THE ROLE OF CORPORATE SOCIAL RESPONSIBILITIES (CSR) IN COMPANY OF OIL PALM ACCORDING TO INDONESIAN COMPANY LAW NO 40/2007 IN DEVELOPING WILD LIFE PRESERVE

[1]FAZAFAKIHATAQWA, [2]ADIYATMAMAHARDHIKA, [3]SRI WULANDARININGRUM

Abstract: Indonesia is a country that has the 2nd widest land of tropical forest in the world after Brazil. As tropical country which is full of biodiversity, protecting the biodiversity is a must for us as Indonesian people. According to the data of Head Division of Environment and Disaster Mitigation, the total land of burnt forest which is scattered in the whole regions of Indonesia is about 2.1 million hectares. Furthermore, according to Head Division of Central Data and Information BNPB, SutopoPurwoNugroho , the total land of burnt forest is equal to 1.9 million the large of the football field or reached out 32 times of large land of Indonesia's capital city called Jakarta. Forest fires mostly occurred in border areas which have minimum infrastructures. From the distribution of hotspots, 30 percent of them were in non-concessional forest areas, 20 percent were in oil palm plantation, and 20 percent were others. Forest fires had already burnt many kinds of plants and tropical biodiversity. Therefore, re-establishment of Law that manages about corporation social responsibilities is needed. According to Indonesia Law No 40/2007 first verse has the substance about companies while doing their business activities in the field and or related to natural resources are obligatory to carry out the responsibilities to social-environment. All this time, real victims of Indonesia's burnt forest are wild animals that lived in those forests. The population of wild animals in Indonesia's forests always decreases from year to year. Illegal hunting is not the main cause of the decreased population wild animals. However, the main cause of the decreased population of wild animals is forests fires. The appropriate implementation to overcome this crisis must be focused on protecting wild animals inside of it. As of, wild fire will not impact systematically to the continuity of protected animals. The management of preserve will be companies' responsibilities that will be directly controlled by government. So that future generations will enjoy the biodiversity of animals in Indonesia.

Keywords: Responsibility, Environment, Law, Tropical Country, Wild Life Preserve

I. INTRODUCTION

Indonesia is one of countries that awarded large forests which produce resources that can be used to its people's prosperity. According to central agency on statistics in the year of 2012, the total large forests of Indonesia is about 129.425.000 hectare[1] which can yield approximately 20% of foreign exchange for Indonesia and it only encompasses timber sector. Furthermore, beside of profit which is gained from Indonesia's forests, fire forest is a problem that always appears every year. According to the data of Head Division of Environment and Disaster Mitigation, the total land of burnt forest which is scattered in the whole regions of Indonesia is about 2.1 million hectares field or reached out 32 times of large land of Indonesia's capital city called Jakarta[2]. The amount of total land of burnt forests in Indonesia which is very massive has long impact to the connected sectors, such as wild animals in the forests. Carcasses of wild animals, such as wildcat, pangolin and orangutan, can be found in almost every area of burnt forests. Sumatera tigers used to have the thousand populations, but now there are only 400 left of them. The decreasing amount of wild animals can destroy ecological sequences, such as the decreasing number of insects and bats who help the process of pollination which can interrupt the food supply of human. Moreover, Indonesia's natural wealth, such as wild animals, can be tourists' appeal to come. It can be pre concerted that if the population of wild animals is lost, the sparkler that attracts tourists will be vanished. All this time, the concept of Corporate Social Responsibility is a familiar concept in business. Some efforts of CSR are still not on the right target. There are some aspects that must be improved through the effort of social responsibility, such as overcoming the burnt forests and the effects of it. The simplification of rules is needed in order to comprehend and install CSR as real as possible so that people can feel the real impact of the CSR company oil palm.

II. PROBLEMS' IDENTIFICATION

Recent years, fire forests usually become world spotlight either from economy sides or environment sides. Indonesia is noted as a country with great problem of fire forests. According to AriefJuwono, the former third deputy of The Ministry of environment, there are 9 provinces which has potential of having fire forests. These are North Sumatera, Jambi, Riau, South Sumatera, West Kalimantan, East Kalimantan, Middle Kalimantan, South Kalimantan, and North Kalimantan. This is real fact that hurt Indonesian people because there are dozens of animals that are protected live in the forests[3].

The polemic of fire forest is an annual problem that can cause massive effects, mainly to the wild animals that have habitat in the forests. The target of this paper is to conserve the population of wild animals in

the forests. The purpose of this paper is to keep the population of wild animals in the forests because if their habitats is threatened can cause impact of our lives. Some animals that is lost their habitat was evidently attacked the people settlement and look for food in the villagers' areas. This thing will be really endangering people's lives. As if, the implementation of CSR is really needed to support sustainability.

