



The Legal Concept of Limited Liability Company Based On Social-Justice Through Corporate Social Responsibility*

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Abstract

The presence of Law Number 40 of 2007 concerning Limited Liability Companies is expected to ensure the welfare of the community around the company through the Corporate Social Responsibility program. This study uses a qualitative research method with a literature approach and legislation approach. The results of the study state that in reality, there are still many limited companies that do not implement Corporate Social Responsibility programs because there are no firm sanctions, both criminal, civil and administrative sanctions against limited companies that do not implement the Corporate Social Responsibility program so that social justice for the surrounding community limited liability company is not reached.

Keywords: Limited Liability Company; Social Justice; Corporate Social Responsibility

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Konsep Hukum Perseroan Terbatas Berbasis Keadilan Sosial Melalui Tanggung Jawab Sosial Perusahaan

Abstrak

Hadirnya Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas diharapkan dapat menjamin kesejahteraan masyarakat di sekitar perusahaan melalui program Coporate Social Responsibility. Penelitian ini menggunakan metode penelitian Kualitatif dengan pendekatan literatur dan pendekatan peraturan perundang-undangan. Hasil penelitian menyatakan bahwa dalam realitanya, masih banyak perseroan terbatas yang tidak melaksanakan program Coporate Social Responsibility karena disebabkan belum adanya sanksi yang tegas baik sanksi pidana, perdata dan sanksi administrasi terhadap perseroan terbatas yang tidak melaksanakan program Coporate Social Responsibility sehingga keadilan sosial bagi masyarakat di sekitar perseroan terbatas tidak tercapai.

Kata Kunci: Perseroan Terbatas; Keadilan Sosial; CSR

Правовая концепция общества с ограниченной ответственностью, основанного на социальной справедливости через корпоративную социальную ответственность

Аннотация

Ожидается, что наличие Закона № 40 от 2007 года об обществах с ограниченной ответственностью обеспечит благополучие общества вокруг компании посредством программы корпоративной социальной ответственности. В этом исследовании используется качественный метод исследования с использованием литературного подхода и законодательного подхода. Результаты исследования показывают, что на самом деле существует множество компаний с ограниченной ответственностью, которые не реализуют программы корпоративной социальной ответственности, поскольку отсутствуют жесткие санкции, как уголовные, так и гражданские и административные, в отношении компаний с ограниченной ответственностью, которые не реализуют программу корпоративной социальной ответственности, так что социальная справедливость для общества вокруг общества с ограниченной ответственностью не достигается.

Ключевые Слова: Общество С Ограниченной Ответственностью; Социальная Справедливость; Корпоративная Социальная Ответственность

A. INTRODUCTION

The 1945 Constitution of the Republic of Indonesia (UUDNRI 1945) explains that Indonesia's economic development must be carried out by involving the role of the community (Manan, 2014, p. 21). As mandated in Article 33 paragraph (4) of the NRI Constitution. Economic development is the main driver of the development that must be accompanied by mutual reinforcement with development in other fields (Ibrahim dan Sewu, 2003, p. 23). The presence of Law No. 40 of 2007 concerning Limited Liability Companies (UU PT) is expected to bring the economic development (Sadi Is, 2014, p. 133), by encouraging economic growth in a healthy Indonesian society. So that national economic development can be carried out based on economic democracy that aims to manifest the welfare of society (Sjawie, 2017, p. 70). Therefore, the existence of a limited liability company is needed and has rights and obligations as well as humans as legal subject (Saputra, 2015: 274).

The 1945 Constitution stands as the ethical basis for national economic development policies. As ruled in Article 33 of the 1945 Constitution that the economy of *Pancasila* as a rule of economic life or economic relations between economic actors that based on *Pancasila* ethics or morals with the ultimate goal of manifesting social justice for all Indonesian society (Simanjuntak, 2018, p. 26).

The Economic development cannot be separated from the role of law because law and economics are having interrelated law relations, law without economics cannot be effective, and economy without law will lead to economic injustice in society. Furthermore, law as a social principle cannot be separated from the values that apply in a society. In fact, it can be said that the law is a reflection of the values prevailing in society. Then the values cannot be separated from the attitude and the properties that (should) are developing (Kusumaatmadja, 2011, p. 10). Therefore, the LC Law aims to fulfill the legal and economic developments in society. Therefore, the Limited Liability Company must have responsibility for economic development, community welfare and the damage caused by the company's operations, for example, it can cause water, air and soil pollution that make the community around the company feel disturbed, and be responsible for the welfare of the surrounding community through the Corporate Social Responsibility (CSR) program. In fact, many limited companies in Indonesia do not implement CSR program, which often resulted in the rejection from the community around the company. So the focus in this paper is regarding the legal concepts of Limited Liability Companies with social justice through CSR, and then regarding the concept of CSR with social justice in the future.

