

Corporate Responsibility for Impacts of Mining Coal in Kalimantan

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Abstract

Normative legal research on corporate responsibility for the impact of coal mining in Kalimantan shows that environmental pollution has occurred. Such contamination occurs on water contamination and air pollution. Both polluted media are not only harmful to humans, but also to the surrounding ecosystem. As a form of corporate responsibility in the case of coal mining is implemented through a program known as Corporate Social Responsibility (CSR). This program is constrained by the lack of supervision and activities within the CSR program. Therefore, it needs supervision with clear structure and size to the implementation of CSR. That CSR on the one hand is a form of corporate responsibility related to impacts rather than mining conducted by the company. This supervision may be initiated in the form of a regulation regarding the period of social responsibility referred to, as well as its form in order for the surrounding community to obtain legal certainty. To the company, so that social responsibility can be implemented on a regular basis, so that the community gets adequate compensation. Moreover, it should also create technology that is concretely useful for efforts to minimize the risks arising from pollution. This is very important not only for the community, especially around the mining area. However, in order to maintain environmental sustainability in a broad sense.

Keywords: Corporate Responsibility, Mining Coal, Environment

I. Introduction

The Unitary State of the Republic of Indonesia lies in a cross position between two continents and two oceans with a tropical climate and weather and seasons that produce high natural conditions of value. In addition, Indonesia has the second longest coastline in the world with a large population. Indonesia has a wealth of biodiversity and abundant natural resources. The wealth needs to be protected and managed in an integrated and integrated environmental protection and management system between the marine, terrestrial and air environments based on the Nusantara's insights.

Natural resources are the wealth of the earth in the form of inanimate objects and life that can be utilized to meet the needs of life. Natural resources can be distinguished from biological natural resources and non-biological natural resources. Natural resources provide many benefits to human life. There are several types of natural resources that are categorized as non-renewable, one day will be completely exhausted. Therefore, human beings are obliged to try to use non-renewable natural resources efficiently. (Destiny: 2011: 163)

Kalimantan Island is one of the largest coal producing regions in Indonesia. The shift in the base of the economic sector occurred in the 90s where the mining sector began to become the regional economic base that replaced the forestry sector. The period of 1990-2000, the mining sector, oil and gas and the refining industry of petroleum and liquefied natural gas began to take over the economic dominance of East Kalimantan region. The level of economic growth is relatively lower at a maximum of 5.71% per year. Entering 2000, the non-oil mining sector ie coal shifts the position of the oil and gas mining sector.

(<http://kalimantan.bisnis.com/read/20160607/411/555459/nasib-kalimantan-timur-after-the-memories-batu-bara>).

Currently, the coal mining sector is no longer reliable to sustain the economy of East Kalimantan. Until the end of 2015, East Kalimantan's economic growth experienced a considerable contraction in minus 0.85% lower than the previous year. In 2014, East Kalimantan's economic growth could reach 2.02%. Head of Representative Office of Bank Indonesia Province of East Kalimantan Mawardi B.H. Ritonga said East Kalimantan economic growth in the first quarter of 2016 again contracted by minus 1.61%.

But again to note, coal mining was not free from the impact given. One of them as in 2009 ago, the impact of coal companies in South Kalimantan for example, resulted in pollution of liquid waste in Balangan River. Similarly there are other impacts that require accountability of the corporation to the impacts arising from coal mining.

To do so, this study is aimed at analyzing the impact of coal mining on the island of Borneo, and the form of corporate liability for coal mining on the island of Borneo.

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II. Analysis And Problem Solving

1. Impact of Coal Mining in South Kalimantan

Mining constitutes part or all of the phases of activities in the research, management and exploitation of minerals or coal covering general investigation, exploration, feasibility study, construction, mining, processing and refining, research and sales, and post mining activities. What is meant by coal is Coal is a precipitate of organic carbonaceous compounds that form naturally from the rest of the vegetation.

The availability of natural resources in quantity or quality is uneven, while development activities require increasing natural resources. Development activities also contain risks of pollution and environmental damage. This condition can lead to the carrying capacity, capacity, and environmental productivity decreased which eventually becomes a social burden.

Whereas as known, the Indonesian environment must be protected and managed properly based on the principle of state responsibility, the principle of sustainability, and the principle of justice. In addition, environmental management should be able to provide economic, social and cultural benefits based on prudent principles, environmental democracy, decentralization, and recognition and respect for local wisdom and environmental wisdom.

