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Reaffirming Business and Human Rights Voluntary Approach in Indonesia: Corporate Accountability and Environmental Destruction

Penegasan Kembali Pendekatan Sukarela dalam Kerangka Bisnis dan Hak Asasi Manusia di Indonesia: Akuntabilitas Korporasi dan Kerusakan Lingkungan

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ABSTRACT: This article aims to evaluate the existence and relevance of the voluntary principle for the better protection of human rights and business in Indonesia, where multinational and transnational corporations have allegedly been violating human rights. The analysis in this paper is mainly construed by normative assessment of the existence of the voluntary principle for business and human rights as bridging gaps on human rights duty bearers between States and non-state actors, i.e., multinational and transnational corporations in Indonesia, in terms of its area, scope, and institutionalization. This article reveals that the voluntary principle has been deemed internal-driven motivation and authority, and that the best approach is to allocate all available resources to effective branding and positive stereotyping in Indonesia to minimize public scrutiny of human rights violations. As a result, the voluntary principle, used as the basic principle for the operations of multinational and transnational corporations, provides only a good image rather than a binding instrument to which future advocacy is directed to halt future human rights violations. It is time to stipulate this principle-binding rule for human rights due diligence and to conduct audits for corporations.

ABSTRAK: *Artikel ini bertujuan untuk mengevaluasi keberadaan dan relevansi prinsip sukarela dalam kerangka bisnis dan hak asasi manusia di Indonesia, khususnya dalam konteks dugaan pelanggaran hak asasi manusia yang dilakukan oleh korporasi multinasional dan transnasional. Analisis dalam artikel ini disusun terutama melalui penilaian normatif terhadap penerapan prinsip sukarela dalam bisnis dan hak asasi manusia sebagai mekanisme untuk menjembatani kesenjangan kewajiban perlindungan hak asasi manusia antara negara dan aktor non-negara, yaitu korporasi multinasional dan transnasional di Indonesia, baik dari segi ruang lingkup, cakupan, maupun institusionalisasinya. Artikel ini menunjukkan bahwa prinsip sukarela cenderung dipahami sebagai bentuk motivasi dan otoritas yang bersifat internal, serta bahwa pendekatan yang dominan adalah pengalokasian sumber daya untuk pembentukan citra, branding, dan stereotip positif guna meminimalkan pengawasan publik terhadap pelanggaran hak asasi manusia. Akibatnya, prinsip sukarela yang digunakan sebagai dasar operasional korporasi multinasional dan transnasional lebih berfungsi sebagai sarana pencitraan dibandingkan sebagai instrumen yang mengikat, sehingga arah advokasi ke depan seharusnya ditujukan untuk mencegah terulangnya pelanggaran hak asasi manusia. Oleh karena itu, diperlukan langkah normatif untuk menetapkan prinsip ini sebagai aturan yang mengikat melalui kewajiban uji tuntas hak asasi manusia serta pelaksanaan audit terhadap korporasi.*

Keywords:
human rights audit;
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1. Introduction

Indonesia is widely recognized as one of the world's most resource-rich countries, possessing numerous reserves of minerals and energy resources that play a central role in its national economy.[1] Additionally, the country is a major global producer of coal, nickel, tin, and gold, making it a strategic supplier for global manufacturing and energy-transition supply chains.[2] Indonesia also contains one of the largest areas of tropical rainforest worldwide, which is vital for biodiversity conservation and climate regulation.[3] Consequently, the rapid expansion of plantation industries—particularly palm oil, timber, and pulpwood—has positioned Indonesia as the world's leading palm oil producer while simultaneously intensifying environmental degradation.

On the other hand, multinational companies (MNCs) and transnational companies (TNCs) have been Indonesia's major financial drivers. In the extractive sector, mining corporations provided a massive influx of non-tax state revenue (*Penerimaan Negara Bukan Pajak* or PNBP), which reached approximately USD 8 billion in 2025, significantly exceeding government targets due to high global demands for nickel and copper.[4] Foreign Direct Investment (FDI) in the base metals and mining industries remains the largest contributor to Indonesia's capital inflows, with combined realized investment of approximately USD 19.4 billion in 2025 alone — comprising USD 14.65 billion in the base metals industry and USD 4.74 billion in mining.[5] Furthermore, the palm oil sector, dominated by large-scale transnational conglomerates, recorded an export value of USD 24.42 billion in 2025, a 21.83% increase from the previous year.[6] These revenues are pivotal for the Indonesian state budget (*Anggaran Pendapatan dan Belanja Negara* or APBN), yet they create a dependency that often complicates the enforcement of environmental safeguards.

However, TNCs and MNCs in Indonesia have allegedly been committing human rights violations repeatedly and tend to be accepted as common phenomena without proper attention from the government.[7] A notable example, in late 2025, a flood tragedy in North Sumatera and Nanggroe Aceh Darussalam Provinces has increased public scrutiny of the corporation's direct link to disaster-causing environmental deterioration and even human casualties. This tragedy stems from the accumulated systematic destruction of the region's natural defenses. For years, the conversion of the *Leuser Ecosystem*[8] into industrial concessions has stripped away the primary rainforests that once acted as a "natural sponge." Without this canopy to soak up Sumatra's intense tropical rainfall, water now rushes directly off compacted plantation soil as high-velocity surface runoff.[9] Compounding the crisis, mining and land-clearing on steep hillsides have triggered massive erosion. This has raised riverbeds so significantly that even standard rainfall now triggers catastrophic overflows.[10]

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1 The World Bank, *Indonesia Economic Prospects: Boosting the Recovery* (World Bank, 2021), 1–3.

2 U.S. Geological Survey, *Mineral Commodity Summaries 2023* (U.S. Geological Survey, 2023), 86–118, https://doi.org/10.3133/mcs2023.

3 Food and Agriculture Organization of the United Nations, *Global Forest Resources Assessment 2020: Indonesia Country Report* (FAO, 2020), 1–5.

4 APBI-ICMA, "Penerimaan Negara Dari Minerba Tembus Rp138,37 Triliun," Apbi-Icma, January 9, 2026, https://apbi-icma.org/id/media-article/penerimaan-negara-dari-minerba-tembus-rp138-37-triliun-migas-tak-capai-target.

5 Badan Pusat Statistik (BPS), "Realisasi Investasi Penanaman Modal Luar Negeri Triwulanan Menurut Sektor Ekonomi - Jumlah Investasi," 2025, https://www.bps.go.id/id/statistics-table/2/MjM3OCMy/realisasi-investasi-penanaman-modal-luar-negeri-triwulanan-menurut-sektor-ekonomi-jumlah-investasi.html.

6 Jakarta Globe, *Indonesia's Export of "Highly Coveted" Palm Oil Up 21.83%*, February 2, 2026, https://jakartaglobe.id/business/indonesias-export-of-highly-coveted-palm-oil-up-2183.

7 Adzkar Ahsinin et al., *Perkembangan Bisnis Dan HAM Di Indonesia: Persepsi Negara, Masyarakat Sipil, Dan Korporasi* (ELSAM, 2019), 6.

