

THE REFLEXIVE LAW AND REFORMULATION OF CORPORATE SOCIAL RESPONSIBILITY REGULATION IN INDONESIA

Ratna Artha Windari, Universitas Indonesia
Yetty Komalasari Dewi, Universitas Indonesia
Andri Gunawan Wibisana, Universitas Indonesia

ABSTRACT

Although the provisions of Corporate Social Responsibility (CSR) in Indonesia have been enforced since 2007 through Law Number 40 of 2007 on Limited Liability Companies, the results of previous research suggest that the implementation of CSR in Indonesia is relatively lower than other ASEAN Countries. This condition indicates that there are problems in the regulation of CSR in Indonesia. This study aims to evaluate CSR regulation in correlation to leverage the implementation of CSR in textile and garment manufacturing companies and reviewing the concept of self-regulation which is the application of reflexive law theory as an alternative for reformulating CSR regulation in Indonesia. This paper started by discussing the regulation of CSR in Indonesia, lack of disclosure of CSR in textile and garment manufacturing companies, evaluating mandatory CSR regulation, and formulating of CSR regulation using the concept of self-regulation through comparisons from Australia. This paper is a doctrinal with a comparative and conceptual approach. Reflexive law is a middle way for the dilemma of CSR regulation in Indonesia, where companies are given the obligation to regulate themselves in giving a role, especially for environmental issues that arise from the activities of textile and garment companies in Indonesia.

Keywords: Reflexive Law, Reformulating, CSR, Indonesia.

INTRODUCTION

Corporate Social Responsibility (CSR) and how it is regulated are widely discussed, and has created reactions both pro and cons since the beginning of the idea of CSR forward by Bowen in 2013. In its progress, several countries have developed CSR which were originally voluntary changes to the mandatory through legislation. Mandatory CSR regulation is seen by several countries as an indicator of state concern for various social and environmental issues. Indonesia is one of the countries that adopt a policy to regulate CSR on a mandatory basis through various regulations. One of the rules that guide CSR mandatory in Indonesia is Law Number 40 of 2007 on Limited Liability Companies (Law on Limited Liability Companies). Based on Elucidation of Law on Limited Liability Companies, Environmental and Social Responsibility aimed at creating sustainable economic development in order to improve the quality of life and environment. This provision also intended to support the company relationship which are harmonious, balanced and in accordance with the environment, values, norms and culture of the local community. Mandatory regulation of CSR is motivated by increasing social

and environmental issues, especially in the context of decreasing environmental quality as a result of irresponsible business activities and ignoring environmental aspects. Company's obligation to implement CSR is stated in article 74 which confirms that companies whose business activities are in the field of and/or related to natural resources must put into practice Environmental and Social Responsibility. The evidence that companies doing transparency to the public regarding the implementation of article 74 are required to report their CSR activities in Companies' annual reports as stated in article 66 para (2) point c. Although provisions regarding CSR have been regulated in article 66 and article 74, also the violation of this regulation will be liable to sanctions as stated in article 74 para 3 and article 146 para 1 point a which is state that District Court can dissolve the company upon the request from prosecutor based on the reason that the company has violated the public interest or the company has committed an action that which violating the regulation, in fact, there are still many companies that do not report CSR activities in annual reports. In addition, since the Law on Limited Liability Companies enacted until now there has never been dissolution of company due to neglect these rules. This indicates the weakness of law enforcement regarding the implementation of CSR mandatory in Indonesia.

One of the companies that are considered to have business activities with a very significant impact on deteriorating environmental conditions is textile and Garment Company. Fact findings that prove this statement is the results of Greenpeace's observations and investigations into the high content of hazardous waste and toxic compounds in the Citarum River due to the disposal of textile industry waste. From existing data, 84% of water pollution caused by industrial waste comes from the textile industry. Even Citarum River has been named as the dirties river in the world by the World Bank in 2018. This report confirms that Indonesia is deemed to have failed to provide regulations that protecting the spread of pollution from the activities of textile and garment industry.

In this article, I argue that mandatory CSR in Indonesia must be contextually analyzed. The analysis is carried out by identifying various problems that cause weak CSR regulation in the Law on Limited Liability Companies. Evaluation shows as a mandatory conduct, the Law on Limited Liability Companies is considered incomplete because it lacks of sanction. Also, in Government Regulation Number 47 of 2012 as implementing regulation, there is no procedure stipulated to guide and supervise the implementation of company CSR program, CSR planning and reporting. Therefore, evaluate CSR regulation in correlation to leverage the implementation of CSR in textile and garment manufacturing companies is very important to do, considering that most of CSR programs do not have a significant impact on improving environmental quality. In fact, there are still many programs that should be a company's obligation as listed in the Environmental Document instead are included as company's CSR program which is stated in the Annual Report. With all weakness and ineffectiveness of CSR regulation in Indonesia, I argue that there is a need to reformulate CSR rules especially reformulation on CSR in Law on Limited Liability Companies. Reformulation on CSR as arranged in Article 74 Law on Limited Liability Companies directs to content change or formulation change which involves the duties of company in running the activities in the natural resources field to do social responsibility and environment, by reviewing the concept of self-regulation which is the application of reflexive law theory as an alternative for reformulating CSR regulation in Indonesia. I also suggest that the self-regulation referred to this study is not in its capacity to negate the role of the state in regulating CSR or deregulation on CSR in Indonesia which is command and control in nature,

but rather emphasizes strengthening existing regulations by using self-regulation as categorization in Gunningham's smart regulation.

The article is structured as follows. It begins with an overview of the regulation of CSR in Indonesia. It provides some of the rules which set CSR both written and implied and evaluate mandatory CSR regulation in Indonesia. Next, the article examines lack of disclosure of CSR in textile and garment manufacturing companies based on recapitulation of the disclosure of the annual reports of textile and garment companies listed on the Indonesia Stock Exchange. The evaluation is focused on mandatory CSR regulation which shows that there are still many problems in its implementation and an analysis of the low level of CSR disclosure by textile and garment companies in Indonesia leads this article to explore how to reformulate of CSR regulation using the concept of self-regulation which is assumed to be a middle ground for CSR regulation, through comparisons from Australia as a country that is seen as successful in improving corporate sustainability reporting.

