

Legal Politics of Regulating The Management of Special Economic Zone In Indonesia: A Civil Law Analysis of Obligations and The Implementation of Social Responsibility

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Abstract. Social responsibility is a moral and legal obligation that must be fulfilled by business entities in supporting sustainable economic development. In the context of Special Economic Zone in Indonesia, the implementation of social responsibility holds particular urgency as Special Economic Zone serve as strategic instruments of the state in promoting investment, exports, and national economic growth. However, to date, the regulation concerning the obligation and implementation of social responsibility within Special Economic Zone remains abstract and lacks a comprehensive integration within the national legal politics framework. This study aims to analyze the legal politics of Special Economic Zone regulation in Indonesia in relation to the implementation of social responsibility, and to explore the importance of such regulation from a private law perspective. This research is normative in nature, employing a statutory approach and a conceptual approach. The legal materials used consist of primary sources such as Law Number 39 of 2009 concerning Special Economic Zone and its derivative regulations, along with secondary legal materials including literature and scholarly studies. Data analysis is conducted systematically by constructing an ideal legal framework. The results indicate that the regulation of social responsibility in Special Economic Zone lacks a solid philosophical, juridical, and sociological foundation. Therefore, legal policy reform is urgently needed, both through legislative updates and the establishment of detailed technical regulations, to ensure legal certainty and support social sustainability in the development of Special Economic Zone in Indonesia.

Keywords: Legal Politics, Civil Law, Special Economic Zone, Social Responsibility

Abstrak. Tanggung jawab sosial adalah kewajiban moral sekaligus hukum yang harus dipenuhi oleh badan usaha dalam mendukung pembangunan ekonomi berkelanjutan. Dalam konteks Kawasan Ekonomi Khusus (KEK) di Indonesia, pelaksanaan tanggung jawab sosial memiliki urgensi tersendiri karena KEK berfungsi sebagai instrumen strategis negara untuk mendorong investasi, ekspor, dan pertumbuhan ekonomi nasional. Namun hingga kini, pengaturan mengenai kewajiban dan pelaksanaan tanggung jawab sosial di dalam KEK masih bersifat abstrak dan belum terintegrasi secara komprehensif dalam kerangka politik hukum nasional. Penelitian ini bertujuan menganalisis politik hukum pengaturan KEK di Indonesia terkait pelaksanaan tanggung jawab sosial, serta menelaah pentingnya pengaturan tersebut dari perspektif hukum privat. Penelitian ini bersifat normatif dengan menggunakan pendekatan perundang-undangan dan pendekatan konseptual. Bahan hukum yang digunakan meliputi sumber primer, yakni Undang-Undang Nomor 39 Tahun 2009 tentang Kawasan Ekonomi Khusus beserta peraturan turunannya, serta bahan hukum sekunder berupa literatur dan kajian ilmiah. Analisis data dilakukan secara sistematis dengan membangun kerangka hukum ideal. Hasil penelitian menunjukkan bahwa pengaturan tanggung jawab sosial di dalam KEK masih belum memiliki landasan filosofis, yuridis, dan sosiologis yang kuat. Oleh karena itu, reformasi kebijakan hukum sangat mendesak, baik melalui pembaruan legislasi maupun penyusunan peraturan teknis yang lebih rinci, guna menjamin kepastian hukum dan mendukung keberlanjutan sosial dalam pengembangan KEK di Indonesia

Kata Kunci: Politik Hukum, Hukum Keperdataan, Kawasan Ekonomi Khusus, Tanggung Jawaban Sosial

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INTRODUCTION

Social responsibility is both a moral and legal obligation that must be fulfilled by economic entities engaged in business activities for the purpose of generating profit. It represents a commitment to contribute to sustainable economic development by paying attention to the social, environmental, and economic welfare of the surrounding community. One aspect of social responsibility that requires thorough attention both in terms of regulatory obligations and practical implementation is the execution of social responsibility within Special Economic Zone in Indonesia. A Special Economic Zone is a specifically designated area where special regulations apply in customs, taxation, licensing, immigration, and labor affairs. The objective behind developing Special Economic Zone is to create opportunities for increasing investment through the preparation of areas that possess comparative advantages and are ready to accommodate industrial activities, export-import operations, and other economically significant endeavors.¹ The concept of Special Economic Zone aspires to significantly enhance the quality of Indonesia's economy. However, it must be emphasized that in formulating statutory regulations, the Government of Indonesia is constitutionally mandated to prioritize the interests of its people and domestic entrepreneurs, particularly in the context of economic development. This mandate is rooted in the Constitution and serves as a guiding principle in the pursuit of a prosperous society.²

