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Are State-Owned Enterprises Evolving in Their Human Rights Obligations? An Indonesian Perspective

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Abstract

State-owned enterprises (SOEs) in Indonesia occupy a complex position between public duty and commercial activity, challenging traditional notions of legal subjectivity under international human rights law. The paper examines the Indonesian perspective by analyzing how national business and human rights frameworks apply to SOEs such as PT PLN and PT PERTAMINA, given that corporations are increasingly required to comply with human rights obligations.. It explores critical research problems, including whether SOEs should bear the same human rights obligations as the state, given their state-linked character, and how effectively Indonesia's legal instruments address the dual roles of these entities as well as the challenges posed by multinational corporations with fluid legal identities. The research employs a doctrinal legal research method based on secondary legal data. Preliminary findings indicate that SOEs are state-linked entities with human rights implications; however, their responsibility is primarily framed as corporate under Pillar Two of the United Nation Guiding Principles on Business and Human Rights (UNGP). Indonesia has formally integrated the UNGP into its national policies and practices concerning SOEs. The country has updated its National Action Plans on Business and Human Rights and implemented Good Corporate Governance principles to regulate SOE conduct. Prominent companies such as PT PLN and PT Pertamina have adopted measures, including anti-discrimination policies, whistleblowing systems, sustainability reports, and codes of conduct

Keywords: Business and Human Rights; Corporate Responsibility; Human Rights; State Obligation; State-Owned Enterprise; UN Guiding Principles

1. INTRODUCTION

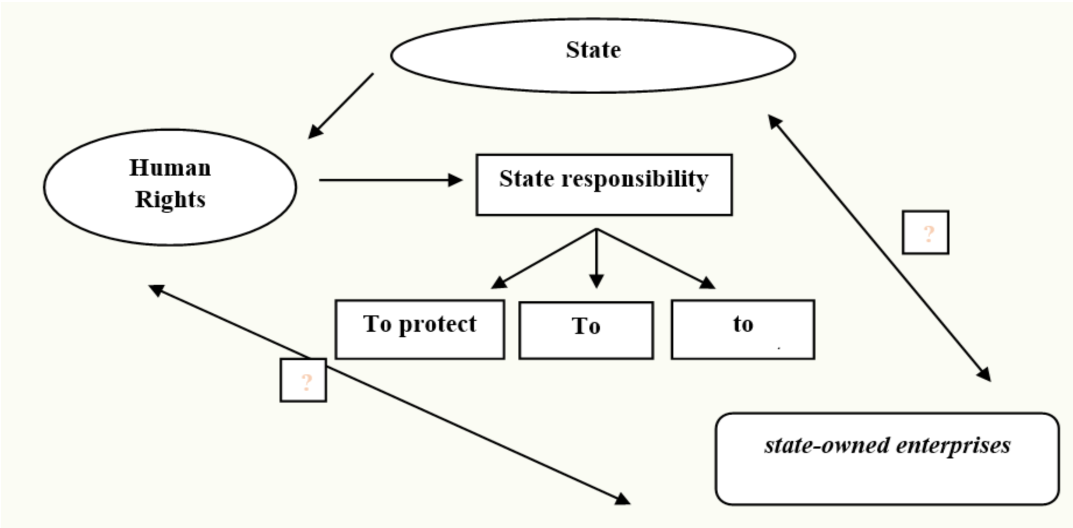
A typical state-owned enterprise (SOE) is one in which all or part of the ownership belongs to the state,[1] or in which a significant percentage of shares is held by the state.[2] Typically, the main goal of SOE is not solely profit but the provisions of public benefit.[3] The ownership structure raises a key question regarding SOE's human rights responsibility: is it equivalent to that of the state's, or different?. If states are the primary human rights duty-bearers,[4] where do SOE

[1] Ahmad Fauzi, "Legal Analysis of The Privacy of State-Owned Enterprises," *Jambura Law Review* 4, no. 1 (2022): 51–72, https://doi.org/10.33756/jlr.v4i1.11959.
[2] Ravi Ramamurti, "Performance Evaluation of State-Owned Enterprises in Theory and Practice," *Management Science* 33, no. 7 (1987): 876–93, https://doi.org/10.1287/mnsc.33.7.876.
[3] Raymond Vernon, "The International Aspects of State-Owned Enterprises," *Journal of International Business Studies* 10 (1979): 7–14, https://doi.org/10.1007/978-3-319-51715-5_3.
[4] Martha C. Nussbaum, "Capabilities and Human Rights," *Fordham Law Review* 66, no. 2 (1997): 273–300, https://doi.org/10.7551/mitpress/3302.003.0007.

 DOI: http://dx.doi.org/10.29303/ius.v14i1.1972

fit within this framework? Is it counted as a state or a corporation? Within the human rights regime, it is necessary to consider whether a SOE is regarded as an extension of the state by virtue of ownership, or as entity bearing independent responsibility.

Figure 1. Human Rights and SOEs[5]



The figure shows that states have an obligation to protect, respect, and fulfil their citizens' human rights. At the bottom, SOEs are positioned. Thus, the figure highlights a fundamental question: should SOEs bear the same human rights obligations as the state, or do they hold a separate corporate responsibility? The debate over SOEs' role in upholding human rights is part of a broader global discourse on corporate accountability, particularly as human rights obligations have gradually expanded beyond states to include non-state actors. Since the 1970s, there has been a growing movement advocating for corporations to be recognized as human rights duty-bearers, culminating in the UN's 2008 framework and the adoption of the UN Guiding Principles on Business and Human Rights (UNGPs) in 2011.[6]

In Indonesia, the debate assumes particular urgency, as Indonesia has integrated business and human rights principles into national policies, exemplified by the National Strategy on Business and Human Rights established under Presidential Regulation No. 60 of 2023. This framework delineates the responsibility of businesses, including SOEs, to respect and uphold human rights. Despite this progress, Indonesia has not explicitly defined the legal obligations of SOEs within its human rights policy, nor has it adopted international standard such as the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct.[7] Consequently, legal ambiguity persists regarding whether SOEs should be held accountable as state actors or corporate entities. This ambiguity complicates the enforcement of human rights responsibilities, especially given SOEs' dual role in pursuing commercial objectives and public service mandates. Therefore, a comprehensive analysis from the Indonesian perspective is essential to clarify the

[5] Rehulina, self-resources

[6] Yudha Akbar Pally, "The Guiding Principles on Business and Human Rights: Dialektika Korporasi Dan Pemenuhan HAM," *Jurnal Politica Dinamika Masalah Politik Dalam Negeri Dan Hubungan Internasional* 4, no. 1 (2013): 105–28.

