BUSINESS AND HUMAN RIGHTS (BHR) OUTLOOK 2025

10 PRIORITY ISSUES ON BUSINESS AND HUMAN RIGHTS IN INDONESIA

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PREFACE

SETARA Institute along with the Sustainable-Inclusive Governance Initiative (SIGI) continue to collaboratively work in producing knowledge on Business and Human Rights, which is one of many mandated research areas that have similar issues with the topics that become the focuses of SIGI.

Business and Human Rights (BHR) Outlook 2025 is the third publication of the collaboration between SETARA Institute and SIGI Research and Consulting and the first publication in the form of an annual outlook that provides in-depth research-based views and analysis of the actual needs of business and human rights advancement in Indonesia. The urgency and significance of the 10 priority issues of BHR are determined using the environmental, social and governance (ESG) framework that is popular in the business world, which has so far been implemented voluntarily. Integrating business and human rights norms into ESG practices is a method recommended by the UNGPs while shifting the paradigm from voluntary to mandatory for the business world.

Principles of BHR contained in the UN Guiding Principles on Business and Human Rights (UNGPs) have transformed, not only as a global authoritative norm in order to protect, respect and restore human rights resulting from business operations, but also into a core set of laws and legislation in various countries. Indonesia itself has shown significant normative progress in adopting the Business and Human Rights principles. The stipulation of Presidential Regulation No. 60 of 2023 on the National Strategy for Business and Human Rights, is a big leap in the integration of BHR principles into the national law.

As the background to the preparation of the BHR Outlook 2025, SETARA Institute together with SIGI Research and Consulting have identified several priority agendas in 2025, which are expected to guide discourse and sustainable programmatic interventions in accelerating responsible business practices.

Jakarta, February 2025

Executive Director,
SETARA Institute

Halili Hasan

EXECUTIVE SUMMARY

BUSINESS AND HUMAN RIGHTS (BHR) OUTLOOK 2025

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SETARA Institute & SIGI Research and Consulting
Jakarta, February 2025

I. INTRODUCTION

The UN Guiding Principles on Business and Human Rights have transformed, not only as a global authoritative norm in order to protect, respect and restore human rights resulting from business operations, but also into a core set of laws and legislation in various countries. Indonesia itself has shown significant normative progress in adopting the principles of Business and Human Rights. The stipulation of Presidential Regulation No. 60 of 2023 on the National Strategy for Business and Human Rights, is a big leap in the integration of the principles of Business and Human Rights in national law.

The new national leadership in 2025, which emphasises the mission to continue downstreaming and industrialisation in order to increase domestic added value, must be in line with the principles of Business and Human Rights. In the short term, the paradigm of BHR principles should not be seen as a challenge and obstacle in realising economic development, but rather, BHR should be seen as a set of norms and rules to realise responsible business practices in parallel with the aim to strengthen the competitiveness of business actors in all supply chains of business operations

SETARA Institute, along with the Sustainable-Inclusive Governance (SIGI) as one of the CSOs focusing on the promotion of BHR principles in Indonesia, have identified several priority agendas in 2025, which are hoped to be the guidance in the sustainable programmatic discourses and interventions in accelerating responsible business practices.

II. METHODOLOGY

This Report on the 'Top 10 Priority Issues on Business and Human Rights in Indonesia in 2025 consists of outlook and forecast on the global and national situations, challenges, and issues on BHR.

Priority issues are determined based on the structure of Environment, Social, and Governance (ESG) risks in business governance. Referring to the ESG risk structure, SETARA Institute and SIGI Research and Consulting determine the topic materials on the priority issues based on the significance and situational context that Indonesia is facing in 2025. The topics are referring to the materiality assessment result, which is based on three important components: understanding the context of the situation, identifying actual and potential impacts, prioritising the most significant impacts.

There are 10 priority issues that need to be responded and prioritised in the promotion of BHR principles, as follows:

Tabel: 10
Priority Issues in the ESG Framework

Risks	Top BHR Issues
Environment	1. Ensure transparent and accountable governance of the plantation, mining and infrastructure development sectors. 2. Promote equitable carbon trading, climate change prevention and deforestation schemes
Social	1. Ensure rights protection for gig workers, informal sector workers, and domestic workers. 2. Guarantee the protection of workers and trade unions to realise decent work. 3. Affirm the protection of migrant workers on land and sea from harmful practices of human rights violations

Risks	Top BHR Issues
Governance	1. Ensure a just transition in the context of just energy transition 2. Guarantee the harmonisation of human rights protection policies in business operations. 3. Encourage the implementation of mandatory human rights due diligence policies 4. Prevent the financial sector from financing projects that have the potential to violate human rights 5. Seriously respond to efforts to integrate business and human rights in ESG

III. TOP 10 PRIORITY ISSUES ON BUSINESS AND HUMAN RIGHTS IN INDONESIA

1. Ensure Transparent and Accountable Governance of the Plantation, Mining and Infrastructure Development Sectors

The plantation sector in Indonesia is currently facing challenges with the ratification of the EU Deforestation-Free Regulation (EUDR) whose effective implementation has been postponed until December 30, 2025. One of the government's efforts in responding to the EUDR is to continue to accelerate the determination of the Cultivation Certificate (STDB). So far, compared to the total area of plantations based on commodities, the achievement of STDB is still very minimal and not significant. As Indonesia's leading economic commodity, based on the achievement of sustainable palm oil plantation practices, referring to RSPO and ISPO certification, the achievement of plantation certification, especially in palm oil, is still very minimal compared to the total area of plantations in Indonesia.

The challenges facing the mining sector in Indonesia still revolve around issues related to conflicts between mining operations and forestry regulations, community relations and employment regulations, and practices of corruption, collusion and nepotism.

In the infrastructure sector, the results of monitoring by the Indonesian National Human Rights Commission over the past three years (2021-2023) stated that there were 1,675 cases of human rights violations. As many as 535 of these cases were new conflicts. According to the monitoring results, PSN has become a new source of agrarian conflict because it is accompanied by the implementation of a security approach. These cases include the implementation of PSN in Air Bangis, Rempang, and the Jakarta-Bandung high-speed rail project. Agrarian conflicts during the Jokowi era (2,939 cases) were much more numerous than during the SBY era (1,354 cases), including those caused by PSN (National Strategic Projects). During the two terms of the Jokowi regime, based on KPA records, as of July 2024 PSN had caused 134 agrarian conflicts covering an area of 571 thousand hectares.

2. Promote equitable carbon trading, climate change prevention and deforestation schemes

The approach that can be utilised to support climate change control is through the implementation of the Carbon Economic Value (ECV) policy, which includes an emissions reduction mechanism with a carbon trading scheme.

Regulations regarding carbon trading in Indonesia have been enacted and institutionalized through various laws and regulations. This began with the ratification of the UNFCCC through Law No. 6 of 1994, then the ratification of the Kyoto Protocol through Law No. 17 of 2004, and finally the ratification of the Paris Agreement with the issuance of Law No. 16 of 2016, followed by the stipulation of Presidential Regulation No. 98 of 2021 on the Implementation of Carbon Economic Value for the Achievement of Nationally Determined Contribution Targets and Control of Greenhouse Gas Emissions in National Development, which was then continued with the issuance of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector and the technical implementing regulations concerning the Indonesian Carbon Exchange as stated in the Financial Services Authority Regulation Number 14 of 2023 on Carbon Trading Through the Carbon Exchange. However, there are still many challenges and criticisms from civil society related to the carbon trading scheme which is considered a tool to maintain extractivism and the financialization of nature, while introducing greenwashing practices.

By 2025, after more than a decade of implementation of the UNGPs, the UNWG is of the view that the UNGPs provide essential guidance for States and businesses to address the impacts of climate change on human rights. Business entities are required to place climate change adaptation and mitigation aspects that have potential adverse human rights impacts at the center of all corporate objectives, policies, programs and actions. Guiding Principle 14 explains that the severity of human rights impacts of business activities, such as those related to climate change, should be assessed based on their scale, scope and the likelihood of prompt remediation.

3. Ensure rights protection for gig workers, informal sector workers, and domestic workers

The Coordinating Ministry for Economic Affairs stated that the government has officially started to draft regulations for the protection of gig workers or workers outside employment relationships (TKLHK) in application-based transportation services since 2023. Seeing its massive development, gig workers should be a concern.

The Central Statistics Agency (BPS) noted that the number of people working in informal activities still dominates in Indonesia. It was recorded that the population working in informal activities in August 2024 reached 83.83 million or equivalent to 57.95%. Meanwhile, those working in formal activities were 60.81 million people or equivalent to 42.05%.

As a principle and norm, UNGPs do not limit the subject of companies responsible for protection from human rights violations, regardless of size, sector, location, ownership, and worker relations. All affected stakeholders, including Domestic Workers, are actors who must be protected because of their position as rights holders by all parties involved in employment practices burdened with the obligation to protect human rights.

4. Guarantee the protection of workers and trade unions to realise decent work

The situation and cases faced by workers and trade unions are still very far from the goal of realizing decent work. In 2025, which marks the new leadership and transition of power, the government is required to place the aspect of protection and fulfillment of workers' rights as the core of government regulations, actions and actions. One of the policies that deserves to be appreciated is the full attention of the New Government regarding the protection of Indonesian Migrant Workers (PMI). However, the protection framework for informal sector workers, and other sectors with high-risk potential for human rights violations, has not yet obtained a picture of realization.

5. Affirm the protection of migrant workers on land and sea from harmful practices of human rights violations

Migrant workers often face challenges of human rights and workers' rights violations in the workplace in relation to the discrimination they face. Indonesian migrant workers also experience the same violations. According to Komnas HAM, the typology of complaints of cases includes the fulfillment of migrant workers' rights such as unpaid wages, insurance claims, and others. Then requests for the repatriation of migrant workers such as lost contact, difficulties in repatriating bodies, and alleged hostage-taking by employers or Indonesian migrant worker placement companies (P3MI).

Although, there have been a series of policies and authorized institutions appointed to address this issue, such as the issuance of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which was continued with the issuance of PP No. 59 of 2021 on the Implementation of Protection of Indonesian Migrant Workers, as well as the establishment of the TPPO Task Force, in fact the implementation of the policies and the effectiveness of the work of these institutions have not provided maximum impact.

6. Ensure Just Transition in the Context of Energy Transition

In the midst of the national leadership's policy direction to downstream the nickel industry and the vision to become the centre of the world's electric vehicle battery industry, a report released by the US State Department on 5 September 2024 titled 'Global State of Child and Forced Labor,' included nickel in an additional list of products or commodities produced as a result of forced labour in 2024. Referring to the report, at least 6 of the 11 ILO indicators of forced labour has been fulfilled, which means there had been such practices in the Indonesian nickel industry.

Nickel mining has also resulted in extensive deforestation across nickel mining concessions in Indonesia, resulting in water pollution, adverse impacts on people's health and reduced livelihoods.

As the world's largest nickel producer, contributing 40.2% of total global nickel production, the spotlight on the poor compliance and fulfillment of social, environmental and governance (ESG) aspects of the Indonesian nickel industry should be seen as an urgency and argument to improve the policies and practices of sustainable and responsible nickel industry governance. ESG platitudes that have so far been fulfilled formally for public relations needs must be fixed and meet precise fulfillment indicators.

7. Guarantee the harmonisation of human rights protection policies in business operations

In general, laws, policies, and regulations related to business and human rights in Indonesia have become good modalities. Indonesia has a strong commitment to the adoption and ratification of core international human rights instruments and the ILO Core Conventions. At the national level, there have been several laws and regulations that have been established to fulfill the state's obligations in respecting, protecting, and fulfilling the human rights of every individual.

The state has an obligation to protect human rights within its territory and jurisdiction from violations committed by business entities. This protection is carried out by taking appropriate steps to prevent, investigate, prosecute and restore human rights through effective policies, legislation, regulation and adjudication.