Special Economic Zone are frequently viewed by policymakers as a tool not only for attracting investment, boosting exports, and creating jobs, but also for invigorating the economic activity in adjacent regions.³ Special Economic Zone can be leveraged to pursue numerous economic and economic diplomacy objectives. They can function as tools to enhance trade and attract foreign direct investment, stimulate industrial development and diversification, revitalize specific areas and encourage urbanisation,

¹ Tumpal Sihalo and Naufa Muna, "Kajian Dampak Ekonomi Pembentukan Kawasan Ekonomi Khusus," *Buletin Ilmiah Litbang Perdagangan* 4, no. 1 (2010): 75–101, <https://doi.org/10.30908/bilp.v4i1.150>.

² Andrean Fernando, "Politik Hukum Peningkatan Investasi Dan Dampaknya Terhadap Usaha Mikro Kecil Dan Menengah," *Lex Renaissance* 7, no. 1 (2022): 55–68, <https://doi.org/10.20885/JLR.vol7.iss1.art5>.

³ Susanne Frick and Andrés Rodríguez-Pose, "Are Special Economic Zones in Emerging Countries a Catalyst for the Growth of Surrounding Areas?" *Transnational Corporations* 26, no. 2 (2019): 75–94.

support border area advancement, foster regional cooperation, or strengthen international ties. Nonetheless, these outcomes are not guaranteed they depend on the implementation of a clearly defined and coherent strategic plan.⁴

Before Indonesia began to develop Special Economic Zone, other countries had already initiated the development of Special Economic Zone, including China, Malaysia, Thailand, South Korea, Ireland, and others. One of the most successful Special Economic Zone is found in China. The development of these Special Economic Zone has had a positive impact on China's economic growth. The success of China's Special Economic Zone cannot be separated from several strategic steps taken by the Chinese government, such as strong leadership commitment, preferential policies, and broad institutional autonomy. This success has positioned China as a major contributor to the global growth of Special Economic Zone.⁵

Empirical realities indicate that the implementation of Special Economic Zone in Indonesia continues to strive for improvement in promoting national economic growth. The year 2024 presents itself as a year full of challenges. The global economy remains uncertain due to mounting pressures, including ongoing geopolitical conflicts in Europe (Russia and Ukraine) and Asia (Gaza), economic slowdown in China, as well as the stringent monetary policies adopted by the United States. These factors contribute to a volatile global economic landscape. In the midst of such turbulence, Indonesia has emerged as a country with a positive trend in economic growth. Although the end of the global economic slowdown remains unclear, President Joko Widodo has firmly stated that Indonesia possesses the capacity to sustain its economic expansion. This assertion encourages an optimistic outlook as the nation navigates the complexities of the current global environment. This optimism is substantiated by the increasing interest of foreign investors in placing capital in Indonesia. Such confidence

⁴ Aradhana Aggarwal, "SEZs and Economic Transformation: Towards a Developmental Approach," *Transnational Corporations* 26, no. 2 (2019): 27–47.

⁵ Nurafni Irma Suryani and Ratu Eva Febriani, "Kawasan Ekonomi Khusus Dan Pembangunan Ekonomi Regional: Sebuah Studi Literatur," *Convergence: The Journal of Economic Development* 1, no. 2 (2019): 40–54, <https://doi.org/10.33369/convergence-jep.v1i2.10902>. Jejen Hendar. "Maqashid Sharia As The Basis For Decision Making Of Corporate Social Responsibility Based On A Prophetic Legal Paradigm". *Prophetic Law Review*, 5(1), (2023), 104–125. <https://doi.org/10.20885/PLR.vol5.iss1.art6>

stems from Indonesia's reputation as a country with strong economic resilience and its growing potential to become a major player in the emerging energy market.⁶

At this stage, Special Economic Zone serve as one of the Government's instruments in supporting national economic resilience. As investment hubs that promote downstream processing, increase exports, and reduce the trade deficit, the presence of Special Economic Zone is crucial for advancing the national economy. With support from relevant stakeholders particularly Ministries or Agencies that are members of the National Council for Kawasan Ekonomi Khusus, as well as from Regional Governments it is expected that Kawasan Ekonomi Khusus will continue to progress and achieve the 2024 target of Rp78.1 trillion in investment absorption and the creation of 38,953 jobs.⁷