Regulations of Corporate Social Responsibility in Indonesia

Corporate social Responsibility (CSR) as a company responsibility appeared firstly in the study of Bowen in 2013 who stated that company has direct impact on the life's quality of company itself, stockholders, workers, and consumers, included in the economy system and a country's policy making. This obligates the company to do the responsibility not only to the stockholders but also to society (Greenpeace International, 2013). The idea of giving more responsibility to the company through CSR has created reactions both pro and cons (Bowen, 2013). One of those who strengthen Bowen's idea is Davis (1960) in his study as cited below: *"Social responsibility will tend to equate with social power, which means that avoidance of responsibilities as they develop will lead to loss of business power."*

Davis (1960) stated that the reasons why company should do CSR is because the company has strong position in society (social power) especially related to vision and business potential as one of indicators in government policy making on the workers' rights, inflation, business competition, and other policy which has significant effect on the wealth of community around. In David's idea, in order to create sustainability of the business, the social power of company should be balanced with social responsibility.

However, what becomes the base of company applies social responsibility as seen by Bowen and other experts gains criticism from Friedman who firmly refuses the idea of social responsibility as part of responsibility that must be done by company. In Friedman's view, the only company's responsibility is to run business through profit-oriented view, for the sake of stock holder (Davis, 1960). In line with Friedman (2002), Coelho et al. (2003) in his writing elaborates that company is a business that is formed with consideration and belief of the company to gain more profit so that the social responsibility is not in line with the business paradigm because it impacted on the less profit gained (Friedman, 2002).

Apart from all the debates appeared around CSR, the deep discussion on CSR has been rising in many international conferences, especially environmental issues which have been the priority of many countries. Though many conferences discussed environmental issue have been conducted since 1972 through Stockholm Declaration of the United Nations Conference on the Human environment (Coelho et al., 2003), but international conference which becomes the foundation of CSR to be accepted and applied in many countries is United Nations Conference

on Environment and Development (UNCED), which was held in Rio de Janeiro in 1992, focusing on sustainable development and social responsibility not only by a country but also by everyone (Sands & Galizziet, 1972). The feedback of the conference is the Johannesburg conference in 2002 which produces commitment on social responsibility as follows “...to build a humane, equitable and caring global society cognizant of the need for human dignity for all, and a responsibility for the greater community of life and to our children (Porras, 1992).”

Through this commitment of Organization for Economic Cooperation and Development (OECD) has made a policy in the form of guidelines for Multinational Enterprises (The OECD Guidelines) and International Organization for Standardization (ISO) 26000 about Guidance on social responsibility as a foundation of a company in doing CSR (Opschoor, 2003). Many principles and social responsibility standard involved in The OECD Guidelines and ISO 26000 is recognized as the business guidelines which are responsible. It has been applied as non-mandatory/voluntary in many countries such as England, Netherlands, France, Germany, USA, and other countries.

Different from Indonesia which applied CSR as mandatory. At least some of the rules which set CSR both written and implied, with different terms as mapped in the Table 1 below:

Table 1 CSR REGULATION MAPPING IN INDONESIA			
No.	Regulation	Term	Provision
1.	Law Number 22 of 2001 on Oil and Natural Gas	Development of Surrounding Communities and Guaranteeing the Rights of Indigenous Peoples	Article 11 para. (3) point p: The Cooperation Contract must contain at least the main provisions, namely the development of surrounding communities and guaranteeing the rights of indigenous peoples. Article 40 para. (5): Business Entities or Permanent Establishments that carry out Oil and Gas business activities are responsible for developing the environment and local communities.
2.	Law Number 19 of 2003 on State-Owned Enterprises (hereinafter, Law on State-Owned Enterprises)	Partnership and Community Development Program	Article 2 para. (1) point e: Purposes and objectives of the establishment of State-Owned Enterprises are to be actively involved in providing guidance and social welfare benefit to lower economic class entrepreneurs, cooperative and the public. Article 88 para. (1): State-Owned Enterprises may set aside a part of their net profits for assisting small-scale businesses/cooperatives and society development in the surrounding of State-Owned Enterprises.
3.	Law Number 25 of 2007 on Investment (Hereinafter, Law on Investment)	Company's Social Liability	Article 15 point b: Every investor is required to implement the company's social liability.
4.	Law Number 40 of 2007 on Limited Liability Companies (Hereinafter, Law on Limited Liability Companies)	Social and Environmental Responsibilities	Article 66 para (2) point c: The annual report shall contain at least a report on the implementation of Corporate Social and Environmental Responsibility. Article 74 para. (1): A Company that conducts business activities in the field of and/or related to natural resources must implement Social and Environmental Responsibilities.
	Government Regulation Number 47 of 2012 on Social and		Article 4 para. (1): Social and environmental responsibility is carried out by the Board of Directors based on the Company's annual work plan after

	Environmental Responsibility of Limited Liability Companies		obtaining approval from the Board of Commissioners or RUPS, unless otherwise stipulated in the laws and regulations.
5.	Law Number 4 of 2009 on Mineral and Coal Mining Jo. Law Number 3 of 2020 on Mineral and Coal Mining	Community Development and Empowerment Programs	Article 108 para. (1): Mining Permit holders and Special Mining Permit holders must prepare community development and empowerment programs.
	Government Regulation Number 96 of 2021 on Operation of Mineral and Coal Mining Business		Article 181: Mining Permit holders and Special Mining Permit holders must submit a report on the realization of community development and empowerment programs to the Minister.
6.	Law Number 32 of 2009 on Environmental Protection and Management	Environmental Protection and Management	Article 68: Everyone who carries out a business and/or activity is obliged to: Provide information related to environmental protection and management in a correct, accurate, open and timely manner; Maintain the sustainability of environmental functions; and Comply with the provisions on environmental quality standards and/or standards criteria for environmental damage.
7.	Law Number 13 of 2011 on Handling of the Poor and Needy	Corporate Social Responsibility	Article 41 para. (3): Company participates in providing community development funds as a manifestation of social responsibility towards handling the poor.
8.	Law Number 21 of 2014 on Geothermal Energy	Corporate Social Responsibility and/or Local Community Development	Article 65 para. (2) point b: During the operation of Geothermal administration, the public is entitled to obtain benefit from the Geothermal business activity through the obligation of company to meet corporate social responsibility and/or local community development.