8 *Leuser Ecosystem* is a 6.5-million-acre tropical rainforest in Sumatra, Indonesia, spanning Aceh and North Sumatra provinces where numerous endangered animals live (e.g. Sumatran orangutans, rhinos, elephants). See: Sean Sloan et al., "Infrastructure Development and Contested Forest Governance Threaten the Leuser Ecosystem, Indonesia," *Land Use Policy* 77 (September 2018): 298–309, https://doi.org/10.1016/j.landusepol.2018.05.043.

9 Indah Dwi Qurbani et al., "Human Rights and Environmental Protection: Case Studies from Indonesia," *E3S Web of Conferences* 660 (2025): 5, https://doi.org/10.1051/e3sconf/202566002012.

10 Qurbani et al., "Human Rights and Environmental Protection."

Once again, allegations of human rights violations committed by corporations are undeniable facts caused by environmental damage due to deforestation, resulting in human casualties and public infrastructure collapse.[11]

According to the Annual Report of the National Commission on Human Rights (*Komnas* HAM), complaints against corporations consistently rank among the top three categories of alleged perpetrators, particularly in cases involving land conflicts, environmental degradation, and indigenous peoples' rights.[12] Similarly, reports by civil society organizations indicate that extractive industries—such as forestry, mining, and palm oil plantations—contribute significantly to deforestation and ecological damage, worsening disaster risks in vulnerable regions.[13] Despite this reality, existing regulatory responses remain lenient, revealing a significant gap between the scale of corporate-related human rights harms and the adequacy of Indonesia's legal and institutional frameworks governing business conduct. For instance, the government's reliance on the Job Creation Law (Omnibus Law) and its implementing regulations—such as Government Regulation No. 22 of 2021—has shifted the focus toward administrative ease rather than environmental rigor, often replacing strict "Environmental Impact Analysis" (*Analisis Mengenai Dampak Lingkungan* or AMDAL) requirements with simplified risk-based assessments.[14] While the recent launch of the National Strategy on Business and Human Rights (Stranas BHAM) via Presidential Regulation No. 60 of 2023 was intended to address these gaps through improved coordination among state institutions regarding of business and human rights standards, and the encouragement of corporate adoption of human rights due diligence practices it remains largely voluntary and non-binding.[15]

Pressure and demand for corporations' accountability has reached into invocation of corporation permit, criminal liability as well as human rights violations where redress for human rights' remedy to the victims have been strongly advocated by environmental-advocacy non-governmental organizations. This disconnect is most apparent in the implementation of the United Nations Guiding Principles on Business and Human Rights (UNGP), which Indonesia has officially adopted as its primary benchmark for corporate conduct through Stranas BHAM. Under the UNGP's "Protect, Respect, and Remedy" framework, the Indonesian government is under a dual obligation: first, to fulfil its State Duty to Protect by enforcing laws that prevent corporations from infringing on human rights, and second, to ensure that victims of tragedies such as the aforementioned 2025 floods have access to effective remedies.[16] Furthermore, as a member of the UN Human Rights Council, Indonesia is expected to align its national interests with these international standards.[17]

However, by treating the UNGP as a purely voluntary set of guidelines rather than a prescriptive legal mandate, the state effectively delegates human rights protection to corporate goodwill. This creates a legal vacuum where international standards exist on paper, but domestic laws—driven by the pro-investment logic of the Omnibus Law—continue to prioritize economic acceleration over the human rights protections the UNGPs were designed to guarantee.[18] Consequently, the failure to transform these global principles into enforceable domestic statutes suggests that the government's commitment remains performative, leaving the

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11 Qurbani et al., "Human Rights and Environmental Protection," 6.

12 Komisi Nasional Hak Asasi Manusia, *Laporan Tahunan Komnas HAM 2023* (Komnas HAM, 2024), https://www.komnasham.go.id/files/20240807-laporan-tahunan-komnas-ham-tahun-$WFGA.pdf.

13 Wahana Lingkungan Hidup Indonesia (WALHI), "Dari Krisis Politik ke Krisis Ekologi," Jakarta, 2023, 15–20, https://www.walhi.or.id/uploads/buku/Revisi%202_CATAHU%20WALHI%20REGION%20SUMATERA_compressed.pdf.

14 Government Regulation of the Republic of Indonesia No. 22 of 2021 on the Implementation of Environmental Protection and Management (2021).

15 Presidential Regulation of the Republic of Indonesia No. 60 of 2023 on the National Strategy on Business and Human Rights (2023).

16 United Nations Human Rights Council, "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, UN Doc. A/HRC/17/31 (21 March 2011)," UN Doc. A/HRC/17/31, March 21, 2011, 1–5.

17 United Nations General Assembly, "Resolution Adopted by the Human Rights Council on 6 July 2011: 17/4. Human Rights and Transnational Corporations and Other Business Enterprises," UN Doc. A/HRC/RES/17/4, July 6, 2011.

18 Muhammad Aditya Wijaya and Alif Imam Dzaki, "Corporate Criminal Liability on Environmental Law: Indonesia and Australia," *Mulawarman Law Review* 8, no. 2 (2023): 25–26, https://doi.org/10.30872/mulrev.v8i2.1306.

burden of respecting human rights entirely at the discretion of the very corporations currently being accused of negligence.

The aforementioned situation is worsened by existence of gaps between state's ability to monitor and to safeguard corporations' behavior and their dominant influence in creation as well as implementation of respected policies, programs and actions at their concession areas during their activities causing imminent forced eviction, limited access of natural resources to which they are dependable, and deterioration of their living environment to the affected person and community.[19] Therefore, duty to protect, to respect and to give remedy as common standards for human rights protection on business and human rights is legally relevant to be taken into account at all modes of authorizations from State to companies including MNCs and TNCs to mitigate such violations.[20] With these standards, the government is expected to be able to ensure in very robust way that MNCs or TNCs are placed under proper surveillance for their conducts imposing mandatory nature rather than voluntary obligations.[21] The aforementioned duties reveal the voluntary principle to be taken by MNCs and TNCs as non-state actor as basic human rights mainstreaming to safeguard their responsible operations worldwide as a constructive engagement in free and competitive market.[22]

Scholarly discussions on business and human rights in Indonesia have increasingly highlighted these governance challenges. Ruggie highlights the debate between mandatory and voluntary corporate regulation has reached a stalemate where international treaties are slow to negotiate and lack enforcement, while voluntary principle initiatives are too weak and fragmented to provide victims with any real path to justice.[23] In a similar vein, Wagiman and Salsabila argues Indonesian civil society understands corporate impacts affecting multiple aspects of society and responds by supporting remedies for victims while strengthening business and human rights initiatives through capacity building and multi-stakeholder forums.[24] Furthermore, in the context of corporate voluntary compliance on environmental casualties, Monica highlights UNGP's non-binding nature leads to corporate impunity. It explicitly mentions that the state prioritizes FDI over rights, creating a gap where voluntary compliance fails to protect local communities.[25] This article seeks to fill that gap by advancing a duty-bearer extension analysis that situates MNCs and TNCs within the State's constitutional mandate under Article 33(3) of the Indonesian Constitution.