The legal provisions within the Special Economic Zone Law in Indonesia require continuous improvement. Legal norms related to the management of Special Economic Zone need to be carefully observed, as the implementation of Special Economic Zone in Indonesia is still relatively new. For example, the study titled *"Regulations Harmonization of Proposal and Stipulation of Special Economic Zone in Indonesia"*⁸ shows that the provision concerning business entities as Special Economic Zone proposers needs to be reviewed, since the phrasing carries a cumulative meaning (all requirements must be fulfilled). This indicates that various dynamics of the economy are still not fully aligned with the legal norms stipulated in the Special Economic Zone Law. Another study, titled *"Legal Aspect of the Implementation of Land Acquisition for Development on Tourism Special Economic Zone"*⁹ highlights the importance of recognizing community rights in the implementation of Special Economic Zone. The study emphasizes the need for oversight in land acquisition

⁶ Biro Investasi, Kerjasama, dan Komunikasi Sekretariat Jenderal Dewan Nasional Kawasan Ekonomi Khusus, Laporan Perkembangan Kawasan Ekonomi Khusus 2023 (Jakarta: Sekretariat Jenderal Dewan Nasional Kawasan Ekonomi Khusus, 31 Desember 2023), 10–140, <https://kek.go.id/id/service/report>.

⁷ *Ibid.*

⁸ Muh Ali Masnun dan Radhyca Nanda Pratama, "Regulations Harmonization of Proposal and Stipulation of Special Economic Zone in Indonesia," *Law Reform*, 16, no. 2 (2020): 198-214, <https://doi.org/10.14710/lr.v16i2.33784>

⁹ Harris Y. P. Sibuea, "Legal Aspect of the Implementation of Land Acquisition for Development on Tourism Special Economic Zone," *Jurnal Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan*, 10, no. 2 (2019): 191-210, <https://doi.org/10.22212/jnh.v10i2.1344>

processes, particularly in tourism Special Economic Zone, with a focus on monitoring the compensation provided to communities who lose land rights due to such acquisitions.

Therefore, this paper also seeks to highlight one essential aspect in the management of Special Economic Zone that is urgently in need of further research: an analysis of civil law in relation to obligations and the implementation of social responsibility in Special Economic Zone. This analysis needs to be approached through the lens of legal politics. As explained by Prof. Mahfud MD¹⁰, legal politics is the legal policy or official direction concerning laws to be enacted, either by introducing new laws or replacing existing ones, in order to achieve the goals of the state. Legal politics covers the scope of state policies regarding which laws are to be enforced or not enforced for the purpose of achieving national objectives, including the political, economic, social, and cultural background that underlies the creation of legal products and their enforcement in practice.

Thus, it is crucial to further explore this aspect of Special Economic Zone, as has been done by other researchers who examine specific aspects requiring legal reform. This academic work also attempts to analyze one specific aspect that warrants in-depth study: the implementation of social responsibility in Special Economic Zone. This is considered highly important to ensure a balance between legal instruments for economic progress and the protection of community rights within Special Economic Zone. Based on the background described above, the central issues addressed in this scholarly work are as follows: First, how does the legal policy regarding the regulation of Special Economic Zone in Indonesia relate to the implementation of social responsibility? Second, why is it important to establish legal provisions concerning the obligation and implementation of social responsibility within Special Economic Zone, particularly from a civil law perspective?

¹⁰ Moh. Mahfud MD, *Politik Hukum di Indonesia*, cet. 10 (Depok: Rajawali Pers, 2020). Yulio Arsetyo. "Corporate Social Responsibility In Islamic Business: Case Study Of Indonesia Company". *Prophetic Law Review*, 3(1), (2021), 92–109. <https://doi.org/10.20885/PLR.vol3.iss1.art6>

METHODOLOGY

This scholarly work is a normative legal research that examines the law from an internal perspective, focusing on legal norms as its object of study.¹¹ In this context, the object of the research is the legal norms related to government policy in the implementation of Special Economic Zone in Indonesia. This is undertaken in order to provide juridical arguments in situations where there is a vacuum, ambiguity, or conflict of norms.¹² In examining the main issues of this scholarly work, the approaches employed are the Statutory Approach and the Conceptual Approach. The Statutory Approach is used to analyze the legislation that substantively contains regulatory provisions concerning Special Economic Zone in Indonesia. Meanwhile, the Conceptual Approach is applied to explore the ideal legal framework for regulating Special Economic Zone through the lens of obligations and the implementation of social responsibility in Indonesia. The object of study in this scholarly work is the legal policy regarding the regulation of Special Economic Zone in Indonesia in relation to the implementation of social responsibility, as well as the importance of regulating the obligation and implementation of social responsibility within Special Economic Zone from a private law perspective. In line with this, the legal materials used in this research consist of primary legal materials and secondary legal materials.¹³ Primary legal materials consist of an examination of legislation that substantially analyzes and reviews the concept of Special Economic Zone as legal norms. In this context, the primary source is Law Number 39 of 2009 concerning Special Economic Zone, along with other related statutory regulations that also govern Special Economic Zone within the substance of their legal provisions. Secondary legal materials comprise literature reviews in the form of books and scholarly works that support, elaborate on, and serve as the foundation for the formulation of legal arguments in this academic work. The data collection method employed in this legal

¹¹ I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum*, cet. 2 (Jakarta: Prenada Media Group, 2017), 12.