The data were analyzed by authors from several sources. This Table 1 describes various laws and regulations in Indonesia that contain provisions on CSR. Based on the authors' identification, although it is written in different terms, it is in accordance with the CSR aspects such as social and/or environmental aspects.

Based on Table 1, at first CSR in Indonesia was not regulated for companies in general, but rather for certain business that are considered to have a major impact on social and environmental such as oil and natural gas companies using term "*Development of Surrounding Communities and Guaranteeing the Rights of Indigenous Peoples*" as regulated in Law Number 22 of 2001 on Oil and Natural Gas. Until in 2007, Indonesia issues Law Number 40 of 2007 on Limited Liability Companies which puts the CSR provisions in several articles by the term of "*Social and Environmental Responsibility*". Referred to article 74 para. (1) Law on Limited Liability Companies, not all companies is required to do CSR. Only companies that conducts business activities in the field of and/or related to natural resources must implement Social and Environmental Responsibilities (Idowu, 2019). The rules above have been passed down to some policies such as Ministerial Regulation of State-Owned Enterprises Number: Per-05/MBU/2007 on Partnership Program with Small-Scale Businesses and Society Development in article 2 para. (1) Emphasizes the obligation for Public Corporation (Perusahaan Umum/Perum) and State-Owned Limited Liability Company (Perusahaan Perseroan/Persero) to carry out the Partnership

Program and Community Development Program. This rule is aimed at explaining the CSR program which is written in Law on State-Owned Enterprises. Also there is a Financial Services Authority Regulation Number 51/POJK.03/2017 on Implementation of Sustainable Finance for Financial Service Institutions, Issuers, and Public Companies which more focuses on the use of CSR to support the sustainable finance activity and announce them to the society through Sustainability Report in which concerns on economy, finance, social, and environment. From environmental side, the Ministry of Environment also makes policy through Ministerial Regulation of Environment and Forestry Number 3 of 2014 on Program for Pollution Control Evaluation and Rating (also known as Public Disclosure Program for Environmental Compliance/PROPER), which was repealed by Ministerial Regulation of Environment and Forestry Number 1 of 2021. This policy is a form of work evaluation of company or business which focuses on environment management, in which the activity done has created a change of environment state and has impact on environment.

In some CSR regulations, there is also a rule of penalty as stated in article 34 Law on State-Owned Enterprises which have administrative penalty and other penalty as rules suggest. Administrative penalty is in form of written warning, limitation of business, closure of business activity and/or investment facility or penalty of the closure of company and/or investment facility. Different from Law on State-Owned Enterprises, in Law on Limited Liability Companies the penalty on the responsibility of CSR avoidance and CSR annual report is not stated explicitly. Meanwhile, company who is not carrying out social and environmental responsibilities as stipulated in article 3 Government Regulation Number 47 of 2012 will be penalized in accordance with the provisions of the legislation. Penalty is just set generally in the article 146 para. (1) point at which stated that the Official Court can diminish Company based on prosecutor's consideration based on the Company's violation of public needs or Company violation of law. The Law on Limited Liability Companies as well as Government Regulation on CSR does not regulate the kind of sanction that will be imposed to the companies who does not conduct CSR.

When voluntary CSR has been set at The OECD Guidelines and ISO 26000 now changed to mandatory by Indonesian government through laws and explicitly stated in the Article 74 Law on Limited Liability Companies this has created many reactions from company by the judicial review. The Applicant claimed that Article 74 Law on Limited Liability Companies has violated the 1945 Constitution of The Republic of Indonesia (hereinafter, 1945 Constitution), that is Article 28 D para. (1), Article 28 I para. (2), and Article 33 para. (4). The formal review has been applied about the Article 74 Law on Limited Liability Companies which is seen violated Article 22A 1945 Constitution juncto article 5-point c and e Law Number 10 of 2004 on Making Rules, in which inside the application is stated below:

1. The formulation of article 74 Law No. 40 and its explanation is not supported by Academic Manuscript;
2. The formulation of Article 74 and its explanation about environmental and social responsibility which is considered material based has been inserted without clear foundation on Law No.40 which arranges on the formulation mechanism of Limited Liability Companies (formal law), so there is no appropriateness between types and material of law *a quo* (violates the law of appropriateness of types and material);
3. Article 74 Law No.40 about environmental and social responsibility, in the formulation process has put aside the formulation of laws, namely the functional foundation and effectiveness foundation.

Although all reason of judicial review application has been stated by the Applicant, but Constitutional Court has decided to refuse the material testing application for all. One of the court considerations is that Country, society, and company which works on exploitation and natural resources works should be responsible morally and follow the law as it created bad impacts on the environment, as it is stated in point 3.18 letter e Court Argument in the Constitutional Court Decision Number 53/PUU-VI/2008 on Judicial Review of Law No.40 to 1945 Constitution of The Republic of Indonesia.

