this principle faces challenges, such as resistance from business actors and potential restrictions on economic freedom, the application of the paternalistic principle remains important to ensure that freedom in business does not harm society and the environment. John Stuart Mill's legal philosophy, especially the harm principle, is very relevant to modern business regulation because it offers guidance on how individual freedom in business can be restricted to protect the public interest. This principle teaches that economic freedom in the market must not harm other parties, such as consumers, workers, or the environment. In practice, this is reflected in consumer protection regulations that require companies to provide accurate and non-misleading information, as well as labor regulations that ensure workers' rights are protected from exploitation. In addition, Mill's principles also underlie environmental regulations that regulate the impact of business on nature and society, such as limiting greenhouse gas emissions and waste management. Although there are challenges in its implementation, such as resistance from business actors who see regulations as obstacles, Mill's legal philosophy remains a strong basis for designing regulations that support sustainability and public welfare, by ensuring that economic freedom does not harm others..

<sup>36</sup> Siti Rosmayati, "Tantangan Hukum Dan Peran Pemerintah Dalam Pembangunan E-Commerce," *Koalisi: Cooperative Journal* 3, no. 1 (2023), <https://doi.org/https://doi.org/10.32670/koalisi.v3i1.3641>.

<sup>37</sup> Subhan Purwadinata and Ridolof Wenand Batilmurik, *PEREKONOMIAN INDONESIA: Persoalan Kebijakan, Isu Kontemporer Dan Globalisasi Pembangunan* (Malang: PT. Literasi Nusantara Abadi Grup, 2024).