[7] OECD, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (Paris: OECD Publishing, 2023), https://doi.org/10.1787/81f92357-en

extent of SOEs' human rights responsibilities, identify legal gaps in their regulation, and address challenges in ensuring compliance. In practice, Indonesian state-owned enterprises (SOEs) have been involved in sectors with high human rights risks, such as natural resource extraction and infrastructure development, yet their human rights obligations remain legally ambiguous. The absence of a specific regulatory framework, overlapping legal regimes, and weak enforcement mechanisms have created significant challenges in ensuring accountability and access to remedies for affected communities. Thus, this study examines PT. Pertamina and PT PLN as two major Indonesian SOEs to analyse how human rights responsibilities apply to state-owned corporate. This research explores three key aspects of Indonesia's approach to SOE human rights responsibilities under UNGP: (1) SOE responsibility in upholding human rights, (2) Indonesia's interpretation of human rights obligations for SOEs, and (3) challenges in ensuring SOE compliance.

The research employs a doctrinal legal method with a normative juridical approach to examine the conception of human rights and state accountability, and their application to SOEs. The study relies secondary legal data, with primary legal materials derived from international and national legal instrument, including the Universal Declaration on Human Rights 1948, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, Law No. 39 of 1999 on Human Rights, Law No. 40 of 2007, and relevant UN resolutions. The secondary legal material consists of scholarly opinions, journal articles, books, and other relevant literature on human rights. Tertiary legal material include dictionaries, such as the Grand Dictionary of Indonesian and the Legal Dictionaries. Data Collection and Analysis methods are conducted qualitatively through a literature review. Conclusions are drawn using a deductive method, moving from general legal principles to specific findings.

2. ANALYSIS AND DISCUSSION

2.1. State Obligations on Human Rights

The idea of human rights is rooted from the nature of law's theory, associated with Thomas Aquinas,[8] and social contract theory by John Locke.[9] The theory of natural law assumes that everyone naturally owns rights. Moreover, Locke argues that individuals are endowed by nature with a natural right to life, freedom, and thought, which is their own and cannot be revoked by the state. If the state violates this natural rights, the people may withdraw their consent from the ruler and replace the government with one that respect those rights.[10] Human rights place the state as the primary duty-bearer, and a state may be considered to have violated human rights law if it fails to comply with the human rights obligations it has accepted. The state, as the "owner" of public authority, is obliged to protect individuals from violations committed by state apparatus and third parties. Article 28i of the 1945 Indonesian Constitution, paragraph 4 says, "the protection, promotion, enforcement, and fulfillment of human rights is the responsibility of the state, especially the government."

The state has an obligation to fulfill the human rights of its citizens. It means that the state has a responsibility to respect, protect, and fulfill its citizens' human rights under

[8] Michael S. Moore, "A Natural Law Theory of Interpretation," *Southern California Law Review* 58 (1985): 280.

[9] Joshua Foa Dienstag, "Between History and Nature: Social Contract Theory in Locke and the Founders," *Journal of Politics* 58, no. 4 (1996): 985–1009, https://doi.org/10.2307/2960146.

[10] Rhona K.M. Smith, *Hukum Hak Asasi Manusia* (Yogyakarta: PUSHAM UII, 2008).

international *agreements* that have been agreed upon.[11] International human rights agreements are primarily developed through two covenants: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural *Rights* (ICESCR), which is a derivative of the Universal Declaration of Human *Rights* (UDHR). In the area of human rights, a state has two obligations. The first category consists of the obligation is to respect, protect, and fulfill human rights. The obligations to respect requires state to refrain from interfering, directly or indirectly, with the rights recognized in the ICCPR and ICESCR. The obligation to protect means that the state is obliged to protect the human rights of citizens by preventing violations by various parties, both intentional and unintentional, by the state apparatus or by third parties. The obligation to fulfill requires states to take legislative, administrative, budgetary, and other measures to realize the rights stipulated in human rights instruments.[12] Second is the obligation to act (obligation *of conduct*) and achieve results (obligation *of result*). The responsibility to work is to carry out the fulfillment of a particular right. For example, for all children to receive primary education without discrimination, the government must take specific policies or actions, such as reading programs to reduce illiteracy.[13] *These three* minimum principal obligations (protect, respect, and fulfil) are primarily addressed regarding the arrangement of ICCPR implementation that requires states to, at the very least, provide minimal fulfillment of economic, social, and cultural rights.

2.2. State-Owned as Subject of International Law and Human Rights Law

A legal subject is generally understood as an entity capable of bearing rights and obligations under the law. In international law, a legal subject is generally understood as an entity that may satisfy three elements:[14] (1) possessing international right and obligation; (2) bringing claims before international or foreign national courts; and (3) entering into public international treaties, including law-making treaty.[15]

The author contends that multinational corporations are not full subjects of International Law[16] because they lack the same legal personality and treaty-making capacity as states. Their international nature is reflected in their operating branches across multiple countries[17] and in their shareholders of diverse nationalities.[18] This section examines how international provisions can be extended to multinational corporations, emphasizing the need to protect individuals from human rights violations committed by third parties, including corporations. Accordingly, corporations have an obligation to respect individuals' human rights. However, corporations often argue that the fulfillment of human rights is not their obligation because, under the traditional framework of international law, human rights provisions are primarily addressed to states. In fact, corporate activities can interfere with individuals' enjoyment of their human rights. For example, due to corporate activities, the water in the environment where the community lives is polluted, and the rights to clean water are violated.

[11] Soelistyowati, "Reassessing State Responsibility for Indigenous Rights to Natural Resources Based on Justice Principle," *Jambe Law Journal* 7, no. 1 (2024): 149–67, https://doi.org/10.22437/home.v7i1.347.

[12] Nining Mardiniah, *Raiding Cases Education and Health Services: Situation Analysis in Three Districts: Indramayu, Sikka and Jayapura* (n.p.: CEDSA-LP3ES, 2005), 4.

[13] Harry Wibowo dan Anharudin Anharudin, *Right to Education and Health Care: Situation Analysis in Three Districts: Indramayu, Sikka and Jayapura* (n.p.: CEDSA-LP3ES, 2005), 24.