B. METHODS

The method in this study is a normative legal research method that examines legal principles (Sunggono, 1997, p. 184), then this research is a descriptive analysis that describes/describes facts or social realities found and then associated with legal theories, namely Limited Liability Company law and the legal principles studied. Therefore, this research is a research that examines, and analyzes the Legal Concept of a Limited Liability Company with Social Justice through Corporate Social Responsibility.

C. RESULTS AND DISCUSSION

1. The Concept of Limited Liability Company Based On Social-Justice Through Corporate Social Responsibility

CSR is a global trend that is used as a limited liability company competitive tool in today's modern business. CSR can be a business strategy of a company to improve competitiveness and lift the image of a limited liability company as well as competitive advantage that is difficult to emulate (Ambarini, 2010, p. 321). Furthermore CSR is a form of contribution of a limited liability company, with the ultimate goal of placing business entities to participate in realizing the sustainable development.

The CSR regulation in Indonesia is still specific which only limited the companies engaged in the field of Natural Resources (NR) that are required to be performed CSR, so that the other limited liability companies are not required to carry out CSR. So it is not surprising that at this time the community is restless, even frightened of the impact and direct implications that have caused the activities of limited liability companies that are exploring for natural resources such as PT Freeport, PT. Exxon Mobil, etc. The activities of these natural resource limited liability companies sometimes have a negative psychological impact on the community.

It can also lead to various logical consequences for the surrounding community. Among them are changes in the structure and social and economic structure and culture of the community, physical conditions and environmental damage, as well as psychological burdens and trauma to the surrounding community. On the basis of concerns from the community around the limited natural resources company that made the government to raise issues related to CSR in the Company Law, as a form of social responsibility mining exploration, limited liability company must provide benefits to the people near to the limited

liability company. The facts show that there are many limited liability companies that only carry out operational activities but give very little attention to the social and economic interests of the surrounding community (Isya dan Busra, 2008, p. 187).

Social and environmental responsibility in a limited liability company is the company's commitment to participate in sustainable economic development in order to improve the quality of life and the environment that is beneficial, both for the company itself and the local community, and even society in general. This is intended to support the establishment of a harmonious, balanced and compatible company relationship with the environment, values, norms, and the culture of the local community. Therefore, the company's social responsibility is budgeted and calculated as the company's cost, which is carried out with due regard to propriety and fairness. These activities are included in the company's annual report. In the practice that the company does not carry out social and environmental responsibility, the relevant company is subjected to the sanctions in accordance with the provisions of the applicable legislation (Rahardjo, 2013, p. 90).

The CSR program implementation is the realization and actualization of a limited liability company effort to keep close to the community. CSR is basically an important element in the framework of sustainability that covers economic, environmental and socio-cultural aspects which is an important process in managing the costs and profits of business activities with stakeholders both internally (workers, shareholders and investors), externally (institutionally, general arrangements, community members, civil society groups and other limited liability companies) (Prasetijo dan Rudito, 2008, p. 24).

Susanto explained that a limited liability company can carry out its social responsibilities by focusing its attention on 3 (three) things, namely profit, environment and society. In relation to the corporate CSR function, these three things are a unity of limited liability company activities that can be carried out simultaneously in accordance with the developing socio-social conditions. By carrying out its social responsibility, a limited liability company is expected to not only pursue its profits but also be able to make a wise and prudent contribution to improving the welfare of the communities around the limited liability company (Susanto, 2007, p. 26).

So that the contribution of CSR in community economic development can be achieved by involving all components of society in the company's CSR activities. Poverty has become a common enemy that must be overcome by all parties. To do this, there are at least 4 (four) main pillars that must be considered,

namely: first, the CSR format that is in accordance with the local values of the community; second, limited liability of the company is related to the capacity of HR and institutions, and third; regulations and code of conduct in the business world. Fourth; Integrating these three pillars, the community will be able to build their abilities and strengths in solving problems they face in achieving better life (Budi, 2017, p. 35).