## REFERENCES

- Aisyah, Iseu Siti, Ni Made Padma Batiari, Rosdiana, Syurrahmi, Sri Indra Kurnia, Marni, Ice Marini, et al. *Masyarakat Sehat, Masyarakat Berdaya Upaya Pemberdayaan Dalam Bidang Kesehatan*. Padang: Get Press Indonesia, 2023.
- Amirulhaq. "Wawasan Tentang Relevansi Sistem-Sistem Ekonomi." *Banco: Jurnal Manajemen Dan Perbankan Syariah* 4, no. 1 (2022).
- Aruan, Billy Josiah. "Penerapan Akuntansi Lingkungan Terhadap Pengelolaan Limbah Pabrik Pakan Ternak PT Universal Agri Bisnisindo." *Perspektif Akuntansi* 3, no. 3 (February 28, 2021): 217-52. <https://doi.org/10.24246/persi.v3i3.p217-252>.
- Azwardi. *Ekonomi Sumber Daya Alam Dan Lingkungan*. Yogyakarta: CV. Budi Utama, 2022.
- Bell, Melina Constantine. "John Stuart Mill's Harm Principle and Free Speech: Expanding the Notion of Harm." *Utilitas* 33, no. 2 (June 23, 2021): 162-79. <https://doi.org/10.1017/S0953820820000229>.
- Bunga, Marten, Mustating Dg Maroa, Amelia Arief, and Hardianto Djanggih. "Urgensi Peran Serta Masyarakat Dalam Upaya Pencegahan Dan Pemberantasan Tindak Pidana Korupsi." *Law Reform* 15, no. 1 (May 27, 2019): 85. <https://doi.org/10.14710/lr.v15i1.23356>.
- Faoziyah, Sitti. *Pembangunan Kawasan Industri Migas Berkonsep Sustainability*. Bandar Lampung: Pusaka Media, 2023.
- Harum, Vanessa Mathilde, and Gatot P. SOemartono. "Perlindungan Konsumen Dalam Transaksi Elektronik Kosmetik Tanpa Izin Edar." *JMPIS: Jurnal Manajemen Pendidikan Dan Ilmu Sosial* 5, no. 4 (2024). <https://doi.org/https://doi.org/10.38035/jmpis.v5i4>.
- J. Moleong, Lexy. *Metodologi Penelitian Kualitatif*. Bandung: PT Remaja Rosdakarya, 2017.
- Kokkinis, Andreas, and Konstantinos Sergakis. "Investor Personhood: The Case against Paternalism and Welfarism in Corporate Law." *Journal of Corporate Law Studies* 24, no. 1 (January 2, 2024): 97-136. <https://doi.org/10.1080/14735970.2024.2373463>.
- Lermatan, Petrus. "Utilitarianisme John Stuart Mill Dan Relevansinya Bagi Aktivitas Ekonomi (Perspektif Filsafat Ekonomi)." *Seri Mitra Refleksi Ilmiah-Pastoral* 3, no. 1 (2024).
- Madyasari, Arlupi Yulia, and Yuliani. "Tantangan Etika Dalam Bisnis Internasional Yang Penuh Persaingan Di Era Globalisasi." *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah* 15, no. 2 (2023). <https://doi.org/http://dx.doi.org/10.30863/aliqtishad.v15i2.5767>.
- Marzuki, Peter Mahmud. *Penelitian Hukum: Edisi Revisi*. Jakarta: Kencana, 2021.
- Masferrer, Aniceto. "The Decline of Freedom of Expression and Social Vulnerability in Western Democracy." *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique* 36, no. 4 (August 12, 2023): 1443-75. <https://doi.org/10.1007/s11196-023-09990-1>.
- Masrukhin. *Rekonstruksi Regulasi Tanggung Jawab Pelaku Usaha Dalam Rangka Mewujudkan Perlindungan Konsumen Yang Berbasis Nilai Keadilan*. Semarang: Universitas Islam Sultan Agung, 2023.
- Miftahuddin. *Dynamic Governance Pada Program Corporate Social Responsibility PT. Vale Indonesia Tbk Kabupaten Luwu Timur*. Makassar: Universitas Hasanuddin, 2022.
- Mu, Honglei, and Youngchan Lee. "Greenwashing in Corporate Social Responsibility: A Dual-Faceted Analysis of Its Impact on Employee Trust and Identification." *Sustainability* 15, no. 22 (November 7, 2023): 15693. <https://doi.org/10.3390/su152215693>.
- Muhaimin. *Metode Penelitian Hukum*. Mataram: Mataram University Press, 2020.
- Nugraha, Rizky Anandasigit. *Kebebasan Dan Paternalisme : Penilaian Terhadap Harm Principles John Stuart Mill*. Yogyakarta: Universitas Gadjah Mada, 2019.
- Priadin, Agus. *Pengaruh Pembangunan Manusia, Inflasi, Foreign Direct Investment Dan Kebebasan Ekonomi Terhadap Pertumbuhan Ekonomi (Studi Kasus 10 Negara Asean Periode 2013-2021)*. Yogyakarta: UIN Sunan Kalijaga, 2024.
- Purwadinata, Subhan, and Ridolof Wenand Batilmurik. *Perekonomian Indonesia: Persoalan Kebijakan, Isu Kontemporer Dan Globalisasi Pembangunan*. Malang: PT. Literasi Nusantara Abadi Grup, 2024.
- Purwati, Ani. *Metode Penelitian Hukum Teori Dan Praktek*. 1st ed. Surabaya: CV. Jakad Media Publishing, 2020. [http://eprints.uwp.ac.id/id/eprint/2819/1/Untitled buku bu ani.pdf](http://eprints.uwp.ac.id/id/eprint/2819/1/Untitled%20buku%20ani.pdf).

