



Human Rights Protection in Business Practices: Between Social Responsibility and Legal Compliance

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Abstract. This study examines human rights protection in business practices in Indonesia, emphasizing the role of corporations in respecting, protecting, and redressing the rights of workers and communities. Although Indonesia has ratified international instruments such as the ICESCR and enacted sectoral laws such as Law No. 13 of 2003 concerning Manpower, Law No. 32 of 2009 concerning Environmental Protection, and the Job Creation Law, human rights violations remain rampant, including substandard wages, suppression of labor unions, violations of indigenous peoples' rights, and limited access to redress mechanisms. Using a normative-empirical approach, this study analyzes national laws and international standards through descriptive analysis. The findings indicate that wage and worker welfare policies serve as important indicators of respect for human rights, while corporate practices often prioritize economic efficiency over ethical obligations. This study underscores the urgent need to integrate the UN Guiding Principles on Business and Human Rights into Indonesia's legal framework.

Keywords: Law Enforcement, Human Rights, Corporate Responsibility, Wage Policy.

Abstrak. Studi ini mengkaji perlindungan hak asasi manusia dalam praktik bisnis di Indonesia, dengan menekankan peran korporasi dalam menghormati, melindungi, dan memulihkan hak-hak pekerja dan masyarakat. Meskipun Indonesia telah meratifikasi instrumen internasional seperti ICESCR dan mengesahkan undang-undang sektoral seperti Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan, Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan Lingkungan Hidup, dan Undang-Undang Cipta Kerja, pelanggaran hak asasi manusia masih marak, termasuk upah di bawah standar, penindasan serikat pekerja, pelanggaran hak masyarakat adat, dan terbatasnya akses terhadap mekanisme ganti rugi. Dengan menggunakan pendekatan normatif-empiris, studi ini menganalisis peraturan perundang-undangan nasional dan standar internasional dengan analisis deskriptif. Temuan menunjukkan bahwa kebijakan upah dan kesejahteraan pekerja berfungsi sebagai indikator penting penghormatan hak asasi manusia, sementara praktik korporasi seringkali mengutamakan efisiensi ekonomi daripada kewajiban etis. Studi ini menggarisbawahi kebutuhan mendesak untuk mengintegrasikan prinsip-prinsip panduan PBB tentang bisnis dan hak asasi manusia ke dalam kerangka hukum Indonesia.

Kata kunci: Penegakan Hukum, Hak Asasi Manusia, Tanggung Jawab Perusahaan, Kebijakan Upah.

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1. Introduction

The right to work and a decent standard of living is a fundamental part of human rights which is explicitly guaranteed in the Indonesian constitution and in various International Legal Instruments.¹ Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that “every citizen has the right to work and a decent living for humanity.” At the global level, Indonesia has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) through Law Number 11 of 2005, which requires the state to respect, protect and fulfil the economic, social and cultural rights of its citizens, including the right to work and a decent standard of living.² Although there is a legal recognition of this right, its implementation in practice still faces serious challenges. Frequently arising issues include wage inequality, high levels of informal workers without legal protection, low levels of social security protection, and unequal access to basic needs such as housing, healthcare, and nutritious food.³ Researchers show that the

¹ Ridwan Arifin, “Indonesian Political Economic Policy and Economic Rights: An Analysis of Human Rights in the International Economic Law,” *J. Priv. & Com. L.* 3, no. 3 (2019): 38. See also, Virginia Bras Gomes, “The right to work and rights at work,” In *Research handbook on economic, social and cultural rights as human rights*, (Camberley: Edward Elgar Publishing, 2020), 233; Any Suryani Hamzah, “Strengthening The Relationality of Heteronomous and Autonomous Legal Rules in Workers’ Decent Wage Law Policies (An Attempt to Create a Dignified Tripartid Ecosystem),” *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 2 (2023): 343; Laode Husen et al., “Implementation of legal guarantees for human rights protection in Indonesia,” *Journal of Law and Sustainable Development* 11, no. 4 (2023): 624; Agi Attaubah Hidayat et al., “Fulfilment of the Right to an Adequate Standard of Living for Workers According to the Universal Declaration of Human Rights: A Review of Constitutional Court Decision No. 168/PUU-XXI/2023,” *Qanuniya: Jurnal Ilmu Hukum* 2, no. 1 (2025): 3; Laurensius Arliman et al., “Legal Guarantees for Persons with Disabilities to Secure Decent Work: A Human Rights Perspective from Indonesia,” *Jurnal Wawasan Yuridika* 8, no. 2 (2024): 95.

² Wade M. Cole, “Strong Walk and cheap talk: The effect of the international covenant of economic, social, and cultural rights on policies and practices,” *Social Forces* 92, no. 1 (2013): 168. See also, Matthias Petel, and Norman Vander Putten, “Economic, social and cultural rights and their dependence on the economic growth paradigm: Evidence from the ICESCR system,” *Netherlands Quarterly of Human Rights* 39, no. 1 (2021): 55; Gomes, “The right to work,” 233; Rika Jamin Marbun, “The Role Of The Government In Realizing The Right To Work And A Decent Living In Industrial Relations In Indonesia,” In *Proceeding International Conference of Science Technology and Social Humanities*, 1, (2022): 194; M. Zidnie Alfian, and Rumawi Rumawi, “Regional Government Responsibilities in Fulfilling Decent Work for Citizens,” *Journal of Iuridica Pancasila* 1, no. 1 (2024): 49.

³ Badruzzaman Badruzzaman, “Perlindungan Hukum Terhadap Tenaga Kerja Indonesia di Saudi Arabia Perspektif Hukum Indonesia dan Saudi Arabia,” *Al-Mazaaib: Jurnal Perbandingan Hukum* 4, no. 1 (2016): 73. See also, Siti Rodhiyah Dwi Istinah et al., “The Human Rights Protection In The Economic Affairs of Indonesia,” *Jurnal Pembaharuan Hukum* 8, no. 2 (2021): 278; Puspita

implementation of ICESCR in Indonesia are too formalistic and ineffective to be in line with pro-people public policies.⁴ The state has not fulfilled the obligations mandated by the ICESCR, especially in providing decent work and social security for vulnerable groups.⁵

This indicates that there is still a gap between constitutional norms and their implementation on the ground, which directly impacts workers' welfare. Given this situation, it is crucial to evaluate the effectiveness of state policies in guaranteeing the right to work and a decent standard of living. This evaluation is not only crucial as a form of social oversight, but also contributes to the formulation of fairer, more participatory policies that align with the spirit of Indonesia's constitution and its international human rights commitments.

The development of the modern business world places corporations as crucial actors not only in economic terms but also in social and human rights contexts. In many cases, profit-driven business practices directly impact basic human rights, such as the right to decent work, the right to a healthy environment, the right to health, and the rights of local communities, to land and natural resources. Therefore, the business sector's involvement in respecting human rights is becoming increasingly important in both global and national discourse.⁶ In response to this, the UN Human Rights Council in 2011 adopted the United Nations Guiding Principles on Business and Human Rights (UNGPs), which affirm three main pillars:

1. The state's obligation to protect human rights
2. The corporate responsibility to respect human rights
3. Access to redress for victims of human rights violations⁷

Sari et al., "Kepastian Hukum Pengaturan Penggunaan Tenaga Kerja Asing di Indonesia," *Lentera Hukum* 5 (2018): 389; Anggita Doramia Lumbanraja, and Yusriyadi Yusriyadi, "The urgency to reform the kafala system in the sake of human rights of Indonesia domestic workers," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 21, no. 2 (2021): 221.

