

A New Model of Access Control Based Corporate Social Responsibility as an Instrument to Solve a Plantation Dispute (A Study in Central and East Java, Indonesia)

Istislam¹, Imam Koeswahyono², Abdul Madjid³, Shinta Hadiyantina^{4*}

1. Doctorate in Administrative Law, Lecturer in Faculty of Law, Universitas Brawijaya, Malang, Indonesia
2. Doctorate Candidate in Civil Law, Lecturer in Faculty of Law, Universitas Brawijaya, Malang, Indonesia
3. Doctorate Candidate in Criminal Law, Lecturer in Faculty of Law, Universitas Brawijaya, Malang, Indonesia
4. Doctorate in Administrative Law, Lecturer in Faculty of Law, Universitas Brawijaya, Malang, Indonesia

* E-mail of the corresponding author : shintahf@ub.ac.id / shien_909@yahoo.com

*The research is financed by Universitas Brawijaya***

Abstract

In this chapter, a new Corporate Social Responsibility (CSR) model is introduced in land dispute resolution. Included in this model are dispute over plantation ownership between local companies and people. The model provides a reward grant and basic-need facilities involving health and education, proven to solve the plantation land disputes in Batang Central Java and Blitar East Java province, which are referred to as Access Control-Based CSR. This model provides a reward grant to landless farmers in empowering their welfare instead of reclaiming of plantation land both in Batang Central Java and Blitar, East Java.

This chapter, which is based on an empirical or field research on state and private plantation companies, proposes an Access Control-Based CSR Model under a monitoring system to minimize the CSR abuse/manipulation in solving plantation land disputes. The strategy for plantation land dispute resolution by applying the Access Control-Based CSR Model cannot be generalized to be applicable in each different case; considering that the management system and risk of each plantation is different from one to another based on its situation and field, social-economy condition.

Keywords: Plantation land, Corporate Social Responsibility, Access Control

A. Background of the Study

Land dispute is classified as an ancient case that has existed since the beginning of human. Particularly in Indonesia, this dispute was even inherited before Indonesian independence.

Primarily a land dispute that involved the state and the people, until today instead of settling land cases, what happened was not implementing fully and completely, unfair and not promoting the welfare of common people. Even the efforts that have been done tend to be partial and repressive: for example in the form of criminalization of communities in conflict with the state. In the last decade, the number of disputes and the escalation of the conflict has increased, causing casualties not only in terms of the economic value of the financial, socio-political turmoil of national, and even fatalities as reported by the mass media, for example in the case of Mesuji and PTPN Cintamanis in the province of Lampung, and in Makassar, there are various disputes over land resources in some areas in Indonesia.

This study will intervene in a dispute over plantation land to the efforts made by the stakeholders including government, state-owned enterprises, and companies with Corporate Social Responsibility (CSR). In general, this research is directed to design a model of transparent and accountable CSR on target, so that it can be used as an alternative to resolve the disputes in plantations.

On the basis of the above explanation, the first research question is why is Corporate Social Responsibility selected to solve the problems of land dispute? The reasons are the following:

1. Referring to Mochammad Tauchid view who wrote a book "Masalah Pertanahan" in 1962 as a bureaucrat who is really care about the fate of the farmers, the land was a pole and a source of livelihood, so the results of the soil in the form of food, he who controls the land, the control of food is certainly in the context of an agricultural country².
2. Elisabeth Tineke study Lambooy CSR researcher from the University of Utrecht provide confirmation of the importance of CSR in Indonesian context primarily from the perspective of law (legal perspective) states :

** The authors wish to acknowledge the funding of this research from the Research Institute of Universitas Brawijaya primarily to Prof.Dr.Ir.Woro Busono. In addition, we also thank Prof.Dr.Ir.Nuhfil Hanani, MS, Prof. Dr. Agus and Prof.Dr.Suhariningsih for their constructive criticism, valuable input, that the results of this research article is worth to be published. However, the responsibility of contents the writing is on the authors.

“a strong national and international legal debate on CSR in the Indonesia context has thus developed, debating the ‘mandatory-voluntary’ dichotomy, the different forms of creating (semi-legal) instruments of CSR, as well as ways to verify compliance or to react against breaches. At the same time, the Indonesian reality shows an overwhelming number of challenges to the implementation of CSR in practice, especially in economic activities, which are vital for Indonesia, such as forestry and mining. These challenges were placed before the Indonesia Constitutional Court (ICC) by Indonesian business groups. The challenged the constitutionality of the CSR obligation imposed on corporations by the Indonesian laws.¹

If it is closely examined, what is being presented above provides an affirmation that CSR has a huge potential to be utilized in solving the problems in Indonesia, as long as there is no cheating from planning and actuating to, controlling and evaluating. Strictly speaking, both juridical basis, the planned program, clarity and accuracy targets and expected outcomes.

The next problem is why the selected research sites in two districts of the two regions of the province of Central Java and East Java, is solely based on rational considerations that both are estates that are not owned / controlled by the government as state plantation.

The second reason is that for the two regions or plantation areas having experience of a dispute due to the resistance of the society particularly in the area around the plantation companies because of the conflicts over tenure (tenure conflict) and socio - economic disparities between plantation companies and the condition of the surrounding community.

Table1. Status and Characteristics of the Research Area

No	Area	Characteristics
1.	Blitar Regency, East Java	is the plantation area owned by BUMS (privately owned)
2.	Batang, Batang Regency, Central Java	is the tea plantation area owned by a state university in Yogyakarta

Source: Secondary Data (processed) 2013

B. Statements of the Problem

Based on the description above, the problem is formulated as follows:

- a. How is the policy model and CSR implementation in land dispute resolution that is currently developed by the plantation company in the two areas of research?
- b. How is the policy model and CSR implementation that can be used as a means of dispute resolution in accountable plantation which is effective, transparent, and enforceable in the study area?

C. Purpose of the Study

This study has four objectives namely: *First*, to identify the policy model and CSR implementation that are currently developed by plantation companies. *Second*, to measure to what extent the effectiveness of CSR models implementation done by the plantation company to solve the land in dispute. *Third*, to build a policy model and CSR implementation through the development of access control models so that it can be used as an alternative to solve the land in dispute in the plantation area. *Fourth*, to be input for the government regarding the CSR regulation based Access Control.

D. Research Methods

The method used in this study is a socio-legal research method. The socio-legal approach is chosen on the basis of the substance, outcome, situation of the research objects and the expected results of the post-study. Qualitative research allows the researcher to answer the research question by analyzing the behavior, action, social structure and bring the facts that cannot be quantified or measured with certainty. Based on the coverage, the qualitative method will be more accurate to answer questions about what changes that may occur to the policies (or actions taken by the authorities) as a result of the influx of remittances. The choice of this approach in some books is called "socio legal research" that examines issues through a multi-disciplinary approach, especially social sciences and law.