The consistent application of CSR is part of efforts to maximize the value of limited liability companies. CSR is a commitment of a limited company to behave ethically and contribute to sustainable economic development while promoting the improvement of the quality of life of employees and their families, the local community, and the wider community. With the existence of the company is expected to help improving the welfare of the community. For example by recruiting workers, so that it can increase people's income, as well as overcome the problem of unemployment. It can also be other productive activities or aimed at improving the quality of life of the community in the fields of education, health and so on. Thus the social sustainability of the community can be maintained. This is not only beneficial for the community, but also for the company. With conducive socio-economic conditions, limited liability companies can take place safely, comfortably, and sustainably (Ambarini, 2010, p. 323).

By carrying out social responsibility, a limited liability company can be helped in maintaining and increasing competitiveness through the image of a limited liability company in the midst of society. Indirectly this will provide benefits for limited liability companies itself. A good limited company reputation or image can provide a good image of the product produced. The impact will provide financial benefits, because the product will be accepted by both local and international consumers.

The awareness of a limited liability company carries out its social responsibilities, while at the same time can help it to carry out the legal responsibilities. Legal liability responsibility is the responsibility of a limited liability company as a legal entity towards the local government to comply with applicable legal regulations. In terms of administrative law, a limited liability company must implement the applicable legal provisions. For example, the provisions stipulated in the Environmental Protection and Management Act relating to Environmental Quality Standards, Environmental Impact Analysis (AMDAL), waste disposal; Provisions on Labor Law, Consumer Protection Act and so on. Likewise with other parties to carry out the rights and obligations agreed in the agreement; as well as against court claims.

The concept of CSR in Indonesia is no longer a voluntary social responsibility concept, but has become a mandatory social responsibility concept in accordance with the provisions of Article 1 and Article 74 of the Company Law in the form of Social and Environmental Responsibility. The Limited Liability Company Rules (UUPT) try to separate between social responsibility and environmental responsibility that has the aim of leading to CSR as a corporate commitment to sustainable economic development in an effort to improve the quality of life and the environment. Therefore, the implementation of CSR requires cooperation from all parties, namely the government, companies and the community as a *Tri Partit* partnership, especially for the government as the regulator is expected to be able to bridge the interests and provide a sense of justice for business people and the community. Because there will be no law enforcement if there is no surveillance system, and there will be no rule of law if there is no adequate law enforcement (Suhardi, 2002, p. 77).

Social justice in Pancasila as stated by Soerjanto Poespowardojo consists of 3 (three) forms; first; *justitia commutativa*, as the norm that governs interpersonal or equivalent institutions, second; *distributive justitia*, as the norm that determines the community's obligation to prosper the individual, third; *justitia legalist*, as the norm that determines individual obligations to society, are not solely due to the awareness directed towards the structure of the community process, but mainly due to legal arrangements directed at the structure of the community process, so a way is opened for social justice to ensure the opening up of equitable justice in obtaining legal guarantees (Poespowardojo, 1989, p. 161-162).

Social justice requires the community, including the state, to manifest public welfare to provide the community, including the state, for what the right is, so as it is possible to achieve the objectives of social justice. The aim of social justice is a balanced and orderly society / state structure where all citizens have the opportunity to build a decent life and those who are weak get the help they need. Social justice requires the state to advance public welfare, namely mental and physical welfare for all its citizens. In general terms, public welfare means the recognition and respect for the rights and services of living necessities that are affordable by the purchasing power of many people, social justice also requires citizens to give the state what is the right of the state in connection with the implementation of its task of promoting public welfare (Suwiryo, 2017, p. 33).

As stipulated in the fifth precepts of the Pancasila, every law must be prosperous for the community, meaning that every law discussed by the House of Representatives of the Republic of Indonesia with the joint agreement of the President must: first; manifesting community welfare, every law does not harm

the public interest and must prosper the community in all aspects of life. Second; avoiding interests that harm the community, the law that was created must prioritize the interests of the community rather than the interests of certain groups / groups (Krisnayuda, 2016, p. 250).

Social justice is the goal of Pancasila because Pancasila has a divine base aimed at social justice. Social justice is the goal of the ideals of the Indonesian state, as stated by Notonagoro as in the table as follows:

Table
Social Justice as the idea of the Indonesian State

No	principle	Manifestation
1	Divinity	Thanks to Allah's almighty grace
2	Humanity	The right to freedom of justice, to educate the nation's life, to participate in carrying out world order based on freedom, eternal peace and social justice
3	Nationality	National unity, a fundamental unity of blood, and sovereign rights
4	Populist	population sovereignty
5	Social justice	commonweal

Based on the table above, it shows that the position of Pancasila as the paradigm of national development must demonstrate the following concept: Pancasila must become a cognitive framework in self-identification as a nation. So Pancasila works as the direction, ethos of development and national development morals with social justice. In order to provide a sense of social justice for the community around a limited liability company, researchers offer a legal concept of a Limited Liability Company with social justice through CSR, namely a limited liability company legal concept that must be mandatory which requires a limited liability company both a limited liability company in the field of Natural Resources and a limited liability company in other fields to issue CSR.