8. Encourage the implementation of mandatory human rights due diligence policies

The absence of regulations regarding mandatory human rights due diligence requirements does not mean that there are no channels or forums for efforts to mitigate and restore detrimental human rights risks. There are policy instruments that are promotive and overlap with the implementation of Human Rights Due Diligence, in the form of ministerial regulations. The regulatory regime for state-owned enterprises and private companies in Indonesia has not yet regulated the obligation of state-owned companies to implement Human Rights Due Diligence in line with international human rights obligations.

Commitment to business and human rights regulation can begin with the establishment of regulations as a continuation of Presidential Regulation No. 60 of 2023 on the National Strategy for Business and Human Rights (2023-2025), which will end this year. Evidence-based evaluation of the three years of implementation of the Presidential Regulation on the National Strategy for Human Rights, must be the basis for strengthening aspects that have not been regulated and are considered ineffective, from the objectives of the Presidential Regulation on the National Strategy for Human Rights as a national policy direction that contains strategies and steps to be used as a reference for ministries, institutions, Regional Governments, Business Actors, and other Stakeholders for the advancement of the business world by paying attention to the protection and restoration of human rights. In the long term, the government must have a vision related to mandatory legislation on human rights and environmental due diligence.

9. Prevent the financial sector from financing projects that have the potential to violate human rights

Financial institutions or banks are not explicitly addressed in the UNGPs, but these entities are subject to the same requirements as other businesses. Principle 13(b) of the UNGGPs states that businesses should "avoid causing or contributing to adverse human rights impacts" and should "seek to prevent or mitigate adverse human rights impacts that are directly related to their operations, products or services through their business relationships, even if they do not contribute to those impacts."

In Indonesia, the Financial Services Authority (OJK) has developed regulations for the implementation of sustainable finance that encourage financial institutions to finance responsibly and contribute to the environment and society. The government must encourage the financial services sector (banking) to be open to funding channeled to the natural resources sector, and other sectors that have great potential to encourage human rights violations and environmental damage.

10. Seriously respond to efforts to integrate business and human rights in ESG

ESG investments rests on the recognition that environmental, social and governance issues shape a company's risks and opportunities, and that taking these issues into account in investment decisions can enhance long-term returns while potentially driving more responsible and resilient businesses. In recent years, this has been embraced by investors and asset managers, driven by the promise of sustainable returns and growing public concern about climate, conservation and human rights.

Parallel with that, In the UN Working Group on Business and Human Rights report entitled "Raising the Ambition-Increasing the Pace: UNGPs 10+ a Roadmap for the Next Decade of Business and Human Rights (2021), one of the goals to be achieved in the next decade is to capitalize on the financial sector's ESG momentum and align the letter S in the ESG acronym with the UNGPs. The increasing momentum of ESG provides an opportunity for faster progress. However, to ensure that this development helps drive better business practices that lead to positive outcomes for people and the environment, there is a need to mainstream the understanding that the UNGPs provide the core S content in ESG, while the UNGPs are also relevant across ESG considerations.

IV. CONCLUSION

As an important component for the company's sustainability report, which will become a reference and recognised globally by corporations around the globe, the ESG topic refers to, one of them, the Global Reporting Initiatives (GRI) Standards, which has to become the basis and instrument for BHR principles disclosure in Indonesia. Topics such as climate change, deforestation, labour relations, human rights, supply chains, regulatory compliance, and many more, are important topics in the BHR operation.

The ten (10) priority issues for business and human rights in Indonesia in 2025 are a first step in determining the roles and performance of the government, corporations, civil society organisations, trade unions, academics, and impacted community groups in advancing the principles of business and human rights in Indonesia (most severe human rights impacts).[]

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SETARA Institute & SIGI Research and Consulting
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I. INTRODUCTION

Every year, the development of the Business and Human Rights (BHR) regime has shown some significant progresses. Since its first endorsements on June 2011 and adoption by numerous states in the world (as a soft law), the United Nations Guiding Principles on Business and Human Rights (UNGPs) has transformed, not only as the authoritative global norms in the protection, respect, and rehabilitate human rights implications caused by business operations, but also as one of the core legal and legislative tools in many countries.

The existence of UNGPs cannot be separated from various global issues which are currently being faced, such as deforestations, climate change, extreme poverty, social inequality, waste managements, environmental damage, democratic and civil rights regression, and many other. States must be present through a set of regulations and authorities in ensuring corporations/business actors' activities to respect and protect human rights.

Indonesia itself has shown significant normative progress in the adoption of business and human rights principles. The enactment of the Presidential Regulation No. 60 of 2023 on the National Strategy for Business and Human Rights is a major leap in the integration of BHR principles in national law. Such commitment also continues to be demonstrated by various action plans (*Rencana Aksi*) undertaken in efforts to realise responsible and sustainable business practices.

Despite that, the implementation of BHR principles is still finding some challenges in terms of the effort to guarantee the principles to be applied as it is (from principles to practices). Various descriptions of cases of human rights violations by business entities in Indonesia, which in some cases are even endorsed and protected by the government, show that BHR are still limited to principles, not yet reaching the goal of strengthening the view of embedded human rights in business practices.

The new national leadership in 2025, which emphasises the mission to continue downstreaming and industrialisation in order to increase domestic added value, must be in line with the principles of Business and Human Rights. In the short term, the paradigm of BHR principles should not be seen as a challenge and obstacle in realising economic development, but rather, BHR should be seen as a set of norms and rules to realise responsible business practices in parallel with the aim to strengthen the competitiveness of business actors in all supply chains of business operations.

BHR in global discourses is developing, with the rises of knowledge products and real actions from various research organisations, business consultancies, corporations and Civil Society Organisations (CSOs) to find the best formation of a responsible business ecosystem that provides a fair and level playing field. SETARA Institute, along with the Sustainable-Inclusive Governance (SIGI) as one of the CSOs focusing on the promotion of BHR principles in Indonesia, have identified several priority agendas in 2025, which are hoped to be the guidance in the sustainable programmatic discourses and interventions in accelerating responsible business practices.

II METHODOLOGY

This Report on the 'Top 10 Priority Issues on Business and Human Rights in Indonesia in 2025 consists of outlook and forecast on the global and national situations, challenges, and issues on BHR. As a national outlook, this focuses on the Indonesian contexts and the occurring situation. Although national, there will be some relevant issues in the global context which are adopted in this report.

Priority issues are determined based on the structure of Environment, Social, and Governance (ESG) risks in business governance, which are derived in several detailed issues as follows:

Table 1:
ESG Structure and Issue Details

Environment	Social	Governance
1. Climate Change 2. Green House Gas (GHG) Emission 3. Deforestation 4. Waste Management 5. Water and Waste 6. Pollution	1. Customer Relation 2. Workers Relation 3. Workforce 4. Workers' Welfare 5. Public Relation 6. Health and Safety 7. Supply Chain 8. Human Rights 9. Work-Life Balance	1. Board Management Practices, Succession Plan. 2. Equality and Inclusion 3. Diversity 4. Compensation 5. Regulatory Compliance 6. Frauds 7. Safety 8. Corruption.

Referring to the ESG risk structure above, SETARA Institute and SIGI Research and Consulting determine the topic materials on the priority issues based on the significance and situational context that Indonesia is facing in 2025. The topics are referring to the materiality assessment result, which is based on three important components:

Table 2:
Variables and Indicators of Issue Significance

Variable	Indicator
Understanding the context of the situation	Geographic location, challenges at national and global level, compliance with global and national authoritative instruments
Identifying actual and potential impacts	Processes to identify, prevent and mitigate and report on how states and businesses are addressing actual and potential impacts on human rights.
Prioritising the most significant impacts	Significance as the basis for determining and ranking

Based on the assessment of the risks and the topic determination, there are 10 priority issues that need to be responded and prioritised in the promotion of BHR principles, as follows:

Tabel 3:
10 Priority Issues in the ESG Framework

Risks	Top BHR Issues
Environment	1. Ensure transparent and accountable governance of the plantation, mining and infrastructure development sectors. 2. Promote equitable carbon trading, climate change prevention and deforestation schemes
Social	1. Ensure rights protection for gig workers, informal sector workers, and domestic workers. 2. Guarantee the protection of workers and trade unions to realise decent work. 3. Affirm the protection of migrant workers on land and sea from harmful practices of human rights violations
Governance	1. Ensure a just transition in the context of just energy transition 2. Guarantee the harmonisation of human rights protection policies in business operations. 3. Encourage the implementation of mandatory human rights due diligence policies 4. Prevent the financial sector from financing projects that have the potential to violate human rights 5. Seriously respond to efforts to integrate business and human rights in ESG

III. TOP 10 PRIORITY ISSUES ON BUSINESS AND HUMAN RIGHTS IN INDONESIA

1. ENSURE TRANSPARENT AND ACCOUNTABLE GOVERNANCE OF THE PLANTATION, MINING AND INFRASTRUCTURE DEVELOPMENT SECTORS.

Based on data from BPS and the Directorate General of Plantations of the Ministry of Agriculture in 2023 (BPS, 2023)[1], leading plantation commodities such as oil palm, rubber, coconut, coffee, cocoa, tea, tobacco and others have varied areas.

Table 4:
Commodities and Plantation Area

Commodity	Area (Thousand Hectares)
1. Kelapa Sawit	15,435.70
2. Kelapa	3,331.60
3. Karet	3,546.20
4. Kopi	1,268.90
5. Kakao	1,410.90
6. Tebu	504.80
7. Teh	99.80
8. Tembakau	191.80

The plantation sector in Indonesia is in the middle of facing the challenges due to the delayed effective promulgation of the European Union Deforestation-Free Regulation (EUDR) on 30 September 2025. The EU Regulation obligates supplier states in the EU global supply chain, to make sure that there is no plantation commodity that is sourced from and impacting deforestation. EUDR targets to Indonesia's prime commodities, which are woods, palm oil, cocoa, coffee, rubber, and soy beans. One of the government's efforts in responding to the EUDR is to continue accelerating the establishment of the Cultivation Registration Certificate (Surat Tanda Budidaya Daya/STDB). STDB is an official document issued by the government

1 https://www.bps.go.id/id/statistics-table/2/MTMxIzI=/luas-tanaman-perkebunan-menurut-provinsi.html

to record and certify cultivation activities carried out by farmers or business actors in the agriculture, fisheries, or livestock sectors. The purpose of STDB is to provide legal certainty for cultivation business actors so that their activities are officially recognised by the government. The STDB contains the name of the farm owner, the owner's address, the location and coordinates of the farm, the status of land ownership, the area of the farm, the type of crop, the amount of production and the origin of the seeds planted. So far, compared to the total plantation area by commodity, STDB achievements are still very minimal and not significant. The following is the STDB data that has been issued by the Ministry of Agriculture as of February 2025.[2]