E. Research Design

This study has been designed in such a way by the team using multi-years type of research (gradual and continuous research for three years) with rational consideration that the first-year is conducting literature study

¹Tineke Elisabeth Lambooy et al. , 2013 , CSR in Indonesia Legislative Development and Case Studies, First Print , Faculty of Law, Utrecht University and Faculty of Law, Brawijaya University, Constitutional Court Press , Jakarta , hlm.xxvi , including the need of depth criticism, there is also a researcher’s review concerning that issue published in the book, check p. 425-458

on land dispute by studying legislation and experience of resolving the case of plantation land dispute comparatively to create a prototype as an alternative model of resolving plantation land. The second year, to design model and socialize it, at the end of the third year is the implementation phase of completing an alternative model of CSR and access control based plantation land dispute.

The roadmap of this study, as shown in the diagram that illustrates why the researchers chose a CSR model, is based on the field research in the two districts, the program implementation of the land reform especially on the land redistribution seen as a solution over the plantation land in dispute. However, in reality, the implementation of land redistribution actually raises new problems, that people receiving redistribution resell their land parcels because their previous professions are not farmers. Control access is presented as supervision, control the application of CSR, many were abused, due to the minus budget issues, the abuse of CSR budget distribution from the institution to the farmers conducting "reclaiming."

Briefly summarized, this line of thought is described in the following flow chart:

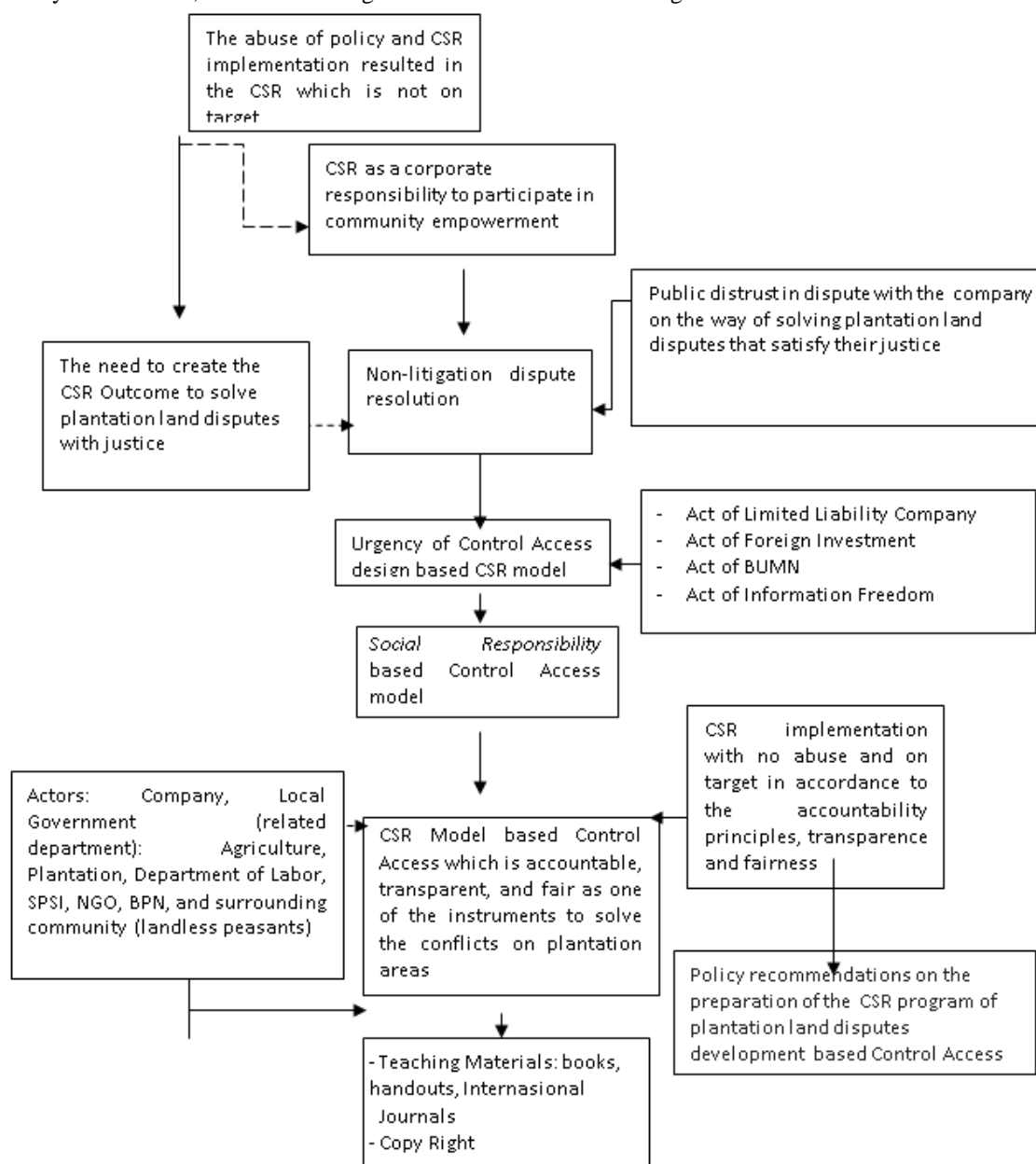


Figure 1: Line of Thought (Flowchart)
 Source: Primary Data (processed) in 2013

In narrating the debate among experts on economics, social and legal framework regarding CSR, initially it is a recommendation which is outlined in the PKBL issued by the Minister of Industry in early nineties. Then, the entrepreneurs who certainly motivated or profit-oriented, the duty or necessity that must be accomplished is by referring to the Act of Limited Liability Company and the Act of Investment. However, what happens in practice, it turns out that what is required by the government has not been followed up to the operational legislation, but if it is traced back to the data, around Rp.19.3 trillion, funds collected from the medium scale enterprise and conglomerate that can be given to charity, donation and shodaqoh are not effective for alleviating poverty. Meanwhile, the waqf assets reaching Rp.590 trillion are mostly for building luxurious mosques in the middle of the slums.

The debate is, how to ground the idealistic program and at the same time as the solution to reduce poverty in the implementable level and responsive which is one of this study offers to the employers and the government and / or local government, by considering how less responsive and accommodative government and / or local governments to accommodate the research findings and recommendations from academicians.

