

POLICY PAPER

EMBEDDING WOMEN'S ECONOMIC EMPOWERMENT PRINCIPLES AND CLIMATE CHANGE RESILIENCE INTO BUSINESS AND HUMAN RIGHTS POLICIES IN INDONESIA



Policy Paper
Embedding Women's Economic Empowerment Principles and Climate Change Resilience into Business and Human Rights Policies in Indonesia

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Page: 74 Pages + Cover

Ukuran: 210mm X 297mm

First published in March 2022 by

Diterbitkan oleh International NGO Forum on Indonesian Development (INFID)

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FOREWORD

Since 2013, INFID has been focusing on three key areas: Reducing Inequality, Sustainable Development Goals, and Human Rights and Democracy. Working in unison with 88 members dispersed across Indonesia, INFID conducts a wide range of studies, monitoring exercises, policy advocacy, as well as public campaigns and education.

Specifically on Human Rights and Democracy, INFID's work is dedicated towards 1) keeping track of the business and human rights issue; 2) expanding and consolidating the human rights cities movement; and 3) strengthening the narrative of diversity, peace and tolerance. The business and human rights framework is part of incorporating human rights into business policies and practices.

The business sector opens up employment and income opportunities for the people. The State should therefore give due attention to the matter, supporting and ensuring an enabling environment. The government however should also be mindful of the fact that business entities have received the second highest number of complaints for human rights abuses in 2016-2020. The most commonly reported cases are land conflicts, labor disputes, and environmental pollution (Komnas HAM, 2021).

In 2011, the United Nations unveiled the UN Guiding Principles on Business and Human Rights (UNGPs), which recognize business entities as a new actor that are also expected to fulfil their human rights responsibilities. In view of this, businesses should make sure that human rights are at the heart of their activities to avoid involvement in human rights harms. They should also strive to address the direct or indirect adverse human rights consequences of their activities, products, services, or business relationships (Komnas HAM and Elsam, 2017).

Since 2017, INFID has worked alongside other civil society organizations to promote and monitor the inclusion of the business and human rights framework into Indonesia's National Action Plan on Human Rights for 2021-2025. INFID advocates on the issues of women's economic empowerment and climate change and their incorporation into the National Human Rights Action Plan. By doing so, women will be kept front in mind when formulating and implementing more gender-sensitive development policies. In addition, the negative impacts of climate change, especially in terms of food security and the fisheries sector, will be given more serious attention by the government and business.

The government of Indonesia is currently drafting a national strategy on business and human rights. The document is expected to specifically accommodate business and human rights regulations in Indonesia. This policy paper forms part of a larger advocacy process to

make sure that the 2 issues (women's economic empowerment and climate change) receive greater attention in the National Strategy on Business and Human Rights. It takes stock of the business and human rights situation in Indonesia, primarily in regard to women's economic empowerment and climate change resilience. A list of recommendations has been put forward. It is hoped that the government will integrate climate change mitigation efforts and women's empowerment principles in the implementation of the UNGPs in Indonesia.

We extend our utmost appreciation to authors Roichatul Aswidah and Kania Mezariani Guzaimi for their hard work and dedication. Both have done a remarkable job in completing the paper. Hopefully the document will be of value to many. Enjoy the reading!

Jakarta, 15 July 2021

Abdul Waidl

Senior Program Officer Human Rights & Democracy

EXECUTIVE SUMMARY

The United Nations adopted the Guiding Principles on Business and Human Rights (UNGPs) in 2011. In Indonesia, President Joko Widodo issued Presidential Regulation No. 33/2018 on Amendments to Presidential Regulation No. 75/2015 on National Action Plan on Human Rights (RANHAM) for 2015 – 2019. The UNGPs are being implemented at the national level, and have been incorporated into the latest draft RANHAM.

Furthermore, the government of Indonesia has introduced policies for tackling climate change and ensuring the fulfilment of women's rights. The effective implementation of these policies however somewhat hindered by a host of challenges. The UNGPs on the other hand emphasize on the pivotal role that business plays in addressing climate change and realizing women's rights.

Given the fact that businesses are the second most complained about entities as established by the monitoring of international and national civil society organizations and reports filed with the National Commission on Human Rights (Komnas HAM), implementing the UNGPs would be met with their fair share of challenges. Concerning the environment, the 2020 Emissions Gap Report brought attention to a trend of rising carbon and greenhouse gas emissions in the past three years that has affected vulnerable groups, especially women. Business operations also present a real challenge as they impact women differently.

This policy paper seeks to inform the government of Indonesia on the importance of aligning and integrating climate change mitigation efforts and women's empowerment principles in implementing the UNGPs in Indonesia. It also offers important insights on business and human rights that emphasize on women's economic empowerment and climate change resilience that the government, business, and civil society can draw from.

Prepared from October 2020 to March 2021, the policy paper examined 100 (one hundred) legislative and other documents issued by the national and subnational governments, in addition to documents released by the United Nations (UN), independent institutions, national and international NGOs, as well as other relevant documents. For deeper insights, data on progress achieved in implementing the UNGPs in Indonesia were also included, which were obtained from the following workshops and seminars held by INFID throughout the time the policy paper was developed: a) Seminar on "The Latest Situation and Advocacy Strategy in Implementing Business and Human Rights" on December 4, 2020, involving the government (Directorate General of Human Rights of the Ministry of Law and Human Rights, and the Coordinating Ministry of Economic Affairs) and civil society; b) Workshop on Civil Society Consolidation in the Business and Human Rights Context, March 4-5, 2021, involving the government (Directorate General of Human Rights of the Ministry of Law and Human Rights, Bappenas, Coordinating Ministry of Economic Affairs, and Ministry of Foreign Affairs), business associations (KADIN), multistakeholder associations (RSPO), international

NGOs, and 48 civil society representatives across Indonesia. The policy paper was finalized through a peer review conducted on April 8, 2021 with the relevant stakeholders representing government ministries/agencies and civil society.

The policy paper attempts to address problems that revolve around business and human rights in Indonesia in relation to gender issues, specifically women's economic empowerment and climate change resilience. It puts forward policy recommendations on women's economic empowerment and climate change resilience within the business and human rights context.

The policy paper has come to the following conclusions:

- a. UNGPs implementation in Indonesia has reached the following key milestones: a) the inclusion of business and human rights into RANHAM 2020-2024; b) the formulation of a national strategy on business and human rights; c) the formation of a National Task Force on Business and Human Rights that serves as a coordinating body for the implementation of the National Strategy on Business and Human Rights, and for business and human rights mainstreaming at the national level, with members from across government ministries working in unison with business associations and civil society, disability groups, women, and indigenous peoples as the primary target groups in the implementation of the business and human rights framework; and e) the launching of the PRISMA voluntary risk assessment tool that allows business entities to perform self-assessments of potential impacts and risks.
- b. The major challenges in implementing the business and human rights framework for women in Indonesia are as follows: a) deep-seated social norms and patriarchal culture; b) the sheer number of women working in the informal, home-industry, or domestic work sector, or in low-paying jobs; c) specific sectors that rely heavily on women, such as plantation, fisheries, and garment, have different issues and characteristics; d) government's lack of capacity in monitoring businesses to make sure they honor their obligations, particularly in relation to the protection of women's rights in the workplace; e) women's inability to access remedy for violations of their rights; f) the government's failure to clearly state its expectations of business entities' contribution to preventing climate change and respecting human rights; g) a lack of gender perspective in climate change policies.
- c. The COVID-19 pandemic presents a grave challenge to the implementation of the business and human rights framework, compounded by the passage of the Job Creation Law that appears to instead enable corporations to disregard human rights and the environment in their business operations.

The policy paper recommends that the government considers the following:

- a. The President should fast-track the issuance of a Presidential Regulation on RANHAM 2020-2024 in which business and human rights will be incorporated therein; a National Task Force on Business and Human Rights in cooperation with business entities and civil society should ensure an open and transparent process in developing and implementing a Roadmap and National Strategy on Business and Human Rights by taking into account the challenges and actions taken by civil society at the national and subnational level; the government (Ministry of Law and Human Rights and BAPPENAS) should harmonize the National Action Plan on Climate Change Adaptation (RAN-API) with RANHAM 2020-2024 to make sure that UNGPs are implemented in sync with Indonesia's climate change adaptation measures from a gender-responsive approach.¹
- b. The need to take develop policies and regulations based on a review of existing laws, policies, norms, standards, and practices that directly or indirectly discriminate against women, and to examine and issue laws on specific sectors designed to protect women. Equally important is a legal/policy/program framework that aligns women's empowerment and climate change mitigation with SDGs implementation and achievement, including in urging business actors to introduce a human rights policy that incorporates the commitment to women's rights (women's rights policy) and to climate change mitigation as part of the SDGs.
- c. The National Task Force (NTF) must ensure that efforts are being made to take stock of the business and human rights situation in priority areas, at least in the plantation, mining, and fisheries sectors in the first 5 years. The NTF on Business and Human Rights (BHR) is advised to take stock of business and human rights policies and initiatives in Indonesia and to urge independent national institutions to conduct national inquiries into the situation of women workers in key sectors, including in female-dominated industries.
- d. The need to build understanding and awareness of business and human rights, especially related to women and the environmental, to take specific steps towards developing a roadmap for gender mainstreaming in every business and human rights pillar, and to identify best practices on gender empowerment undertaken by businesses. Climate change should also be one of the areas of focus of the national business and human rights strategy, including on gender and climate change.
- e. Regarding the PRISMA application, the NTF BHR, especially the Director General of Human Rights, should conduct periodic reviews in consultation with business entities, civil society and universities.

¹ As the research report was about to be published, President Jokowi enacted Presidential Regulation No. 53/2021 on RANHAM 2021 – 2025 on June 8, 2021.

- f. The Ministry of Environment and Forestry (MOEF) should align its 2020-2024 gender mainstreaming roadmap with related institutions, including Komnas Perempuan, for its implementation.
- g. Regarding the remediation mechanism, it is important to ensure that the rights of women, children, persons with disabilities, and indigenous peoples in conflict with the law are fulfilled, including access to legal aid services, which cover measures to enhance gender sensitivity among law enforcement and local government officers.

The policy paper also recommends that civil society and business associations who form part of the NTF on BHR act as anchors to bridge the gap between the NTF and civil society/business entities at the national and subnational levels. In addition, the NTF should ensure that its work as well as business initiatives and issues become the basis for business and human rights programming, and that best practices are replicated.

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CHAPTER 1

INTRODUCTION

1.1 Background

As globalization increasingly gains momentum as a result of technological advances, it has become an even greater challenge to ensure good global governance. Some global corporations have accumulated more wealth and power than some countries.² As a consequence, countries worldwide find it hard to ensure corporate compliance with existing international and national laws and norms. Business activities are essential for economic growth. However, non-compliance in business contributes to climate change and human rights violations, including women's rights.

The adoption of the United Nations Guiding Principles on Business and Human Rights (UNGPs) in June 2011 is part of UN efforts to ensure corporate compliance. The guidelines are the most authoritative international public policy that recognizes the responsibilities of the State and business in preventing and addressing business-related human rights abuses.³

Based on monitoring conducted by the Business and Human Rights Resource Center (BHRCC), there are at least 200 case profiles of lawsuits related to business and human rights over

² (Belinchon, 2018), accessed 28 April 2021

³ (OHCHR, 2011), accessed 20 February 2021

the past twelve years.⁴ The report shows that the extractive industry, such as mining or oil and gas, has the highest risk for corporate human rights violations, accounting for around 45 percent of the total cases monitored. The industry also has the highest risk in terms of attacks against human rights defenders. In 2019, out of 572 cases of violations against human rights defenders, 143 cases occurred in the extractive sector.

Meanwhile in Indonesia, based on Komnas HAM (National Commission on Human Rights) data in 2019, corporations ranked second for the most complaints filed with Komnas HAM at a total of 483 cases. Allegations of human rights abuse reported to Komnas HAM were mainly related to land or labor disputes, and environmental pollution or damage, specifically on the contamination of ground or surface water (rivers) as vital sources of clean water for local communities. In these cases, corporations allegedly failed to comply with environmental standards and regulations in their areas of operation.⁵

The 2020 Emissions Gap Report noted that global carbon emissions from the energy sector are the highest compared to other sectors, at 38.0 GtCO₂.⁶ This shows how the energy sector significantly contributes to climate change. Apart from the energy sector, the plantation or land-use-change sector, including in coastal areas, also contribute to increasing levels of carbon emissions that cause climate change.

Climate change not only causes the Earth's temperature to rise but also changes the climate system that affects various elements, which ultimately alters nature and life on Earth, including water quality and quantity, habitats, forests, health, agricultural land and coastal ecosystems. The Institute for Human Rights and Business (IHRB) underlined that the impact of climate change on humans is one of the areas of focus of business and human rights in 2021.⁷ It is therefore important to ensure that business practices do not cause environmental degradation or exacerbate the impact of climate change, which may instigate climate migration.⁸

In Indonesia, climate change has had a profound impact on food security and the fisheries sector in particular. Dry spells meant shifts in cropping patterns that usually end with harvest failures. In addition, climate change has led to changes in ocean currents and triggered ocean acidification, causing a decline in fish catches.

4 (Corporate Legal Accountability Quarterly Update, 2020), accessed 20 February 2021

5 (Komnas HAM, 2019) p. 47

6 (UNEP, 2020) pp. 4-5

7 (IHRB, 2020), p. 7

8 Ibid., p.7

Pasijah and Climate Change

Climate change-induced tidal floods or seashore abrasion have engulfed two hamlets in Demak, Central Java. More than 200 households were forced to move out of the village.⁹ Recurrent tidal floods in the past 20 years are the result of reclamation projects in Semarang City. Based on data from the Local Maritime and Fisheries Office, abrasion along the Demak coastline has stretched across 1,473 hectares of land, affecting four nearby subdistricts.¹⁰ The Head of the Local Disaster Response Agency (BPBD) of Demak District warned that if nothing is done to stop reclamation or development on the coast of Semarang City, abrasion will worsened. Local development activities have led to land subsidence and sedimentation. Massive groundwater extraction, oil and gas mining, or natural (tectonic) factors also contributed to land subsidence.¹¹

Around 42 villages in four subdistricts (Sayung, Karangtengah, Bonang, and Wedung) along the coast of Demak deal with tidal floods on a daily basis.¹² The floods have taken away the livelihoods of the majority of residents who initially worked as fish and rice farmers. Left with inundated lands, they are forced to migrate to seek employment as factory or construction workers.¹³ Pasijah and her family however are an exception, as they chose to remain in the village.

The hamlet of Rejosari Senik in Bedono Village has been submerged in sea water for the past several years, leaving Pasijah with no other option but to row her own boat when she needs to travel. She makes her daily boat trip to the market to buy household necessities, and to send her children to school. Pasijah reminisced how her village was once surrounded by rice fields. At the time she could grow rice and maize.¹⁴ Located four kilometers away from the sea, her house has been raised thrice to avoid being inundated by sea water.

Pasijah and her family chose to stay put in their home for economic reasons. Her husband, Rohani, is a fisherman whose earnings could barely make ends meet. They also help grow mangroves around their house. Pasijah felt that it was her calling to take care of the village by planting mangroves, even with no one left around.

Environmental pollution and climate change in other sectors have also caused water sources to dry up, forcing rural women to walk even farther to get clean water. Meanwhile, women are still underrepresented in decision-making processes. Despite the substantive progress made on gender equality, there are still major challenges to eliminating the various forms of discrimination, exclusion and violence against women, which further constrain their agency to effectively deal with climate change.¹⁵

9 (Amindoni, 2020), accessed 25 April 2021

10 (Saifudin, 2021), accessed 25 April 2021

11 (Manan, 2021), accessed 25 April 2021

12 Op.cit., Saifudin

13 Op.cit., Manan

14 (Amindoni, 2020), accessed 25 April 2021

15 (BSR, 2018), p. 5

In responding to climate change, it is crucial for the government and business entities to apply a gender lens considering the different impacts that it has on men, women, people of different ages, and so on. Data on the global business and human rights situation in the last three years (2018-2020) released by the Institute for Human Rights and Business (IHRB) also showed how women's issues remain to be a perennial concern. This is due to the never-ending discrimination against women in the workplace and in society. Cultural shifts to eliminate workplace harassment and build an inclusive working environment are still issues that warrant serious attention in 2020.¹⁶ These circumstances have a bearing on women's ability to deal with climate change.

Over the course of time, the international community, governments, and civil society have begun to acknowledge the intersection or connection between gender inequality and climate change, which essentially relates to the ability to fulfill human rights. The global community is working towards finding solutions to climate change by focusing on women, one of which is through the Women's Empowerment Principles (WEPs) that were developed in 2010.¹⁷

The discussion above highlights businesses' significant contribution to climate change and human rights impacts, including women's rights. Policymakers and businesses need to be convinced of the positive impact that women's empowerment has on the economy, as provided below:

1. According to Plan International, a 10 percent increase in school enrolment among girls can boost national GDP by 3 percent;
2. Investing in gender equality will improve Indonesia's potential GDP growth by up to USD 135 trillion annually by 2025;
3. The economic growth of G-20 members is experiencing an upward trajectory due to the removal of gender discrimination and gender pay gaps in the workplace;
4. Providing internet access to over 600 million women can increase annual GDP by up to USD 18 billion in 144 developing countries;
5. The more women are connected to the internet, the more empowered they become, thereby amplifying their income-generation potential;
6. Equal ownership of agricultural land and resources between women and men has the potential to increase crop yields by 20-30 percent.¹⁸

In 2018, the ILO conducted an enterprise survey of 300 to 400 companies. The survey found that two-thirds of companies that implement gender diversity initiatives tend to have a positive impact on business.¹⁹

16 (IHRB, 2020), accessed 30 November 2020

17 (UNFCCC, 2020) accessed 2 November 2020

18 (Anggita, Dampak Pemberdayaan Perempuan di Bidang Ekonomi, 2019), accessed 17 April 2021

19 (IBCWE, 2020), accessed 17 April 2021

In addressing the business and human rights issue in Indonesia, the government is in the middle of developing a “Business and Human Rights Roadmap for 2020-2024: Towards Responsible Business,” with four areas of focus—women, children, indigenous peoples, and people with disabilities. This policy paper urges the government of Indonesia to align or integrate climate change mitigation efforts with the women’s empowerment principles in the implementation of the UNGPs in Indonesia.