In this regard, the Ministry of Human Rights, chaired by Minister Natalius Pigai has initiated package of regulations mainstreaming human rights due diligence applicable to company to protect, to respect and to give remedy for human rights and business as national standard of actions incorporating well-established international norms, such as the UNGPs, OECD Guidelines, UN Global Compact, and EU's Corporate Sustainability Due Diligence Directive (CSDD).[26] Within the Indonesian legal system and viewed from human

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19 Rose-Liza Ozorio, "Rights of Nature: Protection of the Indigenous People in the Development in the Philippines," paper presented at Konrad Adenauer Stiftung and University of Cebu International Moot Court and Conference on Transformative Role of Environmental Law and/or Court to Protect Indigenous People's Rights of Nature and Biodiversity, the Philippines, October 22, 2025.

20 Ritwick Dutta, "Rights of Nature: Protection of the Indigenous People in the Development in India," paper presented at Konrad Adenauer Stiftung and University of Cebu International Moot Court and Conference on Transformative Role of Environmental Law and/or Court to Protect Indigenous People's Rights of Nature and Biodiversity, the Philippines, October 22, 2025.

21 John Gerard Ruggie, *Just Business: Multinational Corporations and Human Rights*, 1st ed, Norton Global Ethics Series, v. 0 (W. W. Norton & Company, Incorporated, 2013), 58.

22 Vitit Muntarbhorn, *Challenges of International Law in the Asian Region: An Introduction* (Springer, 2021), 111, https://doi.org/10.1007/978-981-16-2047-8.

23 John G. Ruggie, "The United Nations Guiding Principles on Business and Human Rights," Implementing the U.N. Guiding Principles on Business and Human Rights, Roundtable Report, Raymond and Beverly Sackler Distinguished Lecture Series, 3, Cambridge, MA: Harvard Kennedy School, 2013; Raymond and Beverly Sackler Distinguished Lecture, in Ruggie, *Just Business*; Oyeniyi Abe, *Implementing Business and Human Rights Norms in Africa: Law and Policy Interventions*, 1st ed. (Routledge, 2022), 3, https://doi.org/10.4324/9781003290124.

24 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): 503–5, https://doi.org/10.20473/ydk.v37i2.36280.

25 Martha Monica, "Buried Beneath Profit: Examining the Limits of the UN Guiding Principles in Human Rights Protection in Nickel Mining in Sulawesi, Indonesia" (Master's thesis, University of Sussex, 2025), 7–8, https://doi.org/10.13140/RG.2.2.27236.23687.

26 Natalius Pigai, 2025, *Interview*, conducted on 12th December 2025.

rights perspective, MNCs and TNCs may be assessed as prolonged of duty-bearers of the State when they are authorized to participate in natural resources exploration and exploitation according to Article 33(3) of the Indonesian Constitution.[27] Allegedly, they bear legal responsibility to be held accountable of their actions when they intentionally or unintentionally commit human rights violations against rights holders, i.e., individuals, group of individuals (indigenous people) and environment when they are authorized by government's contract and permission.[28]

Against this background, this article examines how and to what extent Indonesia is transforming corporate responsibility from a voluntary initiative model into binding legal obligations within its business and human rights framework. Additionally, this research will examine how the aforementioned 2025 regulatory package initiated by Minister Natalius Pigai institutionalizes mandatory human rights and environmental due diligence for corporations. Specifically, the article investigates how they differ from earlier voluntary and policy-based approaches under the UNGPs, and which corporate actors and sectors are targeted—particularly corporations operating in extractive and land-based sectors such as mining, forestry, and plantation industries. It further explores how these regulations reconceptualize corporations as extended state duty-bearers in light of Article 33(3) of the Indonesian Constitution, which mandates state control over natural resources for the people's benefit.

Initially, State is considered as main the duty-bearer for human rights protection.[29] It has more complete instruments and capacities to exercise power necessary to safeguard laws and orders.[30] However, at the same time, State may exercise its authority abusively to individual as well as groups of individuals, such as minority, vulnerable and marginalized groups, and indigenous people and environment.[31] In recent development, perspective and responsibility of human rights protection have developed to reach non-state actors' accountability, such as MNC and TNCs.[32] For them, it is essential to mainstream human rights standards in carrying out their activities due to their close link with right holders.[33] In Indonesia for example, *Komnas* HAM received 412 in 2023 and 312 in 2024 files of complaints committed by corporations and this report indicated that corporations were still prominent perpetrators besides state actors such the Indonesian police and local governments.[34]

This article is structured as follows: The first section elaborates the theoretical and normative framework of business and human rights, specifically critiquing the limitations of the voluntary principle and the global shift toward mandatory accountability models; The second section analyses Indonesia's constitutional and statutory framework governing natural resource management to highlight that corporations involved in natural resource management act as extended state duty-bearers with inherent obligations to prevent environmental destruction; The third section examines recent regulatory initiatives on human rights due diligence and assesses their legal implications for corporate accountability; The final section offers a critical evaluation of the findings

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27 Nukila Evanty and Nurul Ghufron, "Multinational Corporations and Human Rights in Indonesia: The Need for Improvement in Legislation," in *Business and Human Rights in Asia*, ed. James Gomez and Robin Ramcharan (Palgrave Macmillan, 2021), 55, https://doi.org/10.1007/978-981-15-7273-9_4.

28 Dutta, "Rights of Nature: Protection of the Indigenous People in the Development in India," 7.

29 Charles R. Beitz, *The Idea of Human Rights* (Oxford University Press, 2010), 10–11, https://doi.org/10.1093/acprof:oso/9780199572458.001.0001.

30 Todd Landman, *Studying Human Rights*, 0 ed. (Routledge, 2006), 4–6, https://doi.org/10.4324/9780203358504.

31 Jonathan Liljeblad, "Global and Regional Situationer on Indigenous People Rights and Biodiversity Protection Law," paper presented at Konrad Adenauer Stiftung and University of Cebu International Moot Court and Conference on Transformative Role of Environmental Law and/or Court to Protect Indigenous People's Rights of Nature and Biodiversity, the Philippines, October 22, 2025.

32 Adzkar Ahsinin et al., eds., *Relasi Bisnis Dan Hak Asasi Manusia: Konteks Dan Perspektif Hukum Di Indonesia* (ELSAM, 2016).

33 Liesbeth Enneking et al., *Accountability, International Business Operations and the Law: Providing Justice for Corporate Human Rights Violations in Global Value Chains* (Routledge, 2020), 147.

34 CNN Indonesia, "Catatan Komnas HAM: 2.753 Dugaan Pelanggaran HAM Sepanjang 2023," *CNN Indonesia*, 2024; Komisi Nasional Hak Asasi Manusia, *Catatan Akhir Tahun 2024: Hak Asasi Manusia Di Indonesia* (Komnas HAM, 2024), 2, https://www.komnasham.go.id/files/20241210-catatan-akhir-tahun-2024-hak-asasi-$WSV79CZD.pdf.

and proposes recommendations for strengthening binding frameworks for MNCs and TNCs accountable for ecological damage in Indonesia.