Output dan Research Outcome

The long-term research output and outcome are described in the following table:

Table No.2 Research Design

Research Year	Research Activities	Out-put	Indicators
I	<ul style="list-style-type: none"> - Identifying CSR model to solve the land dispute - Conducting early assessment in research area I - Designing a draft of CSR model based Control Access 	<ul style="list-style-type: none"> • CSR Review of Related Literature • The result of the field research on the existing situation • Draft of the CSR model based Control Access • International Journal 	<ul style="list-style-type: none"> • Conducting library research • Designing early draft of CSR model based Control Access • Designing scientific articles

Source: Secondary Data (processed) in 2013

F. Results and Discussion

In Indonesia, CSR is getting stronger after expressively stated in the Limited Liability Company Law 40 of 2007, in article 74, paragraph 1 states that the Company carrying out a business in natural resources is required to run social and environmental responsibility. Social and Environmental responsibility is defined in Article 1, paragraph 3 of Law No. 40 in 2007 as the Company's commitment to participate in sustainable economic development to improve the quality of life and environmentally beneficial, both for the Company itself, local community, and society in general. In Article 74, paragraph 2, 3 and 4 only mentioned that CSR "budgeted and calculated as the cost of the company's implementation is done with regard to decency and fairness". The university carrying out CSR is penalized in accordance with the rules and regulations. So it can be concluded that CSR is an obligation imposed by the state to every company whether it is private or State-Owned Enterprises (SOEs).

Another rule that says CSR is the Law No.25 of 2007 on Investment. Article 15 (b) states that "Every investor is obliged to implement corporate social responsibility. Although this law has been set out in detail concerning the sanctions against the individual or business entity that ignore CSR (Article 34), regulation of CSR is a relatively more detailed Law No.19 of 2003 on SOEs".

This law is further elaborated by the Minister of State Owned Enterprises No. : Per - 05 / MBU / 2007, which regulates the amount of funds to start the procedure of implementation of CSR. As it is known, CSR owned by SOE is a Partnership Program and Community Development. In the SOE Act, it is stated that in addition to profit, the role of state-owned companies is also providing active guidance to entrepreneurs who are weak, cooperative and society.

G.1. Stakeholders' View on CSR as a Tool Against Land Conflict Resolution in Blitar

Ric Widodo, the Director of private plantation in Blitar as well as the head of the Businessmen Association of a private plantation in East Java, states that the actual land in dispute has existed before the Indonesian independence. The colonists treated the Indonesia people as a laborer; from this, it can be called cooperation.

Because the colonists gave all of the labor's needs which tightly bound the labor to invaders, namely gambling and addictive opiate consumption habits so that there is a dependency between the workers and the company. Over time then, the plantation land management is switched on in the era of Japan, at that period, there was a clearing staple crops into crop season (plant spacing) for the needs of war. When Japan was defeated, all

Indonesian plantation belonged to the Netherlands was taken over, then all of the Dutch people were arrested at that time. Open lands, as Japan's heritage, were used by the community for agricultural land to make a living. Former plantation lands controlled by the Dutch having the right to manage in Indonesia, then Indonesia gave permission to the Netherlands to complete management rights in Indonesia, but there were some Dutch who did not return to Indonesia to manage the land. So the former plantation land that is not managed by the Dutch chose to return to manage his land in Indonesia, it is managed by a former employee where the employee plantations form a cooperative. This is why bawdy plantation land management and land disputes in Indonesia raises

CSR in the view of Ric in his experience that around forty years managing the plantation land with all its joys and sorrows, it should be carried out in accordance with the long concept, meaning that it is arranged in a sustainable program not at a glance concept. CSR should be conceptualized as a routine so that people can understand well. CSR is a command or mandate of the government, CSR should be a direct response from the company to the public. Because of the complex and the number of plantation land disputes, it makes BPN increase the team dispute and this causes the SOP (standard operational procedure) of the dispute is not clear.

In the viewpoint of a private plantation company in Blitar, East Java, plantations are generally required to maintain and help the surrounding communities as far as 30 miles . In the context of the law, according to Ric, legal procedures related to agriculture still seems to be self ownership than pay attention to the social aspects of community service. CSR is not a surprise because it is regulated by the government. CSR can become empathy of the company to the public. As a concept and practice of good CSR is the one making an attentive dialogue first, and willing to hear the aspirations of citizens around the plantation area.

At the time of handing over land or implementation of land reform programs such as the pattern of redistribution, it should be escorted and supervised by Bank Indonesia as the facilitator of funding for business loans for all private plantation companies. Community with the development of the plantation business will also benefit large so that the appearance of the land area of plantation society (agri-farming) so that the flow of the production chain in the field of agro- industry running smoothly . Dispute resolution plantation should be done engineering or participation of all stakeholders because of the complexity of the plantation problem.

Non-Governmental Organizations (NGO) point of view:

1. In the beginning, we were being quite frontal and hard, there is no answer other than land redistribution that the HGU had been expired, or obviously the farm land had abandoned its area. However, along with the development of the situation and condition of our more accurate to say start trying to follow the way of thinking of academics such as alternative dispute resolution plantation land in Blitar;
2. Actually the plantation system is simply the owner of the land and labor . In its implementation, it should be guarded from the capital to stand independently. As a society partner, especially labor and farmer, education is very important for the farmers, so that they can usage plantation land maximally.

The view of the plantation research academician in East Java, the plantation dispute resolution can be used as a non litigasi, through mediation which use consensus agreement in accordance with the philosophy of Pancasila. According to Suciati the elements of mediation are:

- a. Using the principle of deliberation and consensus, why? Because on the basis of the philosophy of Pancasila, in solving the dispute, it should be based on consensus, mutual assistance, mutual respect and wisdom.
- b. A mediator , why ? Because based on the philosophy of Pancasila , in solving the dispute, it should be based on consensus, mutual assistance, mutual respect and wisdom. However, there are some drawbacks to be aware of mediation, such as the absence of good faith , some cases of employers use the state security apparatus through repressive approach , which will result in the risk of resistance . One of the parties who does not have a good faith then this mediation process will only waste time
- c. In solving the dispute, it should also be based on elements of the essence of religion, democracy and not with scenario
- d. Control Access can be designed using a multi- stake holder of the parties involved or all stakeholders in finding a solution to this dispute
- e. In distributing CSR funds to the community, it will be escorted by NGOs , so that CSR funds will be used appropriately , and definitely
- f. The involvement of academics in this concept is the maker of this concept , will make the concept of transparency , as well as thinkers in the face of factors that will inhibit this concept

G.2. Policy and Implementation of CSR in PT. Pagilaran Batang Regency, Central Java