[14] J. G. Starke, *Introduction to International Law* (London: Butterworths, 1989), 11.

[15] Law-making treaty is a treaty that establishes the law by laying the provisions or rules of law for the international community, usually in the form or multinational agreement such as Convention on Civil and Political Rights.

[16] Hesti Widyaningrum, "Sejarah Dan Perkembangan Pertanggungjawaban Korporasi," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 1, no. 2 (2018): 139–56, https://doi.org/10.24090/volksgeist.v1i2.1633.

[17] Bryan A. Garner, ed., *Black's Law Dictionary*, edisi ke-11 (St. Paul, MN: West Academic Publishing, 2019), 393.

[18] John O'Brien, *International Law* (London: Cavendish Publishing Limited, 2001), 155.

Therefore, the idea has emerged of imposing human rights obligations on corporations, thereby recognizing them as relevant actors within human rights law. The concept of a legal subject in human rights law should therefore be distinguished from the concept of a subject of international law. The same legal construction also applies to human rights. The issue of human rights is establishing rights and obligations according to human rights. In the book *Human Rights Law*, published by the Center of Human Rights Studies of the Islamic University of Indonesia, duty-bearers in human rights law include both state and non-state actors (corporations, belligerents, and individuals), while rights-holders include citizens, individuals, and peoples.

The state obligations have been central to the human rights regime since its emergence, as the state is regarded as the primary duty-bearer toward its citizens. State actors refer to state institutions and apparatuses, while non-state duty-bearers include corporations, belligerents, and individuals. At the same time, the duty-holder is citizens, including indigenous people, refugees, minorities, et cetera. The relationship between human rights and business is framed by the Universal Declaration of Human Rights, its two covenants and relevant International Labor Organization (ILO) conventions.[19] The idea of corporations as a subject of human rights is not new, and this debate has persisted for nearly four decades. The United Nations (UN) initiated it through the UN Draft Code of Conduct on Transnational Corporations, created on the commission's initiative on transnational corporations, which was completed in late 1980.[20] The UN Draft contains the obligations of multinational corporations to respect the building objectives of the receiving state, comply with domestic law, respect the general principles of human rights, and pay attention to environmental health.[21] However, this UN Draft did not receive significant support, and only a few countries engaged with its provisions.

The limited adoption of the Draft Norms did not prevent the UN and international community from continuing effort to recognize corporations as human rights duty-bearers. In the 1990s, there was a human rights and business conference. Furthermore, in 1998, a working group was established under the UN submission on the promotion and protection of Human Rights. They begin to work on the draft of human rights obligations to corporations. In August 2003, the subcommittee submitted its recommendations for adoption, namely the Draft Norms on Human Rights Responsibilities of Transitional Corporations and other business enterprises (the Draft Norms). However, this draft is declared unable to be adopted because it does not have legal standing. The failure of the Draft Norms does not stop the UN from formulating the regulation that corporations should be obligated to respect human rights. Then, in 2005, the UN appointed a special representative of the secretary-general (SRSG) to work on creating a framework on how businesses should comply with human rights. In 2008, SRSG produced frameworks on Business and Human Rights and invited the three pillars of human rights. The first pillar is the state's obligation on human rights, which is an obligation to protect. The second pillar is the corporate responsibility to respect, and pillar three is both the state and corporations' obligation to remedy. And its work continued, and in 2011 it resulted in the Guiding Principles on Business and Human Rights, which contains 31 Principles.

International organizations also pay attention to corporate work and its possible violations of individual rights. In 1970, the Organization for Economic Cooperation and Development (OECD) created a guideline for multinational corporations named the

[19] Wahyu Wagiman dan Widiyanto Widiyanto, *How to Conduct Business with Respect of Human Rights: A Guide Tool for Companies* (n.p.: Global Compact, 2010), xiii.

[20] Wahyu Wagiman dan Widiyanto Widiyanto.

[21] Wahyu Wagiman dan Widiyanto Widiyanto.

OECD Guidelines for Multinational Enterprises 1976, and the latest version is in 2023. In addition to the OECD, the ILO has developed instruments related to business, and human rights, including the *1977 ILO Tripartite* Declarations of Principle Concerning Multinational Enterprises and Social Policy. This was revised in 2000 to give more pressure to the fulfillment of human rights by the corporations. This provision was modified again in 2006 to link with another ILO instrument.[22]

The United Nations and other international organizations have introduced business and human rights principles to clarify corporate responsibilities in relation to human rights obligations. However, this aim faces challenges, as International Law primarily recognizes states as the main actors in Human Rights Law. The failure of the draft norm illustrates these difficulties, as the draft was considered inconsistent with established international law principles. Those were noticed particularly within human rights institutions, and were not aligned with the practices of human rights bodies. The draft norms, therefore, seek to place corporations on a similar footing with states. This intention is evident in the draft's first paragraph, which states:

> *"Within their respective spheres of activity and influence, transnational corporations and other business enterprises have an obligation to promote, secure the fulfillment of respect, and ensure respect for protecting human rights recognized in international as well as national law."*

International agreements, especially the human rights bill, make states primarily responsible for protecting human rights. The weighing section affirms that states have a duty to promote universal respect for, and observance of, human rights and fundamental freedoms." Building on this, John Ruggie proposed a framework that clarified two duties: states must protect individuals from corporate human rights violations, and corporations must respect rights in their operations. Ruggie's Protect, Respect and Remedy Framework, endorsed by the UN General Assembly, seeks to balance states' protective duty with the corporate duty to respect rights. The framework also emphasizes access to remedies for victims of business-related human rights violation. In 2011, the Guiding Principles on Business and Human Rights were issued, outlining 31 specific principles.

2.3. Interpretation of Human Rights Obligation According to the Indonesian Law

2.3.1. Overviewing Indonesia's Positive Laws: Legislation and Policies

Indonesia has taken steps to implement the UN Guiding Principles on Business and Human Rights (UNGP) by developing the National Action Plan (RAN) on Business and Human Rights. This initiative was led by the National Human Rights Commission in collaboration with the Institute for Policy Research and Advocacy (ELSAM). Indonesia is among the early countries in Southeast Asia to develop a National Action Plan on Business and Human Rights, initiated by National Human Rights Institutions (NHRIs) and civil society organizations.[23]

[22] Wahyu Wagiman dan Widiyanto Widiyanto 88.