2. Method

This research employs a normative-juridical method, which is a qualitative approach focused on analyzing statutory frameworks and their application to societal and environmental protection. The study is structured around three primary analytical pillars. First, it adopts a statutory approach to examine the hierarchy of Indonesian laws, specifically focusing on the constitutional mandate of Article 33(3). This analysis aims to identify the normative shift from voluntary corporate gestures to mandatory human rights and environmental due diligence. Second, a conceptual approach is utilized to evaluate the theory of corporations as "prolonged duty-bearers" of the State, using the UN Guiding Principles on Business and Human Rights (UNGPs)—specifically the pillars of (1) the State duty to protect, (2) corporate responsibility to respect, and (3) access to remedy—as normative benchmarks to assess the effectiveness of current reforms. Third, an evaluative approach examines the integration of international standards, such as the OECD Guidelines and the EU's Corporate Sustainability Due Diligence Directive (CSDDD), to determine how these can better protect rights-holders and the environment.

The analysis relies primarily on doctrinal legal materials. Primary legal materials include the 1945 Constitution of Indonesia, Law No. 39 of 1999 on Human Rights, and the 2025 Ministerial Regulations concerning mandatory human rights due diligence. Secondary legal materials consist of official reports from civil society organizations such as WALHI and HuMA, the 2025 interview with the Minister of Human Rights, Natalius Pigai, which are used solely to provide contextual background and insight into regulatory intent rather than as sources of legal authority.

3. Findings and Discussion

3.1. The Essence and Efficacy of the Voluntary Approach in the UNGPs

The UNGPs were endorsed by the international community as a non-binding normative framework (*soft law)* aimed at addressing and preventing corporate-related human rights abuses.[35] Rather than constituting legally binding obligations, the UNGPs are widely regarded as a significant development in the evolution of the international human rights regime because they articulate a coherent framework for regulating the interaction between business activities and human rights at the global level.[36] Their principal contribution lies in clarifying the respective roles of States and corporations through the three-pillar structure of the state duty to protect, the corporate responsibility to respect, and access to remedy.[37] Accordingly, the voluntary principle helps companies and governments operationalize their duty to protect, respect, and give remedy in line with the UNGPs principles.[38] By relying on voluntary standards, the UNGPs seek to enhance awareness, promote stakeholder engagement, and encourage risk-based human rights due diligence within corporate operations. In practice, this voluntarist approach facilitates the internalization of human rights considerations into corporate governance and policy-making, particularly by encouraging dialogue with affected communities and embedding human rights norms into corporate culture.[39] This flexibility has been especially attractive for

[35] Marzena Stor, *Human Resources Management in Multinational Companies: A Central European Perspective* (Routledge, 2023), 1–3, https://doi.org/10.4324/9781003357087.

[36] Michael A. Santoro, "Business and Human Rights in Historical Perspective," *Journal of Human Rights* 14, no. 2 (2015): 155–61, https://doi.org/10.1080/14754835.2015.1025945.

[37] Andreas Rasche and Sandra Waddock, "The UN Guiding Principles on Business and Human Rights: Implications for Corporate Social Responsibility Research," *Business and Human Rights Journal* 6, no. 2 (2021): 9–12, https://doi.org/10.1017/bhj.2021.2.

[38] United Nations Human Rights Council, "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, UN Doc. A/HRC/17/31 (21 March 2011)," 1–2.

[39] Mora Johnston, "The Voluntary Principle on Security and Human Rights," VoluntaryPrinciple.org, power point presentation, 2021, slide 5.

developing states, where corporations play a significant role in economic development, but it also raises questions about the adequacy of voluntary compliance in preventing systemic human rights harms.[40]

Additionally, corporations are stated to have a full responsibility to respect the fulfilment of human rights when they are engaged with labor, environment and groups of individuals whose life are dependable with living surrounding where companies operate "beyond and above compliance toward laws and regulations".[41] This means that when there is conflict of norms between regulations and human rights standards, corporations may not use as an excuse and absolve from duty to respect human rights standards for their activities.[42] The respect principle affirms that companies shall have reason to know human rights due diligence and human rights' impacts assessment to community and when they employ policies, programs and actions of producing and distributing goods, services and investments.[43] In this affirmation, corporations should avoid any potential risks of human rights violations and should address adverse human rights impacts. This duty is aimed at increasing public care and awareness so that they know potential risks and they are be able to mitigate potential abuses when companies start to operate.[44] The 'do no harm' principle functions as a baseline expectation, requiring corporations to proactively prevent or mitigate human rights risks inherent in their operations, supply chains, and business relationships. This responsibility persists even in the absence of a direct contribution to the harm, provided a nexus exists through the company's products or services, thereby necessitating a robust due diligence framework.[45]

Meanwhile, the remedy framework provides a direction to ensure availability of access and ways that can be taken to obtain remedies for any human rights violations that occur, both through internal company mechanisms, litigation channels, and non-litigation.[46] It highlights existence of mechanism to investigate, punish and redress human rights abuses by companies that should be provided by state.[47] Thus, states must ensure access to judicial, administrative, legislative, and other means when human rights violations are committed. In alignment with the third pillar of the UNGPs, business entities must provide meaningful access to remedy by establishing or participating in robust, operational-level grievance processes tailored to the needs of impacted rights-holders and local stakeholders.[48]

However, a critique of the voluntary approach suggests that a mandatory principle is needed to fulfil human rights obligations relevant to make corporation be held accountable for their activities.[49] This is due to the fact that the UNGPs as a soft law is characterized as solely an "expected behavior" rather than completely binding.[50] This principle differs from the mandatory one which legally binds states if they agree to be consented to be bound, for example, ratification of certain statues or treaties. The question of whether a voluntary approach should be transformed into mandatory legal obligations can be justified by several interrelated considerations aimed at strengthening their effectiveness. First, the voluntary approach suffers from inherent limitations in terms of its scope, limitation of its area, and institutional enforcement, which often result in

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40 Csongor István Nagy, ed., *World Trade and Local Public Interest: Trade Liberalization and National Regulatory Sovereignty*, Studies in European Economic Law and Regulation, Volume 19 (Springer International Publishing, 2020), 1–4.

41 Samantha Hopkins et al., "Corporate Code-Shifting in Business and Human Rights," in *A Research Agenda for Business and Human Rights*, ed. Tricia D. Olsen et al. (Edward Elgar Publishing, 2025), 137–38, https://doi.org/10.4337/9781802208979.00020.

42 Florian Wettstein, *Business and Human Rights: Ethical, Legal, and Managerial Perspectives*, 1st ed. (Cambridge University Press, 2022), 360, https://doi.org/10.1017/9781009158374.

43 Dalia Palombo, *Business and Human Rights: The Obligations of the European Home States*, Paperback edition (Hart Publishing, 2023), 245.

44 Palombo, *Business and Human Rights*, 246.

45 Wettstein, *Business and Human Rights*, 360.

46 Wettstein, *Business and Human Rights*, 367.

47 Wettstein, *Business and Human Rights*, 368.

48 Wettstein, *Business and Human Rights*, 98.

49 Jena Martin et al., eds., *When Business Harms Human Rights: Affected Communities That Are Dying to Be Heard* (Anthem Press, 2020), 18, https://doi.org/10.2307/j.ctvt9k5wr.

