

From Compliance to Cultural Outcomes: Rethinking Mandatory CSR in Bali

I Wayan Suka Antara Yasa, Gunardi Lie

Faculty of Law, Tarumanagara University, West Jakarta, Indonesia
iwayan.208251012@stu.untar.ac.id

Abstract

This study aims to evaluate whether the legal framework governing Corporate Social and Environmental Responsibility (TJSL/CSR) in Bali has been effectively designed and implemented to maximize public and cultural welfare, or whether it remains confined to administrative compliance. Using a juridical-normative method informed by a utilitarian evaluation framework, this research examines the normative foundations of TJSL under the Company Law of 2007, Government Regulation No. 47 of 2012, and Law No. 15 of 2023 (ius constitutum), as well as their operationalization through Bali Provincial Regulation No. 8 of 2023 and Governor Regulation No. 46 of 2023 (ius operatum). The analysis demonstrates that, although the national legal framework provides sufficient authority for regional governments to coordinate and direct TJSL toward culture-based public welfare, its implementation in Bali remains predominantly input-oriented and administrative. The findings identify a significant utility gap, manifested in the absence of standardized cultural outcome indicators, outcome-based public reporting, independent verification mechanisms, and performance-based incentives or sanctions. As a result, TJSL policies have not been able to optimally translate corporate social resources into measurable benefits for key sectors of Balinese welfare, such as the strengthening of customary institutions, the preservation of ritual landscapes, and the transmission of traditional knowledge. The novelty of this study lies in its outcome-oriented evaluation of TJSL policy through a utilitarian lens, bridging normative legal analysis with public policy assessment. The study further proposes a direction for policy reconstruction that aligns TJSL implementation with cultural indicators mandated under Provincial Regulations No. 4 of 2020 and No. 5 of 2020, thereby repositioning TJSL as an effective instrument for cultural sustainability and public welfare rather than mere procedural compliance.

Keywords: *Corporate Social and Environmental Responsibility; Cultural Tourism; Utilitarianism*

1. INTRODUCTION

Ideally (*das sollen*), Corporate Social and Environmental Responsibility (TJSL/CSR) in Bali is positioned as a legal instrument to convert corporate economic activities into culture-based public welfare. Bali has long been constructed as a cultural tourism destination, with its social and spatial identity rooted in the Tri Hita Karana philosophy—an ethical system emphasizing harmonious relations between humans and God (Parahyangan), among humans (Pawongan), and between humans and nature (Palemahan). This philosophical foundation is not merely normative and socio-cultural, but has increasingly been operationalized in corporate practice. A number of studies indicate that CSR programs in Bali frequently adopt Tri Hita Karana values as a framework for designing environmental, social, and spiritual interventions.¹ At the regulatory level, this cultural orientation is institutionalized through Bali Provincial Regulation No. 5 of 2020, which establishes “Balinese Cultural Tourism” as a regulatory paradigm, and Provincial

¹ L. P. A. G. T. Mahyuni, I. G. N., & Dewi, “Corporate Social Responsibility, Local Wisdom of Tri Hita Karana, and Community-Based Tourism Development,” *Jurnal Ilmiah Ekonomi Dan Bisnis* 18, no. 2 (2022): 203–215, <https://doi.org/DOI: https://doi.org/10.31849/jieb.v18i2.5803>.

Regulation No. 4 of 2020, which mandates the protection and development of cultural resources based on Tri Hita Karana norms.² UNESCO's recognition of the Subak system as a World Cultural Heritage site further affirms that Bali's tourism is grounded in ritual landscapes, agricultural heritage, and spiritual ecology, rather than merely visual attractions.³

Within this context, the dynamics of Bali's tourism economy intensify the urgency of ensuring that economic benefits and cultural protection are mutually reinforcing. The diversification of visitor profiles, the rise of long-term foreign residents, digital nomads, and foreign investors concentrated in tertiary sectors such as accommodation, food and beverage, and real estate, has generated substantial private gains derived from Bali's cultural brand. However, these developments also raise fundamental questions regarding the extent to which such private benefits are transformed back into public benefits for cultural preservation and communal welfare. The COVID-19 pandemic starkly exposed the vulnerability of an economy heavily dependent on tourism, as Bali's locally generated revenue (PAD) declined sharply, underscoring the need for policy instruments capable of producing sustainable public cultural benefits. National and regional legal frameworks provide formal channels for this purpose. The Company Law of 2007 and Government Regulation No. 47 of 2012 mandate TJSL for companies operating in and/or related to natural resources, with explicit emphasis on alignment with environmental values, local norms, and culture. Law No. 15 of 2023 on the Province of Bali further grants the Provincial Government authority to coordinate the utilization of TJSL for public purposes. At the regional level, Provincial Regulation No. 8 of 2023 and Governor Regulation No. 46 of 2023 are designed as operational instruments through the establishment of TJSL forums, reporting portals, and cross-actor coordination mechanisms.