[23] Serlyeti Pulu, Fitriani Sunarto, and Fahd Riyadi, *Prinsip-Prinsip Panduan Untuk Bisnis Dan Hak Asasi Manusia: Kerangka Perserikatan Bangsa-Bangsa "Perlindungan, Penghormatan, Dan Pemulihan,"* Buku Saku (Jakarta: Konsil LSM Indonesia atas dukungan ICCO, 2018), 2.

The government, as the authority responsible for issuing legal instruments, continues to promote the implementation of the P5 Human Rights principles.[24] One such effort is the continuation of regulations to the National Action Plan on Business and Human Rights or *Rencana Aksi Nasional Hak Asasi Manusia* (RANHAM). Presidential Regulation No. 75 of 2015 on RANHAM 2015-2019 has been updated by Presidential Regulation No. 53 of 2021 on the National Human Rights Action Plan 2021-2025, which continues the previous RANHAM. The government has issued four generations of RANHAM: the first in 1998, the second in 2005, the third in 2011, and the fourth in 2015.[25]

RANHAM is a policy document outlining strategic objectives that serves as a reference for ministries, agencies, and regional and district/city governments in implementing Human Rights programs. It is intended as a guideline for government officials in formulating, executing, and evaluating human rights actions. Additionally, RANHAM symbolizes the government's commitment to integrating human rights programs and policies into the national development agenda at all levels, from the central to the regional levels. RANHAM reflects an effort to incorporate aspects of the 2011 UNGP, including human rights due diligence, transparency, and accountability, into national policy. While it aligns with the UNGP principles, its scope and application are tailored to local contexts and regulatory frameworks.

According to the 1st attachment of RANHAM, based on the first four generations, an evaluation of SOE's shortcomings related to human rights is compiled alongside their improvement strategies:

Target Group	Shortcomings of SOEs	Improvement Strategies
Women	Insufficient efforts to fulfill and protect women's rights in SOEs business activities and employment opportunities.	Enhancing efforts to fulfill and protect women's rights in business activities and employment opportunities in both SOEs and the private sector.
Children	Suboptimal prevention and handling of child labor in SOE-managed business activities, un accordance with the convention on the rights of the Child.	Strengthening the handling of child labor in accordance with the Convention on the Rights of the Child in business sectors managed by SOEs.
Persons with Disabilities	Limited employment opportunities and inadequate reasonable accommodation for persons with disabilities in the SOE sector.	Increasing employment quotas for persons with disabilities and ensuring adequate accommodations in the SOE sector

[24] P5 stands for penghormatan, pemajuan, perlindungan, penegakan, dan pemenuhan HAM which translates to respect, advancement, protection, enforcement, and fulfillment of human rights

[25] I Wayan Sulpai, "Implementasi Rencana Aksi Nasional Hak Asasi Manusia (RANHAM): Pencapaian Dan Tantangan," Sekretariat Kabinet Republik Indonesia, 2018, https://setkab.go.id/implementasi-rencana-aksi-nasional-hak-asasi-manusia-ranham-pencapaian-dan-tantangan/.

Indigenous Communities	Lack of involvement of indigenous communities in the licensing process of enterprises, particularly SOEs, which affects their rights.	Enhancing indigenous communities' participation in SOE businesses licensing processes to ensure the protection of their rights.

Based on the table, Indonesia has demonstrated a commitment to integrating human rights principles into its national policies, including in the operations of State-Owned Enterprises (SOEs). However, several challenges remain in ensuring that SOEs align with human rights standards, particularly in gender equality, child protection, inclusion, and indigenous rights. The government recognizes that women still face barriers in accessing equal opportunities within SOEs, necessitating stronger gender-inclusive policies. Additionally, Indonesia recognizes the importance of eliminating child labor, yet gaps persist in ensuring that SOE-managed businesses fully comply with the Convention on the Rights of the Child.

In addressing the rights of persons with disabilities, Indonesia has enacted progressive regulations, such as the Disability Law, but implementation within SOEs remains suboptimal due to limited employment quotas and inadequate workplace accommodations. Furthermore, the protection of indigenous communities remains a concern, as their involvement in business licensing and decision-making processes is still insufficient. The government views these issues as critical areas for improvement and aims to strengthen regulatory frameworks, corporate social responsibility initiatives, and monitoring mechanisms to ensure that SOEs operate in accordance with human rights principles. By enhancing inclusivity and compliance, Indonesia may strengthen its position in promoting responsible and sustainable business practices.

To uphold the core values of State-Owned Enterprises (BUMN), particularly the value of harmony within the AKHLAK principles (Trustworthy, Competent, Harmonious, Loyal, Adaptive, and Collaborative),[26] and to support the implementation of the National Action Plan for Human Rights (RANHAM) under Presidential Regulation No. 53 of 2021, the Ministry of BUMN is committed to fostering a respectful, discrimination-free, and violence-free work environment.[27] This includes eliminating harassment, bullying, exclusion, and other forms of misconduct while promoting dignity, respect, and workplace productivity. The Ministry also prioritizes gender equality, the inclusion of persons with disabilities, and the prevention of bias and discrimination across BUMN, its subsidiaries, and affiliated companies, collectively referred to as the BUMN Group.

To establish a safe, comfortable, and harmonious workplace, it is essential for companies and institutions to implement policies and for management, employees, and stakeholders to actively promote politeness and respectful behavior. This means preventing any intimidation, humiliation, or acts that may degrade human dignity, including harassment and bullying. The creation of a mutually respectful work environment that values decency, politeness, and human dignity requires collaborative efforts and strong company policies. In this regard, it has been deemed necessary to introduce and implement the Respectful Workplace Policy (RWP).

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[26] Fitri Nur Rilah and Sri Trisnaningsih, "Implementation of Good Corporate Governance on Indonesia's State-Owned Enterprises (BUMN Karya 'WIKA')," *International Journal of Management Research and Economics* 3, no. 1 (2025): 23–35.

[27] Setiaji Wibowo et al., "Kajian Yuridis Pelaksanaan Aksi Hak Asasi Manusia Kementerian Hukum Dan Hak Asasi Manusia," *Jurnal Syntax Transformation* 4, no. 4 (2023): 68–78, https://doi.org/10.46799/jst.v4i4.719.

