

# Efforts To Harmonize Conflicts In The Regulation Of Corporate Social Responsibility (Csr) In The Indonesian Legal System

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## Abstract

The focus of this research is on the critical issue of overlapping Corporate Social Responsibility (CSR) regulations within Indonesia's legal system. This is a significant problem that affects business compliance and social development outcomes. The study investigates the normative juridical aspects of various legislative frameworks, including the Company Law, Investment Law, and Mining Law. The study identifies three major consequences of regulatory redundancy: uncertainty in implementation standards, resource inefficiency due to program duplication, and complexity in supervision. It highlights systemic weaknesses within Indonesia's CSR legislative system and proposes an innovative legislative model to integrate CSR. To enhance legal certainty and implementation effectiveness, the study recommends a comprehensive harmonization method that integrates regulations, establishes consistent implementation mechanisms, and develops supervision protocols. These findings assist policymakers and legal practitioners in improving Indonesia's CSR regulatory framework.

**KEYWORDS** *Corporate Social Responsibility, Legal Harmonization, Regulatory Obesity*



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## I. Introduction

The In Indonesia, business actors face legal ambiguity due to inconsistent and complex Corporate Social Responsibility (CSR) regulations.<sup>1</sup> Several laws, including Law No. 40/2007 and Law No. 25/2007 on Investment, impose numerous responsibilities on companies, particularly in the mining sector.<sup>2</sup> Overlapping regulations create uncertainty regarding compliance and lead to ineffective resource allocation.<sup>3</sup>

Corporate Social Responsibility (CSR) regulations in Indonesia face inconsistencies and complexities, creating legal ambiguity for businesses. Multiple laws, including Law No. 40/2007 on Limited Liability Companies<sup>4</sup> and Law No. 25/2007 on Investment, impose various CSR obligations, particularly on natural resource companies<sup>5</sup>. These overlapping regulations define CSR differently, leading to implementation challenges<sup>6</sup>. For instance, Law No. 40/2007 mandates CSR for natural resource companies without specifying concrete sanctions, while the Mining Law (before revision) required CSR through "community development"

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<sup>1</sup> Theo Ady Theo Ady Narwan, "Kewajiban Hukum Perusahaan Dalam Pelaksanaan CSR Berdasarkan Peraturan Perundang-Undangan," *Jurnal Hukum Dan Pembangunan Ekonomi* 11, no. 2 (n.d.): 309–16.

<sup>2</sup> Yeti Sumiyati, Jejen Hendar, and Diana Wiyanti, "PENGATURAN CSR DALAM RANGKA PERCEPATAN PEMBANGUNAN SOSIAL DAN LINGKUNGAN DI INDONESIA: CSR Regulation in the Context of Accelerating Social and Environmental Development in Indonesia," *Anterior Jurnal* 22, no. 3 (2023): 185–96.

<sup>3</sup> Hari Sutra Disemadi and Paramita Prananingtyas, "Kebijakan Corporate Social Responsibility (CSR) Sebagai Strategi Hukum Dalam Pemberdayaan Masyarakat Di Indonesia," *Jurnal Wawasan Yuridika* 4, no. 1 (2020): 1–16.

<sup>4</sup> Ashar Maulana Religia, "Permasalahan Hukum Tanggung Jawab Sosial Perusahaan (Corporate Social Responsibility) Di Indonesia," *University of Bengkulu Law Journal* 4, no. 2 (2019): 183–97.

<sup>5</sup> Jurnal Ilmu Hukum Riau, "Corporate Social Responsibility: Tranformasi Moral Ke Dalam Hukum Dalam Membangun Kesejahteraan Masyarakat," *Jurnal Ilmu Hukum Riau* 1, no. 01 (n.d.): 9101.

<sup>6</sup> Narwan, "Kewajiban Hukum Perusahaan Dalam Pelaksanaan CSR Berdasarkan Peraturan Perundang-Undangan."

schemes with administrative penalties<sup>7</sup>. The lack of clear guidelines and control mechanisms further complicates CSR implementation<sup>8</sup>. Consequently, companies struggle to meet all CSR obligations due to unclear standards, with 75% of mining companies reporting difficulties<sup>9</sup>. This regulatory environment has transformed CSR from a voluntary moral obligation to a mandatory legal requirement in Indonesia<sup>10</sup>. The situation is further complicated by the absence of clear mechanisms for implementing CSR and the lack of comprehensive sanctions.<sup>11</sup> Despite these issues, CSR remains essential for sustainable development and community empowerment in Indonesia.<sup>12</sup> Several organizations, such as PT. Globalindo Agung Lestari, have implemented CSR programs in various fields, such as community development and education.<sup>13</sup> However, to enhance legal certainty and the effectiveness of CSR in Indonesia, there is an urgent need for regulatory harmonization.

Corporate Social Responsibility (CSR) in Indonesia has evolved from a voluntary concept into a legal obligation.<sup>14</sup> Various legislative instruments, such as the 2007 Investment Law and the

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<sup>7</sup> Religia, "Permasalahan Hukum Tanggung Jawab Sosial Perusahaan (Corporate Social Responsibility) Di Indonesia."

<sup>8</sup> Laurensia Andriani, "Mandatory Corporate Social Responsibility in Indonesia," *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 28, no. 3 (2016): 512–25.

<sup>9</sup> Religia, "Permasalahan Hukum Tanggung Jawab Sosial Perusahaan (Corporate Social Responsibility) Di Indonesia."

<sup>10</sup> Riau, "Corporate Social Responsibility: Transformasi Moral Ke Dalam Hukum Dalam Membangun Kesejahteraan Masyarakat."