1.2 Purpose, Scope, and Methodology

This policy paper offers input on business and human rights with emphasis on women’s economic empowerment and climate change resilience, primarily for the following policymakers:

- a. President of the Republic of Indonesia;
- b. House of Representatives;
- c. Ministry of Law and Human Rights, specifically in its capacity as the RANHAM Joint Secretariat and focal point for the implementation of the business and human rights framework;
- d. National Task Force on Business and Human Rights;
- e. Government ministries/agencies relevant to the implementation of the business and human rights framework, including Coordinating Ministry for Economic Affairs; Ministry of Foreign Affairs; Ministry of National Development Planning/Agency for National Development Planning (Bappenas); Ministry of Environment and Forestry; Ministry of Women’s Empowerment and Child Protection; and Ministry of Home Affairs.

However, as the implementation of the UNGPs rests on a polycentric system of governance, which encompasses “public governance” that covers laws and policies, “corporate governance”, and “civil governance”, by which not only the State, but also business entities and civil society are expected to play equally vital roles, this policy paper also provides input for corporations and civil society.

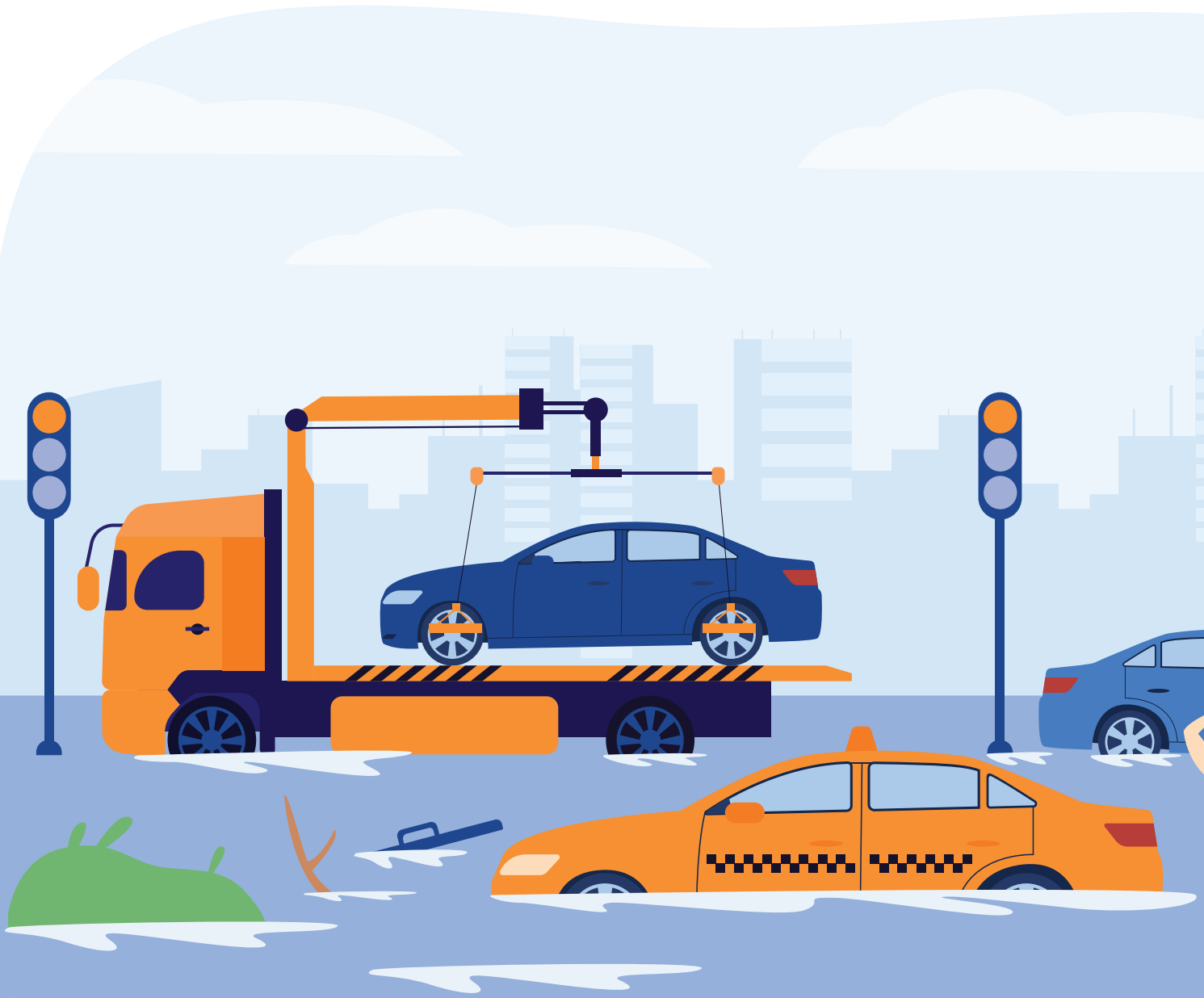
1.2.1 Methodology

The policy paper studies a wide range of documents published by the government of Indonesia, United Nations (UN), independent institutions, non-governmental organizations or civil society organizations (NGOs/CSOs) at the national and international levels, and other relevant documents. Deeper insights were gleaned from online interviews. The policy paper was finalized through peer reviews and focus group discussions with relevant stakeholders.

1.2.2 Scope of Policy Paper

The policy paper discusses the following key aspects:

- a. Policy, legal and theoretical frameworks on business and human rights, women's economic empowerment, and climate change resilience in Indonesia.
- b. The business and human rights situation, which covers women's situation in general and in specific sectors such as plantation, shrimp, and aquaculture in Indonesia, as well as in times of the COVID-19 pandemic.
- c. Benefits of implementing the United Nations Guiding Principles on Business and Human Rights for the government, business, and society.
- d. Recommendations for the government, business, and civil society organizations in applying the principles of business and human rights, women's economic empowerment, and climate change resilience in business practices in Indonesia.



An illustration on the left side of the page depicts a flooded urban environment. In the background, there are stylized blue buildings. In the middle ground, a blue car is partially submerged in water, with its hood open and a person in a blue shirt and orange pants standing next to it. In the foreground, a person in a light orange shirt is wading through the water, holding their head. There are also some green bushes and a small brown object floating in the water.

CHAPTER 2

CLIMATE CHANGE IMPACTS ON HUMAN RIGHTS AND WOMEN'S ECONOMIC EMPOWERMENT

This chapter describes the climate change situation in Indonesia, and how it affects human rights. One of the most visible impacts of climate change is extreme weather conditions that cause natural disasters such as floods, droughts, storms, and hurricanes.

The chapter also discusses the situation for women in regard to the workplace and business operations in Indonesia. It presents the myriad problems facing women in general, in specific sectors (plantation, shrimp, and aquaculture), and in times of the COVID-19 pandemic. These circumstances affect how women cope with climate change.

The chapter goes on to describe the relationship between gender, climate change, and business and human rights.

2.1. Climate Change Situation and Its Impacts in Indonesia

According to the World Resources Institute (2018), Indonesia ranks among the world’s top ten countries producing the most carbon emissions.²⁰ This is based on the 2016 report of the Ministry of Environment and Forestry (MOEF), which stated that greenhouse gas emissions, including from land use, land-use change and forestry (LULUCF), totaled 1.458 million tons of carbon dioxide.²¹ The figures continue to increase by 42% between 2000 and 2016 (approximately 2.2% per year). LULUCF emissions typically arise from the conversion of forest and agricultural lands (usually for oil palm plantations), timber mining, and forest and peatland fires.²²

Meanwhile, the MOEF’s 2019 Greenhouse Gas Inventory Report showed an increase in GHG emissions from 2018 to 2000, to as high as 450,928 Gg CO₂e. The table below presents the level of emissions for each sector:

Table 2.1 Greenhouse Gas Emissions in Indonesia

Sector	GHG Emissions			
	(in Gg CO ₂ e)	2016	2017	2018
	2015	2016	2017	2018
Energy	536,306	538,025	562,244	595,665
Industrial Processes and Product Use (IPPU)	49,297	55,307	55,395	59,262
Agriculture	117,160	122,185	127,503	131,642
Forest and Peatland Fires (FOLU)	1,565,579	507,652	488,517	723,510
Waste	106,061	112,352	120,191	127,077

Source: Compiled from MOEF (2019), p. 41.

The table above shows that total emissions from forest and peatland fires are the highest, followed by the energy sector. The national trend of Indonesia’s GHG emissions since 2000 is provided in the Figure below:

²⁰ (OECD, 2019), accessed 18 November 2020.

²¹ (KLHK, 2018) pp. 1-5, accessed 2 January 2021

²² Op.cit.

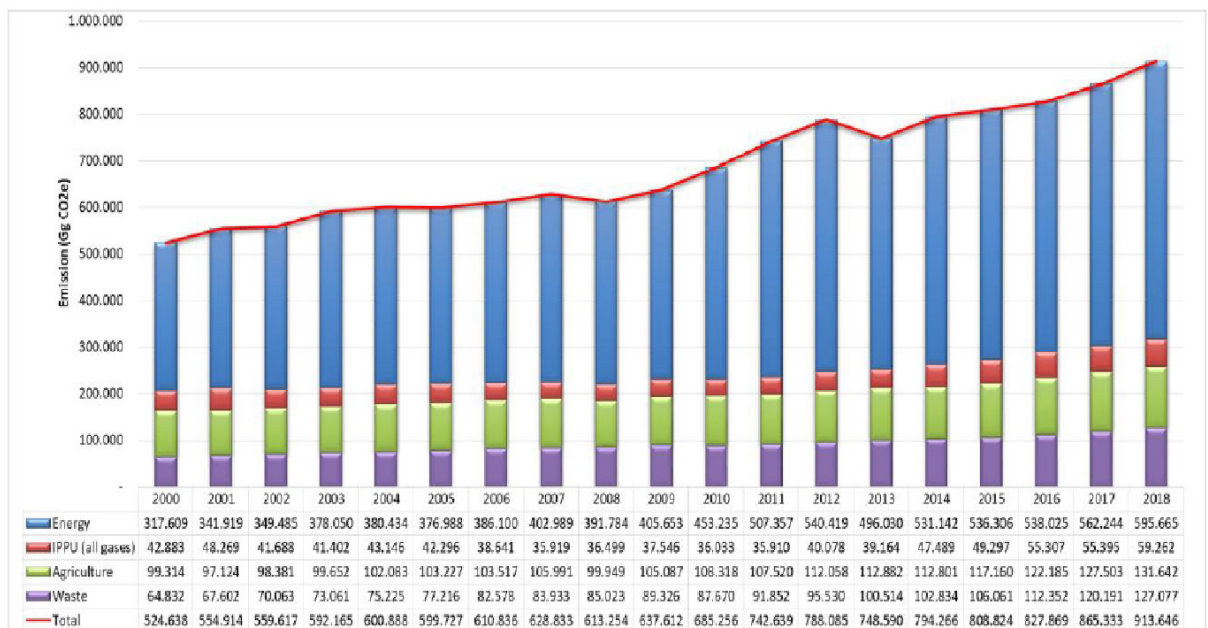
Figure 2.1 Profile of National GHG Emissions, 2000 – 2018



Source: MOEF (2019), p. 41.

Graph 2.1 above shows a dramatic spike in emissions attributable to peatland fires in 2015. In the same year, GHG emissions due to peatland fires amounted to 1,565,579 Gg CO₂e out of total emissions of 2,374,403 Gg CO₂e. In 2018, emissions from FOLU and peatland fires fell to 723,510 Gg CO₂e. However, the emissions were an increase from the previous two years in 2016 and 2017. GHG emissions in other sectors also saw an upward trend from previous years.

Figure 2.2 Profile of National GHG Emissions, 2000 – 2018 (Excluding Forest and Peatland Fires)²³



Source: MOEF (2019), p. 42.

23 (MOEF, 2019), p. 42

The energy sector is the largest source of greenhouse gas emissions in Indonesia, accounting for 65 percent of total GHG emissions in 2016. Energy-related emissions are primarily generated by fuel combustion processes, transportation, manufacturing and construction, and others. GHG emissions also stem from the plantation sector at 14 percent, from waste at 14 percent, and from industrial processes at 7 percent.²⁴ The data above shows how GHG emissions have risen over the last three years.

2.1.1 Climate Change Impacts in Indonesia

Rising concentrations of greenhouse gas emissions have caused air temperatures to increase, leading to climate change. Occurring at a global level, climate change has altered natural ecosystems, which in turn impact on local communities. According to the IPCC, coastal areas are facing the dire consequences of climate change. This is because climate change causes sea level rise and extreme weather conditions, which pose a serious threat to marine ecosystems, including coral reefs, mangroves, and seagrasses.²⁵ If marine ecosystems are under threat, the physical environment of coastal areas would also be in peril. Aside from marine ecosystems, natural ecosystems as a whole are also affected by climate change.

Changes to natural ecosystems would consequently trigger extreme weather events and natural disasters. The National Disaster Response Agency (BNPB) recorded at least 3,814 natural disasters in Indonesia throughout 2019.²⁶ Of the three types of natural disasters, hydrometeorological hazards most commonly occur in Indonesia. Hydrometeorological disasters are natural phenomena that relate to atmospheric layers, hydrology, and oceanography, which have the potential to harm, damage, and cause the loss of human lives.²⁷ One of the main causes of hydrometeorological disasters is climate change. Hydrometeorological disasters include floods, landslides, tornadoes, hail storms, blizzards, droughts, torrential rains, and others. The following provides the number of disasters by type of hydrometeorological hazard:

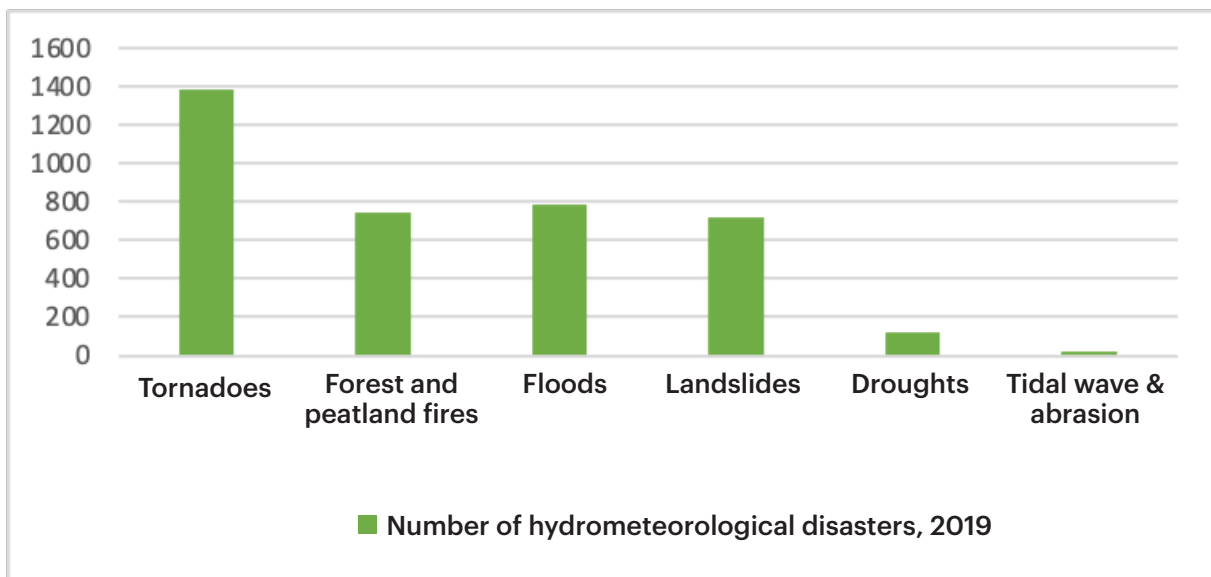
24 (OECD, 2019), accessed 18 November 2020.

25 (BPS, 2020), p. 33

26 (BNPB, 2019), accessed 5 December 2020.

27 (Andika, 2020), accessed 20 December 2020

Figure 2.3 Number of Hydrometeorological Disasters, 2019



Source: BNPB, 2019.

A BNPB report shows the sheer magnitude of natural disasters that occur as a result of climate change. In 2019, natural disasters have wreaked havoc where millions are affected, as illustrated in the table below.

Table 2.2 Impact of Climate-Induced Natural Disasters on Humans and the Resulting Destruction

Human Impact	Number of People	Damages	Number Damaged Units
Died	478	Homes	73,723
Missing	111	Public facilities (schools, places of worship, healthcare facilities)	2,024
In hardship & displaced	6.1 million	Bridges	450
Injured	3,421	Offices	275
Total	6,104,010 casualties	Total	76,472

Source: Data compiled from BNPB infographics (2019)

The data above, as explained earlier, further substantiate how climate change can lead to the violation of human rights, particularly the right to life and health, to food, to water, and to a decent standard of living. Victims of natural disasters who are forced to evacuate due to the destruction around them usually also means the loss of livelihoods. This affects their ability to exercise their right to food, a decent standard of living, and other fundamental rights.

2.1.2 Climate Change Impacts in Coastal Areas

In the coastal areas of Indonesia, the utilization of marine fishery resources, both on coastal land and in oceans, is inextricably linked to natural disasters and climate change. Natural disasters and climate change can gravely impact the ability to utilize marine fishery resources.