One of the most widely cultivated mining commodities today, especially to meet energy needs in Indonesia, is coal. At present, Indonesia has a coal resource potential of around 60 billion tons with 7 billion tons of reserves. On the other hand, coal mines in Indonesia are generally done by open pit, although some use underground mining, but the numbers are relatively small.

With this open-pit mine system has an impact on changes in the landscape, physical, chemical, and biological properties of the soil. Similarly, generally cause damage to the surface or bark of the earth. This impact will automatically disrupt the ecosystem above, including the water system and air conditioning that will change and degrade its quality.

Environmental issues in coal mining activities in chemical descriptions are generally associated with Mine Acid (AAT) or Acid Mine Drainage (AMD). The water is formed as a result of oxidation of certain sulphide minerals contained in the rock by oxygen in the air in the environment especially in the aqueous median.

Based on research (Dyah Marganingrum and Rhazista Noviardi, 2014: 12) this research is carried out in the mining environment of PT. Berau Coal. Lays is in the District Berau, East Kalimantan. The research method was conducted at PT. Berau Coal, Berau with open pit mining techniques using truck and shovel mechanical devices.

Technically overburden, its own coal excavation, and waste material cause exposure of soil / rock containing sulphide minerals, among others, Pirit (Pyrite) and Markasit (Marcasite). The sulphide mineral then reacts with the oxidant and water to form acid mine water. This acid mine will erode the soil and rocks resulting in the dissolution of various metals such as iron (Fe), cadmium (Cd), manganese (Mn), and zinc (Zn). This is the basic formula of the coal mining median span.

Thus, in addition to being characterized by low pH, acid mine water will also contain metals of high concentration, which can adversely affect both environmental and human health. Coal mining activities at Lati have been equipped with a wastewater treatment system using active control methods.

The pH neutralization is accomplished by mixing Calcium Hydroxide (CaOH) directly into the acidic water of the mine present in the deposition pond by using the system of the mill. The amount of CaOH administered is adjusted to the flow (discharge) of acidic water. This method is effective enough to decrease the acidity of the water drastically until it reaches the normal pH - base (pH > 6-7) before entering the river body.

Nevertheless, data obtained from water quality taking along the Lati River (from upstream - downstream) shows fluctuating and acid-tending pH values. This condition reflects that along the course of the flow of the river there is a supply of substrate (mineral sulphide) as the trigger for the formation of acid mine water which causes the increase of acidity of water.

The results show that the pH fluctuations as shown in Figure 1 below illustrate the environmental impacts both naturally and the effects of mining waste. The results of data analysis obtained both in the field and laboratory analysis, both from water samples and soil samples, indicate that the acidity of water along the Lati River is more due to environmental factors around coal mining, rather than pollution from waste coal processing.

The above is indicated by the pH of the water sample from the outlet of treatment at 6.3 in the rain and 9.7 in the event of no rain. After obtaining input from the river flow coming from the disposal (A5), the pH in the Lati River area drops back to the value of 4. Therefore, the management of mined land needs to be done as closely as possible to avoid contact with air and water from outside.

To minimize pollutants from ex-mining sites or land around coal mining that is rich in sulphide minerals, can be done in three ways. Handling system in question is a mechanical / technical and agronomic system. Both systems aim equally to avoid direct contact between sulphide minerals with air and water and iron and sulfuric acid bonds formed as a result of the oxidation process. Pollutants from coal processing can be anticipated with the active processing system.

2. Global Environment Issues

That the occurrence of the consequences arising from coal mining is not released in the context of the global environment. For that, here are the problems or environmental issues faced globally:

a. The atmospheric problem

Classified in this group is about climate change (climate change) and ozone protection. The most intriguing issue at the moment is the reluctance of the United States - the world's largest emitters of emissions - to ratify the Kyoto Protocol with a binding commitment to commission reduction.

b. Land problems

This issue is concerned with the problem of land degradation and degradation, as well as forest rolling. Recorded, deforestation occurring especially in Asia, Africa and Latin America is estimated to cover an average of 14, 6 million hectares per year. On the other hand, developing countries in Africa have very limited financial resources in the fight against this desertification.

c. Chemical problems and hazardous waste

A prominent issue in this area is related to the use of land in developing countries as the location of waste disposal and hazardous materials exported to developed countries.