Pagilaran Plantation Company has issued a policy on Corporate Social Responsibility (CSR) and has also been implementing its CSR policies are . The formation and implementation of the company's CSR Pagilaran plantation did not involve local authorities , in particular the Government of Batang which the plantation site is

located in the district of Batang . As revealed By Chief Bappeda Batang , Batang Head Plantation , Head of the Secretariat in the Legal Department and Land Office Batang Batang

The head of Bappeda Batang stated that the government of Batang Regency was never involved in policy making and implementation of CSR in Pagilaran Plantation . Different from the plan to build the power plant in the district of Batang since the beginning of the government involved. Therefore, in 2012 the Regent rod has formed a committee

The Head of Batang Plantation, said the same thing with the head of Bappeda, Batang Regency that he, as the Head of Department, was never involved in policy making and implementation of CSR in Pagilaran plantations. During this time there was no communication between the Plantation Office and Pagilaran Company. The Plantation Company in Pagilaraan never communicates and coordinates with Batang Regent. The Pagilaran Company works alone regardless of the existence of the Department of Horticulture / Regent as the government in Batang Regency.

In contrast to the problems in forestry, which have established a good communication and coordination between the Government of the Batang Regency and Forestry Company. Because of the good relationship, the Regent easily determines the commodity desired by farmers in the forest, to the forestry company and the forestry companies always agreed and granted the request of the community through the Regent. However, in fact, the Agriculture Agency has the authority related to CSR, especially at the time of assessment in order to develop the private plantation coaching. Plantation assessment of the plantation company is conducted by Plantation Office (Regional Office) in Central Java to determine plantation classes conducted once every three years and such an assessment, one of the assessment items assessment is about CSR . Assessment on Pagilaran plantation has been done, even though in reality in the field assessment was more towards the physical condition and sustainability of the plantation.. (at the time of the interview , we / researcher was shown the documents of Pagilaran plantation assessment results and was given the copy of the documents).

The Head of the Legal Department at Batang Secretariat said that the Legal in Batang Secretariat of Batang Regency never handle the implementation of CSR in Pagilaran plantation , because Pagilaran growers never asked the Law Department to engage in CSR implementation in Plantation Company . Further it is said that the policy and implementation of CSR plantation is the company's own authority, the law did not interfere.

During this time there is no instruction from the Regent rod to get involved in the implementation of CSR policies and Plantations. In fact, the attitude of the Government of Batang lately, precisely in 2012, was very responsive or responsive to CSR issues . This is evidenced by the issuance of Regulation on CSR in the District. Pagilaran plantations have long been protested even protested by citizens, as they relate to the demands of the public around the company to the Pagilaran Plantation Company, where they are working / plantation workers. The main demand of the people is the most demanding part of the land managed by Pagilaran plantation company. Therefore, the government did not interfere Pagilaran plantation affairs with the labor because of being worried to be presumed of being partial to one party.

Land Office in Batang Regency stated that the problem is more to the problem Pagilaran plantation land claims of the people / laborers who work in Pagilaran plantations. This issue has been disputed even be the case, as has been sued . Dispute in Pagilaran Plantation was a land dispute that has long existed . The plantation workers demanded that the plantation areas covering so many acres were returned to them, because the land is the land of their ancestors. Land Office in Batang Regency was frequently visited by NGOs and labor to the land claims issue and no one ever complained of its CSR issues. Therefore, if there is a thought from the college , especially the Faculty of Law, University of Brawijaya, raised the issue of CSR as one of the alternative dispute resolution I agree and support . Based on the official documents provided by the Land Office in Batang Regency, it can be seen that the status of Pagilaran plantation concession of Pagilaran company in Batang Regency, Central Java province with the total area of 730 435 ha would expire on December 31, 2008. the Board of Directors in Pagilaran had proposed extension since 2 years earlier , that was in 2006 .

Regarding the extension request could not be processed by the BPN Center because there are objections from some parties, namely:

1. Agrarian Reform Consortium (KPA) represented by Iwan Nurdin through a letter dated August 31, 2007 No. 09 / DN - KPA / IX / 2007 . Iwan Nurdin objections had been addressed by the BPN Center to send a letter to the BPN Kakanwil in Central Java province on October 26, 2007 No .: 3361-310.3 - D.II , in order to conduct the research and the results were set out according to research Minutes dated December 10, 2007 , as follows:
 - a. Concerning juridical data, administrative and physical related to control , use , soil conditions and the limits of the field of Pagilaran plantation, its existence still remains as the ground upon examination by the committee " B " in Central Java Province in February 22, 2007 No. 540 / Ris.Pan.B / 01 / II / BH / 33/2007 , which states that the land is physically still managed by Pagilaran company with class I plantation classification and boundary signs are still in the right place and circumstances.