50 Dinah L. Shelton, *Soft Law*, Handbook of International Law (GW Law Faculty Publications & Other Works, 2008), 3; Ana Irine Baka, "The Logic of Absence in Customary of International Law: An Open System Approach," in *The Theory, Practice and Interpretation of Customary of International Law*, ed. Panos Merkouris et al. (Cambridge University Press, 2022), 62.

fragmented and inconsistent implementation; second, there is a growing public and societal demand for stronger and more effective mechanisms to protect human rights, particularly in response to persistent corporate-related abuses that voluntary compliance has failed to prevent; third, the adoption of binding standards can enhance the credibility, reputation, and long-term competitiveness of both states and non-state actors, including corporations, by providing legal certainty from the perspective of affected rights-holders.[51] These three factors form the basis for the subsequent analysis on how the UNGPs can be strengthened through a shift toward mandatory application.

Limitation of the area, scope and institutionalization of the UNGPs' voluntary approach has created an ambiguous determination between rights and obligations while at the same time it creates legal loopholes for whom and how the rights and obligations contained therein should be prudently taken into account as norm in international law.[52] The disadvantages of voluntary principles are determined by domestic legal mechanisms such as CSR implementation. However, there is a difficulty in standardizing CSR carried out by corporations since there are no clear guidance, indicators or references imposed by authorities to multi stakeholders.[53] While the UNGPs principles to respect, protects, and fulfil human rights helps improve the fulfilment of human rights, its effectiveness is often limited because voluntary commitments are only sometimes well implemented due to their non-binding nature and mostly guided by internal driven motivation from.[54] In reality, many large companies do follow these standards, but many do not, leading to inconsistencies in human rights and sustainability practices increasing its skepticism for its compliance worldwide.[55] Loopholes are always criticized when corporations whose modalities are immense directly engage with marginalized groups and indigenous people causing undeniable abuse of power without proper checks and balances from state authorities as the main duty bearers for human rights protection.[56] Thus, the UNGPs frame corporate responsibility operates in terms of *respect* rather than *duty*, which allows corporations to comply selectively and symbolically, often prioritizing reputational legitimacy over substantive changes in practice. As a result, corporate adherence is driven more by social norms and stakeholder expectations than by legal enforcement, raising concerns that serious harms—particularly structural and systemic abuses—can persist without effective remedies or sanctions.[57] Rational for the above argument is that human rights and business are legal issues pertaining certain rights and obligations resulting legitimate expectations for certain advocacy and adjudication.[58] Consequently, attribution to operational measurement of the UNGPs by corporations endorsed by state authorities must be started and translated in order to strengthen the UNGPs articulating mandatory character rather than voluntary in "accessible and effective manner".[59]

Demands for a more robust and stronger human rights protection mechanism has paved a way for international community to articulate the voluntary approach as best practice when engagement of the corporation operations with groups of individuals have increased particularly in developing and least developing countries worldwide, for example in African countries.[60] By turning voluntary principles into mandatory, it is hoped that companies will comply with legal responsibilities so that all companies will follow the same standards of protection, respect and remedy as human rights standards applicable for corporations

51 Palombo, *Business and Human Rights*, 29.
52 Anette Stimmer, *The Politics of International Norms: A Rhetorical Approach*, 1st ed. (Cambridge University Press, 2025), 2, https://doi.org/10.1017/9781009455473.
53 Tim Connor et al., *Global Business and Local Struggle: Reimagining Non-Judicial Remedy for Human Rights*, Globalization and Human Rights (Cambridge University Press, 2025), 1–2.
54 Connor et al., *Global Business and Local Struggle*, 4–6.
55 Alex Newton, *The Business of Human Rights: Best Practice and the UN Guiding Principles*, 1st ed. (Routledge, 2019), 4, https://doi.org/10.4324/9781351131193.
56 Newton, *The Business of Human Rights*, 4.
57 Rasche and Waddock, "The UN Guiding Principles on Business and Human Rights," 9–12.
58 Newton, *The Business of Human Rights*, 42–43.
59 Robert McCorquodale, *Business and Human Rights*, 1st ed. (Oxford University Press, 2024), 99, https://doi.org/10.1093/law/9780192855855.001.0001.
60 Abe, *Implementing Business and Human Rights Norms in Africa*, 7.

where human rights due diligence is manifested accordingly.[61] Making mandatory human rights principles in business is not without challenges as well as problems, especially for their implementation as merely determined by political will of government as well as of the corporations' management.[62] There is a risk that companies will focus on minimal compliance rather than proactively working to create positive impacts of their maximum capacities. Mandatory principle creates a fairer business environment and prevents serious human rights violations, such as forced labor, exploitative labor, and child exploitation as thematic or common human rights violations allegedly committed by companies, including MNCs and TNCs in Indonesia.[63]

3.2. Corporations as Extended State Duty-Bearers in Indonesia's Natural Resource Governance

At the 2nd UN Business and Human Rights Forum held on 2nd-4th December 2013, Indonesia made a commitment and stated that companies made a significant contribution in promoting human rights in both local and national contexts. As a result, Indonesia's commitment was then stipulated in the Indonesian National Human Rights Action Plan (RANHAM) through Government Regulation No. 33 of 2018, amending previous regulations, such as the Presidential Regulation No. 75 of 2015, emphasizing thematic issues of marginalized and vulnerable groups, disabilities, and business and human rights. This RANHAM included the imposition of non-state actors as "partial" duty bearers responsible for human rights protection and fulfillment, namely companies. The need to increase stakeholders' understanding of business and human rights issues was mentioned in its Appendix II. However, several criticisms continued to be raised against the implementation of the aforementioned RANHAM, particularly on the area and scope of who and how should monitor and report compliance of the said non-state actors. Although Indonesia has implemented the UNGPs policy, its national regulations on business and human rights issues in the RANHAM policy framework only emphasized the understanding aspect of substantive matters. However, at the same time, human rights violations committed by corporate entities massively occurred.[64] Then, there were no appropriate guidelines in determining the measure of success of these actions related to the relationship between human rights and business at the implementation phase in Indonesia until 2023. Therefore, a comprehensive national regulation should be stipulated to further emphasize the government's commitment to create a sustainable business climate based on human rights principles. Following the aforementioned development, implementing human rights obligations in business helps improve the competitiveness and reputation of companies, as Presidential Regulation No. 23 of 2023 regarding obligations of the ministry and institution to protect, respect, and give remedy for corporations highlights the importance of coordination and simplification of procedure in order to guarantee human rights due diligence as the Indonesian regulatory framework.[65]

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61 Abe, *Implementing Business and Human Rights Norms in Africa*, 55.