2. The Concept of Corporate Social Responsibility with Social Justice in the Future

The development of CSR occurs in 3 (three) generations as follows: In the first generation of CSR, a limited liability company can be asked for the liability as long as it does not reduce the profits achieved and on things that contribute to

the (financial) success of the company. In the second generation of CSR, limited liability companies see that CSR is an integral part of a long-term business strategy. In the third generation of CSR, CSR is needed so that it can make a significant contribution in reducing poverty and preventing environmental degradation.

Specifically, the development dynamics of the concept of limited liability company social responsibility in Indonesia can be viewed from two different perspectives: CSR implementation that is based on voluntary nature. Then CSR which implementation is mandatory because it is based on applicable laws and regulations which is in accordance with Article 33 of the 1945 Constitution that is based on the main ideas contained in Paragraph IV of the Preamble of the 1945 Constitution, that principally the government must advance public welfare, educate the nation's life and create social justice (Fajar, 2013, p. 372). Therefore, the government must protect the law for not being a kind of "tool" of a powerful group (limited liability company) to "suppress" the community, so that the law is far from being oriented towards justice (Fathoni, 2014, p. 290).

The substance of CSR is to strengthen the ability of limited liability companies to adapt to their environment, so CSR implies that limited liability companies have a moral duty to act honestly, obey the law, uphold integrity, and provide a sense of social justice for the whole community. The essence of CSR responsibility in terms of ontology includes objects that are absorbed by sensory observation with humans as formal objects and their interaction activities exist in space and time. The material object is the world of social responsibility activities. In terms of epistemology, working on everything related to social responsibility activities as an empirical observation, with a mindset that uses reflective methods, namely the deductive and inductive way in turns. In terms of axiology, the goal is to manifest what is coveted by its formal objects, namely humans as subjects and objects in multidimensional corporate social responsibility activities, in order to enjoy the meaning of existence and its essence in co-existence conducive to mutually beneficial interactions leading to the achievement of harmony, congeniality, and the balance of spiritual and material well-being.

The foundation of CSR comes from moral values, that the company lives and is in the midst of community life. Therefore, the life and smooth running of the company's business activities are highly dependent and related to the environment and the community concerned. The company must have a concern to the community where it lives and is located. The Company is inseparable from the responsibility of fulfilling the public interest. The CSR view is a reaction and challenge to the view developed by Neo Capitalism which has a strong attitude

and opinion, that the only responsibility of the company is to seek maximum profits to be distributed to shareholders. The responsibility of the company is limited to meeting the interests of the shareholders. The social responsibility includes the responsibility for the welfare of the people and environmental protection, not the responsibility of the company, but the responsibility of the government (Harahap, 2011, p. 298).

Muljati explained that there are several CSR benefits for the company, including: improving the image of a limited liability company, strengthening the "brand" of the limited liability company, developing cooperation with stakeholders, differentiating limited liability companies from competitors, generating innovation and learning to increase company influence, opening access for investment and financing for limited liability companies, increasing share prices. If CSR is truly implemented it effectively, it can strengthen or increase the accumulation of social capital in order to improve the welfare of society. Social capital, including its elements such as trust, cohesiveness, altruism, mutual cooperation, networking and social collaboration have a great influence on economic growth.

CSR is a concept that a limited liability company has a responsibility to consumers, employees, shareholders, the community and the environment in all aspects of limited liability company operations. The implementation of CSR will have an impact on the sustainability of a limited liability company. A limited liability company in carrying out its activities must base its decisions not only on mere financial factors such as profits or dividends but also must be based on social and environmental consequences for now on and for the long term. So that it can create justice for the community because justice is a measure in determining agreements regarding the truth and mistakes that apply in society of a country (Sumadi, 2015, p. 856-857).

The substance of justice must be formulated at three levels. **First**, at the outcome level. **Second**, at the procedure level. **Third**, at the system level (Faturachman, 1999, p. 17). At the outcome level, justice is related to the distributive and commutative, so that justice in this case is related to an object that in practice, among other things, can be in the form of objects or services. Meanwhile the procedure is related to the determination and the system related to or inter-related inter-structure.