- b. Sutiyo as the Head of the District Blado , Batang stated that Pagilaran plantation land has been managed well by Pagilaran company and until now there was never any problem with the people around the area bordered by the plantation and keratin - objection to the extension of Pagilaran plantation concession was not sourced from the local community , but from the other party that has absolutely nothing to do with the existence of the garden and this has been mentioned repeatedly performed without any solid grounds
- c. Regarding the lack of problems with the surrounding community and Pagilaran company still continue to conduct its operations, therefore, Pagilaran company deserves to be given an extension of the concession period on Pagilaran plantation.
2. For suspension and review of Surono represent society of Mount Kemulyaan (PMGK) Keteleng village dated December 10, 2007 No. 025 / PMGK / XII / 2007 and a letter from Wahyudi as the Head of the Keteleng village dated December 14, 2007 No. 326 / XII / 2007, Central BPN re- ordered Kakanwil BPN of Central Java (Letter dated June 10, 2008 No.1939-310.3 - D.II) to conduct research and provide a remedy . The results of the study of Kkanwil BPN Central Java Province , as a letter dated June 27, 2008 570 / 2394/33 /2008 delivered as follows:
 - a. That Mr. Wahyudi as the head of Keteleng village by letter dated June 10, 2008 No.077 / VI / 2008 had demanded that the three regions in the rural hamlet of Keteleng village included in HGUPT of Pagilaran asked to be given to the local community .
 - b. Regarding these demands, Pagilaran company can not fulfill them because the location of the concession was HGU that is included in the classification of the Great Garden in Central Java with the garden classification of class I (having predicate as a very nice garden) as stated in the Decree of Central Java Governor dated January 2, 2007 No. 522 / I / 2007 .
 - c. On April 20, 2008, Mr. Wahyudi had been summoned by the head of the Regional Office of the National Land Agency of Central Java province regarding mediation of these issues and the Head Office of the National Land Agency of Central Java stated that these demands are compensated in terms of money.
 - d. Regarding these demands, PT Pagilaran can not meet because through Corporate Social Responsibility (CSR),Pagilaran company had contributed to local residents for educational , social , and knowledge and economic society of Rp . 405 116 400 , - per year.
 - e. For the presence of the CSR on the letter d above, it had been communicated by Wahyudi to provide feedback / input , but he had not given it up to now.
 - f. For the presence of the CSR on part d above, it has been communicated by Wahyudi to provide feedback / input , but Wahyudi has not given the response / feedback .until now.
3. Besides objections to extent the concession, Pagilaran company also got support as well as a petition to extent Pagilaran company's certificate of concession to be immediately implemented , namely :
 - a. The letter of support from Budi Harto and Triyanto Budi S as chairman and Secretary of the Investigators of Pagilaran company (PSPP) dated June 16, 2008 were essentially asking that the extension of the concession period of Pagilaran company was immediately published ;
 - b. The letter was dated June 25, 2008 , the employees of Pagilaran company (around 400 people) who were gathered in the Union of Pagilaran company sympathizers. (PSPP) rallied in the Regional Office of National Land Agency in Central Java which essentially required that the Decree extension of the concession period of Pagilaran company could be published immediately .
 - c. The letter from Johnny N.Simanjuntak as Commissioner of the National Commission on Human Rights and Monitoring and Investigations Subcommittees dated on June 27, 2008 No. 1,374 / K / PMT / VI / 08 requesting clarification of the status of the application for extension of the concession period of.Pagilaran company.
 - d. On June 20, 2008 Commission II of the Parliament Members had conducted a site visit on Pagilaran company HGU, but it had not reached completion because of the unfavorable situation, and with the presence of the visit, it emerged in the local news that the HGU of.Pagilaran company will be lifted, giving rise to social unrest around Pagilaran company and its employees.
4. There was a new fact that approximately 163 farmers who were members of Community Association of Mount Kamulyan (PMGK) lead by Slamet , et al . revoked the concession of demands for Pagilaran company land and at the same time declared to resign from membership of the Community Association of Mount Kamulyan (PMGK)since July 17 , 2008 (Source : Resume / Findings , Extension Land Problems of Pagilaran company, plantation, industry, trade and consultation located in Batang, Central Java Province) . However, on January 27, 2009, there published a BPN Decree No. BPN HGU - 17 - RI - 2009 concerning agreement on extending the Pagilaran HGU (right to cultivate). Against this extension, NGOs *Omah Tani* , submitted an objection letter to the Head Office of Batang Regency , in a letter dated on March 27, 2009 , which was signed by Handoko Wibowo , SH . Even later, *Omah Tani*

claimed the decision made by the Central BPN to the administrative court , and until this study was conducted, no decision made by the Administrative Court.

For objections are the following:

1. Recording of the land book because of the physical data and juridical dispute; 2. Suspension of publishing HGU certificate on behalf of Pagilaran company because of the persistence of the records ; and 3 Object of the land was still in dispute
2. Regarding details of Pagilaran company CSR which had been distributed to the surrounding community , it can be seen from the letter of the Head of the Regional Office of the National Land Agency of Central Java Province , Ir , H. Doddy Imron Cholid , dated June 27, 2008 , regarding : extension of the.Pagilaran company HGU, located in Batang , Central Java province , which was addressed to the Land Rights Deputy and Land Registration of BPN RI , Jl . Sisingamangaraja No , 2 in Jakarta .

Point 4 of the letter stated that : " the demands of the citizens stated on no. 3 above , Pagilaran company can fulfill the demands because through the Corporate Social Responsibility (CSR), Pagilaran company had contributed the following to local residents:

- a. Education:
 - Funding for each educator : Rp. 4.996.000/year
 - Funding for the cost of education for school children : 1.365.000/year;
 - Other funding related to education facilities
- b. Social:
 - Transportation support Rp. 51.348/079/year
 - Regular donation for surrounding plantation community Rp. 3.955.000/year
 - Aid for electricity cost and home repair : Rp. 27.226.000/year;
 - Participation for organizing celebrations / other social activities :Rp.5.000.000/year
 - Other supports related to social facilities
- c. Science and Society Economy

Thus overall contribution of Pagilaran company to the villagers around the plantation are around Rp. 405.116.400/per year.

From the data and information that has been presented above, related to the problem and the purpose of this research is apparent that:

1. Pagilaran company has issued a policy and implement their CSR per year is Rp . 405 116 400 / year.
2. Policy and CSR implementation of Pagilaran company as stated in point 1 above , does not involve other parties , either Batang regency or farm workers / local community as a whole , as well as the NGO as the community representatives , especially the cons of Pagilaran company. CSR policies are determined unilaterally by the company and also its implementation tends to only be determined unilaterally by the company. Pagilaran company seems also tend to pay less attention to other parties or members of the public who do not agree with the model or how the policies adopted in the implementation of CSR , so that these people rebel or resist the implementation and policies of Pagilaran company CSR. This also indicates that the CSR policy and implementation are not effective or are more extreme than that is that the implementation of Pagilaran company is incorrect or not seriously implemented, because there is still a large group of people who dispute it. To determine whether the policies and implementation of CSR is true or seriously implemented or right on target or unnecessary comparative data from the surrounding community or farm laborers or their representative, particularly the cons of the policies and implementation of Pagilaran company.
3. There is a large group of community farmers represented by "Omah Tani" NGO chaired by Handoko Wibowo and Community Association of Kamulyan Mountain (PMGK) chaired by Surono , and the chief of Keteleng village, who demanded that the land concession given to the public . These demands in the case of plantation land known as Redis / redistribution or reclaiming). These demands were not accepted by Pagilaran company, because the land was included in the required location of Pagilaran company plantation which was class I (very good plantation category). Furthermore, in this study the researchers have requested information from Mr. Handoko Wibowo , SH as *Omah Tani* NGO accompanying and advocating the surrounding community, and Mr Surono , as chairman of the Community Association of Mount Kamulyan (PMGK).
4. Besides that, the implementation and policies of CSR were used as an excuse by Pagilaran company as an activity that has been performed by Pagilaran company to the surrounding community, both in the fields of education, social, science and economic of the society. Therefore, according to Pagilaran company, it is not appropriate if CSR issues were served as a reason for not extending the term of its concession.

5. Based on points 3 and 4 above , it is known that the policy and implementation of CSR and land claims (redistribution of land or reclaiming) are the two main issues of the plantation land dispute of Pagilaran company in Batang regency.