⁴ Desy Kiat et al., "Pemenuhan Hak Atas Pekerjaan Dan Penghidupan Yang Layak Dalam Negara Yang Mengalami Krisis Ekonomi," *TATOHI: Jurnal Ilmu Hukum* 4, no. 5 (2024): 329. See also, Husen et al., "Implementation of legal guarantees," 625.

⁵ Rahma Nia Putri et al., "A Comparative Analysis of Wage Policies for Workers in Indonesia and Australia: Their Impact on Worker Welfare," *Ministrate: Jurnal Birokrasi dan Pemerintahan Daerah* 7, no. 3 (2025): 250. See also, Hiruni Alwishewa, "Human rights due diligence for arms companies: lessons from supply chain regulations," *European Journal of Risk Regulation* 16, no. 2 (2025): 721.

⁶ Business C Human Rights Resource Centre, "Business and Human Rights: Overview," *European Union Agency for Fundamental Rights*, (2023). Retrieved in July 21, 2025 from <https://www.business-humanrights.org>

⁷ Janne Mende, "The United Nations Guiding Principles on Business and Human Rights (2011)," *Sources of the History of Human Rights* 4, no. 4, (2018): 131. See also, Nukila Evanty, and Nurul Ghufro, "Multinational corporations and human rights in Indonesia: The need for improvement in legislation," In *Business and Human Rights in Asia: Duty of the State to Protect* (Singapore: Springer

In Indonesia, although there are no specific regulations governing the comprehensive implementation of the UNGPs principles, several sectoral regulations, such as Law Number 13 of 2003 concerning Manpower, Law Number 32 of 2009 concerning Environmental Protection and Management, and the Job Creation Law, contain provisions relevant to human rights protection in business practices. However, in their implementation, various forms of human rights violations still occur in the business world, such as the eradication of labor unions, substandard wages, violations of indigenous peoples' rights in investment projects, and weak access to complaint and redress mechanisms. The wage system in Indonesia does not fully reflect the principles of respect for workers' human rights.⁸ Likewise, non-state responsibilities such as corporations must be actively understood as part of fulfilling obligations to the ICESCR, especially in sectors that have a direct impact on socio-economic rights.⁹

This shows that despite Indonesia's constitutional guarantees under Article 27(2) of the 1945 Constitution and its ratification of the ICESCR through Law Number 11/2005, the realization of the right to work and a decent standard of living remains uneven.¹⁰ Wage disparities, vulnerabilities in the informal sector, and corporate impacts on socio-economic rights continue to challenge both workers

Singapore, 2021), 56; Andrew Rosser et al., "Implementing the United Nations guiding principles on business and human rights: insights from Indonesia," *Human Rights Quarterly* 44, no. 1 (2022): 62; Arsyi Manggali et al., "Implementation of business and human rights principles (UNGPs) in the protection given to Indonesian laborers: Gender perspective," *Jurnal Cita Hukum* 11, no. 1 (2023): 165; Mohammad Zainullah, "The Compatibility of Indonesia's Job Creation Law Number 11 Of 2020 With United Nations Guiding Principles on Business and Human Rights," *Jurisdictie: Jurnal Hukum dan Syariah* 14, no. 1 (2023): 15.

⁸ Wurianalya Maria Noventy, "Perjanjian Baku Dalam Dunia Bisnis Dikaitkan Dengan Hak Asasi Manusia," *Melintas: An International Journal of Philosophy and Religion (MIJPR)* 33, no. 1 (2017): 86.

⁹ Iman Prihandono, "Transnational Corporations and Human Rights: Strengthening Current Tools to Promote Accountability," *Transnational Corporations Review* 3, no. 3 (2011): 78. See also, David Kinley, and Junko Tadaki, "From talk to walk: The emergence of human rights responsibilities for corporations at international law," *Va. J. Int'l L.* 44, no. 3 (2003): 931; Sorcha MacLeod, "The united nations, human rights and transnational corporations: challenging the international legal order," *Perspectives on corporate social responsibility* 2, no. 5 (2008): 73; Stefan Kirchner, "Recognition and Responsibility: A Legislative Role for Transnational Corporations in Public International Law-Thoughts from the Perspective of Human Rights," *Indian J. Int'l Econ. L.* 7, no. 6 (2015): 117; Eric De Brabandere, and Larissa van den Herik, "Non-State Actors and Human Rights Obligations: Perspectives from International Investment Law and Arbitration," In *Furthering the Frontiers of International Law: Sovereignty, Human Rights, Sustainable Development*, (Leiden: Brill Nijhoff, 2021), 43; Kiat et al., "Pemenuhan Hak Atas Pekerjaan," 329.

¹⁰ Katayoon Beshkardana, and Faraz Shahlaci, "Non-State Actors for Profit: Revisiting Transnational Corporations' Personhood and Responsibility under International Law," *Nw. J. Int'l L. & Bus.* 44, no. 5 (2024): 249. See also, Gomes, "The right to work," 235; Cole, "Strong Walk and cheap," 169.

and communities, particularly in sectors such as palm oil, mining, and agriculture.¹¹ While formal adherence to international standards is documented, wages frequently fall below the decent living needs, social protections are weak, and vulnerable groups including migrant and disabled workers, remain inadequately supported.¹²

Previous studies have extensively analyzed legal frameworks.¹³ However, normative research examining how Indonesian businesses integrate the UN Guiding Principles on Business and Human Rights (UNGPs) into operational practices remains limited.¹⁴ In particular, the implementation of Human Rights Due Diligence (HRDD), mechanisms for preventing violations, and avenues for redress are underexplored.¹⁵ Sector-specific dynamics, such as gig economy impacts on labor rights or relational aspects in indigenous land conflicts, remain overlooked.¹⁶ Comparative studies that benchmark Indonesia against international models, such as the EU Corporate Sustainability Due Diligence Directive (CSDDD), are scarce, as are evaluations of civil society's role in bridging normative and practical gaps.¹⁷ Critiques of voluntary corporate social responsibility initiatives

¹¹ Mirza Satria Buana, and Rahmat Budiman, "Indonesia's minimum wage policy after the Omnibus Law: A comparative analysis from Islamic principles," *UUM Journal of Legal Studies* 13, no. 2 (2022): 189. See also, Arif Novianto et al., "Essential workers without job protection: workers' power and the impact of the COVID-19 pandemic on Indonesian gig workers," *Asia-Pacific Social Science Review* 23, no. 3 (2023): 4.

¹² Hal Hill, "What's happened to poverty and inequality in Indonesia over half a century," *Asian Development Review* 38, no. 1 (2021): 72. See also, Petel, and Putten, "Economic, social and cultural," 57; Badruzzaman, "Perlindungan Hukum Terhadap Tenaga," 75.

¹³ Surya Deva, "Mandatory human rights due diligence laws in Europe: A mirage for rightsholders?," *Leiden Journal of International Law* 36, no. 2 (2023): 390. See also, Kinley, and Tadaki, "From talk to walk," 932; Kirchner, "Recognition and Responsibility," 117; De Brabandere, and Herik, "Non-State Actors," 45.