Apart from the condition that every country has freedom of policy making in law, but evaluation is still needed in reviewing the law. In the context of arrangement and CSR implementation in Indonesia, Law on Limited Liability Companies as rule which explicitly stated the duties of CSR for company in Indonesia should be evaluated. Some research showed that although the CSR arrangement in Law on Limited Liability Companies has been enacted in 2007, but many company still did not report their CSR activity in their annual report as suggested by article 66 para. (2) point c. Centre for Governance, Institutions, and Organizations National University of Singapore (NUS) in its research suggests the low level of CSR implementation in Indonesia regarding economic, environment and social (EES) compared to ASEAN countries such as Singapore, Thailand, Philippine, and Malaysia. Also research done by Apriliawati and Hariyanto about CSR reveal before and after implementation of article 74 Law on Limited Liability Companies, which tells that 151 population of manufactures company listed in (Bursa Efek Indonesia/BEI) only 30 company (19.87%) has annual report and complete data on the economic, environment, and social variables as a measurement of CSR implementation in that company. As a mandatory conduct, the Law on Limited Liability is considered incomplete because it lacks of sanction (Apriliawati & Hariyanto, 2016). Also in Government Regulation Number 47 of 2012 as implementing regulation, there is no procedure stipulated to guide and supervise the implementation of company CSR program, CSR planning and reporting.

Disclosure of Corporate Social Responsibility in Textile and Garment Manufacturing Companies

One of industry sectors which the work is not on natural resources but has CSR responsibility as its impact on environment according to Article 74 Law on Limited Liability Companies is textile and garment manufacturing companies (Andrini, 2016). In 2019, Indonesia is the base of the biggest manufacture industry in ASEAN with 20.27% on the economic national scale. The value added of manufacturing (MVA) for Indonesian manufacture industry is on the top among ASEAN countries with 4.5% level of achievement. While globally Indonesian manufacture is on the 9th level from all countries in the world. According to statistics board (Badan Pusat Statistik/BPS) the growth of big and medium manufacture industry improved significantly in 2019 that is 4.01% compared to 2018, however it slows down to -2.93% in 2020 as covid-19 pandemic impact. In 2021, manufacture industry grows back to 3.39%. There are 193 manufacture company listed in Indonesia Stock Exchange (Bursa Efek Indonesia/BEI), 38.46% one of which is textile and garment Subsector Company around 20 companies. Referred to article 66 para. (1) point c Law on Limited Liability Companies and Financial Services Authority Regulation Number 51/POJK.03/2017 on Implementation of Sustainable Finance for Financial Service Institutions, Issuers, and Public Companies, so the company of textile and

garment subsector manufacture listed in BEI must make annual report accessible to the public (Bowen, 2013).

In 2022, there are 20 textile and garment manufacture company listed in BEI. The identification result for 2018-2021 show that not all companies disclose the company's annual report. The reveal of annual report from 2018 to 2021 as suggested in Law on Limited Liability Companies has not been implemented as proven by the percentage below 100%. Even in 2021, rate of Annual Report Disclosure is 0%. If refer to article 146 para. (1) point a about penalty in the form of company dismissal, since the implementation of Law on Limited Liability Companies in 2007, there is no company dismissal until now as the impact of not opening annual report to public.

The annual report as ruled by article 66 Para (1) was stated by the Director to Stock Board (Rapat Umum Pemegang Saham/RUPS) at least 6 months after year book of company ended. Later in Para (2) it was ruled that the content of annual report should be consisted of finance report, company activity, social and environment responsibility, problems faced which affected the company, report on problems in year book which impacted the company, and the monitoring report which was done by the board of commissioner on the year, name of the directors, and fee or honorarium and allowance for the commissioner board for the year. Based on the data of textile and garment company annual report as seen in Table 2 all annual report has stated CSR report. There are many activities of CSR which is reported differently along with the program planning and funding planning of CSR in each company.

Table 2 LIST OF ANNUAL REPORT DISCLOSURE OF TEXTILE AND GARMENT MANUFACTURING COMPANIES							
No.	Stock Code	Issuer Name	IPO Date	Annual Report			
				2018	2019	2020	2021
1	ARGO	Argo Pantes Tbk	07-Jan-91	v	v	-	-
2	BELL	Trisula Textile Industries Tbk	03-Oct-17	v	v	v	-
3	CNTX	Century Textile Industri Tbk	22-May-79	v	-	v	-
4	ERTX	Eratex Djaya Tbk	21-Aug-90	v	v	v	-
5	ESTI	Ever Shine Tex Tbk	13-Oct-92	v	v	v	-
6	HDTX	Panasia Indo Resources Tbk	06-Jun-90	v	v	v	-
7	INDR	Indo-Rama Synthetic Tbk	03-Aug-90	v	v	v	-
8	MYTX	Asia Pasific Investama Tbk	10-Oct-89	v	v	v	-
9	PBRX	Pan Brothers Tbk	16-Aug-90	v	v	v	-
10	POLU	Golden Flower Tbk	26-Jun-19	-	v	v	-
11	POLY	Asia Pasific Fibers Tbk	12-Mar-91	v	v	v	-
12	RICY	Ricky Putra Globalindo Tbk	22-Jun-98	v	v	v	-
13	SRIL	Sri Rejeki Isman Tbk	17-Jun-13	v	v	v	-
14	SSTM	Sunson Textile Manufacturer Tbk	20-Aug-97	v	v	v	-
15	SBAT	PT. Sejahtera Bintang Abadi Textile Tbk.	08-Apr-20	-	v	v	-
16	TFCO	Tifico Fiber Indonesia Tbk	26-Feb-80	v	v	-	-
17	TRIS	Trisula International Tbk	28-Jun-12	v	v	v	-
18	UCID	Uni-Charm Indonesia Tbk	20-Dec-19	-	v	v	-
19	UNIT	Nusantara Inti Corpora Tbk	18-Apr-02	v	v	-	-
20	ZONE	Mega Perintis Tbk	12-Dec-18	v	v	v	-
Annual Report Disclosure Rate				85%	95%	85%	0%

This data is result of the recapitulation of the disclosure of the annual reports of textile and garment companies listed on the Indonesia Stock Exchange.