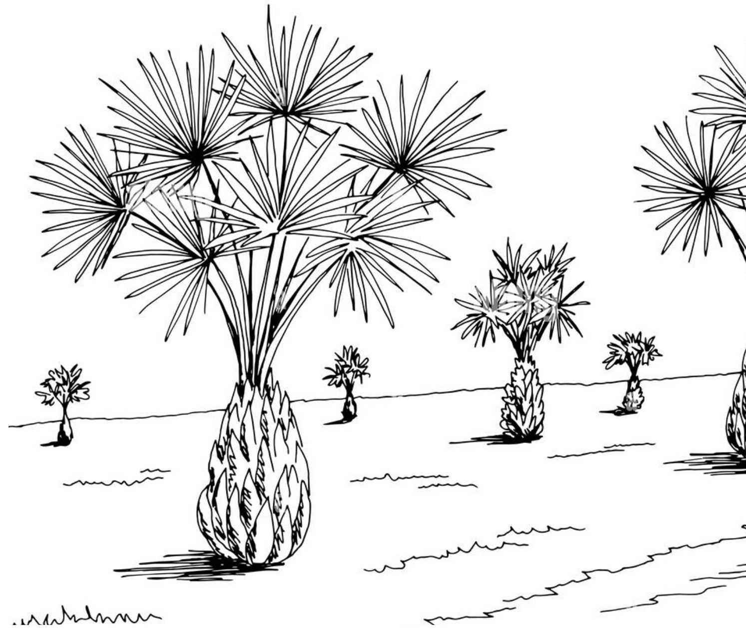


Table 5:
Plantation Area with STDB

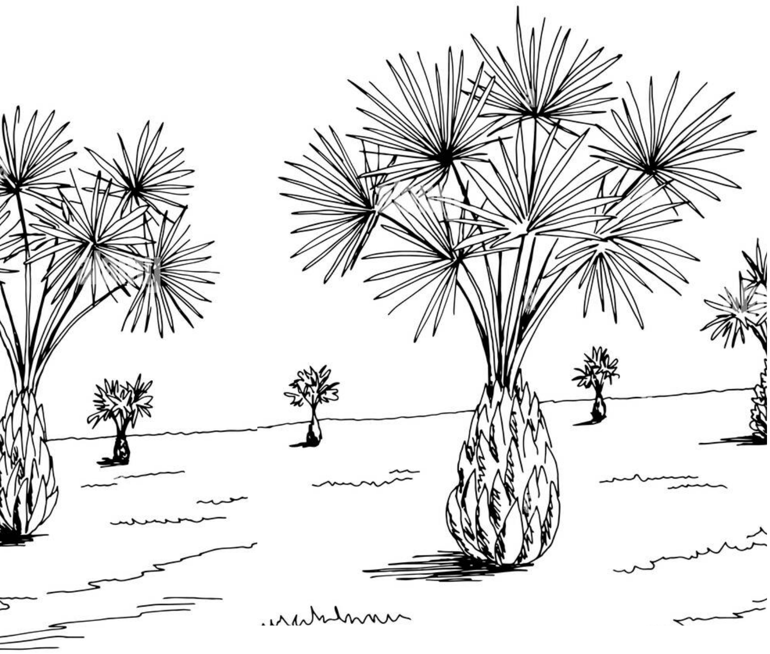
Commodity	Planters	Plantation	Area (ha)
Karet	888	919	1.327,62
Kopi	21.116	22.151	13.286,03
Kelapa Sawit	83.096	113.730	494.789,99
Kelapa	413	511	473,66
Coklat/Kakao	12.979	13.512	9.177,39

As Indonesia's leading economic commodity, based on the achievements of sustainable oil palm plantation practices, referring to RSPO and ISPO certification, the area of oil palm plantations that have obtained RSPO certification is 2 million hectares. Data from the Directorate General of Plantations of the Ministry of Agriculture shows that by June 2023, Indonesia's ISPO-certified oil palm plantation area reached 5.3 million hectares.[3] The two types of palm oil plantation certification contain principles that emphasise aspects of labour, affected communities, supply chain transparency, and finally, especially RSPO, emphasise the importance of implementing human rights due diligence.[4] The attainment of plantation certification is undoubtedly a significant

2 https://stdb.ditjenbun.pertanian.go.id/admin/dashboard

3 https://palmoilina.asia/berita-sawit/sawit-berkelanjutan-rspo-ispo/

4 https://rspo.org/id/rspo-members-adopt-the-2024-principles-and-criteria-and-independent-smallholder-standard/



task for smallholder groups to adhere to sustainable schemes and practices, particularly in oil palm, which is still relatively tiny in relation to Indonesia's overall plantation area.

As the primary economic commodities, two million hectares of oil palm plantations have earned RSPO accreditation, according to the accomplishments of sustainable oil palm plantation techniques, as measured by RSPO and ISPO certification. Indonesia's ISPO-certified oil palm plantation area reached 5.3 million hectares by June 2023, according to data from the Ministry of Agriculture's Directorate General of Plantations. Principles pertaining to workers, impacted communities, supply chain transparency, and, most importantly, RSPO, the significance of carrying out human rights due diligence are all emphasised in the two forms of palm oil plantation certification. The attainment of plantation certification is undoubtedly a significant task for smallholder groups to adhere to sustainable schemes and practices, particularly in oil palm, which is still relatively tiny in relation to Indonesia's overall plantation area.

In addition to the increased focus on the plantation industry, which is consistent with the Business and Human Rights Resource Center's (BHRRC) 2015–2021 findings in Southeast Asia, it claims that business practices in the mining, plantation and food industry, forestry, textiles, palm oil, oil, gas and coal, as well as the construction sector, are to blame for human rights violations and adverse effects on HRD (Human Rights Defenders).[5] Numerous conclusions of problems and instances of human rights abuses by corporate entities in the three sectors, both directly and indirectly affecting employees and impacted communities, are based on the investigation of incidents and situations.

Meanwhile, the present national mining permit entire area is 9,112,732 hectares. In more details, the exploration area reaches 1.01 million hectares. This area consists of metal minerals exploration area of 360,513 hectares, 117,278 hectares of coal, 110,347 hectares of non-metal minerals, 68,733 hectares of rocks, and 360,594 hectares of specific non-metal minerals. Then, the area of mining business permits for production operations reaches 8.08 million hectares. This amount consists of metal mineral production operations covering 3.82 million hectares, coal 3.98 million hectares, non-metallic minerals 73,915 hectares, rocks 85,520 hectares and certain types of non-metallic minerals 119,914 hectares. Then, the area of post-mining mining business permits covers 6,685 hectares and reserves 91 hectares.[6]

5 Business & Human Rights Resource Centre, Business and Human Rights Defenders in Southeast Asian, November 2022

6 https://ima-api.org/detail/news/mining/luas-wilayah-pertambangan-ri-capai-911-juta-hektare-ini-perinciannya

Table 6:
Human Rights Violation Issues in Three Business Sectors

Sector	Issues
Palm Oil Plantation	• The welfare conditions of most palm oil farmers and workers are still relatively low. • The high gap in land ownership between palm oil farmers and corporations which leads to price monopoly in the market. • The high number of agrarian conflicts which have an impact on evictions, violent practices and criminalization of the community. • It is estimated that the total number of people working in the palm oil sector is around 4.2 million for direct work and 12 million for indirect work. • Adapted from Sawit Watch data, it is estimated that 70% of the 10.4 million people working on palm oil plantations are workers without job security (Casual Daily Workers, contract workers, and outsourcing workers (Andi Misbahul, 2020). The palm oil sector is also exacerbated by gender inequality against female workers, as well as the fact that there are still child workers (UNICEF, 2016, p. 1). • Data from the Agrarian Reform Consortium (KPA) in 2024 found that the plantation sector together with infrastructure again dominated as the cause of the most agrarian conflicts in Indonesia during 2024. The eruption of agrarian conflicts in the plantation sector recorded 111 eruptions with an area of 170,210.90 hectares and affected 27,455 families.
Mining	• Based on data from BPS for 2019-2021, coal, bauxite, copper concentrate, and nickel ore are the mining commodities with the largest production in Indonesia, followed by other minerals. The nickel industry in Morowali and Halmahera has an impact on fishermen and local communities with water pollution, adverse impacts on people's health and reduced livelihoods (BHRRC, 2023). The challenges faced by the mining sector in Indonesia are still around issues related to conflicts between mining operations and forestry regulations, issues of public relations and employment regulations, and practices of corruption, collusion and nepotism (PWC, 2019). • The Mining Advocacy Network (Jatam) and a group of civil society criticized President Joko Widodo's (Jokowi) move to sign government regulation (PP) Number 25 of 2024 concerning the granting of

Sector	Issues
	permits for religious community organizations (Ormas) to participate in managing mining land in Indonesia, which is feared will add to the series of agrarian conflicts and trigger horizontal conflicts or feuds between communities. • This is further exacerbated by efforts to amend the Minerba Bill currently underway in the DPR, one of the points of Article 51A is the priority granting of Mining Business Permit Areas (WIUP) for mineral and coal mining to universities, which will result in the collapse of the dignity of universities as non-profit institutions in the education, research, and community service sectors that are not profit-oriented. • The government's policy to revise Law No. 4 of 2009 on Mineral and Coal Mining into Law No. 3 of 2020, as well as the Job Creation Law and its executing regulations, have the potential to produce policies that accommodate the interests of industry players, impoverish residents and damage the environment. • Data from the Agrarian Reform Consortium (KPA) in 2024, recorded that agrarian conflicts by mining businesses were in third place (after plantations and infrastructure) with 41 eruptions covering an area of 71,101.75 hectares and the number of affected victims reached 11,153 families. • Diagnostic data on the Indonesian mining sector released by the World Bank in 2018, referring to a scale of 1-4, aspects of human rights and employment (International Convention) were at number 4, human rights and employment (national measure) 2.45, gender equality 2.36, and environmental transparency and social impact 1.90

Sector	Issues
Construction (Infrastructure Development)	• The results of monitoring by the Indonesian National Human Rights Commission over the past three years (2021-2023) stated that there were 1,675 cases of human rights violations. As many as 535 of these cases were new conflicts. According to the monitoring results, PSN has become a new source of agrarian conflict because it is accompanied by the implementation of a security approach. These cases include the implementation of PSN in Air Bangis, Rempang, and the Jakarta-Bandung high-speed rail project. • Agrarian conflicts during the Jokowi era (2,939 cases) were much more numerous than during the SBY era (1,354 cases), including those caused by PSN (National Strategic Projects). During the two terms of the Jokowi regime, based on KPA records, as of July 2024 PSN had caused 134 agrarian conflicts covering an area of 571 thousand hectares. • In 2024, on behalf of PSN, the government included projects that were full of private interests to be included in the PSN list such as the Bumi Serpong Damai (BSD) Project and Pantai Indah Kapuk 2 (PIK 2). Previously, there was the Lido project spearheaded by the MNC Group, which has now been confiscated by the state. Including, the emergence of cases of sea fences and the granting of Building Use Rights (HGB) certificates at the sea fence area in Tangerang Regency, Banten. • OHCHR's spotlight on human rights violations in the Mandalika Special Economic Zone infrastructure project with no compensation, unclear relocation processes for local residents, and the deployment of state security forces. Then IUCN's spotlight on the negative impacts of Komodo National Park conservation, and the construction of a high-speed train. • Referring back to the 2024 Agrarian Reform Consortium (KPA) Data, the infrastructure sector is the most dominant contributor to agrarian conflict eruptions, recording 79 eruptions with an area reaching 290,742.79 hectares and 19,658 families affected. • In the latest UNGPs 10+ report marking a decade of UNGPs implementation, published on 16 June 2021, it was noted that the overall integration of human rights due diligence into projects financed by development finance and international financial institutions remains low, including as a tool to manage risks to people in mega-infrastructure projects.

Variety of facts and situations that have been discovered with human rights violations in those three sectors, demand an immediate response from the government and business entities. The level of severity felt by the affected communities must be rehabilitated. The regulatory structure and the day-to-day operations of the companies should position the respect for human rights as the basis of actions, both for the State and for the corporations. In terms of this, the State must guarantee meaningful stakeholders' engagement between the companies and the impacted groups.

2. PROMOTE EQUITABLE CARBON TRADING, CLIMATE CHANGE PREVENTION AND DEFORESTATION SCHEME

According to the Presidential Regulation No. 98 of 2021 on the Implementation of the Carbon Pricing to Achieve the Targets of Nationally Determined Contribution (NDC), the targets of the reduction of Green House Gases (GHG) emissions submitted to The United Nations Framework Convention on Climate Change (UNFCCC) are 29% in unconditional terms and 41% with conditional terms of international support. Then, on the 23rd of September 2022, through the Enhanced NDC document, Indonesia applied for an increase in ambition to reduce GHG emissions unconditionally for 31.89% and conditionally with international support for 43.20%.[7] The increase in Indonesia's greenhouse gas emission reduction target has been emphasised at the 27th Conference of the Parties (COP 27), the UNFCCC which was held in Egypt, on 6-18 November 2022. In an effort to build a transparent, integrated, inclusive, and fair carbon ecosystem, the Indonesian Government has strengthened important elements in the carbon ecosystem, namely strengthening: (1) National Registration System (SRN); (2) Measurement, Reporting and Verification (MRV); (3) Greenhouse Gas Emission Reduction Certificate (SPE-GRK); and (4) Authorization and Corresponding Adjustment (CA) in foreign carbon trade.[8]

According to the LTS-LCCR 2050 document, Indonesia hopes to use the FOLU Net Sink 2030 mitigation measure to meet the Forestry Sector NDC objective in the near future. The Ministry of Environment and Forestry has pledged to support Net Zero Emission and reduce GHG emissions by -140 million tonnes CO_2e by 2030. This approach can be utilised in support of the climate change control via the implementation of Carbon Pricing (*Nilai Ekonomi Karbon*/NEK), which includes the emission reduction mechanism with carbon trading scheme.