¹⁴ Carmen Márquez Carrasco, "The United Nations Guiding Principles on Business and Human Rights: what contribution are the National Action Plans making?," In *Research handbook on global governance, business and human rights*, (Camberley: Edward Elgar Publishing, 2022), 82. See also, Saskia Dörr, "Just Do! Implementing CDR in the Company," In *Corporate Digital Responsibility: Managing Corporate Responsibility and Sustainability in the Digital Age*, (Berlin, Heidelberg: Springer Berlin Heidelberg, 2021), 121.

¹⁵ Robert McCorquodale, and Justine Nolan, "The effectiveness of human rights due diligence for preventing business human rights abuses," *Netherlands International Law Review* 68, no. 3 (2021): 462. See also, Vincent Dupont et al., "A step in the right direction, or more of the same? A systematic review of the impact of human rights due diligence legislation," *Human Rights Review* 25, no. 2 (2024): 134.

¹⁶ Elizabeth L. Yuliani et al., "Relational values of forests: Value-conflicts between local communities and external programmes in Sulawesi," *People and Nature* 5, no. 6 (2023): 1825. See also, Novianto et al., "Essential workers without job," 5.

¹⁷ Wahyu Wagiman, and Mutia Salsabila, "Civil Society's Contributions and Challenges in the Development of Business and Human Rights Policy in Indonesia," *Yuridika* 37, no. 2 (2022): 498. See also, I. Gusti Ngurah Parikesit Widiatedja, and I. Gusti Ngurah, "Foreign Direct Investment in

show symbolic compliance rather than substantive rights protection, but studies on mandatory approaches are limited.¹⁸ This study addresses these gaps by evaluating policy effectiveness and proposing integrated UNGPs frameworks to ensure business practices in Indonesia uphold human rights meaningfully. This study is crucial, especially in the context of Indonesia, a developing country whose economic growth is heavily dependent on investment and large-scale business activities. The development of the modern business world positions corporations as crucial actors not only in the economic sphere but also in the social and human rights contexts.

2. Research Methods

This study employs a normative-empirical approach to examine the implementation of human rights in Indonesian business practices. The normative component involves a detailed analysis of national laws, sectoral regulations, and international instruments, including the 1945 Constitution, Law Number 13 of 2003 on Manpower, Law Number 32 of 2009 on Environmental Protection, the Job Creation Law, and the ICESCR ratification, alongside the UN Guiding Principles on Business and Human Rights (UNGPs), with emphasis on Human Rights Due Diligence (HRDD).

The empirical component focuses on case studies of key sectors such as agriculture, mining, and manufacturing, examining wage policies, labor welfare, environmental management, and indigenous rights. Data are collected through document review, corporate reports, and secondary sources on regulatory enforcement and CSR practices. Furthermore, a descriptive analysis is conducted to quantify and illustrate patterns of human rights compliance and violations across sectors, linking legal frameworks, corporate behavior, and human rights outcomes. This method clarifies gaps and identifies strategies for effective HRDD implementation.

Tourism and the Feasibility of Incorporating the United Nation Guiding Principles on Business and Human Rights in Indonesia,” *Yuridika* 37, no. 2 (2022): 433.

¹⁸ Mohammad Alwasmi, and Ahmad Alderbass, “Should Corporate Social Responsibility Around the World be Mandatory or Voluntary?,” *Comparative Law Review* 27 (2021): 174.

3. Results and Discussions

3.1. Human Rights as the Ethical and Legal Boundaries of the Business World

In practice, the modern business world operates not only in the economic sphere, but also in the social and legal sphere, which influences the fulfillment of human rights. Companies, as non-state entities, possess enormous economic and operational power, which can have both direct and indirect impacts on human rights. Therefore, a company's responsibility for human rights cannot be separated from its entire business activities, from supply chains and employment practices to environmental management.¹⁹

In global developments, the concept of human rights is no longer viewed as the exclusive domain of the state, but rather as an ethical and legal standard that must be adhered to by business actors, both in their capacity as national and multinational entities.²⁰ In a global context, companies' obligations to respect human rights have evolved into ethical and legal standards embedded in business practices, no longer simply a moral choice or a voluntary initiative.

Multinational corporations now operate within complex global networks, where strategic decisions, investments, and supply chains have far-reaching consequences for human rights.²¹ The business world now faces increasing expectations to not only pursue profits but also to ensure that its operations do not violate the basic rights of individuals, communities, and the surrounding environment. For example, technology companies that rely on employee or consumer data must ensure data security and privacy protection, which are fundamental rights, or face the risk of international litigation and reputational repercussions.²² In other words, the ethical and legal boundaries of human rights

¹⁹ Business C Human Rights Resource Centre, "Business and Human Rights: Overview," *European Union Agency for Fundamental Rights*, (2023). Retrieved in July 21, 2025 from <https://www.business-humanrights.org>.

²⁰ Peter Muchlinski, *Multinational enterprises and the law*, (Oxford: Oxford University Press, 2021), 35. See also, Enrico Partiti, "Polycentricity and polyphony in international law: Interpreting the corporate responsibility to respect human rights," *International & Comparative Law Quarterly* 70, no. 1 (2021): 142; Cristina Elena Popa Tach, and Cătălin Silviu Săraru, "Evaluating today's multi-dependencies in digital transformation, corporate governance and public international law triad," *Cogent Social Sciences* 10, no. 1 (2024): 2370.

²¹ Osman El-Said et al., "Mapping corporate social responsibility practices at the international level: systematic review and content analysis approach," *Sustainability Accounting, Management and Policy Journal* 13, no. 4 (2022): 812. See also, Muchlinski, *Multinational enterprises and the law*, 36; El-Said et al., "Mapping corporate social," 812; Popa Tach, and Săraru, "Evaluating today's multi-dependencies," 2373.

²² David Jason Karp, "Business and human rights in a changing world order: beyond the ethics of disembedded liberalism," *Business and Human Rights Journal* 8, no. 2 (2023): 142. See also, Partiti, "Polycentricity and polyphony," 143; Karp, "Business and human rights," 143.

have become the framework for assessing the legitimacy of business operations, where failure to comply can result in social and legal sanctions.

The concept of corporate responsibility to respect human rights in the United Nations Guiding Principles on Business and Human Rights (UNGPs) document states that companies must avoid complicity in human rights violations and address negative impacts related to their business activities, both directly and through the value chain.²³ Meanwhile, legally, human rights have become part of international and domestic legal obligations. In the Indonesian legal framework, the constitution and the sectorial laws are legal manifestations of human rights protection in the business world. These provisions include the right to decent work, protection against exploitation, a healthy environment, and access to rehabilitation.

In this case, human rights are not only an external boundary for companies from a state legal perspective (government regulations), but also an internal boundary, namely through internal company policies such as codes of ethics, Corporate Social Responsibility (CSR) policies, and due diligence systems that ensure that every line of business operates in accordance with the human rights standards. It is important to note that the UNGPs, although not legally binding agreements (soft law), have become a global norm used by many countries and large corporations to develop social responsibility and human rights frameworks. The second pillar of the UNGPs emphasizes that a company's responsibility to respect human rights applies regardless of whether the state has fulfilled its human rights obligations. This means that there is no excuse for business actors to operate in a way that is detrimental to individual rights, even if national laws are weak or ineffective.²⁴ In addition, the concept of Human Rights Due Diligence (HRDD) in the UNGPs encourages companies to proactively identify, prevent, mitigate, and account for negative impacts on human rights that may arise from their activities. Thus, the fulfilment of human rights by business actors must be an integral part of business strategy, not just an additional voluntary activity.²⁵

This shows that internal policies such as codes of ethics, CSR, and internal due diligence systems serve as preventative mechanisms to ensure that all business lines comply with human rights standards. Even when national regulations are weak, the UNGPs affirm that companies' responsibility to respect human rights remains without exception.²⁶ This emphasizes that compliance with human rights is not

²³ Kiat et al., "Pemenuhan Hak Atas Pekerjaan," 331. See also, Beshkardana, and Shahlaei, "Non-State Actors," 250.