d. The issue of biodiversity

The issue of biodiversity related to "economic value" has much to do with global trade issues set out in the WTO, including the issue of Intellectual Property Rights, which is still debated today. Often, developing countries, lacking adequate resources and IPR provisions are harmed by multinational companies who register their "findings" in the patent office of developed countries. As a result, developing countries must "buy" the patent that originally came from the developing country. Another issue is the significant reduction of biodiversity due to disasters such as forest fires as well as unsustainable environmental management, such as deforestation blindly aimed at the highest economic gain.

e. Another problem

Apart from the "sectoral" issues above, the world also faces another global issue that deserves serious attention from all countries. Several prominent issues are funding issues for sustainable development, population growth, poverty, unsustainable consumption and production patterns, clean water, malnutrition, health such as HIV / AIDS and other infectious diseases, the use of non-renewable energy, , as well as the impact of globalization on the environment and social.

The impacts of coal mining include:

1) Water Pollution

As mentioned above, one of the effects of coal mining is water pollution. In 2009, one mining company in South Kalimantan caused water pollution due to the entry of liquid waste from coal mining activities caused by the collapse of the mine waste deposition column.

At least four sub-districts were affected by Balangan River, among others Amuntai Tengah, Babirik, Sei Pandan, and Bajang. This not only resulted in the distribution of clean water temporarily halted and the fish cultivated by many dead.

As is known, coal mining waste has an impact not only on water, but will also have implications for the soil (peat soil), both of which are equally harmful to human health.

2) Air Pollution

According to a report released by the World Health Organization in 2008 and by environmental groups in 2004, coal particle pollution is expected to shorten approximately 1,000,000 lives annually worldwide. Coal mining generates additional significant independent impacts that are detrimental to environmental health, among which contaminated water flows from mining at the top of the mountain.

Furthermore, it is argued that the impact of coal mining, removing PM 2.5 particles that easily enter the human body and cause increased risk of cancer. Even babies born around a coal mine are potentially deformed.

There are also results of research conducted on the measurement of respirable dust levels in PT. Kalimantan Prima Persada Sungai Putting, shows that the respirable dust level in the field slightly exceeds the normal threshold value of 2.19 mg / m³. This is because the measurement time at noon (at 08.00 - 17.00), where the temperature and wind speed increases, so the amount of respirable dust in the field is greater.

Approaching the afternoon (at 15:00 to 17:00) the respirable dust level drops. High levels of dust in the workplace can cause abnormalities of the lung physiology. Coalfilling activities, in the form of mountains, will have an impact on air quality degradation, in the form of increased ambient air dust. The coal dust dispersion occurs due to wind relief that blows over the pile of coal, as it decreases and raises the coal to the transport vehicle.

From the research shows if the existence of respiratory disturbance in field workers PT. Kalimantan Prima Persada Sungai Putting. Respiratory disorders are often suffered by the respondent is cough with phlegm and dry cough. Reaction of the body of the entry of dust in the respiratory tract can cause respiratory distress in the form of respiratory complaints felt by the subject. In large doses, all dust is stimulating and can cause mild reaction.

The reaction is in the form of excessive mucus production, if ongoing there can be hyperplasi gland mukus. This is in line with research conducted Lestari (2000), states that there is a significant relationship between high dust concentration with the occurrence of abnormalities of the pulmonary physiology. The dust that enters the inspiration channel causes a non-specific defense mechanism reaction in the form of coughing, sneezing, mucosilier transport disorders and macrophage phagostosis disorders. The mucosilier system is also impaired and causes increased mucus production and smooth muscle around the airway to arouse, resulting in narrowing.

To address the strategic environmental challenges and address these issues, new legislation in the field of mineral and coal mining is required to provide a legal basis for reforms and restructuring of mineral and coal mining management and concession management activities. The regulation on mining is contained in the Law of the Republic of Indonesia Number 4 Year 2009 on Mineral and Coal Mining.

In the Act contains the following points of thought:

1. Minerals and coal as a non-renewable power surriber are controlled by the state and their development and utilization is carried out by the Government and regional governments together with business actors.
2. The Government further provides an opportunity to a business entity which is a legal entity of Indonesia, cooperative, individual, or local community to conduct mineral exploitation of coal based on permit, in line with regional autonomy, granted by the Government and / or local government in accordance with their respective authority .
3. In the context of decentralization and regional autonomy, the management of mineral and coal mining shall be carried out in accordance with the principles of externalities, accountability and efficiency involving the Government and local governments.
4. The mining business shall provide the greatest economic and social benefits to the welfare of the Indonesian people.
5. Mining efforts should be able to accelerate the development of the region and encourage the economic activities of the community or small and medium entrepreneurs and encourage the growth of mining supporting industries.
6. In order to create sustainable development, mining business activities must be carried out in view of environmental principles, transparency, and community participation.