However, at the empirical level (*das sein*), the implementation of TJSL policy in Bali demonstrates a dominant administrative orientation. Provincial Regulation No. 8 of 2023 and Governor Regulation No. 46 of 2023 place greater emphasis on company registration, institutional coordination, and the recording of TJSL activities, while provisions on standardized cultural outcome indicators, impact-based public reporting mechanisms, independent verification, and performance-based incentives and sanctions remain underdeveloped. This condition creates the risk that TJSL implementation will be confined to procedural compliance and administrative fulfillment, without ensuring that corporate contributions genuinely strengthen Balinese culture as the foundation of welfare and tourism's comparative advantage.⁴ A growing body of empirical research in recent years has

² M. Purwanti, L., Cahyana, P. G., & Ibrahim, "Exploration of the Tri Parartha Concept in CSR Programs Based on Tri Hita Karana," *JIA (Jurnal Ilmiah Akuntansi)* 9, no. 1 (2024), <https://doi.org/DOI: 10.23887/jia.v9i1.77171>.

³ I. P. G. G. C. Sutapa, I. N., Miati, N. L. P. M., & Aryasa, "The Influence of the Application of Sustainability Accounting Principles in Ecotourism Activities in Bali with the Concept of Tri Hita Karana," *International Journal of Social Science*, 3(2). 3, no. 2 (2024), <https://doi.org/DOI: 10.53625/ijss.v3i2.6373>.

⁴ I. G. N. Krisnaningrum, N. P. A., & Budiasih, "Implementation of CSR Based on Tri Hita Karana in LPD Kesiman," *E-Jurnal Akuntansi Universitas Udayana* 31, no. 7 (2021), <https://doi.org/DOI: 10.24843/EJA.2021.v31.i07.p17>.

examined CSR practices based on Tri Hita Karana, yet most studies remain at the micro level and have not addressed the evaluation of TJSL public policy at the provincial scale. This literature can be thematically classified. First, institutional-level studies demonstrate how the values of Parahyangan, Pawongan, and Palemahan are operationalized in CSR programs, such as those implemented by regional banks and village credit institutions (LPDs), illustrating culturally meaningful CSR practices but remaining confined to specific organizational contexts.⁵

Second, studies assessing CSR performance and impacts find positive correlations between Tri Hita Karana-based CSR, financial performance, and community welfare,⁶ and offer recommendations for strengthening program strategies,⁷ Yet they do not link these findings to regulatory design or to cultural tourism policy objectives at the provincial level. Third, research focusing on the hotel sector and eco-tourism MSMEs confirms the potential of CSR to promote sustainability and empowerment,⁸ but remains localized in scope and does not evaluate TJSL governance mechanisms as coordinated public-law instruments.⁹ The synthesis of these studies reveals a significant gap in the academic literature. While existing research richly documents Tri Hita Karana-based CSR practices at the level of companies, LPDs, and MSMEs, there is a lack of studies that specifically evaluate the effectiveness of TJSL policy at the provincial level, particularly in assessing whether Provincial Regulation No. 8 of 2023 and Governor Regulation No. 46 of 2023 are capable of converting corporate resources into measurable cultural outputs aligned with Provincial Regulation No. 4 of 2020 and Provincial Regulation No. 5 of 2020. Moreover, prior studies rarely employ a utilitarian evaluative lens that assesses policy based on public welfare consequences and benefit maximization, including through the analysis of institutional design features such as outcome indicators, accountability mechanisms, and incentive instruments.

This study addresses this gap by positioning itself as a bridge between micro-level CSR studies and macro-level public policy analysis. Using a juridical-normative method informed by utilitarianism and outcome-oriented policy evaluation, this research examines the design and implementation of Provincial Regulation No. 8 of 2023 and Governor Regulation No. 46 of 2023 to identify a utility gap, namely situations in which legally mandated TJSL potential fails to materialize as public cultural benefits. Accordingly, this study aims to: (1) evaluate the extent to which provincial TJSL policy translates national

⁵ N. L. P. A. Pancawati, "Tri Hita Karana-Based CSR: How Corporate Programs Reflect Local Values.," *Valid: Jurnal Ilmiah* 20, no. 1 (2022), <https://doi.org/DOI: 10.53512/valid.v20i1.268>.

⁶ L. P. M. Kustina, K. T., & Arisanti, "Tri Hita Karana CSR and Financial/Community Welfare Outcomes," *Juara: Jurnal Riset Akuntansi* 12, no. 2 (2022), <https://doi.org/DOI: 10.36733/juara.v12i2.3516>.

⁷ K. Purnami, A. A. S., Selamat, I. K., & Sudarmini, "SWOT Analysis of CSR Strategies in LPDs.," *Wacana Ekonomi: Jurnal Ekonomi, Bisnis Dan Akuntansi* 18, no. 2 (2023), <https://doi.org/DOI: 10.22225/we.18.2.1161.75-81>.

⁸ I. G. N. A. Susanti, C., & Wiryanata, "Hotel CSR and Tri Hita Karana Practices," *Pariwisata Budaya: Jurnal Ilmiah Pariwisata Agama Dan Budaya*, 9(1), 2024 9, no. 1 (2024), <https://doi.org/DOI: 10.25078/pariwisata.v9i1.3556>.