From 20 textile and garment manufacture company listed in BEI, there are 35% located in Bandung. The fast growth of textile and garment industry in Bandung (Bandung city, Bandung regency, and West Bandung regency) has impact on the lower quality of environment which can be felt through pollution indicator such as strong smell and thick black color channeled to the river. Greenpeace from observation and investigation in four locations of estuary where one of the biggest textile companies runs its activity found the water pollution in brown color and foamed from the main disposal pipe and the high level of dangerous substance and deadly chemical in Citarum River as impact of the textile waste (Komarawidjaja, 2016). Other research is also done by Septiono and Roosmini which identify (cadmium (Cd), chromium (Cr), copper (Cu)) on water, sediment and fish as impact of textile industry. The high risk caused by the textile and garment on environment quality should be considered seriously by the company as business owner. One of the responsibilities to prevent and lower the impact of the industry is by doing CSR as obliged by Law on Limited Liability Companies and must make CSR report accessible to public as arranged in Article 66 Law on Limited Liability Companies.

Data on CSR Activities of Textile and Garment Companies in the Bandung area listed on the BEI based on the Annual Report describes that most of the CSR activities which was reported in annual report often repeated from year to year and only to copy paste from previous report. The program is more focused on community development while environment CSR is still limited and more directed to donation as clean water donation. If we look backwards the water quality before the growth of industry is normal and there is no lack of clean water for the society around. Therefore company should develop programs of CSR which was more focused on the quality improvement of environment which involves management of environment and sustainable environment such as environment board, board of Citarum Harum, non-government organization in environment and society. Unfortunately, both Law on Limited Liability Companies and Government Regulation No. 47 did not state specifically CSR programs that company must have. Therefore, in designing CSR programs Ministry of Environment of Indonesia creates a guideline for companies by the 2011 Guideline on Corporate Environmental and Social Responsibility which aims to provide guidance and inspiration for company in carrying out CSR programs, especially in environmental aspect (Dewi & Jayadi, 2018). However, based on the analysis of CSR activities in Table 3 there are still many companies that did not follow the 2011 Guideline on Corporate Environmental and Social Responsibility. Aside from the programs that do not have significant impact on environment, as data of CSR annual report suggest as seen in Table 3 there is also no program arranged for the better quality of environment which was impacted by company activity. In addition, for annual reporting mandatory that stated in Article 66 Law on Limited Liability Companies, the potential sanctions resulting from non-disclosure are not usually clearly postulated.

Table 3 DATA ON CSR ACTIVITIES OF TEXTILE AND GARMENT COMPANIES IN THE BANDUNG AREA LISTED ON THE IDX BASED ON THE ANNUAL REPORT				
No.	Issuer Name/Stock Code	CSR Activities		
		2018	2019	2020

1.	Trisula Textile Industries Tbk/BELL	1. Responsibility toward the Environment: use of environment-friendly and recycled material and energy, greening and seepage pits, managing the nonorganic garbage, waste management system, environmental complaint mechanism, environmental certification.	1. Responsibility toward the Environment: use of environment-friendly and recycled material and energy, greening and seepage pits, managing the nonorganic garbage, waste management system, environmental complaint mechanism, environmental certification.	1. Responsibility toward the Environment: use of environment-friendly and recycled material and energy, greening and seepage pits, managing the nonorganic garbage, waste management system, water utilization, electronic documentation, environmental certification, environmental complaint mechanism.
		2. Responsibility toward Employment, Occupational Health and Safety: gender equality and job opportunities, education and training, employee's remunerations and facilities, safety, complaint mechanism on employment issues.	2. Responsibility toward Employment, Occupational Safety and Health: gender equality and job opportunities, education and training, employee's remunerations and facilities, safety, complaint mechanism on employment issues.	2. Responsibility toward Employment, Occupational Safety and Health: gender equality and job opportunities, education and training, employee's remunerations and facilities, safety, complaint mechanism on employment issues.
		3. Responsibility toward Social and Community Development: use of local workers, educate community on garbage and education development, improvement of social infrastructure facilities, blood donors, provided clean water, donation to mosques around company, donation to orphanage, and other donations.	3. Responsibility toward Social and Community Development: use of local workers, providing education to surrounding community, cooperating with related institution such as developing competency of vocational high school, sewing training, providing anti-drug education, collaboration with Industrial Training Center, collaboration with sector 21 Citarum Harum Task Force, blood donors, providing nutrition at Posyandu and health checks for the elderly, repair of social facilities and infrastructures and other donations.	3. Responsibility toward Social and Community Development: use of local workers, providing education to surrounding community, cooperating with related institution such as developing competency of vocational high school, sewing training, providing anti-drug education, collaboration with Industrial Training Center, collaboration with sector 21 Citarum Harum Task Force, blood donors, providing nutrition at Posyandu and health checks for the elderly, repair of social facilities and infrastructures and other donations.
		4. Responsibility toward Consumers: consumers health and safety in using the company's products, provided product information, consumer complaint handling.	4. Responsibility toward Consumers: consumers health and safety in using the company's products, provided product information, consumer complaint handling.	4. Responsibility toward Consumers: consumers health and safety in using the company's products, provided product information, consumer complaint handling.
2	Panasia Indo Resources Tbk/HDTX	1. Environmental: monitored ambient air quality and noise, stack emissions and surface water quality.	1. Environmental: monitored ambient air quality and noise, stack emissions and surface water quality.	1. Environmental: use environmentally friendly materials and can be recycled easily without a waste treatment system.
		2. Labor, Health and Safety: equality of remuneration provides employment grievance mechanism.	2. Labor, Health and Safety: equality of remuneration provides employment grievance mechanism.	2. Labor, Health and Safety: implement gender equality and remuneration, provides adequate work and safety facilities, conduct training especially for new workers, and provides an employment complaint mechanism.