The Ministry of Energy and Mineral Resources has the task of administering government affairs in the field of energy and mineral resources to assist the President in organizing state government.

In performing this task, the Ministry of Energy and Mineral Resources performs the following functions:

- a. formulation and determination of policies in the field of fostering, controlling and supervising of oil and gas, electricity, minerals and coal, new energy, renewable energy, energy conservation, and geology;
- b. implementation of policies in the field of fostering, controlling and supervising of oil and gas, electricity, minerals and coal, new energy, renewable energy, energy conservation, and geology as well as management of Non-Tax State Revenue in the energy and mineral resources sector in accordance with legislation ;
- c. the implementation of technical guidance and supervision on the implementation of policies in the field of fostering, controlling and supervising oil and gas, electricity, minerals and coal, new energy, renewable energy, energy conservation, and geology;
- d. implementation of research and development in the field of energy and mineral resources;
- e. implementation of human resources development in the field of energy and mineral resources;
- f. implementation of support that is substantive to all elements of the organization within the Ministry of Energy and Mineral Resources;
- g. coaching and providing administrative support within the Ministry of Energy and Mineral Resources;
- h. management of state property / property which is the responsibility of the Ministry of Energy and Mineral Resources; and
- i. supervision on the implementation of duties within the Ministry of Energy and Mineral Resources.

3. Forms of Corporate Responsibility that Conducts Coal Mining in Kalimantan Island to the Impact of Coal Mining

Basically every Company as a manifestation of human activities in the field of business, is morally committed to being responsible for maintaining a harmonious and balanced corporate relationship with the environment and local community in accordance with the values, norms and culture of the community.

Companies whose business activities in the field and / or related to natural resources are required to carry out social and environmental responsibilities. The activities in fulfilling the social and environmental responsibility obligations shall be budgeted and calculated as the Company's expenses which are carried out with due observance to the properness and reasonableness. The regulation or regulation concerning the obligation of social responsibility is contained in the Government Regulation of the Republic of Indonesia Number 47 Year 2012 Concerning Corporate Social Responsibility and Environment Limited.

This Government Regulation implements the provisions of Article 74 of Law Number 40 Year 2007

regarding Limited Liability Company. In this Government Regulation stipulated on social and environmental responsibility aimed at realizing sustainable economic development to improve the quality of life and environment that benefit the local community and society in general as well as the Company itself in order to establish a harmonious, balanced and environmentally compatible corporate relationship, values, norms and culture of the local community.

Such social and environmental responsibility arrangements are intended to:

1. Increasing the Company's awareness of the implementation of social and environmental responsibility in Indonesia;
2. Meet the evolving legal needs of the community on social and environmental responsibility; and
3. Strengthen the social and environmental responsibility arrangements that have been regulated in various laws and regulations in accordance with the field of business activities of the Company concerned.

In relation to the foregoing, this Government Regulation stipulates:

1. The social and environmental responsibility undertaken by the Company in conducting its business activities in the field and / or related to natural resources under the Act.
2. Implementation of social and environmental responsibility is conducted within or outside the Company's environment.
3. Social and environmental responsibilities shall be carried out in accordance with an annual work plan containing the activity plan and budget required for its implementation.
4. Implementation of social and environmental responsibilities shall be prepared with due regard to decency and fairness.
5. Implementation of social and environmental responsibility shall be contained in the Company's annual report to be accountable to the GMS.
6. Confirmation of the Company's sanctions imposition setting that does not fulfill the social and environmental responsibility.
7. Companies that have played a role and carried out social and environmental responsibility may be awarded by the competent authority.

Each Company as a legal subject has social and environmental responsibility. The social and environmental responsibilities referred to become the obligation of the Company that carries out its business activities in the field and / or related to natural resources based on the Act.

Social and environmental responsibility is exercised by the Board of Directors based on the Company's annual work plan after obtaining approval from the Board of Commissioners or the GMS in accordance with the Company's articles of association, unless otherwise provided in the laws and regulations.