- Purwito, Edy. "Konsep Perlindungan Hukum Konsumen Dan Tanggung Jawab Hukum Pelaku Usaha Terhadap Produk Gula Pasir Kadaluarasa Di Kota Surabaya." *Jurnal Magister Ilmu Hukum* 13, no. 1 (June 30, 2023): 109–29. <https://doi.org/10.56943/dekrit.v13n1.152>.
- Rahmadhani, Desta Adinda, and . Sakirman. "Perlindungan Hak Konsumen Terhadap Maraknya Monopoli Bisnis." *Siyasah Jurnal Hukum Tatanegara* 2, no. 1 (June 23, 2022): 13. <https://doi.org/10.32332/siyasah.v2i1.5114>.
- Rina Ayu Vildayanti, Ravindra Safitra Hidayat, Muhamad Jusmansyah, Yugi Setyarko, and Agus Sriyanto. "Pengaruh Faktor Biaya, Faktor Pelayanan Dan Efektifitas Operasional Terhadap Performa Manajemen Logistik Perusahaan." *Jurnal Publikasi Ekonomi Dan Akuntansi* 4, no. 1 (January 9, 2024): 141–53. <https://doi.org/10.51903/jupea.v4i1.2286>.
- Rosmayati, Siti. "Tantangan Hukum Dan Peran Pemerintah Dalam Pembangunan E-Commerce." *Koalisi: Cooperative Journal* 3, no. 1 (2023). <https://doi.org/https://doi.org/10.32670/koalisi.v3i1.3641>.
- Rupang, Gregorius, and Carolus Borromeus Mulyatno. "Prinsip-Prinsip Teori John Locke Dan John Stuart Mill Terhadap Penyelesaian Kasus Korupsi Di Indonesia." *Proceedings of The National Conference on Indonesian Philosophy and Theology* 2, no. 2 (September 1, 2024): 322–36. <https://doi.org/10.24071/snf.v2i2.8503>.
- Rustandi, Rustandi, and RR Amanna Dzikirallah LAH. "Implikasi Hukum Bisnis Terhadap Praktik Etika Bisnis Di Indonesia." *Jurnal Bisnis Dan Kewirausahaan* 19, no. 2 (July 31, 2023): 163–72. <https://doi.org/10.31940/jbk.v19i2.163-172>.
- Setiadarma, Aan. "Etika Dalam Melakukan Kegiatan Corporate Social Responsibility (CSR)." *Ikon - Jurnal Ilmiah Ilmu Komunikasi* 26, no. 1 (2021).
- Sinaga, Niru Anita, and Tiberius Zaluchu. "Perlindungan Hukum Hak-Hak Pekerja Dalam Hubungan Ketenagakerjaan Di Indonesia." *Jurnal Teknologi Industri* 6, no. 2 (2017).
- Suci, Rahayu Puji. *Manajemen Internasional*. Malang: PT. Literasi Nusantara Abadi Grup, 2024.
- Sugiyono. "Metode Penelitian Kuantitatif, Kualitatif, Dan R&D." Bandung: CV. Alfabeta, 2019.
- Suhartoyo. "Perlindungan Hukum Mengenai Pengupahan Terhadap Pekerja/Buruh Dengan Perjanjian Kerja Waktu Tertentu." *Administrative Law & Governance Journal* 3, no. 3 (2020). <https://doi.org/https://doi.org/10.14710/alj.v3i3.494%20%20-%20503>.
- Taufiq, Muchamad. *Tantangan Hukum Tata Negara Dalam Pengaturan Pertambangan Di Era Globalisasi*. Kota Medan: PT Media Penerbit Indonesia, 2024.
- Wertheimer, Alan. "(Why) Should We Require Consent to Participation in Research?" *Journal of Law and the Biosciences* 1, no. 2 (June 1, 2014): 137–82. <https://doi.org/10.1093/jlb/lisu008>.
- Widijantoro, J., Y. Sari Murti Widiyastuti, and Th. Agung M. Harsiwi. *Pemetaan Masalah Perlindungan Konsumen Dalam Perspektif Konsumen Dan Pelaku Usaha*. Yogyakarta: Cahaya Atma Pustaka, 2020.
- Widodo, Agus. *Rekonstruksi Kebijakan Penataan Ruang Terbuka Hijau (Rth) Yang Berbasis Nilai Keadilan*. Semarang: Universitas Sultan Agung, 2021.