Through a number of laws and regulations, Indonesian carbon trading regulations have been established and regulated. Law No. 6 of 1994 marked the ratification of the UNFCCC, followed by Law No. 17 of 2004 for the Kyoto Protocol, Law No. 16 of 2016 for the Paris Agreement, and Presidential Regulation No. 98 of 2021 on the Implementation of Carbon Economic Value for the Achievement of Nationally Determined Contribution Targets and Control of Greenhouse Gas Emissions in National Development. Following these events, the Law Number 4 of 2023 on the Development and Strengthening of the Financial Sector was enacted, and the technical implementing

7 https://www.menlhk.go.id/news/perdagangan-karbon-untuk-pencapaian-target-ndc-kontribusi-indonesia-bagi-agenda-perubahan-iklim-global/

8 https://www.ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/Peresmian-Perdagangan-Karbon-Luar-Negeri.aspx

regulations pertaining to the Indonesian Carbon Exchange is regulated through the Financial Services Authority (*Otoritas Jasa Keuangan*/OJK) Regulation Number 14 of 2023 on Carbon Trading Through Carbon Exchange.[9]

Indonesia has conducted domestic carbon trading since the Indonesian Carbon Exchange or IDX Carbon was established on 26 September 2023. According to the data from IDX Carbon, the volume of carbon trading from 26 September 2023 to 17 January 2024 has reached 1.13 million tonnes of carbon equivalent (CO_2e), with a trade value reaching Rp 58.86 billion.

Indonesia continues to expand its carbon market share by establishing the International Carbon Trade, on 20 January 2025. This inauguration was represented by the Ministry of Environment/ Environmental Control Agency of the Republic of Indonesia (KLH/BPLH), the OJK, and the Indonesia Stock Exchange (IDX).[10] The carbon unit providers in this first international carbon trade were PT PLN Indonesia Power and PT PLN Nusantara Power, which provided carbon units from five projects. In this participation, PT. Bussan Auto Finance (BAF) purchased a total of 7,000 tons of CO2e in the form of carbon, which was adjusted to the company's Scope 1 and Scope 2 emission baselines for 2023.[11]

The carbon trading scheme, which is considered as one of the climate mitigation efforts and reducing carbon emissions, is not without criticism. Greenpeace Indonesia once urged the government not to continue the carbon trading plan in November 2024, including during COP29 in Azerbaijan. The reason is that the carbon trading scheme is considered to worsen the climate crisis and risks becoming a loophole exploited by polluters. "This is a fraudulent scheme by environmental polluters who should immediately stop emissions, not look for fake solutions."[12] Walhi also expressed the same thing, that it is considered a false path in overcoming the climate crisis. Carbon trading is only a tool to maintain extractivism and the financialisation of nature, while introducing greenwashing practices. Many communities have to face eviction and live under the threat of agrarian conflict. Walhi believes that the monetisation of nature and greenwashing will only worsen the existing situation.[13]

There is an example of case relating to the accountability and transparency of carbon trading. On 27 March 2023, Reuters reported an interesting fact, namely that Verra had suspended the issuance of carbon credits for the Jari REDD+ Project in Para, Brazil for 497,000 hectares of land in the Amazon rainforest. It was revealed that of the 94.9 million carbon credits certified through Verra, only 5.5 million credits represented real GHG emission reductions. The project unilaterally sold carbon credits from community-owned land. The sale of carbon credits also triggered land disputes, one of the reasons being that compensation to landowners was not transparent and credible.[14]

Quality carbon trading is not a carbon project

9 https://www.djkn.kemenkeu.go.id/kpknl-lampung/baca-artikel/17264/Mengenal-Bursa-Karbon-Indonesia-Indonesia-Carbon-Exchange-dan-Tantangannya-di-Masa-Depan.html

10 https://www.ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/Peresmian-Perdagangan-Karbon-Luar-Negeri.aspx

11 https://sawitindonesia.com/baf-pembeli-pertama-perdagangan-karbon-indonesia/

12 https://www.tempo.co/infografik/infografik/indonesia-resmi-luncurkan-perdagangan-karbon-internasional-1197046

13 Walhi, Perdagangan Karbon: Jalan Sesat Atasi Krisis Iklim, Kertas Posisi Walhi, 8 Agustus 2023.

14 https://www.kompas.id/baca/opini/2023/10/11/bursa-karbon-bukan-arena-sulap

conducted by reducing the carbon emissions at the carbon project location and emit carbon outside of it (leakage). Especially when the trading is utilised to transfer deforestation, pollution, and ecosystem damage, to another place.

In addition to the carbon trading scheme that has also received public attention, the government's commitment to achieving the NDC and Net Zero Emission targets is increasingly doubtful with President Prabowo Subianto's controversial statement that "there is no need to be afraid" of being considered deforestation because of planting oil palm. The Indonesian President then asked local governments and TNI-Polri officers to guard oil palm plantations. This statement shows the government's weak awareness and sensitivity in viewing global issues related to deforestation and climate change. The national economic interests that are the basis of the statement seem to ignore the many problems faced in relation to the management of oil palm plantations. Based on the research on Environmental Carrying Capacity and Environmental Capacity (D3TLH), the threshold for oil palm land in Indonesia is 18.15 million hectares. Referring to data from the Ministry of Agriculture in 2023, the area of oil palm plantations reached 16.380 million hectares, although it has not yet reached the threshold. However, the two largest palm oil producing islands in Indonesia, namely Sumatra and Kalimantan, the existence of oil palm plantations has exceeded the threshold, which means it has an impact on land clearing and large-scale deforestation.

Since 2000 and afterwards, significant expansions of palm oil plantation in Indonesia had caused negative environmental and social impacts. Palm oil plays an unproportional role in pushing for deforestations, as well as forest and peatland conversions. Between 2001 and 2016, Indonesia lost 9 million hectares of forests, with large-scale palm oil plantations as the primary contributor to deforestations—with 23% in total. This finding is also similar to the spatial analysis done by Yayasan Madani Berkelanjutan from 2003 to 2018; between kinds of permits/concessions, the deforestation rate in the palm oil plantation (2.63 million hectares) is the highest after industrial tree plantations/ IUPHHK-HT (2.78 million hectares).

Oil palm cultivation through peatland conversion continues to damage the environment in Indonesia. In 2006, Indonesia had a peatland area of 22.5 million hectares or almost 10 percent of the world's peatland area. This number decreased in 2014 to 15 million hectares, although with a larger contribution figure, covering 50 percent of the total area of tropical peatlands in the world. Fires in Indonesia in 2019 burned 1.6 million hectares of forest and land, with 44 percent of them occurring in areas classified as peat ecosystems. Fires in oil palm plantation permit areas mostly occurred in peat ecosystems, namely 59.66 percent, while fires in industrial forest plantation areas within peat ecosystems reached 38.66 percent in 2019.

Therefore, by 2025, after more than a decade of implementation of the UNGPs, the UNWG is of the view that the UNGPs provide essential guidance for States and business enterprises to address the impacts of climate change on human rights. Business entities are required to emphasize aspects of climate change adaptation and mitigation that have potential adverse human rights impacts, at the centre of all corporate objectives, policies, programs and actions. The Guiding Principle No. 14 explains that the severity of human rights impacts of business activities, such as those related to climate change, should be assessed based on their scale, scope and the likelihood of prompt remediation.[15]

3. ENSURE RIGHTS PROTECTION FOR GIG WORKERS, INFORMAL SECTOR WORKERS, AND DOMESTIC WORKERS

Gig economy is an economic structure involving freelancers or short-term work contracts based on output/projects. This economic structure has spread especially during the COVID-19 pandemic. There are various terms attached to Gig Economy workers, ranging from gig work, flexi-work, on-call work, freelance, to non-standard employment (NSE). Referring to a study by McKinsey in the United States, the growth of the gig economy is due to several factors, such as technology, flexibility and economic conditions. Technological advances that allow someone to work remotely drive demand for more flexible work.[16]

Despite the existence of gig work contributes to millions of job opportunities around the world, this line of work is very vulnerable. The presence of gig economy is encouraging unfair working practices, unfair pay, instability of work, weakening of workers' rights, even to the absence of social protection. The research conducted by Nabiyla Risfa Izzati and Media Wahyudi Askar from the Gadjah Mada University, and Muhammad Yorga Permana from the Bandung Institute of Technology (ITB), estimated the Indonesian workers that make gig activities as their main job in 2019 are 430,000 and up to 2.3 million people (0.3-1.7 percent of the labour market).

The Coordinating Ministry of Economic Affairs stated that the government has officially started drafting regulations for the protection of gig workers or workers outside employment relationships (TKLHK) in application-based transportation services since 2023. However, the process was indeed stopped due to the 2024 General Election. The regulation for the protection of gig workers will be in the form of a Minister of Manpower Regulation. The basic employment rights of gig workers will be guaranteed and protected, and must even be clearly stated in the initial employment agreement. Starting from the returns in the forms of commissions, incentives, and bonuses, all of which must be in the form of money. This includes the right of gig workers to receive Eid Al-Fitr Allowances (THR) which were widely discussed for some time. In principle, the Coordinating Ministry emphasised that gig

15 Working Group on the issue of human rights and transnational corporations and other business enterprises, Information Note on Climate Change and the Guiding Principles on Business and Human Rights, UN Human Rights Special Procedures, Juni 2023.

16 https://tirto.id/kerentanan-gig-economy-upaya-perlindungan-negara-negara-g4rb

workers with partner status and applicators (work providers) must understand each other and must not be unilateral.

Singapore, has previously passed the Platform Workers Bill on 10/9/2024. Through the Platform Workers Bill, taxi drivers, online transportation drivers, and freelancers who rely on digital platforms to earn income are designated in a different legal category between employees and self-employed.[17] Reported by The Straits Time, the platform workers law in Singapore will come into effect on 1 January 2025. This policy will establish them as a different legal entity from employees and self-employed. This group will also receive a larger contribution to the Central Provident Fund (CPF) savings scheme, which is adjusted according to employee and employer's contributions. Platform operators must also provide standard work accident compensation insurance policies with the same level of coverage as employees. In addition, platform workers, who cannot unionize under current law, will be able to form representative bodies called platform workers associations, with legal powers similar to trade unions.

Similarly, European countries, such as the Netherlands, France (PACTE Law and El Khomri Law), Spain (Riders Law) and the United States (ABCT Test), have enacted protections against uncomfortable working conditions, guarantees of worker status, equalisation of courier status as employees, protection from unilateral dismissal, holidays, paid leave, opening negotiation space between workers and companies, enactment of worker insurance, social security and enactment of a standard minimum hourly wage.[18]

Looking at this massive development, it is a must to pay attention to gig workers. Indonesia has not yet got the regulations, but the regulations shall be the priority in the future, either in the form of a standalone regulation or harmonising the existing ones.