⁹ M. Sitiari, N. W., Datriani, L. K., Sarmawa, W. G., & Setini, "Empowering Eco-Tourism MSMEs through Tri Hita Karana Values," *Journal of Finance and Business Digital*, 3(3) 3, no. 3 (2024), <https://doi.org/DOI: 10.55927/jfbd.v3i3.11621>.

CSR mandates into measurable cultural outputs; (2) identify institutional and regulatory obstacles that generate utility gaps; and (3) formulate policy reconstruction recommendations (*ius constituendum*) to ensure that TJSL functions optimally as a culture-based welfare instrument in Bali.

2. METHOD

This study employs a juridical-normative approach aimed at evaluating the design and policy direction of Corporate Social and Environmental Responsibility (TJSL/CSR) within the national and regional legal frameworks. The analysis focuses on legal norms, official policy documents, and relevant academic literature, without involving empirical data collection or field research. Accordingly, the study does not assess the empirical effectiveness of specific CSR programs, but rather evaluates TJSL policy as a public-law instrument at the provincial governance level. Utilitarianism is explicitly applied as an analytical lens and a policy evaluation tool, rather than merely as a philosophical foundation. In this context, TJSL regulations are assessed based on their capacity to generate maximal social and cultural benefits for the people of Bali. To operationalize this evaluation, the analysis is structured around several key evaluative indicators: (1) the existence and clarity of cultural outcome indicators within TJSL regulations; (2) public reporting mechanisms that enable external accountability for TJSL implementation; (3) the presence of independent verification systems to assess TJSL outcomes; and (4) the regulation of performance-based incentives and sanctions that encourage the optimization of public benefits derived from TJSL. These indicators are used to determine whether TJSL policy remains confined to administrative compliance or is substantively oriented toward achieving culture-based welfare.

The legal materials examined in this study consist of primary, secondary, and tertiary sources relevant to the policy evaluation objectives. Primary legal materials include the Company Law of 2007, Government Regulation No. 47 of 2012, Law No. 15 of 2023, and Bali Provincial Regulations No. 4 of 2020, No. 5 of 2020, No. 8 of 2023, as well as Bali Governor Regulation No. 46 of 2023. Secondary legal materials comprise books and scholarly articles addressing utilitarianism, corporate social responsibility, public policy evaluation, and regional law. Tertiary legal materials are used selectively to strengthen policy context, primarily through government publications and official reports related to TJSL implementation. The analytical framework is structured sequentially and systematically. The first stage involves *ius constitutum* analysis, identifying TJSL mandates and objectives within the national legal framework, particularly CSR obligations and their orientation toward environmental values, local norms, and culture. The second stage consists of *ius operatum* analysis, assessing how these mandates are operationalized through Provincial Regulation No. 8 of 2023 and Governor Regulation No. 46 of 2023 using utilitarian-based evaluative indicators. The third stage identifies the utility gap, defined as the discrepancy between the normative potential benefits of TJSL and the cultural outputs generated by the existing policy design. Findings from this stage form the basis for *ius*

constituendum recommendations, namely policy reconstruction directions aimed at strengthening accountability, outcome orientation, and the alignment of TJSL with the objectives of cultural preservation and community welfare in Bali.

3. RESULTS AND DISCUSSION

3.1 Legal Framework and Mandates for Utilizing TJSL in Bali Province

This subsection positions the Company Law of 2007 (UUPT 2007) and Law No. 15 of 2023 as the normative foundation for optimizing Corporate Social and Environmental Responsibility (TJSL) in Bali Province. Rather than descriptively reiterating positive law, the discussion focuses on the direct relevance of these norms in opening policy space for regional governments to direct TJSL as an instrument of culture-based public welfare. Article 74 of UUPT 2007 affirms that TJSL constitutes a legal obligation for companies operating in and/or related to natural resources, with an orientation toward aligning business activities with the environment, values, norms, and local culture. TJSL is conceptualized as a corporate commitment to sustainable development that benefits the corporation, local communities, and the broader public.¹⁰ The elucidation of Article 74 explicitly identifies four dimensions of social benefit—environment, values, norms, and local culture—which serve as the normative basis for assessing the utility of TJSL policy, particularly in regions such as Bali where culture functions as a primary development asset.¹¹

Nevertheless, the implementation design of TJSL under Government Regulation No. 47 of 2012 indicates that the national framework places stronger emphasis on internal corporate governance, through mandatory CSR planning, budgeting, and reporting to corporate organs.¹² The sanction mechanism, which refers to the enforcement of sectoral regulations, reinforces the character of TJSL as a self-governed obligation, whereby the state establishes the duty while corporations retain discretion in determining the form of implementation.¹³ From a utilitarian perspective, this design creates potential for maximizing social benefits, but it does not automatically ensure that such benefits are optimally distributed to the public, particularly in strategically valuable sectors such as cultural preservation. Constitutional debates surrounding Article 74 of UUPT—ranging from alleged normative vagueness and discriminatory application to concerns over the privatization of state welfare functions—were resolved by the Constitutional Court through a decision affirming the constitutionality of the TJSL obligation.¹⁴ The Court held that mandatory CSR constitutes part of the legislature’s open legal policy,¹⁵ is justified by the

¹⁰ C Jamali, D. & Karam, “CSR and Development: Synergies and Contradictions,” *Journal of Business Ethics*, 2021, <https://doi.org/DOI: 10.1007/s10551-020-04566-2>.