Sea level rise for example, can swallow up small islands and parts of cultivated land along coastal zones, can cause sea water intrusion into mainland, and can intensify extreme weather (storms, cyclones, floods) that affect fishing and fish farming activities, and result in damaged facilities and infrastructure. In addition to natural disasters and climate change, coastal areas are also at risk of environmental degradation in the form of damaged ecosystems, abrasion, sedimentation, pollution and limited land.²⁸

The abovementioned situation also poses a threat to small-scale and traditional fishermen in Indonesia's coastal areas. Climate change increases weather unpredictability and changes fish migration patterns. Artisanal fishermen could no longer tell when would be the best time to go out to sea amid changing fish migration patterns. As a result, fish catches are not as bountiful as before, not enough to cover production costs. Furthermore, traditional fishing boats cannot withstand intense storms or large waves that occur due to extreme weather. Under such circumstances, the economic situation for artisanal fishermen further deteriorates. To make ends meet, they have to seek additional work as fishery laborers or farmhands, or in other informal sectors.²⁹

This dire situation is confirmed by the Agricultural Census, which observed a decline in the number of farming households in the fisheries subsector (catch and cultivation) from 2.49 million to 1.97 million in the 2013 Agricultural Census, and to 1.64 million in the 2018 Inter-Census Agricultural Survey (SUTAS).³⁰ Similarly, the Ministry of Maritime and Fisheries (MOMF) recorded a decrease in the number of fishermen from 3.44 million in 2004, to only 2.06 million in 2005. After 2005, the number of fishermen hovered around two million people. From 2015 up to the provisional data in 2018 (1.69 million fishermen), the numbers have spiraled downwards.³¹

Apart from its impact on the livelihoods of fishermen, climate change also wreaks havoc on the homes and infrastructure of coastal communities. Rising sea levels cause more frequent and more destructive tidal waves. Since 2007, BNPB documented at least 30 schools, six hospitals, and 23.8 thousand homes that were damaged and destroyed by tidal waves.³² The problems faced by artisanal fishermen as a result of climate change show how it has severely impacted their ability to enjoy their rights, including women's rights.

2.1.3 Climate Change Impacts on Human Rights

Based on the situation above, there are major challenges to preventing climate change in Indonesia, and the resulting human rights violations. Climate change causes extreme weather, which in turn triggers natural disasters that can claim many lives. Climate change-related disasters that have a devastating impact on the fishing and coastal communities in Indonesia meant that the following human rights are under serious threat:

28 (MOMF, 2019) p. 22.

29 (BPS, 2020) p. 56.

30 Ibid., p. 57

31 Ibid., p. 57

32 Ibid., hal.58

- **Right to life and health:** Climate change results in extreme weather events such as storms, tornadoes, floods, and heat waves that are more severe than ever. This directly and indirectly impacts on communities, specifically on their safety and health.
- **Right to food:** Climate change leads to corresponding changes to soil structure and water resources, which can result in harvest failure and adversely affect livestock production. This does not bode well for food production and food security.
- **Right to water:** Climate change affects water resources due to melting ice and changes in rainfall, which cause sea levels to rise. It also impacts on the quality and availability of groundwater, especially during the dry season.
- **Right to an adequate standard of living:** Climate change threatens people's livelihoods, especially among the poor whose occupations depend on the weather. Around 2.6 billion people work in the agrarian sector, and 450 million of the world's poor rely on ecosystems.³³

2.2. Women, Business and Human Rights in Indonesia

Women's labor force participation rate in Indonesia has risen from 45 percent in 1991 to 51 percent in 2018, which however is still relatively low compared to 78 percent of men in the labor force.³⁴ According to the latest BPS (National Statistical Office) data, from February 2019 to February 2020, the labor force participation rate among women fell by 0.94 percentage points, but rose by 0.64 percentage points for men. The average wage for female workers is also lower at 2.45 million rupiah per month compared to male workers at 3.18 million rupiah per month. The lowest monthly wage is 1.71 million rupiah for other service categories where women are employed, including as salon employees, laundry workers and domestic workers.³⁵

Female workers in Indonesia are mainly absorbed in labor-intensive industries, especially garment, textile and footwear. Companies prefer to hire female workers as they are perceived as more efficient, diligent, easy to manage and willing to accept lower wages. This is a long-held perception shaped by a deeply entrenched patriarchal mindset that tends to subordinate women. Despite being more independent and empowered now, the majority of women still have no access to knowledge for self-development.³⁶ Women continue to be stigmatized as being weak and helpless. As they are expected to assume the dual role of also tending to the family, the stigma imposed on female workers often prevent them from working.³⁷ Working women still have to fulfil their obligations as mothers and primary caregivers of their children, which include attending to a sick child, sending kids off on the first day school, and collecting their report cards.

33 (BSR, 2018) p. 10

34 (ILO, 2020, June 2020)

35 (BPS, 2020), 5 May 2020

36 (Jumisih, 2020) 14 December 2020, accessed 6 March 2021

37 (Sabarini, 2020), accessed 27 February 2021

Women workers face different challenges and problems for each sector. However, in general, the challenges that they have to deal with are as follows: 1) female workers are underrepresented in decision-making, and therefore their rights are often overlooked; 2) lack of career opportunities and support for their personal development; 3) lack of protection and guarantees for their safety, health, and welfare, where they still face wage discrimination, violence, and harassment; not provided with adequate personal protective equipment at work; and denied of their right to social security.³⁸ The problems that women workers in Indonesia face are outlined in the table below.

Table 2.3 Macro-Level Issues Facing Women Workers in Indonesia

WOMEN WORKERS' VULNERABILITY TO INFORMAL EMPLOYMENT	<ul style="list-style-type: none"> • Male workers dominate both the formal and informal sectors • Male domination is higher in the formal (65.62%) than informal sector (57.96%) in 2018. • Women are more likely to be employed on a contract basis than men • Many women work in the informal sector without decent working conditions, relatively low wages, and without social protection or other normative rights as mandated in laws and regulations.
AVERAGE WAGE OF WOMEN WORKERS	At 3.06 million rupiah per month, male workers/employees earn more than female workers who get only 2.4 million rupiah, as of August 2018.
DISCRIMINATION AND VIOLENCE AGAINST WOMEN IN THE WORKPLACE/ PUBLIC SPACES	<p>Data from Komnas Perempuan (National Commission on Violence against Women):</p> <ul style="list-style-type: none"> • In 2018, there were 3,915 cases of violence against women in public spaces. • 2,521 cases of sexual assault, 883 cases of physical abuse, 212 cases of psychological abuse, 158 cases of trafficking, dan 141 cases involving migrant workers. • The most common type of sexual violence in public spaces: 1,136 cases of molestation, 762 cases of rape, and 394 cases of sexual harassment.
WORKPLACE SEXUAL HARASSMENT	<ul style="list-style-type: none"> • The majority of female workers have at some point in their lifetime experienced sexual harassment, verbal or physical, or both.
ISSUES ON REPRODUCTIVE RIGHTS	<ul style="list-style-type: none"> • Women workers experience miscarriage • Pregnant workers must work overtime despite their condition, and often don't get paid. • Pregnant workers can only be on non-shift (not working) after seven months of pregnancy. They are still expected to do strenuous work, such as lifting heavy objects or working the night shift. • It is not easy to take menstrual leave as it requires a doctor's note issued by the factory clinic or a primary healthcare facility listed in the BPJS health insurance card. Female workers have to withstand the pain while at work. • Not many companies provide lactation rooms.
ACCESS TO REMEDY	<ul style="list-style-type: none"> • Only a few female workers have the courage to report being sexually harassed at work, as they prefer to remain silent either out of shame, fear, or worry lest their jobs are at stake.

Source: Compiled from Amalia, R., and M Didit Saleh (2021), and Sabarini (2020).

“Elitha, a 25-year-old woman, requested for a transfer to another work division as she was experiencing a recurrence of endometriosis symptoms. The company instead threatened to dismiss her from work. In desperation, Elitha had no other choice but to continue working. Due to overwork, she then suffered excessive bleeding. In February 2020, Elitha was forced to undergo a curettage where tissue from inside her uterus was removed.” (The Conversation, <https://theconversation.com/kasus-aice-dilema-buruh-perempuan-di-indonesia-dan-pentingnya-kesetaraan-gender-di-lingkungan-kerja-133010>, accessed 27 February 2021).

38 (MOL, 2021), accessed 28 February 2021

The data above show that women are extremely vulnerable to informal employment, and earn lower average wages than men. They experience workplace discrimination, violence, and sexual harassment. Women also have to deal to workplace reproductive health issues, such as menstrual and maternity leave. In addition, very few women have access to remedy for some reason or another. In cases of sexual harassment, women choose not to seek remediation out of shame and fear of losing their jobs. This is due to the interrelation between power relations and cultural norms.

2.2.1. Women in Specific Sectors: Plantation, Shrimp, Aquaculture, and Fisheries

Women working in oil palm plantations are vulnerable due to various factors. They work in remote areas as casual laborers under unsafe conditions without legal protection as they are not registered. They undertake heavy workloads, are treated with discrimination, and endure physical abuse and sexual violence. Female workers are also exploited at work. The problems facing women workers in oil palm plantations are explained further in the table below.

Table 2.4 Women Workers in Oil Palm Plantations

Legal protection	<ul style="list-style-type: none"> • Women working in oil palm estates are hired as casual laborers who are often not registered with the Local Labor Office, and without any employment contract or safety guarantee. • Companies do not provide healthcare allowance due to their status as casual workers. • Women plantation workers are invisible labor as they are not formally registered.
Sexual abuse and harassment	<ul style="list-style-type: none"> • Women workers are subjected to violence or intimidation. • Women workers are sexually harassed by persons in power (e.g., foreman) of different forms and patterns. • Rape cases of plantation workers are rarely disclosed. • Women workers who experience sexual abuse do not report the incident due to threats from the perpetrator, or traumatic stress that prevent them from telling.
Workload	<ul style="list-style-type: none"> • For casual workers, the most backbreaking work is fertilizer and pesticide application, which involves hauling heavy sacks of fertilizer on their backs, and spraying insecticides. • The work involved in harvesting oil palm fresh fruit bunches has caused miscarriage among pregnant workers who do not get paid. • Women workers do most of the heavy tasks on plantations.
Work motivation	<ul style="list-style-type: none"> • Women work as laborers in oil palm plantations to earn additional income for the family.
Double burden	<ul style="list-style-type: none"> • Women workers also take on domestic responsibilities, including cooking, childcare, and household chores.

Source: Compiled from Pahlevi (2020) and Arumningtyas (2020).

Given the information above, the protection of female workers in the oil palm plantation sector, especially regarding the legality and management of women's organizations, is of utmost importance. In addition, plantation workers who mostly live and work in remote areas must have access to information and programs at the village or district level.³⁹ Laws and regulations should also be in place to protect plantation workers (especially in the oil palm

³⁹ (Pahlevi, 2020), accessed 5 March 2021

sector), specifically women workers.⁴⁰ Meanwhile, in other plantation sectors such as tobacco, female workers have to deal with specific issues, such as the risk of exposure to pesticides or nicotine.⁴¹

“Speaking of foreign exchange, the oil palm sector is a major contributor of which our country takes great pride in. Women workers play a vital role, but what they get is not in proportion, especially for casual laborers.” Nurhaimah Purba, Indonesian Plantation Trade Union (Serbundo), <https://www.mongabay.co.id/2020/12/22/kondisi-miris-buruh-perempuan-di-kebun-sawit/>, accessed 5 March 2021).

Case studies on the shrimp industry and other forms of aquaculture also provide a similar picture, especially related to the issue of cultural and social norms. This was revealed in a baseline study conducted as part of Oxfam’s regional program on Gender Transformative and Responsible Agribusiness Investments in Southeast Asia (GRAISEA). The study, which focused on shrimp producers in Pinrang District, South Sulawesi, specifically in the subdistricts of Lanrisang and Mattilosompe, made the following findings, as presented in the table below.

Table 2.5 Findings on Women in the Shrimp Industry

Activity	84.7% of women do unpaid household and care work, and 97.6% of male respondents are engaged in paid agricultural work, especially shrimp production.
Time spent on shrimp production	Women spend little time on paid work, especially shrimp production.
Workers in shrimp production	Shrimp production relies heavily on male labor as it requires physical work. Women are not considered strong enough to do the job, and usually prohibited by their husbands to work, lest they lose their pride when their wives are known to do physical work at the shrimp ponds.
Involvement in organizations	Women’s participation in organizations is negligible compared to men. Relatively few women and men encourage women’s leadership.
Business relations	Shrimp producers have an indirect business relationship with the shrimp exporting company (PT Atina). They are connected through a coordinator who serves as the company’s business partner.
Greater access to economic opportunities	38.8% of producers saw increased access to economic opportunities in the past two years.

Source: Compiled from Vierna E. Tobing-David (2019)

The table above shows that women who work in the shrimp farming sector, although the workload is not as heavy as oil palm plantation workers in particular, face the same problems in regard to low wages and restrictive sociocultural norms.

Meanwhile, studies on the aquaculture sector also produced some interesting results. Findings from an FAO study of the cottage milkfish industry in Sidoarjo District, and small-scale shrimp farms in Barru District are provided in the table below.

40 (Arumingtyas L., 2020), accessed 5 March 2021

41 (Prihandono, 2018), p. 37

Table 2.6 Findings on Women in the Aquaculture Sector

	FINDING
GENDER ROLES	<ul style="list-style-type: none"> • Women’s involvement in shrimp farming and milkfish processing is closely associated with the gendered sociocultural dimension. • The milkfish processing industry provides women ample opportunities for direct involvement within the existing sociocultural context. • In regard to the shrimp farming sector, women’s direct participation and available opportunities are at low levels within the sociocultural context. • Women play two key roles, as the main operators of shrimp farms, and as casual workers. Only a few women are involved as the main operators of the shrimp business. • Women have different socioeconomic circumstances. The job opportunities open to poor women are only for casual work. Women as shrimp farm operators are wholly from the upper-middle class.
BENEFITS/POSITIVE AND NEGATIVE OUTCOMES	<ul style="list-style-type: none"> • Contributes to the social empowerment of women through improved social and human capital, where women make the most of opportunities in education, training, and networking that can help them build self-esteem, self-confidence, self-appreciation, and self-respect, and gain the respect of their spouses, in the context of increased income. • The main benefits are women’s contribution to family income to meet daily needs, increased financial security, and/or household investments (e.g., children’s higher education) or in the aquaculture business. • Women are more capable of making the right choices regarding their personal affairs or household expenditure. However, they are still denied the opportunity to make important strategic decisions as their husbands have the final say, including in regard to their involvement in farming activities, time allocation, and financial investment in their businesses. • Women continue to play the role of caregivers, domestic workers, and family workers, which are considered “women’s work”. • A main negative outcome is the time burden, especially for women in more valued roles (business owners and primary operators). As a consequence, women work longer hours. • Women must juggle between their reproductive and productive roles (cooking and caring for their husbands and children, whilst seizing economic opportunities).
INFLUENCING FACTORS	<ul style="list-style-type: none"> • Women are more involved in less valued roles that are an extension of their reproductive roles (e.g., preparing meals). • The importance of access to financial resources and assets for women’s involvement in more valued roles (business owner and primary operator).

Source: Compiled from FAO and WorldFish (2017)

In addition, a study on the aquaculture sector identified 4 factors influencing outcomes, success, and empowerment of women:

- **Household decision-making and norms.** Prevailing socioreligious and gender norms position men as the “heads of household”, while women are expected to obey their husbands who tend to prevent them from working, and from their own personal development;
- **Human and social capital.** Training and formal education can provide opportunities to develop social networks and partnerships.
- **Financial assets.** More well-to-do women have less financial constraints compared to women from the middle and lower class who have limited access to financial support or formal credit with looser collateral requirements;

- **Spousal and family support.** Support from the spouse is key, including for financial support, business advice, and emotional support against public disapproval of working women.

The data above show how women are shackled by social norms and a patriarchal culture. This is also the case in the broader fisheries sector where fisherwomen still experience gender discrimination. Fisherwomen have difficulty obtaining their Fisher Identity Cards. The government sees fishing as an exclusive male activity.⁴² Fisherwomen have advocated for them to be formally recognized as such. It took them 3 years (2016-2018) to finally earn recognition. Their ID cards now have the word “fisherwoman” filled in the occupation column where “housewife” was previously written. Apart from the formal recognition of their profession as fishers in their ID cards, they can now obtain their fisher insurance card. Nevertheless, they still see the need for a fundamental change in Law No. 7/2016 concerning the Protection and Empowerment of Fishers, Fish Farmers, and Salt Farmers, which has yet to adopt a gender perspective.⁴³

A Fisherwoman’s Story

“Ora diakui sebagai nelayan, gaweanku yo tetep miyang, seng penting golek pangan, keluargaku ora ngeleh (Even without recognition as a fisherwoman, I will still go out to sea. More important is to earn money so that my family doesn’t go hungry”, Jarokah-Fisherwoman, Moro, Demak.

2.2.2. Women in Special Situations: COVID-19 Pandemic

In Indonesia, the COVID-19 pandemic has impacted women differently. A considerable number of women hold temporary or part-time jobs and therefore are at greater risk of losing their jobs compared to men. Many also work in the service sector that has been most affected by drastic measures to contain the spread of the virus. Working from home places a double burden on women who have to balance between family and work responsibilities.⁴⁴ Findings from the National Commission on the Elimination of Violence against Women also provide a similar picture:⁴⁵

- a. Due to COVID-19 restrictions aimed at preventing transmission, women are bearing the brunt of the social and economic fallout from the pandemic, specifically lost job opportunities and greater risk of layoffs.
- b. The transition to an online mechanism creates a barrier for women who have limited access to the internet.
- c. Due to the pandemic, the double burden that women shoulder have become heavier and more protracted.

42 (Prihandono, 2018), p. 32

43 (Masnuah, 2020), July 2020

44 (ILO, 2020), p. 1

45 (National Commission for the Elimination of Violence Against Women - AIPJ 2), pp. 3-9

- d. Violence against women becomes increasingly rife for the following reasons: (i) heightened stress levels, conflicts, and frustrations due to social movement restrictions that are exacerbating the risk of violence; (ii) weakened financial capacity as husbands are laid off, compounded by the absence of social security benefits, thereby increasing marital tension; (iii) heavier domestic workload on women who take on multiple roles as wives, mothers, and educators for their children's remote learning.
- e. As COVID-19 response becomes top priority, women find it increasingly difficult to access reproductive health services, such as antenatal and childbirth care, treatment for mental and emotional illnesses, and routine check-ups for non-communicable disease (PTM).
- f. The COVID-19 pandemic is a contributing factor to the spike in child marriages.