Workers in the unorganised sector must once more be a common concern in 2025. According to the Central Statistics Agency (BPS), the majority of Indonesians are still employed in informal occupations. In August 2024, it was reported that 83.83 million people, or 57.95% of the population, were engaged in informal enterprises. In the meantime, 42.05% of the population, or 60.81 million individuals, were employed in formal occupations.[19] Workers in the informal sector frequently lack access to social security, employment benefits, and legal protection when working in hazardous environments, which is different from the ILO's definition of decent work, which is productive work that offers fair compensation, social security, and fulfils workers' rights.[20] Informal sector workers' participation in social security is also still very low. Based on the data quoted from the SMERU Research Institute in 2023, the social security participation of formal sector workers in 2018 and 2021 was 39.5% and 41% respectively, compared to only 1.1% and 1.6% for informal sector workers. Informal sector workers are also largely excluded from the minimum wage regulations set by the government.

The agriculture and plantation sectors are the

17 https://www.kompas.id/baca/ekonomi/2024/09/12/mendahului-indonesia-singapura-mengesahkan-undang-undang-pekerja-platform

18 https://tirto.id/kerentanan-gig-economy-upaya-perlindungan-negara-negara-g4rb

19 https://nasional.kontan.co.id/news/pekerja-sektor-informal-makin-menjamur-di-tanah-air

20 Fahri A. Sibagarian, et.al., Gambaran Pekerja Informal dan Faktor-Faktor yang Memengaruhinya di Indonesia Tahun 2022 (Informal Workers and Its Determinants in Indonesia 2022: An Overview), disampaikan pada seminar nasional official statistics, 2023.

biggest contributors of informal workers. Workers in the agricultural sector with informal status is 88.42% of the population in 2023. This situation coincides with the findings of human rights violations, especially in the oil palm plantation sector, where there are many cases of worker discrimination, lack of worker guarantees and status, differences in wages between female and male workers, no guarantee of menstrual leave, maternity leave and so on, as well as the fact that there are child labour practices in the sector.

Seeing informal sector workers as the dominant ones, it is an obligation for the government to guarantee protection and fulfilment of the workers' rights. Lack of those two elements would potentially spark practices by business entities that violate human rights, which would not align with the spirit and principles of the UNGPs.

The complexity of labour issues in the informal sector is also contributed by domestic workers. The condition of domestic workers is even more vulnerable, because their status is not considered as labour. Domestic workers are still vulnerable to violence, discrimination, and exploitation. Based on data from the Domestic Workers Advocacy Network (Jala PRT), in the period 2015-2022, there were 2,637 domestic workers who reported various cases. A total of 1,148 cases were in the form of economic violence, such as unpaid wages, unilateral wage deductions, and unpaid holiday allowances (THR). DWs also generally lack health and social security. In addition, domestic workers often experience unclear working hours, unlimited workloads and no days off.

The regulation on the guarantee of domestic workers' rights is only regulated in the Minister of Manpower Regulation No. 2 of 2015 on the Protection of Domestic Workers. The civil society coalition demands that there be an immediate enactment of a Law (Bill) for the protection of domestic

workers. Although advocacy for the Bill has been ongoing for 19 years, there has been no intention from the government to enact it immediately. One of the main points of this bill is the recognition of domestic workers as labour. The bill also mentions the elimination of child domestic workers; the rights, obligations, and sanctions for domestic workers and employers; and the regulation of categories, scope of work, terms, and working conditions.

A silver lining is showing once again, as the inclusion of the Draft Law on Domestic Workers along with the Draft Law on Indigenous Peoples, which have been agreed by the DPR to be included in National Priority Legislation Programme (Prolegnas) 2025. This momentum must be utilised by civil society coalitions to continue to consolidate strength in guarding advocacy for the Draft Law on Domestic Workers, so that there is no hijacking of the law and inconsistency with the DPR's commitment.

As a set of principles and norms, UNGPs does not limit the subject of responsible corporations to the protection from human rights violations, regardless of company size, sector, location, ownership, and workers' relation. Every affected stakeholder, including domestic workers, are actors that are subjects to protection due to their position as rights holders, by all parties involved in labour practices.

4. GUARANTEE THE PROTECTION OF WORKERS AND TRADE UNIONS TO REALISE DECENT WORK.

In general, based on the data processed from the publication 2023 Indonesia Human Rights Report launched by the US Department of State,[21] there are several indicators of rights and violations committed by the government in the typology of protection and fulfilment of workers' rights. With the complexity of information and data, analysis of this report can serve as a baseline in determining human rights salient issues and most severe human rights impacts faced by workers in Indonesia.

According to the findings in the Human Rights Report, it presents some portraits on the violation typology and the workers' condition in Indonesia, as follows:

Table 7:
Violation of Workers' Rights Condition

Workers' Rights Typology	Current Condition
Freedom of Association and Right to Collective Bargaining	• Although the Constitution grants all citizens the right to join professional organisations of their choice, Law No. 21 of 2000 on Trade Unions and Law No. 13 of 2003 on Manpower, however, restrict the right of civil servants to organise. All civil servants are required to join the state-regulated civil servants' association (KOPRI) without the right to strike. • Initiations to organise other workers' association, such as the teachers' union, is rejected on the grounds of teachers being state apparatus, and not 'labours'. • SOE workers can unionise, but with the government positioning the SOE as an essential national entity, their right to strike is limited.

21 https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/indonesia/

Workers' Rights Typology	Current Condition
	• The authorities can force the union to dissolve itself if its leaders or members, on behalf of the union, commit crimes against state security, and they can be sentenced to a minimum of five years in prison. Once a trade union is dissolved, its leaders and members cannot form another trade union for at least three years. • Law No. 13/2003 on Labour still also contains provisions that do not favour workers and trade unions. These include restrictions on collective bargaining, including the requirement that one or more trade unions represent more than 50 per cent of all company workers or obtain the votes of more than 50 per cent of all workers to negotiate collective labour agreements. Workers and employers have 30 days to finalise a collective labour agreement. Unions note that the law allows employers to delay the negotiation of collective labour agreements with minimal legal consequences. • The right to strike is restricted by law. According to the Law on Labour, workers should give a written notification to the authoritative parties and the employer seven days prior to the strike, so that it can be authorised. Before the strike, the workers shall conduct a mediation with the employers or risking the action to be deemed as illegal. • Labour unions noted that the legal requirements to exercise a strike makes the action more difficult. • All strikes at 'enterprises serving the interests of the general public or at enterprises whose activities would endanger the safety of human life if stopped' are considered illegal. The regulations do not specify the types of enterprises affected, so this decision is left to the discretion of the government. • According to Law No. 6/2023 on the Enactment of Government Regulation in lieu of Law No. 2/2022 on Jobs Creation, every business can conduct outsourcing without any limits. Companies can hire contract workers from multiple outsourcing companies, effectively making it impossible for workers to bargain collectively. The Law also makes contract terms the responsibility of the outsourcing company and allows companies to offer outsourced workers fewer protections and inferior working conditions than directly employed workers.
Prohibition of Forced Labour	• In 2023, the government reported investigations on labour trafficking in the fishing industry, but only reported on the identification of two victims in that sector. • The government continues not to fully prioritise staffing or funding for effective oversight of the fishing industry, despite long-standing and widespread concerns about human trafficking.

Workers' Rights Typology	Current Condition
	• The government initiated a limited investigation on the suspected exploitation at the Industrial Area affiliated with the People's Republic of China (PRC) • Corruption and official complicity in human trafficking continue to hamper efforts to combat human trafficking, particularly in the fisheries, palm oil, and extractive industries. • The government has limited national regulations and SOPs for identifying victims of human trafficking across all sectors, which continues to hinder proactive identification of victims, particularly male and child labours. • Government shelters confiscated the passports of some victims and imposed strict restrictions on movement and employment so that most victims chose to leave the shelters and did not participate in uncovering cases involving traffickers. • Government also prioritises an administrative mediation for most of human trafficking cases which involves Indonesian migrant workers, and chooses not to stipulate criminal responsibilities or stop human traffickers in their trace to be tried before the law.
Prohibition of Child Labour	• The List of Goods Produced by Child Labor or Forced Labor report, released by The Bureau of International Labour Affairs (ILAB) on 5 September 2024, noted that there are 7 products or commodities from Indonesia produced by child labour practices, namely fisheries, footwears (sandals), artisanal gold mining, palm oil, rubber, tin, and tobacco. • Labour practices of the worst forms of child labour in commercial sexual exploitation, forced begging; drug production, sale and trafficking. • According to a report by BPS, in August 2020 there were around 1.17 million children aged 10 to 17 working, mainly in the informal economy. The International Labour Organisation (ILO) estimates that 1.5 million children between the ages of 10 and 17 work in the agricultural sector.
Workplace Discrimination	• Women face discrimination in workplaces, from the recruitment process to the earning of compensation. • Gender gap in payment is still occurring, with women earning 30% less than men. • There are no legal restrictions on women in employment. Some activists say that in manufacturing, employers place women in low-paying, low-level jobs. Jobs traditionally associated with women are undervalued and unregulated. Discriminatory behaviour towards domestic workers is rife.

Workers' Rights Typology	Current Condition
Decent Working Condition	Wages and Working Hours • The minimum wage in 19 out of 34 provinces is below the national poverty income level. • Most workers are not included in the laws on minimum wage. Government Regulation excludes business owners in specific sectors, including small to medium-scale enterprises as well as labour-intensive industry such as textile companies, from the minimum wage requirements. • The law allows certain businesses and occupations to be exempted from the 40-hour workweek rule, including in the energy, agriculture, and fishing sectors. Keselamatan dan Kesehatan Kerja • The law obligates most of businesses to provide a safe and healthy workplace. Informal workers, however, is not included, such as the domestic workers. • Labour inspection officers do not actively identify unsafe conditions as their capacity to conduct inspections is limited by resources and training. • Industry sources report that labour inspectors are often bribed to under-report or completely omit occupational safety and health (OSH) violations from their inspection reports. • The case of riots and the death of mine workers that occurred at the smelter of PT Gunbusters Nickel Industry (PT GNI), owned by the Chinese company Jiangsu Delong Nickel Industry, in Morowali, Central Sulawesi, at the end of 2022 and 14 January 2023, exposed the poor environmental conditions of workers in the Indonesian mining sector. The incidents demonstrate the allegedly unsafe working conditions faced by 11,000 Indonesian and 1,300 foreign workers at the nickel smelter. In fact, every year the number of worker accidents reaches 1,800 cases and 5 cases of death in the Indonesia Morowali Industrial Park (IMIP). • Plantation workers often work long hours without government-mandated health insurance benefits. They lack personal protective equipment and adequate training on pesticide safety. • Most plantation operators pay workers based on harvest volume, resulting in some workers receiving less than minimum wage and working overtime to meet excessive volume targets. • Gig workers are unprotected by regulations on waging, working hours, as well as health and safety.

The situations and cases faced by workers and trade unions are still very far from the goal of realising decent work. In 2025, which marks a new leadership and transition of power, the government is required to place the aspects of protection and fulfilment of workers' rights as the core of government regulations and actions. One of the policies that should be appreciated is the full attention of the New Government related to the protection of Indonesian Migrant Workers (PMI). However, the framework for the protection of informal sector workers, and other sectors with the potential for high-risk human rights violations, has yet to be realised. Prabowo Subianto's leadership with Asta Cita noted the agenda of 'Increasing quality employment, encouraging entrepreneurship, developing creative industries, and continuing infrastructure development,' as one of the most anticipated promises.

5. AFFIRM THE PROTECTION OF MIGRANT WORKERS ON LAND AND SEA FROM HARMFUL PRACTICES OF HUMAN RIGHTS VIOLATIONS

The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 2, defines a migrant worker as a person who will, is, or has engaged in wage-earning activity in a country of which he or she is not a national. [22]

Based on the data from January to August 2024, there are 207,090 Indonesian migrant workers placed in various countries. This is based on data from the Indonesian Migrant Workers Protection Agency (BP2MI). As many as 108,477 people work in the informal sector, while 98,613 others are in the formal sector. Some countries that are often the destination of Indonesian migrant workers are still in the Asian region. Indonesian migrant workers are dominated by women as many as 141,627 and men as many as 65,463 workers.[23]

Migrant workers are often facing challenges of human rights and worker's rights violations in the workplace, such as discriminations. Violations take place in many forms, such as: [24]

- Unfair recruitment practices, such as overcharging placement fees, requiring migrant workers to pay security deposits, or providing misleading or false information about promised jobs;
- Human trafficking or smuggling of workers across national borders in search of work, as well as subjecting workers to forced labour in new destination countries;
- Unequal access to employment rights, remuneration, social security, trade union rights, labour taxes, or access to due process and remedies; and
- Racism or discrimination in the workplace.