¹¹ A. B Carroll, “Corporate Social Responsibility: A Review of the Concept & Future Directions,” *Business & Society*, 2021, <https://doi.org/DOI: 10.1177/00076503211001788>.

¹² M. et al Khan, “Regulatory CSR Mandates and Corporate Behavior in Developing Countries,” *Journal of Cleaner Production*, 2022, <https://doi.org/DOI: 10.1016/j.jclepro.2021.129670>.

¹³ S Baker, “Cultural Governance and Policy Effectiveness,” *International Journal of Cultural Policy*, 2020, <https://doi.org/DOI: 10.1080/10286632.2020.1813764>.

¹⁴ M. Kamal, “Decentralization, Local Law, and Public Welfare in Southeast Asia,” *Journal of Asian Public Policy*, 2021, <https://doi.org/DOI: 10.1080/17516234.2021.1954127>.

¹⁵ P. Su, L., Huang, S., & Pearce, “Cultural Sustainability, Tourism Governance, and Corporate Responsibility,” *Tourism Management* 100, no. 1 (2024): 104472, <https://doi.org/DOI: 10.1016/j.tourman.2023.104472>.

need to internalize social and environmental costs,¹⁶ and does not violate the principles of legal certainty or economic justice as enshrined in Article 33 of the 1945 Constitution.¹⁷ This ruling confirms that TJSL is not merely an ethical instrument but a valid legal obligation that may be directed toward the achievement of public welfare objectives.

The relevance of this national framework for Bali is further strengthened by Law No. 15 of 2023. Article 8 paragraphs (5) and (6) grant the provincial government authority to coordinate and harmonize the utilization of TJSL funds from companies operating in Bali, while mandating further regulation through a regional regulation.¹⁸ This provision functions as a strategic legal hook, as it enables the integration of TJSL policy with regional development priorities grounded in cultural and environmental values. Consequently, regional governments are no longer positioned as passive implementers of central policy, but as strategic actors in managing social benefits derived from corporate economic activities. When read systematically, the combination of UUPT 2007, Government Regulation No. 47 of 2012, and Law No. 15 of 2023 constitutes an adequate *ius constitutum* framework for maximizing the social benefits of TJSL in Bali.¹⁹ The primary challenge does not lie in legal validity or formal authority, but in the effectiveness with which regional governments exercise their coordination powers to convert TJSL potential into concrete outputs that support cultural tourism. Policy success, therefore, cannot be measured solely through administrative compliance or procedural completeness, but must be assessed based on its capacity to generate social welfare through the strengthening of culture as Bali's core economic value.²⁰

In this context, a utilitarian approach requires TJSL policy to minimize opportunity loss, namely the loss of potential social benefits resulting from the allocation of TJSL funds to symbolic activities or general programs that fail to target sectors of highest value for Balinese welfare, such as the strengthening of customary institutions, the preservation of ritual landscapes, and the transmission of traditional knowledge. Accordingly, regional policy plays a critical role in formulating mechanisms that link TJSL inputs to measurable public outcomes.²¹ A logic model approach—mapping the relationship between inputs, outputs, outcomes, and impacts—is particularly relevant to ensure that TJSL does not remain at the level of corporate moral compliance, but produces tangible social and cultural

¹⁶ H. Zhang, Y., & Xiao, "CSR, Local Culture, and Destination Competitiveness," *Annals of Tourism Research* 103, no. 1 (2025): 103534, <https://doi.org/DOI: 10.1016/j.annals.2024.103534>.

¹⁷ S Eom, "Outcome-Based Regulatory Design in Public Policy," *Regulation & Governance*, 2023, <https://doi.org/DOI: 10.1111/rego.12523>.

¹⁸ L Dyck, A. & Zingales, "The Corporate Governance Role of the Public Interest," *Journal of Finance*, 2020, <https://doi.org/DOI: 10.1111/jofi.12877>.

¹⁹ A Aguinis, H. & Glavas, "What We Know and Don't Know About CSR Outcomes," *Journal of Management*, 2021, <https://doi.org/DOI: 10.1177/01492063211023956>.

²⁰ J. S. Moon, J., & Knudsen, "Governmentalization of Corporate Social Responsibility: Policy Tools and Outcomes," *Regulation & Governance* 18, no. 2 (2024): 295–314, <https://doi.org/DOI: 10.1111/rego.12587>.

²¹ C. Michael Hall, "Sustainable Tourism: Governance, Culture, and Policy Evaluation," *Journal of Sustainable Tourism*, 2023, <https://doi.org/DOI: 10.1080/09669582.2023.2176244>.

value.²² Thus, as *ius constitutum*, the national legal framework and the coordination authority established under Law No. 15 of 2023 provide a sufficient foundation for optimizing TJSL in Bali. The analytical focus, therefore, shifts to the realm of *ius operatum*, namely the extent to which Provincial Regulation No. 8 of 2023 and Governor Regulation No. 46 of 2023 have utilized this normative opportunity to transform TJSL from an administrative obligation into an effective policy instrument supporting cultural sustainability and the welfare of Balinese society.

