

Analisis yuridis putusan Mahkamah Konstitusi nomor 53/pPUU-VI/2008 terhadap kewajiban tanggung jawab sosial dan lingkungan di Indonesia = Juridical analysis of Constitutional Court decision number 53/PUU-VI/2008 towards the nature of corporate social responsibility practice in Indonesia

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Abstrak

Corporate Social Responsibility adalah sebuah konsep yang sedang berkembang di Indonesia berkenaan dengan upaya pemerintah untuk mendorong praktek usaha yang berkelanjutan dengan mendorong perusahaan untuk berkontribusi lebih ke masyarakat sekitar melalui berbagai kegiatan Corporate Social Responsibility. Hal tersebut terlihat dari adanya undang-undang yang menyatakan Corporate Social Responsibility sebagai praktek wajib perusahaan, terutama perusahaan Badan Usaha Milik Negara dan perusahaan yang bergerak di sektor yang memanfaatkan sumber daya alam. Kewajiban yang berlaku untuk banyak jenis perusahaan di Indonesia tersebut menimbulkan pertanyaan, termasuk 'apakah mewajibkan praktek Corporate Social Responsibility sesuai dengan ketentuan Undang-Undang Dasar 1945?' sehingga diajukan uji materiil akan kewajiban Corporate Social Responsibility bagi perseroan terbatas sesuai yang tertera dalam Pasal 74 Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas dan terbitlah Putusan Mahkamah Konstitusi Nomor 53/PUU-VI/2008 yang mengukuhkan upaya mewajibkan Corporate Social Responsibility di Indonesia bagi usaha-usaha yang ditentukan oleh undang-undang. Dalam tulisan ini, pergeseran konsep sukarela Corporate Social Responsibility menjadi wajib melalui peraturan perundang-undangan yang berlaku di Indonesia akan dianalisis.

.....Corporate Social Responsibility is a growing concept in Indonesia as the government is enforcing sustainable business practices through encouraging more companies to contribute towards the society through various Corporate Social Responsibility initiatives. This is expressed through several Indonesian national laws that deemed Corporate Social Responsibility as a mandatory company practice, particularly State Owned Enterprises and companies operating in sectors which utilize natural resources. The mandatory order applicable to the great number of Indonesian businesses has raised question about its constitutionalism and the obligation for limited liability companies to conduct Corporate Social Responsibility as expressed in Article 74 of Law Number 40 Year 2007 on Limited Liability Companies were put upon a judicial review, resulting in Constitutional Court Decision Number 53 PUU VI 2008 which instead strengthen the idea that Corporate Social Responsibility can be obligated towards businesses of a certain requirement. In this paper, the shift of what had been wholly voluntary activity into a regulated activity in Indonesia is analyzed.