

HUMAN RIGHTS PROTECTION IN CORPORATE SECTOR: A LEGAL ANALYSIS

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Abstract. *This study examines the human rights protection in Indonesia's business sector amid the rapid expansion of contemporary economic activities. Using a normative juridical method supported by statutory, conceptual, and theoretical approaches, the research analyzes the legal dynamics of human rights issues in corporate practices and the dilemmas that arise in their regulation. The findings show that the discourse on business and human rights has gained increasing prominence at global and national levels, encouraging Indonesia to adopt Presidential Regulation Number 60 of 2023 concerning the National Strategy on Business and Human Rights. Although this regulation provides a policy framework for promoting responsible business conduct, it still presents substantive limitations, particularly the absence of a designated independent institution to monitor corporate compliance. This institutional gap reduces the effectiveness of implementation and weakens the state's capacity to ensure adequate human rights protection in the business environment. Therefore, this study recommends revising Presidential Regulation Number 60 of 2023 and appointing the National Human Rights Commission (Komnas HAM) as the independent supervisory body, in accordance with the mandate of Article 1 of Law Number 39 of 1999. Strengthening regulatory clarity and institutional oversight is essential to improving human rights protection in Indonesia's business sector.*

Keywords: *Corporate Accountability, Human Rights Protection, Legal Analysis, Legal Enforcement Mechanisms.*

1. Introduction

As a core principle in legal scholarship, human rights (HAM) serve as a framework for interpreting the responsibilities of the state and other entities. In theory, human rights are innate, inherent, and fundamental rights granted by God, which must be honored, preserved, and safeguarded. The core purpose of human rights is to ensure the full dignity and existence of every human being through a harmonious balance between

individual and collective interests (Harahap & Thesa, 2023). Contemporary human rights scholarship emphasizes that these inherent rights also function as normative standards guiding state conduct and regulating the responsibilities of non-state actors, particularly corporations whose activities increasingly affect the enjoyment of fundamental rights (Ruggie, 2014). Furthermore, the obligation to respect, protect, and fulfill human rights constitutes a shared and collective responsibility that extends beyond the state as an abstract entity to encompass individuals, public officials, law enforcement authorities, civilian and military institutions, and all organs of government, each acting within their respective roles and capacities to ensure the effective realization and safeguarding of human dignity (Triwahyuningsih, 2018). This tripartite obligation has been further developed in international human rights discourse to include corporate actors, requiring them to avoid infringing upon human rights and to address adverse impacts linked to their operations (Deva, 2016).

In Indonesia, the protection of human rights is outlined in the 1945 Constitution of the Republic of Indonesia, which declares that all individuals possess civil, political, economic, social, and cultural rights (Nazril et al., 2024). The inclusion of human rights principles in the 1945 Constitution emerged from a lengthy process. Throughout the first to the fourth constitutional amendments, comprehensive human rights provisions were added, specifically within Articles 28A to 28J (Arliman, 2017). Although a progressive legal framework has been established, the implementation of human rights in Indonesia still faces significant challenges.

Articles 28I–28J of the 1945 Constitution affirm that human rights are inherent to human dignity, must be upheld, cannot be limited under any condition, and must be acknowledged and respected by the state, the government, and all individuals. Law Number 39 of 1999 on Human Rights serves as the legal basis for the protection and enforcement of human rights in Indonesia. The law outlines general principles of human rights, establishes the National Human Rights Commission (Komnas HAM), and sets out mechanisms for addressing human rights violations (Afifah, 2024).

Komnas HAM was founded on June 7, 1993, during the New Order era under President Soeharto through Presidential Decree Number 50 of 1993 on the National Human Rights Commission. Article 1 of the decree states: “To enhance the implementation of human rights in Indonesia, a national commission is formed and named the National Human Rights Commission, hereinafter referred to as the Commission.” The institution was later reinforced through the Human Rights Law and the Human Rights Court Law. Komnas HAM functions as a quasi-state body—an auxiliary institution within the state structure formed by statute, equal to other state bodies, and operating independently with a specialized mandate (Sinaga & Riwanto, 2022).