In sharing and exchange fairness, namely the first level of justice that related to outcomes, in an empirical level, it is often unequal occur in the process. Dividers that is seen by people are generally clearly higher than recipients, or parties who are in an unequal exchange process due to social, economic, political,

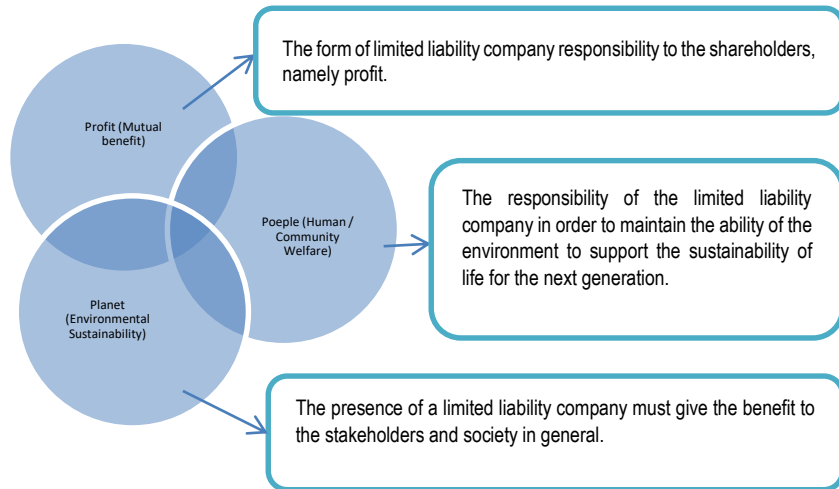
and cultural factors. Inequality that occurs on the subject in the process is potentially a factor that can cause injustice. Therefore morally normative justice in the first level teaches the principle of equity in the relationship between the two parties (diadic) and especially regarding the input. Regarding input, equity requires a comparison between the two parties and between one person and another in the same position. In addition, for the fairness, the exchange of courtship must emphasize the principle of no harm no intervention (Keraf dan Mikhael, 2006, p. 13-17).

In procedural justice, namely the second level of justice that related to the method of determination, which is related to the process and treatment of the people involved in it and it requires the existence of three components. First, the characteristics of the rules for the applicable procedure is formal. Second, The clarity on procedures and decision making. Third, interpersonal treatment. Procedural justice is substantially more determined by the second and third components, because based on the two components, the procedural justice manifests the justice that can be seen by the public, which in the end makes the looking fair more important than being fair.

Whereas in the fairness of the system, namely the third level of justice that relate to the system, which is the scheme that forms the basis of procedures, distribution and exchange are basically general policies that are realized as the basis for determining procedures and outcomes. Thus the justice of the system is also related to structure. Justice related to this structure is actually the substance of social justice. Leventhal determines six criteria. **First**, being consistent about time and people; **Second**, not being biased; **Third**, being arranged according to accurate data and information; **Fourth**, high correctability to errors; **Fifth**, representative; and **Sixth**, based on ethical and moral standards.

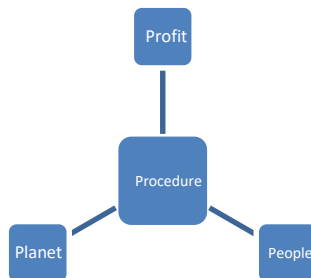
So CSR is closely related to the sustainable development, one of the factors that must be faced in order to achieve sustainable development is to improve environmental destruction without sacrificing the needs of economic development and social justice. Thus, Elkington makes CSR that has the character of sustainable development into 3 (three) focus or 3P, as the abbreviation of profit, planet and people. A good limited liability company does not only pursue economic profits (profit) but also must have concern for the preservation of the environment (planet) and the welfare of the people (people). As well as having a strategy to develop the quality and capacity of the community, both in terms of social, economic and environmental aspects in the development of sustainable development.