²⁴ John Gerard Ruggie, *Just business: Multinational corporations and human rights* (Norton global ethics series), (New York: WW Norton & Company, 2013), 35.

²⁵ Chip Pitts, 'The United Nations 'Protect, Respect, Remedy' Framework and Guiding Principles, In *Business and human rights*, (London: Routledge, 2016), 53.

²⁶ Laurens Bakker, "Custom and violence in Indonesia's protracted land conflict," *Social Sciences & Humanities Open* 8, no. 1 (2023): 104.

merely a legal formality but an integral part of a sustainable business strategy. In other words, integrating human rights into corporate policies enhances a company's legitimacy in the eyes of investors, consumers, and the global community.

Ethically, human rights principles serve as moral boundaries that protect individuals and communities from exploitative or discriminatory business practices. Practices such as gender discrimination, workplace harassment, or disregard for worker safety are considered violations of universal norms that uphold human dignity.²⁷ Furthermore, from a legal perspective, human rights have become part of international and domestic obligations binding on companies. In Indonesian law, for example, the constitution and various sectoral regulations provide human rights protection in the business context, including the right to decent work, a healthy environment, and access to rehabilitation.²⁸ Therefore, companies must not only comply with national regulations but also consider broader international standards as operational guidelines.

The global business phenomenon demonstrates that human rights violations can significantly impact a company's reputation, market value, and sustainability. Studies show that companies that disregard human rights standards face the risk of cross-border litigation, consumer boycotts, and sanctions from international institutions.²⁹ Conversely, the strict implementation of HRDD principles increases transparency, public trust, and a company's ability to effectively manage social risks.³⁰ This demonstrates that human rights are not merely a moral issue but also a strategic instrument in modern business governance.

Furthermore, the implementation of human rights in business also encompasses the protection of vulnerable groups. For example, migrant workers, women, and indigenous communities face a higher risk of exploitation in a flexible and competitive global economic system.³¹ Failure to protect these groups not only violates ethics but can also lead to legal consequences through national litigation

²⁷ Partiti, "Polycentricity and polyphony," 145. See also, Popa Tach, and Săraru, "Evaluating today's multi-dependencies," 2375.

²⁸ Elfitra Afrizal, and Zuldesni, "Analysing the effectiveness of the roundtable on sustainable palm oil's Free, Prior and Informed Consent policy to respect customary land rights," *Journal of International Development* 35, no. 5 (2023): 772. See also, Sari et al., "Kepastian Hukum Pengaturan," 390.

²⁹ Bonita Meyersfeld, "Corporations and positive duties to fulfil socio-economic rights: developing international human rights law," *The International Journal of Human Rights* 29, no. 2 (2025): 253. See also, Deva, "Mandatory human rights," 391.

³⁰ Ingrid Landau, *Human Rights Due Diligence and Labour Governance*, (Oxford: Oxford University Press, 2023), 23. See also, Dupont et al., "A step in the right direction," 135.

³¹ Tri Nurhayati, and Raden Lungid Ismoyoputro, "Justice, Equality, and Indonesian Labor Law: Navigating Humanitarian Challenges in the Workplace," *Walisongo Law Review (Walrev)* 6, no. 1 (2024): 5. See also, Yuliani et al., "Relational values of forests," 1826.

and international mechanisms such as the ICESCR and ILO Conventions.³² Therefore, the implementation of HRDD must consider the social and cultural vulnerabilities of communities surrounding a company's operations.

The relationship between human rights and business practices emphasizes the need to integrate soft and hard law. The UNGPs, as soft law, have become global guidelines, but their effectiveness will increase when combined with binding domestic regulations and effective enforcement mechanisms.³³ In Indonesia and globally, this emphasizes that compliance with human rights must be a measurable, transparent, and accountable business strategy, not merely CSR rhetoric. Consistent implementation will affirm that human rights are the ethical and legal boundaries that govern business practices, while ensuring sustainable and inclusive economic development.³⁴

3.2. The Gap between Norms and Practices in Indonesia

Although Indonesia has a national legal framework that guarantees the protection of workers' rights and communities affected by business the implementation of human rights in the business world still requires serious protection. Researchers found that although Indonesia has ratified the ICESCR, non-state (corporate) responsibilities towards citizens' socio-economic rights have not been fully internalized in business practices.³⁵

This indicates that companies have not fulfilled their responsibility to respect the rights stipulated in the UNGPs principles. This situation is further exacerbated by weak labor supervision and inconsistency in law enforcement. Although Indonesia has adopted various legal norms guaranteeing human rights protection, in practice, there remains a serious gap between what is written in regulations and their implementation on the ground. This is clearly reflected in business activities that often ignore human rights principles, both in terms of industrial relations, environmental management, and interactions with local communities. The Indonesian Constitution, specifically Article 27 paragraph (2) and Article 28D

³² Ujang Komarudin et al., "Indonesian domestic workers in Taiwan: An international migration and workers' rights perspective," *Lex Publica* 10, no. 1 (2023): 152. See also, Gomes, "The right to work," 236; Cole, "Strong Walk and cheap," 172.

³³ Caroline Omari Lichuma, "Mandatory Human Rights Due Diligence (MHRDD) Laws caught between rituals and ritualism: The forms and limits of business authority in the global governance of business and human rights," *Business and Human Rights Journal* 9, no. 2 (2024): 257. See also, Deva, "Mandatory human rights," 392.

³⁴ Robertus Robet et al., "The State and Human Rights under Joko Widodo's Indonesia," *Cogent Social Sciences* 9, no. 2 (2023): 228; Meyersfeld, "Corporations and positive," 255. See also, Rosser et al., "Implementing the United Nations," 64; Karp, "Business and human rights," 145; Beshkardana, and Shahlaei, "Non-State Actors," 254; Zainullah, "The Compatibility of Indonesia," 16.

³⁵ Mirza Satria Buana et al., "Precarious workers and peasants in Indonesia: Human rights and the job creation law," *Austl. J. Asian L.* 26 (2025): 51.

paragraph (2) of the 1945 Constitution, guarantees the right to work and a decent living for every citizen. In addition, Law Number 13 of 2003 concerning Manpower provides protection for workers' rights, including the right to a minimum wage, humane working hours, and occupational safety protection. However, various research and reports indicate that the implementation of these rights is still far from optimal (Law Number 13 of 2003).³⁶ Researchers have revealed that wage policies in Indonesia do not fully reflect the principle of decent work as formulated by the ILO or the human rights principles outlined in the ICESCR. The minimum wage set in many regions is insufficient to meet the decent living needs, and enforcement against employers who fail to pay the stipulated wages remains weak.³⁷ In other sectors, such as the extractive industry and plantations, human rights violations are also rampant. Several companies are suspected of evicting indigenous communities without adequate consultation or compensation mechanisms, which violates the principle of Free, Prior, and Informed Consent (FPIC) under international human rights law.³⁸

Reports from the National Commission on Human Rights and various civil society organizations indicate that agrarian conflicts involving corporations often arise from the failure to respect community rights to customary land, customary forests, and natural resources.³⁹ Researchers note that weak labor oversight structures and inconsistent sanctions for violations discourage corporations from

³⁶ Law Number 13 of 2003 concerning Manpower, State Gazette of the Republic of Indonesia 2003 Number 39.