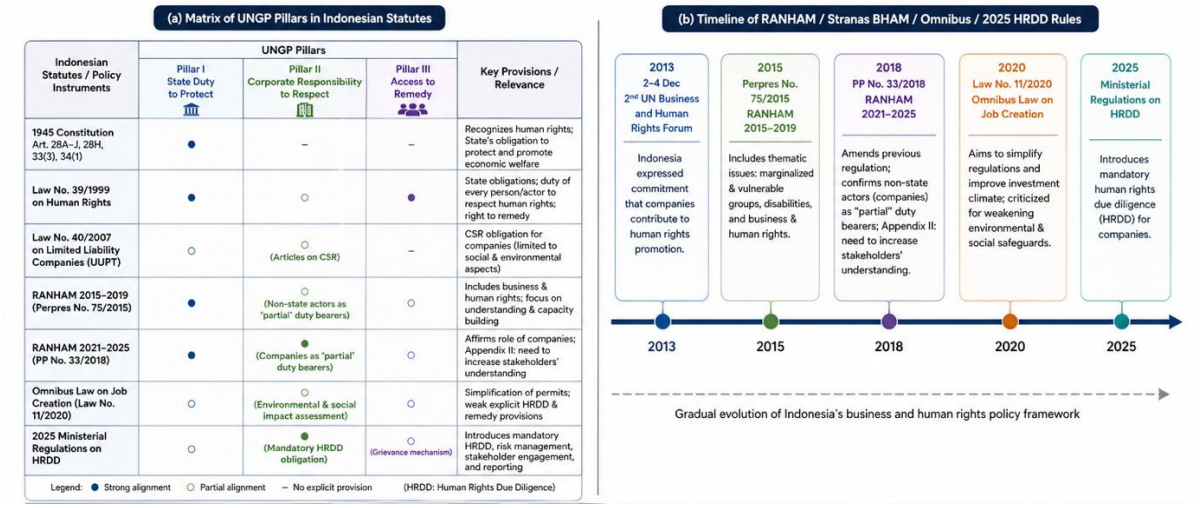
62 E. R. Rieter, *Urgency and Human Rights: The Protective Potential and Legitimacy of Interim Measures*, with Karin Zwaan (T.M.C. Asser Press, 2021), 8.

63 Doug Cassel, "Outlining the Case for a Common Law Duty of Care of Business to Exercise Human Rights Due Diligence," *Business and Human Rights Journal* 1, no. 2 (2016): 179–202, https://doi.org/10.1017/bhj.2016.15. Douglass Cassel, "Outlining the Case for a Treaty on Business and Human Rights," *Business and Human Rights Journal* 1, no. 2 (2016): 179–202.

64 Tempo, "Insiden Mesuji-Bima, Komnas HAM Bentuk Tim Agraria," December 27, 2011, https://www.tempo.co/hukum/insiden-mesuji-bima-komnas-ham-bentuk-tim-agraria-1707531; Ary Wibowo, "Kontras: Polisi Bertanggung Jawab Dalam Kasus Mesuji," Kompas.com, December 15, 2011, https://otomotif.kompas.com/read/2011/12/15/1130264/kontras-polisi-bertanggung-jawab-dalam-kasus-mesuji; S. Rahma Mary H and Noer Fauzi Rachman, "Mesuji, Cermin Konflik Agraria Yang Kronis (1)," Perkumpulan HuMa, June 20, 2012, https://www.huma.or.id/uncategorized-id/mesuji-cermin-konflik-agraria-yang-kronis-1.

65 Johnston, "The Voluntary Principle on Security and Human Rights"; Kadin Indonesia, "Launch of the Presidential Regulation No. 60 of 2023 on the National Strategy for Business and Human Rights," accessed December 12, 2025, https://kadin.id/en/info-advokasi/peluncuran-peraturan-presiden-nomor-60-tahun-2023-tentang-strategi-nasional-bisnis-dan-hak-asasi-manusia/.

Figure 1. Alignment and Timeline of UNGPs within Indonesian Legal Framework



Source: Author's compilation

Indonesia welcomed the adoption of the UNGPs, and it has made efforts to implement these principles driven by the mixed of voluntary and mandatory principle embodied to CSR. Voluntarily, CSR has long been framed as a normative commitment encouraging companies to contribute to social welfare and human rights protection through policy guidance and awareness-raising, consistent with the soft-law character of the UNGPs. At the same time, Indonesia has introduced mandatory CSR obligations through Law No. 40 of 2007 on Limited Liability Companies, further operationalized by Government Regulation No. 47 of 2012, which requires companies operating in natural resource–related sectors to undertake social and environmental responsibility as a legal duty. This dual structure illustrates how Indonesia uses CSR as a regulatory bridge between voluntary corporate commitments and binding legal obligations in line with the UNGPs framework.

There are several reasons why the implementation of more mandatory approach is important for Indonesia even though it has been slow development in terms of its operational aspects and its objectively verified indicators for assessing duty to protect, to respect and to give remedy.[66] First, Indonesia is a promising destination country for foreign investment at global level where dominant investors try to invests their modalities.[67] However, based on the Ease of Doing Business Index conducted by the World Bank, Indonesia's ranking still requires significant improvement.[68] The implementation of human rights standards in business activities is one of efforts to improve the ease of foreign investment particularly for developing countries.[69] Second, there is global awareness that business activities play an important roles in the promotion and fulfilment of human rights for their activities especially for collective rights as well as sustainable development agenda.[70] It is not uncommon for some countries to reject a commodity because of the elements of slavery and trade found in the business activities carried out. Third, cases of human rights violations committed by business activities have become serious problems in Indonesia.[71] For example, based on the annual report of *Komnas*

66 Johnston, "The Voluntary Principle on Security and Human Rights"; Kadin Indonesia, "Launch of the Presidential Regulation No. 60 of 2023 on the National Strategy for Business and Human Rights."

67 Charlotte Sieber-Gasser, *Developing Countries and Preferential Services Trade*, 1st ed. (Cambridge University Press, 2016), 9, https://doi.org/10.1017/CBO9781316569412.

68 C. Michalopoulos, *Emerging Powers in the WTO: Developing Countries and Trade in the 21st Century*, 1st ed. 2014 (Palgrave Macmillan, 2014), 253, https://doi.org/10.1057/9781137297082.

69 Joseph P. Quinlan, *The Last Economic Superpower: The Retreat of Globalization, the End of American Dominance, and What We Can Do about It* (McGraw-Hill, 2011), xi.

70 Stephen D. King, *Grave New World: The End of Globalisation, the Return of History*, First published in paperback (Yale Universitiy Press, 2017), 123.

71 Joseph Zammit-Lucia, *The New Political Capitalism: How Businesses and Societies Can Thrive in a Deeply Politicized World* (Bloomsbury Business, 2022), 108–9.