Komnas HAM is tasked with safeguarding human rights for every citizen, monitoring and supervising the protection of citizens (Mochtar & Satriawan, 2008). According to Komnas HAM Commissioners, business and human rights have become a focus because there are 1,777 complaints related to corporations, particularly from the corporate, agrarian, and labor sectors (Dr. Abdul Haris, 2025). However, companies also have corporate responsibilities. Accountability states that a company's responsibility extends not only to shareholders but also to stakeholders (Sudirman & Disemadi, 2021). Existing literature has largely concentrated on traditional forms of abuse, with an emphasis on discrimination and rights violations committed by individual actors. However, recent

studies demonstrate that structural and systemic violations increasingly arise from corporate activities, particularly in sectors involving natural resource exploitation, large scale infrastructure, and global supply chains (Qurbani & Rafiqi, 2022).

Business and human rights form an interconnected field, as any discussion on business operations inevitably relates to potential human rights violations. Existing literature has largely concentrated on traditional forms of abuse, with an emphasis on discrimination and rights violations committed by individual actors, often overlooking structural or state based dimensions. However, shifts in the global business environment have generated new forms of violations committed by companies or corporate actors. Despite this, current studies have not adequately explored the legal challenges and regulatory shortcomings in ensuring effective accountability of both the state and corporations, especially within Indonesia's evolving framework on business and human rights.

Over the past two decades, scholars and practitioners in the field of human rights have increasingly examined the role of non state actors, especially business entities, in relation to human rights issues (Sandang, 2019). This shift reflects growing recognition that voluntary corporate social responsibility initiatives are insufficient to ensure accountability, thereby necessitating clearer regulatory frameworks and state oversight mechanisms (Ramasastry, 2015). This effort emerged in response to the growing incidence of human rights abuses involving corporations, whether through direct or indirect involvement. Additionally, cross-border business operations have led to violations that national legal systems are unable to effectively resolve. One notable example is the case involving PT Freeport, which has been linked to a series of mysterious shootings despite operating under strict security. A major incident occurred in August 2002 at Mile 62–63 along the Tembagapura–Timika road, drawing both national and international attention (Indarti, 2021).

Based on this, corporations should be encouraged to obtain human rights certification. Certification is a series of activities to issue certificates for goods and/or services. A certificate is a written guarantee provided by an accredited institution/laboratory stating that goods, services, systems, or personnel meet the required standards (Pudjiastuti & Femina, 2010). This research aims to examine the dynamics of human rights within the business sector in Indonesia and to analyze the necessity of establishing a human rights certification mechanism for corporations, particularly in the absence of a specialized certification body.

2. Research Methods

The study employs a normative juridical method. The aim of this approach is to identify and describe the legal norms in force within a given legal system and to offer a systematic explanation of the regulations that apply to a particular legal field (Tan, 2021). The type of data used includes primary data, namely interviews with Commissioners of the National Human Rights Commission (Komnas HAM). In addition, this research uses secondary data, consisting of primary legal materials such as Law Number 39 of 1999 on Human Rights and Presidential Regulation Number 60 of 2023. To address the research questions, three analytical bases are utilized: a juridical basis (statutory regulations), a conceptual basis, and a theoretical basis, with the applied legal theory being Philipus M. Hadjon's Theory of Legal Protection. This theory functions as

an analytical framework for examining the significance of human rights certification for corporations, especially in offering preventive forms of protection.

3. Results and Discussion

3.1. The Dynamics of Human Rights in the Business World

Both domestic and international business sectors have become progressively more conscious of the need to respect and protect human rights within their operations. This rising awareness is reflected in data from the Castan Centre for Human Rights Law, a human rights research institute at Monash University, Australia, which notes that over 5,000 multinational corporations across 130 countries have joined the United Nations Global Compact (UN Global Compact) (Joseph et al., 2008). Concerning the responsibility of the business sector to uphold human rights, the UN Norms on the Responsibilities of TNCs and Other Business Enterprises with Regard to Human Rights identify four categories of human rights that businesses are required to respect:

"Business entities shall ensure equality of opportunity and treatment with a view to eliminating discrimination based on sex, race, religion and other recognized categories of individuals; business entities shall not engage in or benefit from war crimes, crimes against humanity, genocide, torture, force disappearances, forced or compulsory labour and a range of other abuses of the right of the security of the person; business shall recognized the right to collective bargaining ; and obligations with regard to consumer protection and environmental protection."