<sup>12</sup> Sumiyati, Hendar, and Wiyanti, "Pengaturan Csr Dalam Rangka Percepatan Pembangunan Sosial Dan Lingkungan Di Indonesia: CSR Regulation in the Context of Accelerating Social and Environmental Development in Indonesia."

<sup>13</sup> Ni Nyoman Adi Astiti and Ghozali Rahman, "TANGGUNG JAWAB SOSIAL PERUSAHAAN DI KALIMANTAN TENGAH (PENERAPAN UNDANG-UNDANG NOMOR 40 TAHUN 2007 TENTANG PERSEROAN TERBATAS PADA PT. GLOBALINDO AGUNG LESTARI)," *Jurnal Ilmu Hukum Tambun Bungai* 6, no. 2 (2021): 144–69.

<sup>14</sup> Umar Hasan, "Kewajiban Corporate Social Responsibility (CSR) Dilihat Dari Perspektif Hukum," in *Forum Akademika*, vol. 25, 2014

Limited Liability Company Law, illustrate this shift.<sup>15</sup> Based on Indonesia's constitution and moral values, social and environmental responsibilities of businesses aim to balance business profits with social and environmental obligations.<sup>16</sup> However, due to inconsistent regulations, unclear mechanisms, and a lack of specific sanctions, there are still challenges in its implementation.<sup>17</sup> Researchers suggest adjusting regulations, creating clear implementation guidelines, and enforcing appropriate sanctions to ensure compliance.<sup>18</sup> As mandated by the 1945 Constitution, the ultimate goal is to align CSR programs with the principles of sustainable development. In this process, social, economic, and environmental aspects will be taken into account.

These articles discuss the issues and consequences of Corporate Social Responsibility (CSR) legislation in Indonesia. Legal uncertainty arises due to inconsistent and overlapping CSR regulations, according to several studies.<sup>19</sup> The lack of clear implementation mechanisms and sanctions has also been noted as a significant problem. The concept of mandatory CSR in Indonesia has been explored, with arguments for both mandatory and voluntary approaches.<sup>20</sup>

Some studies propose simplifying and harmonizing regulations to address regulatory issues. This may include the use of the omnibus law concept.<sup>21</sup> To ensure transparency and prevent

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<sup>15</sup> Mukti Fajar, "Corporate Social Responsibility in Indonesia: Regulation and Implementation Issues," *J. Legal Ethical & Regul. Issues* 21 (2018): 1.

<sup>16</sup> Mufti Eky Juliansyah Sumarto, "Analisis Konsep CSR Dan Sistem Tanggung Jawab Sosial Dan Lingkungan Pada Perseroan Terbatas Yang Berasaskan Keadilan Dan Kepastian Hukum" (Universitas Islam Malang, 2023).

<sup>17</sup> Religia, "Permasalahan Hukum Tanggung Jawab Sosial Perusahaan (Corporate Social Responsibility) Di Indonesia."

<sup>18</sup> Sunaryo Sunaryo, "Corporate Social Responsibility (CSR) Dalam Perspektif Pembangunan Berkelanjutan," *Fiat Justisia: Jurnal Ilmu Hukum* 7, no. 1 (2013).

<sup>19</sup> Religia, "Permasalahan Hukum Tanggung Jawab Sosial Perusahaan (Corporate Social Responsibility) Di Indonesia."

<sup>20</sup> Fajar, "Corporate Social Responsibility in Indonesia: Regulation and Implementation Issues."

<sup>21</sup> Nyoman Nidia Sari Hayati and Sri Warjiyati, "Analisis Yuridis Konsep Omnibus Law Dalam Harmonisasi Peraturan Perundang-Undangan Di Indonesia," *Jurnal Hukum Samudra Keadilan* 16, no. 1 (2021): 1-18.

public harm, these changes require careful consideration and participation from various stakeholders. The legal issue raised in this research is the overlapping regulation of corporate social responsibility (CSR) in the Indonesian legal system, which creates legal uncertainty for companies and hinders compliance and effectiveness of CSR implementation.<sup>22</sup> The lack of clarity in the definition and scope of CSR in various laws, such as Law No. 40 of 2007 and Law No. 25 of 2007, causes confusion for companies in fulfilling their obligations. This research is important due to the social and economic impact caused; CSR plays a role in social and environmental development, and legal uncertainty can reduce the effectiveness of CSR programs, which affects the welfare of the community.<sup>23</sup> States that poor implementation of CSR can be detrimental to society and reduce public trust in companies. In addition, clear and harmonious regulations can improve the legal compliance of companies, as expressed by Suhargon<sup>24</sup>. The results of this study are expected to provide recommendations for improving CSR regulations, thereby creating a better investment climate<sup>25</sup> and empowering communities through CSR programs that better meet their needs<sup>26</sup>. This study will also contribute to the development of legal theory, especially in the context of regulatory harmonization, which will enrich the academic discourse in the field of law<sup>27</sup>.

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<sup>22</sup> Narwan, "Kewajiban Hukum Perusahaan Dalam Pelaksanaan CSR Berdasarkan Peraturan Perundang-Undangan."

<sup>23</sup> Fajar, "Corporate Social Responsibility in Indonesia: Regulation and Implementation Issues."

<sup>24</sup> Rahmat Suhargon, "Kebijakan Perseroan Terbatas Dalam Menyalurkan Corporate Social Responsibility," *Jurnal Hukum Non Diskriminatif* 1, no. 1 (2022): 13–19.

<sup>25</sup> Muhammad Insa Ansari, "Omnibus Law Untuk Menata Regulasi Penanaman Modal," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 1 (2020): 71.

<sup>26</sup> Herda Sabriyah Dara Kospa, "Kajian Implementasi Program Corporate Social Responsibility (CSR) Oleh Perusahaan Pertambangan (Studi Kasus PT. Antam Tbk)," *Jurnal Tekno Global* 9, no. 1 (2020).