Making preserve is an effort that can keep the continuity of wild animals, mainly to the endangered animals, and a media of company to dispense their funds as their social responsibilities. Indonesia has tropical forests with biodiversity which need to be protected with the result that a program which can bring companies to join managing their environment is needed because the benefit of CSR program has not been enough to be felt by great measure of people. Some regulations about CSR make companies often dispense their funds to the irresponsibility sides. So that, simplification of regulations is needed until companies can implement their funds on the right target to develop preserve which has good domino effects for wild animals' development.

III. BASIC THEORY OF SOCIAL RESPONSIBILITY

Corporate Social Responsibility (CSR),basically had been introduced by Andrew Carniegie (1835-1919) in his book which titled "The Gospel of Wealth" (1899). US company formulated the concept of CSR is based on 2 basic principles, (1) Charity Principle and (2) stewardship principle. Charity principle prosecutes the people to be luckier to help less lucky people. Meanwhile, Stewardship principle prosecutes businessman and individuals to be stewards on their wealth that they have for other people.

CSR firstly appeared in academics formal course since Howard S Bowen published his book which titled "Social Responsibility of The Businessman" in the year 1953. Basic idea CSR which is stated by Bowen referred to businessman's obligation to run their business which is linear to values and purposes that are going to be reached by the people in their operational businesses. He uses the term of linear in the context of convincing realm business about their needs to have vision that exceeds financial performance of company[4].

Financial crisis that happened in US in the year of 1940 until 1960 is concomitant to the principle of Carnegie which is being left and criticized by Milton Friedman who is an economist the winner of Nobel in economics for the year 1976. By proposing new concept about CSR in his book which titled Capitalism and Freedom (1963) and emphasizing it in the beginning of the year 1970 stated that advancement of getting profit automatically in a company will invent new jobs which can accommodate job seekers.

The Comparison between CSR Law in Indonesia and Abroad

The major law product about Corporate Social Responsibility in Indonesia is UU No. 40 Year 2007 about limited liability companies, in article 74 section 1 is avowed that companies who are installing their business in the field and or related to resources have the responsibility to their social and environment, and in the section 2 is avowed that the cost to execute their social and environmental responsibility is budgeted as a part of company cost. The companion law product UU No. 40 Year 2007 is article 4 Government Rules 47/2012 is stated that social responsibility which is installed by management is based on annual performance of company after having approval from board of Commissioners or General Meeting of shareholders which is appropriate to company's basic budgets.

Nevertheless, in the implementation of corporate social responsibility in Indonesia still full of confusion, because of lack of the socialization about law which regulates CSR. There are many companies that implement CSR as business strategy or doing social activities only for increasing companies' reputation and not for increasing the social and environmental quality. This thing inflicted to not comprehensive implementation of CSR. The different implementation of CSR in Indonesia with some other countries is some other countries do not have basic law and it appeared because of the internal values of company which is realizing that some businesses bear responsibility more than just producing profit or CSR raised by people's encouragement.

US companies did not supposed to do CSR, but in the year of 2012, there is companies' enhancement who reported their CSR activities. That is not because company's willing to increase their reputation but because system of values that is trusted to be sustainable development and triple-bottom line, which is a principle that a business has responsibility to produce profit and keep social environment and also nature.

IV. RESEARCH METHODOLOGY

We analyzed companies' report of corporate social responsibility which is related to utilization of resources. According to the report will be determined every company's contribution in making preserve because the different ability and potential things that they had. Analyzing basic theory of CSR is also needed as basic reference to install this program, because there are some regional regulations in Indonesia which violated to basic theory of CSR implementation. With this theory, we could give input about policy to the government to determine attitude in managing budget of CSR. So far, CSR is far away from basic meaning of it and becoming the second responsibility of company to its country. CSR is a budget to be used for improving the quality of

environment and not for distributing it into regional government or as budget to sponsorship of company. The return main function of CSR to support affected environment is needed to be installed as soon as possible remembering the critical total land of Indonesia as impact of fire forests in company of oil palm.

Findings

The Implications of Land Opening and Endangered Animals

Oil palm is a commodity's mainstay of Indonesia now on, because the demand of Crude Palm Oil is always increasing from year to year. Nevertheless, thousand hectares of land is on fire every year to open new land of estate. Wildfire is not only leaving chunks of weathered woods but also causing environmental pollution which poison mortal such as animals who live in tropical forest of Indonesia.