In practice, Indonesian SOEs interpret human rights protection in business partly through the principle of Good Corporate Governance (GCG). This principle is regulated under Ministry of State-Owned Enterprises Regulation Number Per-01/MBU/2011 concerning the implementation of GCG in state-owned enterprises.[28] Based on Article 1(1), the regulation defines GCG as a set of principles that underlie the processes and mechanisms of corporate management, based on statutory regulations and ethical business practices.

Article 2 states that State-owned enterprises are required to implement Good Corporate Governance (GCG) consistently and continuously in accordance with this Ministerial Regulation, while observing applicable provisions, norms, and their articles of association. To implement GCG, the Board of Directors shall prepare a GCG manual, which may include board manual, risk management manual, internal control system, internal oversight system, reporting mechanism for suspected irregularities, information technology governance, and a code of ethical conduct.

The principles of Good Corporate Governance (GCG) outlined in Article 3 of this regulation encompass transparency, accountability, responsibility, independence, and fairness. Transparency requires openness in both the decision-making process and in disclosing material and relevant information about the company. Accountability ensures that the functions and duties within the organization are clearly defined and effectively executed to promote efficient management. Responsibility mandates that the company's management comply with applicable laws and adhere to sound corporate principles. Independence means that the company is managed professionally without conflicts of interest or undue external influence, while fairness guarantees justice and equality in fulfilling stakeholders' rights as established by agreements and legislation.

Alongside the GCG regulation, Minister of State-Owned Enterprises of the Republic of Indonesia Number PER-2/MBU/03/2023 provides guidelines on governance and significant corporate activities of state-owned enterprises.[29] Article 3 of the regulation states that SOEs must implement the principles of Good Corporate Governance in conducting business activities at all levels of the organization. Furthermore, the principles of Good Corporate Governance emphasize transparency in decision-making and disclosure of material and relevant company information. They also promote accountability by clarifying functions, duties, and the social responsibility of state-owned enterprises (BUMN) toward stakeholders and the environment. Responsibility is reflected in compliance with laws and sound corporate principles, while independence ensures that the company is managed professionally, free from conflicts of interest or external pressures that contradict regulations. Fairness guarantees justice and equality in fulfilling stakeholders' rights. These principles aim to enhance BUMN's contributions to the national economy and create a conducive environment for investment growth.

Furthermore, Indonesia has made significant strides in integrating business and human rights principles through the adoption of the National Strategy on Business and Human Rights, as outlined in Presidential Regulation No. 60 of 2023.[30] This

[28] Muhammad Iqbal Daulay et al., "Analisis Penerapan Good Corporate Governance Dalam Meningkatkan Kinerja Perusahaan Pada Sub Holding Pt. Pelindo Multi Terminal," *Journal of Islamic Economics and Finance* 2, no. 1 (2024): 155–62, https://doi.org/10.59841/jureksi.v2i1.779.

[29] Piere Marquez Vandante and Siti Nurbaiti, "Penerapan Good Corporate Governance Yang Dilaksanakan Oleh Perseroan Terbatas Perikanan Indonesia (Persero)," *Jurnal Reformasi Hukum Trisaksi* 7, no. 1 (2025): 35–43, https://doi.org/https://doi.org/10.25105/refor.v7i1.22087.

[30] Muhammad Aufa Abdillah Sihombing and Rizky Darmawansyah Sihombing, "Pemenuhan Hak-Hak Penyandang Disabilitas Dibidang Ketenagakerjaan Berdasarkan Peraturan Presiden No. 60 Tahun 2023 Tentang Strategi Nasional Bisnis Dan Hak Asasi Manusia," *Grondwet* 3, no. 2 (2024): 1–17, https://doi.org/10.61863/gr.v3i2.39.

strategy establishes a framework for corporate accountability by setting obligations for government institutions and local authorities to protect human rights, encouraging businesses to uphold these rights, and providing access to remedies for potential violations. The regulation applies to all business entities but does not explicitly mention SOEs. However, given their unique position between the state and the private sector, SOEs should be expected to align with these principles. Despite progress, challenges remain, particularly in enforcement and ensuring corporate compliance with human rights standards.

2.3.2. How is the Practice in Indonesia's SOEs?

There are at least 64 State-Owned Enterprises in Indonesia; this study focuses on two major SOEs, namely Pertamina and PT PLN. This is because these two SOEs are the main centers of Indonesia's energy needs: PT PLN is the sole provider of electricity services, and PT Pertamina is the largest dividend contributor.[31] Their strategic role raises the question of whether these two companies should be understood merely as corporate entities or as state-linked actors with heightened human rights responsibilities. This research illustrates the implementation of business and human rights principles in PT PLN and PT Pertamina Group. PT Perusahaan Listrik Negara (PLN) is Indonesia's state-owned electricity company responsible for generating, transmitting, and distributing power nationwide. PT PLN demonstrates implementation through three elements, including 1) human resources, 2) code of conduct, and 3) whistle-blowing system. Firstly, PLN views human capital as a vital asset for sustaining its performance. Rapid technological and business developments have made the electricity industry increasingly complex and competitive. As the organization expands its power plants, network, and customer base, PLN requires employees who can be developed as part of its long-term investment. Accordingly, PLN identifies new staffing needs and enhances existing employees' competencies to keep pace with evolving business functions. In addition to strengthening technical skills, PLN also prepares future leaders through dedicated leadership development programs.[32] To ensure that employee learning translates into high performance and drives corporate growth, the Company has established PLN Corporate University (PLN CorpU) as a center of excellence. With the vision of becoming a world-class hub for electricity-related competencies, PLN CorpU implements strategic initiatives that support sustainable corporate value creation. Moreover, PLN upholds transparency, fairness, equality, and equity throughout its operations, prohibiting discrimination based on ethnicity, religion, race, social class, or gender.[33] These anti-discrimination practices extend from recruitment and performance assessments to remuneration, competency development, and career advancement.

As one of the state-owned enterprises, PT PLN (Persero) is obligated to implement Good Corporate Governance (GCG) as mandated in the SOE Ministry Regulation on GCG. The company recognizes that the implementation of GCG is not merely a matter of fulfilling obligations but has become a necessity in conducting its business activities to ensure sustainable growth, enhance corporate value, and remain competitive. The company has developed several mechanisms to implement GCG principles, notably

[31] "Perusahaan BUMN Apa Saja? Ini 64 Daftar dan Jenis Usahanya," Dealls, 24 Desember 2025, https://dealls.com/pengembangan-karir/perusahaan-bumn-apa-saja#apa-itu-bumn? accessed on April 8, 2026

[32] Surya Fitriadi, "Business Ethics Pada PT. PLN (Persero)," *JMPIS: Jurnal Manajemen Pendidikan Dan IImu Sosial* 1, no. 2 (2020): 506–15, https://doi.org/10.38035/JMPIS.