¹² *Ibid.*

¹³ Zainuddin Ali, *Metode Penelitian Hukum*, cet. 7 (Jakarta: Sinar Grafika, 2016), 23.

research involves the tracing and compilation of legal documents related to Special Economic Zone. The data analysis is then carried out through a systematic legal analysis, by developing a conceptual framework aimed at constructing a structured and constructive normative system.

RESULT AND DISCUSSION

The Legal Politics of Regulating Special Economic Zone in Indonesia

The main goal of Special Economic Zone in emerging markets is typically to establish, expand, and enhance industries by luring foreign direct investment, and countries that have historically encountered difficulty luring foreign investment exhibit a greater willingness to embrace Special Economic Zone.¹⁴ Philosophically, the development of Special Economic Zone is essentially an effort to enhance investment and exports, which are subsequently expected to stimulate national economic growth. The growth of the national economy will create employment opportunities for citizens, thereby reducing the unemployment rate and simultaneously lowering the number of people living in poverty. Accordingly, the development of Special Economic Zone aligns with the purposes for which the Government of the Republic of Indonesia was established, as enshrined in the Preamble to the 1945 Constitution of the Republic of Indonesia, namely: “to protect the entire people of Indonesia and the whole of Indonesia’s territory, and to advance the general welfare, to educate the life of the nation, and to participate in the establishment of a world order based on freedom, eternal peace, and social justice.” Furthermore, Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia also mandates that “Every citizen shall have the right to work and to a decent living for humanity.”

In addition to its philosophical foundation, there also exists a sociological basis that necessitates the actualization of Special Economic Zone. The primary sociological consideration underlying the establishment of Special Economic Zone is the reality

¹⁴ Rufinus Hotmaulana Hutaeruk, David Tan, Ampuan Situmeang, dan Hari Sutra Disemadi, “Developing an Indonesian Regulatory Framework in the Face of SEZs 5.0,” *Indonesian Journal of International Law and Society* 8, no. 2 (2023): 453–500, <https://doi.org/10.15294/jils.v8i2.67623>.

that, after more than sixty years of independence, the aspirations of the nation's founders to achieve public welfare have yet to be fully realized. Another important consideration is the ongoing disparity in regional development, particularly between the western and eastern regions of Indonesia, between Java and areas outside Java, as well as between urban and rural areas. These various forms of disparity, if not properly addressed, will gradually undermine the sense of national unity and cohesion, which in turn may pose a threat to the integrity of the Unitary State of the Republic of Indonesia. Efforts to address such disparities cannot rely solely on the government's budgetary capacity. Therefore, it is essential to encourage the active participation of the community and the private sector in resolving these inequalities – one of which can be achieved by providing designated zone capable of attracting investors. Juridically, Law Number 25 of 2007 concerning Investment, under Article 31, mandates that in order to accelerate economic development in certain areas deemed strategic for national economic growth and to maintain balanced regional progress, the government may establish and develop Special Economic Zone. Furthermore, it is also mandated that provisions regarding Special Economic Zone shall be regulated by law. This mandate serves as the primary legal foundation for the necessity of enacting a dedicated law on Special Economic Zone.¹⁵

In order to accelerate the achievement of national economic development, it is necessary to increase capital investment through the preparation of areas possessing geo-economic and geo-strategic advantages. These areas are prepared to maximize industrial activities, export and import activities, and other economic activities of high economic value. The development of Special Economic Zone aims to accelerate regional development and serve as a breakthrough model for area-based economic growth, including but not limited to the sectors of industry, tourism, and trade, thereby enabling the creation of employment opportunities. Special Economic Zone are areas with defined boundaries within the jurisdiction of the Unitary State of the Republic of Indonesia, designated to carry out economic functions and to be granted specific facilities. The function of Special Economic Zone is to conduct and promote

¹⁵ Naskah Akademik Rancangan Undang-Undang Tentang Kawasan Ekonomi Khusus.

business activities in the sectors of trade, services, industry, mining and energy, transportation, maritime affairs and fisheries, postal services and telecommunications, tourism, and other sectors. In line with this objective, Special Economic Zone shall consist of one or more zone, including but not limited to export processing zone, logistics zone, industrial zone, technology development zone, tourism zone, and energy zone, the activities of which may be oriented toward both export and domestic markets.¹⁶