In order to achieve target project of BBN, government encourages investment in oil palm sector. Over all, government reserves 24.4 million ha of land until upcoming 2010. In detailing, expansion 5 million ha of estate's land, revitalization 2 million ha of oil palm estate, rehabilitation 9 million ha and reformation 8 million ha of agrarian (Kemenperin.go.id). This matter can cause direct impact to the decreasing tropical forests in Indonesia and endangering animals' sustainability in the forests. Government needs to encourage development sustainability which is based on international principles which had been ratifying in the forum of United Nations.

Negative effects on environment had become more serious because developmental oil palm estate in practically not only happened in the conversion forests but also in the region of productive forests, protected forests, and in regional conversion that had unique ecosystem and high natural diversity (Potter and Lee, 1998)[5].

Sumatran Tigers and Orangutan are real examples of animals which had struck impact of oil palm land opening. Environment where they look for foods and live is always decreasing every day. So, they could not regenerate optimally. According to the data WWF Indonesia, the population of Sumatran Tigers was just about 400 that are left in the lowland and rain forest in the mountain. Most of regions are endangered with land opening for commercial land of agriculture and estate, and also encroachment by illegal logging activities and developmental roads. In parallel with disappearance of their habitat, Tigers forced themselves to enter nearer regions with people. Province of Riau is a home for 1/3 of all populations of Sumatran Tigers. Unfortunately, even if they had been already protected by law, the populations of tigers are still decreasing until 70% in the last ¼ centuries. In the year of 2007, it is expected that there was only 192 Sumatran Tigers left in the wild nature of Riau Province.

Indonesia's government had already accepted international critics about easily licensing opening tropical forests. Government had made some regulations to create developmental oil palm estate's sustainability. In the year of 2011, Indonesia government established Indonesian Sustainable Oil that had purpose to increase global competitiveness in the world's eyes and pay attention with preservation and environmental sustainability. Example case of violation is done by oil palm companies which implicates to protected animals is the case of PT. SuryamasCipta Perkasa in Middle Kalimantan. The violation that had done by the biggest oil palm company in Indonesia gave impact to 23.000 hectares of peat lands and endangered orangutan with releasing million carbon gasses to the air. In the news stated that PT SuryamasCipta Perkasa had proven damaging forests where 200 orangutans lived. This company had long criminal notes and proven paying people to kill Orangutan that damaged their estates. This was showing corporate high-handedness in taking decision based on maximizing profit without paying attention to impact of developmental ecology to environment[6].

Insight about CSR

CSR is sustainable commitment from business to have ethical attitude and give contribution for the developmental economy, in increasing live quality from employee and families, along local community and people in general[7].

Company cannot be separated from individuals who are involved inside of it, such as the owners, employees and environment. They have to have sensitivity and concern to public, especially regional people who lived around operating companies. They are consumers, employees, and productive resources for companies and without them company will not be able to work as it should be.

The existence of Corporate Social Responsibility expands responsibility to become triple bottom lines. In the triple bottom lines, companies are not only responsible to the financial conditions, but also to the social and environmental aspects. It means that financial condition is not enough to guarantee companies to be grown sustainably. Corporate sustainability can be reflected by implementing people's willing in paying attention to financial, social, and environmental dimensions. CSR can be stated as parameter of revival era. So that, CSR should be not only moving on philanthropy aspects (encouragement of people that sourced from norm and universal ethic to help each other and struggle to social equity)but also creeping up to the macro and real policies.

Corporate demand to hold CSR not only appears from traditional stakeholder who had directly involvement, such as supplier, customer, investor and competitor, but also the more important is stakeholders who represent civil society such as non-governmental organizations, local people and also environmental

and human right activists. Corporate influences are getting bigger and wider. One of impacts that corporate made came from environmental dimension. Operating companies usually gave bad impacts for around regions. Some phenomenon happened in Indonesia, such as flooding because of illegal logging, smog because of fire forests, the disappearance of wild animals because of illegal logging, and environmental pollutions are real examples of bad impacts to environment of operating companies. This matter had made regulations and assertive sanction about Corporate Social Responsibility such an absolute thing that must have done. If the current condition keeps going on, people and country will endure the biggest loss.

Currently, there had already been regulations about CSR such as Constitution Number 40 Year of 2007 about Limited Liability Company. However, this regulation is still not able to courage optimal CSR implementation in the real field. This could be seen that there are still not assertive sanctions yet which will be given by government to the companies who had not done CSR yet and given bad impacts to their environment. Therefore, national uniform regulations to form social responsibility of company's sustainability are needed with the result government doesn't have to wary bad impacts that will be inflicted by companies.