[33] Aniek Juliarini, "Implementasi Pembelajaran Terintegrasi Kementerian Keuangan Corporate University Di Pemerintah Daerah (Studi Kasus Kabupaten Kulon Progo)," *Prosiding PITNAS Widyaiswara* 1 (2024): 49–60.

through the establishment of a GCG management function under the Corporate Secretary, which is specifically responsible for handling and monitoring the effectiveness of GCG implementation. The company continuously improves both the soft structure and the infrastructure of GCG to enhance the its implementation. Additionally, the company has published supporting documents for GCG implementation, such as the GCG Guidelines, Board Manual, and Code of Conduct.[34] The Board of Commissioners also has supporting committees that help enhance the effectiveness of its oversight functions.[35]

PT PLN's Code of Conduct also recognizes the whistleblowing system. The Company has introduced a whistleblowing system (WBS) as an effective measure to prevent and combat corruption, bribery, and other fraudulent activities that violate Good Corporate Governance (GCG) principles. Since 2012, PLN has worked with a qualified institution to design a reporting mechanism aligned with its organizational culture and conditions, which applies to all business units and subsidiaries. On December 20, 2012, the Company officially implemented the WBS throughout PLN's operations through Board of Directors' Circular Letter No. 21.E/Dir/2012, covering reporting procedures, whistleblower protection, and follow-up actions.[36] Responsibility for the WBS rests with the Internal Audit Unit (SPI), as outlined in Board of Directors' Circular Letter No. 008.E/DIR/2016 dated September 30, 2016. When a complaint is received, the President Director forwards it to the Chief Audit Executive (CAE) for on-site investigation by the Special Audit Investigation Team. The WBS database officer documents both the complaint and investigation results, which are then reported to the CAE and subsequently to the President Director and the Executive Vice President of Human Capital Management System (EVP HCMS). If the investigation confirms a violation by the reported employee or official, they will be subject to sanctions or a Compensation Claim (TGR) in accordance with the Company's regulations.[37]

PLN demonstrates a systematic approach to ethical business practices through three key elements: human resources, code of conduct, and whistleblowing system. The company recognizes that its employees are critical to its long-term success in an increasingly complex and competitive industry. Through initiatives such as the establishment of PLN Corporate University, the company invests in skill development and leadership training to ensure its workforce evolves with industry advancements. Concurrently, PLN adheres to robust Good Corporate Governance principles by maintaining a comprehensive code of conduct and dedicated oversight functions that promote transparency and accountability. Additionally, the implementation of a whistleblowing system, active since 2012, provides a clear channel for reporting unethical behavior such as corruption or fraud, thereby reinforcing its commitment to integrity. Collectively, these measures indicate PLN's institutional efforts to support ethical practices, sustainable growth, and corporate value.

As mentioned earlier, this research also examines the implementation of business and human rights principles in PT Pertamina Group as an SOE by the. Pertamina is

[34] These documents can be accessed on https://web.pln.co.id/tentang-kami/good-corporate-governance
[35] PT PLN, "Good Corporate Governance," https://web.pln.co.id/tentang-kami/good-corporate-governance accessed on April 8, 2026.
[36] Fitriadi, "Business Ethics Pada PT. PLN (Persero).", 206.
[37] Fitriadi.

Indonesia's state-owned energy company responsible for the exploration, production, refining, and distribution of oil, gas, and other energy resources. It plays a vital role in ensuring national energy security and supporting economic growth while adhering to sustainable and ethical business practices. PT Pertamina Group has developed a relatively comprehensive framework for respecting and protecting human rights. Building on Pertamina Group's core values and code of ethics to ensure the company's long-term viability, Pertamina Group has introduced a Sustainability Policy reflecting its primary responsibility as an energy provider.

This policy promotes compliance with laws and regulations, creates lasting value for stakeholders, and drives the adoption of sustainability practices—such as green leadership—across all operations, in line with the 3P principles (People, Planet, Profit). Additionally, the policy encompasses initiatives to align corporate strategies and activities, covering areas like human resource management, environmental stewardship, economic growth, and social development. These efforts foster transparency, trust, and employee development throughout the organization. By integrating the Sustainability Policy into its operational excellence framework, the Pertamina Group contributes to the achievement of the Sustainable Development Goals (SDGs).[38] The following section summarizes seven sustainability reports issued by PT Pertamina.

Table 2. Sustainability Policies by Pertamina Group

Sustainability Report	Key Commitment
Ethical conduct, and Business Respect for Human Rights and Social Aspect	This report provides information on working hours, living wage, personal data transparency, and fundamental health and safety standard. It also elaborates on their targets and impact of investment on stakeholders. What is interesting is this report also shares Pertamina's Collective Labor Agreement (CLA) with the United Pertamina Workers Federation (FSPBB) which regulates the working conditions for workers who have not been regulated in-laws and regulations to formulate a clear standard and expectancy between employer and worker.
Human Rights Policy	This report highlights Pertamina's commitment to human rights, guided by Indonesia's 1945 Constitution and the Universal Declaration of Human Rights. It also describes measures such as specialized training, accessible grievance channels, and continuous due diligence to support compliance and community development.

[38] PT. Pertamina, "Sustainability Policies," https://sustainability.pertamina.com/en-US/Sustainability-Commitment/Sustainability-Policies/ accessed on April 8, 2026.