		3. Social and Community Development: prioritize local employment and empowerment of local community, provide clean water and improved infrastructure.	3. Social and Community Development: prioritize local employment and empowerment of local community, provide clean water and improved infrastructure.	3. Social and Community Development: prioritize local employment and empowerment of local community, donation programs for community activities around the factory.
		4. Product Responsibility: company has a Unit After Sales and Technical (ASTS) which handles customer complaints.	4. Product Responsibility: company has a Unit After Sales and Technical (ASTS) which handles customer complaints.	4. Product Responsibility: company has a complaint channel for product sold.
3	Indo-Rama Synthetic Tbk/INDR	1. Community Development: promote gender equality, empower the local workforce, supporting various national festivals, orphanage activities, renovation and developing the religious places, supporting NGO activities, village development by providing materials, tree plantation, clean water, electric lighting, road repair.	1. Community Development: promote gender equality, empower the local workforce, supporting various national festivals, orphanage activities, renovation and developing the religious places, supporting NGO activities, village development by providing materials, tree plantation, clean water, electric lighting, road repair.	1. Community Development: promote gender equality, empower the local workforce, supporting various national festivals, orphanage activities, renovation and developing the religious places, supporting NGO activities, village development by providing materials, tree plantation, clean water, electric lighting, road repair.
		2. Education: providing scholarship and supporting schools and institutions, launched Politeknik Engineering Indorama (PEI),	2. Education: providing scholarship and supporting schools and institutions, launched Politeknik Engineering Indorama (PEI),	2. Education: providing scholarship and supporting schools and institutions, launched Politeknik Engineering Indorama (PEI),
		3. Healthcare: supporting for free monthly medical check-up for poor families, distributing milk and food for communities, engaged in medical examination and medicines for communities, employee's health and safety programme	3. Healthcare: supporting for free monthly medical check-up for poor families, distributing milk and food for communities, engaged in medical examination and medicines for communities, employee's health and safety programme	3. Healthcare: supporting for free monthly medical check-up for poor families, distributing milk and food for communities, engaged in medical examination and medicines for communities, employee's health and safety programme.
		4. Environment: optimize energy usage, recycle water, reduce discharge and wastage, develop environmentally friendly product, implementing 3R principle (reduction, reuse, and recycling) for good waste management.	4. Environment: optimize energy usage, recycle water, reduce discharge and wastage, develop environmentally friendly product, implementing 3R principle (reduction, reuse, and recycling) for good waste management.	4. Environment: optimize energy usage, recycle water, reduce discharge and wastage, develop environmentally friendly product, implementing 3R principle (reduction, reuse, and recycling) for good waste management.
4	Sunson Textile Manufacturer Tbk/SSTM	1. For employees: provides sports facilities, clinics, places of worship, cooperatives, and emergency loans.	1. For employees: provides sports facilities, clinics, places of worship, cooperatives, and emergency loans.	1. For employees: provides sports facilities, clinics, places of worship, cooperatives, and emergency loans.
		2. For community: provide clean water, mass circumcisions, involving residents in securing factories, the company's rice paddy production sharing program, selling factory waste to the community, food distribution programs for poor people.	2. For community: provide clean water, mass circumcisions, involving residents in securing factories, the company's rice paddy production sharing program, selling factory waste to the community, food distribution programs for poor people.	2. For community: provide clean water, mass circumcisions, involving residents in securing factories, the company's rice paddy production sharing program, selling factory waste to the community, food distribution programs for poor people.

5	PT. Sejahtera Bintang Abadi Textile Tbk/SBAT	-	1. Environmental: cares for the earth program, nature conservation education program for students, carry out liquid waste and B3 waste processing.	1. Environmental: producing with the concept of recycling, carry out liquid waste and B3 waste processing.
			2. Social and Economic: student care programs in MTS in the form of stationery supplies, and educational games to stimulate and create a generation full of enthusiasm, positive, and quality.	2. Social and Economic: absorbing human resources in surrounding area, repaired public facilities include a toilet renovation program, repair of ablution places in Al Ragas Mosque.
			3. Manpower, Occupational Health and Safety: gender equality and job opportunities, openly employee recruitment and turnover by involving third parties.	3. Manpower, Occupational Health and Safety: gender equality and job opportunities, openly employee recruitment and turnover by involving third parties.

The data in this Table 3 is result of identification of CSR activities as stated in the Company's Annual Report.

Reflexive Law and Reformulation of Corporate Social Responsibility Regulation in Indonesia

The arrangement of CSR in Law on Limited Liability Companies has been regulated by Government Regulation No. 47 about social responsibility and environment which in principle there is a law need in the society as to strengthen CSR has been arranged in Law on Limited Liability Companies. Seeing both regulations above in the inseparable rules it is stated that one of the goals of mandatory CSR is to raise awareness of company to apply CSR. Based on that issue, some researches have been done to know how far regulation can be applied effectively in society. Hidayat in his research found that there is asynchronization on CSR regulation in Indonesia and analysis result from this asynchronization has impacted on the ineffectiveness of CSR implementation on society and the different perspective appeared on CSR term which indicated that CSR has not implemented in sustainable and effective way.

That condition indicated that there is a problem on implementation of CSR in the field that has impacted the problems in real work. When problems happen in implementation of regulation, Teubner in his study used reflexive law as potential solution to overcome the problem as a new theory in the process of law and social change. In principles there is an explanation as follows: Reflexive law is characterized by a new kind of legal self-restraint. Instead of taking over regulatory responsibility for the outcome of social processes, reflexive law restricts itself to the installation, correction, and redefinition of democratic self-regulatory mechanisms.

The main idea of Teubner theory is that the regulation policy on social activity is possible and effective if the company is directed to do self-regulation. The theory of reflexive law will be directed to procedural law and therefore called as self-regulation.

Self-regulation is a variation of instrument in policy making and usually used in all formulation of social issues in America and Europe and becomes the alternative of regulation as direct regulation from government (Hess, 1999). There is a regulation system that is different in the context of corporate regulation which is categorized into three namely public regulation, self-regulation, and co-regulation. Public regulation is more like a traditional form of regulation

where public authorities form relevant laws to apply rules, monitor the obedience and take penalty as a law implementation. In this system, country holds a main responsibility to implement the rules. Different from public regulation, self-regulation is a condition where individual or company act together to do the self- management of themselves and other party that receive their authority. In the perspective of corporate regulation, self-regulation is seen as a process in which the process who is the subject of management does their own control to internal work to keep the stability, and consistent through regulation mechanism which is related each other. This means the self-regulation is the business rules that are done practically and monitored by profession guild. While co-regulation in broad definition is a rule resulted from cooperation among public authority/government with civil society which is designed to achieve the government goals. The co-regulation scheme unites elements of self-regulation, self-monitoring and traditional public regulation strategies.