The same is true at the global level, especially for women employed in industries hardest hit by the pandemic, such as food, retail and entertainment. Women working in the informal sector are typically paid meager wages under appalling working conditions without social security (pensions, health insurance, or unemployment benefits). Globally, 58 percent of women working in the informal sector lost 60 percent of their income in the first month of the pandemic.⁴⁶ In the Asia Pacific region, over 70 percent of women work in the informal sector with no access to social security benefits during illness or childbirth. Consequently, COVID-19 responses from the government and private sector fail to reach women as assistance is usually channeled to the head of the family who is either the husband or father, or because women are excluded from the company's list of eligible recipients.⁴⁷

At the global level, the COVID-19 pandemic is predicted to push 435 million women and girls into poverty, living on less than USD 1.90. The pandemic will widen the poverty gap with women disproportionately forced into poverty compared to men. Women at the peak of their productive age (25-34 years) are among those who will be affected by this. This is because women tend to earn less, have insecure jobs, and are vulnerable to layoffs and loss of livelihoods. The pandemic and measures to prevent transmission have driven unemployment rates upwards among women and have reduced women's work hours compared to men. According to the ILO, women bear the brunt of the COVID-19 pandemic. This can be avoided if well-thought-out policies are in place to provide economic assistance targeted specifically at women, and to support women-led businesses, and ensure income security.⁴⁸

To address women's dire situation amid the COVID-19 pandemic, at least five measures are recommended: a) Direct assistance to women; b) Support for women-owned or women-led businesses (e.g., subsidies or loans); c) Support for working women, (e.g., policies to eliminate income gaps; childcare availability); d) Support for informal workers (e.g., cash transfers); e) Reconciliation of paid and unpaid work (e.g., through campaigns for gender equality in household responsibilities).⁴⁹

46 (UN Women, 2020), accessed 5 March 2021

47 (Benjamin, 2020), accessed 5 March 2021

48 (UN Women, 2020), accessed 5 March 2021

49 (UN Women, 2020), accessed 5 March 2021

At the ASEAN regional level, governments and business entities should consider the following key recommendations towards economic recovery where women are front and center: a) Governments and businesses must involve women and girls in a meaningful way and empower them to get full rights and benefits in the workplace and beyond to enable them to rebound from the pandemic; b) Governments and business entities must ensure that all women workers are aware of and able to claim their rights. Survivors should be able to actively and meaningfully access remedies through an empowering process. Businesses should fairly compensate women for their work and prevent all forms of discrimination or violence against them; c) Human rights due diligence policies must be gender-sensitive; d) Provide service infrastructure to ease the burden of childcare for women and girls; e) Promote positive social norms through shared family responsibilities equitably between women and men. It is also important to undertake concrete steps towards addressing gender inequality in the workplace. Women should be encouraged to lead discussions, make decisions, and participate in processes on issues that affect them. Through a women-led participatory and inclusive process, their concerns and the appropriate solutions should be reflected in national policy instruments such as the National Action Plan on Business and Human Rights.⁵⁰

2.3 Women and Climate Change-Induced Challenges

Much like business operations, climate change also impacts women. Women are the ones most affected by climate change. This is due to socioeconomic, political, and legal barriers that limit the options available to women for coping with climate change.⁵¹ The impact of climate change on women are provided in the table below:

Table 2.7 Impact of Climate Change on Women

Climate Change Impact	Impact on Women
Harvest failure	Home food availability; more agricultural work
Fuel shortage	Household fuel availability; conflict in fuel use
Clean water shortage	Household clean water availability; water contaminated by hazardous substances
Natural resource scarcity	Deteriorating economic situation; land shortage; natural resource-dependent livelihoods; dropping out of school; early marriage
Natural disasters	Higher death rates; lower life expectancy
Increased disease incidence	Poor access to healthcare; increased burden of caring for children, parents, and the sick
Displacement	Loss of livelihoods; housing shortage; conflict
Civil war/conflict	Loss of livelihoods; sexual violence and trauma

Source: MOWECP, 2015

⁵⁰ (Benjamin, 2020), accessed 5 March 2021

⁵¹ (BSR, 2018), p. 5

Apart from its devastating impacts, climate change also creates tough challenges for women. In this context, business entities play a vital role in responding to these challenges as shown in the following table:

Table 2.8 Business Impact on Women Coping with Climate Change

Women and Business-Related Challenges	Description
Unpaid work	As primary caregivers, women do 2.5 times more housework and caregiving than men. For example, cooking, cleaning, fetching clean water and firewood, caring for children, the sick, and the elderly.
Limited access to financial resources	Women workers worldwide tend to lack skills, are paid lower wages, and dependent on environmental-related sectors such as plantations, and as such their sources of livelihoods are under threat in the event of a natural disaster. Women also lack access to formal financial institutions. Only 47 percent of them have bank accounts, compared to 55 percent of men. Without such access, women will find it harder to switch livelihoods pre- and post- disaster.
Discriminatory laws	Many regulations discriminate against women, such as restrictions on women's participation in the labor market, or undermining women's ability to adapt to climate change. In addition, women's rights as enshrined in the constitution are usually not upheld in reality.
Limited control over land	Globally, more men than women own land. Without land tenure, women are less likely to adapt to climate change by using sustainable farming techniques and climate change risk mitigation measures.
Lack of technology and capacity building resources	Women do not have the same access to technology as men, which affects their agricultural yields. The majority of women are also not connected to the internet compared to men, and therefore cannot access information, especially related to climate change and how to deal with it.
Underrepresentation in decision-making	Women more often than not remain voiceless in decision-making processes, be it in the household, community, or at the local, national, and global levels. They have no say in decisions on issues that affect them, including on climate change and ways to cope. Studies have shown that when women are involved in decision-making and occupy leadership positions, there has been positive impact on environmental adaptation activities.

Source: BSR (2018).

The table above shows the real situation that women face amid constraints that surround them, such unpaid work; limited access to financial resources; discriminatory laws; limited control over land; lack of technology and capacity building resources; and lack of voice in decision-making processes. As a consequence, women are incapable of adapting to climate change. The poorest of the poor are hardest hit by climate change, which disproportionately impacts women.⁵²

In addition, the aforementioned barriers indicate how business operations or policies also contribute to emerging challenges for women in dealing with the impacts of climate change. This explains why climate change in Indonesia can complicate efforts to fulfill women's rights. Finding solutions to climate change should therefore be grounded in women's empowerment principles.

⁵² (BSR, 2018) p. 15



CHAPTER 3

THEORETICAL AND LEGAL FRAMEWORKS ON BUSINESS AND HUMAN RIGHTS, SUSTAINABILITY, AND WOMEN



3.1 Business and Human Rights, Sustainability, and Women: A Theoretical Study

3.1.1 United Nations Guiding Principles on Business and Human Rights and Sustainability

3.1.1.1 Business and Human Rights

The United Nations Guiding Principles on Business and Human Rights (UNGPs) were adopted unanimously by the United Nations in June 2011. The guidelines have become the most authoritative international public policy that encompasses the responsibilities of States and businesses in preventing and addressing human rights violations linked to their economic activities. The UNGPs rest on three key pillars:⁵³

First Pillar, PROTECTION: This pillar obliges the State as the primary duty-bearer in the realization of human rights to protect human rights. The State must protect individuals from human rights harms by third parties, including businesses, by developing policies, legislation, regulation and adjudication to ensure the protection of human rights. This includes the appropriate measures to prevent, investigate, punish and remediate violations through effective policies, legislation, regulation and justice systems.

⁵³ (Konsil LSM, 2018), (ELSAM, 2019), (Prihandono, 2018), pp. 3-4

Second Pillar, RESPECT: This pillar sets out corporate responsibility to respect human rights. Business enterprises shall honor this responsibility by avoiding, mitigating, or preventing the adverse impacts of business operations. This pillar constitutes an important breakthrough. Enterprises must address negative human rights impacts arising from their business operations. They should know about these impacts and show the public what has been done to address them. Businesses must therefore establish a policy commitment to respect human rights; undertake human rights due diligence to identify, prevent, mitigate, and measure human rights impacts; and conduct remediation for the adverse human rights impacts caused by their business operations. The corporate responsibility to respect human rights applies to all companies regardless of size, sector, operational context, ownership and structure, and extends down to their supply chains.

Third Pillar, REMEDY: This pillar ensures remediation for victims of business operations. Victims often face barriers to remedy as business operations are normally located in remote areas, such as plantations or mining sites. In addition, companies have tiered structures where the parent company is based far from where they operate, some even in different countries. Effective remedy for those affected by business operations must therefore be ensured. Remediation can be provided through judicial, administrative, legislative or other means, which must be accessible to victims.

The UNGPs are designed to guide businesses on how they should respond to the impacts caused by their business operations. The guiding principles outline clear steps that companies can apply in order to prevent business-related human rights violations through human rights due diligence. In other words, the UNGPs offer clear recommendations for enterprises to address business-related impacts in a way that ‘respects human rights’.

As a relatively new narrative, there are certain aspects regarding the UNGPs that need to be highlighted.⁵⁴ First, the UNGPs are soft law with no legally binding force. However, even though voluntary in nature, the UNGPs have become binding rules in various countries, and part of global standards for the respective industries. This reflects how the narrative does provide a strong basis for action.

Second, the narrative presents a comprehensive discussion of the human rights impacts of businesses. The UNGPs define what is meant by “impact on humans”. It is first and foremost about human rights, which means that corporate responsibility in this context does not refer to the full range of impacts that business operations have on people, but focuses on those that violate human rights. Human rights impacts are measured according to severity, and are risks that the companies themselves need to deal with. By addressing and preventing these impacts, companies can protect themselves from reputational, operational, legal, financial, and other consequences. Secondly, it refers to human rights impacts that are associated with a company’s operations, products and services by business relationship.

54 (Rees, 2020), pp. 4 – 6

Third, the UNGPs normalize the fact that doing business is complex and that business decisions can be detrimental to vulnerable groups. The UNGPs are not simply about big corporate cases or scandals, such as abuses that lead to workplace death, or that amount to modern-day slavery. The UNGPs highlight on unpaid living wages, discrimination, invasion of privacy, barriers to access to clean water, and freedom of association that are linked to business operations. The UNGPs underscore on how companies should account for their impacts.

Fourth, the UNGPs focus on groups affected by business operations, who include employees, suppliers, consumers, and society in general. Businesses are expected to cater to stakeholder needs, but it is unclear as to who the stakeholders are. The UNGPs specify that businesses should focus on those most affected by their operations.

Fifth, the UNGPs focus more on how to respect human rights, rather than on the end results. This does not in any way suggest that companies pay no attention to results, but the UNGPs show that there are many factors influencing the results. This can help prevent businesses from easily claiming that they have their business operations under control. The UNGPs provide a 'reasonable' level as to what measures companies should take to address or prevent these impacts.

Sixth, the UNGPs also emphasize corporate accountability. The second pillar of the UNGPs focuses on preventing human rights violations through human rights due diligence. The third pillar on the other hand stresses on corporate accountability through remedies, which helps ensure that aggrieved parties have access to effective remedies, both judicial and non-judicial. In addition, under the 'know and show' paradigm, companies are expected to know their business-related failings or weaknesses and show what they have done to overcome them. With this process in place, companies are considered as being more accountable for their actions.

Furthermore, the UNGPs recognize the government's central role in addressing business-related impacts on society. The first pillar of the UNGPs emphasizes on State duty and obligation to ensure that policies are in place to prevent business-related human rights violations. To fulfil this duty, governments have already introduced the necessary domestic legal instruments such as the Labor Law, Environmental Law, and Consumer Protection Law. The UNGPs assert that the State duty to making sure that businesses do not infringe on the rights of others is of utmost importance.

3.1.1.2 Sustainable Development

Environmental degradation has been a major cause of concern for environmental groups way back since the 1970s. At the time, people were increasingly aware of the damaging impact of development activities that pose a grave threat to life on earth. The pressures from community groups gave rise to the terms “Sustainable Development” and “sustainability”. Both terms have appeared since 1987 in a UN report written by the Brundtland Commission. The report describes sustainable development as development that meets the needs of the present, without compromising the ability of future generations to meet their own needs.⁵⁵

Meanwhile, the report defines sustainability as the relationship between the economic, social and environmental dimensions. This concept explains how environmental degradation contributes to rising inequality. For example, urban air quality impacts the poor more severely than the affluent. The poor live in settlements that make them more vulnerable to adverse health impacts compared to those who live in decent housing. The Brundtland Commission contends that unless poverty is dealt with, the environment will be left unprotected, and other crises will follow suit.

3.1.1.3 The Relationship between the UNGPs and Sustainable Development

The concept of sustainability has been a topic of long-standing discussion in various circles, including political, business and investment, academic, and civil society. It has become particularly intense following the adoption of the Sustainable Development Goals, which are economic, social, and environmental targets to be met by 2030. How exactly is the relationship between the UNGPs and sustainable development? There are two key challenges to converging the two narratives. First, the decoupling of the environmental and social dimensions of sustainability, and second, the decoupling of human rights from the phrase ‘positive impact’.⁵⁶

Decoupling of the environmental and social dimensions of sustainability

Before the UNGPs were introduced, the sustainability concept places more emphasis on the environmental dimension. The sustainability division within companies mainly consists of environmentalists (environmentalists). Meanwhile, the issue of human rights impacts, including those related to workers’ rights, comes under the human resource division. The risks that workers or local communities face as a result of business operations are handled by a different division. Today, many companies are bringing both human and environmental impacts under the ‘sustainability’ umbrella. As a consequence, discussions on sustainability tend to focus more on the environmental dimension, regarding biodiversity loss and climate change, to the point of decoupling the social dimension.

Such polarity is considered as nothing out of the ordinary. In other words, the social impacts arising from conservation efforts or climate change responses are as they should be.

⁵⁵ Ibid., p. 7

⁵⁶ Ibid., p. 8

Environmental movements see environmental conservation as top priority because humans will cease to exist if planet earth is destroyed. By overcoming environmental issues, humans will benefit from more sustainable access to clean water, better food, better health, long-term livelihoods, and so on. This is also relevant during the COVID-19 pandemic, considering that the novel coronavirus is an animal-to-human disease that arose out of an erosion of biodiversity.

Decoupling of human rights from the phrase ‘positive impact’

The concept of sustainable development emphasizes on measures aimed at improving people’s quality of life, which tend to be viewed from a positive perspective. Likewise, Corporate Social Responsibility (CSR) focuses on the company’s positive contributions to the community, even when the company at the same time generates negative impacts. This positive narrative balances the negative impact of business operations with its positive impact. This leads to a lack of oversight to prevent negative business impacts.

Given the dynamics above, the UNGPs focus on the corporate obligation to respect human rights, especially rights that are violated as a result of negative business impacts. This does not correspond well with the ‘positive’ social dimension of the sustainability concept. However, without challenging the previous narratives, the UNGPs show that to respect human rights, the one fundamental thing that businesses can do is to comply with existing regulations, or to do no harm. This should be their basic goal before discussing its positive impacts.

By looking at positive impacts and human rights as one and the same, companies tend to see respect for human rights as something that is easy to achieve. Businesses fail to undertake human rights due diligence to determine the severity of its business processes on people. Respect for human rights is a fundamental expectation placed on businesses.

The two challenges above make it seem as if the UNGPs cannot easily converge with the sustainability narrative. However, if these challenges can be addressed, the UNGPs are essentially aligned with the sustainability narrative. Not only complementary in nature, but more than that, the UNGPs can balance out the weakness of the sustainability narrative that tends to over focus on the environmental dimension, while ignoring the social aspect. The UNGPs can therefore serve as a guide for the business sector to pay greater attention to the social dimension of the sustainability narrative.

In addition, to deal with the challenges above, in developing the Sustainable Development Goals (SDGs), the United Nations adopted a holistic approach through a universal and integrated agenda. This holistic approach revolves around five key aspects: People, Planet, Prosperity, Peace (and Justice), and Partnership, often shortened to the “5Ps”.⁵⁷ Based on this approach, the SDGs form an interrelated framework where the goals and targets are interwoven. The 5Ps approach is also used to measure progress towards achieving the SDGs targets.

57 (D’Aragon, 2018), accessed 25 April 2021

3.1.1 UNGPs and Climate Change

Climate change and human rights are two interrelated issues. Both have an impact on the Earth, humans, and also on the general welfare of society and business. According to Mary Robinson, former UN High Commissioner for Human Rights, marginalized or poor communities, women and indigenous peoples are those most affected by climate change.⁵⁸ The impacts of climate change include extreme weather, changes in precipitation and water distribution, sea water acidity, and sea level rise. They all affect jobs, shelter, mobility, health, livelihoods, natural resources, and ultimately lead to human rights violations.

The United Nations have begun paying attention to the relationship between climate change and human rights since 2008. Climate change impacts, either directly or indirectly, on internationally guaranteed human rights. States (duty-bearers) have an affirmative obligation to prevent and address environmental impacts, including in mitigating climate change, and ensuring that all human beings (rights-holders) have the capacity needed to adapt to the climate crisis.

Climate justice requires climate action that is consistent with human rights treaties, obligations, standards and principles. Those who contribute the least to climate change, are the ones who suffer the most from its adverse impacts. They must therefore be the primary beneficiaries of climate action, and must have access to effective remedies.

The UN Human Rights Commission puts out several key messages on Human Rights and Climate Change, emphasizing on the importance of the obligations and responsibilities of States and other duty-bearers (including businesses) and their implications on climate change-related agreements, policies and actions.

To ensure policy coherence on climate change mitigation and adaptation, the UN Human Rights Commission⁵⁹ outlines the following considerations that must be reflected in all climate actions:

1. To mitigate climate change in order to prevent its negative human rights impacts.
2. To ensure that everyone has the capacity to adapt to climate change.
3. To ensure accountability and effective remedies for human rights violations caused by climate change.
4. To mobilize available resources for rights-based, sustainable development.
5. To foster international cooperation.
6. To ensure equity in climate action.
7. To guarantee that everyone benefits from science and its applications.
8. To protect human rights from business harms.
9. To guarantee equality and non-discrimination.
10. To ensure meaningful and informed participation.

58 (BSR, 2018) p. 5

59 (OHCHR), accessed 2 November 2020

It is evident that business entities and their operations are closely associated with climate change mitigation and adaptation efforts, specifically for point eight. However, all of the points listed above underscore the connection between the UNGPs and climate change. The UNGPs affirm that States have an obligation to protect human rights from the harms caused by businesses. Companies on the other hand are required to respect human rights and to do no harm. States are obliged to take the appropriate steps to protect all persons from human rights abuses by businesses. Business entities are also duty-bearers. They must be held accountable for their climate impacts and participate in preventing human rights violations. Meanwhile, States adopt a financial or market approach to climate change within the international climate change framework, and therefore business compliance with these obligations is particularly important.