The criteria that must be fulfilled for a region to be designated as a Special Economic Zone are as follows: it must be in accordance with the Regional Spatial Plan; it must not pose any potential threat to protected areas; it must have the support of the provincial and regency or municipal governments in the management of the Special Economic Zone; it must be situated in a strategic location or possess superior resource potential in sectors such as marine and fisheries, plantations, mining, and tourism; and it must have clearly defined boundaries, whether natural or artificial. To implement a Special Economic Zone, an implementing institution is established, which consists of a National Council at the central level and a Regional Council at the provincial level. The Regional Council establishes an Administrator for each Special Economic Zone to carry out services, supervision, and control over the operationalization of the Special Economic Zone. Business activities within the Special Economic Zone are conducted by Business Entities and Business Actors.¹⁷

Initially, as an effort to accelerate economic development in certain regions deemed strategic for national economic growth and to maintain a balanced advancement among regions within the framework of a unified national economy, the regulation of Special Economic Zone was strengthened through Law Number 39 of 2009 concerning Special Economic Zone. This law simultaneously repealed Law Number 44 of 2007 concerning the Enactment of Government Regulation in Lieu of Law Number 1 of 2007 on the Amendment to Law Number 36 of 2000 concerning the Enactment of Government Regulation in Lieu of Law Number 1 of 2000 on Free Trade Zone and

¹⁶ Penjelasan Undang-Undang Nomor 39 Tahun 2009 Tentang Kawasan Ekonomi Khusus.

¹⁷ *Ibid.*

Free Ports into Law. In the course of evolving national and global economic dynamics, the government subsequently amended several provisions regarding Special Economic Zone as stipulated in Law Number 39 of 2009 concerning Special Economic Zone through the enactment of Law Number 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law.

One of the key aspects to be emphasized in the regulatory transformation of Special Economic Zone from Law Number 39 of 2009 concerning Special Economic Zone to Law Number 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation as Law lies in the changes related to the acceleration and simplification of licensing procedures, as well as fiscal and non-fiscal facilities. Under Law Number 39 of 2009, the licensing process for Special Economic Zone could be time-consuming due to the involvement of multiple stages at both central and regional government levels. In contrast, Law Number 6 of 2023 promotes a more streamlined and accelerated licensing process through the risk-based licensing mechanism stipulated under the Job Creation Law. It also features better integration of licensing systems through the Online Single Submission platform, aimed at expediting the issuance of business and investment permits within Special Economic Zone. Regarding fiscal and non-fiscal facilities, Law Number 39 of 2009 provided fiscal incentives such as tax relief, import duty exemptions, and other forms of support to business actors within Special Economic Zone. Law Number 6 of 2023 expands these fiscal and non-fiscal facilities by introducing additional incentives intended to encourage technological advancement and the development of sustainable industries. Furthermore, there is an enhancement in the provision of tax facilities specifically designed to accommodate large-scale investment projects.

The harmonization of laws and regulations constitutes a crucial effort to ensure coherence and consistency among legal norms in force in Indonesia. This harmonization process involves various elements within the national legal system and serves as a key to achieving a legal framework that is effective, efficient, and grounded

in justice.¹⁸ However, it is regrettable that the amendments introduced by the Job Creation Law, which revised the Law on Special Economic Zone, do not explicitly regulate the matter of social responsibility. The significant expectation that the revised Law on Special Economic Zone would more specifically and affirmatively address the obligation of social responsibility has not been realized. This absence serves as a critical warning regarding the potential marginalization of social impacts in the development of Special Economic Zone. This concern is exacerbated by the fact that, in the development of Special Economic Zone, the government continues to grant various facilitative measures, particularly in terms of the acceleration and simplification of licensing processes, as well as fiscal and non-fiscal incentives. It is therefore justifiable to raise concern that such rapid economic development may come at the expense of the social values that ought to be upheld for communities residing in the surrounding areas of the Special Economic Zone.

The Urgency of Regulating Social Responsibility in the Implementation of Special Economic Zone in Indonesia

Infrastructure development constitutes a fundamental pillar in driving a nation's economic growth. The availability of infrastructure serves as a vital mechanism that propels economic advancement. Infrastructure operates as the locomotive of national development. Its presence significantly influences the enhancement of human quality of life and overall welfare. This is due to the fact that infrastructure facilitates increased productivity and fosters the creation of employment opportunities. Ultimately, the existence of adequate infrastructure contributes to the realization of national economic stability.¹⁹ The primary objective of establishing Special Economic Zone in Indonesia is to promote economic growth through a productive investment climate, the creation of employment opportunities, and the development of

¹⁸ Enny Dwi Cahyani, Fatiasha Noerwianto, and Dwi Adha Pangestu, "Tantangan dan Strategi Proses Harmonisasi Peraturan Perundang-Undangan di Indonesia," *Soumatera Law Review* 7, no. 1 (2025): 38–52, <https://doi.org/10.20884/1.slr.2025.7.1.16093>.