Indonesian migrant workers also experience the same violations. According to The National Commission on Human Rights (Komnas HAM), the typology of case complaints includes the fulfilment of migrant workers' rights such as unpaid wages, insurance claims, and others. Then requests for repatriation of migrant workers such as lost contact,

22 https://globalnaps.org/issue/migrant-workers/

23 https://www.antaranews.com/berita/4413553/deretan-negara-yang-didominasi-pekerja-migran-indonesia

24 https://www.youtube.com/watch?v=KS-68n34dGU

difficulty in repatriating bodies, and allegations of hostage-taking by employers or Indonesian migrant worker placement companies (P3MI). There are also complaints about requests for protection and legal assistance, including criminalisation, rape victims in conflict with the law, detention in destination countries and others.

In Indonesian context, based on the annual report by Indonesian Migrant Workers Union (SBMI), in the period 2010-2024, SBMI has received complaints and handled 6,120 cases, 10 of which were experienced by foreign nationals from Myanmar working on Chinese-flagged fishing vessels stranded in Batam. The peak of complaints occurred in 2021 with 999 cases (16%), 2022 with 651 cases (10.6%), 2023 with 461 cases (7.5%), and in 2024 with 456 cases (7.3%). From 2021 to 2024 there was a downward trend in complaints and handling of an average of 15.14% per year.

In 2024 SBMI received complaints and handled cases based on the work sector as many as 456 cases. The highest sector in the Migrant Fishing Boat Crew (AKP) sector is 196 cases (43.0%), second is Domestic Workers (DW) 80 cases (17.5%), third is online scam/forced scam 62 cases (13.6%), fourth is Construction Workers 34 cases (7.5%), fifth is plantation 27 cases (5.9%) and the remaining 12.5% comes from 10 other sectors.

The latest case on violation against the rights of Indonesian migrant workers, which shocked the public, was the shooting of five Indonesians by the Malaysian Maritime Defence Agency (APMM) on 24 January 2025 at 3 o'clock in the morning local time, on a ship that was suspected of carrying Indonesian migrants in the waters of Tanjung Rhu, Selangor, Malaysia. One victim died and four others were injured in the case. The shooting was done after the passengers of the ship were said to have fought back. However, such statement was disproved by the Malaysian government and agency for exercising excessive power.

Then, according to SBMI throughout 2020-2024, the organisation has handled 344 cases of Indonesian migrant workers who were forcibly employed as online scammers or online fraudsters. As many as 95% fulfilled the elements of human trafficking. The majority of placement locations are in Myanmar. Victims experience torture, violence, intimidation, and isolation from the outside world. The victim's family even visited the Myanmar Embassy building for Indonesia, in Central Jakarta, Monday (3/1/2025). However, they did not receive permission to hold an audience.

In line with SBMI data, Indonesian fishing vessel crews are the group of migrant workers most vulnerable to various human rights violations. Indications of forced labour and illegal, unreported, and unregulated (IUU) fishing continue to be widespread in fishing in Taiwan's distant waters. Recruitment agents reportedly profit financially by exploiting migrant fishermen. This investigation found a clear link between vessels using these practices and popular tuna brands in the United States. The findings were revealed in an investigative report by Greenpeace Southeast Asia and the SBMI, which analysed complaints from Indonesian migrant fishermen working on Taiwanese-flagged fishing vessels from 2019 to 2024. The top indicators of forced labours were fraud (100%), withholding of identity (100%), abuse of vulnerability (92%), and debt bondage (92%). Complaints and policy analysis of crews, including gaps and inconsistencies with Indonesian regulations, found that many migrant workers reported being charged illegal recruitment fees, ranging from one to four months' wages on average, despite Indonesian law requiring employers to cover such fees. An agreed monthly salary (USD400-600), but almost all crews reported deductions from their wages, ranging from two to 20 months' wages. In one instance, a crew with an eye injury was denied compensation health insurance, equivalent to up to 25 months' wages on board the ship.

Various data and cases of violations against Indonesian migrant workers, both on land and at sea, show the weak commitment to policies and implementation of the protection of migrant workers' rights. Although there have been a series of policies and authorized institutions appointed to address this issue, such as the issuance of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which was continued with the issuance of Government Regulation No. 59/2021 on the Implementation of Protection of Indonesian Migrant Workers, and the establishment of the TPPO Task Force, in fact the implementation of policies and the effectiveness of the work of these institutions have not had a maximum impact.

Regardless of the various facts, data, and weak policy implementation, the increase in BP2MI's status to the Ministry of Protection of Indonesian Migrant Workers (KP2MI) must be seen as a transformation of policy direction to gradually support efforts to fulfil, respect and protect the rights of Indonesian migrant workers. This step is a form of strong government commitment to at least provide serious and strategic attention to prioritize the protection of PMI as part of the direction of national development policy.

6. ENSURE JUST TRANSITION IN THE CONTEXT OF ENERGY TRANSITION

Renewable energy consumption is expected to grow by 60% between now and 2030. This growth brings greater demand for transition minerals, as well as land to build clean energy infrastructure. Demand for transition minerals used in renewable energy technologies, such as cobalt and lithium, is expected to triple by 2030. Indonesia will dominate nickel production, accounting for a 62 per cent share of global nickel supply by 2030. Most of Indonesia's nickel is used to make stainless steel - but increasingly it is being used to make batteries. Unfortunately, the harms associated with nickel mining and processing in Indonesia remain a major issue that has yet to receive serious attention (BHRRC, 2024).

In the midst of the national leadership's policy direction to downstream the nickel industry and the vision to become the centre of the world's electric vehicle battery industry, a report released by the US State Department on 5 September 2024 titled 'Global State of Child and Forced Labor,' included nickel in an additional list of products or commodities produced as a result of forced labour in 2024.

As the biggest nickel producer in the world by contributing to 40.2% of the total global nickel production, the spotlight on the Indonesian nickel industry for the poor compliance and fulfilment of the ESG aspects must be seen as an urgency and argumentation to enhance policies and practices on sustainable and responsible governance of the industry. ESG lip service that has been fulfilled in a formalistic manner for public relations needs must be addressed and fulfil precise indicators of fulfilment. The ambition to achieve the Net Zero Emission target by 2060 through the development of electric vehicles must be parallel to the agenda of respecting and protecting human rights and the environment.

In the report, it is elaborated that the nickel industry—which is a partnership between Indonesia and China—is suspected to arbitrary wage deductions, violence, excessive overtime, and constant surveillance on workers from the two countries. Chinese workers are also reportedly subjected to passport confiscation and movement restrictions. Not to mention the issue of unfulfilled occupational health and safety guarantees, with many cases of workplace accidents resulting in fatalities. Referring to this report, at least 6 of the 11 ILO forced labour indicators have been met, meaning that forced labour practices have occurred in the Indonesian nickel industry.

Nickel mining has resulted in widespread deforestation across nickel mining concessions in Indonesia. Many of these forests are key natural carbon sinks and critical biodiversity areas. The climate impacts of deforestation are exacerbated by emissions from Indonesia's coal-fired power plants, which power nickel processing in the country's industrial parks: Indonesia Morowali Industrial Estate (IMIP) and Indonesia Weda Bay Industrial Estate (IWIP). Furthermore, worker safety continues to be an important issue of concern in these industrial parks (BHRRC, 2024).

7. GUARANTEE THE HARMONISATION OF HUMAN RIGHTS PROTECTION POLICIES IN BUSINESS OPERATIONS

In general, the laws, policies, and regulations related to BHR in Indonesia have become good modalities.

Indonesia has a strong commitment with the adoption and ratification of international core human rights instruments and ILO Core Conventions. At the national level, there have been several laws and regulations established to fulfil the state's obligation to respect, protect and fulfil the human rights of every individual. The laws, policies, and regulations established by the Government of Indonesia aim to prevent, investigate, impose penalties, restore the rights of victims of human rights violations by business entities. This set of laws and policies, as well as to ensure the realisation of the rule of law, by ensuring equality before the law, the realisation of justice, accountability, legal certainty, and transparency of legal procedures and transparency.

Regulatory modalities in national regulations and legal instruments regulate aspects and variables in the application of BHR principles within the framework of protect, respect and remedy, including human rights due diligence, supply chain mapping and transparency, labour protection and human trafficking, elimination of child labour, elimination of forced labour, fulfilment of women's rights, health and opportunities in the workplace, working hours arrangements, respect for the rights of indigenous peoples and human rights defenders, protection of employee personal data, access to remediation, anti-corruption policies, implementation of social and environmental responsibility, rights of persons with disabilities, respect for the rights of indigenous peoples and so on.

SETARA Institute's report on the Development of Business and Human Rights situation, 56 regulations promulgated by the Indonesian Government in fulfilling the State's obligation to protect human rights in business activities. [25] The

25 Pada saat laporan ini diterbitkan terdapat 54 peraturan, sebelum pemerintah mengesahkan Perpres No. 60 Tahun 2023 tentang Strategi Nasional Bisnis dan HAM dan Standar Norma dan Pengaturan Nomor 13 tentang Bisnis dan HAM, yang diterbitkan oleh Komnas HAM . Lihat Ismail Hasani, Nabhan Aiqani, Inovasi Normatif Pemajuan Bisnis dan HAM di Indonesia, https://setara-institute.org/pemajuan-bisnis-dan-ham-di-indonesia/

Guiding Principles (GP) 1 to GP 3 explain the obligations of the State to protect human rights in its territory and jurisdiction from violations committed by business entities. This protection is done by taking appropriate measures to prevent, investigate, punish and restore human rights through effective policies, legislation, regulation and adjudication. However, these basic principles are not always fulfilled by the state, as evidenced by the laws and regulations enacted by the Government of Indonesia, which are regressive to the promotion of business and human rights principles.

Even in the Komnas HAM's Annual Report 2023, it still places corporations (412 cases) and SOEs/BUMDs (118) as parties with the highest number of human rights complaints after the police. In the report, Komnas HAM initiated a typology classification of BHR cases including land/land disputes, criminalisation, violation of workers' rights, environmental damage, protection of migrant workers, and police involvement. Therefore, the potential violation of the right to welfare throughout 2022 became the most complained business and human rights case, with a total number of 993 complaints.

As described above, there are at least several laws and regulations enacted by the government that are regressive towards the promotion of business and human rights principles.

Table 8:
Regressive Regulations for the BHR Development

Laws/Regulations	Issues	Violated Norms
Law No. 7/2012 on Social Conflict Settlement	Articles 33 and 34 that stipulate the involvement of the Military in settling social conflicts	The keyword social conflicts that result in disruption of national stability and obstruction of national development, is very pro-investment
Law No. 3/2020 on the amendments of Law No. 4/2009 on Mineral and Coal Mining	Article 162: 'Every person that hampers mining activity…'	Environmental Issue, Respect for Indigenous Communities
Law No. 11/2020 on Jobs Creation, as amended through Law No. 6/2023	Workers' Rights violations	Opens up the possibility of increasing and eliminating limitations of outsourced workers. No clear and specific boundaries on the utilisation of Time-Based Contracts (PKWT)/contracted workers.
Law No. 2/2012 on Land Procurement for Public Interest, as amended through the Law No. 11/2020	Land grabbing	(a) problems with the scope and definition of public interest so that the object of procurement becomes very broad; (b) reduction of the meaning and substance of deliberation in land acquisition; (c) institutional issues

Laws/Regulations	Issues	Violated Norms
		and the results of valuation by appraisal that affect compensation; (d) strengthening formal procedures through the courts for citizens who defend their rights.[26]

Besides those laws and regulations, there are several court's decisions which are regressive towards the BHR principles development.