³⁷ Pardomuan Gultom, and Romainur Romainur, "Analisis Yuridis Terhadap Kewajiban Pemenuhan Hak Asasi Manusia Dalam Praktik Bisnis Perkebunan Kelapa Sawit (Juridical Analysis of Obligations to Fulfill Human Rights in the Business Practices of Oil Palm Plantation)," *Jurnal HAM* 13, no. 2 (2022): 364.

³⁸ Muhamad Sayuti Hassan et al., "Free, Prior, and Informed Consent (FPIC) and the Right to Self-Determination: A Case Study of Indigenous Peoples in ASEAN Member States." In *Routledge Handbook of the UN Sustainable Development Goals Research and Policy*, (Routledge: Routledge, 2025), 285. See also, Finda Pratiwi Yuwono, "Legal Implications of the Merauke Food Estate: A Critical Analysis of Customary Rights and Environmental Concerns," *Lex Publica* 11, no. 2 (2024): 298; Retno Kusniati, "Free, Prior, and Informed Consent Principles as Indigenous Peoples' Right: Soft Law or Hard Law?," *Jambe Law Journal* 7, no. 1 (2024): 172; Afrizal, and Zuldesni, "Analysing the effectiveness," 774.

³⁹ Ward Berenschot et al., "Corporate contentious politics: Palm oil companies and land conflicts in Indonesia," *Political Geography* 114 (2024): 1036. See also, Satria Unggul Wicaksana Prakasa, "Corporate vs Community Head to Head: The Complexity of Land Tenure Conflict in Indonesia," *Indonesian Journal of Advocacy and Legal Services* 4, no. 1 (2022): 226; Ward Berenschot, "Land-use change conflicts and anti-corporate activism in Indonesia: A review essay," *Journal of East Asian Studies* 22, no. 2 (2022): 342; Yanto Sufriadi et al., "The Violence in Conflict of Natural Resources Tenure Rights-Companies Vs Traditional Communities in Indonesia," *UUM Journal of Legal Studies (UUMJLS)* 15, no. 1 (2024): 201; Yuliani et al., "Relational values of forests," 1827. Bakker, "Custom and violence," 104.

complying with their human rights obligations.⁴⁰ In many cases, the state remains passive or even protects the interests of business actors at the expense of the rights of communities and workers. This demonstrates an imbalance between economic power and social responsibility in business practices in Indonesia.

Furthermore, the voluntary approach for corporate social responsibility (CSR) is also deemed insufficient to ensure the fulfilment of human rights.⁴¹ Many companies engage in CSR merely as a formality or for public image, without considering the real impact on the rights of workers and affected communities. This situation indicates that, despite the existence of legal norms, the legal system and culture in Indonesia do not yet fully support the implementation of Business and Human Rights principles.

Research shows that although Indonesia has ratified the ICESCR, corporate responsibility for citizens' socio-economic rights has not been fully internalized in business practices.⁴² This situation indicates that companies have not fully fulfilled their obligations to respect the rights stipulated in the UNGPs principles, and this is exacerbated by weak labor oversight and inconsistent law enforcement.

Actual practices often differ significantly from regulatory requirements. Business activities on the ground frequently disregard human rights principles, both in industrial relations, environmental management, and interactions with local communities. The Indonesian Constitution, specifically Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution, guarantees the right to work and a decent living for every citizen. Furthermore, Law Number 13 of 2003 concerning Manpower protects workers' rights, including the right to a minimum wage, reasonable working hours, and occupational safety. However, various research reports indicate that the implementation of these rights is far from optimal (Law Number 13 of 2003). Minimum wage policies in various regions often do not reflect the principles of decent work as formulated by the ILO or the human rights

⁴⁰ Tebosego Lorato Baikakedi, "Challenges to Reforming CSR Standard into Laws in the Southern African Development Community (SADC) Region," *Beijing L. Rev.* 14 (2023): 2070. See also, Kiat et al., "Pemenuhan Hak Atas Pekerjaan," 334.

⁴¹ Min Zhang, and Xiaoyu Liang, "Advances Among Debates: Research on and Practice of Corporate Social Responsibility from the Legal Perspective in China," *Fordham Envtl. L. Rev.* 25 (2013): 191. See also, Mia Mahmudur Rahim, and Mohammad Abu Sayeed, "Reaching an Aim Differently? Corporate Social Responsibility Regulation in Australia and India," *Cardozo Int'l & Comp. L. Rev.* 7 (2024): 821; Li-Wen Lin, "Mandatory corporate social responsibility? Legislative innovation and judicial application in China," *The American Journal of Comparative Law* 68, no. 3 (2020): 584; Nashat Mahmoud Abdalla Jaradt, "Corporate Social Responsibility: A Comparative Study in Legal Perspectives," *European Business Law Review* 28, no. 3 (2017): 88; Alwasmi, and Alderbas, "Should Corporate Social Responsibility," 175.

⁴² Buana et al., "Precarious workers and peasants," 54. See also, Robet et al., "The State and Human Rights," 228; Meyersfeld, "Corporations and positive, 256.

principles outlined in the ICESCR, and law enforcement against employers who violate these rights remains weak.⁴³

In the rural and extractive sectors, this gap is even more pronounced. Companies often fail to comply with FPIC procedures, resulting in land acquisition and community evictions without adequate consultation. Studies in Kalimantan and Sulawesi show that palm oil and mining companies often exploit the ambiguity of national laws regarding land rights, allowing land conflicts to be resolved through informal mechanisms, often involving pressure on local leaders or the criminalization of activists.⁴⁴ These practices violate both domestic agrarian law and international human rights principles stipulated in the UNGPs.

Institutional weaknesses further exacerbate this gap. Reports from the Ombudsman and the National Commission on Human Rights point to inconsistent law enforcement, a shortage of labor inspection staff, and a passive response to violations, which undermine public trust and hinder social accountability.⁴⁵ Economic reforms focused on growth and investment often subordinate workers' and community rights to business interests, highlighting that the gap between norms and practices is not simply a regulatory issue but a reflection of structural imbalances in the implementation of human rights in the Indonesian business world.

This gap demonstrates that despite the existence of international legal norms and principles, business practices in Indonesia still fall far short of reflecting comprehensive human rights compliance. Violations of workers' rights, indigenous peoples' rights, and the environment are clear evidence that human rights norms in regulations are often not translated effectively into company operational practices.⁴⁶

⁴³ Anindya Dessi Wulansari, "Indonesia's Cheap Wages Regime: The Political Economy of Minimum Wages Policy under Jokowi Presidency," *Fudan Journal of the Humanities and Social Sciences* 14, no. 3 (2021): 423. See also, Gultom, and Romainur, "Analisis Yuridis Terhadap Kewajiban," 364.