<sup>27</sup> Satria Sukananda, "Pendekatan Teori Hukum Refleksif Dalam Menjawab Permasalahan Keterbatasan Pengawasan Terhadap Pelaksanaan Tanggung Jawab Sosial Perusahaan Di Indonesia," *Law and Justice* 3, no. 1 (2018): 12–21.

The method used in this research is normative legal research, which focuses on analyzing Corporate Social Responsibility (CSR) and related legal elements in Indonesia. This research adopts a normative juridical approach, which includes juridical and conceptual analysis approaches to analyze CSR regulations. The research highlights inconsistencies in CSR regulations that create legal uncertainty for companies. As a consequence of various regulations, companies are obliged to implement CSR, as revealed in several studies<sup>28</sup>. In addition, other studies explore the benefits of CSR for companies and society, and discuss the need for clearer sanctions for CSR violations<sup>29</sup>. One paper also provides insight into the methods and approaches used in normative legal research<sup>30</sup>. Overall, these studies emphasize the importance of having consistent CSR regulations and their effective implementation in Indonesia. In this research, primary, secondary, and tertiary legal materials are used as data sources. Primary legal materials include laws and regulations related to CSR, including Law No. 40 Year 2007 on Limited Liability Companies and Law No. 25 Year 2007 on Capital Investment<sup>31</sup>. Secondary legal materials consist of legal literature, research results, scientific journals, and policy documents relevant to the research theme<sup>32</sup>. Meanwhile, tertiary legal materials include dictionaries and encyclopedias that assist in understanding legal terms and concepts contained in primary and

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<sup>28</sup> Fajar, "Corporate Social Responsibility in Indonesia: Regulation and Implementation Issues."

<sup>29</sup> Suhargon, "Kebijakan Perseroan Terbatas Dalam Menyalurkan Corporate Social Responsibility."

<sup>30</sup> Sukananda, "Pendekatan Teori Hukum Refleksif Dalam Menjawab Permasalahan Keterbatasan Pengawasan Terhadap Pelaksanaan Tanggung Jawab Sosial Perusahaan Di Indonesia."

<sup>31</sup> Narwan, "Kewajiban Hukum Perusahaan Dalam Pelaksanaan CSR Berdasarkan Peraturan Perundang-Undangan."

<sup>32</sup> Erna Amalia, "Regulasi Tanggung Jawab Sosial Perusahaan Di Indonesia," *ADIL: Jurnal Hukum* 10, no. 2 (2019).



secondary legal materials<sup>33</sup>. The technique of collecting and analyzing legal materials is carried out qualitatively with a descriptive approach, which allows researchers to identify, classify, and analyze existing CSR regulations and develop a harmonization model based on the findings of the analysis<sup>34</sup>. The data were evaluated qualitatively using a prescriptive approach and interpreted comprehensively. This method was chosen to understand the relationships between CSR regulations and identify overlapping patterns. The analysis was conducted in three stages. First, existing CSR regulations were identified and classified; second, the relationships and potential conflicts between regulations were analyzed; and third, based on the findings of the analysis, a harmonization model was developed. Systematic interpretation helps us understand the position of each regulation within the Indonesian legal system.

## **II. Analysis of CSR Regulation through a Executive Approach**

The analysis of Indonesian CSR regulations using a legislative approach (legal perspective) and a conceptual approach (conceptual perspective) reveals significant fragmentation in the regulatory framework. This study identifies three main legal regimes governing the implementation of CSR, each with distinct characteristics and focuses on the conception and regulation of corporate social responsibility.

In Indonesia, Law Number 40 of 2007 concerning Limited Liability Companies, particularly Article 74, mandates corporate social responsibility (CSR). This article stipulates that companies engaged in natural resource management must allocate a budget

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<sup>33</sup> Kospa, "Kajian Implementasi Program Corporate Social Responsibility (CSR) Oleh Perusahaan Pertambangan (Studi Kasus PT. Antam Tbk)."

<sup>34</sup> Ansari, "Omnibus Law Untuk Menata Regulasi Penanaman Modal."

for CSR and implement related programs.<sup>35</sup> Through this law, CSR is transformed from a voluntary moral obligation into a legal obligation. However, there are no clear regulations regarding specific CSR activities or sanctions for non-compliance, leading to legal uncertainty and challenges in implementation.<sup>36</sup> Some companies, such as PT Pertamina, have successfully implemented CSR programs in areas such as education, infrastructure, health, and environmental conservation, despite these challenges.<sup>37</sup> Strengthening corporate participation in sustainable development and improving the quality of life for local and broader communities are the ultimate goals of the CSR obligation.

As regulated in Law Number 25 of 2007 concerning Investment Under Law No. 25/2007 on Capital Investment, companies operating in Indonesia, particularly in the natural resources sector, are required to implement Corporate Social Responsibility (CSR)<sup>38</sup>. However, there is an overlap with provisions in Law No. 40/2007 on Limited Liability Companies, which also regulates CSR obligations but with different definitions and mechanisms<sup>39</sup>.

This condition causes legal uncertainty, as companies are faced with obligations that may contradict each other. For example, Law No. 40/2007 does not provide clear guidance on the types of CSR activities that should be undertaken, while Law No. 25/2007

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<sup>35</sup> Ade Pratiwi Susanty, "Tanggung Jawab Perusahaan Swasta Terhadap Negara Berdasarkan Undang-Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas," *Jotika Research in Business Law* 1, no. 1 (2022): 1–11.

<sup>36</sup> Eny Suastuti, "Beberapa Kendala Dalam Penerapan CSR (Analisis Pasal 74 UUPt)," *Rechtidee* 9, no. 2 (2014): 203–22.