Table 9:
Regressive Court Decisions

Decision	Description
Supreme Court Decision No. 99 PK/TUN/2016	Annulment of the Semarang Administrative Court and Surabaya Appellate Administrative Court's Decisions
Supreme Court Decision No. 490 K/Pdt/2018, 24 May 2018	Annulment of the Samarinda District and Appellate Courts
Pekanbaru District Court Decision No. 157/ Pdt.G/2013/PN.Pbr, 3 March 2013 Pekanbaru Appellate Court No. 79/PDT/2014/PT.PBR, 28 November 2014	Ministry of Environment and Forestry (KLHK)'s lawsuit against PT Merbau Pelelawan Lestari (MBL) on non-permitted deforestation

8. ENCOURAGE THE IMPLEMENTATION OF MANDATORY HUMAN RIGHTS DUE DILIGENCE POLICIES

Based on the regulatory analyses, up until now there has not yet been any national legislations, regulations, and policies that specifically and explicitly stipulate Human Rights Due Diligence (HRDD). The absence of regulation on mandatory human rights due diligence requirements does not mean that there is no channel or platform for mitigating and remedying adverse human rights risks. There are policy instruments that are promotive and intersect with the implementation of Human Rights Due Diligence, such as (1) Minister of Maritime Affairs and Fisheries Regulation No. 2 of 2017 on Fisheries Human Rights Certification, (2) Presidential Regulation No. 44 of 2020 on the Indonesian Sustainable Palm Oil Plantation Certification System, and (3) Financial Services Authority (OJK) Regulation No. 51/POJK.03.2017 on the Implementation of Sustainable Finance for Financial Services Institutions, Issuers and

26 Agus Suntoro, Tinjauan HAM Terhadap Regulasi Pengadaan Tanah Bagi Kepentingan Umum, Jurnal HAM, Vol 10, No. 2, hal. 217-232, Desember 2019.

Public Companies, which is a regulation of the Financial Services Authority (OJK). /2017 on the Implementation of Sustainable Finance for Financial Services Institutions, Issuers and Public Companies, which is the legal basis for mandatory Sustainability Reports for public companies in Indonesia to be open (disclosure) of company actions in the context of Environmental, Social and Sustainable Governance (ESG).

UNWG assessment suggested that the implementation of HRDD is still stagnating. Reflections of HRDD that were supposed to appear in a series of legislation and government policy frameworks, such as mandatory disclosure of risks of modern slavery in supply chains, are still deadlocked. Most of the world's countries do not fulfil their obligations to human rights standards, there are inconsistencies in legislation and stagnation in the implementation of enforcement to protect labour groups and affected communities. Moreover, in general, governments do not provide a complex set of guidelines on human rights due diligence and support tailored to the size, sector, operational context, ownership and structure of business entities, including small and medium-sized enterprises.[27]

Picture 1:
Embedded Responsible Business Conducts into Policies and Management Systems for Human Rights Due Diligence

27 OHCHR, *Corporate Human Rights Due Diligence: Emerging Practices, Challenges and Ways Forward,* Summary of the Report of the Working Gorup on Business and Human Rights (UNWG) to the General Assembly, October 2018.

In Indonesian context, the result of the analyses concluded that there has not yet been any specific and explicit national legislation that regulates HRDD. Despite that, The UNWG report states that the policy framework applied in emerging market mechanisms, such as Indonesia, is inspired by and adopts the concept of HRDD in the UNGPs. The progressiveness of the Indonesian Government in the policy framework is manifested in the Minister of Marine Affairs and Fisheries Regulation No. 2 of 2017, which stipulates the requirements and certification mechanisms to ensure that the fishing industry is free from human rights violations. Then, the Presidential Regulation No. 44/2020 on the Indonesian Sustainable Palm Oil Plantation Certification System, with a focus on realizing supply chain transparency, respect and corporate responsibility for workers' rights, implementation of grievance mechanisms, and management of the environment, natural resources and biodiversity

UNGPs Principle 4 on The State-Business Nexus requires Human Rights Due Diligence for companies owned or controlled by the State, or that receive substantial support and services from State bodies such as export credit agencies and official insurance or investment guarantee agencies. In this regard, especially referring to State-Owned Enterprises (SOEs), due to the authority and power that the State has over SOEs or State-controlled companies, the 2016 UNWG report recommends that States establish policies, rules and regulations that lead to a framework of legally binding instruments in relation to human rights due diligence. In the official release of the OHCR, Dante Pesce as Chair of the UNWG, called for "States to show real leadership, and require the companies they own or control to be role models on human rights."[28]

However, the regulatory regime of state-owned enterprises and private companies in Indonesia has not yet regulated the obligation of state-owned companies to implement HRDD in line with international human rights obligations. Law No. 40/2007 on Limited Liability Companies and the Regulation of the Minister of State-Owned Enterprises concerning the Social and Environmental Responsibility Program which is regulated annually,[29] is only limited to regulate Corporate Social Responsibility (CSR) and Environmental Management (EM). Civil society groups view CSR with scepticism, as despite being mandatory and legally binding, CSR allows companies to burnish their reputations while avoiding real accountability for their involvement in behaviour that violates human rights.[30] This shows the paradigm difference

28 https://www.ohchr.org/en/press-releases/2016/06/state-owned-enterprises-must-lead-example-business-and-human-rights-new-un

29 Peraturan Menteri Badan Usaha Milik Negara tentang Perubahan Atas Peraturan Menteri Badan Usaha Milik Negara Nomor PER-05/MBU/04/2021 Tentang Program Tanggung Jawab Sosial dan Lingkungan Badan Usaha Milik Negara

30 John F. Sherman III, *Beyond CSR: The Story of the UN Guiding Principles on Business and Human Rights,* A Working Paper of the Corporate Responsibility Initiative, Harvard Kennedy Sochool: Working Paper No. 71, March 2020

between the BHR principles that focus on access to redress for victims, while emphasizing the role of the state in holding companies accountable for human rights violations. Meanwhile, CSR focuses on voluntarism and aspirational ideas about how companies should engage and contribute positively to stakeholders and society[31] although the practice is limited to only an accessory of business operations.

It is important to understand that there is no single implementation of the mandatory HRDD. The norms contained in the UNGPs, when set out in a legally binding regime, have different interpretations and regulatory typologies with different legal and regulatory possibilities.[32] The key point in the effort to implement human rights due diligence regulations requires meaningful discussion and participation from all actors – policymakers, legislators, businesses, unions, civil society organizations and other stakeholders – who must have clarity and a common view on the various legislative and regulatory options to be implemented.

Despite that, Indonesia has not adopted a Law on the HRDD Process. In the context of the global supply chain, one of them is Indonesian companies that have trade cooperations and partnerships with the European Union (EU) are bound by three EU regulations in realizing responsible business conduct, namely the EU Corporate Sustainability Due Diligence Directive (EUCSDDD), which was formally adopted into law on 13 June 2024 and published in the EU Official Journal on 5 July 2024, as well as the European Union Deforestation-Free Regulation (EUDR) which has been postponed until 30 December 2025, and the EU Corporate Sustainability Reporting Directive (EUCSRD) which began on 1 January 2024. This regulation mandates companies to identify, prevent, and mitigate the negative impacts of company activities on human rights and the environment. In addition, it is also to form a transparent, sustainable and responsible Global Supply Chain.

Furthermore, international developments that have also led to the spirit of realizing responsible business practices with the emergence of various mandatory legislative frameworks for Human Rights Due Diligence, especially in the European Union and European countries, which have also been followed by Asian countries such as Japan which has established Guidelines on Respecting Human Rights in Responsible Supply Chains (the "HRDD Guidelines") in 2022, and the South Korean Parliament which proposed a "Bill on Human Rights and Environmental Protection for Sustainable Business Management" to the National Assembly on 1 September 2023, must be followed by the Indonesian Government. The paradoxical view that considers human rights as an aspect that hinders investment is no longer valid in international fora. All countries are competing to create transparency and accountability in the operation of companies, which according to research results actually provide certainty and sustainability for economic growth, climate change adaptation and mitigation and fulfilment of the SDGs goals.

Commitment on BHR can begin with the continuation of the Presidential Regulation No.

31 Anita Ramasastry, Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability, Journal of Human Rights 14, 2015, 250.

32 OHCHR, Mandatory Human Rights Due Diligence Regimes, Some Key Considerations, June 2020.

60/2023 on National Strategy on Business and Human Rights (2023-2025), which will end this year. Evidence-based evaluation of the three-year implementation of the BHR National Strategy must be the basis for strengthening aspects that have not been regulated and are considered ineffective, from the objectives of the BHR National Strategy as a national policy direction that contains strategies and steps to be used as a reference for ministries, institutions, regional governments, business actors, and other stakeholders for the advancement of the business world by paying attention to the protection and restoration of human rights. In the long term, the government must have a vision related to mandatory legislation on human rights and environmental due diligence.

9. PREVENT THE FINANCIAL SECTOR FROM FINANCING PROJECTS THAT HAVE THE POTENTIAL TO VIOLATE HUMAN RIGHTS

The UNGPs set out norms on the responsibility of companies to respect human rights and the duty of states to ensure that they do so, as well as the need for effective remedies when rights are violated. Financial institutions or banks are not explicitly addressed in the UNGPs, but these entities are subject to the same requirements as other businesses. For banks and asset managers, exposure to human rights issues primarily comes from providing financing or other financial services to clients who may be involved in violations, as well as from owning shares. Principle 13(b) of the UNGPs states that businesses should "avoid causing or contributing to adverse human rights impacts" and should "seek to prevent or mitigate adverse human rights impacts that are directly related to their operations, products or services through their business relationships, even if they do not contribute to those impacts."

In 2023, Office of the United Nations High Commissioner for Human Rights (OHCHR) clarified that financial institutions are responsible for the impacts of business activities that they finance, and with a minority share in a company is a 'direct relation' which obligates every shareholder to 'prevent and mitigate' the impacts. These practices are carried out through human rights due diligence which requires companies to identify, prevent, mitigate and disclose human rights impacts related to them. Such practices should be integrated into routine business activities essential for a range of financial actors, including institutional investors, banks and financial advisors.[33]

In Indonesia, the Financial Services Authority (OJK) has developed regulations for the implementation of sustainable finance that encourage financial institutions to carry out responsible financing and contribute to the environment and society. Several regulations to support the implementation of sustainable finance are the Sustainable Finance Roadmap Phase 1 and 2, OJK Regulation No. 51/2015 on the Implementation of Sustainable Finance for Financial Services Institutions, POJK 60 of 2017 concerning the Issuance and Requirements of Environmentally Conscious Debt Securities (Green Bonds), to the latest Green Taxonomy document as a guideline for classifying business sectors that contribute to

33 https://www.undp.org/sites/g/files/zskgke326/files/2024-06/final_esg_investment_in_asia_report.pdf

environmental conservation. The implementation of sustainable finance is also strengthened by the obligation for banks to develop a Sustainable Finance Budget Plan (RAKB) and sustainability reports. This policy encourages banks to be more accountable and transparent in the financing they carry out.