⁴⁴ Siti Kunarti et al., "Perspective of Employment Relations and Wages in Labor Law and Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024): 392. See also, Yuliani et al., "Relational values of forests," 1828; Berenschot, "Land-use change conflicts," 344; Berenschot et al., "Corporate contentious politics," 1036; Afrizal, and Zuldesni, "Analysing the effectiveness," 775; Bakker, "Custom and violence," 106; Kusniati, "Free, Prior, and Informed," 174; Yuwono, "Legal Implications of the Merauke," 298; Prakasa, "Corporate vs Community Head," 226; Sufriadi et al., "The Violence in Conflict," 201.

⁴⁵ M. Misbahul Mujib, and Mustari Kurniawati Muchlas, "Achievements and challenges of human rights protection policy in realizing good governance in Indonesia and China," *Journal of Human Rights, Culture and Legal System* 3, no. 2 (2023): 342. See also, Alfian, and Rumawi, "Regional Government Responsibilities," 49; Robet et al., "The State and Human Rights," 229.

⁴⁶ Tunggul Anshari Setia Negara et al., "Indonesian job creation law: neoliberal legality, authoritarianism and executive aggrandizement under Joko Widodo," *Law and Development Review* 17, no. 1 (2024): 167. See also, Buana et al., "Precarious workers and peasants," 55; Yuwono,

3.3. Wage and Worker Welfare Policies as Human Rights Indicators in Business

Researchers have shown that wage policies in Indonesia do not fully reflect human rights values, particularly in ensuring a decent standard of living.⁴⁷ Minimum wage policies are often not realistically aligned with the decent living needs and do not take into account the varying burdens of living in each region.⁴⁸ In this context, wage policy is not only an economic issue, but also an indicator of respect for or violation of human rights by the business world.

Furthermore, workers' weak access to social security and disregard for decent work principles reinforce the argument that most businesses in Indonesia still prioritize profits over workers' rights. This contradicts the due diligence principle of the UNGPs, which requires companies to identify, prevent, and address negative impacts on human rights throughout their business processes. Wages and worker welfare are two fundamental elements that not only reflect the industrial relations between employers and employees but also serve as direct indicators of the extent to which businesses respect human rights. From a human rights perspective, every individual has the right to a decent living for humanity, as stipulated in Article 23 paragraph (3) of the Universal Declaration of Human Rights (UDHR) and Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has been ratified by Indonesia through Law Number 11 of 2005. Providing decent wages is a concrete form of respect for human dignity. However, in the Indonesian context, reality shows that many workers still receive wages below the decent living needs, especially in the informal and labor-intensive sectors.

Researchers have revealed that wage policies in Indonesia are often not formulated based on human rights principles, but rather based on economic considerations and market competitiveness.⁴⁹ Minimum wages set by local

"Legal Implications of the Merauke," 299; Kusniati, "Free, Prior, and Informed," 176; Afrizal, and Zuldesni, "Analysing the effectiveness," 776; Berenschot et al., "Corporate contentious politics," 1038; Berenschot, "Land-use change conflicts," 346.

⁴⁷ Siti Kunarti et al., "Reformulation of Minimum Wage Policy and Its Implications Concerning Justice and Workers' Welfare in the Context Indonesian law," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* (2025): 221. See also, Hidayat et al., "Fulfilment of the Right," 4; Mujib, and Muchlas, "Achievements and challenges," 342; Hill, "What's happened to poverty," 74; Buana, and Budiman, "Indonesia's minimum wage policy," 190.

⁴⁸ Wayne Palmer, and Nicola Piper, "Regulatory (mal) integration: its implications for migrant workers' ability to access employment rights in Indonesia," *Journal of Immigrant & Refugee Studies* 21, no. 2 (2023): 205. See also, Gultom, and Romainur, "Analisis Yuridis Terhadap Kewajiban," 364.

⁴⁹ Nabiyila Risfa Izzati, "Tinjauan penetapan upah minimum 2023: Evaluasi kebijakan pengupahan dan revitalisasi dewan pengupahan," *Masalah-Masalah Hukum* 52, no. 2 (2023): 167. See

governments are often lower than the actual standard of living. As a result, workers are forced to work in an over capacity environment or take on additional work to meet basic needs such as food, housing, children's education, and healthcare.

This creates exploitative working conditions, even though it does not formally violate labour laws.⁵⁰ Furthermore, access to social security, such as BPJS Kesehatan (Healthcare and Employment Social Security), as well as protection against unilateral termination of employment (PHK), are part of workers' welfare and are considered basic rights. Unfortunately, the implementation of social security programs by private companies remains very limited, and most informal workers are not covered by these systems. Within the framework of the UN Guiding Principles on Business and Human Rights (UNGPs), corporate responsibility to respect human rights includes the obligation to avoid negative impacts on workers' rights and ensure that their business practices do not lead to exploitation or injustice.⁵¹ The concept of Human Rights Due Diligence (HRDD) in the UNGPs encourages companies to actively identify risks of workers' rights violations, including unfair wage policies.⁵²

Furthermore, institutions such as the International Labour Organization (ILO) emphasize that the application of the principle of decent work must be a guiding principle in all forms of employment policy. Decent work encompasses four main elements: productive employment, fair income, safe working conditions, and social protection.⁵³ In this context, wage policy is not just about nominal values, but also about justice and humanity in the workplace. The disparity between wages and living expenses, weak labor oversight, and minimal worker participation in policy-making indicate that many business entities in Indonesia have not fulfilled their moral and legal obligations to respect human rights in their employment practices.

also, Buana, and Budiman, "Indonesia's minimum wage policy," 194; Novianto et al., "Essential workers without job," 6; Komarudin et al., "Indonesian domestic workers," 154.

⁵⁰Arinto Nugroho et al., "The impact of labor law reform on Indonesian workers: A comparative study after the Job Creation Law," *Lex Scientia Law Review* 8, no. 1 (2024): 85. See also, I. Sarjana et al., "Omnibuslaw Employment Cluster: It is a Form of Labor Expwitation in The Indonesian Context?," *UUM Journal of Legal Studies (UUMJLS)* 14, no. 1 (2023): 63; Hamzah, "Strengthening The Relationality," 344; Buana, and Budiman, "Indonesia's minimum wage policy," 191; Nurhayati, and Ismoyoputro, "Justice, Equality, and Indonesian," 7.

⁵¹Aikaterini-Christina Koula, "Corporate responsibility to respect human rights defenders under the UNGPs and steps towards mandatory due diligence," *Liverpool Law Review* 45, no. 2 (2024): 345. See also, Mende, "The United Nations Guiding," 132.

⁵²Gabriela Quijano, and Carlos Lopez, "Rise of mandatory human rights due diligence: a beacon of hope or a double-edged sword?," *Business and Human Rights Journal* 6, no. 2 (2021): 245. See also, Deva, "Mandatory human rights," 393; Landau, *Human Rights Due Diligence*, 23; McCorquodale, and Nolan, "The effectiveness of human rights," 464.

⁵³Komnas HAM, Ringkasan Eksekutif: Pengaduan Pelanggaran HAM dalam Sektor Perburuhan, Laporan Tahunan 2022.

Therefore, wage policy reform and improving worker welfare must be seen as an integral part of promoting and protecting human rights in the business world.