As climate change continues unabated, the consequences will increase in severity. With this in mind, climate change requires a rights-based global response. The UN Human Rights Council and other institutions are paying more attention to human rights and climate change through the appropriate resolutions, reports and activities, as well as the advocacy of a rights-based approach to climate change.⁶⁰

The UN Human Rights Council specifies several conditions for the adoption of a rights-based approach:

- Human rights should be kept front of mind when formulating policies and programs.
- The rights-holders must be identified, as well as the duty-bearers and their obligations in order to find ways to strengthen the capacity of rights-holders in claiming their rights, and of duty-bearers in meeting their obligations.
- All principles and standards under international human rights laws should be the basis of policy-making and programming processes.

Global agreements that address climate change such as the Paris Agreement and the Sustainable Development Goals (SDGs) have considered a human rights-based approach.⁶¹ Both agreements prioritize those who are disproportionately affected by climate change, including women. They also apply a gender lens when discussing issues related to climate change mitigation and adaptation, poverty alleviation, and other global development challenges.

The preamble to the Paris Agreement establishes that all States “must respect, promote and consider their obligations on human rights, when dealing with climate change.” In addition, the Agreement also recognizes that climate change is a common concern of all mankind, and that all States must consider their obligations in fulfilling the right to health, the rights of indigenous peoples, local communities, migrants, children, people with disabilities, including vulnerable groups, and in ensuring gender equality and empowerment of women. Articles

60 (OHCHR), accessed 2 November 2020

61 Ibid., accessed 2 November 2020

7 and 11 for example explain that Parties to the Agreement must apply a gender-responsive approach in adaptation measures that are aimed at integrating adaptation into socioeconomic policies and actions. Article 11 goes on to reiterate that capacity-building carried out by State parties must be gender-responsive.⁶²

The same goes with the SDGs, where the fifth goal focuses on achieving gender equality and empowering women, which upon further analysis, constitutes an integral part of all 17 sustainable development goals. The SDGs has built a development roadmap that “leaves no one behind”.⁶³ As such, equitable and inclusive economic development can only be achieved if States can ensure the fulfilment of women’s rights in each of the SDGs goals/targets.

3.1.2.1 Climate Change and Women’s Rights

In 2017, UN members adopted the Gender Action Plan under the United Nations Framework Convention on Climate Change (UNFCCC)⁶⁴ that aims to enhance women’s role in tackling climate change. The action plan also seeks to demonstrate women’s capacity and capability in addressing global issues.

Later in 2018, the UN Human Rights Council adopted a resolution on human rights and climate change (A/HRC/RES/38/4) that calls for every State to consider human rights in the context of the UN Convention on Climate Change (UNFCCC) and to take a comprehensive, integrated and gender-responsive approach to policy formulation and climate change mitigation.⁶⁵ Based on the document, the UNFCCC Gender Action Plan was further strengthened at COP 25, which was held in Madrid on 2-13 December 2019, with plans set out for the next five years.⁶⁶

Given the significant milestones achieved in terms of global environmental agreements as explained above, it is evident that the international community is trying to find climate change solutions by focusing on women’s empowerment. This includes various approaches designed to meet women’s needs and to pool women’s knowledge, skills, and potential in realizing solutions.

As discussed above, international climate change-related agreements have incorporated human rights into elements of the agreement, including the adoption of a gender approach. The UNGPs on the other hand do not explicitly address climate change. Nevertheless, the three pillars of the UNGPs—the State duty to protect, the corporate responsibility to respect, and the need for access to effective remedies—are indirectly a form of climate change mitigation. Under the first pillar for example, States are expected to take the necessary measures to

62 (UNFCCC, 2015), accessed 2 November 2020

63 (UN Women), accessed 2 November 2020

64 (UNFCCC, 2017), accessed 2 November 2020

65 (OHCHR, 2018), accessed 2 November 2020

66 (UNFCCC, 2020), accessed 2 November 2020

protect the rights of its citizens from climate change impacts caused by business operations within their respective territories and jurisdictions. The second pillar on the other hand makes clear that businesses should undertake human rights due diligence, which also relates to the mitigation of business's environmental impacts. Environmental mitigation is particularly relevant for States, business, and other stakeholders.

In relation to the above, the UN business and human rights working group has yet to publish specific guidelines on the convergence between the UNGPs and climate change. There are however plans for further immediate discussions of the matter.⁶⁷

3.1.3 Gender Framework for the UNGPs and Women's Empowerment

The UNGPs are an attempt to hold businesses accountable in terms of respecting human rights throughout their operations, and preventing negative impacts on human rights-holders. It should be kept in mind that rights-holders are not a homogeneous group. Business impacts are felt differently across diverse groups. As mentioned earlier, they affect women and men differently. Women experience various forms of gender-based discrimination that intersect, among others, with multiple factors, such as age, color, caste, class, ethnicity, religion, language, literacy, access to economic resources, marital status, disability, place of residence, customary status, or other minority status.⁶⁸

Having said that, neither States nor business entities have been giving much attention to the gender dimensions. The UN Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises has looked into the matter, and released a report on the gender dimensions of the Guiding Principles on Business and Human Rights in 2019. The Working Group found several references to gender and women in the Guiding Principles. These references are categorized by the Working Group into three gender windows.

The first window is built around the **general principle of non-discrimination**. The Business and Human Rights Guiding Principles must be implemented without discrimination in terms of the risks to men and women. This cross-cutting principle can be applied to develop a gender-responsive reading of the Guiding Principles.

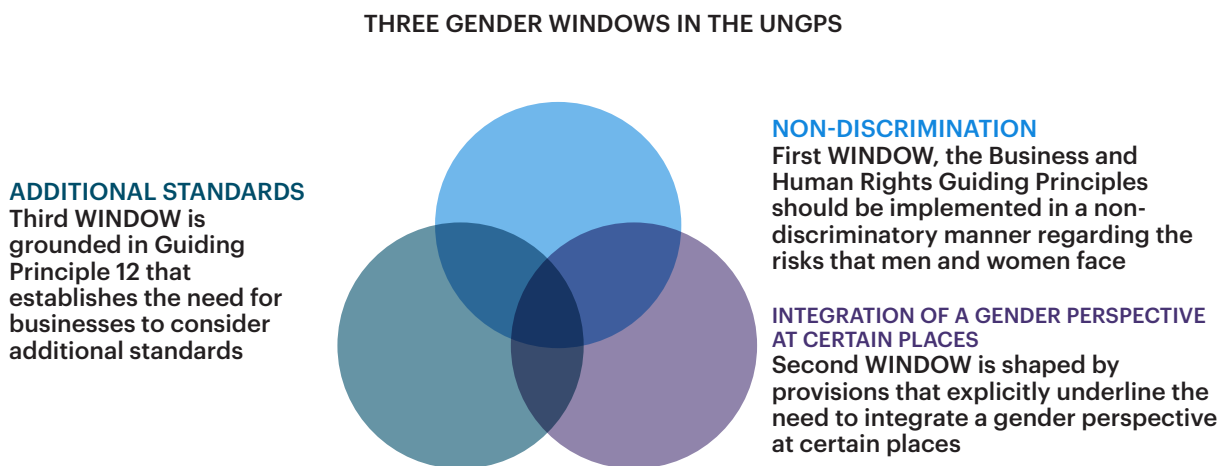
The second window is structured by provisions that explicitly emphasize on the need to **integrate a gender perspective** at certain places. The commentary to Guiding Principle 3 specifies that States should provide appropriate guidance to business entities on how to consider effectively the gender dimensions, among others, in dealing with the challenges faced by women.

67 (OHCHR, n.d.), accessed 2 November 2020

68 (UN HRC, 2019) para. 17

The third window is grounded in Guiding Principle 12, which provides that businesses should consider additional standards in respecting the human rights of individuals from specific groups, such as women and children.

Figure 3.1 Three Gender Windows in the UNGPs

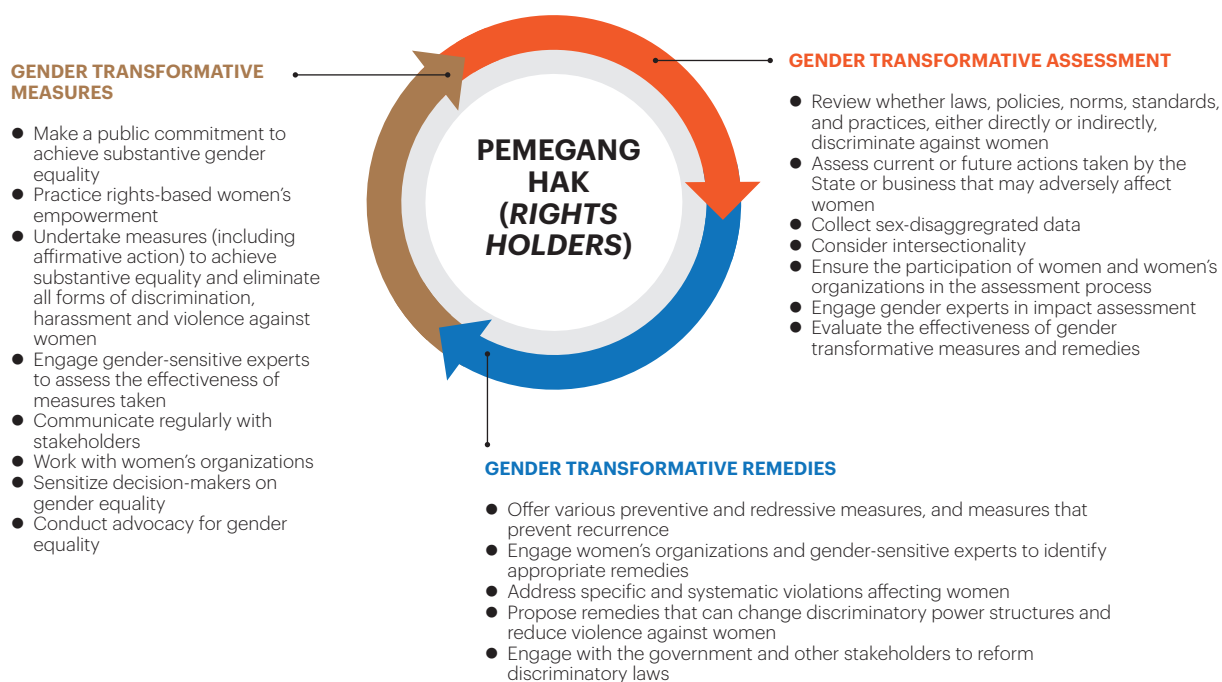


Source: Business and Human Rights Resource Centre (2019).

Based on the three windows mentioned above, the Working Group has developed a gender framework for the UNGPs that consists of three steps relevant to the three pillars of the UNGPs: gender-responsive assessment; gender-transformative measures, and gender-transformative remedies. The Working Group stressed on the need for the assessment to be responsive to the negative impacts of business activities on women’s rights, as well as to discriminatory norms and patriarchal power structures. Remedies should be transformative in that they should be able to bring change to patriarchal norms and unequal power relations that lead to discrimination, gender-based violence and gender stereotyping.⁶⁹

69 (UN HRC, 2019) para 36-39

Figure 3.2 Integrating Gender Dimensions into the UNGPs



Source: Business and Human Rights Resource Centre (2019).

The Working Group also provides guidance for incorporating a gender perspective into the UNGPs and pertinent norms. **To effectively fulfill their obligations and responsibilities under the UNGPs, States and business enterprises should pay particular attention to the unique experiences of women and the structural discrimination or structural barriers that they are facing.**⁷⁰ In view of this, transformative efforts have become a catchphrase in the gender framework of the UNGPs developed by the UN Working Group.

3.1.3.1 Implementation of the Women's Empowerment Principles

The Women's Empowerment Principles (WEPs) are a set of principles for businesses with seven steps to empowering women in the workplace, marketplace, and community:

1. Establish high-level leadership for gender equality in businesses.
2. Treat all women and men fairly at work.
3. Guarantee employee health, safety, and welfare for all female and male workers.
4. Ensure education, training, professional development for women.
5. Promote enterprise development, supply chains, and marketing practices that empower women.
6. Promote equality through community initiatives and advocacy.
7. Measure and report progress made in achieving gender equality.⁷¹

⁷⁰ (Leite, 2019) p. 45

⁷¹ See IGCN and (Anggita, Kumara, 2019), accessed 23 November 2020.

Developed through a consultation process, the WEPs were launched to coincide with International Women's Day in March 2010. The WEPs emphasize that the business sector must take the appropriate steps to promote women's equality and empowerment. The principles draw on the CEDAW as well as ILO Convention No. 111 concerning Discrimination (Employment and Occupation) Convention (1958), and the ILO Declaration on Fundamental Principles and Rights at Work (1998). The Gender Gap Analysis Tool for assessing the implementation of the WEPs was subsequently developed to help businesses from around the world see how they fare in respect to advancing gender equality in the workplace, marketplace and community.⁷²

The WEPs require business entities to avoid practices that violate women's rights and to address the negative impacts that their activities have on women's rights. Corporate responsibility to respect human rights should apply to business activities and business partners, including but not limited to all that the WEPs have identified. With this in mind, every enterprise should not only implement the UNGPs in their policies and business processes in order to be able to fulfill their responsibilities, but also apply the WEPs, as follows:

1. **Policy commitment:** this is expressed in a statement that is anchored in the corporate responsibility to respect women's rights as enshrined in the UNGPs.
2. **Human rights due diligence:** a process to assess the potential and actual human rights impacts, including women's rights. In performing due diligence, business entities should:
 - a. Identify and assess both potential and actual adverse impacts of their activities on women's rights through consultation with women and other affected, at-risk groups.
 - b. Incorporate findings into all business functions and processes with a view to prevent and mitigate the negative impacts.
 - c. Monitor and track the effectiveness of business responses in order to verify whether adverse impacts on women have been appropriately addressed.
 - d. Effectively communicate, internally and externally, the efforts made to address business-related adverse effects on women.
3. **Gender-sensitive processes to enable remediation:** processes that allow for the remediation of the negative consequences of business on women's rights.⁷³

3.2 Legal and Policy Frameworks on Climate Change and Women

3.2.1 Climate Change Policies and Challenges in Indonesia

Indonesia has been playing an active role in combating climate change since it hosted the UNFCCC COP-13 in Bali in 2007, which culminated in the adoption of the Bali Action Plan. From that point forward, Indonesia voluntarily set to cut emissions by 26% from BAU (business as usual) levels on its own, and bringing it down further to 41% with support from the international community, if available, by 2020.⁷⁴

⁷² (UN Global Compact, UN Women, n.d.), accessed 17 April 2021.

⁷³ (UN Global Compact, 2015)

⁷⁴ (Bappenas, 2014), p. 4

Indonesia went on to develop a National Action Plan for Reducing Greenhouse Gas Emissions (RAN-GRK) through Presidential Regulation No. 61/2011.⁷⁵ RAN-GRK provides guidance for government ministries/agencies to plan, implement, monitor, and evaluate the GHG emission reduction action plans for the 2010-2020 period in line with the Long-Term Development Plan (2005-2025) and Medium-Term Development Plan, as well as for local governments to prepare their own local action plans. The following is a timeline of the Indonesian government's efforts in tackling climate change:

Figure 3.3 Timeline of Milestones in Climate Action



Source: Bappenas (2014)

In later developments, Indonesia signed the Paris Agreement in 2015, which was formalized through Law No. 16/2016 on Ratification of the Paris Agreement to the United Nations Framework Convention on Climate Change (UNFCCC). The Paris Agreement is a landmark treaty as it was signed by all 195 member states of the United Nations. Under the agreement, Parties would work towards preventing the earth's temperature from rising to no more than 2°C and limiting it to 1.5°C compared to the pre-industrial era. Each Signatory State must set their own targets and determine the appropriate measures to prevent global warming in alignment with the common goals. These targets are then translated into a document called the Nationally Determined Contributions (NDC).

Indonesia has submitted its NDC with the commitment to reduce GHG emissions by up to 29% unconditionally, and up to 41% conditionally from BAU levels by 2030.⁷⁶ The document lists five key sectors and their respective contributions to GHG emission reduction by 29% from BAU levels by 2030:

⁷⁵ Further information on RAN GRK is available at the following link: http://ranradgrk.bappenas.go.id/rangrk/index.php/home/about_rangrk
⁷⁶ (MOEF, 2018)

- Forestry (17.2%),
- Energy (11%),
- Agriculture (0.32%),
- Industry (0.10%), and
- Waste (0.38%).⁷⁷

The government of Indonesia elaborated on the range of climate change mitigation policies required to meet the NDC targets according to the characteristics of the issues and challenges of each sector, as provided below:

Table 3.1 Climate Change Mitigation Policies by Sector

Sector	Mitigation Measure
Energy	<ul style="list-style-type: none"> - Efficiency of final energy consumption (target: 75% achieved) - Apply clean coal technology (CCT) (target: 75% achieved) - Use new and renewable energy - Use biofuels (mandatory B30) in the transportation sector (target: 90% achieved) - Expand gas networks (target: 100% achieved) - Add more gas fueling stations (target: 100% achieved)
Agriculture	<ul style="list-style-type: none"> - Cultivate low-emission rice varieties - Apply more water-saving irrigation methods in rice fields - Use livestock manure for biogas production - Improve animal feed supplements
Waste	<ul style="list-style-type: none"> - Increase in LFG recovery in landfill management from 2010 to 2030 - Higher percentage of waste diverted through composting and 3R (paper) - Higher percentage of waste-to-energy plants/RDF (Refuse Derived Fuel) from total solid waste generation - Domestic wastewater management - Industrial wastewater treatment
IPPU	<ul style="list-style-type: none"> - Reduction of clinker-to-cement ratio from 80% in 2010 to 75% by 2030 - Increased efficiency of the ammonia industry through optimal use of natural gas (feedstock) and CO₂ recovery in primary reformers - Use scrap metal in the iron and steel industry. <p>Note: the Ministry of Industry still needs to set the quantitative targets.</p>
LULUCF (Forests and Land)	<ul style="list-style-type: none"> - Reduction in deforestation (decrease in forest cover is no more than 0.45 million ha/year, including forest and land fires, non-forest land use, encroachment) - Assumptions on natural forest timber production and plantation forest timber growth/productivity are met (especially industrial forests). - Peatland restoration at 2 million ha by 2030: at least 90% target achieved. - Land rehabilitation at 800 thousand ha/year: at least 90% target achieved.