<sup>37</sup> Tengku Nadira Azis, Sukirman Sukirman, and Khrisnoe Kartika, "Penerapan Corporate Social Responsibility (Csr) Berdasarkan Pasal 74 Undang-Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas Di PT. Pertamina (Persero) Tbk Cabang Ru Vi Indramayu Balongan," *Soedirman Law Review* 2, no. 1 (2020).

<sup>38</sup> Nufaris Elisa and Rahmadany Rahmadany, "Tinjauan Hukum Corporate Social Responsibility (Csr) Menurut Undang-Undang No. 40 Tahun 2007 Tentang Perseroan Terbatas," *Juripol (Jurnal Institusi Politeknik Ganesha Medan)* 5, no. 1 (2022): 89–99.

<sup>39</sup> Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 40 Tahun 2007 Tentang Perseroan Terbatas," Jakarta: Sekretariat Negara, 2007.



emphasizes more on social interaction with communities<sup>40</sup>. As a result, companies may face administrative sanctions if they do not fulfill their obligations<sup>41</sup>.

In addition, Government Regulation No. 47/2012 on Corporate Social and Environmental Responsibility adds complexity with different provisions<sup>42</sup>. Some legal experts, such as Fajar (2018) and Suhargon (2022), emphasize the importance of regulatory harmonization to reduce overlaps and increase legal certainty for companies<sup>43</sup>. Therefore, efforts to harmonize existing regulations are necessary to ensure effective CSR implementation in Indonesia<sup>44</sup>. Law Number 40 of 2007 concerning Limited Liability Companies<sup>45</sup> these laws aim to create a harmonious relationship between companies and the surrounding community.<sup>46</sup> However, inconsistencies in regulations have led to confusion and gaps that allow companies to avoid CSR obligations.<sup>47</sup> Inconsistencies in the regulations governing Corporate Social Responsibility (CSR) have created significant confusion and provided loopholes for companies to avoid their obligations. The lack of clarity in the guidelines and standards that should be followed has led to overlaps in the legal framework. In Indonesia, for example, the Investment Law and the Limited Liability Company Law set

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<sup>40</sup> Fajar, "Corporate Social Responsibility in Indonesia: Regulation and Implementation Issues."

<sup>41</sup> Suhargon, "Kebijakan Perseroan Terbatas Dalam Menyalurkan Corporate Social Responsibility."

<sup>42</sup> PRESIDEN REPUBLIK INDONESIA, "Peraturan Pemerintah Republik Indonesia Nomor 47 Tahun 2012 Tentang Tanggung Jawab Sosial Dan Lingkungan Perseroan Terbatas," n.d.

<sup>43</sup> Sukananda, "Pendekatan Teori Hukum Refleksif Dalam Menjawab Permasalahan Keterbatasan Pengawasan Terhadap Pelaksanaan Tanggung Jawab Sosial Perusahaan Di Indonesia."

<sup>44</sup> Kospa, "Kajian Implementasi Program Corporate Social Responsibility (CSR) Oleh Perusahaan Pertambangan (Studi Kasus PT. Antam Tbk)."

<sup>45</sup> Hasan, "Kewajiban Corporate Social Responsibility (CSR) Dilihat Dari Perspektif Hukum."

<sup>46</sup> Narwan, "Kewajiban Hukum Perusahaan Dalam Pelaksanaan CSR Berdasarkan Peraturan Perundang-Undangan."

<sup>47</sup> Ridha Hidayat et al., "Analisis Yuridis Tanggung Jawab Sosial Dan Lingkungan Perusahaan Terhadap Masyarakat Sekitar," *Jurnal Penelitian Hukum De Jure* 20, no. 4 (2020): 531–44.

conflicting CSR requirements<sup>48</sup>. This situation leaves companies facing inconsistent obligations, making it difficult to comply, and often leading to administrative sanctions for those who fail to fulfill these obligations<sup>49</sup>. Furthermore, the voluntary nature of CSR in many countries allows companies to interpret their responsibilities in a loose manner, which often leads to greenwashing practices. In this practice, companies tend to misleadingly present their CSR efforts to appear more socially responsible without making any real commitments<sup>50</sup>. Regulatory complexity, such as that stipulated in Government Regulation No. 47 of 2012, further exacerbates this situation, as different laws can have different definitions and expectations regarding CSR<sup>51</sup> activities. Therefore, many legal experts emphasize the importance of regulatory harmonization to reduce overlap and increase legal certainty for companies, which is indispensable for ensuring effective CSR implementation in Indonesia<sup>52</sup>. Implementing CSR faces challenges such as limited infrastructure, ineffective bureaucracy, and legal uncertainty. To address these issues, some researchers suggest that companies create social reports through a reflexive legal approach.<sup>53</sup> Additionally, the government is considering the implementation of an omnibus law in an effort to improve the investment climate and simplify regulations.<sup>54</sup> Effective CSR implementation is crucial for national economic growth and the welfare of the community.<sup>55</sup>

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<sup>48</sup> Medya Duta Indonesia, "Undang-Undang Republik Indonesia Nomor 25 Tahun 2007 Tentang Penanaman Modal," (*No Title*), 2007.

<sup>49</sup> Indonesia, "Undang-Undang Republik Indonesia Nomor 40 Tahun 2007 Tentang Perseroan Terbatas."

<sup>50</sup> Honglei Mu and Youngchan Lee, "Greenwashing in Corporate Social Responsibility: A Dual-Faceted Analysis of Its Impact on Employee Trust and Identification," *Sustainability* 15, no. 22 (2023): 15693.