¹⁹ Eko Edhi Caroko, *One City One Factory: Mewujudkan 100 Kota Baru* (Jakarta: Kepustakaan Populer Gramedia, 2015). Dodik Setiawan Nur Heriyanto and Eko Rial Nugroho, "Legal Implication of Regulating CSR in Local Regulation (Study on Local Law of Kutai Kartanegara, No. 10, Year 2013, About Corporate Social Responsibility)," *Austrian Journal of Humanities and Social Sciences* 3–4 (2015): 65–70.

infrastructure across various sectors and regions. The Government has ensured that the administration of Special Economic Zone is formally mandated and legally binding through Law Number 39 of 2009 concerning Special Economic Zone.

The development of special economic zone undoubtedly embodies a significant aspiration, particularly in enhancing public welfare through the improvement of economic quality. This objective is implemented by developing various infrastructures that support and open new economic opportunities. However, special economic zone currently lack specific regulations or a legal framework governing the implementation of social responsibility within such zone. This absence is notable given that special economic zone are designed with a focus on infrastructure development and expansion across various sectors and regions. Accordingly, the purpose is not limited solely to economic activities, but also to ensure that the social impacts arising within special economic zone are duly taken into consideration.

Special Economic Zone carry out business activities through Business Entities, which are legal entities in the form of State-Owned Enterprises, Regional-Owned Enterprises, cooperatives, private enterprises, and joint ventures. In addition, business activities within special economic zone are also conducted by Business Actors, which may include legal entities, non-legal entities, or individual businesses. Accordingly, there is a prevailing view that the regulation of social responsibility within special economic zone may be subject to the existing legal framework, as it is deemed to be closely related and therefore does not necessarily require specific provisions within the Special Economic Zone Law. Among such laws are Law Number 40 of 2007 concerning Limited Liability Companies, Law Number 25 of 2007 concerning Investment, Law Number 32 of 2009 concerning Environmental Protection and Management, and Law Number 22 of 2001 concerning Oil and Natural Gas. To further examine the extent to which these laws may serve as the legal basis for the implementation of social responsibility in special economic zone, the following analysis may be provided:

First, Law Number 40 of 2007 concerning Limited Liability Companies stipulates that social responsibility dan lingkungan (social and environmental responsibility) is the

Company's commitment to participate in sustainable economic development in order to improve the quality of life and environment that is beneficial both to the Company itself, the local community, and society at large.²⁰ With respect to the regulation of social responsibility dan lingkungan (social and environmental responsibility), it is mandatory for companies whose business activities are in the field of and/or related to natural resources.²¹ In the event that a company fails to carry out its social responsibility dan lingkungan (social and environmental responsibility), it may be subject to sanctions in accordance with the provisions of the prevailing laws and regulations.²² If special economic zone are to refer to Law Number 40 of 2007 concerning Limited Liability Companies and Government Regulation Number 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies, then the implementation of social and environmental responsibility still contains many shortcomings, particularly due to the lack of comprehensive regulation regarding such responsibility. While the Law and the Government Regulation mandate that companies are obligated to implement social and environmental responsibility, they do not provide specific guidance regarding its scale, form, or implementation standards, thereby opening the possibility for multiple interpretations.

Secondly, Law Number 25 of 2007 concerning Investment stipulates in Article 15 letter (b) that every investor is obliged to carry out corporate social responsibility²³ this is further emphasized in Article 16 point (d), which stipulates that investors are responsible for preserving environmental sustainability. Although not explicitly articulated in substantive terms, the obligation to preserve environmental sustainability is encompassed within the scope of social responsibility that must be fulfilled. Investors, whether in the form of legal entities or individual enterprises, who fail to comply with the obligation of social responsibility as stipulated in Article 15 point (b) may be subject to administrative sanctions in the form of written warnings,

²⁰ Undang-Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas, Pasal 1.

²¹ Ibid., Pasal 74 ayat (1).

²² Peraturan Pemerintah Nomor 47 Tahun 2012 Tentang Tanggung Jawab Sosial dan Lingkungan Perseroan Terbatas, Pasal 7.