The Company's annual work plan as intended contains the activity plan and budget required for the implementation of social and environmental responsibility. The Company which carries out its business activities in the field and / or related to natural resources, in preparing and stipulating the activity plan and budget as meant must pay attention to the propriety and fairness. The realization of the budget for the implementation of social and environmental responsibility carried out by the Company as intended shall be calculated as the cost of the Company.

Implementation of social and environmental responsibility is contained in the annual report of the Company and accountable to the GMS. Companies that do not carry out their social and environmental responsibilities are subject to sanctions in accordance with the provisions of legislation. Such social and environmental responsibilities do not prevent the Company from participating in carrying out the social and environmental responsibilities referred to. A Company that has participated in carrying out its social and environmental responsibilities as may be awarded by the competent authority.

Article 33 of the 1945 Constitution states that "The economy is structured as a joint effort based on the principle of family. Production branches that are important to the country and which affect the livelihood of the people are controlled by the state. The Earth's water fund and the wealth that is contained within it are controlled by the state and used as much as possible for the welfare of the people. The national economy is organized on the basis of economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and maintaining a balance of progress and national economic unity.

From the provisions of the Article mentioned above can be observed that the welfare and the people of Indonesia is not solely the responsibility of one of the parties, but the responsibility of all stakeholders such as the state and entrepreneurs who enjoy the wealth of the Republic of Indonesia, the entrepreneur's responsibility to society is the corporate social responsibility known as "Corporate Social Responsibility (CSR)".

CSR is a commitment of the company or the business world to contribute to sustainable economic development by taking into account corporate social responsibility and focusing on the balance between attention to the economic, social and environmental aspects.

There are at least three motives behind the involvement of companies in the CSR program that is, the motive of maintaining the security of production facilities, motives to comply with the contract of employment,

and moral motives to provide social services to local communities. And there are benefits from the implementation of corporate social responsibility, both for the company itself, the government, and other stakeholders.

Arrangement or regulation of coal, contained in:

- a. Law Number 63 Year 1957 Concerning Implementation of the Section IBW XIV (Umbilin Coal Company) From the Budget of the Republic of Indonesia Year 1954 Service.
- b. Law No. 4 of 2009 on Mineral and Coal Mining.
- c. Regulation of the Government of the Republic of Indonesia Number 47 Year 2012 Concerning Social and Environmental Responsibility of Limited Liability Company.
- d. Regulation of the Minister of Energy and Mineral Resources No. 13 of 2016 Tentnag Organization and Working Procedure of the Ministry of Energy and Mineral Resources.

With the growing awareness of the environment, the company is required not only to seek profit (profit oriented), but also to compete for social responsibility. Hopefully, by giving a good image of the company will awareness to the surrounding environment, the company will get more consumers, more loyal, and will ultimately increase company profits.

In Indonesia the concept of Corporate Social Responsibility (CSR) is regulated in Law of the Republic of Indonesia Number 40 Year 2007 on Limited Liability Company. According to the Law of the Republic of Indonesia Number 40 Year 2007 concerning Limited Liability Companies, social and environmental responsibility (CSR) is the company's commitment to participate in sustainable economic development that is useful for improving the quality of life and environment beneficial to the company itself, local community, as well as society in general.

The concept of Corporate Social Responsibility (CSR) focuses on triple bottom line namely economic prosperity, environmental quality, and social justice. The Company can continue its business activities by implementing the concept of triple bottom line into three aspects, namely profit (profit), engaging in the fulfillment of people's welfare (people) and preserve the environment (planet). The Company discloses the social responsibility actions that have been made by the company to stakeholders in the sustainability report.

The company's sustainability report provides a fair and reasonable picture of the sustainability performance of the reporting organization or company, including the positive and negative contributions they have made in a given period.

Guidelines or standards are often used by companies in reporting on their company's sustainability is Global Reporting Initiatives (GRI). The current GRI standard is GRI G3.1 which is an adaptation of previous standards.

GRI G3.1 provides principles in defining report content and ensures the quality of reported information in terms of corporate sustainability reporting. The reporting framework prepared in the Global Reporting Initiative divides the reporting aspect into six aspects. Each aspect contains the indicator protocol (performance indicator). These six aspects or indicators are economic performance indicators, environmental performance indicators, performance indicators of labor and workplace practices, human rights performance indicators, community performance indicators, and performance indicators of product responsibility.

One of the examples of coal mining companies located on the island of Borneo is PT Adaro Indonesia which is Adaro Energy's main subsidiary. Adaro Indonesia commenced commercial operations of Envirocoal in 1992 from a concession area of 358 km² in Tabalong, South Kalimantan province under the Coal Mining Concession Working Agreement (PKP2B) with the Government of Indonesia.