<sup>51</sup> INDONESIA, "Peraturan Pemerintah Republik Indonesia Nomor 47 Tahun 2012 Tentang Tanggung Jawab Sosial Dan Lingkungan Perseroan Terbatas."

<sup>52</sup> Sukananda, "Pendekatan Teori Hukum Refleksif Dalam Menjawab Permasalahan Keterbatasan Pengawasan Terhadap Pelaksanaan Tanggung Jawab Sosial Perusahaan Di Indonesia."

<sup>53</sup> Sukananda.

<sup>54</sup> Ansari, "Omnibus Law Untuk Menata Regulasi Penanaman Modal."

<sup>55</sup> Suhargon, "Kebijakan Perseroan Terbatas Dalam Menyalurkan Corporate Social Responsibility."

Indonesia's mineral and coal mining regulations have significantly changed due to the revision of Law Number 3 of 2020 on Mineral and Coal Mining. The legal rules related to Corporate Social Responsibility (CSR) in Indonesia are regulated in several laws, including Law No. 40/2007 on Limited Liability Companies and Government Regulation No. 47/2012 on Social and Environmental Responsibility of Limited Liability Companies. Article 74 of the Limited Liability Company Law stipulates the obligation for companies to implement social and environmental responsibilities, especially for companies engaged in the natural resources sector<sup>56</sup>.

However, legal issues arise due to inconsistencies in existing regulations, which can cause confusion and difficulties for companies in fulfilling their obligations. This often leads to administrative sanctions for companies that do not comply<sup>57</sup>. In addition, the voluntary nature of CSR in many countries allows for loose interpretation, which can lead to greenwashing practices<sup>58</sup>. This revision primarily impacts the implementation of community rights and corporate social responsibility (CSR). It may be more difficult for mining companies to fulfill CSR obligations because the law centralizes licensing authority.<sup>59</sup> Due to its lack of transparency and the absence of public participation in the drafting process, the law has been criticized for potentially harming the environment and communities. The law's impact on small-scale mining and indigenous rights has raised concerns.<sup>60</sup> However, some view CSR as a tool to address poverty and empower

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<sup>56</sup> Indonesia, "Undang-Undang Republik Indonesia Nomor 40 Tahun 2007 Tentang Perseroan Terbatas."

<sup>57</sup> INDONESIA, "Peraturan Pemerintah Republik Indonesia Nomor 47 Tahun 2012 Tentang Tanggung Jawab Sosial Dan Lingkungan Perseroan Terbatas."

<sup>58</sup> Mu and Lee, "Greenwashing in Corporate Social Responsibility: A Dual-Faceted Analysis of Its Impact on Employee Trust and Identification."

<sup>59</sup> Derita Prapti Rahayu and Faisal Faisal, "Eksistensi Pertambangan Rakyat Pasca Pemberlakuan Perubahan Undang-Undang Tentang Pertambangan Mineral Dan Batubara," *Jurnal Pembangunan Hukum Indonesia* 3, no. 3 (2021): 337–53.

<sup>60</sup> Nur Fadilah Al Idrus, "Dampak Politik Hukum Dan Respon Masyarakat Atas Pembaharuan Undang-Undang Minerba," *Jurnal Penegakan Hukum Dan Keadilan* 3, no. 2 (2022): 114–27.

communities<sup>61</sup> As the new regulatory framework increases compliance burdens and the potential inefficiencies in CSR program implementation, the responsibility of mining companies becomes increasingly heavy.

The concept of Corporate Social Responsibility (CSR) in Indonesia faces significant challenges due to inconsistencies and ambiguities in regulations across various laws.<sup>62</sup> Inconsistencies and ambiguities in legal regulations related to Corporate Social Responsibility (CSR) in Indonesia are often caused by differences in perspectives on the various existing regulations. For example, although Law Number 40 of 2007 and Government Regulation Number 47 of 2012 regulate CSR obligations, there is still a lack of clarity regarding which sectors are required to implement CSR and how to implement it. This situation can cause confusion for companies in fulfilling their obligations, which in turn can result in administrative sanctions for those who do not comply with applicable regulations<sup>63</sup>. In addition, the voluntary nature of CSR in many countries leaves room for broader interpretations, which often leads to greenwashing practices, where companies try to present themselves as more socially responsible than they actually are<sup>64</sup>. This fragmentation creates legal uncertainty for companies and hinders the effective implementation of CSR.<sup>65</sup> The lack of clear mechanisms and sanctions further complicates compliance.<sup>66</sup> Despite these issues, CSR is recognized as crucial for sustainable

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<sup>61</sup> Kospa, "Kajian Implementasi Program Corporate Social Responsibility (CSR) Oleh Perusahaan Pertambangan (Studi Kasus PT. Antam Tbk)."

<sup>62</sup> Amalia, "Regulasi Tanggung Jawab Sosial Perusahaan Di Indonesia."

<sup>63</sup> Indonesia, "Undang-Undang Republik Indonesia Nomor 40 Tahun 2007 Tentang Perseroan Terbatas."

<sup>64</sup> Mu and Lee, "Greenwashing in Corporate Social Responsibility: A Dual-Faceted Analysis of Its Impact on Employee Trust and Identification."

<sup>65</sup> Religia, "Permasalahan Hukum Tanggung Jawab Sosial Perusahaan (Corporate Social Responsibility) Di Indonesia."