Source: MOEF (2018).

Based on the data above, the sectors that Indonesia will be paying attention to in the future are energy, IPPU (Industrial Processes and Product Use), waste, and AFOLU (Agriculture, Forestry, and Other Land Use). This is because these sectors generate the largest share of greenhouse gas emissions.

To achieve the targets above, the government of Indonesia has devised a three-stage strategy for implementing the NDC, as presented in the following table:

⁷⁷ (Directorate General of Climate Change Control, 2017) p. 8

Table 3.2 Three-Stage NDC Implementation Strategy

Stage	Implementation Strategy	Target
I (Preconditions)	<ul style="list-style-type: none"> - Build a sense of ownership and commitment; - Capacity building; - Enabling environment; - Develop a communication framework and network; unified GHG data policy; - Develop intervention policies, plans, and programs; and - Develop NDC implementation guide, including a preparedness review for the 2020 – 2030 commitment period 	Sebelum 2020
II: Implementation	- First commitment implementation starting 2020 to 2030	2020-2030
III: NDC monitoring & review throughout the commitment period	- Tracking progress in achieving targets in respect to emission reduction and adaptation capacity building, and increased resilience, including international reporting (under MOEF coordination) and achievement of development goals (under Bappenas coordination).	2020-2030

Source: Directorate General of Climate Change Control (2017:23)

The Paris Agreement is a global commitment translated into the NDC of every signatory party to the agreement. Not only is it an intergovernmental commitment, but also the commitment of non-state actors, including business enterprises. As such, the successful implementation of NDC in Indonesia requires synergies between government ministries/agencies, business, academia, non-governmental organizations, and society in general. In addition, the government should also align the implementation of NDC with development policies across sectors, including local-level development policies.

Apart from the NDC targets of the Paris Agreement, Indonesia has also issued Presidential Regulation No. 59/2017 on Implementation and Achievement of the Sustainable Development Goals.⁷⁸ The SDGs are a global agreement adopted in 2015 that comprises of 17 goals to end poverty, reduce inequality and protect the environment. The SDGs stand on four pillars of sustainable development: social, economic, environmental, and law and governance. This global agenda was also developed with the involvement all development actors, including the government, civil society organizations (CSOs), the private sector, and academia.

As for the financial sector, Indonesia introduced the Financial Services Authority Regulation No. 51/POJK.03/2017 on Sustainable Finance for Financial Services Institutions, Issuers, and Public Companies.⁷⁹ The regulation stipulates that economic development should balance between the economic, social and environmental dimensions. This can be achieved by having a financial system in place that prevents business financing and investing practices that use resources excessively, or cause environmental damage, or that exacerbate social inequality. Applying the principles of sustainable finance in Indonesia’s financial institution system is part of implementing Law No. 32/2009 on Environmental Protection and Management, specifically on developing and implementing environmental economic instruments, including

⁷⁸ (Presidential Regulation No. 59/2017, 2017), accessed 2 December 2020.

⁷⁹ (Financial Services Authority (OJK), 2017), accessed 2 December 2020

environmentally friendly policies in the banking sector, capital market, and non-bank financial sector.⁸⁰

Amid widespread forest fires in 2015, the government of Indonesia stepped in to control deforestation and carbon emissions in the forest and land-use sector. This commitment is demonstrated in the government’s oil palm plantation moratorium policy through Presidential Instruction No. 8/2018 on Suspension and Evaluation of Permits and Increasing Productivity of Oil Palm Plantations. There is also Presidential Regulation No. 86/2018 on Agrarian Reform that restructures land tenure and ownership for more equitable land use through asset management and improving access for the prosperity of the Indonesian people.

The Paris Agreement calls for the participation of the business sector, as is the case with the SDGs. However, in its implementation strategy, no specific mention is made of the role of business in achieving Indonesia’s climate change mitigation targets/goals. Business and human rights should be integrated into the implementation strategy of climate change policies as a form of corporate responsibility in contributing towards climate change prevention. The table below lists the climate change-related policies that the government of Indonesia has issued from 2009 to 2021.

Table 3.3 Government Policies on Climate Change in Indonesia (2009-2021)

Year	Policies on Climate Change/Sustainability
2009	Law No. 32/2009 on Environmental Protection and Management
2011	<ul style="list-style-type: none"> National Action Plan on Reducing Greenhouse Gas Emissions (RAN-GRK) through Presidential Regulation No. 61/2011.⁸¹
2013	<ul style="list-style-type: none"> Law No. 18/2013 on Preventing and Ending Forest Degradation⁸² National Action Plan on Climate Change Adaptation (RAN-API)⁸³
2014	<ul style="list-style-type: none"> Environment Ministerial Regulation No. 03/2014 on Corporate Performance Appraisal Program in Environmental Management⁸⁴ Law No. 39/2014 on Plantations
2016	<ul style="list-style-type: none"> Law No. 16/2016 on Ratification of the Paris Agreement to the United Nations Framework Convention on Climate Change (UNFCCC) Government Regulation No. 46/2016 on Procedure for Strategic Assessment⁸⁵ Environment and Forestry Ministerial Regulation No. 32/2016 on Controlling Forest and Land Fires
2017	<ul style="list-style-type: none"> Presidential Regulation No. 59/2017 on the Implementation and Achievement of the Sustainable Development Goals.⁸⁶ Financial Services Authority Regulation No. 51/POJK.03/2017 on Sustainable Finance for Financial Services Institutions, Issuers, and Public Companies.⁸⁷ Environment and Forestry Ministerial Regulation No. 31/2017 on Implementing Guidelines for Gender Mainstreaming in the Environment and Forestry Sector, and the MOEF Roadmap on Gender Mainstreaming for 2020 – 2024 in Alignment with the MOEF Strategic Plan.⁸⁸

80 (Financial Services Authority (OJK), 2017) p. 2, accessed 20 January 2021

81 (RAN GRK Secretariat, n.d.), accessed 2 December 2020

82 (Law No. 18, 2013), accessed 1 March 2021

83 (Bappenas, 2013), accessed 1 March 2021

84 (MOEF, 2021), accessed 1 March 2021

85 (Government Regulation No. 46, 2016), accessed 1 March 2021

86 (Presidential Regulation No. 59, 2017), accessed 2 December 2020.

87 (Financial Services Authority (OJK), 2017), accessed 2 December 2020

88 (MOEF Regulation No. 31, 2017), accessed 25 April 2021

2020	<ul style="list-style-type: none"> National Planning and Monitoring Application on Low Carbon Development (AKSARA)⁸⁹ as a platform for recording transparent, accurate, comprehensive, consistent, and integrated low-carbon development actions.⁹⁰
2021	<ul style="list-style-type: none"> Financial Services Authority's Roadmap on Sustainable Finance – Phase II (2021 - 2025).⁹¹ Environment Ministerial Regulation No. 1/2021 on Corporate Performance Appraisal Program in Environmental Management (PROPER). (The 2014 Ministerial Regulation was revoked) Law No. 11/2020 on Job Creation Government Regulation No. 5/2021 on Risk-Based Business Licensing Government Regulation No. 22/2021 on Environmental Protection and Management Government Regulation No. 23/2021 on Forest Administration

Source: Data compiled from research findings.

3.2.1.1 Climate Change and Human Rights Challenges

Despite having various climate change policies in place, Indonesia's economy still relies on natural resources.⁹² Indonesia is a major producer and exporter of mining commodities such as nickel ore, bauxite, tin and copper; of energy sources such as coal, natural gas, and crude oil; and of agricultural products such as palm oil, rubber, seafood, rice, and spices. In overall, the added value of total natural resource activities in Indonesia was 21.5% in 2017, which accounted for half of Indonesia's total exports.

Meanwhile, the National Medium-Term Development Plan (RPJMN) for 2020-2024 sets out five strategic directions to achieve Indonesia's 2045 Vision. The five directions are Human Resource Development, Infrastructure Development, Regulatory Simplification, Bureaucratic Simplification, and Economic Transformation.⁹³ The strategies toward Economic Transformation are provided in the table below:

Table 3.4 Economic Transformation Strategy in RPJMN 2020-2024

Economic Transformation	
Strategy	Description
Industrialization	Natural resource-based industrialization and global production chains
Prime Destination Development	Developing priority tourism destinations by improving accessibility, appeal, and amenities
Strengthening the Creative and Digital Economy	Strengthening the creative and digital economy in the culinary, fashion, handicraft, application and digital content, games, film, and music sectors.

Source: Bappenas (2020: 1-11).

Given the development agendas laid out in RPJMN 2020-2024, the NDC targets that the government of Indonesia has established would somehow be **difficult to achieve**. Industrialization that relies on natural resources can lead to environmental degradation if

89 (Bappenas), accessed 1 March 2021

90 (International Climate Initiative, 2020), accessed 1 March 2021

91 (Financial Services Authority (OJK), 2021)

92 (OECD, 2019), accessed 18 November 2020.

93 (Bappenas, 2020), pp. 1-5

the issue of sustainability is not taken into account.⁹⁴ Meanwhile, despite the incorporation of the sustainable development concept into the RPJMN, preventing climate change would still pose a serious challenge in the implementation process, given the focus on optimizing natural resource potential for economic development. This can result in overlapping policies between economic and infrastructure development with climate change mitigation efforts.

Furthermore, the Job Creation Law has revised certain provisions on environmental protection, including under Law No. 32/2009. This presents a whole set of new environmental challenges in terms of environmental licensing, community engagement, spatial planning, and administrative and criminal law enforcement. According to a study by the Indonesian Center for Environmental Law (ICEL), any attempt to simplify regulations will inevitably have legal consequences, and in the case of the Job Creation Law, the legal ramifications will be fairly complicated.⁹⁵

Policy coherence between climate change prevention and development is key to achieving the NDC or Paris Agreement targets that Indonesia has established. The target is to cut total GHG emissions by 26% from BAU (business as usual) levels, and to reduce by 41% if support from the international community is forthcoming. Indonesia has already introduced various climate change policies, and has even integrated the SDG targets into the 2020-2024 RPJMN. However, the existing government policies and strategies on development and climate change policies fail to provide government expectations of businesses in contributing towards preventing climate change and respecting human rights.

As previously explained, the business sector plays a pivotal role in preventing and addressing climate change. Data from Komnas HAM show that business is the second most frequently reported entity for alleged human rights violations. They can cause and contribute to environmental degradation, which leads to human rights harms in communities where they operate, especially in the agrarian sector. The damage caused by businesses to the environment also contributes to an increase in greenhouse gases, which in turn causes climate change. This is how business contributes to climate change, which ultimately infringes on the human rights of others.

Based on BNPB data, tornadoes, forest fires, floods, and landslides are the most common type of natural disasters in 2019. They are hydrometeorological disasters that are mainly caused by climate change. Natural disasters can negatively affect human rights, especially for disaster victims, including coastal communities. Climate change is also likely to impact on vulnerable groups, including women and indigenous peoples.

Given the facts above, in addition to the lack of coherence between development and climate change policies, and business's contribution to climate change, the narrative of business and human rights or the UNGPs is indeed desperately needed. The UNGPs make clear the role that businesses play in human rights and environmental impacts when human rights

94 (Arumingtyas L., 2019), accessed 12 December 2020

95 (Indonesia Center for Environmental Law (ICEL), 2021) p. 1, accessed 25 April 2021

due diligence is effectively implemented. Implementing the UNGPs can help delineate the responsibilities that the State and business share in ensuring the protection of human rights for communities affected by business activities that enable climate change.

3.3.2 Legal Framework and Challenges in Women Worker Protection

Labor Law No. 13/2003 contains provisions on the protection of women workers. Indonesia is a party to the Convention on the Elimination of Discrimination against Women (CEDAW) and several ILO Conventions on the elimination of discrimination and the protection of women and workers as provided in the table below.

Table 3.5 Legal Framework on Women Worker Protection

Law/Convention	Type of Protection
Law No. 13/2003 on Labor	Equal opportunity to employment, and equal treatment without discrimination by the employer (Articles 5 and 6)
	Worker protection during menstruation (Article 81) 1. Female workers who experience menstrual pain and duly notify their employer are not obligated to work in the first and second day of their menstruation cycle. 2. The implementation of the provision as set forth in clause (1) shall be governed in the employment agreement, company rules, or collective labor agreement.
	Worker Protection during Pre- and Post-Natal (Article 82) 1. Female workers are entitled to 1.5 (one and a half) month leave before childbirth, and a 1.5 (one and a half) month leave after childbirth based on the doctor's or midwife's estimated due date. 2. Female workers who experience a miscarriage are entitled to a 1.5 (one and a half) month period of rest, or otherwise stated in a medical note issued by a doctor or midwife.
	Lactation Accommodation (Article 83) Nursing workers should be allowed reasonable break time to breastfeed their children if it must be done during working hours.
CEDAW and ILO Conventions No. 111	<p>Equal pay for male and female workers for work of equal value (ILO Convention No. 100/ Law No. 80/1957) and equal opportunity in employment and job position regardless of race, color, gender, religion, political opinion and social origin (ILO Convention No. 111/ Law No. 21/1999)</p> <p>CEDAW: a) The right to work; b) The right to equal employment opportunities, including the same selection criteria; c) The right to freedom to choose a profession or occupation; d) The right to job appointment, job security, and conditions of service and benefits, and the right to vocational training and retraining, including apprenticeships, advanced vocational training and retraining; d) The right to equal pay, including benefits, and equal treatment in terms of work of equal value and job appraisal; e) The right to social security, especially in the event of retirement, unemployment, sickness, disability and old age, as well as all forms of incapacity to work, as is the case for the right to paid leave; f) The right to protection of health and safety in working conditions, including the safeguarding of the function of reproduction.</p> <p>State Parties should: a) Prohibit dismissal on the grounds of pregnancy or maternity leave, and prohibit discrimination in dismissals on the basis of marital status, of which these prohibitions shall be reinforced with sanctions; b) Enforce paid maternity leave or with the comparable social allowances without loss of existing jobs, seniority, or social benefits; c) Encourage the provision of the necessary social service support to enable parents to combine family obligations with work responsibilities, and to participate in public life, especially through the establishment and development of a network of childcare facilities; d) Provide special protection for women during pregnancy against forms of work proven to be harmful to them.</p>

Source: Processed from UU No. 13 Tahun 2013, CEDAW, and Konvensi ILO No. 111

At a cursory glance, provisions under Law No. 13/2003 seem to have been left unchanged in Law No. 11/2020 on Job Creation. Women labor activists however pointed out that upon closer scrutiny, Law No. 11/2020 on Job Creation may instead render women workers even more vulnerable.⁹⁶ Therefore presents a major challenge to progress in respecting the rights of women workers. Corresponding legislation has since been issued to implement the Job Creation Law. A more comprehensive and in-depth analysis of the law's impact on women workers is therefore needed in order to formulate measures aimed at minimizing the adverse impacts.

Another challenge facing Indonesia is the shortage of labor inspectors. As of the fourth quarter of 2019, there are 1,282 labor inspectors of whom 1,218 operate at the local level, and the remaining 64 at the national level. In terms of distribution, labor inspectors are mostly stationed in 3 regions: West Java (97 people), Central Java (114 people), and East Java (131 people). Meanwhile, by 2020, there are 315,395 companies employing a total of 7,756,135 people.⁹⁷ Given the situation, the Minister of Labor admits to the far from ideal number of labor inspectors compared to the number of companies to oversee.⁹⁸

Due to personnel shortage, the government has been slow in responding to the problems faced by workers. Legal aid organizations, non-governmental organizations, advocates, and community organizations are expected to assist in overseeing progress towards the fulfillment of labor rights, especially of women workers.⁹⁹ Another major challenge concerns the protection of women workers in the informal sector, which is in dire need of a legal framework.¹⁰⁰ In 2020, the Ministry of Labor (MOL) introduced three policy aspects: a) protective policies that provide protection for female workers associated with the reproductive function; b) curative policies that prohibit laying off female workers due to marriage, pregnancy or childbirth; c) non-discriminatory policies that protect female workers from discriminatory practices and gender injustice in all aspects related to the workplace.

The Ministry of Labor has also developed an IT-based System for the Protection of Female Workers from Discrimination (SI LINA NAKER PD).¹⁰¹ A deeper probe into the extent to which the system is effective in protecting women workers, and to which the three policy aspects have been implemented is necessary as women workers often fall through the cracks given the nature of their work (e.g., plantation laborers), or the isolated locations where they work.