Of the ten principles contained in the UN Global Compact, the first two mandate that companies support and respect the protection of human rights and ensure that their activities do not contribute to any form of human rights abuse. Principles three through six focus on labor rights, particularly the freedom of association, recognition of collective bargaining, the eradication of forced and child labor, and the elimination of discrimination in the workplace. The UN Global Compact has thus become a key framework for fostering collaboration between businesses and human rights enforcement, especially in protecting workers' rights (Pally, 2016).

These international norms demonstrate that business and human rights are closely interconnected, both globally and domestically. At the national level, Indonesia has already established a legal framework for human rights protection, as reflected in the 1945 Constitution. Article 28I paragraph (4) affirms that 'the protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state.' Similarly, Law No. 39 of 1999 states in Article 1 that human rights are 'a set of rights inherent in the nature and existence of human beings as creations of God,' thereby requiring the state to ensure their protection. Internationally, human rights obligations are outlined in various treaties and conventions, such as the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Elimination of Racial Discrimination, multiple ILO Conventions, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, among others (Darajati & Syafei, 2017).

The Indonesian government holds a constitutional obligation to respect, protect, and fulfill human rights, as well as to implement international human rights commitments.

Indonesia adheres to both binding and non-binding international guidelines. In line with the 1945 Constitution, national development must be pursued through sustainable principles that uphold human rights values. As the primary driver of national development, the state is responsible for safeguarding and restoring human rights in order to achieve public welfare, peace, stability, and justice. Likewise, all individuals including business actors share the duty to respect and uphold human rights in accordance with existing laws, pursuing the same overarching goals.

The growing intersection between business activities and human rights has prompted the development of international standards such as the United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNGPs articulate a global consensus that while states bear the primary duty to protect human rights, corporations also have an independent responsibility to respect human rights throughout their business operations (Backer, 2012).

To provide legal certainty and uphold justice in protecting human rights within the business sector, a National Strategy on Business and Human Rights (Stranas BHAM) is essential. This strategy reflects a collective commitment from all stakeholders the government, the business community, and civil society to prioritize the principles outlined in the United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNGPs function as a global framework adopted by many countries, including Indonesia, to ensure that business activities are conducted without infringing upon human rights.

Through this resolution, the UN Guiding Principles (UNGPs) have been recognized as a framework that helps enhance global standards and practices concerning business and human rights. The UNGPs are designed to prevent and respond to adverse human rights impacts arising from business operations. At the national level, the Indonesian government has enacted Presidential Regulation Number 60 of 2023 on the National Strategy on Business and Human Rights, which establishes the framework for implementing Stranas BHAM. Nevertheless, scholars have noted that policy frameworks based primarily on voluntary compliance and soft-law mechanisms tend to face implementation challenges, particularly in the absence of binding obligations, sanctions, and independent monitoring institutions (Elsita & Simamora, 2025). Comparative studies show that effective business and human rights regimes require independent oversight institutions to monitor compliance, investigate complaints, and provide remedies for victims of corporate-related human rights violations (Waagstein, 2010).

3.2. The Dilemma of Human Rights Protection in the Business World

The National Human Rights Commission (Komnas HAM) also places significant focus on business and human rights issues. As outlined in Article 75 of Law Number 39 of 1999 on Human Rights, Komnas HAM is mandated to create an environment that supports the effective implementation of human rights in line with Pancasila, the 1945 Constitution, the UN Charter, and the Universal Declaration of Human Rights. To fulfill this mandate, Komnas HAM carries out various functions, including monitoring, mediation, research and study, as well as human rights education.

In fulfilling its monitoring role, Komnas HAM handles complaints concerning business and human rights. Between 2020 and 2023, the Commission received 1,737 complaints involving corporate entities, with agrarian conflicts and labor issues being the most

frequently reported. Beyond managing these cases, Komnas HAM has also produced various studies on business and human rights, including the National Action Plan on Business and Human Rights (2017), Corporate Social Responsibility with a Human Rights Dimension: Theoretical Review and Universal Principles and Its Implementation in Indonesia (2013), and the Norms and Standard Procedures (SNP) on Business and Human Rights (2023).