Picture I
CSR Concept



Seen from a broader development perspective, CSR is involved in limited liability company contributions to the concept of sustainable development, which is "development that is in line with the needs of the current generation without ignoring the needs of future generations." The principles of good corporate governance, such as fairness, transparency, accountability, and responsibility then become the basis for measuring the success of CSR programs. In the context of empowerment, CSR is part of a limited liability company policy that is run professionally and with institutionalized. Thus, CSR is a form of concern for a limited liability company that sets aside part of its profits (profits) for the benefit of human development (people) and the environment (planet) in a sustainable manner based on proper and professional procedures. The new CSR concept scheme becomes:

Picture II : CSR New Concept Scheme



Thus, the scope of CSR practically includes organization governance, human rights, workforce activities, environment, fair operating activities, consumer issues, as well as the contribution to community and society (community involvement, contribution to economic development and contribution to social development). To fulfill the things mentioned before, a limited liability company must have motivation to implement CSR, there are several motivations for a company to do CSR. Saidi made a matrix which then being developed by Suharto later, it described 3 (three) different stages or paradigms. First; the first stage is corporate charity, which is the encouragement of charity based on religious motivation; second; the second stage is corporate philanthropy, which is a humanitarian impulse that usually comes from universal norms and ethics to help others and fight for social equality; and third; the third stage is corporate citizenship, which is citizenship motivation to manifest social justice based on the principle of social involvement.

Now there is an effort to encourage CSR to shift from philanthropy to corporate citizenship which means there is reconciliation with social order and more contribution to society. When it is mapped, it appears that the description of the CSR paradigm morphed from "just carrying out obligations" to "in the common interest" or from "helping and giving to others" to "empowering others". In general, companies doing CSR are driven by 3 motivations, namely charity motivation, humanitarian motivation and citizenship motivation as explained in the previous section.

CSR must be a commitment of the Company to participate in sustainable economic development in order to improve the quality of life and the environment that is beneficial, both for the Company itself, the local community, and society in general, which is a form of corporate concern for the environment. The company should take care of the environment so that a good relationship is created between the company and the surrounding community.

So that the CSR model basically refers to expanding the role of the company which not only takes care of employee welfare and consumer needs, but also cares about the lives of the people who live around the company. The emergence of this issue is mainly triggered by the many cases where large limited liability companies are generally foreign limited liability companies operating in certain areas, creating social problems, such as pollution (water, air, noise, including social pollution), wide socio-economic gap between the limited liability company's "people" and the local residents, and structural impoverishment of local communities through exploitation and environmental destruction by limited liability companies.

Gunawan Widjaja explained that the concept of CSR which was originally only a moral obligation, with the enactment of Article 74 paragraph (1) of the Company Law became an obligation that can be accounted for in law, but specifically only for companies that carry out their business activities in the fields and/or related to natural resources. For other companies, CSR is only a moral obligation (Widjaja dan Pratama, 2008, p. 95).

CSR programs that reflect social justice in reality still need to be seriously fought for, knowing that there are still many facts that show the opposite things, namely the disharmony between the limited liability company and the community and between the limited liability company and its environment. This disharmony relationship between the limited liability company and the community and / or the environment is often manifested in the forms of various conflicts that we can find easily nowadays in Indonesia.

CSR aims to manifest sustainable economic development in order to improve the quality of life for society and the environment. This goal certainly cannot be achieved simply by providing temporary and temporary assistance. CSR must be able to contribute in helping to manifest social justice, the implementation must be done by empowering the community's economy by conducting partnerships and carried out in a sustainable manner.

Social justice means that social justice requires prosperity or that is evenly distributed among all, not statically distributed, but dynamic and increasing equitable. Social justice thus speaks of the welfare of all people in the Indonesian state, namely the condition of meeting the material, spiritual and social needs of citizens to be able to live properly and be able to develop themselves, so that they can carry out their social functions.

The implementation of CSR should not only be a way of donation, but really as a form of concern for a limited liability company so as to create a harmonious relationship between a limited company and the community. Then the regulation and implementation of CSR in Indonesia is inseparable from the meaning of Pancasila which is the cornerstone of philosophy and the 1945 Constitution as a constitution or basic law in the Indonesian which regulates and explains that the Indonesian country's economic system is family based and based on economic democracy.

D. CONCLUSION

Based on the description above, several conclusions can be made as follows: first; the legal concept of a Limited Liability Company with social equity

through The CSR of a limited liability company which requires the company to manifest economic development efforts to improve the quality of life and the environment that is beneficial, both for limited liability companies and for the communities around limited liability companies. Second; CSR concepts with social justice in the future must regulate and provide clear standards and strict sanctions (criminal, civil and administrative sanctions) against limited liability companies that do not carry out CSR. While the suggestion that can be put forward is that the central government and regional governments must provide strict sanctions against limited liability companies that do not implement CSR. Then the House of Representatives of the Republic of Indonesia must immediately revise Law Number 40 of 2007 concerning Limited Liability Companies.

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