3. Non Government Organization (NGS) Point of View:
 - a. Furthermore, in this research report , it will be described in-depth interviews with : First , NGOs *Omah Tani* in Batang Regency , which had for 16 years been advocating farmers' plantations in Batang Regency including farm workers of the Pagilaran plantation company, and the NGO office is adjacent to the location of the tea plantation of. Pagilaran company. (This NGO was called *Omah Tani* , headed by a man named Handoko Wibowo , SH . , whose day -to-day work as a lawyer / advocate and the Legal Coordinator of non- profit institute called *Omah Tani* , and this NGO was not paid at all in doing advocacy , because the intention and idealism of the coordinator really would help both farm laborers on plantations and in forestry who were troubled or in dispute either out of court or through the court. This NGO office was located in the adjacent tea plantation location, exactly in the hamlet Cepoko , Tumbrep Village , Bandar District, Batang Regency).
 - b. Secondly, NGO or Community Association of Mount Kamulyan (PMGK)was chaired by Mr Surono . The consideration of conducting interviews with *Omah Tani* NGO and Community Association of Kamulyan Mountain (PMGK)are two reasons, first, they are NGOs representing farmers / laborers who had direct relationship with Pagilaran company, and almost 85% of them were workers being members of and the Community Association of Mount Kamulyan (PMGK). Both NGOs and *Omah Tani* PMGK were also a party opponent or cons of both companies' policies in terms of the issue of ownership or control of land plantation by plantation firms and policy issues and implementation of CSR of the Pagilaran company. Since both of these NGOs are counter parties to the plantation company then it can be presumed that the response and his opinions were almost always negative (negative trend) , although it is possible that there are also positive , otherwise if the research team requested or search for data / information from the company , the results will be more pros or a lot of data or information that are positive or it is just fine (tends to be positive) than the shortcomings of policies and implementation of Pagilaran company CSR. Though the data / information that were needed by the research team were problems associated with the implementation of CSR policies and plantation companies that are in dispute (conflict) which of course will be more useful and meaningful when asking for opinions, comments and information from the worker or the farmer or NGO who are cons .
 - c. Steps Taken by the Researchers:

Referring to the cons opinion, the research team can create a model of dispute resolution through controlled CSR (access control) in accordance with the objectives of this research. With the reasons and considerations that the research team would prefer NGOs and farm workers who cons with Pagilaran plantation company, because those who know and feel as well as directly affected by CSR policies and its practices are farmers.

Furthermore, the alternative model offered to solve the dispute of plantation land on the basis of corporate social responsibility (CSR) and access control is illustrated in the flow chart below:

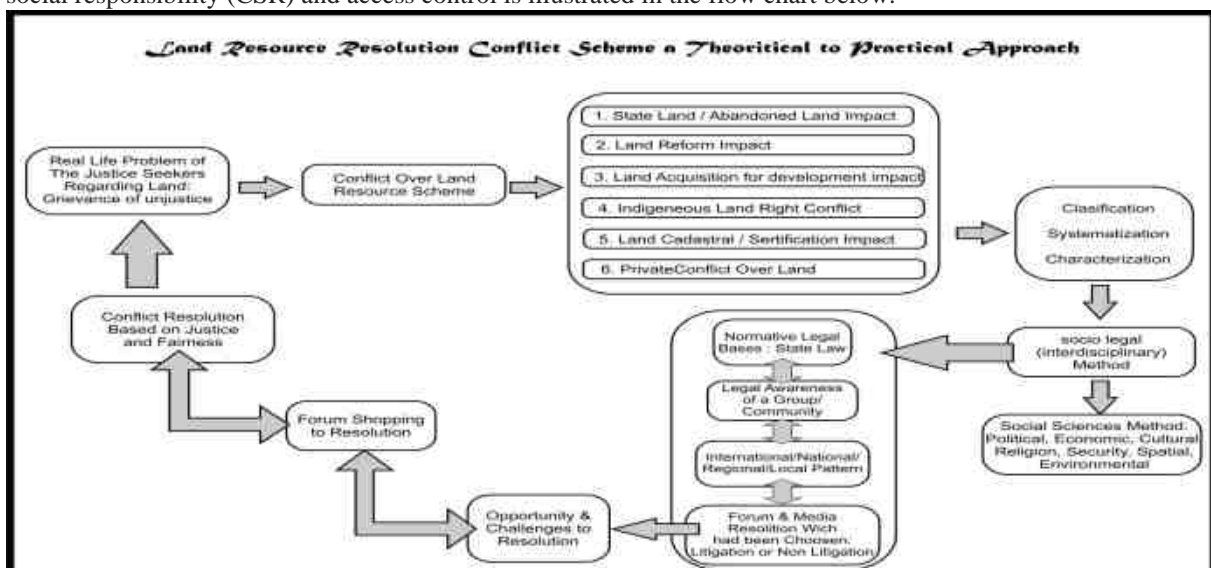


Figure 2: Land Resource Resolution Conflict Scheme

Source: A Model Developed by Imam Koeswahyono, 2012 processed by team

Before explaining the above model as an alternative solutions to problems of plantation land, first of all the researchers would like to describe that this model was a modification of the flow chart offered by Van Vollenhoven Institute, Faculty of Law, Leiden University, in collaborative research ' Access to Justice ' BAPPENAS 2009-2011 with the socio legal in some sample areas in the country. From both studies it can be concluded that the dispute handling resources, mainly in Indonesia, the CSR has considerable potential to be utilized more optimally than just charity and philanthropy that were merely the tip and did not show significant results to bring about justice and the welfare of society, especially those who got less benefits.

Indeed, if there is a self-criticism to evaluate the implementation of CSR in the field, there is much less well targeted subject for the type of activities will be and / or have been carried out. The expected final result, does not meet the targets that have been budgeted. Therefore, even though the program has become a must for every company investing in Indonesia, which is regulated in the Investment Law and the Limited Liability Company Act, according to Nurhasan Ismail, the government is still be half-hearted in encouraging investors to seriously implement it. This happened because the operational regulation that operates provisions of the law that supports the government's goal has not been issued³.

Back to the main issue of disputed land resources as the main essence of the study, the research team refers to the patterns presented Mary SW Sumardjono regarding land resources disputes, namely: first, the dispute concerns the object of the country's land, forest land, and wastelands. The second is land dispute caused by land reform and its program. The third land dispute is caused by land procurement for public purposes. The fourth is caused by customary land. The fifth is land dispute related to civil relationship³, thus the typology in this study is the first and the second.