The practice of CSR in every country is different suitable to culture and regulation scheme, also the evaluation on CSR activity covers many aspects from environment policy, ethics, and social. Several factors that lead to the choice of self-regulation are (i) so many regulations make a very detailed rule which makes less productive condition; (ii) the high level of intervention from government and the refusal from many multinational company which causes direct regulation is not interesting politically and economically. Although self-regulation is a concept where company rules itself and actions, group or organization rules their behavior rules and standards (codes of practice), Rees in Gunningham stated that there are some categories in the government involvement toward self-regulation which is founded by company, such as:

1. Voluntary or total self-regulation. Company decides codes of practice, the rules and other mechanism to manage itself without government intervention.
2. Mandated self-regulation. Government involved directly by obliging the company to take control on business action but in the monitoring and implementing, they should obey the law; and
3. Mandatory partial self-regulation. Company is responsible for some of the rules and their enforcement, but for main rules or urgent rules follow what is mandated by the state.

There are some countries that applied self-regulation in CSR, one of them is Australia. In Australia, CSR has been implemented as a government agenda in the context of cross cooperation with business community to support social service. One of important components of CSR which dominates understanding and implementation of CSR in Australia is Corporate Community Involvement (CCI). Implementation of CCI mechanism in the CSR practice can be seen from flexibility of company in choosing the financial investment of philanthropy to support local community or can also be investment strategy such as development of market share improvement, or can be both. Whatever the choice taken by company has impact both short term and long term. Based on The World Business Council for Sustainable Development (WBCSD), the Commission on the European Communities and the Australian Parliamentary Joint Committee on Corporations and Financial Services indicated that CSR is not only temporary or momentary issue, but also permanent issue which is strategically should be inserted in the policies and companies' programs.

Self-regulation strategic choice which can be adopted by government as stated in The Australian Guide to Regulation, to overcome problem of rule implementation which belongs to public regulation. CSR regulation in Australia focuses more on the soft law which in The Australian Guide to Regulation termed as light touch regulation. One of basic rules issued by

Australia government related to company report mechanism on CSR is The Corporations Act 2001. There are two special sections namely Section 1013D (1) of the Act imposes obligations on superannuation, life insurance and managed funds to disclose the extent to which they take account of environmental, social, labor and ethical standards in their investment decisions, and Section 299 (1) requires companies to include within their annual report details of breaches of environmental laws and licenses. Both becomes the foundation of guidelines issued by Australian Securities & Investments Commission (ASIC) to product issuers for disclosure about labor standards or environmental, social and ethical consideration in Product Disclosure Statements. Other responsibilities as impact of Corporation Act towards company in Australia is closely related to workers' right and environment such as company responsibility to pay their workers with minimum budget set up by government, health insurance and safety, anti-discrimination and equal opportunity requirements, and company duties to fulfil the requirement in environment.

Although Australia implemented self-regulation in CSR, but the role of government is still seen from many initiatives as done by Prime Minister's Business Community Partnership. This Partnership do three main things such as advocacy of the business case for CSR and for partnerships between business and the community, facilitation through the provision of information, and recognition of successful CSR through an awards program. CSR regulation in Australia consists of normative principles and guidelines such as Australian Stock Exchange (ASX) Principles on Corporate Governance and Best Practice Recommendations (2003) which is renewed by ASX Corporate Governance Principles and Recommendations (2019). In the context of activity report, Australia has some reporting guidelines one of them is Environmental, Social, and Governance (ESG) Reporting Guide for Australian Companies (2015) which is issued by Australian Council of Superannuation Investors (ACSI) and Financial Services Council (FSC). Based on the framework of regulation above, it can be drawn that type of self-regulation implemented in Australia is mandatory partial self-regulation. The success of CSR arrangement by self-regulation in Australia can be seen from Australian Council of Superannuation Investors which found that corporate sustainability reporting (including economic, environmental, and social and governance risk) experienced improvements to be compared with other countries such as Singapore and New Zealand.

The idea to do self-regulation in CSR is not only focused on enforcing the law or deregulation on CSR to give space for company to run internal development strategy as a response for public policy. With all weakness and ineffectiveness of CSR implementation in Indonesia, so there is a need to reformulate CSR rules especially reformulation on CSR in Law on Limited Liability Companies. Reformulation on CSR as arranged in Article 74 Law on Limited Liability Companies directs to content change or formulation change which involves the duties of company in running the activities in the natural resources field to do social responsibility and environment. Change could be done based on rationality as below:

1. There is no clarity about the amount of money allocated for CSR activity and penalty type CSR given to company who violated the Article 74 Law on Limited Liability Companies, which impacted to the weak enforcement of law towards company who violate the rules.
2. There is no mechanism of validity test on annual report of company with CSR activity as arranged in Article 66 para. (2) point c Law on Limited Liability Companies, so there is a weak control and monitoring toward the CSR itself.

3. The complexity of environment and pollution resulted from irresponsible company activity impact though the rule of CSR in Law on Limited Liability Companies has been started in 2007, which cause uncertainty about added value from CSR in Law on Limited Liability Companies. Therefore, it needs a law approach to which contains normative evaluation and strategic considerations to redesign CSR through self-regulation by substantive law which is enforced by laws.

On that problem, Gaines and Kimber stated that reflexive law is used for theoretical approach in overcoming problem complexity of environment through self-regulation as practical application from reflexive law theory (Loosemore et al., 2018). However it cannot be denied that reflexive law still needs substantive law which is issued by laws of government as law corridor which can direct integration between corporate regulation with values and needs in society. In line with this, Wibisana (2019) rests on the view that to produce an optimal environmental policy, the right combination of various instruments is needed as according to Gunningham's smart regulation perspective.