Respectful Workplace Policy	Based on ILO Convention No. 110 concerning discrimination in Employment and Accoupation and ILO Convention No. 190 Concerninc Violence and Harassment in the World of Work, this report explains that Pertamina Group is committed to establishing a workplace free from discrimination, violence, and harassment, to create more inclusive and productive working environment for Perwira Pertamina in order to drive corporate sustainability. Every leader in Pertamina is required to report any act of discrimination, violence, or harassment occurring in their work environment through dedicated company channels. All discrimination, violence, and harassment actions will be investigated and sanctioned accordingly based on company policy with a maximum punishment of employment termination.
Green Procurement policy for Suppliers and Contractors	This report reaffirms that within the Pertamina Group, all suppliers and contractors are fully committed and accountable for implementing environmentally friendly procurement practices. This includes, but is not limited to, the use of sustainable materials, eco-friendly office equipment, and the adoption of green production processes.
Health, Safety, Security and Environment (HSSE) Policy	Pertamina group dan sub holding beserta anak perusahaannya berkomitmen untuk melaksanakan operasional Perusahaan dengan memperhatikan Kesehatan dan keselamatan kerja, keamanan, perlindungan terhadap lingkungan dan masyarakat serta keselamatan proses dan asset integrity secara terus menerus sebagai prioritas utama Perusahaan ssuuai dengan tata nilai perusahaan AKHLAK untuk mendukung pencapaian, tujuan, visi, dan misi Perusahaan.
Pertamina Scope of Social Supplier Standards	This report states that the Pertamina Group, along with its sub-holdings and subsidiaries, is committed to operating with a continuous focus on occupational health and safety, security, environmental and community protection, as well as process safety and asset integrity. This commitment aligns with the company's AKHLAK values, which are Amanah (Trustworthy), Kompeten (Competent), Harmonis (Harmonious), Loyal (Loyal), Adaptif (Adaptive), and Kolaboratif (Collaborative), and supports the achievement of its goals, vision, and mission.

Commitment to the Implementation of Environmental, Social, and Governance Management in Procurement	This report confirms that to consistently implement Environmental, Social, and Governance (ESG) management and achieve Pertamina's vision as a world-class energy company, the Procurement Function of PT Pertamina (Persero) is fully committed to ethical and responsible operations in procuring goods and services. The company supports eco-friendly initiatives across all activities and applies ESG guidelines effectively to address sustainability issues in environmental, social, and governance aspects. Pertamina also encourages its personnel and stakeholders to actively engage in ESG practices to drive sustainability, value creation, and enhanced enterprise value while imposing strict sanctions on any parties that violate these principles.

Source: Compilations of Reports available to download via https://sustainability.pertamina.com/en-US/Sustainability-Commitment/Sustainability-Policies/

Based on the table above, Pertamina Group appear to demonstrate a relatively comprehensive approach to integrating business and human rights principles throughout its supply chain in line with the 2011 United Nations Guiding Principles on Business and Human Rights. The company supports its commitment with a range of policies and initiatives that include a detailed sustainability report, a human rights policy, a respectful workplace policy, and a green procurement policy for suppliers and contractors. These measures support transparency in working conditions, living wages, personal data protection, and health and safety standards. Additionally, Pertamina emphasizes environmental protection and ethical practices in its operations through continuous due diligence and accessible grievance channels. By aligning its procurement practices with Environmental, Social, and Governance management, Pertamina seeks to fulfill its corporate responsibilities and contribute to sustainable community development in line with the key UNGP principles.

2.4. Indonesia SOEs Challenges to Confirm with their Obligations

2.4.1. The Obligation of State-Owned Enterprises in Human Rights

State obligations regarding human rights can be categorized into negative and positive obligations. Negative obligations require government bodies and officials to refrain from actions that infringe upon or unlawfully restrict individuals' rights and freedoms as protected by human rights treaties. On the other hand, positive obligations compel the state to take legislative, diplomatic, and other measures to protect individuals from rights violations committed by state entities or officials, as well as from harmful acts carried out by private actors or, in this case, State-Owned Enterprises.[39]

Economic activities carried out by state-owned enterprises occur at the intersection of public duty and private responsibility, where the state's legal obligations blend with an organization's internal governance. As a result, these enterprises do not fit neatly into the traditional framework defined by the UN Guiding Principles on Business and Human Rights. The challenge of adapting to evolving norms intensifies when states

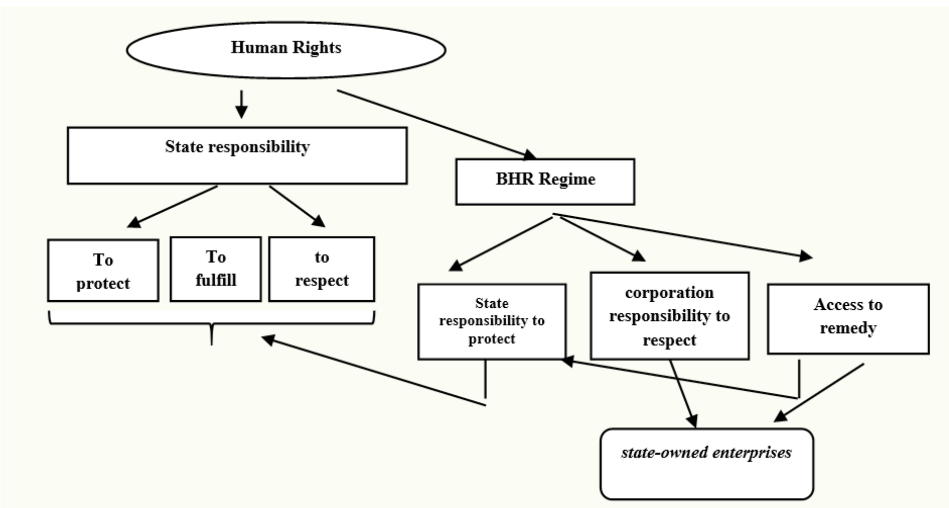
[39] Tatyana Eatwell, "State Responsibility for Human Rights Violations Committed in the States Territory by Armed Non-State Actors (Academy Briefing No. 13)," *Geneva Academy*, 2018, 1–43.

exercise their authority through commercial entities, since the enterprise's societal and economic governance becomes intertwined with the state's political and legal order. In this context, states fulfill their duties through legal frameworks while enterprises carry responsibilities within their governance structures. These fundamental distinctions are central to international efforts aimed at institutionalizing human rights norms across both public and private sectors.[40]