In desarya, in the development of a country has 3 (three) groups that play an important role in the development of a country, namely government (government), community (community), and the business (corporate). These three aspects are key elements of the concept of sustainable development.

Companies in this case burdened with social responsibility to participate in the welfare of the community around the company. Corporate Social Responsibility (hereinafter referred to as "CSR") is generally defined as an effort by a company to raise its image in the public eye by creating charitable programs, both external and internal. External program by conducting partnership (partnership) by involving all stakeholders (stakeholders) to show the company concern to society and surrounding environment.

Internally able to produce well, achieve maximum profit and employee prosperity. It is concluded that CSR or corporate social responsibility is a business commitment to contribute to sustainable economic development, working with company employees, employee families, and local (local) communities in order to improve the quality of life.

One form of responsibility of PT. Adaro Indonesia is done through CSR. In the CSR, as reported in www.adaro.com, there are 5 (five) important points to build mining areas, among others:

1) Educational Improvement

Investments in education are believed to be effective in creating a stronger society, and improving the quality of education is believed to be a very important factor for the success of future generations. For this field, the provision of scholarships and mobile libraries, in addition to improving school infrastructure.

2) Health Improvement

Participate in efforts to improve public health through programs in harmony with the Millennium Development Goals (MDGs) and other targets set by the government.

3) Economic Development

An important aspect of community sustainability, particularly post mining operations, is the economic development of the local area. In such cases, the corporation supports the development of superior rubber plantations, microfinance institutions, and integrated agricultural programs.

4) Environmental Responsibility

In 2013, environmental responsibility is added as one of the pillars of social investment. Activities undertaken by PT. Adaro Indonesia is focused on conserving water content through bamboo planting, which is effective for managing water content because bamboo plants can manage water quantity and quality as well as act as a sediment control system that holds water to flow directly in the river. In addition, bamboo stems can also be sold as handicrafts, so this program not only contains environmental value, but also economic value.

5) Socio-Cultural Promotion; and

6) Sustainability Report

The implementation of CSR is an obligation for every company. However, in reality between the entrepreneurs as pesero and the government as policy makers there is no significant understanding about CSR.

As a proof of the absence of understanding on the obligations of CSR, evident from the petition of judicial and formal test against the existence of Article 74 of UUPM no.40 of 2007 by employers' associations and some companies to the Constitutional Court of the Republic of Indonesia. The objection of the entrepreneur to the obligation of CSR discloses the sociological barriers in the implementation of CSR. However, the Constitutional Court is of another opinion, thus rejecting the judicial review against Article 74 of the Company Law because it is not contradictory to Article 28D paragraph (1) Jo Article 28 I paragraph (2) paragraph (4) of the 1945 Constitution.

Declared by the Judges of the Constitutional Court first: to make Corporate Social Responsibility / CSR as a legal obligation through the formulation of Article 74 UUPM is the legal policy of the legislators to regulate and determine CSR with a sanction, this is true because in fact the social and environmental conditions has been damaged in the past, when the company ignored the social and environmental aspects.

In addition, the legal culture in Indonesia is not the same as other countries, especially where the first introduced CSR concept is introduced where CSR is not only a demand for the company to the environment, it will also be a performance appraisal and a prerequisite for a company that will Go Public implement CSR program as it should. The Constitutional Court considered that CSR as a legal obligation precisely to provide legal certainty, because it can avoid the different interpretation of CSR by the company if CSR is allowed to be voluntary.

Secondly, the Constitutional Court is of the opinion that Article 74 of UUPM in 2007 does not impose double charges to the company, because the company's cost to implement CSR differs from tax. Then the implementation of CSR is based on the company's ability to pay attention to decency and fairness. Thirdly, the Constitutional Court considered that the legal norms that require the implementation of CSR by the company does not mean negate the concept of economic democracy that is related to the efficiency of justice as regulated in Article 33 Paragraph (4) of the 1945 Constitution, and will not make CSR merely a formality of the company.

With the decision of the Constitutional Court that is final, then the legal implementation of CSR becomes a legal obligation, no longer a moral obligation. This means that if the company does not implement CSR program, it will get legal sanctions stipulated in Government Regulation no.47 tahun 2012 about Corporate Social and Environmental Responsibility Limited Company.