Issues and questions that then arise regarding the plantation land disputes , especially in Indonesia, although there have been ups and downs since the colonial period , around the beginning of the eighties (1979) , about the beginning of the nineties (1990) in various regions of the true essence of a matter in which the former land- tenure conflicts plantation land legacy companies since the early colonial socio - economic cause social and economical gap that cause contestation control and ownership rights between companies on the one hand and society on the other side. Beyond the pros and cons of the issues, of course there is nothing wrong / not right with what for this has been the case, there is the issue of injustice , there is the issue of rights violations as well as criminal offenses , is that because of land tenure conflicts or there are more fundamental issues about injustice? How do we perceive the injustice issues critically but are able to provide an alternative solution?

Furthermore, the research team offers a model as illustrated in figure 2, in which there is freedom of the main parties seeking justice (justice seekers) that is farmers who do not have land (landless farmers) or kismaless farmers can raise their dignity through an activity that is initiated from the bottom (bottom - up initiatives) based on the purpose of the Act No. 5 of 1960, with or through the utilization of effective and efficient manner (using the access control devices) the CSR funds that have been approved in the AGM meeting , for example , as budgeted to be given to farmers as equity in their agribusiness activities , or the provision of replacement lands (land exchange) is working collaboratively with government agencies BPN , Department of Forestry , Plantation, to realize their expectation and aspirations of their work to cultivate the land can be accomplished . Of course, there should be a selection mechanism to determine precisely and correctly who gets the right through the multi- selection mechanism. As a draft, there must be surely a lot of obstacles , perhaps refusal / resistance but no absolute nature if it is done properly and appropriately, all of the problems could certainly be discussed / negotiated , whether the issue of ethics , norms , interests , relationships , gaps , policy , intervention or the others.

Other alternative referred to the results of a seminar on entrepreneurship relation to CSR from CSR funds budgeted appropriately used to train and alleviate landless as justice seekers with the entrepreneurial program in accordance to their interest and mastery of each individual³..

G. Conclusion

- a. Alternative model design of corporate social responsibility -based access control as an instrument of resolving plantation dispute. This is done in order to develop alternative resolution of plantation land dispute and CSR as what can be used to resolve agricultural land disputes. Starting from this study, the results of this study can map the case of plantation land dispute that has a difference between one case to another.
- b. Resolving plantation land disputes cannot only be resolved through legal channels. Therefore, it needs resolution beyond litigation channel. Thus, we use the concept of corporate social responsibility based access control.
- c. The real concept in CSR is to increase the vitality of the low economic society. If CSR is implemented properly, the community will think positively on a growing company in the area. In the concept of CSR, it needs FGD first, so that the agency or company knows the needs of the surrounding community so

- that not only the unilateral agreement of the institution or company. It needs access control in the implementation of CSR, so that the funds used in the CSR is not abused .
- d. In implementing CSR programs, it is imperative that the basic principles of CSR can be implemented fully , namely :
 1. Accountability;
 2. Transparency;
 3. Behave ethically;
 4. Respect the stakeholder's need;
 5. Abide by the law;
 6. Abide by international rule;
 7. Respect human right.
 - e. There are several criteria of resolving plantation land dispute:
 1. Compensation;
 2. Making approach outside the forum;
 3. Giving education both economically and legally;
 4. Deliberation and consensus.
 - f. The function of CSR investigated will form a system that will suppress the leakage budget or funding (budgeting fraud) , the system oil palm plantations is different from the one of sugar cane plantation. It means that in the plantation management, there are different ways for different types of commodities for example palm needs entrepreneurial coaching. In resolving the dispute, it should be accompanied by ongoing entrepreneurial education.

Acknowledgment to Directorate General of Higher Education (DGHE)

References

- Achmad Sodiki dkk.,2001/2002., Laporan Hasil Penelitian, *Penyelesaian Sengketa Tanah Perkebunan*, Konsultan Panitia Khusus Komisi A DPRD, Tidak Dipublikasikan, Dewan Perwakilan Rakyat Daerah Kabupaten Blitar.
- Agus Pakpahan.,2000., *Peran dan Kontribusi Perkebunan Bagi Kehidupan Masyarakat Indonesia*, Makalah Seminar Pertanahan (Perkebunan), DPRD Jawa Timur, 25 November, Surabaya, Mimeo
- Amelia Sri Kusuma Dewi, Toyib Sugianto dan Imam Koeswahyono, 2004, *Permohonan Hak Milik Atas Tanah Bekas Hak Guna Usaha Asal Hak Erfpacht PT. Perkebunan Sumpersari Gajahyana di Kecamatan Ngancar Kabupaten Kediri*, Skripsi Tidak Diterbitkan, Fakultas Hukum Unibraw Malang.
- Alfa Agustin Nugraheni, Toyib Sugianto dan Imam Koeswahyono, 2005, *Penyelesaian Sengketa Atas Tanah Bekas Hak Erfpacht Perkebunan Benar Merangkak Antara PT. Perkebunan Tjengkeh Dengan Masyarakat (Studi di Perkebunan Benar Merangkak,Desa Sidorame Kecamatan Duku Kabupaten Blitar)*, Skripsi Tidak Diterbitkan, Fakultas Hukum Unibraw, Malang.
- Ann Zammit, 2003, *Development At Risk*, South Centre & United Nations Research Institute For Social Development, Geneve.
- Boedhi Wijardjo dan Herlambang Perdana (Editor),2001.,*Reklaiming dan Kedaulatan Rakyat*, Cetakan Pertama, Yayasan Lembaga bantuan Hukum Indonesia (YLBHI) dan RACA Institute, Jakarta
- Budi Wibhawa dkk (Editor dan Penulis),2011., *Social Entrepreneurship Social Enterprise Corporate Social Responsibility: Pemikiran, Konseptual dan Praktik*, diinisiasi oleh Laboratorium Kesejahteraan Sosial Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Padjadjaran, Bandung
- Brian Z Tamanaha.,2005., *A General Jurisprudence of Law and Society*, Cetakan Kedua, Oxford University Press, New York
- , 2001.,*Socio Legal Positivism and a General Jurisprudence*,Oxford Journal of Legal Studies, Vol 21 No.1 Oxford University Press
- Dianto Bachriadi, dkk., 1997, *Perubahan Politik, Sengketa, dan Agenda Pembaharuan Agraria di Indonesia, Reforma Agraria*, KPA Lembaga Penerbit FE Universitas Indonesia, Jakarta.
- Franz von Benda Beckmann.(Eds),2006.,*Changing Properties of Property*, Berghan Book, Oxford, New York
- Gunawan Wiradi, 2000, *Reforma Agraria Perjalanan Yang Belum Berakhir*, Cetakan Pertama, Insist Press, KPA dan Pustaka Pelajar, Yogyakarta.
- Imam Koeswahyono.,2007., *Konflik Agraria di Jawa Timur dan Kemanfaatannya Untuk Pembelajaran Socio-Legal di Fakultas Hukum* dalam Jurnal Masalah-masalah Hukum Volume 36 No.3 Juli-September, Fakultas Hukum Universitas Diponegoro, Semarang
- Hendrik Budi Untung.,2008., *Corporate Social Responsibility*, Cetakan Pertama, Sinar Grafika, Jakarta