Meanwhile, the Ministry of Environment and Forestry (MOEF) not only deals with environmental and forestry issues, but also on gender justice and gender equality in improving environmental and forest management. The Ministry has issued MOEF Regulation No. 31/2017 on Guidelines

96 (Jumisih, 2020), accessed 6 March 2021

97 (MOL, 2020), accessed 6 March 2021

98 (MOL, 2020), accessed 28 February 2021

99 (Sabarini, 2020), accessed 27 February 2021

100 (Sabarini, 2020), accessed 27 February 2021

101 (MOL, 2021), accessed 28 February 2021

for Gender Mainstreaming in the Environment and Forestry Sector and the MOEF Roadmap on Gender Mainstreaming for 2020 – 2024, in alignment with the MOEF strategic plan. The Ministry also formally established a Working Group on Gender Mainstreaming through a MOEF Decree. This is then followed by the formation of 13 Sub-Working Groups on Gender Mainstreaming at the top levels of bureaucracy, and a Technical Implementation Unit within the Ministry. On the fiscal side, the MOEF has allocated a gender-responsive budget of IDR 346 billion to finance 91 gender mainstreaming activities. To date, the MOEF Gender Mainstreaming Working Group has developed a gender-responsive model for implementing activities in regions such as Malinau, Berau, Kapuas Hulu, Agam, Wonosadi and East Sumba.¹⁰²

¹⁰² MOEF Regulation No. 31/2017 on Guidelines for Gender Mainstreaming in the Environment and Forestry Sector





CHAPTER 4

IMPLEMENTING THE UNGPs: GENDER DIMENSIONS AND CLIMATE CHANGE

4.1. International Progress in the Implementation of the UNGPs

Since it was adopted by the UN Human Rights Council in 2011, the UNGPs have served as a source of reference for addressing business-related adverse human rights impacts. Both States and the private sector have established legal frameworks or initiatives related to business and human rights. By 2021, at least 25 countries have developed a National Action Plan on Business and Human Rights. In addition, various global industry standards, such as ISO 26000, the Roundtable on Sustainable Palm Oil (RSPO), and the Organization for Economic Co-operation and Development (OECD), have included human rights into different sets of standards. The following are some important milestones in business and human rights at the global level:

Table 4.1. Key Milestones in Business and Human Rights

Year	Global Milestone
2010	ISO 26000 (International Standards Organization/ISO) is a standard for the social responsibility of businesses that incorporates human rights as one of the business standards. This is a joint outcome of the research conducted by John Ruggie (UN Special Rapporteur on Business and Human Rights). ¹⁰³
2011	<ul style="list-style-type: none"> • The UNGPs adopted by the UN • OECD updates the OECD Guidelines with an additional chapter on human rights.¹⁰⁴
2012	The first Business and Human Rights Forum in Geneva, which thereafter is held on an annual basis.
2014	<ul style="list-style-type: none"> • Resolution 26/9 on the establishment of OEIGWG on TNCs and OBEs • RSPO formed a Human Rights Working Group¹⁰⁵ to ensure that RSPO Principles and Criteria are consistent with human rights principles
2015	<ul style="list-style-type: none"> • The UK Modern Slavery Act 2015¹⁰⁶ • The Paris Agreement was adopted by all UN member states
2017	The French Duty of Vigilance Law 2017 ¹⁰⁷
2018	<ul style="list-style-type: none"> • Draft legally binding instrument (LBI) • Australian Modern Slavery Act 2018¹⁰⁸
2019	<ul style="list-style-type: none"> • Draft law on mandatory human rights due diligence for German companies and their supply chains 2019, requiring companies with over 250 employees to perform human rights due diligence, including on their supply chains.¹⁰⁹ • Dutch Child Labor Due Diligence Law 2019¹¹⁰, • Gender Dimensions of the UNGPs on Business and Human Rights¹¹¹
2020	<ul style="list-style-type: none"> • 25 countries adopted the National Action Plan on Business and Human Rights¹¹² • 2 countries have a chapter on business and human rights in their national action plans on human rights • 23 countries are in the middle of developing a National Action Plan on Business and Human Rights • UNGPs 10+ project to mark the 10th anniversary of the UNGPs • EU Mandatory Human Rights Due Diligence 2020¹¹³
2021	Draft International Investment Agreements (IIAs) and Human Rights ¹¹⁴

Source: Compiled from research findings.

The table above shows the various initiatives taken following the adoption of the UNGPs in 2011. These commitments demonstrate the positive reception of governments and the private sector worldwide towards the UNGPs, and their efforts in implementing the guiding principles. In ASEAN, discussions on the issue of business and human rights gained momentum in 2013 following the recommendation under the ASEAN Action Plan for CSR (Corporate Social Responsibility). Later in 2018 and 2019, the ASEAN Intergovernmental Commission on Human Rights (AICHR) convened the “Interregional Dialogue: Sharing Good Practices on Business and Human Rights”.¹¹⁵

103 (International Organization for Standardization (ISO), 2010), accessed 20 February 2021

104 (OECD, 2011), accessed 5 March 2021

105 (RSPO, 2014), accessed 1 March 2021

106 (UK Public General Acts, 2015), accessed 25 January 2020.

107 (French Parliament, 2017), accessed 25 January 2020.

108 (Australian Government, 2018), accessed 25 January 2020.

109 (Business and Human Rights Resource Centre, 2019), accessed 25 January 2020.

110 (Ropes & Gray, 2019), accessed 25 January 2020.

111 (Business and Human Rights Resource Centre, 2019), accessed 5 March 2021

112 (The Danish Institute for Human Rights, 2017), accessed 5 March 2020

113 (European Parliament, 2020), accessed 25 January 2021.

114 (OHCHR, 2021), accessed 25 January 2021.

115 Achsanul Habib, Director of Human Rights and Humanity, Directorate General of Multilateral Cooperation, Ministry of Foreign Affairs

In ASEAN, Thailand has adopted the business and human rights framework through its National Action Plan on Business and Human Rights in October 2019. Malaysia, Myanmar, and Indonesia on the other hand are still in the process of preparing a similar National Action Plan. The business and human rights trends at the global and regional levels show that businesses have no other option but to jump on the UNGPs bandwagon, even when governments have not done so. Many international standards, such as the OECD Guidelines, and even government regulations in several countries require companies to conduct human rights due diligence. If businesses choose not to follow these standards, gaining global market acceptance would prove to be particularly difficult.

Nevertheless, despite the positive response from governments and businesses towards the UNGPs, there are still major challenges to their effective implementation, especially in dealing with the consequences of the COVID-19 pandemic, as well as the climate emergency. The pandemic-induced economic and human rights crises and the challenges to sustainable development, such as climate change and ecological disturbances, need fresh attention. These challenges require multistakeholder dialogues as well as new multilateral initiatives, and transformative and collaborative actions to ensure the achievement of the SDGs. In other words, no more business as usual (BAU), and this can be done by implementing the UNGPs, among others.¹¹⁶

4.2 Implementing the UNGPs in Indonesia: Gender Dimensions and Climate Change

4.2.1 RANHAM 2020-2024,¹¹⁷ National Roadmap/Strategy on Business and Human Rights, and National Task Force

The government of Indonesia adopts a two-pronged strategy for implementing the UNGPs. First, embedding business and human rights in the National Action Plan on Human Rights (RANHAM) for 2020-2024, which will be implemented by government agencies across ministries and local governments for four target groups as the primary beneficiaries of RANHAM 2020-2024: 1) Women; 2) Children; 3) Persons with Disabilities; and 4) Indigenous Peoples.¹¹⁸ Second, formulating the National Strategy on Business and Human Rights to complement the implementation of the UNGPs through the integration of business and human rights into the 2020-2024 RANHAM and to serve as guidance and reference for the performance of responsibilities of the business sector and society.¹¹⁹ The National Strategy on Business and Human Rights aims to establish supporting mechanisms for due diligence, reporting and redress, and access to remedy for marginalized groups.¹²⁰

116 (UN Working Group on Business and Human Rights, 2021), accessed 28 December 2020.

117 RANHAM 2021-2025 berdasarkan perpres 53/2021

118 (ELSAM, 2020), accessed 28 December 2020

119 (Ahsinin A., 2019) p. 203.

120 (Abdi M., 2020), 17 December 2020

The Ministry of Law and Human Rights (MOLHR) is currently the national focal point that plays a decisive role as an extension of the government in coordinating efforts to mainstream business and human rights in Indonesia.¹²¹ In 2020, the National Task Force on Business and Human Rights (NTF on BHR) was established as a coordinating body for the implementation of the National Strategy on Business and Human Rights that consists of 19 ministerial representatives and 7 non-governmental institutions, and in which civil society and business are also represented. The NTF on BHR is also responsible for coordinating efforts to mainstream business and human rights at the national level. Business representatives, such as the Indonesian Employers' Association (APINDO) and the Indonesian Chamber of Commerce and Industry (KADIN), and civil society representatives, such as ELSAM, INFID and FIHRRST, are partners to the Task Force.¹²² Civil society places high hopes on the Task Force. By roping in business entities and CSOs as partners, the establishment of the Task Force can help promote an open and transparent process for the formulation and implementation of the National Strategy on Business and Human Rights by addressing emerging challenges and drawing from past experiences, including of civil society, at the national and local levels.¹²³ Meanwhile, the 2020-2024 Draft Presidential Regulation on RANHAM has still not been ratified until this document was written.

At the harmonization meeting on January 4, 2021, it was established that the RANHAM will still cover a five-year planning period and the agreed human rights actions (over five years) to be incorporated as an annex to the Presidential Regulation.¹²⁴ Meanwhile, the NTF on BHR has set priority targets in responding to emerging challenges, which include the following: a) to build stakeholder understanding, awareness and capacity on the UNGPs and/or business and human rights; b) to formulate regulations or policies that promote respect for human rights; b) to increase access to remedy for victims of human rights violations by business; and c) to ensure progress in terms of business respect for human rights.¹²⁵ The government has identified the following opportunities for the implementation of the business and human rights framework and the possibility of aligning them with government programs.¹²⁶

a. Identification of Strategic and Priority Issues: Identifying potential and strategic sectors (tourism, plantation, fisheries, and mining) for the implementation of the business and human rights framework; establishing the priority baseline for the business and human rights situation in the first 5 years; making sure that action indicators include outcome indicators; ensuring that the government, business, civil society and other relevant stakeholders are internally prepared to work towards the implementation of LBI.

121 (Abdi M., 2020), 17 December 2020

122 (Abdi M., 2021), 4 March 2021,

123 Input from an open civil society discussion on "Civil Society Consolidation in the Business and Human Rights Context", Jakarta, 4 March 2021.

124 (Abdi M., 2021), 4 March 2021

125 (Abdi M., 2021), 4 March 2021

126 (Bappenas, 2021), 4 March 2021.

- b. Multistakeholder synergies and collaboration:** Involvement of state-owned enterprises, private companies and MSMEs in the context of national development; a common understanding on the application of human rights principles in the world of business; replication of good business practices; and civil society collaboration in reviewing, mapping, and advocating the implementation of the business and human rights framework in specific sectors.
- c. Support Gender Mainstreaming in Business and Human Rights Actions:** Formulating a gender mainstreaming roadmap for each UNGPs pillar; measuring best practices on gender empowerment programs by companies.

Regarding the two-pronged strategy above, civil society groups have made insightful analysis. First, as RANHAM is considered non-binding, making businesses to actually follow it through could prove to be a challenge. Second, the inclusion of business and human rights as part of RANHAM may mean that the issue of business and human rights is not receiving the full attention that it deserves. Third, the national strategy on business and human rights appears to be focusing on areas that do not take into account ongoing initiatives.¹²⁷

4.2.2 Women-Specific Policies in RANHAM 2020-2024¹²⁸/National Strategy on Business and Human Rights: The Challenges and Lessons Learned from the Best Practices of Other Countries

As mentioned earlier, women are one of the key target groups in the implementation of the UNGPs in Indonesia. RANHAM 2020-2024 and the National Strategy on Business and Human Rights have identified the challenges, strategic goals, and action plans for women, as shown in the table below.

Table 4.2 Women-Specific Challenges, Strategic Goals, and Action Plan in RANHAM 2020-2024 and the National Strategy on Business and Human Rights

Challenge	Strategic Goal	Action Plan
There are still policies and legislation that discriminate against women, both at the national and local levels	Making sure there are no more national or local policies and legislation that discriminate against women	Review, study, harmonize, synchronize, and revise policies, draft bylaws, and legislation that discriminate against women at the national and local levels
Half-hearted approach to fulfilling and protecting women's rights in business activities and opportunities, both in state-owned enterprises and private companies at the national and local levels	Ensuring that state-owned enterprises and private companies at the national and local levels step up efforts to fulfill and protect women's rights in business activities and opportunities	Ensure that businesses develop and implement policies to protect women's labor rights in compliance with applicable laws and regulations.

¹²⁷ (Muttajien, 2020).

¹²⁸ RANHAM 2021-2025 berdasarkan perpres 53/2021

Challenge	Strategic Goal	Action Plan
The rights of women, children, persons with disabilities, and indigenous peoples in conflict with the law, including access to legal aid, are still not fully guaranteed	The fulfillment of the rights of women, children, persons with disabilities, and indigenous peoples in conflict with the law, including access to legal aid, covers the following aspects: 1. More gender-sensitive law enforcement, local government, and the public at large 2. Availability of effective legal aid services, healthcare, and psychosocial support 3. Comprehensive and effective implementation of remedies	Provide business assistance for and build business partnerships with women heads of families in the MSME sector
Limited access to public services and opportunities to live a decent life, such as healthcare, education, and employment, for women in special situations	Ensuring women in special situations have greater access to public services and opportunities to live a decent life, such as healthcare, education, and employment	

Source: Bappenas (2021) and Mualimin Abdi (2021).

The abovementioned action plan does not elaborate on the remediation aspect. Effective remedies for those adversely impacted by business are in fact the least developed pillar. Not many initiatives have been made to provide effective remediation mechanisms.¹²⁹

Women's issues are often inadequately addressed when implementing the UNGPs. Studies at the global level show that to date many national action plans have failed to pay sufficient attention to gender issues and women's rights.¹³⁰ Several initiatives to address women's issues in business and human rights action plans in various countries are provided below:

Table 4.3 National Action Plans on Women's Issues in Various Countries

Issue	Example of Initiatives in National Action Plans (NAPs)
Women's participation in the formal sector	Several existing NAPS treat maternity leave as paid leave. This addresses women's needs in the workplace and helps increase women's participation in formal employment.
Industry-based employment segregation	Most NAPS do not have explicit provisions for dealing with occupational segregation. However, there are several country-level initiatives and national laws from which to learn from. Example: Germany's NAP that refers to the EU-G7 framework aims to increase the number of women and girls acquiring job skills by one third by 2030.
Gender pay gap	Many NAPs invoke national laws and/or international conventions that prohibit gender-based discrimination in the workplace or that emphasize equal pay and women's rights in the workplace. The German NAP identifies existing gender pay gaps and works closely with employers and employees to tackle this problem, among others by introducing measures such as "Equal Pay Day" and a new computer-aided assessment procedure for detecting pay discrimination in companies.

129 (Prihandono, 2018), p. 32

130 (Götzmann N. &, 2020), accessed 28 December 2020

Issue	Example of Initiatives in National Action Plans (NAPs)
Women's participation in senior management	Most NAPs do not explicitly mention women's participation at the senior management level. Germany introduced a 30 percent quota, and so has India (at least one board member must be a woman). Quotas range from 20 percent in France to 40 percent in Iceland, Norway and Spain.
Protection for women in the informal sector	Not a single NAP expressly addresses women's rights in informal employment or the formalization of the labor market. However, several countries such as Brazil, Costa Rica, Mexico and Peru have legislation and initiatives on minimum wage for all workers, regardless of sector or status of the company hiring them.
Sexual assault and harassment in the workplace	Some NAPs address gender-based discrimination, but with no explicit mention of sexual assault or harassment. There are however some country-level legislation and initiatives to draw from. The Australian Human Rights Commission conducts national inquiries into sexual harassment in the workplace; Kenya's Sexual Offenses Act requires employers with more than 20 staff to have anti-sexual harassment policies, training and procedures in place, including provisions to prevent retaliation.
Pregnancy and maternity discrimination	Very few NAPs address the issue of pregnancy and maternity discrimination. The Polish NAP is an example of regulating employee's parental rights, including provisions on maternity leave, parental and paternity leave, and childcare, as well as provisions on facilitating the fulfillment of parental responsibilities in childcare and education.
Land and land rights	It is important to promote women's involvement in making land-related decisions and agreements. The governance policy and framework establishes requirements that investors and specific business sectors must meet, and as such, should be carefully considered in the national UNGPs implementation process.
Judicial remedies	Not a single NAP explicitly mentions women or gender in the context of access to remedy. However, there are examples of laws and court cases that promote women's access to remedies. The availability of legal aid is therefore of utmost importance.
Non-judicial remedies	Many countries have inserted a special section on non-judicial remedies in their NAPs. The Danish government has established the Mediation and Complaints-Handling Institution for Responsible Business Conduct that receives complaints, as well as investigates and mediates alleged breaches of the OECD Guidelines for Multinational Enterprises by Danish companies or their business partners.

Source: Götzmann N. W. (2018)

4.2.3 PRISMA Application Development

As the focal point for the implementation of the UNGPs in Indonesia, the Directorate General of Human Rights under the Ministry of Law and Human Rights in 2020 developed an independent application program called the Business and Human Rights Risk Assessment or PRISMA. The program seeks to assist companies analyze the risks of human rights violations caused by their business activities. In addition, PRISMA can help educate business actors on what should be done, and provides a platform to bridge the communication gap between business and government.

PRISMA draws on the UNGPs as spelled out in national legislation and human rights instruments. Since it is voluntary in nature, PRISMA assessments are carried out independently by companies. Business entities conduct self-assessments independently and confidentially, identifying potential impacts or risks that are then assessed based on a scoring system.¹³¹ Furthermore, businesses establish a follow-up plan based on the results of the assessment,

¹³¹ (Rinwigati, P. (PRISMA Supervisor), 2021).

and keep track of the implementation of the follow-up actions. PRISMA in principle actualizes the second pillar of the UNGPs on corporate responsibility to respect human rights in their business operations and even their supply chains by providing an instrument for companies to conduct due diligence.

PRISMA assessments cover 13 categories consisting of company profile, business impact on human rights, human rights policies, complaints mechanisms, supply chains, workers, working conditions, trade unions, discrimination, privacy, environment, agrarian and indigenous peoples, and social responsibility.¹³² Women may fall under the discrimination category. However, this cannot be ascertained as there is no separate category for women as the basis of assessment.

The government of Indonesia designates state-owned enterprises (SOEs) as a model for the implementation of the UNGPs in Indonesia. Under the PRISMA program, SOEs are expected to conduct human rights due diligence to avoid involvement in human rights abuses. The program also standardizes human rights compliance actualized through the human rights due diligence instrument to set an example for other companies.¹³³ At least 100 SOEs are targeted for the pilot implementation of PRISMA.¹³⁴

However, the confidential nature of PRISMA is an important point to note.¹³⁵ We do not know for sure how far the public can access the data and information in PRISMA. Without meaning to negate PRISMA's objective of providing an education and dialogue platform between business and the government, the said matter is indeed a crucial point to consider. The fundamental principle underpinning the UNGPs in regard to due diligence is knowing and showing, where enterprises must not only know their business risks by conducting risk assessments and establishing prevention and mitigation measures, but should also communicate such information to the public.

4.2.4 Policies on UNGPs Implementation: The Job Creation Law Paradox and Other Challenges

The first pillar of the UNGPs establishes the central role that States play in protecting human rights. Accordingly, governments have the obligation to protect individuals from human rights harms by third parties, including business entities. Furthermore, States must fulfil this duty by introducing policies, regulations, and legislation, and establishing an adjudication mechanism. In this regard, the domestic legal system can significantly contribute to strengthening international legal norms. The role of the State is manifested through the development of appropriate policy, regulatory and judicial frameworks.¹³⁶

132 (MOLHR, 2021), accessed 3 March 2021.

133 (MOLHR, 2021), accessed 3 March 2021.