Data on the typology of human rights violations reported to the National Commission on Human Rights indicate that complaints involving business entities predominantly fall into three major categories: agrarian conflicts, employment disputes, and environmental destruction or pollution. Agrarian related violations primarily involve overlapping land claims, disputes over compensation payments, and the use of security forces in land acquisition processes. Employment-related violations encompass a wide range of issues, including termination of employment, disputes over wages and other benefits, restrictions on the formation and activities of labor unions, prohibitions on strikes, as well as disciplinary measures such as suspension and demotion. In addition, environmental violations arise from business activities that cause environmental degradation and pollution. Collectively, these categories represent the most recurrent forms of human rights violations associated with corporate activities, highlighting structural patterns of conflict between business operations, workers' rights, community land rights, and environmental protection.

Data compiled by the National Commission on Human Rights demonstrate that human rights violations involving business actors occur across a wide range of economic sectors, reflecting the complexity of contemporary business activities. In the plantation, mineral and coal mining, and forestry sectors, violations are predominantly associated with land disputes, often accompanied by environmental destruction, particularly in extractive industries. Major infrastructure development projects, such as the New Yogyakarta International Airport and the Mandalika Circuit, have also been linked to land-related conflicts. In the industrial and manufacturing sectors, as well as in finance and trade, human rights violations most frequently manifest in the form of employment disputes. Meanwhile, the fisheries sector presents distinct issues, including the repatriation of deceased Indonesian crew members from foreign flagged vessels and licensing-related problems, while the oil and gas sector raises concerns regarding access to coastal areas for local residents and fishermen. These patterns indicate that rapid global and national business development has generated a wide array of legal and human rights challenges that require serious attention. In response to the growing intersection between business activities and human rights, the international community has developed the United Nations Guiding Principles on Business and Human Rights (UNGPs) as a global framework to improve standards and practices. At the national level, these principles have been translated into domestic policy through Presidential Regulation (Perpres) Number 60 of 2023 concerning the National Strategy for Business and Human Rights (Stranas BHAM), which provides a comprehensive framework for strengthening the protection, respect, and fulfillment of human rights in business activities.

Considering the background behind the issuance of Presidential Decree Number 60 of 2023, several key points must be noted in promoting business practices that protect and empower indigenous communities. Observing the development of the national economic sector, the government has introduced numerous policies aimed at achieving a welfare state. According to Presidential Decree Number 60 of 2023, national development must

be implemented using sustainable development principles that uphold human rights values. As a central actor in national development, the state carries the duty and responsibility to safeguard and restore human rights in order to achieve prosperity, peace, stability, and justice for society. Within the business sphere, business entities are likewise responsible for respecting and upholding human rights in accordance with applicable laws and regulations. The establishment of Presidential Decree Number 60 of 2023 is closely connected to global (UN) guidelines on Business and Human Rights, which introduce three fundamental pillars: (1) the state's duty to protect human rights; (2) the responsibility of business actors to respect human rights, and (3) access to remedies (Juang et al., 2024)."

However, Presidential Decree Number 60 of 2023 has various weaknesses in terms of its legal substance, namely as follows:

Table 1 Substantial Analysis of Presidential Decree Number 60 of 2023

No	Weaknesses of Presidential Decree Number 60 of 2023	Articles in Presidential Decree Number 60 of 2023 and Their Analysis
1	This Presidential Regulation provides principles and strategies for implementing human rights in business but remains non-mandatory. Companies are not legally required to conduct human rights due diligence, creating a regulatory gap that allows many to adopt only minimal or symbolic measures. Although the term 'voluntary' is not explicitly stated, the substance and structure of the regulation show that its implementation is non-binding and lacks sanctions, effectively making it voluntary guidelines.	Article 3 letter c: "Provides guidance for business actors in respecting, protecting, and restoring human rights in business activities." Analysis: The word "provides guidance" indicates that this regulation is a guideline, not a binding norm. Article 5 paragraph (2): "Implementation of the National Strategy as referred to in paragraph (1) shall be carried out in stages and continuously by stakeholders." Analysis: There is no mention of legal obligations or sanctions for business actors who do not implement this strategy. Article 8 letter a: "Respects human rights in all business processes in accordance with applicable principles and norms." Analysis: The word "respects" here refers to the UN Guiding Principles on Business and Human Rights (UNGPs), which are soft law and voluntary unless explicitly adopted in binding national law which in this context has not been done.
2	Lack of Enforcement Mechanisms and Sanctions. This Presidential Regulation does not provide sanctions for human rights violations by corporations. The absence of clear provisions regarding legal or administrative responsibility weakens human rights protection. This contrasts with the approach of other countries	Article 3 letter c: "Provides guidance for business actors in respecting, protecting, and restoring human rights in business activities." Analysis: The phrase "provides guidance" indicates that this Presidential Regulation is normative and non-mandatory, not a legal norm that could give rise to legal liability. There is no mention of "obligation" or "sanctions" if the guidelines are not followed. Article 5 paragraph (2):

that have begun implementing mandatory human rights due diligence (mHRDD).	"Implementation of the National Strategy as referred to in paragraph (1) shall be carried out in stages and continuously by stakeholders." Analysis: There is no phrase that requires or imposes legal consequences if business actors do not implement this strategy. Implementation is described as a gradual process, without explicit consequences. Article 7: Responsibilities of Ministries/Institutions and Regional Governments Analysis: Regulates coordination, facilitation, and monitoring by Ministries/Institutions, without specifying administrative sanctions or law enforcement mechanisms for businesses that commit human rights violations. Article 8: Responsibilities of Business Actors Analysis: Article 8, letters a–f, only states that businesses must: a. "respect human rights," b. "prevent negative impacts," c. "conduct human rights due diligence," d. "provide redress mechanisms."
3 The Weak Role of Independent Oversight Institutions. This Presidential Regulation does involve the Ministry of Law and Human Rights and the Coordinating Ministry for Political, Legal, and Security Affairs in coordination, but it does not yet provide a significant role for independent institutions such as the National Human Rights Commission (Komnas HAM) or NGOs in monitoring and evaluating implementation. This has the potential to create conflicts of interest and low accountability.	Article 7 paragraph (1): "Ministries/Institutions and Regional Governments, in accordance with their respective authorities, implement the National Strategy." Article 7 paragraph (2): "The Coordinating Minister coordinates the implementation of the National Strategy..." Article 7 paragraph (3): "The Minister coordinates the implementation of monitoring and evaluation..." Analysis: All implementation and monitoring of the National Strategy for Human Rights (Stranas BHAM) involve only government agencies. No formal role is assigned to independent institutions such as the National Commission on Human Rights (Komnas HAM), NGOs, or civil society organizations in monitoring, assessing, or enforcing norms. Article 11 – Monitoring and Evaluation: Article 11 paragraph (1): "Monitoring and evaluation of the implementation of the National Strategy shall be carried out by the Minister." Article 11 paragraph (3): "The results of the monitoring and evaluation as referred to in paragraphs (1) and (2) shall be submitted to the President." Analysis: Monitoring and evaluation are carried out by the government itself (self-assessment). There is no independent oversight mechanism or structural public participation in evaluating whether business actors are truly implementing human rights protection. No Mention of the National Commission on Human Rights or Other Independent Institutions. The entire Presidential Regulation never mentions the National Commission on Human Rights, even though this

	institution is an independent state institution with the constitutional authority to: a. Monitor the implementation of human rights, b. Investigate human rights violations, c. Provide recommendations on public policy. Implications: The absence of a formal role for the National Commission on Human Rights and other independent institutions indicates a closed oversight structure, even though a human rights approach requires external accountability through the participation of civil society and independent institutions. Article 12: "Funding for the implementation of the National Strategy shall come from the State Budget (APBN), Regional Budget (APBD), and/or other legitimate sources in accordance with statutory provisions." Analysis: There is no budget or funding mandate for the involvement of independent institutions in oversight or monitoring, indicating that their role is not structurally accommodated in the policy design.
4	No Guarantee of Access to Redress for Victims. Remediation or reparation for victims of human rights violations by businesses is barely regulated. Yet, redress is a crucial pillar of the UN Guiding Principles on Business and Human Rights (UNGPs). Without a clear redress scheme, victims struggle to obtain justice. Article 2, paragraph (2), letter c: affirms that StranasBHAM "includes... access to redress for victims of alleged human rights violations in business activities." Analysis: The Director General of Human Rights stated that StranasBHAM encompasses three strategic areas: capacity building, regulation, and redress—where the government must establish a complaint mechanism for victims. The implementation structure is also evident through the establishment of National and Regional Task Forces, one of whose duties is to "strengthen effective redress mechanisms for victims." Thus, formally, access to redress is regulated—but more in principle, rather than in the form of detailed practical mechanisms (such as complaint procedures, resolution times, sanctions, and management institutions).

