



Corporate Social Responsibility, Business and Human Rights Standards in Indonesia

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ABSTRACT

Business and human rights issues are very interesting themes to be discussed in the current emerging investment boom, especially in developing countries like Indonesia. Foreign Direct Investment (FDI) has provided a very positive impact in generating economic growth and significantly increasing per capita income of particular countries. But on the other side, it also resulted in several negative impacts for particular situations and conditions, such as environmental, labour, and social issues. The euphoria of foreign direct investments sometimes ignores several human rights principles that must be respected by those investors. This paper would discuss further about business and human rights standards in the Indonesian context, taken from international, national or sub-national cites. Recently, the United Nations Human Rights Council endorsed and adopted John Ruggie's Guiding Principles for Business and Human Rights which became the United Nations Guiding Principles for Business and Human Rights. It is an international standard on how business practices should behave in the interest of the local people by respecting local wisdom, local values and local cultures which are constantly being highlighted and being concerns of several international and national human rights advocacy organizations. The international standard on business and human rights is quite new in the international law regime but it is highly necessary for stakeholders to deal with several issues related to business and the human rights domain. Corporate Social Responsibility policies and programmes are still being discussed intensively by interest groups on whether they meet the beneficiaries' satisfactory level as a win-win solution for human rights abuses committed by multinational corporations or are they just a "make up" from multinational corporations to reduce social rejection from local people where they operate. The Content policy analysis and the comparison method with other countries would describe comprehensively the importance of corporate respect for human rights principles and corporate social responsibility practices.

Keywords: *business, human rights and corporate social responsibility*

INTRODUCTION

Corporations acknowledge the necessity of respect for human rights principles in the area of their operations. Integrating human rights standards into development processes is inherently a complex enterprise (Hadiprayitno, 2011). Furthermore, According to Hadiprayitno (2011) at least there are two ways for the state to integrate human rights standards into development processes which are as follows; the rights-based approach to development and a binary relationship between the individual and the state where the state provides remedial actions when it fails to meet its obligation. The gradual liberalization of trade at the global level, coupled with mounting external debt, lack of financial capital, and high unemployment in the Least Developed Countries (LDC) have resulted in the promulgation of enticing foreign investment legislation, rampant corruption and lax control over the operations of Multinational

Enterprises (MNEs) (Bantekas, 2004). Hence, Bantekas (2004) said that MNEs have been able to hide behind the State “veil” because the State is the bearer of human rights, labour and environmental obligations under traditional treaty and customary international law. Several MNEs developed business ethics and released a set of code for conduct and compliance. The code of conduct and compliance programme is mainly to ensure that employees act lawfully and in ways consistent with the values and rules embodied in the code, employees report behavior inconsistent with the code and the company takes action to prevent the non-compliant behavior from occurring again (Hess, 2007).

Several studies show that large revenues from extractive industries may undermine economic, political and social development in developing countries (Skjaerseth et al., 2004). Moreover, there is a correlation between rapid inflows of oil revenues and a high level of corruption, military spending, violent conflict and civil war which may cause oil and mineral resources to be taken as a curse leading to poor performance (Skjaerseth, et al., 2004).

BUSINESS ETHICS

There is always a paradox between Western and Asian values in several aspects of life. It is not just limited to lifestyle, political behavior, economic orientation but also to human rights and the corporate social responsibility issue. An example is the debate on voluntary and mandatory corporate social responsibility in Indonesia. Some institutions, mainly from business associations insist on advocating CSR as voluntary rather than mandatory. But according to Hess (2007) based on Sarbanes-Oxley and Organizational Sentencing Guidelines (OSG) experiences where a firm can significantly reduce or even escape liability for having an “effective” compliance programme, including a code of ethics, under the OSG, compliance programmes are essentially mandated by the law (Hess, 2007). It shows and it is also clear evidence that the law has a very significant role to guide corporations how to behave in the interest of society. According to Hess (2007) Sarbanes Oxley is an act approved by US Congress to restore public trust in the markets. The Act has been passed by the Congress because of a report of the Association of Certified Fraud Examiners 2006. In its report to the Nation on Occupational Fraud and Abuses, it estimates that companies are losing approximately five percent of their revenue to occupational fraud (Hess, 2007).