²³ Peraturan Pemerintah Nomor 47 Tahun 2012 Tentang Tanggung Jawab Sosial dan Lingkungan Perseroan Terbatas, Pasal 7.

restrictions on business activities, suspension of business activities and/or investment facilities, as well as revocation of business activities and/or investment facilities.²⁴ If the management of social responsibility in special economic zone refers to Law Number 25 of 2007 concerning Investment, there remain significant shortcomings, particularly in the lack of detailed regulation regarding the implementation of social responsibility. The Investment Law only outlines the general obligation for companies to carry out social responsibility, without providing comprehensive guidance on implementation procedures, applicable standards, or the specific forms that such responsibilities should take. Furthermore, there is no clear direction regarding the involvement of local communities in the planning and execution processes of social responsibility programs.

Third, Law Number 32 of 2009 concerning Environmental Protection and Management stipulates in Article 68 that every person conducting a business and/or activity is obligated to provide information related to environmental protection and management accurately, correctly, openly, and in a timely manner; to preserve the sustainability of environmental functions; and to comply with the provisions regarding environmental quality standards and/or criteria for environmental damage thresholds.²⁵ The law merely provides a general framework of obligations that business actors must fulfill in preserving the environment where their business activities are conducted, and in ensuring that such activities do not cause environmental degradation. As such, this legislation does not yet serve as a specific or comprehensive legal basis for the implementation of social responsibility in the management of special economic zone in Indonesia.

Fourth, Law Number 22 of 2001 concerning Oil and Natural Gas also regulates several provisions related to the obligation to protect the environment. It is stipulated that Upstream Business Activities refer to core business activities centered on Exploration and Exploitation operations. These business activities are carried out by Business Entities or Permanent Establishments based on a Cooperation Contract with the

²⁴ Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal, Pasal 15 huruf b.

²⁵ Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup.

Implementing Agency. The Cooperation Contract must contain fundamental provisions, one of which is the obligation to engage in community development for the surrounding population and to guarantee the rights of indigenous peoples.²⁶ In this law, it can be understood that the provisions concerning social responsibility have not yet been specifically regulated. Consequently, it cannot yet serve as a legal basis for the implementation of social responsibility within special economic zone.

Based on the provisions governing social responsibility as set forth in Law Number 40 of 2007 concerning Limited Liability Companies, Law Number 25 of 2007 concerning Investment, Law Number 32 of 2009 concerning Environmental Protection and Management, and Law Number 22 of 2001 concerning Oil and Natural Gas, it is evident that special economic zone have not yet become subject to these four laws, which were enacted earlier and have already regulated matters related to social responsibility. This is primarily due to the absence of substantive clarity regarding the technical implementation of social responsibility. On the other hand, special economic zone are characterized by the specificity of business activities carried out within them, thereby giving rise to certain fundamental principles, particularly civil law aspects, in the implementation of social responsibility within the framework of special economic zone.

There are at least four main pillars that must be regulated in relation to the implementation of social responsibility by business actors conducting economic activities in special economic zone. These four pillars encompass the Regulation of Obligations, Implementation Mechanism, Supervision, and Sanctions to be imposed in cases where such responsibilities are not properly carried out and fail to prioritize social aspects within the region of the special economic zone. Among these four pillars, there are certain civil law elements in the governance of special economic zone that require stronger legal guarantees with respect to social responsibility, which ideally should be stipulated in statutory regulations serving as the legal foundation for the operation of special economic zone.

²⁶ Undang-Undang Nomor 22 Tahun 2001 Tentang Minyak Dan Gas Bumi, Pasal 11.

The regulation of the obligation to carry out social responsibility serves as a fundamental basis for the implementation of other elements of social responsibility within special economic zone. The legislation governing special economic zone has yet to clearly regulate the obligation of social responsibility that must be fulfilled by business entities operating their economic activities within the area of the special economic zone. There are various civil law aspects that must be considered by business entities conducting operations in such zone. These legal concerns relate to civil obligations arising from the implementation of social responsibility, the relationship between business entities and local communities, as well as the potential for civil disputes among the concerned parties.

First, Civil Obligations in the Implementation of Social Responsibility. The Law on Special Economic Zone mandates that every business entity operating within a special economic zone is obliged to implement social responsibility as part of its duty towards the community and the environment. This obligation creates a civil legal relationship between the business entity, as the party responsible for implementing social responsibility, and the surrounding community as the beneficiary of such social responsibility programs. If this obligation is not clearly regulated, it may give rise to civil disputes in the implementation of social responsibility. In practice, the implementation of social responsibility may involve agreements between the business entity and the local community or third parties participating in the social responsibility program, such as social institutions or local government authorities. Any ambiguity or violation of these agreements has the potential to result in civil disputes.