Indonesia's wage and worker welfare policies are important indicators of the integration of human rights into business practices. However, their implementation often falls short of international standards, reinforcing cycles of exploitation and inequality. The mismatch between minimum wage settings and the actual cost of living reflects a systemic failure to guarantee the right to fair and adequate remuneration, as stipulated in the ICESCR, which Indonesia has ratified but not yet fully implemented in practice.⁵⁴

Empirical research shows that regional minimum wages (UMR) are often below the decent living needs, forcing workers to face low-standard living conditions, overtime without adequate compensation, or work multiple jobs to meet basic needs.⁵⁵ The agricultural sector and the gig economy are clear examples of this inequality, where informal labor dominates and wages are often not adjusted for productivity or inflation, exacerbating worker poverty and violating the principles of UNGPs Pillar II, which emphasizes the obligation of businesses to respect human rights through proactive action.⁵⁶

The Job Creation Law reforms demonstrate a prioritization of economics over human dignity, with flexibility for investors that erodes worker protections, for example through extended probationary periods and simplified termination of employment without guarantees of severance pay or adequate social safety nets.⁵⁷ Such policies reflect a neoliberal paradigm that views labor as a commodity,

⁵⁴ Gomes, "The right to work," 237. See also, Cole, "Strong Walk and cheap," 173; Petel, and Putten, "Economic, social and cultural," 59; Kiat et al., "Pemenuhan Hak Atas Pekerjaan," 334.

⁵⁵ Sarjana et al., "Omnibuslaw Employment Cluster," 65. See also, Izzati, "Tinjauan penetapan upah minimum," 168; Arinto Nugroho et al., "The impact of labor," 86; Nurhayati, and Ismoyoputro, "Justice, Equality, and Indonesian," 8; Kunarti et al., "Perspective of Employment," 392; Kunarti et al., "Reformulation of Minimum Wage," 221; Wulansari, "Indonesia's Cheap Wages Regime," 425; Setia Negara et al., "Indonesian job creation law," 167; Mujib, and Muchlas, "Achievements and challenges," 342; Hamzah, "Strengthening The Relationality," 345; Novianto et al., "Essential workers without job," 7; Hidayat et al., "Fulfilment of the Right," 5; Buana, and Budiman, "Indonesia's minimum wage policy," 196; Hill, "What's happened to poverty," 77; Buana et al., "Precarious workers and peasants," 57; Marbun, "The Role Of The Government," 195; Alfian, and Rumawi, "Regional Government Responsibilities," 50.

⁵⁶ Sari et al., "Kepastian Hukum Pengaturan," 391. See also, Buana et al., "Precarious workers and peasants," 67; Komarudin et al., "Indonesian domestic workers," 156; Palmer, and Piper, "Regulatory (mal) integration," 206; Karp, "Business and human rights," 147; Novianto et al., "Essential workers without job," 8; Lumbanraja, and Yusriyadi, "The urgency to reform," 223.

⁵⁷ Hamzah, "Strengthening the Relationality," 347. See also, Hidayat et al., "Fulfilment of the Right," 6; Arinto Nugroho et al., "The impact of labor," 88; Sarjana et al., "Omnibuslaw Employment Cluster," 67; Kunarti et al., "Reformulation of Minimum Wage," 224; Setia Negara et al., "Indonesian job creation law," 169; Buana, and Budiman, "Indonesia's minimum wage policy," 195; Zainullah, "The Compatibility of Indonesia," 18.

contradicting the ILO's Decent Work agenda, which emphasizes fair income, social protection, and safe working conditions as non-negotiable rights.⁵⁸

In rural areas, vulnerable workers such as farmers face double vulnerability: low wages intersect with loss of access to land, preventing them from achieving sustainable livelihoods and violating relational values related to ancestral heritage.⁵⁹ Domestic migrant workers also face exploitation due to inadequate protections, highlighting gaps in the enforcement of domestic workers' rights.⁶⁰ Business failure to conduct Human Rights Due Diligence (HRDD) exacerbates this problem, as companies rarely assess the impact of wages on human rights. Formal compliance approaches diminish responsibility, while the power imbalance between companies and workers remains unresolved.⁶¹

3.4. Urgency of Regulation and Integration of UNGPs Principles

In Indonesia, there are no laws and regulations that explicitly regulate the implementation of Business and Human Rights principles. The absence of regulations explicitly governing the implementation of Business and Human Rights (BHR) principles in Indonesia demonstrates a significant gap between normative commitments and business practices on the ground. Although efforts to develop a National Action Plan (NAP) on Business and Human Rights are underway, without a binding legal basis, corporate responsibilities towards human rights are difficult to consistently enforce.⁶² Voluntary approaches currently dominate, resulting in declarative principles of the UNGPs, including the corporate obligation to respect human rights and the state's obligation to protect citizens.⁶³

The implementation of Business and Human Rights (BHR) principles in Indonesia has not been fully integrated into the national legal system and business governance. Although Indonesia has demonstrated a normative commitment to the protection of Human Rights (through the ratification of the International

⁵⁸ Gomes, "The right to work," 237. See also, Arliman et al., "Legal Guarantees for Persons," 95; Marbun, "The Role of the Government," 196; Alfian, and Rumawi, "Regional Government Responsibilities," 52; Istinah et al., "The Human Rights Protection," 279.

⁵⁹ Buana et al., "Precarious workers and peasants," 58. See also, Yuliani et al., "Relational values of forests," 1829.

⁶⁰ Badruzzaman, "Perlindungan Hukum Terhadap Tenaga," 77. See also, Palmer, and Piper, "Regulatory (mal) integration," 207; Komarudin et al., "Indonesian domestic workers," 158; Lumbanraja, and Yusriyadi, "The urgency to reform," 225.

⁶¹ Deva, "Mandatory human rights," 394. See also, McCorquodale, and Nolan, "The effectiveness of human rights," 465; Quijano, and Lopez, "Rise of mandatory human," 247; Lichuma, "Mandatory Human Rights," 258; Dupont et al., "A step in the right direction," 136; Landau, *Human Rights Due Diligence*, 25.

⁶² Carrasco, "The United Nations Guiding," 83. See also, Deva, "Mandatory human rights," 396; Dörr, "Just Do! Implementing CDR," 123.

⁶³ McCorquodale, and Nolan, "The effectiveness of human rights," 466. See also, Lichuma, "Mandatory Human Rights," 259; Dupont et al., "A step in the right direction," 137.

Covenant on Economic, Social and Cultural Rights (ICESCR) and the recognition of human rights in the 1945 Constitution, the corporate sector's responsibility to respect human rights still relies on a voluntary approach. This creates an urgency to introduce more specific regulations and binding mechanisms, particularly in adopting the principles contained in the United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNGPs, endorsed by the UN Human Rights Council in 2011, consist of three main pillars: (1) the state's obligation to protect human rights, (2) the corporate responsibility to respect human rights, and (3) the right of victims to access redress.⁶⁴

Integrating the UNGPs into national legal systems is necessary to ensure that companies are not merely “legally compliant” but also human rights compliant.⁶⁵ One of the key instruments within the UNGPs principles is Human Rights Due Diligence (HRDD), which mandates companies to proactively identify, prevent, mitigate, and address the risks of human rights violations throughout their operational chains.⁶⁶ HRDD must be made a legal obligation, not just an ethical imperative. The state has a central role in creating regulations that support the implementation of the UNGPs, including the development of legislation that requires human rights testing in business project feasibility studies, administrative sanctions for workers' rights violations, and effective and accessible mechanisms for complaints and redress for victims. Integrating UNGP principles into national regulations will ensure that corporate responsibility is no longer voluntary but becomes a monitored and enforceable obligation. This includes the enforcement of HRDD, mandatory human rights impact assessments for every business project, administrative sanctions for workers' rights violations, and effective remediation mechanisms for victims.⁶⁷

Furthermore, the integration of the UNGPs must include the development of cross-sectoral public policies, training for officials and business actors, and active

⁶⁴ Laurence Klein et al., “Free, Prior, and Informed Consent: A Norm in Development or a Corporate Obligation?,” *International Journal on Minority and Group Rights* 31, no. 5 (2024): 901. See also, Mende, “The United Nations Guiding,” 134.