Business ethics is a voluntary principle. It should be developed by corporations as part of moral obligation and enhancing public trust to their business practices. Even though it is a voluntary principles but still it is highly necessary to be mandated by the law (Hess, 2007). The oil and gas industry sectors are the leading industries in championing CSR (Frynas, 2005). As an example of the importance of business ethics is the Tyson food case (Copeland, 2000). Still according to Copeland (2000) Tyson food pleaded guilty to one felony count of illegally giving to the United States Secretary of Agriculture, Mike Espy. Based on the case, Tyson food was fined \$4 million in fines and \$2 to defray costs of the investigation (Copeland, 2000). It is one business ethics case where a company did a bribery and fraud with a government official.

A BRIEF OUTLINE ON CORPORATE SOCIAL RESPONSIBILITY IN SEVERAL ASIAN COUNTRIES

The theory and practice of corporate social responsibility for the most part is still very heavily focused on European and US cultures (Birch, 2003; Birch & Moon, 2011). The challenge facing countries in Asia is how they can effectively influence the global supply chain (Birch & Moon, 2011). India is the top Asian country in CSR community involvement, and then South Korea in the second rank (Chambers, Chapple,

Moon, & Sullivan, 2003). Thailand and Singapore have similar levels of community involvement but the issues between Thailand and Singapore are quite different. Thailand focuses more on environment and conservation, arts and youth issues in community involvement, whereas, Singapore focuses more on the issues of health, disability and welfare. Malaysia and the Philippines have similar levels of CSR penetration, where the Philippines focuses more on environment and conservation, training and education and community development. Similarly, Malaysia prioritizes environment and conservation, education and training and also the issue of welfare (Chambers, et al., 2003). On the other hand, Indonesia has the lowest level of CSR penetration as well as the lowest level of community involvement (Chambers, et al., 2003). The main focus of community involvement in Indonesia is agriculture, local economic development and support to religious organizations (Chambers, et al., 2003). In Europe, human rights policies are commonly found in several European countries like the UK, Norway and Germany (Welford, 2005). However, CSR practices in North America, in places like Mexico, human rights policies are not commonly found. Most developed CSR policies in Mexico are those concerning child labour, supply chain inspections, community development, and education-related policies (Welford, 2005).

BUSINESS AND HUMAN RIGHT INSTRUMENTS

In the international arena, there are several human rights principles and standards set. According to Bantekas (2004) the only legally binding and enforceable avenue is that of multilateral instruments. Bantekas (2004) suggested that multilateral human rights and environmental treaties are valuable only when prudently enforced at the domestic level. Indonesia, for example, has been developing and promoting mandatory CSR to enforce all those multilateral and environmental treaties at the domestic level. At the international level, Indonesia has recognized several instruments on business and human rights such as ISO 26000 on social responsibility, the Ten Principles of UN Global Compact, and UN Guiding Principles for Business and Human Rights. At the domestic level, in the Indonesian context, there are several laws discussing CSR: Company Act Liability Number 40/2007, Social Prosperity Act Number 11/2009, State-Owned Company Act Number 19/2003, the Law on Governing Aceh Number 11/2006, Micro, Small and Medium Enterprise Act Number 20/2008, Investment Act Number 25/2007, Mineral and Coal Act Number 4/2009, Oil and Gas Act Number 22/2001 and Environment Management and Protection Act Number 32/2009. In addition, there are two more CSR regulations being executed by corporations including tax exemption regulations for implementing social responsiveness programmes. These government regulations are as follows; Government Regulation Number 93/2010 on donation to national disaster, research and development, education facilities, youth empowerment, and social infrastructure and Government Regulation Number 47/2012 on CSR.

DISCUSSION

Enhanced CSR can serve to reduce the risk of future financial liability (Robins, 2005). A business should act and be held accountable for more than just its legal responsibility to shareholders, employees, suppliers, and customers (Robins, 2005). In addition, Robins (2005) suggested that companies should take full responsibility for *non-economic* consequences of their activities with respect to wider society and the natural environment. In the context of business and human rights, it is highly expected of CSR to combine various interests of the stakeholders such as government, local people, NGOs and corporations to formulate and implement comprehensive CSR programmes to minimize environmental, social and economic negative impacts of its business operations. A CSR programme strategy can be implemented well (why) if there is overlapping between doing well and doing bad.

CONCLUSION

Business and human rights standards set at the international level, as to how to act and behave in the interest of the local people, may be considered by stakeholders. Decision makers, especially corporations, should listen well to the local people, in the area where they operate. All international standards are implemented on a voluntary basis by nations. Those standards are only morally binding to all corporations throughout the world. The domestic laws or national policy of a particular country may be the only way to make those international standards enforceable. The national concern of a particular country is highly necessary to synthesize and integrate those international human rights standards to its national policy framework for businesses.

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