According to the assessment by Responsibank in 2022, from 11 banking institutions, most of the bank's sustainability information or policies do not yet refer to international standards such as the Equator Principles, IFC Environmental, Health, and Safety Guidelines, IFC Performance Standards, OECD Guidelines for Multinational Enterprises, UN Global Compact, UN Principles for Responsible Investment, and UN Principles for Responsible Banking. This assessment is based on 16 themes, including workers' rights and human rights.[34]

The 2024 TuK INDONESIA report with the Forests & Finance Coalition, titled Banking on Biodiversity Collapse (BOBC), revealed that since the Paris Agreement, Indonesian banks such as Bank Mandiri, BRI, BCA and BNI have become the largest banks in Southeast Asia that risk or pose risks to forests in Indonesia.[35] Based on market capitalization (June 2023) these banks provide financing of around USD 30.5 billion (40%) of the total credit for palm oil, pulp & paper, rubber and wood companies operating in Indonesia.[36]

The factors that caused the above conditions are due to the fact that the Indonesian financial sector has not addressed the risks associated with shadow companies that are under the same control as the largest producer groups in Indonesia. In addition, the weakening of the OJK Green Taxonomy as a regulator which has changed to Sustainable Finance Taxonomy Indonesia (TKBI) in early 2024 weakened environmental guidelines in several sectors including energy and mining, thus sending confusing signals to financial market players about where they should allocate their capital. TKBI has removed the 'red' category altogether for a number of high-impact activities – for example, nickel mining with no clear time limit on how long this transition category will end.[37]

On 13 November 2024, TuK Indonesia filed a lawsuit for Unlawful Acts (PMH) against Bank Mandiri with the case No. 1186/Pdt.G/2024/PN.JKT.SEL, due to the inconsistent ESG commitment by Bank Mandiri through financing PT. Astra Agro Lestari (AAL) and its subsidiary, PT. Agro Nusa Abadi (ANA). This lawsuit is based on allegations that PT. AAL is considered to support practices that damage the environment, violate human rights and ignore the principles of sustainability. Meanwhile, PT. ANA is in the spotlight for alleged involvement in agrarian conflicts, violations of the law, and human rights violations in their business operational areas. This lawsuit was filed in demand of an accountability from financial institutions (banking) for funding potential violations of the law, human rights and environmental damage.[38]

Meanwhile, in the case of Kendeng cement industrial hill in Rembang, it is discovered that

34 Perkumpulan PRAKARSA. (2022). Laporan Pemeringkatan Bank 2022: Mengukur Kemajuan Kebijakan Keuangan Berkelanjutan Perbankan di Indonesia. Perkumpulan PRAKARSA: Jakarta.

35 Forest &Finance, Membiayai Hancurnya Keanekaragaman Hayati 2023: Banking on Biodiversity Collapse, Indonesia Edition, maret 2024.

36 https://www.tuk.or.id/2024/03/7345/

37 https://www.tuk.or.id/2024/03/7345/

38 https://www.infosawit.com/2024/11/28/tuk-indonesia-gugat-bank-mandiri-terkait-pelanggaran-komitmen-keberlanjutan/

financial services sector is responsible on the environmental destruction, social and cultural damage to the local residents of Kendeng Utara Hill. During the period of 2018-2022, the flow of financing received by HeidelbergCement and PT Indocement Tunggal Perkasa from banks reached 2.9 billion Euros. Financing provided by banks and investors in the form of loans, bonds, share ownership or bond ownership. Meanwhile, during the same period, PT Semen Indonesia had a flow of financing reaching 228.1 million Euros. The three banks involved in financing this potentially human rights-violating project are suspected of involving Bank Mandiri, BNI, and Deutsche Bank. Factors that encourage irresponsible financing by the three largest financiers of the cement industry in Rembang Regency include the absence of financing policies and practices that prioritize sustainability aspects by avoiding financing that damages the environment and social aspect. [39]

Banking intermediation performance continues to improve and grow positively with a maintained risk profile. In September 2024, credit growth continued double digit growth of 10.85 percent yoy (August 2024: 11.40 percent) to IDR7,579.25 trillion. Based on the type of use, Investment Credit grew the highest at 12.26 percent, followed by Consumer Credit at 10.88 percent, while Working Capital Credit at 10.01 percent. In terms of bank ownership, state-owned banks were the main drivers of credit growth at 12.80 percent yoy. Based on the debtor category, corporate credit grew by 15.43 percent, while MSME credit also continued to grow by 5.04 percent.[40]

With the increase in financing by financial services and banking institutions, the government shall pressure the sector to be open about their finances are provided to the natural resources sector, and other sectors with the potential of human rights violations and environmental damages.

10. SERIOUSLY RESPOND TO EFFORTS TO INTEGRATE BUSINESS AND HUMAN RIGHTS IN ESG

The framework of ‘Protect, Respect, and Remedy’ of the UNGPs is widely regarded as the most authoritative normative framework in the world to guide responsible business practices. This framework elaborates the tasks of the government and responsibilities of corporations and investors on the handling of negative impacts caused by business operations

ESG investments rests on the recognition that environmental, social and governance issues shape a company’s risks and opportunities, and that taking these issues into account in investment decisions can enhance long-term returns while potentially driving more responsible and resilient businesses. In recent years, this has been embraced by investors and asset managers, driven by the promise of sustainable returns and growing public concern about climate, conservation and human rights.

In the UN Working Group on Business and Human Rights report entitled “Raising the Ambition-

39 The Prakarsa, Pelanggaran Hak Warga dan Tanggung Jawab Bank Dalam Pembiayaan Industri Semen di Pegunungan Kendeng Utara, The Prakarsa, 2022.

40 https://ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/Stabilitas-Sektor-Jasa-Keuangan-Terjaga-di-Tengah-Meningkatnya-Risiko-Geopolitik-RDKB-Okt-2024.aspx

Increasing the Pace: UNGPs 10+ a Roadmap for the Next Decade of Business and Human Rights (2021), one of the goals to be achieved in the next decade is to capitalize on the financial sector's ESG momentum and align the letter S in the ESG acronym with the UNGPs. The increasing momentum of ESG provides an opportunity for faster progress. However, to ensure that this development helps drive better business practices that lead to positive outcomes for people and the environment, there is a need to mainstream the understanding that the UNGPs provide the core S content in ESG, while the UNGPs are also relevant across ESG considerations.

UNWG emphasised that within a decade all leading ESG frameworks and sustainability reporting standards have explicitly aligned with the UNGPs, including the integration of human rights due diligence as a core element of sustainable business and investment activities used by the financial sector. The integration of human rights due diligence is intended so that sustainability and ESG reporting platforms are not limited to using indicators related to policy assessments, audit findings, training, and allegations, but to evaluate whether a company's governance, culture, and actual practices respect human rights.

Table 10:
Multistakeholder Roles in the Integration of BHR into ESG

Entity	Role
State	• Ensure that human rights due diligence aligned with the UNGPs is an explicit element of ESG definitions, frameworks, standards, taxonomies, including sustainable finance disclosure regulations, and clarify that respect for human rights is part of and responsible stewardship. • All leading ESG frameworks and sustainability reporting standards are explicitly aligned with the UNGPs, including the integration of human rights due diligence as a core element of sustainable business and investment activities. • Build the capacity of regulators/policy makers to address ESG "greenwashing" that is inconsistent with human rights due diligence. • Work towards universal implementation of mandatory human rights due diligence across financial institutions. • Ensure greater transparency and accountability for the human rights performance of private capital market participants, including private equity firms.
Financial Institution	• Adopt a human rights policy and embed human rights due diligence and develop a grievance management approach consistent with the UNGPs in their own governance frameworks and investment decision-making processes. • Engage investees in constructive dialogue to promote: (1) the adoption of an effective human rights policy, governance, due diligence and grievance mechanism and (2) the provision of remedies for victims of human rights violations where the investee has caused or contributed to adverse human rights impacts. • Publicly disclose how the institution addresses significant human rights risks and impacts associated with investment activities.

Investor associations and networks	• Calls for the alignment of ESG benchmarks, data providers and reporting frameworks with the UNGPs and establishes requirements for investor members to implement human rights due diligence in accordance with the UNGPs and hold investor members accountable for poor performance in embedding respect for human rights in investment decisions and management activities.
Stock exchanges (Bursa Efek)	• Harmonising ESG requirements and guidelines with the UNGPs
State and Business Enterprises	• Apply ESG reporting with the same level of rigor as financial quality and traceability and reporting. • Engage with ESG reporting frameworks, benchmarks, and data providers to ensure that research methodologies, corporate performance data, and advisory services used to assess investees are aligned with the UNGPs and reflect real outcomes for society. Where appropriate, commit to supporting the development of new frameworks or improved approaches to evaluating human rights performance. • Call for alignment of ESG benchmarks, data providers, and reporting frameworks with the UNGPs.

There are several examples of the application of ESG principles by the financial services sector. Bank Mandiri has distributed ESG credit worth IDR 285 trillion as of September 2024. Bank Mandiri also launched ESG Mutual Fund for the retail market.[41] Then, PT Bank Negara Indonesia (Persero) Tbk. or BNI continues to demonstrate its commitment to sustainability by distributing green financing of IDR 73.4 trillion throughout 2024. This green financing is part of a sustainable financing portfolio totalling IDR 190.5 trillion or around 25 percent of the company's total credit.[42] In addition, BNI also introduced the Sustainability Linked Loan (SLL) product which reached IDR 6 trillion in December 2024. BNI's commitment to sustainability is increasingly reflected in its growing green financing portfolio and efforts to educate debtors through the BNI ESG Sustainability & Transition (BEST) programme.[43]

41 https://keuangan.kontan.co.id/news/bank-mandiri-salurkan-kredit-esg-senilai-rp-285-triliun-per-september-2024

42 https://fbeta.republika.co.id/amp/sqhp3g416/sepanjang-2024-bni-salurkan-pembiayaan-hijau-hingga-rp-734-triliun

43 https://fbeta.republika.co.id/amp/sqhp3g416/sepanjang-2024-bni-salurkan-pembiayaan-hijau-hingga-rp-734-triliun

IV. CONCLUSION

As an important component for the company's sustainability report, which will become a reference and recognised globally by corporations around the globe, the ESG topic refers to, one of them, the Global Reporting Initiatives (GRI) Standards, which has to become the basis and instrument for BHR principles disclosure in Indonesia. Topics such as climate change, deforestation, labour relations, human rights, supply chains, regulatory compliance, and many more, are important topics in the BHR operation.

ESG topics that have not included the variable of Pillar of Corporate Responsibility to Respect Human Rights, such as the promulgation of Human Rights Policy Commitment (HRPC), HRDD, and access to remedy, demand the perfecting of BHR principles integration.

The use of the ESG framework in determining 10 priority issues of Business and Human Rights in Indonesia is intended to facilitate and assist countries and companies in identifying roles for the prevention and restitution of victims of human rights violations by business operations. Issues such as governance of the plantation, mining and infrastructure development sectors will be in line with environmental and governance topics in ESG. Then, the issue of ensuring the protection of workers and trade unions to realise decent work is also in line with social topics in ESG. Likewise, the issue of encouraging carbon trading schemes, preventing climate change and equitable deforestation, is parallel to environmental topics in ESG. Moreover, the UNWG mandates to utilise the momentum in the financial sector that utilizes ESG in investment and financing aspects must be aligned with business and human rights principles, so that the implementation of the UNGPs can truly be implemented fairly and responsibly (from principles to practices).

In addition to serving as a roadmap for regulating government policies and corporate initiatives that have been shown to have detrimental effects on workers' and society's human rights, the ten (10) priority issues for business and human rights in Indonesia in 2025 are a first step in determining the roles and performance of the government, corporations, civil society organisations, trade unions, academics, and impacted community groups in advancing the principles of business and human rights in Indonesia (most severe human rights impacts).[]

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Principles of BHR contained in the UN Guiding Principles on Business and Human Rights (UNGPs) have transformed, not only as a global authoritative norm in order to protect, respect and restore human rights resulting from business operations, but also into a core set of laws and legislation in various countries. Indonesia itself has shown significant normative progress in adopting the Business and Human Rights principles. The stipulation of Presidential Regulation No. 60 of 2023 on the National Strategy for Business and Human Rights, is a big leap in the integration of BHR principles into the national law.

As the background to the preparation of the BHR Outlook 2025, SETARA Institute together with SIGI Research and Consulting have identified several priority agendas in 2025, which are expected to guide discourse and sustainable programmatic interventions in accelerating responsible business practices.

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