⁶⁵ Susan Rose-Ackerman, “Transnational business deals and the Professional obligations of lawyers,” *Colum. Hum. Rts. L. Rev.* 54 (2022): 673. See also, Jamie Atkinson, “A legal obligation on UK employers to conduct Labour Law Due Diligence: a substantive proposal,” *Industrial Law Journal* 54, no. 1 (2025): 93; Mikaela Seppä, “From Voluntary to Mandatory: Preparing Multinational Corporations for the European Union’s Corporate Sustainability Due Diligence Directive,” *Law Journal* 5, no. 1 (2025): 65; Dörr, “Just Do! Implementing CDR,” 124.

⁶⁶ Kendyl Salcito, “Human rights and due diligence,” In *Handbook of Social Impact Assessment and Management*, (Cambelrey: Edward Elgar Publishing, 2024), 235. See also, McCorquodale, and Nolan, “The effectiveness of human rights,” 467; Lichuma, “Mandatory Human Rights,” 261; Dupont et al., “A step in the right direction,” 139.

⁶⁷ Carrasco, “The United Nations Guiding,” 85. See also, Dupont et al., “A step in the right direction,” 139.

participation of civil society in the evaluation and monitoring process. Without explicit regulations and a robust oversight system, the implementation of the UNGPs in Indonesia will remain declarative and ceremonial.⁶⁸ Yet, in an era of global investment and the expansion of multinational corporations, only a robust legal system can guarantee the protection of citizens' rights from the negative impacts of business activities.

Although the urgency of regulation and the integration of UNGPs principles have been recognized, their implementation in Indonesia still faces several structural and cultural challenges.⁶⁹ The first challenge lies in the fragmentation of cross-sectoral policies. Regulations related to the protection of workers' rights, local communities, and the environment are scattered across various laws and regulations without a unified approach that connects all aspects within the Business and Human Rights framework. This makes the implementation of corporate responsibility for human rights sectoral, non-holistic, and tends to be reactive. Second, the low capacity of supervisory institutions is a major obstacle in ensuring the fulfillment of corporate responsibilities. Institutions such as the Manpower Office, the Environmental Office, and the agrarian supervisory agency often lack resources, both in terms of personnel, competence, and effective enforcement authority. In fact, the UNGPs principles encourage states to establish institutions that are independent, responsive, and accessible to victims of human rights violations caused by business activities. Third, the private sector's lack of awareness and commitment to human rights issues. Many companies still view human rights responsibilities as an additional burden or a secondary issue compared to business interests and operational efficiency. This has led to many corporate policies that do not incorporate human rights into risk management systems or sustainable governance. Even in large companies, the principle of Human Rights Due Diligence is often limited to formal reporting or symbolic CSR, rather than systemic change.⁷⁰

⁶⁸ Mevelyn Ong, "From aspiration to public policy: Imprinting UNGP-aligned footprints of corporate responsibility and accountability into the shifting sands of international arbitration practice," *ICSID Review-Foreign Investment Law Journal* 39, no. 2 (2024): 421. See also, D. E. V. A. Surya, "The UN Guiding Principles' orbit and other regulatory regimes in the business and human rights universe: Managing the interface," *Business and Human Rights Journal* 6, no. 2 (2021): 345; Carrasco, "The United Nations Guiding," 86; Wagiman, and Salsabila, "Civil Society's Contributions," 499.

⁶⁹ Liliana Lizarazo-Rodriguez, "The UNGPs on Business and Human Rights and the Greening of Human Rights Litigation: Fishing in Fragmented Waters?," *Sustainability* 13, no. 19 (2021): 116. See also, Surya, "The UN Guiding Principles," 348; Rosser et al., "Implementing the United Nations," 66; Wagiman, and Salsabila, "Civil Society's Contributions," 500; Manggali et al., "Implementation of business, 167.

⁷⁰ Manggali et al., "Implementation of business, 168.

To address these various obstacles, strategic steps that the Indonesian government can take include:

- a. Developing an inclusive and participatory National Action Plan (NAP) on Business and Human Rights, involving ministries/agencies, business actors, labor unions, civil society, and indigenous communities directly impacted by business practices.
- b. Legalizing Human Rights Due Diligence (HRDD) principles into the national legal system through revisions or the creation of new regulations, such as Presidential Regulations or Ministerial Regulations that set minimum standards for the implementation of the UNGPs by companies.
- c. Integrating human rights into ESG (Environmental, Social, Governance) standards and investment policies, so that businesses are not only required to comply with the law but also to adhere to the principles of social responsibility and long-term sustainability.
- d. Increasing capacity and coordination between oversight institutions, including human rights training for company auditors, labor inspectors, and law enforcement officials.

As a democracy dependent on international investment and trade, Indonesia has a vested interest in demonstrating that economic growth does not come at the expense of the fundamental rights of its citizens. Consistent implementation of the UNGPs will be a crucial indicator in assessing a project's social risk, whether by foreign investors, international financing institutions, or the global community demanding ethical and responsible business practices. Overall, the urgency of clear regulations and the integration of the UNGPs into national law cannot be postponed. Without a strong legal basis, adequate oversight, and strong corporate awareness, business accountability for human rights will remain weak, while human rights violations in industrial sectors and vulnerable communities will continue to recur.⁷¹

4. Conclusion

Human rights (HAM) are no longer solely the responsibility of the state, but also constitute ethical and legal boundaries that must be respected by business actors in carrying out their business activities. The Business and Human Rights (BHR) principles outlined in the United Nations Guiding Principles on Business and Human Rights (UNGPs) emphasize that businesses play a crucial role in

⁷¹ Alfian, and Rumawi, "Regional Government Responsibilities," 53. See also, Manggali et al., "Implementation of business, 169; Deva, "Mandatory human rights," 396; Meyersfeld, "Corporations and positive, 258.

preventing human rights violations and ensuring redress for those affected. In Indonesia, although various legal norms guarantee the right to work, a decent living, and environmental protection, their implementation still faces serious challenges. The gap between norms and practices is evident in the continuing number of cases of inadequate wages, weak protection of informal workers, violations of indigenous peoples' rights, and the lack of effective redress mechanisms. Wage and worker welfare policies are clear indicators of a company's respect for human rights. In practice, a business approach focused solely on efficiency and profit tends to neglect the rights of workers and affected communities. This underscores the importance of regulations that ensure companies adhere to the principles of due diligence and social responsibility. Unfortunately, the absence of a National Action Plan (NAP) on Business and Human Rights, along with weak law enforcement against businesses that violate human rights, has prevented the comprehensive implementation of the UNGPs in Indonesia. Therefore, integrating UNGPs principles into the national legal system is urgently needed to promote business practices that are just, sustainable, and based on respect for human rights.

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