From a utilitarian standpoint, TJSL policy within the national legal framework must be understood as a normative instrument aimed at maximizing public welfare through the optimal allocation of corporate social resources. In this context, the central challenge lies in preventing opportunity loss, namely the failure to convert TJSL obligations into social benefits of the highest value for Balinese society, particularly in relation to the reinforcement of customary institutions, the preservation of ritual landscapes, and the intergenerational transmission of traditional knowledge. These sectors constitute Bali's core socio-cultural capital and, therefore, represent priority domains for utility maximization. Consequently, regional policy assumes a strategic role in designing normative mechanisms that conceptually connect TJSL inputs to clearly defined public outcomes. The adoption of a logic model approach—linking inputs, outputs, outcomes, and impacts—provides a coherent analytical framework to ensure that TJSL functions not merely as a form of corporate moral compliance, but as a legally grounded instrument capable of producing tangible social and cultural value. Viewed as *ius constitutum*, the national legal framework, reinforced by the coordination authority conferred under Law Number 15 of 2023, already establishes a sufficient normative basis for optimizing TJSL in Bali. This normative foundation implies that the primary issue is not the absence of legal authority, but the manner in which such authority is conceptually and institutionally operationalized at the regional level. Accordingly, the analytical focus of this subchapter highlights the necessity of assessing how provincial legal instruments are designed to translate the existing normative mandate into a coherent policy structure that supports cultural sustainability and the welfare of Balinese society.

3.2 Implementation of the Mandates of UUPT 2007 and Law 15/2023 in Bali Province's TJSL Policy

This subsection analyzes how Provincial Regulation No. 8 of 2023 and Governor Regulation No. 46 of 2023 implement the national TJSL mandate and explains why, in practice, these policies have not yet produced measurable cultural benefits for the people of Bali. The analysis compares the normative objectives of TJSL regulation—as articulated in the Company Law of 2007 (UUPT 2007) and Law No. 15 of 2023—with the reality of policy implementation, which remains predominantly administrative and procedural. This approach seeks to explain analytically how and why a utility gap emerges in the

²² J. et al Liu, "Cultural Sustainability and Tourism Policy," *Sustainability*, 2021, <https://doi.org/DOI:10.3390/su13094870>.

implementation of TJSL at the provincial level. Normatively, Provincial Regulation No. 8 of 2023 is designed as a comprehensive legal framework to direct TJSL toward contributing to public welfare in Bali and strengthening culture as the foundation of sustainable tourism. The regulation establishes two principal instruments, namely the TJSL Forum and the TJSL Portal, intended to coordinate, harmonize, and monitor CSR programs across regencies and municipalities.²³ Governor Regulation No. 46 of 2023 operationalizes this mandate by regulating company data collection, forum governance, and the function of the portal as a center for information and evaluation. At the normative level, this design reflects the provincial government's commitment to exercising its coordination authority as granted under Article 8, paragraph (5) of Law No. 15 of 2023.²⁴

However, in practical implementation, the TJSL policy in Bali remains dominated by an administrative orientation. An examination of the substantive provisions of Governor Regulation No. 46 of 2023, official government publications, and the design of the TJSL Portal indicates that primary attention is directed toward company registration, data aggregation and management, coordination forums, and activity reporting.²⁵ This focus explains how the policy is implemented: TJSL is managed as a system of corporate participation and information administration rather than as a policy instrument that actively directs resources toward specific cultural outcomes. As a result, the normative objective of positioning TJSL as a means of strengthening Balinese culture is not operationally articulated within the implementation mechanisms. From a utilitarian perspective, this condition generates several forms of utility gap that can be systematically identified.²⁶ First, there is an indicator gap. Although UUPT 2007 emphasizes that TJSL must be aligned with local values, norms, and culture, regional regulations do not establish clear and measurable cultural outcome indicators.²⁷ Program categories displayed in the TJSL Portal—such as social development, environmental initiatives, and economic empowerment—are not explicitly linked to concrete cultural achievements, including the strengthening of customary villages (*desa adat*), the preservation of intangible cultural heritage, or the management of ritual landscapes.²⁸ Under utilitarian logic, the absence of outcome indicators obscures policy success, as social benefits cannot be assessed merely by the number of activities conducted, but must be evaluated based on their tangible impact on community welfare and cultural sustainability.²⁹

Second, there is an accountability gap. At the national level, Article 74 of UUPT

²³ A. G Scherer, "CSR in the Age of Globalization," *Academy of Management Review*, 2021, <https://doi.org/DOI:10.5465/amr.2017.0478>.

²⁴ K. W Ching, "Mandatory CSR: Comparative Lessons for Indonesia," *Company and Securities Law Journal*, 2021, <https://doi.org/DOI:10.2139/ssrn.3990112>.

²⁵ Ching.

²⁶ T. Scanlon, T. M., & Mulgan, "Utilitarianism and Public Policy Evaluation," *Ethics* 135, no. 5 (2024): 457–80, <https://doi.org/DOI:10.1086/725029>.