<sup>66</sup> Marthen B.; Akim Marthin; Salinding Inggit, "Implementasi Prinsip Corporate Social Responsibility (Csr) Berdasarkan Undang-Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas," *J. Priv. & Com. L.* 1 (2017): 111.

development and addressing social and environmental problems.<sup>67</sup> Implementation challenges are particularly evident in sectors that require substantial resources, such as mining.<sup>68</sup> Studies show that when properly implemented, CSR programs can benefit social cohesion and community development.<sup>69</sup> However, more comprehensive and consistent regulations are needed to ensure that CSR effectively achieves community empowerment and environmental protection goals.<sup>70</sup>

### III. Analysis of Regulation Relationships and Conflicts

Comparative analysis with other countries shows that there are differences in regulatory methods; Indonesia has moved from implementing CSR voluntarily to making it mandatory.<sup>71</sup> Regulatory conflicts often arise due to the lack of public participation in the legislative process.<sup>72</sup> Some experts suggest incorporating Islamic principles into CSR regulations to enhance

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<sup>67</sup> Meilanny Budiarti Santoso and Santoso Tri Raharjo, "Diskursus Corporate Social Responsibility (CSR) Dalam Mewujudkan Sustainable Development Goals (SDGS)," *Share Social Work Journal* 11, no. 2 (2021): 100–121.

<sup>68</sup> I Made Adi Widnyana, "IMPLEMENTASI DEKLARASI RIO: ANALISIS PENGATURAN KRITERIA DAN STANDAR PROGRAM CSR OLEH MULTINATIONAL ENTERPRISES (MNC) BERBASIS KONSEP SUSTAINABLE," *VYAVAHARA DUTA* 18, no. 1 (2023): 1–10.

<sup>69</sup> Chairil N Siregar, "Analisis Sosiologis Terhadap Implementasi Corporate Social Responsibility Pada Masyarakat Indonesia," *Jurnal Sosioteknologi* 6, no. 12 (2007): 285–88.

<sup>70</sup> Hidayat et al., "Analisis Yuridis Tanggung Jawab Sosial Dan Lingkungan Perusahaan Terhadap Masyarakat Sekitar."

<sup>71</sup> Rosita Candra Kirana, "Studi Perbandingan Pengaturan Tentang Corporate Social Responsibility Di Beberapa Negara Dalam Upaya Perwujudan Prinsip Good Corporate Governance" (UNS (Sebelas Maret University), 2009).

<sup>72</sup> Aldi Wiratama, Ajie Haikal, and Zainudin Hasan, "Pendekatan Sosiologi Hukum Dalam Memahami Konflik Peraturan Perundang-Undangan Di Indonesia," *Jurnal Ilmiah Wahana Pendidikan* 8 (2022): 206–12.

their effectiveness.<sup>73</sup> Ownership structure, including foreign, institutional, and managerial, significantly influences CSR disclosure.<sup>74</sup> Despite various existing challenges, CSR regulations aim to accelerate social and environmental development in Indonesia.<sup>75</sup> Overall, these studies emphasize that to ensure effective implementation and positive social impact, more coherent, comprehensive, and context-appropriate CSR regulations are needed.

### 1. Conflict of Definition and Scope of CSR

In Indonesia's CSR regulations, the conflict of definitions is a major issue. Each law understands the concept and scope of CSR in different ways. While the Investment Law emphasizes social relations with the community, the Limited Liability Company Law defines CSR as "Social and Environmental Responsibility," focusing on the environment. The inconsistency in regulations creates confusion for businesses in determining compliance standards.<sup>76</sup> Although CSR is mandatory in Indonesia, unlike its voluntary nature in other countries, there is a lack of uniformity in its implementation and sanctions.<sup>77</sup> The concept of CSR has evolved from focusing solely on profits to considering society and the

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<sup>73</sup> Artha Ully, "Penerapan Prinsip-Prinsip Islam Dalam Pengaturan Corporate Social Responsibility Di Indonesia," *Law Reform* 7, no. 2 (2012): 121–89.

<sup>74</sup> Dian Agustia, "Pengaruh Struktur Kepemilikan Dan Dewan Komisaris Terhadap Corporate Social Responsibility Dan Reaksi Pasar," *EKUITAS (Jurnal Ekonomi Dan Keuangan)* 17, no. 3 (2013): 376–90.

<sup>75</sup> Sumiyati, Hendar, and Wiyanti, "PENGATURAN CSR DALAM RANGKA PERCEPATAN PEMBANGUNAN SOSIAL DAN LINGKUNGAN DI INDONESIA: CSR Regulation in the Context of Accelerating Social and Environmental Development in Indonesia."

<sup>76</sup> Sumarto, "Analisis Konsep CSR Dan Sistem Tanggung Jawab Sosial Dan Lingkungan Pada Perseroan Terbatas Yang Berasaskan Keadilan Dan Kepastian Hukum."

<sup>77</sup> Dodi Irawan, "TANGGUNG JAWAB SOSIAL DAN LINGKUNGAN (TJSL) KEWAJIBAN DAN DAMPAKNYA TERHADAP OPERASI DAN KEBERLANJUTAN BISNIS PERUSAHAAN," *Journal of Development Economics and Digitalization, Tourism Economics* 1, no. 1 (2024): 1–9.



environment.<sup>78</sup> Some researchers argue for a more comprehensive approach to CSR, aligning it with Indonesia's philosophical foundation, Pancasila, and the 1945 Constitution.<sup>79</sup> To address this issue, clearer and more consistent regulations are needed, including specific mechanisms for implementation and appropriate sanctions.<sup>80</sup>

In the context of Corporate Social Responsibility (CSR) regulations in Indonesia, the conflict of definitions and scopes is a very significant issue. Each law has a different perspective on the concept of CSR, which can cause confusion among business actors. For example, the Investment Law emphasizes social relations with the community, while the Limited Liability Company Law defines CSR as "Social and Environmental Responsibility," which focuses more on environmental aspects. This inconsistency is not only confusing, but also makes it difficult for companies to determine the right compliance standards. Although CSR in Indonesia is mandatory, unlike the voluntary nature in many other countries, the implementation and sanctions associated with CSR are still not uniform. This shows that even though there is a regulatory legal framework, its implementation is often inconsistent. The concept of CSR itself has evolved, from initially only focusing on company profits to considering social and environmental impacts. Some researchers argue that the CSR approach in Indonesia should be more comprehensive, by aligning it with the philosophical values contained in Pancasila and the 1945 Constitution. To address this issue, it is essential to have clearer and more consistent regulations, including specific implementation mechanisms and appropriate sanctions. This way, business actors can more easily understand and fulfill their CSR obligations, and make positive contributions to society and the environment.