HAM in 2020, of the 2,841 cases reported to *Komnas* HAM, corporations were perceived as the second most reported entity with 455 cases regarding compliance to human rights' issues. Fourth, undeniably the establishment of the Indonesian Ministry of Human Rights ripens the momentum as the spearhead for the implementation of duty to protect, to respect and to give remedy as the manifestation of President Prabowo Subianto's policy of Asta Cita 2024-2029.[72]

Initially, the state was considered the main *duty-bearer* in protecting human rights because it had more complete instruments and capacities than other actors. Therefore, views on the conceptualization of human rights and accountability are still dominated by state-centric views. However, the development of the human rights regime has recently undergone a significant transformation. The perspective and responsibility of human rights no longer focus on the state as the sole actor but has also embraced non-state actors to conceptualize and distribute responsibility for human rights. This view emerges as non-state actors compete with the state as an economic power, allowing for relations in the protection of human rights. State actors are placed to protect and fulfil the human rights allocated to them. For non-state actors, *inter alia* corporations, it is essential to use a human rights perspective in carrying out their activities, considering that their relationships have the potential to protect human rights. However, in practice, non-state actors still commit human rights violations. As happened in Indonesia, *Komnas* HAM received 412 files of complaints of alleged human rights violations throughout 2023 from corporations.[73] This indicates that the implementation of human rights protection in the area of non-state actors is still minimal and vulnerable to violation. It takes commitment and *political will* for the state to take firm action against non-state actors if they do not prioritize human rights perspectives in carrying out their activities.[74]

3.3. Human Rights Due Diligence and Corporate Accountability for Environmental Harm

The UNGPs are considered an essential contribution to the development of human rights regimes in the world, as they provide a framework for addressing human rights and business issues on both a local and global (transnational) scale, where Indonesia has tried to implement them.[75] However, the existence of UNGPs in the context of environmental degradation will not have a significant impact if it is not supported by state commitment, by increasing efforts to educate the business sector and citizens about the existence and relevance of the three main pillars of the UNGPs. For Indonesia, it is time to adjudicate the voluntary principle to a mandatory obligation to reach out to the company's accountability by enacting human rights due diligence as well as human rights audit by highlighting relevance and commonly recognized implementing standards of Good Corporate Governance (GCG) and Environmental Social Governance (ESG) as a manifestation of the right to regulate.[76] Thus, various elements of citizen movements can have a solid foothold to advocate and urge corporations to be accountable for human rights violations that occur due to their business practices.[77] Coordination as well as supervision from incumbent central and local authorities, as well as competent human rights auditors to the relevant ministry and institutions, is the first step to build confidence.

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72 Antara News, "Simak Kembali Visi Dan Misi 8 Asta Cita Prabowo Gibran," Antaranews, October 15, 2024, https://www.antaranews.com/berita/4398797/simak-kembali-visi-dan-8-misi-astacita-prabowo-gibran.

73 Adrial Akbar, "Komnas HAM Terima 5.301 Pengaduan Dugaan Pelanggaran HAM Sepanjang 2023," Detiknews, January 25, 2024, https://news.detik.com/berita/d-7160206/komnas-ham-terima-5-301-pengaduan-dugaan-pelanggaran-ham-sepanjang-2023.

74 CNN Indonesia, "Catatan Komnas HAM: 2.753 Dugaan Pelanggaran HAM Sepanjang 2023."

75 Santoro, "Business and Human Rights in Historical Perspective," 155–61.

76 John H. Jackson, "The Great 1994 Sovereignty Debate: United States Acceptance and Implementation of the Uruguay Round Results," *Columbia Journal of Transnational Law* 36, no. 157 (1997): 1–25; cited by Adolf Warouw, "GATS Dan Regulasi Nasional Masalah Rekonsiliasi Dua Tujuan Dan Kepentingan," *Indonesian Journal of International Law* 3, no. 4 (2007): 560, https://doi.org/10.17304/ijil.vol3.4.5; and Joel P. Trachtman, "Lessons for GATS Article VI from the SPS, TBT and GATT Treatment of Domestic Regulation," *SSRN Electronic Journal*, ahead of print, 2002, https://doi.org/10.2139/ssrn.298760; in Aaditya Mattoo and Pierre Sauvé, eds., *Domestic Regulation and Service Trade Liberalization* (Oxford University Press, 2003), 70.

77 Claire Methven O'Brien et al., "National Action Plans: Current Status and Future Prospects for a New Business and Human Rights Governance Tool," *Business and Human Rights Journal* 1, no. 1 (2016): 117, https://doi.org/10.1017/bhj.2015.14.

Factually, several MNCs have allegedly violated human rights against communities.[78] In addition, there is a gap between the state's ability to regulate multinational corporations and the economic, legal, and political capabilities of multinational corporations. So, the Indonesian government must include human rights regulations for international companies operating in Indonesia. With human rights regulations in place, government is able to ensure corporations' compliance to operate following the principles of social justice, the environment, and labor protection.[79] Enactment of stronger regulations also increase public trusts to government and create a healthy and sustainable investment climate. Within Indonesian contexts and perspective, there is still undeniable evidence that human rights violations committed by companies are detrimental for future development. However, only a few of these human rights violations are correctly followed up by the state.[80] Therefore, transformation of the UNGPs from voluntary to mandatory principle becomes a strong legal basis to halt human rights violations committed by MNCs, and it paces as an authoritative reference for the state to ratify and become a source for making national laws related to human rights violations by MNCs.

Even though this voluntary approach has not yet been binding as positive law in Indonesia particularly, it helps strengthening state's position in overseeing company activities so as not to harm local communities or to environment as we testify relevance of the ESG and GCG initiatives, where two human rights mainstreams, i.e. human rights due diligence and human rights audits have been introduced as internal objectively verified indicators to protect, respect and to give remedy to victims of human rights abuses committed by corporations.[81] Relevant to this achievement, it has filled regulatory gaps between human rights protection and business activities respectively.[82] Enactment of these standards are proven to increase public trust and meaningful participation from community when government creates and implements rules and regulations with clear legal motivations, authorities and resources authorizing corporations especially in developed countries followed as "best practices" by developing countries.[83] Evidently, only a few of those human rights violations committed by corporations in Indonesia has been successfully adjudicated benefitting victims as realization of duty to give remedy.[84] It is due a fact that the voluntary principle also opens chance invoking legal adjudication for communities as well as NGOs to lodge petition against companies when they are allegedly committing human rights violations.[85] Therefore, transformation of those standards guided by the voluntary approach into a mandatory approach should be initiated and implemented with strong and robust articulation within the Indonesian legal system, as initiated by Ministry of Human Rights.[86] In this regard, Muhammad Anshor, former Indonesian Ambassador to Chile highlights that once mandatory approaches are used to apply in one segment of the corporation operations, including extractive industries, there will a binding force of precedent to increase its mandatory principle to hold corporations accountability for their conducts.[87]

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78 ELSAM, *Laporan Tahunan Elsam* (ELSAM, 2012), 23–65; Sefriani Sefriani, "Tanggung Jawab Perusahaan Transnasional Terhadap Pelanggaran HAM Dalam Perspektif Hukum Internasional," *Unisia* 30, no. 65 (2007): 294–96, https://doi.org/10.20885/unisia.vol30.iss65.art7.

79 Ruggie, *Just Business*, 58.

80 Sefriani, "Tanggung Jawab Perusahaan Transnasional Terhadap Pelanggaran HAM Dalam Perspektif Hukum Internasional," 133.