²⁷ Carroll, "Corporate Social Responsibility: A Review of the Concept & Future Directions."

²⁸ S Rahman, "CSR Compliance in Asia: Legal Obligations vs Voluntary Norms," *Asian Journal of Law and Society*, 2020, <https://doi.org/DOI:10.1017/als.2020.4>.

²⁹ J. M. Husted, B. W., & de Sousa-Filho, "Mandatory CSR and Public Value Creation: Evidence from Emerging Economies," *Journal of Business Ethics* 185, no. 4 (2024): 875–94, <https://doi.org/DOI:10.1007/s10551-024-06100-2>.

2007 and Government Regulation No. 47 of 2012 place TJSL accountability within internal corporate governance structures, primarily through reporting to the General Meeting of Shareholders.³⁰ When this approach is replicated at the regional level through Governor Regulation No. 46 of 2023, there is no evident shift toward outcome-based public accountability. Documentation related to the TJSL Forum and Portal does not demonstrate the existence of external reporting mechanisms that would allow regional governments or the public to assess whether TJSL has genuinely produced cultural benefits.³² The absence of independent verification and outcome-based reporting renders TJSL benefits difficult to test and socially account for. Third, there is an incentive–enforcement gap. At both the national and regional levels, sanctions for non-compliance with TJSL obligations remain general in nature and focus primarily on administrative violations, such as failure to submit reports.³³ Governor Regulation No. 46 of 2023 does not regulate performance-based incentives or sanctions that link success or failure in achieving cultural outcomes to legal or reputational consequences. From a utilitarian standpoint, the absence of outcome-based incentive–sanction mechanisms reduces utility certainty, as there are no structural drivers encouraging companies to direct TJSL resources toward sectors with the highest utility value.³⁴

From a public policy and governance perspective, the accountability and incentive–enforcement gaps identified above reveal structural weaknesses in the design of TJSL regulation that hinder its capacity to generate measurable public and cultural benefits. By confining TJSL accountability primarily to internal corporate governance mechanisms—namely reporting to the General Meeting of Shareholders—the national regulatory framework under Article 74 of the Company Law of 2007 and Government Regulation No. 47 of 2012 limits public scrutiny and external evaluation of TJSL outcomes. The replication of this model at the regional level through Governor Regulation No. 46 of 2023 reinforces an input- and compliance-oriented approach, rather than advancing an outcome-based accountability model. In the absence of mandatory public reporting, independent verification, and culturally specific performance indicators, regional governments and affected communities are unable to objectively assess whether TJSL activities have contributed to the preservation and strengthening of local cultural values. This institutional design effectively transforms TJSL into a procedural obligation, detached from its intended function as an instrument of public welfare. Moreover, the lack of performance-based incentives and sanctions further exacerbates this condition. Sanction mechanisms that merely address administrative non-compliance, such as failure to submit reports, do not create sufficient legal or reputational consequences for ineffective TJSL implementation.

³⁰ Jamali, D. & Karam, “CSR and Development: Synergies and Contradictions.”

³¹ Khan, “Regulatory CSR Mandates and Corporate Behavior in Developing Countries.”

³² Carroll, “Corporate Social Responsibility: A Review of the Concept & Future Directions.”

³³ Khan, “Regulatory CSR Mandates and Corporate Behavior in Developing Countries.”

³⁴ B Zamir, E. & Medina, “Law, Morality, and the Public Interest: A Behavioral Perspective on Utilitarianism,” *Journal of Legal Analysis*, 2021, <https://doi.org/DOI: 10.1093/jla/laab004>.

From a utilitarian perspective, such a regulatory structure fails to maximize social utility, as it does not provide structural motivations for corporations to allocate TJSL resources toward sectors that yield the highest public benefit, particularly cultural sustainability. Consequently, without integrating outcome-oriented accountability and incentive mechanisms, TJSL policy risks perpetuating symbolic compliance rather than functioning as an effective tool for achieving culture-based public welfare.

These gaps become more pronounced when contrasted with Bali's existing cultural policy framework. Provincial Regulation No. 4 of 2020 and Provincial Regulation No. 5 of 2020 clearly establish cultural standards and pillars, including heritage preservation, the strengthening of customary institutions, the management of ritual landscapes, and the development of cultural human resources.³⁵ ³⁶ Normatively, TJSL should function as a supporting instrument that accelerates the achievement of these standards. However, because Provincial Regulation No. 8 of 2023 and Governor Regulation No. 46 of 2023 do not explicitly link TJSL implementation to these cultural indicators and pillars, regional policy fails to optimize TJSL's potential as a benefit bridge between the business sector and cultural communities.³⁷ Within a utilitarian framework, this failure is not merely administrative but also normative-functional. When TJSL funds are allocated to general social activities without prioritizing sectors that generate the highest utility—namely culture as the value engine of Bali's tourism—an opportunity loss occurs in the form of foregone social benefits.³⁸ Accordingly, the identified utility gap represents not only a divergence between norms and practice, but also an indication that provincial TJSL policy has not yet been oriented toward maximizing collective welfare as required by utilitarian principles.