Intervention of CSR Regulations on Convention number 40 year 2007

The definition of CSR according to Solihin in his book which titled "Corporate Social Responsibility: From Charity to Sustainability" is one of responsibility of company towards stakeholders. This definition indicated that there are many subjects of law who hold interest towards sustainable environment. So that, article 3 section 74 Convention Number 40 Year 2007 stated, "Company who doesn't run their obligation which are meant in the 1 section will get sanction which is suitable to the provision of legislative rules and regulations.

Ministerial Social Rules Republic Indonesia Number 12 Year 2012 about business responsibility's forum in the execution of social prosperity. Social ministry regards how important of forming CSR in the province level as a mean of partnership between government and realm business along with filling organizational structure that will be ratified by Governor. The focusing of CSR will be wider from the real nature when government takes role as manager not supervisor.

Companion regulation of CSR cannot be regulations' complement like the definition of principle of *lex specialis derogat legi generali*which means law has the special quality (*lexspecialis*) which rules out the general law (*lexgeneralis*). Many regulations seemed to force company to hand over all economy's externality. This thing really inflicts the early view of CSR as company's program which focused to develop related stakeholders. So that, removing all regulations CSR inside of ministerial and regional regulations to find real solutions of CSR of this program is needed. Because this had already been government's responsibility to dispense funds as product of companies' taxation to keep country, as the result that externality national economy should be country's responsibility not companies' responsibility.

The article 74 Constitution Number 40 Year 2007 does not explain about violation sanction that will get if a company damages environment. This is a kind of law's slit for businessman especially to entrepreneur of oil palm. Currently, regional government rules about CSR made businessman as paid their commitment towards environment. Consequently, tactical steps are needed to arrange new constitutions so that regulations about CSR can be implemented perfectly. Currently, companion regulations UU Number 40 Year 2007 has not been enough yet as basic law to install CSR by oil palm companies. The new constitutions will specially discuss about the implementation of CSR to fulfill the principle of *lex specialis derogat legi generali*so that companies can focus on dispensing their funds. Inside of that constitutions must be included assertive sanction and bond towards infringement of companies' oil and palm. By the existence of new constitution will be removed all regulations that regulate about CSR. So that, the cost of companies will become real and directly use to support preservation of endangered animals in Indonesia. This also will decrease the embezzlement of CSR funds which are currently happening. The simplification of regulations and sanction's intervention from infringement of regulations must be examined more seriously with an eye to government can actualize the sustainable development. This will prosper government's side and companies also.

CONCLUSION

The preservation of forests is endangered because of the land opening for oil palm which used the technical of forests fire. Although the commodity of oil palm is one of the high foreign exchanges, the devastation of forests can also remove our country's endangered animals. To be known that the wild animals are getting decrease every year because the forest fire is getting happening.

Currently, in realm business is usually heard about Corporate Social Responsibility that examined the insight of business does not only have one responsibility to gain profit but also have 3 responsibilities to gain profit, protect preservation and give widely contributions to people.

Unfortunately, there are many funds of CSR from companies that was not on the right use in increasing surrounding conditions. Many of funds only are used for increasing the companies' reputation. One of aspects usually missed about the improving forests' preservation and wild animals as well. Through this paper, we purposed companies to create program that is on the right target to improve preserve by building the wild life reserve. The idea of this will improve the life of wild life and direct companies to dispense their CSR funds in good way and right target.

RECOMMENDATIONS

Government should install program which is on the right target and companies will take role in conserving environment. However, companies are the subjects that have big contribution in the damaging environment which happened. Government will be better to remove all regulations about handling CSR and return the implementation of CSR to be appropriate with the basic theory of creating CSR which is about causing emerge to companies' concern to environment. Hence, government will reduce the misuse of companies' CSR to build more responsible and transparent wild life's preservation.

REFERENCES

1. Bowen, H. R. 2013. "Social responsibilities of the businessman". Iowa. University of Iowa Press.
2. Solihin, Ismail. 2009. "Corporate Social Responsibility: From Charity to Sustainability". Jakarta. Salemba Empat.
3. Tacconi, L. 2003. "Forests Fire in Indonesia : Causes, Cost dan policy's implications". Bogor. CIFOR.
4. World Business Council for Sustainable Development 1999. *Corporate Social Responsibility: Meeting Changing Expectations*. Jenewa. World Business Council for Sustainable Development.

★★★