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<sup>78</sup> Meilanny Budiarti and Santoso Tri Raharjo, "Corporate Social Responsibility (CSR) Dari Sudut Pandang Perusahaan," *Share Social Work Journal* 4, no. 1 (2014): 181633.

<sup>79</sup> Dadek Nandemar, "Corporate Social Responsibility (CSR) Berkeadilan Sosial," *Accounting Profession Journal (APAJI)* 2, no. 2 (2020): 56–71.

<sup>80</sup> Fitri Hillary Michiko, "Tinjauan Hukum Corporate Social Responsibility (CSR) Di Indonesia (Studi Kasus Pemberian Dana CSR Melalui Hibah)," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 3, no. 3 (2019).

## 2. Overlapping Regulation Obligations

Several laws mandate CSR, such as the Limited Liability Company Law, the Investment Law, and the Mineral and Coal Mining Law.<sup>81</sup> This overlapping regulation creates administrative and financial burdens for companies, especially in the mining sector.<sup>82</sup> The lack of clear sanctions and oversight mechanisms in these regulations results in inconsistent implementation and potential non-compliance.<sup>83</sup> Companies often face difficulties in effectively targeting their CSR programs due to unclear guidelines.<sup>84</sup> To address this issue, researchers recommend the adoption of a strategic CSR approach that benefits local communities, enhanced government oversight, and the creation of comprehensive regulations with clear sanctions. Additionally, companies should involve stakeholders in the planning and implementation of CSR to ensure that the programs meet community needs.<sup>85</sup>

Overlapping legal regulations in the context of Corporate Social Responsibility (CSR) in Indonesia are a significant problem for business actors. Various laws, such as the Investment Law and the Limited Liability Company Law, have different definitions and scopes related to CSR. For example, the Investment Law places more emphasis on social relations with the community, while the Limited Liability Company Law defines CSR as "Social and Environmental Responsibility," which focuses more on environmental aspects. This inconsistency creates confusion and legal uncertainty for companies in determining the compliance

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<sup>81</sup> Amalia, "Regulasi Tanggung Jawab Sosial Perusahaan Di Indonesia."

<sup>82</sup> Marthin; Salinding Inggit, "Implementasi Prinsip Corporate Social Responsibility (Csr) Berdasarkan Undang-Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas."

<sup>83</sup> Suastuti, "Beberapa Kendala Dalam Penerapan CSR (Analisis Pasal 74 UUPT)."

<sup>84</sup> Andrini, "Mandatory Corporate Social Responsibility in Indonesia."

<sup>85</sup> Maulana Muhammad Nabella Ainun Najib, "Implementasi Tanggung Jawab Sosial Dan Lingkungan Perusahaan (TJSLP) Pada Perusahaan Industri Jamu Dan Obat-Obatan Herbal PT. Sidomuncul Berdasarkan Peraturan Daerah Kabupaten Semarang Nomor 3 Tahun 2013 Tentang Tanggung Jawab Sosial Dan Lingkungan Perusa," 2018.

standards that must be followed, which can hinder effective CSR implementation<sup>86</sup>.

According to Muhammad Mahfud MD, a legal expert and former Chief Justice of the Constitutional Court, the lack of clarity in regulations can result in unintentional violations of the law by business actors, as they do not have clear guidance on what is expected of them in terms of CSR<sup>87</sup>. Therefore, it is important to develop more consistent and comprehensive regulations, which not only explain the obligations of companies but also provide strict sanction mechanisms for those who do not comply. Ali Safa'at, a business law expert, emphasized that clear and integrated regulations will help create a more transparent and accountable business environment, which in turn will benefit companies, society, and the environment as a whole<sup>88</sup>.

### 3. Conflict of Oversight Authority

Corporate Social Responsibility (CSR) implementation at the regional level in Indonesia has gained attention, with local governments issuing regulations to align CSR with local needs. Some regions, like Banten Province, have enacted local CSR regulations, reflecting the decentralization policy's impact<sup>89</sup>. In Malang City, CSR programs focus on various sectors, including social empowerment and environmental conservation, with larger companies contributing significantly<sup>90</sup>. However, the authority of local governments to regulate CSR through regional regulations has been challenged by a Constitutional Court decision, which stated that local governments lack the authority to create such regulations

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<sup>86</sup> Indonesia, "Undang-Undang Republik Indonesia Nomor 25 Tahun 2007 Tentang Penanaman Modal."

<sup>87</sup> M D Mahfud, "Hukum Dan Pilar-Pilar Demokrasi," *Yogyakarta: Gama Media* 5 (1999).

<sup>88</sup> Muchamad Ali Safa'at, "Corporate Social Responsibility: A Constitutional Perspective," *Jurnal Konstitusi* 11, no. 1 (2014): 1-17.

<sup>89</sup> Rahmatullah Rahmatullah, "CSR Dan Kepentingan Pemerintah Daerah," in *Simposium Nasional Otonomi Daerah 2011* (Sultan Ageng Tirtayasa University, 2011).

<sup>90</sup> Badan Perencanaan Pembangunan Daerah Kota Malang, "Potensi Corporate Social Responsibility (CSR) Untuk Pembangunan Kota Malang," n.d.