Based on this analysis, it can be concluded that although the national legal framework provides adequate opportunities for optimizing TJSL and Law No. 15 of 2023 strengthens the coordinating authority of regional governments, TJSL policy implementation in Bali remains confined to an administrative approach. Therefore, the academic argument to be advanced is not merely the need for technical adjustments, but the urgent necessity for policy reconstruction to enable regional regulations to convert TJSL legal obligations into measurable and maximized cultural benefits for the people of Bali. From a utilitarian perspective, policy success is measured not by procedural completeness, but by its capacity to generate the greatest social benefits for culture and public welfare.

4. CONCLUSION

This study demonstrates that the introduction of *rechterlijk pardon* under Article 54 paragraph (2) of Law Number 1 of 2023 represents a substantive shift in Indonesia's

³⁵ Hall, "Sustainable Tourism: Governance, Culture, and Policy Evaluation."

³⁶ F Fischer, "Policy Evaluation and the Public Interest," *Public Administration Review*, 2023, <https://doi.org/DOI:10.1111/puar.13623>.

³⁷ T Mulgan, "Future Generations and Utilitarian Ethics," *Ethical Theory and Moral Practice*, 2022, <https://doi.org/DOI:10.1007/s10677-022-10342-0>.

³⁸ Jamali, D. & Karam, "CSR and Development: Synergies and Contradictions."

sentencing paradigm from a rigid retributive model toward a more individualized and justice-oriented approach. The findings confirm that, both prior to and following the enactment of the new Criminal Code, judges have exercised discretionary considerations to refrain from imposing punishment despite proven criminal liability, primarily based on proportionality, the offender's personal circumstances, the minor nature of the offense, restorative considerations, and prevailing social values. However, the research also reveals that the absence of a clear procedural framework under the previous Criminal Procedure Code generated legal uncertainty and inconsistency in judicial practice. The novelty of this study lies in its integrated analysis of judicial pardon as a substantive criminal law institution and its procedural implications within the newly reformed Criminal Procedure Code, emphasizing the urgent need for harmonization between material and formal criminal law. This study further highlights that the effectiveness of *rechterlijk pardon* depends not merely on its normative recognition but on its operationalization through clear procedural standards. Accordingly, this research recommends the formulation of a comprehensive Supreme Court Regulation (Peraturan Mahkamah Agung) that establishes uniform criteria, standardized decision formats, and transparent reasoning requirements to guide judges in applying judicial pardon. Such regulatory guidance is essential to ensure consistency, legal certainty, and accountability, while preserving judicial independence and advancing the objectives of proportional, humane, and restorative criminal justice in Indonesia.

REFERENCES

- Aguinis, H. & Glavas, A. "What We Know and Don't Know About CSR Outcomes." *Journal of Management*, 2021. <https://doi.org/DOI: 10.1177/01492063211023956>.
- Baker, S. "Cultural Governance and Policy Effectiveness." *International Journal of Cultural Policy*, 2020. <https://doi.org/DOI: 10.1080/10286632.2020.1813764>.
- Carroll, A. B. "Corporate Social Responsibility: A Review of the Concept & Future Directions." *Business & Society*, 2021. <https://doi.org/DOI: 10.1177/00076503211001788>.
- Ching, K. W. "Mandatory CSR: Comparative Lessons for Indonesia." *Company and Securities Law Journal*, 2021. <https://doi.org/DOI: 10.2139/ssrn.3990112>.
- Dyck, A. & Zingales, L. "The Corporate Governance Role of the Public Interest." *Journal of Finance*, 2020. <https://doi.org/DOI: 10.1111/jofi.12877>.
- Eom, S. "Outcome-Based Regulatory Design in Public Policy." *Regulation & Governance*, 2023. <https://doi.org/DOI: 10.1111/rego.12523>.
- Fischer, F. "Policy Evaluation and the Public Interest." *Public Administration Review*, 2023. <https://doi.org/DOI: 10.1111/puar.13623>.
- Hall, C. Michael. "Sustainable Tourism: Governance, Culture, and Policy Evaluation." *Journal of Sustainable Tourism*, 2023. <https://doi.org/DOI: 10.1080/09669582.2023.2176244>.
- Husted, B. W., & de Sousa-Filho, J. M. "Mandatory CSR and Public Value Creation: Evidence from Emerging Economies." *Journal of Business Ethics* 185, no. 4 (2024): 875–94. <https://doi.org/DOI: 10.1007/s10551-024-06100-2>.
- Jamali, D. & Karam, C. "CSR and Development: Synergies and Contradictions." *Journal of*