134 (Patricia Rinwigati (PRISMA Supervisor), 2021).

135 (Financial Services Authority (OJK), 2017), accessed 2 December 2020

136 (Ahsinin A. e., 2016), pp.viii- ix.

Various laws and regulations that govern on the business responsibility to respect human rights are already in place. For example, laws on the environment, labor, plantations, mining, industry, and forestry. Indonesia has ratified almost all major international human rights treaties and several important labor-related conventions. However, implementing these legal instruments presents a major challenge of its own.

Regional autonomy is considered an impediment to the enforcement of the said laws. Bureaucratic red tape can undermine assessments on business feasibility and regulatory compliance on the environmental, labor and social dimensions, as part of business permit requirements. There is also the issue of overlapping concession permits that can incite company-community conflicts.¹³⁷ Another hindering factor is limited human resource capacity within a long bureaucratic chain of command that leads to inefficient monitoring and tracking. As a consequence, violations would tend to be overlooked, and illegal activities run rampant, which create business-related adverse impacts that may even culminate in fatalities.¹³⁸

Law No. 11 of 2020 on Job Creation presents a new challenge to the implementation of the UNGPs in Indonesia. According to the government, the Job Creation Law and 49 Government/ Presidential Regulations are underpinned by the following principles:¹³⁹

- a. More responsible management of strategic natural resources such as forests, water sources, and minerals.
- b. Ease of doing business for communities and individuals, including in accessing financial assistance.
- c. Community engagement in all sectors, including in regard to the environmental impact assessment of a business activity.
- d. Government and public recognition of enterprises and institutions that respect and protect human rights and the environment.

Nevertheless, efforts must be made to make sure that the Job Creation Law, which appears to be driven more by the desire to create an investment climate and promote ease of doing business, continues to guarantee business respect for human rights.¹⁴⁰ The Job Creation Law does indeed address two issues that undermine existing laws and regulations important for the implementation of the UNGPs: returning licensing authority to the central government and cutting bureaucratic red tape in the licensing process. It is however important to ensure that the Job Creation Law addresses the particularly critical licensing issue of corruption and how it is intertwined with conflict of interest.¹⁴¹ Several provisions on labor and the environment under the Job Creation Law are also considered a setback to business respect for human rights. Furthermore, the Law poses a new set of challenges to upholding the rights of women workers (see Chapter II).

137 (Prihandono, 2018)

138 (Prihandono, 2018) pp. 29-30

139 (Gardera, 2021)

140 (Muttajien, 2020)

141 (Kartodihardjo, 2020), accessed 14 March 2021

4.3 Benefits of a Business and Human Rights Narrative: The Role of Business in Addressing Women’s Issues and Climate Change

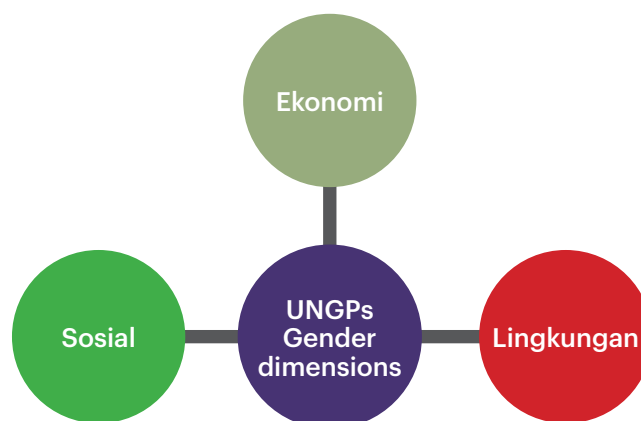
4.3.1 Advantages of a Business and Human Rights Narrative

In dealing with climate change, responses from governments and the global community are mainly built on the concept of sustainable development. The sustainability narrative is known for its human focus, and acknowledgement of the problems that arise as a result of business activities. The term “development”, which discusses essential needs, equality, social justice and poverty, is underpinned by the concept of human rights, dignity and equality.¹⁴²

However, the correlation between human development and the environment needs to be emphasized. In recent developments, governments and enterprises have begun to focus on the issue of gross inequalities. This provides an entry point to connect the environmental and social dimensions. In addition, environmental movements are beginning to understand how the two dimensions are interwoven.

However, the concept of sustainable development does not discuss nor explain how problems related to the social dimension or “people part” should be addressed. Meanwhile, under the UNGPs, a business and human rights narrative does provide an explanation. As global standards, the UNGPs place an expectation on enterprises to prevent negative impacts, and find ways to overcome them. The convergence of the two narratives provides that the responsibility to address human rights risks goes beyond minimizing the negative impacts. On the other hand, placing human rights, including women’s rights, front and center would generate positive transformative impacts. The figure below illustrates where the UNGPs or business and human rights narrative stand with regard to the economic, environmental, and social dimensions, in supporting sustainable development.

Figure 4.1 UNGPs and Sustainable Development



142 (Rees, 2020) p. 20

4.3.2 The Role of Business in Addressing Women’s Issues in Facing Climate Change

The 13th foundational principle of the UNGPs asserts that in order to respect human rights, businesses must prevent from causing or contributing to human rights harms. Businesses must also find ways to prevent these harms from occurring, especially in regard to women and climate change. The principle identifies three forms of business involvement in adverse human rights impacts, as provided in the table below.

Table 4.4 Types of Business Involvement in Human Rights Impacts

Type of Involvement	Example
Causing: Businesses as the <u>cause</u> of impacts (through their business actions or omissions).	Enterprises engaged in discrimination: <ul style="list-style-type: none"> • Do not accord women and men the same employment opportunities; • Pay women differently than men; or • Do not involve female members of the community in land negotiations.
Contributing to: Businesses <u>contribute to</u> human rights impacts (through business operations, or through third parties, including the cumulative impacts).	A business project that causes pollution in the local environment, combined with the pollution caused by other enterprises that impacts on the local ecosystems that the local communities, especially women, are dependent on (e.g., water).
Directly linked to: Impacts directly related to businesses (through their operations, products or services by their business relationships, including contractual and non-contractual relationships)	An enterprise’s supplier subcontracts the production of embroidered apparel to female workers for wages below the minimum standard, which is a breach of the subcontract agreement.

Source: Compiled from OHCHR (2011) and BSR (2018).

The examples provided above on how businesses are involved in adverse human rights impacts draw attention to the vital role that they can play in preventing such impacts from occurring in the first place. As such, business can contribute significantly to help women deal with climate change. In this context, business entities must take a structural and systematic approach to addressing the constraints that women face in coping with climate change. They must place women at the heart of its strategies in tackling climate change. Only then will concrete transformations toward both climate resilience and gender equality can take place. The table below describes how business entities can take action within their own scope of operations, and extend their sphere of influence to others, enabling them to act and address the intersection of climate resilience and women.¹⁴³

Table 4.5 Role of Business for Women and Climate Change

ACT	Businesses place women front and center in every business approach and internal solutions to building climate resilience. They can specifically provide training, financial and technological assistance to women within their supply chains.
ENABLE	Businesses can enable women and the wider community throughout their supply chains to effectively respond to climate change by connecting them with local partners and networks, which can evolve into a mutually supportive mechanism to strengthen climate resilience.
INFLUENCE	Businesses can influence factors that underlie inequality, such as lack of decision-making power over land rights that exacerbates the negative consequences of climate change on women who are disproportionately affected.

Source: Compiled from BSR Nexus (2018).

143 (BSR, 2018) p. 6

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

1. Business operations impact women differently, and so does climate change.
2. Many countries have made headway in the implementation of the business and human rights framework through a slew of measures, including the formulation of national action plans. Several countries have action plans and initiatives for UNGPs implementation that specifically address women's issues. Such initiatives include a national inquiry on workplace sexual harassment, policies addressing gender-based occupational segregation, land ownership and access to remedy. In addition, UN members adopted the United Nations Framework Convention on Climate Change (UNFCCC) Gender Action Plan in 2017 to focus on strengthening women's role in tackling climate change.
3. In Indonesia, the implementation of the UNGPs has reached significantly milestones: a) the inclusion of business and human rights in the 2020-2024 RANHAM; b) the formulation of a national business and human rights strategy; c) the establishment of a National Task Force on Business and Human Rights that serves as a coordinating body for implementing the National Strategy on Business and Human Rights, and for mainstreaming business and human rights at the national level, which is an inter-ministerial group with business associations and elements of civil society as partners.
4. Another point of progress that Indonesia has made in the implementation of the business and human rights framework is the prioritizing of vulnerable groups such as children, people with disabilities, women and indigenous peoples.
5. A more recent breakthrough in Indonesia is the introduction of the voluntary-based PRISMA risk assessment initiative that allows businesses to conduct self-assessments where they identify potential impacts or risks, develop a follow-up plan based on the assessment results, track the implementation of the follow-up plan, and communicate it to the public. The assessment covers 13 categories. However, it should be noted that women are not under a separate category as a basis of assessment.
6. For women in Indonesia, several major challenges still remain unresolved for the effective implementation of the business and human rights framework: a) deep-seated restrictive social norms and patriarchal culture; b) the sheer number of women working in the informal/home-industry/domestic work sector, and in low-paying jobs; c) certain sectors, such as plantation, fisheries and garment, that rely heavily on women workers have issues with specific characteristics; d) government's lack of capacity to monitor and track businesses' performance of obligations, particularly in protecting women's rights in the

- workplace; d) women's inability to access remedies for rights violations.
7. The COVID-19 pandemic presents a serious challenge to the implementation of the business and human rights framework. The challenges mentioned in point 6 above have resulted in women being affected differently by the pandemic, and therefore require women-specific responses.
 8. The Job Creation Law, which was designed to reduce bureaucracy and improve the business and investment climate, has given rise to new challenges for the implementation of the business and human rights frameworks and climate change mitigation in Indonesia. The Law appears to be giving companies leeway to flout human rights and ignore environmental sustainability in their business operations.
 9. Government policies on climate change and development are far from coherent. Despite the inclusion of the concept of sustainable development in Indonesia's RPJMN (National Medium-Term Development Plan), preventing climate change remains a grave challenge given the economic development focus on optimizing the exploitation of natural resources. This can lead to an overlap between economic, infrastructure development, and climate change mitigation policies. The Job Creation Law also adds to the complexity of challenges and problems related to the sustainable development agenda
 10. In Indonesia's development and climate change policies, the government fails to clearly set out the expectation that businesses contribute to preventing climate change and respecting human rights.
 11. Several policies on climate change still do not apply a gender lens. For example, the National Action Plan on Climate Change Adaptation (RAN-API) does not address the issue of women and climate change. This is a major challenge as women play a pivotal role in climate change mitigation.
 12. Lack of government synergy in implementing the Ministry of Environment and Forestry's 2020-2024 Roadmap on Gender Mainstreaming across state institutions, including Komnas Perempuan or women's organizations.

5.2 Recommendations

General recommendations:

- a. The President should immediately issue a Presidential Regulation on RANHAM 2020-2024 in which the business and human rights framework is embedded.¹⁴⁴
- b. A ministerial regulation as the legal basis for the establishment of the National Task Force on Business and Human Rights (NTF on BHR) has been signed by the Minister of Law and Human Rights. The NTF on BHR working in concert with business entities and civil society groups as partners should ensure that the Roadmap and National Strategy on Business and Human Rights are formulated and implemented in an open and transparent manner by taking into account various challenges and initiatives, including civil society's

¹⁴⁴ As this research report was about to be published, on 8 June 2021, President Jokowi enacted Presidential Regulation No. 53/2021 on RANHAM 2021 – 2025.

work at the national and local levels, with additional or emphasis on specific measures (as explained in the following section).

- c. The government, in this case the Ministry of Law and Human Rights and Bappenas, needs to harmonize RAN-API and RANHAM 2020-2024 to ensure that the UNGPs are implemented in line with gender-responsive climate change adaptation.

Government/National Task Force on Business and Human Rights/Relevant Ministries:

1. Regarding policy and regulatory development:
 - a. Review laws, policies, norms, standards, and practices that discriminate directly or indirectly against women, primarily but not limited to discriminatory local regulations. The NTF coordinates with the Ministry of Home Affairs to review and evaluate local regulations that discriminate against women
 - b. Review and issue laws on specific sectors to ensure women's protection, including but not limited to the following: a) review Law No. 16/2016 on the Paris Agreement to adopt a gender perspective; b) review Law No. 7/2016 on Protection and Empowerment of Fishers, Fish Farmers, and Salt Farmers, to adopt a gender perspective; c) issue a regulation specifically for the plantation sector given its distinct characteristics compared to the manufacturing sector in order to ensure legal protection for plantation workers, especially women workers; d) continue to advocate for the passage of the Anti-Sexual Violence Law; e) develop regulations or policies to protect women working in the home-industry/domestic work/informal sector.
 - c. Build a legal/policy/program framework that harmonizes women's empowerment, climate change mitigation and the SDGs, including in urging business actors to have a human rights policy in place that includes the commitment to women's rights (women's rights policy), to climate change mitigation, and to achieving the SDGs.
2. Regarding situation mapping:
 - a. The National Task Force ensures the stocktaking of the business and human rights situation in priority sectors, such as plantation, mining and fisheries, over the first 5 years, specifically relating to women and climate change. This is necessary to map out the business and human rights situation and the pertinent issues by taking into account the impact of the Job Creation Law. This baseline study should engage civil society and the academia.
 - b. The NTF on BHR is advised to take stock of business and human rights policies and initiatives in Indonesia to identify existing government laws, regulations, policies and business practices relevant to the UNGPs and women in dealing with climate change.
 - c. The NTF on BHR should urge independent national institutions to conduct a national inquiry on women's situation in key sectors, including female-dominated industries, such as manufacturing (e.g., garment) and non-manufacturing (oil palm plantation), as well as other sectors that have an impact on the environment

3. Regarding the need to build understanding and awareness on business and human rights, especially relating to women and the environment:
 - a. Provide training for policy-makers to enhance gender and environmental sensitivity in making decisions on gender equality for national and local government officials, by coordinating with Bappenas, and involving Komnas Perempuan or **women's organizations**
 - b. Build gender and environmental sensitivity and understanding by training labor inspectors.
4. Ensure the development of a gender mainstreaming roadmap in every business and human rights pillar, and the measure best practices on gender empowerment programs by businesses.
5. Ensure that climate change and gender issues are one of the areas of focus in the national strategy on business and human rights.
6. Concerning the PRISMA application, the NTF on BHR, specifically the Director General of Human Rights, shall conduct periodic reviews by soliciting input and participation from business entities, civil society, and universities on the following matters:
 - a. Gradual improvement of the 13 categories and their sub-categories so that each category reflects the problems on the ground with the possibility of adding more categories or reformulating and/or adding to the sub-categories, by ensuring that women are included in the list of categories as the basis of assessment.
 - b. Increasing public access to information on the PRISMA application, specifically on risk assessments, and gradually strengthening the system with the availability of more detailed information.
 - c. Looking into the possibility of making it mandatory for businesses to conduct a human rights risk assessment.
7. The Ministry of Environment and Forestry aligns its 2020-2024 Gender Mainstreaming Roadmap with relevant institutions, including Komnas Perempuan, in its actual implementation.
8. As a coordinating body, the NTF on BHR determines the necessary measures and methods to expand its scope by: a) broadening its reach to the regions; b) promoting broader civil society engagement down to the local level; c) engaging with business entities to reach various sectors.
9. Concerning the remediation mechanism, in order to meet strategic targets for rights fulfillment and legal aid delivery for women, children, persons with disabilities, and indigenous peoples in conflict with the law, the government has found it necessary to build gender sensitivity among law enforcement officers, local governments, and the public at large; provide effective legal aid, health and psychosocial services; and ensure comprehensive and effective remedies. However, these measures have not been translated into concrete actions. The following actions are therefore recommended:
 - a. Coordinate and collaborate with national human rights institutions (Komnas HAM/ Komnas Perempuan/Komnas Anak/Ombudsman and LPSK) to improve service delivery, and increase the effectiveness of remedies.

- b. Ensure that the NTF coordinates with the Ministry of Labor to continuously improve the effectiveness of the IT-based System for the Protection of Women Workers from Discrimination (SI LINA NAKER PD).
- c. Enhance the effectiveness of Community Communication Services (Yankomas) in order to provide the appropriate assistance for handling human rights violations, including those perpetrated by business entities.
- d. Urge businesses to establish an internal remediation mechanism with SOEs as living examples.

Civil Society and Business:

The UNGPs require the participation of all stakeholders, including civil society and business entities.

1. Civil society groups that form part of the NTF on BHR can help bridge the gap between NTF and civil society at the national and local levels, and ensure that their work inform NTF's business and human rights programming. To this end, civil society needs to take the following steps:
 - Establish networks and regularly conduct studies and collect data on business human rights impacts, with sex-disaggregated data related to the impact of business operations and climate change on women.
 - Monitor and assess the actions of the State and business that have actual and potential adverse human rights consequences on women in particular, and on climate change. Based on this, together with other stakeholders, offer input to the government to reform/draft laws/policies, and to business entities to initiate the implementation of the business and human rights framework, especially in ensuring the protection of women's rights and the environment.
 - Evaluate the effectiveness of judicial or non-judicial remediation mechanisms for women; and provide input and/or actively participate to improve the effectiveness of such remedies, including in building the capacity and awareness of personnel involved in the implementation of the remediation processes.
2. Business associations that form part of the NTF on BHR serve as anchors that connect the NTF with business entities at the national and local levels. Business associations need to ensure that business initiatives and issues are taken into account in NTF business and human rights programming, and to encourage the replication of best practices. In addition, business associations/entities need to take the following steps:
 - Deliver on their human rights commitments by establishing the necessary policies from a gender and environmental perspective, based on lessons learned/replication of best practices already proven effective in other enterprises, among others.
 - Undertake due diligence to help assess business operational risks that can limit women's enjoyment of their rights, and can adversely impact on the environment.

- Establish an internal remediation mechanism accessible to affected communities, especially women.
- Foster partnerships with other stakeholders, and facilitate the transfer of knowledge, expertise and skills, and provide financial support accessible to women.
- Communicate to other stakeholders the actions that they have taken to address human rights harms caused by their activities.
- State-owned enterprises serve as living examples in terms of human rights policy commitments, human rights due diligence, and remediation mechanisms.

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NGO in Special Consultative Status
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