<sup>91</sup>. This situation highlights the complex interplay between regional autonomy and national policies in CSR implementation.

This research examines the differences in CSR law oversight between central and regional agencies in Indonesia. Several institutions have authority over CSR supervision, including ministries and local governments. This overlapping authority can create conflicts between the central and local governments.<sup>92</sup> The implementation of Law No. 23/2014 on Regional Government transferred some authority from the district/city level to the provincial level, resulting in tensions in areas such as mining oversight.<sup>93</sup> There have been calls for better regulatory harmonization and clearer division of responsibilities.<sup>94</sup> Proper CSR implementation is seen as crucial to resolving conflicts between companies and local communities.<sup>95</sup> Effective oversight of CSR programs is necessary to ensure that these programs achieve their established goals, with both internal company mechanisms and external government supervision playing crucial roles.<sup>96</sup>

The conflict of authority in supervision in Indonesia significantly impacts the effectiveness of regulation and legal certainty.<sup>97</sup> It shows that overlapping authority between provincial and regency/city governments results in ineffective supervision in the management of mining. It highlights the inconsistency in

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<sup>91</sup> Dedy Kurniawan, "Pengaturan Corporate Social Responsibility (Csr) Oleh Pemerintah Daerah" (Universitas Airlangga, 2019).

<sup>92</sup> Muhammad Akbal, "Harmonisasi Kewenangan Antara Pemerintah Pusat Dan Daerah Dalam Penyelenggaraan Otonomi Daerah," *Jurnal Supremasi* 11, no. 2 (2016).

<sup>93</sup> Ningsih Dwi Wachidiyah, "PELIMPAHAN WEWENANG PENGAWASAN TAMBANG GALIAN C OLEH PEMERINTAH KAB. GRESIK," *PELIMPAHAN WEWENANG PENGAWASAN TAMBANG GALIAN C OLEH PEMERINTAH KAB. GRESIK* 10, no. 1 (2021): 1-78.

<sup>94</sup> Pemerintah Pusat and Daerah Menurut Undang-Undang Nomor, "Tahun 2014 Tentang Pemerintahan Daerah" (LN, 2015).

<sup>95</sup> Nandemar, "Corporate Social Responsibility (CSR) Berkeadilan Sosial."

<sup>96</sup> Astiti and Rahman, "TANGGUNG JAWAB SOSIAL PERUSAHAAN DI KALIMANTAN TENGAH (PENERAPAN UNDANG-UNDANG NOMOR 40 TAHUN 2007 TENTANG PERSEROAN TERBATAS PADA PT. GLOBALINDO AGUNG LESTARI)."

<sup>97</sup> Kartono Kartowiyono, "Analisa Konflik Hukum Wewenang Pengawasan Kegiatan Pertambangan Pasca Berlakunya Undang-Undang Pemerintahan Daerah Tahun 2014," *Bina Hukum Lingkungan* 2, no. 1 (2017): 30-39.

legislation that causes overlapping authority between the central and regional governments.<sup>98</sup> It identifies the dualism of authority in coral reef supervision, which creates legal uncertainty.<sup>99</sup> It emphasizes that differences in administrative authority add legal uncertainty for business actors. This also highlights the need for regulatory harmonization to reduce authority conflicts,<sup>100</sup> stressing the importance of inter-institutional coordination to avoid authority clashes in law enforcement.<sup>101</sup>

## IV. Conclusion

The overlapping CSR regulations caused by Law No. 40/2007 on Limited Liability Companies, Law No. 25/2007 on Investment, along with Law No. 3/2020 on Mining, make the implementation of CSR in Indonesia very challenging. Three main components of this regulation conflict emerge: the uncertain definition and scope of CSR, overlapping obligations that burden business actors, and conflicts of supervisory authority between central and regional institutions.

This study finds that an excessive number of regulations concerning CSR can hinder the allocation of company resources and potentially obstruct the achievement of the social and environmental goals of CSR programs. For companies operating in the mining sector, which must comply with obligations from various regulatory regimes, the fragmentation of CSR regulations has resulted in significant administrative burdens and unclear

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<sup>98</sup> Muslim Lobubun, Yohanis Anthon Raharusun, and Iryana Anwar, "Inkonsistensi Peraturan Perundang-Undangan Dalam Penyelenggaraan Pemerintahan Daerah Di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 4, no. 2 (2022): 294–322.

<sup>99</sup> Najib Najib, Muh Risnain, and Gatot Dwi Hendro Wibowo, "Konflik Kewenangan Pengawasan Terumbu Karang Di Provinsi Nusa Tenggara Barat," *Unizar Law Review* 6, no. 1 (2023).

<sup>100</sup>E. F. Hartree, "Citation [4]," *Nature*, 1975, <https://doi.org/10.1038/255008d0>.

<sup>101</sup>Ratman Desianto, "Sengketa Kewenangan Penyidikan Dalam Rangka Pemberantasan Korupsi," *KERTHA WICAKSANA* 16, no. 2 (2022): 123–39.

compliance standards. This study finds that an excessive number of regulations concerning CSR can hinder the allocation of company resources and potentially obstruct the achievement of the social and environmental goals of CSR programs. For companies operating in the mining sector, which must comply with obligations from various regulatory regimes, the fragmentation of CSR regulations has resulted in significant administrative burdens and unclear compliance standards.

To address this issue, comprehensive regulatory harmonization is necessary. This can be achieved through three approaches: standardizing CSR definitions and implementation rules, simplifying reporting and supervisory mechanisms, and enhancing collaboration among supervisory institutions. To create a more cohesive CSR legal framework that supports sustainable development in Indonesia, this harmonization model must consider the hierarchy of regulations and the principle of regulatory effectiveness.

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