- Business Ethics*, 2021. <https://doi.org/DOI: 10.1007/s10551-020-04566-2>.
- Kamal, M. “Decentralization, Local Law, and Public Welfare in Southeast Asia.” *Journal of Asian Public Policy*, 2021. <https://doi.org/DOI: 10.1080/17516234.2021.1954127>.
- Khan, M. et al. “Regulatory CSR Mandates and Corporate Behavior in Developing Countries.” *Journal of Cleaner Production*, 2022. <https://doi.org/DOI: 10.1016/j.jclepro.2021.129670>.
- Krisnaningrum, N. P. A., & Budiasih, I. G. N. “Implementation of CSR Based on Tri Hita Karana in LPD Kesiman.” *E-Jurnal Akuntansi Universitas Udayana* 31, no. 7 (2021). <https://doi.org/DOI: 10.24843/EJA.2021.v31.i07.p17>.
- Kustina, K. T., & Arisanti, L. P. M. “Tri Hita Karana CSR and Financial/Community Welfare Outcomes.” *Juara: Jurnal Riset Akuntansi* 12, no. 2 (2022). <https://doi.org/DOI: 10.36733/juara.v12i2.3516>.
- Liu, J. et al. “Cultural Sustainability and Tourism Policy.” *Sustainability*, 2021. <https://doi.org/DOI: 10.3390/su13094870>.
- Mahyuni, I. G. N., & Dewi, L. P. A. G. T. “Corporate Social Responsibility, Local Wisdom of Tri Hita Karana, and Community-Based Tourism Development.” *Jurnal Ilmiah Ekonomi Dan Bisnis* 18, no. 2 (2022): 203–215. <https://doi.org/DOI: https://doi.org/10.31849/jieb.v18i2.5803>.
- Moon, J., & Knudsen, J. S. “Governmentalization of Corporate Social Responsibility: Policy Tools and Outcomes.” *Regulation & Governance* 18, no. 2 (2024): 295–314. <https://doi.org/DOI: 10.1111/rego.12587>.
- Mulgan, T. “Future Generations and Utilitarian Ethics.” *Ethical Theory and Moral Practice*, 2022. <https://doi.org/DOI: 10.1007/s10677-022-10342-0>.
- Pancawati, N. L. P. A. “Tri Hita Karana-Based CSR: How Corporate Programs Reflect Local Values.” *Valid: Jurnal Ilmiah* 20, no. 1 (2022). <https://doi.org/DOI: 10.53512/valid.v20i1.268>.
- Purnami, A. A. S., Selamat, I. K., & Sudarmini, K. “SWOT Analysis of CSR Strategies in LPDs.” *Wacana Ekonomi: Jurnal Ekonomi, Bisnis Dan Akuntansi* 18, no. 2 (2023). <https://doi.org/DOI: 10.22225/we.18.2.1161.75-81>.
- Purwanti, L., Cahyana, P. G., & Ibrahim, M. “Exploration of the Tri Parartha Concept in CSR Programs Based on Tri Hita Karana.” *JIA (Jurnal Ilmiah Akuntansi)* 9, no. 1 (2024). <https://doi.org/DOI: 10.23887/jia.v9i1.77171>.
- Rahman, S. “CSR Compliance in Asia: Legal Obligations vs Voluntary Norms.” *Asian Journal of Law and Society*, 2020. <https://doi.org/DOI: 10.1017/als.2020.4>.
- Scanlon, T. M., & Mulgan, T. “Utilitarianism and Public Policy Evaluation.” *Ethics* 135, no. 5 (2024): 457–80. <https://doi.org/DOI: 10.1086/725029>.
- Scherer, A. G. “CSR in the Age of Globalization.” *Academy of Management Review*, 2021. <https://doi.org/DOI: 10.5465/amr.2017.0478>.
- Sitiari, N. W., Datrini, L. K., Sarmawa, W. G., & Setini, M. “Empowering Eco-Tourism MSMEs through Tri Hita Karana Values.” *Journal of Finance and Business Digital*, 3(3) 3, no. 3 (2024). <https://doi.org/DOI: 10.55927/jfbd.v3i3.11621>.
- Su, L., Huang, S., & Pearce, P. “Cultural Sustainability, Tourism Governance, and Corporate Responsibility.” *Tourism Management* 100, no. 1 (2024): 104472. <https://doi.org/DOI: 10.1016/j.tourman.2023.104472>.
- Susanti, C., & Wiryanata, I. G. N. A. “Hotel CSR and Tri Hita Karana Practices.” *Pariwisata Budaya: Jurnal Ilmiah Pariwisata Agama Dan Budaya*, 9(1), 2024 9, no. 1 (2024).

<https://doi.org/DOI: 10.25078/pariwisata.v9i1.3556>.

Sutapa, I. N., Miati, N. L. P. M., & Aryasa, I. P. G. G. C. “The Influence of the Application of Sustainability Accounting Principles in Ecotourism Activities in Bali with the Concept of Tri Hita Karana.” ” *International Journal of Social Science*, 3(2). 3, no. 2 (2024). <https://doi.org/DOI: 10.53625/ijss.v3i2.6373>.

Zamir, E. & Medina, B. “Law, Morality, and the Public Interest: A Behavioral Perspective on Utilitarianism.” *Journal of Legal Analysis*, 2021. <https://doi.org/DOI: 10.1093/jla/laab004>.

Zhang, Y., & Xiao, H. “CSR, Local Culture, and Destination Competitiveness.” *Annals of Tourism Research* 103, no. 1 (2025): 103534. <https://doi.org/DOI: 10.1016/j.annals.2024.103534>.