- Istislam,dkk, 2000, *Implementasi Model Penyelesaian Kasus Tanah Perkebunan Akomodatif Pada Kasus Tanah Banongan Situbondo*, Jurnal Penelitian Ilmu-ilmu, Unibraw.
- Yusuf Irianto, 2001, *Isu-isu Stategis Pengembangan Sumber Daya Manusia*, Jakarta, Insan Cendekia Press.
- KPA Bandung , 2001.,*Toward Agrarian Reform in Indonesia*, KPA Bandung
- Maria SW Sumardjono, 1982, *Tinjauan Kasus Beberapa Masalah Tanah*, Cetakan Pertama, Jurusan Hukum Agraria Fakultas Hukum UGM, Yogyakarta
- Martin Minogue dan Ledvina Carino (Editors).,2006., *Regulatory Governance in Developing Countries, The CRC Series on Competition, Regulation and Development*, Edward Elgar Publishing, Northampton,MA,USA,
- Melody Kemp., 2001., *Corporate Social Responsibility in Indonesia Ouixotic Dream or Confident Expectation?*. Technology, Business and Society Paper No.6, December, United Nations Research Institute for Social Development, Geneve
- Muhammad Fauzan., 2010., *Penerapan Access Control Sebagai Salah Satu Strategi Pencegahan Kejahatan Situasional di Ladang Minyak Duri*. Jurnal Kriminologi Indonesia Vol.7 No. 1 Mei 2010
- Perseroan Terbatas Perkebunan Negara (PTPN XII) *Laporan Sumber dan Realisasi Penggunaan Dana Bina Lingkungan PTPN XII* (Tidak Dipublikasikan)
- Pinky Chrisantini.,2007., *Berawal Dari Tanah, MelihatKeDalamAksiPendudukan Tanah*, Cetakan Pertama, Yayasan Akatiga, Bandung
- Rachmad Safa'at.,2008., *Gerakan Buruh dan Pemenuhan Hak Dasarnya: Strategi Buruh Dalam Melakukan Advokasi*, Cetakan Pertama, In-Trans, Malang
- Reza Banakar dan Max Travers (Eds)., 2005.,*Theory and Method in Socio-Legal Research*, Onati International Series in Law and Society, Cetakan Pertama, Hart Publishing USA
- Roger Cotterrell.,1998., *Why Must Legal Ideas Be Interpreted Sociologically?*,Journal of Law and Society Vol.25 No.2, Juni, Blackwell Publisher
- Satjipto Rahardjo.,2006.,Mompang L Panggabean (Editor)., *Hukum Dalam Jagat Ketertiban*, Cetakan Pertama, Universitas Kristen Indonesia Press, Jakarta
- ., 2008.,*Negara Hukum Yang Membahagiakan Rakyatnya*,Cetakan Pertama, Genta Press, Yogyakarta
- Sholih Mu'adi.,2010.,*Penyelesaian Sengketa hak Atas tanah Dengan Cara Litigasi dan Non Litigasi*, Cetakan Pertama, Prestasi Pustaka, Jakarta
- Suhariningsih, 2005, *Studi Terhadap Proses Peralihan dan Pengelolaan HGU Kebun di Sumberurip, Kecamatan Doko, Kabupaten Blitar*, Fakultas Hukum Unibraw, Malang.
- ,dkk.,2008., *Alternatif Model Pengelolaan Hak Guna Usaha (Perkebunan) Berbasis Landreform dan Corporate Social Responsibility Menuju Reforma Agraria*, Laporan Hasil Penelitian Hibah Bersaing XV-1 Surat Perjanjian Pelaksanaan Penelitian No.No.320/SP2H/PP/DP2M/III/2008, Tidak Dipublikasikan, Universitas Brawijaya, Malang
- Tineke Elisabeth Lambooy dkk.,2013.,*CSR in Indonesia Legislative Developments and Case Studies, First Print, Faculty of Law Utrecht University and Faculty of Law Brawijaya University*, Mahkamah Konstitusi Press, Jakarta

Law :

- Act No.5 in 1960
- Act No.56/PRP/ 1960
- Act No.2 in 1960
- Act No.10 in 2004
- Act No.18 in 2004
- Act No.32 in 2004
- Act No.25 in 2007
- Act No.26 in 2007
- Act No.40 in 2007
- Act No.12 in 2011
- Act No.2 in 2012
- Government Rule No.224 in 1961
- Government Rule No.40 in 1996
- Government Rule No.24 in 1997
- Government Rule No.16 in 2004
- President Rule No.10 in 2007

Journal / Mass Media:

Bahrul Ilmi Yakup.,2012., **Mengapa Rakyat Merusak Aset BUMN Perkebunan ?**, dalam KOMPAS, 31 Juli, hlm.7

Tim Redaksi Jurnal Keadilan.,2012., **Kajian Khusus: Kasus Mesuji, Potret Sengketa Lahan Yang Tak Kunjung Usai**, Pusat Kajian Hukum dan Keadilan, Jakarta, hlm.12-16

Adrian T. L. M. Van De Ven.,1998., **Structural Adjustment and State-Owned Companies in The Netherlands.**, PUBLIC ADMINISTRATION AND DEVELOPMENT Public Admin. Dev. 18, 257±263, CCC 0271±2075/98/030257±07\$17.50 #1998 John Wiley & Sons, Ltd.

The IISTE is a pioneer in the Open-Access hosting service and academic event management. The aim of the firm is Accelerating Global Knowledge Sharing.

More information about the firm can be found on the homepage:
<http://www.iiste.org>

CALL FOR JOURNAL PAPERS

There are more than 30 peer-reviewed academic journals hosted under the hosting platform.

Prospective authors of journals can find the submission instruction on the following page: <http://www.iiste.org/journals/> All the journals articles are available online to the readers all over the world without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself. Paper version of the journals is also available upon request of readers and authors.

MORE RESOURCES

Book publication information: <http://www.iiste.org/book/>

IISTE Knowledge Sharing Partners

EBSCO, Index Copernicus, Ulrich's Periodicals Directory, JournalTOCS, PKP Open Archives Harvester, Bielefeld Academic Search Engine, Elektronische Zeitschriftenbibliothek EZB, Open J-Gate, OCLC WorldCat, Universe Digital Library, NewJour, Google Scholar