Second, Rights and Obligations of the Local Community. In the implementation of social responsibility, the rights of the community to benefit from the social responsibility initiatives of the business entity are absolute and must be fulfilled. If the rights and obligations of the community are not properly regulated under the Law on Special Economic Zone, it may result in civil disputes related to justice and equity for the local community. The community may face unjust treatment in the distribution of benefits. There is a potential for conflict over the distribution of social responsibility benefits, particularly if a business entity is perceived to provide advantages only to

specific groups or to fail in addressing the actual needs of the broader community. Accordingly, there must also be legal provisions enabling civil claims by the community in cases where the business entity is deemed negligent or has failed to implement social responsibility in accordance with legal standards, whether in terms of scale or the quality of the social responsibility programs.

Third, the Environmental Sustainability Aspect. Social responsibility within a special economic zone also encompasses the responsibility to preserve and protect the environment. This issue warrants serious attention, as many activities within special economic zone have the potential to cause significant environmental impacts. The Law on Special Economic Zone must explicitly affirm the obligation of business entities to conduct comprehensive environmental impact assessments, and to provide compensation and remediation for environmental damage caused by economic activities within the zone. Regulations concerning environmental reporting and the obligation to restore damaged ecosystems must be more clearly stipulated.

Accordingly, it can be concluded that the regulation of social responsibility in special economic zone must be explicitly provided for in statutory regulations. There are considerable risks if this matter is overlooked by policymakers and stakeholders. The social conditions of communities surrounding special economic zone must be a central concern and serve as a foundational pillar. Efforts to boost the national economy must not disregard other intersecting values. In this regard, social values must remain upheld at all times.

CONCLUSION

Based on the analysis previously elaborated, it can be concluded that the regulation of social responsibility within Special Economic Zone remains highly abstract and underdeveloped. The legal politics underlying this framework—both in its philosophical, juridical, and sociological dimensions—have yet to be constructed in a coherent and integrative manner. Consequently, the legal regime governing social responsibility within Special Economic Zone can be characterized as weak and

fragmented. This legal gap highlights the urgent need to establish a more robust and comprehensive regulatory framework that clearly mandates social responsibility for business entities operating within Special Economic Zone. The absence of legal certainty in this regard has the potential to marginalize societal and communal values in the pursuit of national economic growth. While Special Economic Zone are often positioned as instruments to attract investment and stimulate regional development, they must not become areas where corporate actors are exempt from their obligations to the surrounding communities and the broader social fabric. Accordingly, legislation must be enacted or amended to impose clear, enforceable duties on corporations operating within Special Economic Zone to fulfill their social responsibilities. These responsibilities should not be perceived merely as voluntary corporate goodwill or interpreted narrowly within the framework of corporate social responsibility, but rather as legal obligations grounded in principles of social justice, community participation, and sustainable development. Without such legal reforms, there is a significant risk that economic ambitions will override social and environmental considerations, thereby undermining the very purpose of balanced and inclusive development. The regulation of social responsibility within Special Economic Zone must therefore be treated as a legal imperative—one that safeguards the rights and welfare of local communities while ensuring that economic advancement does not come at the expense of social cohesion and equity.

Based on the findings of this scholarly study, it is recommended that the Law on Special Economic Zone be revised as a preliminary step to strengthening legal governance and ensuring legal certainty regarding the implementation of social responsibility within Special Economic Zone. Such revision should include explicit provisions recognizing social responsibility as an integral component of business activities within these zone and should articulate the foundational principles underpinning its implementation namely, social justice, sustainable development, and community participation. Following the revision of the primary legislation, it is imperative that a set of technical regulations be formulated and enacted through a Government Regulation that specifically and substantively governs the

implementation of social responsibility in Special Economic Zone. This regulation must be detailed, comprehensive, and operational in nature, so as to address the existing legal vacuum and to provide clear guidance for business actors, local governments, and affected communities. The technical regulation should, at a minimum, address the following elements: (1) the scope and forms of social responsibility obligations applicable to business entities; (2) mechanisms for planning, executing, monitoring, and evaluating social responsibility initiatives; (3) the active involvement of local communities in each phase of implementation; (4) supervisory measures and sanctions for non-compliance; and (5) requirements for public reporting and accountability. Accordingly, the establishment of a coherent and hierarchical regulatory framework will contribute to the creation of a stronger, more progressive, and responsive legal system that adequately meets societal needs and prevents social disparities amid national economic expansion through Special Economic Zone. Moreover, such a legal development will enhance the state's legitimacy in ensuring that economic development is not pursued at the expense of human values and social justice.

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