81 Stephanie Bijlmakers, *Corporate Social Responsibility, Human Rights and the Law* (Routledge, 2019), 19; Putri Fatma Fadhila Zaenuddin and Rindi Dwi Putri, *Good Corporate Governance Dalam Perspektif Hukum Pidana Internasional: Upaya Penanganan Pelanggaran HAM Oleh Perusahaan Multinasional Melalui Tinjauan Literatur*, 9, no. 1 (2025): 125–26.

82 MM Peter Börkey et al., *Voluntary Approaches for Environmental Policy in OECD Countries: An Assessment* (CERNA, 1998), 6–9, https://doi.org/10.1787/9789264180260-en.

83 Sonia E. Rolland, *Development at the World Trade Organization*, 1st ed. (Oxford University Press, 2012), 78, https://doi.org/10.1093/acprof:oso/9780199600885.001.0001; Olivier Cattaneo et al., eds., *International Trade in Services: New Trends and Opportunities for Developing Countries* (The World Bank, 2010), 8, https://doi.org/10.1596/978-0-8213-8353-7.

84 Sefriani, "Tanggung Jawab Perusahaan Transnasional Terhadap Pelanggaran HAM Dalam Perspektif Hukum Internasional," 133.

85 Tom Campbell, "A Human Rights Approach to Developing Voluntary Codes of Conduct for Multinational Corporations," *Business Ethics Quarterly* 16, no. 2 (2006): 255–69, https://doi.org/10.5840/beq200616225.

86 Enneking et al., *Accountability, International Business Operations and the Law: Providing Justice for Corporate Human Rights Violations in Global Value Chains*, 18.

87 Muhamad Anshor, Interview, 28th October, 2025, Yogyakarta.

The relevance of environmental, the ESG principles is increasingly important in the context of protecting business entities from potential human rights violations in Indonesia. With increasing global pressure on sustainability and corporate responsibility, the implementation of ESG is not only a strategic step to maintain the company's reputation, but also a fundamental effort to ensure compliance with human rights standards. In Indonesia, with the complexity of challenges such as environmental degradation, labor exploitation, and social inequality, the ESG implementation is imposed an instrument to mitigate risks, ensure sustainability of operations, and build trust with stakeholders as human rights due diligence. Through an integrated approach, companies should have contributed to environmental preservation, community empowerment, and the implementation of transparent governance, thereby reducing possibility of human rights violations. This relevance becomes even more significant given the role of companies in supporting the sustainable development agenda and the protection of basic rights amidst evolving societal and regulatory demands. Many factors affect company performance of the ESG.[88] At the World Economic Forum, ESG is now used as a global technical as well as tactical internal driven motivation of company. Applying this principle as prudent internal behaviour, business risks are not only related to products and competition but also are increasingly closely related to climate change. In this regard, the Indonesia's Associate Director of ESG and Sustainability, Anjar Priandoyo, stated that businesses and investors are beginning to realize that worsening condition of the earth has a significant impact on business and for their sustainability. The destruction of the earth will eventually cause all businesses to cease operations. The ESG principle has become an important issue for large companies in Indonesia to maintain business sustainability and global living order in the future. Companies need to plan the ESG principle as a part of human rights due diligence carefully because concern for the environment, social, and corporate governance is a good step to realize duty to protect, to respect and to give remedy to the victims.

The ESG concept in building a sustainable business is in line with the Indonesian government's commitment to achieve the Sustainable Development Goals (SDGs) target by 2030 and Net Zero Emission (NZE) by 2060. In an increasingly connected global economy, companies must understand that compliance with human rights regulations is not just about avoiding legal sanctions in Indonesia.[89] Rather, it involves corporate social responsibility and building a positive image in the eyes of consumers and other stakeholders reducing imminent human rights violations committed by corporations. Engaging in business practices that respect and protect human rights is therefore crucial. One of the main challenges faced by companies in the Indonesian business environment is the lack of awareness of human rights compliance.[90] Some business entities, especially those operating on a small or medium scale, may not fully understand how important it is to integrate human rights principles in building a sustainable business. Corporate actions may also negatively impact certain human rights or the overall human rights situation in a particular country or region. Essentially, such negative impacts should be addressed at the national level through relevant national laws, such as labor law, environmental law, or corporate law. Efforts to prevent forms of human rights violations by corporations can be prevented by the involvement of the state or government and companies, that the state is obliged, responsible and ensures that all supporting elements of human rights protection in the business sector can run and be implemented properly by forming laws and regulations and monitoring and ensuring that these policies run well and smoothly accompanied by supervision. And in the event of human rights violations by corporations, the company must provide prompt, effective and adequate reparations to entities and

[88] Tjatur Widiantoro, "Pengaruh Kegiatan Lingkungan Sosial, Dan Tata Kelola Terhadap Keunggulan Kompetitif Berkelanjutan Dengan Dimensi Oleh Inovasi Hijau Dan Dengan Kemampuan Dinamis Hijau Dengan Mengunakan Tekanan Pemangku Kepentingan Dan Keragaman Pemangku Kepentingan Dan Keragaman Tim Manajemen Puncak Sebagai Antasenden" (Doctoral Dissertation, Binus University, 2025).

[89] Nora Gotzmann, "Legal Personality of the Corporation and International Criminal Law: Globalization, Corporate Human Rights Abuses and the Rome Statute," *Queensland Students Law Review* 1, no. 1 (2008): 34–38.

[90] Iman Prihandono, "Transnational Corporations and Human Rights Violations in Indonesia," *Australian Journal of Asian Law* 14, no. 1 (2023): 77–100.

communities harmed by failure to comply with these norms. To address this issue, the guilty party may be subject to reparation, restitution, compensation, and rehabilitation obligations.[91]

4. Conclusion

Indonesia's continued reliance on the voluntary approach in the business and human rights framework is insufficient to address the scale and persistence of corporate-driven environmental destruction. Although UNGPs provide an important reference, their non-binding nature has allowed corporations to frame compliance as a matter of nit-picking rather than obligation. In practice, this has resulted in symbolic commitments and reputational management strategies that fail to prevent environmental harm or deliver effective remedies to affected communities.

Drawing on Indonesia's constitutional mandate over natural resource management and its statutory environmental regime, corporations operating in extractive and land-based sectors should be understood as extended state duty-bearers. The delegation of control over forests, minerals, and land through licensing and concession systems entails inherent public responsibilities, including the duty to prevent environmental degradation and protect environmental human rights. From this perspective, environmental destruction caused by corporate activities is not merely a regulatory failure but a breach of delegated state obligations that demands a stronger legal response.

Accordingly, a shift from voluntarism toward binding regulatory frameworks that impose mandatory environmental and human rights due diligence on corporations. Such frameworks should include clear legal standards, independent monitoring, meaningful sanctions, and accessible remedies for affected communities. By codifying corporate environmental accountability into enforceable law, Indonesia can move beyond policy-oriented governance and ensure that economic development does not come at the expense of environmental integrity and fundamental human rights.

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[91] Maciej Zenkiewicz, "Human Rights Violations by Multinational Corporations and UN Initiatives," *Review of International Law and Politics* 12, no. 1 (2016): 121–121, https://doi.org/10.19096/rilp.2016116721.

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