Corporate social responsibility (Corporate Social Responsibility) known as CSR is a moral obligation of a company to the community around the company as a form of concern. So as to create a good relationship between the company (Shareholder) with the community (Stakeholder) in various aspects. Thus in principle there is no element of force to implement CSR.

However, after the issuance of Law No. 25 of 2007 concerning the Capital Market and Act No. 40 of 2007 on Limited Liability Companies, these liabilities are changed to legal liability, which means that the implementation of CSR for the company is an obligation. The obligation is sesuai with Article 33 of the 1945 Constitution and the 4th Precept of Pancasila namely Social Justice for All Indonesians, and this is the spirit of CSR management.

In Indonesia CSR activities are growing positively along with the development of democracy, increasingly critical society, globalisasi and era of free market. However, only a small number of companies implementing CSR programs as the result of Suprpto's 2005 survey of 375 companies in Jakarta show that 166 or 55.25% of companies do not engage in CSR activities, 209 or 55.75% perform CSR activities in the form of : kinship activities (116) companies), donations to religious institutions (50 companies), donations to social institutions (39 companies) and community development (4 companies). The results of the survey also showed that CSR

conducted by the company is very dependent on the management.

III. Cover

Based on the above discussion, it turns out that the impact of coal mining in South Kalimantan is seen in water pollution and air pollution, both of which are not only harmful to humans, but also to the surrounding ecosystem. As one form of corporate responsibility in terms of coal mining is through Corporate Social Responsibility (CSR).

Therefore, for the government, in order to monitor the company's liability related to the impacts of mining conducted by the company, such as by issuing regulations on the period of social responsibility for the surrounding community to obtain legal certainty.

To the company, so that social responsibility can be implemented as soon as possible to the community, so the compensation that is delivered is really useful. Moreover, it should also create technology in such a way as to minimize the risks arising from pollution. It thus becomes something that is very important not only for the people especially around the mine area. However, in order to maintain environmental sustainability in a broad sense.

BIBLIOGRAPHY

- Antonius Suhadi, AR. Febrian, dan Sri Turatmiyah, **Model Corporate Social Responsibility (CSR) Perusahaan Tambang Batubara di Kabupaten Lahat Terhadap Pemberdayaan Masyarakat Berbasis Kearifan Lokal**, Fakultas Hukum Universitas Sriwijaya Palembang.
- Dyah Marganingrum dan Rhazista Noviardi, **Pencemaran Air Dan Tanah Di Kawasan Pertambangan Batubara Di PT. Berau Coal Kalimantan Timur**, Pusat Penelitian Geoteknologi LIPI, Bandung.
- Nuraini Sari, **Analisis Pengungkapan Corporate Social Responsibility Berdasarkan Global Reporting Initiatives (GRI): Studi Kasus Perusahaan Tambang Batubara Bukit Asam (Persero) Tbk Dan Timah (Persero) Tbk**, Fakultas Ekonomi dan Komunikasi BINUS University, BINUS BUSINESS REVIEW Vol. 5 No. 2 November 2014, Jakarta.
- Qomariyatus Sholihah, Laily Khairiyati, dan Ratna Setyaningrum, **PAJANAN DEBU BATUBARA DAN GANGGUAN PERNAFASAN PADA PEKERJA LAPANGAN TAMBANG BATUBARA**, Fakultas Kedokteran Universitas Lambung Mangkurat, Banjarbaru.
- Takdir Rahmadi, 2011, **Hukum Lingkungan Di Indonesia**, Cetakan Ke-1, PT.Raja Grafindo Persada. Jakarta
- Umar Hasan, **Kewajiban Corporate Social Responsibility (CSR) Dilihat Dari Perspektif Hukum**, Majalah Forum Akademika Volume 25 Nomor 1, Maret 2014.

WEBSITE

- <http://kalimantan.bisnis.com/read/20160607/411/555459/nasib-kalimantan-timur-setelah-masa-kejayaan-batubara>
- <https://m.tempo.co/read/news/2009/10/28/058204966/pencemaran-limbah-pt-adaro-lumpuhkan-balangan-dan-amuntai>
- http://www.kompasiana.com/joshuanovasda/dampak-lingkungan-dari-industri-batubara_552e0c816ea8349a298b45a1
- <http://www.mongabay.co.id/2014/02/24/batubara-rusak-lingkungan-sumber-beragam-penyakit-sampai-hancurkan-pangan-dan-budaya/>