Based on the table 1, it can be seen that Indonesia has prepared regulations to protect human rights in the business world through Presidential Regulation No. 60 of 2023. Law must be dynamic, adapting to developments and changes in society, particularly in providing protection for the community. Based on progressive legal theory, this theory offers a dynamic approach oriented toward substantive justice in the Indonesian legal system. By emphasizing flexibility and adaptability, this theory aims to make the law more responsive to social change and community needs. This approach shifts the paradigm from formal legalism to a more humanistic approach, where law functions as an instrument for achieving social justice. The implementation of progressive legal theory in Indonesia shows potential for improving welfare and justice, particularly through more inclusive and participatory policies. The successful implementation of progressive legal theory depends heavily on the commitment and collaboration of various stakeholders, including policymakers, law enforcement officials, and the community (Siregar, 2024).

If we refer to the Progressive Legal Theory, Indonesia has actually done something very progressive by issuing Presidential Decree Number 60 of 2023, but the Presidential

Decree still has various substantial weaknesses and there is no independent institution to monitor, assess, or enforce the norms of Presidential Decree Number 60 of 2023. Therefore, there needs to be a revision of Presidential Decree Number 60 of 2023 by paying attention to several things that are weaknesses in Presidential Decree Number 60 of 2023, and appointing an independent institution to carry out the task of monitoring, assessing and enforcing its norms, the independent institution that can be appointed is the National Commission on Human Rights. This is still in line with the main duties and functions of the National Commission on Human Rights as regulated in Article 1 Paragraph (7) of Law Number 39 of 1999 concerning Human Rights, Komnas HAM is recognized as an independent institution that has an equal position with other state institutions. The National Commission on Human Rights' primary function is to conduct studies, research, outreach, monitoring, and mediation related to human rights. Furthermore, the Commission was established to improve the protection and enforcement of human rights in Indonesia and to participate in various aspects of life (Raihan & Yarni, 2024). Based on the classical theory of separation of powers, it is not clear which institution Komnas HAM belongs to. However, from the perspective of its functions as stipulated in law, Komnas HAM carries out a specific role in the field of human rights. Therefore, Komnas HAM carries out functions similar to those of the executive branch in enforcing and promoting human rights, with these authorities regulated by law (Puspitasari, 2002).

4. Conclusion

The analysis demonstrates that human rights in the business sector continue to evolve in response to the growing complexity of corporate activities at both the national and global levels. International instruments particularly the UN Guiding Principles on Business and Human Rights have significantly influenced the development of legal norms and policy frameworks in Indonesia. Nationally, this progress is reflected in the issuance of Presidential Regulation Number 60 of 2023, which introduces the National Strategy on Business and Human Rights as a guiding framework for state institutions and business actors. However, the study finds that despite this regulatory development, substantial dilemmas persist, particularly due to the voluntary nature of the regulation, the absence of clear enforcement mechanisms, and the lack of independent oversight. These gaps hinder the effectiveness of human rights protection in corporate practices.

In relation to the second research question, the findings confirm the necessity of establishing a human rights certification mechanism for corporations. Certification would provide preventive legal protection, increase corporate accountability, and help standardize human rights compliance across sectors. To ensure its effectiveness, this study recommends revising Presidential Regulation Number 60 of 2023 and designating Komnas HAM as the independent institution responsible for monitoring, assessing, and enforcing corporate human rights standards, consistent with its mandate under Law Number 39 of 1999.

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