Among the most influential international frameworks, two are particularly notable. The first is the framework governing business affecting human rights, as outlined in the UN Guiding Principles on Business and Human Rights (UNGP), which were unanimous endorsed by the UN Human Rights Council in 2011. The UNGPs are structured around three pillars: the state duty to protect human rights, the corporate responsibility to respect human rights, and access to remedies for victims of business-related human rights abuses. State-owned enterprises (SOEs) hold a dual position under these principles. On one hand, as instruments of the state, they are subject to the state's duty to protect; on the other, as commercial entities, they are expected to adhere to the corporate responsibility to respect. Moreover, the owners of SOEs are tasked with exercising their ownership in a way that aligns with the state's human rights protection duty, with UNGP Paragraph 4 being particularly significant in this context. Many of these UNGP provisions have been integrated into the OECD Guidelines for Multinational Enterprises. Although these guidelines are non-binding, they include a remedial mechanism that allows individuals and other stakeholders to file complaints, referred to as "special instances", with a National Contact Point established by adhering states.[41]

Principle 4 of UNGPs states that States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies, including where appropriate, by requiring human rights due diligence. Regarding this principle, the research illustrates as follows:

Figure 2. Human Rights as a State Responsibility[42]



[40] Larry Cata Backer, "The Human Rights Obligations of State-Owned Enterprises: Emerging Conceptual Structures and Principles in National and International Law and Policy," *Vanderbilt Journal of Transnational Law* 50, no. 4 (2017): 827–88.

[41] Larry Cata Backer 9.

[42] Rehulina, Self-resources.

The second figure shows that human rights are primarily state responsibility, consisting of the obligations to protect, fulfill, and respect. The obligation respect require states to refrain from interfering, directly or indirectly, with the rights recognized in the ICCPR and ICESR. The obligation to protect means that the state is obliged to protect the human rights of citizens by preventing violations by various parties, both intentional and unintentional, by the state apparatus or by third parties. The obligation to fulfill requires states to take legislative, administrative, budgetary, judicial, and other measures to realize the rights recognized in human rights instruments. At the development of a new regime, which is the Business and Human Rights regime initiated by John Ruggie, in this regime, the obligation to human rights is assigned to the state and corporations. As shown in the figure, the responsibilities of state-owned enterprises are framed not as state duties but as corporate responsibilities. Thus, the obligations imposed on SOE are obligations to respect human rights as stated in the second pillar of Protect, Respect and Remedy UN Framework on Business and Human Rights.

2.4.2. What is Hindering Indonesia's SOEs from Fully Complying?

International efforts to establish effective and universally applicable regulations and accountability mechanisms for corporations continue to face challenges. One contributing factor is that Indonesia has not adhered to the OECD Guidelines for Multinational Enterprises, making it difficult to integrate these guidelines into the country's legal framework. Similarly, the United Nations' ten principles on the Global Compact and the UN Guiding Principles on Business and Human Rights are considered soft law instruments. As such, they do not impose binding sanction or direct legal enforcement mechanisms on governments or corporations that fail to comply. However, these international regulations can still serve as a reference for Indonesia in harmonizing its corporate accountability regulations. By aligning with these principles, corporations in Indonesia are expected to adopt responsible business practices that contribute to the protection of human rights.[43]

As a country that supported Resolution 17/4 on June 16, 2011, the Indonesian government, through various ministries and agencies, has taken steps to adapt and integrate the UN Guiding Principles on Business and Human Rights (UNGPs) into its national legal framework. At the same time, civil society has actively advocated for the institutional integration of UNGPs, not only within the state but also as a fundamental part of corporate culture and performance. This effort aims to position corporations as key actors in upholding human rights in Indonesia. Despite notable progress, the implementation of UNGPs in Indonesia continues to face significant challenges. One major issue is the perceived lack of strong political will to advance and protect human rights. In recent years, both the government and the legislature have prioritized accelerating legislative discussions and passing laws that could undermine human rights protections and environmental sustainability. This includes revisions to the Mining Law (UU Minerba) and the enactment of the Omnibus Law on Job Creation (UU Cipta Kerja), both of which raise concerns about their impact on human rights and natural resources.[44]

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[43] Markus H. Simarmata, "Tantangan Penegakan Ham Korporasi," *Majalah Hukum Nasional* 48, no. 1 (2018): 57–77, https://doi.org/10.33331/mhn.v48i1.117.

[44] ELSAM, "Satu Dekade Implementasi UNGPs Di Indonesia: Catatan Dan Rekomendasi Masyarakat Sipil," 2021, https://www.elsam.or.id/siaran-pers/satu-dekade-implementasi-ungps-di-indonesia-catatan-dan-rekomenda-

3. CONCLUSION

State-Owned enterprises are subject to human rights frameworks, but not equivalent to the state, the UN "Protect, Respect, and Remedy" framework and the 2011 UN Guiding Principles on Business and Human Rights distinguish between the state duties to protect meanwhile corporation responsibility to respect human rights. Thus, a state-owned enterprise, although state-owned, is treated as a corporate entity rather than as the state itself, and its role in human rights is framed as a responsibility to respect. This means that SOEs must comply with all national human rights regulations also applied minimum human rights responsibility from human rights convention in their operation.

Interpretation of Human Rights Obligations under Indonesian Law suggests that the country has taken steps to effectively integrate the UN Guiding Principles on Business and Human Rights into its national policies and practices for state-owned enterprises. Indonesia has updated its National Action Plans on Business and Human Rights and enforced Good Corporate Governance principles to guide SOE conduct. Key companies such as PT PLN and PT Pertamina have adopted measures including anti-discrimination policies, whistleblowing systems, sustainability reports, and ethical codes of conduct. These initiatives aim address challenges related to gender equality, child labor, disability inclusion, and indigenous rights. Despite some gaps in implementation, these efforts indicate a policy-level commitment to advancing human rights and sustainable development in both government policy and business operations.

Indonesia's state-owned enterprises face the challenge of operating within a dual framework: corporate responsibility to respect human rights and state expectations to support public policy objectives. Balancing the public duty of the state with commercial responsibilities, as outlined in the United Nations Guiding Principles on Business and Human Rights, remains a critical challenge. Persistent barriers include the non-binding nature of international guidelines, on going societal discrimination, and shifting political priorities, continue to hinder comprehensive compliance. To overcome these obstacles, Indonesia should enact binding legislation on business and human rights, with a particular focus on mandating human rights due diligence for SOEs, harmonizing existing regulatory frameworks, and strengthening oversight institutions to ensure effective enforcement. States should also reinforce independent monitoring and accountability mechanisms and guarantee access to effective remedies for affected individuals and communities. Furthermore, integrating human rights standards into corporate governance frameworks, supported by sustained political commitment and robust anti-discrimination policies, is essential to ensure that SOEs consistently adhere to international human rights norms.

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