If we refer to CSR strategic arrangement in Australia, Indonesia could reformulate the authority of company in formulating the CSR rule by Self-Regulation Organization (SRO) which becomes the place of rules, which is obligatory and must be obeyed by the rules (Wibisana, 2019). Law on Limited Liability Companies has to enforce the company duties which works in/or related to natural resources as stated in Article 74 to join in SRO as implemented in stock exchange through Financial Services Authority, and as arranged in article 68 Law Number 40 of 2014 on Insurance (Purboningtyas & Prabandari, 2019). According to this law, in term of the duties are not done, so based on article 71 para. (1) and (2) company will be given penalty of administrative in the form of written penalty, limit of company activity, the prohibition of product marketing, the dispersal of the company until money penalty and/or prohibition as stock holders and hold executive position under directors or equal to it

Seeing the awareness of the company toward the CSR implementation in Indonesia which cannot be equally compared to Australia as developed country with high company awareness in doing CSR so type of self-regulation as mandatory partial self-regulation cannot be done in Indonesia. Therefore, the solution is to change the mandatory of CSR which seen ineffective should be changed by mandated self-regulation in which the government directly involve by obliging the company to control the business action through the SRO authority, but in the monitoring and enforcement should obey the rules by the country.

CONCLUSION

The implementation of CSR in Indonesia is mandatory as stated in many regulations one of which as stated in article 74 of Law Number 40 of 2007 on Limited Liability Companies. Evaluation on the rule's implementation showed that though the CSR control in Law on Limited Liability Companies has been done from 2007, but there are many companies that do not report their CSR activity in Annual Report as obliged in article 66 para (2) point c Law on Limited Liability Companies. One of company that is obliged to do CSR based on article 74 Law on Limited Liability Companies is textile and Garment Company who has impact on environment. Based on data of annual report from 2018 to 2021, the annual report has not been done completely by textile and garment companies proven by the reveal percentage is under 100%. If referred to article 146 para. (1) point a about penalty of company, since Law on Limited Liability Companies implemented in 2007 until this research done, there is no company dispersal found as

the impact of not reporting the annual report to public. The weakness of law enforcement, control and monitor toward CSR implementation and complexity of environment issue and pollution as the impact of irresponsible company activity so there is a need of law approach in terms of normative evaluation and strategic considerations to reformulate CSR regulation through self-regulation which is mandated self-regulation, as application of reflexive law theory. In this context government directly involve by obliging the company to control their business activity by reinforcing SRO authority but in the monitoring and enforcement needs substantive laws which are issued by laws.

REFERENCES

- Andrini, L. (2016). Mandatory corporate social responsibility in Indonesia. *Jurnal Mimbar Hukum*, 28(3), 512-525.
- Apriliawati, A., & Hariyanto, W. (2016). Disclosure of Corporate Social Responsibility (CSR) before and after the enactment of law no. 40 of 2007 concerning Limited Liability Companies. In *Indocompac National Seminar*. Bakrie University.
- Bowen, H.R. (2013). *Social responsibilities of the businessman*. University of Iowa Press.
- Coelho, P.R., McClure, J.E., & Spry, J.A. (2003). The social responsibility of management: A reprise. *American Journal of Business*, 18(2), 51-56.
- Davis, K. (1960). Can business afford to ignore social responsibilities? *California Management Review*, 2(3), 70-76.
- Dewi, Y.K., & Jayadi, A. (2018). Enhancing corporate responsibility to fulfil the right to a clean environment: A lesson learned from Indonesian courts. In C. Voigt, & M. Zen, (Eds.), *Courts and the Environment*.
- Friedman, M. (2002). *Capitalism and freedom*. The University of Chicago Press.
- Greenpeace International. (2013). *Toxic threads: Polluting paradise, A story of big brands and water pollution in Indonesia*.
- Hess, D. (1999). Social reporting: A reflexive law approach to corporate social responsiveness. *Journal of Corporation Law*, 25, 41.
- Idowu, S.O. (2019). *ISO 26000-a standardized view of corporate social responsibility practices, cases and facts: an introduction*.
- Komarawidjaja, W. (2016). Distribution of textile industry wastewater and its impact in several villages in Rancaekek District, Bandung Regency. *Journal of Environmental Technology*, 17(2), 118-125.
- Loosemore, M., Lim, B.T., Ling, F.Y., & Zeng, H.Y. (2018). A comparison of corporate social responsibility practices in the Singapore, Australia and New Zealand construction industries. *Journal of cleaner production*, 190, 149-159.
- Opschoor, J.B. (2003). Conference report: The World Summit on Sustainable Development (WSSD), Johannesburg (24 August-4 September 2002). *African Affairs*, 145-146.
- Porras, I.M. (1992). The Rio declaration: A new basis for international co-operation. *Review of European Community & International environmental Law*, 1, 245.
- Purboningtyas, D.A., & Prabandari, A.P. (2019). Legal protection for Indonesian capital market investors by the securities investor protection fund. *Notary*, 12(2), 789-810.
- Sands, P., & Galizziet, P. (1972). Documents I international environmental law: Stockholm declaration of the United Nations conference on the human environment, 16 June 1972. Cambridge University Press 2004.
- Wibisana, A.G. (2019). Economic instruments, command and control, and other instruments: Friend or foe? A review based on smart regulation. *Environmental Law Development*, 4(1), 172-197.

Received: 01-Dec-2022, Manuscript No. JLERI-22-12949; **Editor assigned:** 03-Dec-2022, PreQC No. JLERI-22-12949(PQ); **Reviewed:** 15-Dec-2022, QC No. JLERI-22-12949; **Revised:** 17-Feb-2023, Manuscript No. JLERI-22-12949(R); **Published:** 24-Feb-2023