
GUARANTEEING ADHERENCE TO HUMAN RIGHTS STANDARDS IN INFRASTRUCTURE PROJECTS: A LEGAL EXAMINATION OF THE NATIONAL STRATEGY FOR BUSINESS AND HUMAN RIGHTS IN INDONESIA'S PUBLIC-PRIVATE PARTNERSHIP LEGAL FRAMEWORK

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ABSTRACT

This study analyses the integration of human rights principles into Indonesia's Public-Private Partnership (PPP) legal framework, focusing on the implementation of Presidential Regulation No. 60 of 2023. The findings indicate that aligning the regulation Indonesia's PPP framework with international human rights standards, is significant step towards. Key provisions include mandatory human rights due diligence, and the accountability of both public and private actors in projects. Despite this progress, the study identifies that the existing legal framework, such as Presidential Regulation No. 38 of 2015, remains predominantly focused on economic and technical aspects, with limited attention to social and environmental impacts. This gap underscores the need for further efforts to incorporate comprehensive human rights impact assessments and stakeholder engagement into the PPP framework. By drawing on international best practices, the study recommends strengthening legal and institutional mechanisms to ensure PPP projects contribute to equitable, inclusive, and sustainable development.

Keywords: Business and human rights, public-private partnerships (PPP), Indonesia.

A. Introduction

The regulation of business responsibility for human rights is becoming increasingly important for diplomats, policymakers, business strategists, and social activists. There is significant fragmentation and divergence in the implementation of business and human rights principles. On a national level, there is noticeable divergence among states in their implementation of the UN Guiding Principles on Business and Human Rights 2011, with many states remaining largely passive in their efforts.¹ Similarly, in the business sector, most additional regulations are voluntary industry schemes rather than binding international legal instruments.² The scope of business and human rights issues is expanding, making it challenging for social advocates to strategically prioritize issues, potentially affecting the agenda's overall impact and resonance.³

1 United Nations Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. New York, 2011, 1

2 De Schutter, O, *The Implementation of the UN Guiding Principles on Business and Human Rights*, European Parliament, 2017, 19

3 World Benchmarking Alliance, *Corporate Human Rights Benchmark*, 2020, 1

Internationally, efforts are underway to adapt the human rights regime to provide protection across diverse aspects and sectors. The United Nations (UN) has defined a range of internationally accepted rights, including civil, cultural, economic, political, and social rights.⁴ Financial sector actors, who play a vital role in the global economy, have substantial leverage over various sectors and business activities and are crucial in ensuring corporate respect for human rights at scale.⁵ The United Nations' Sustainable Development Goal (SDG) 16, "Peace, Justice, and Strong Institutions," aligns with the human rights framework by promoting societies that respect individual rights, freedom of expression, privacy, and access to information.⁶ SDG 16 also recognizes business as a driver of economic growth. The G20 is well-positioned to address challenges to human rights in the global economy, which is necessary for a sustainable future. The G20's underlying purpose is to meet the needs of people worldwide, especially the neediest.

In another field, the G20's Action Plan on the 2030 Agenda for Sustainable Development includes commitments to develop infrastructure that supports economic development and human well-being.⁷ The G20 aims to promote policy options that bridge the global infrastructure gap, including mobilizing public and private finance. The UN has mechanisms to promote and protect these rights and to help countries fulfill their responsibilities. Specifically, the UN has launched the UN Guiding Principles on Business and Human Rights, calling for a strong commitment from countries.⁸

According to these principles, business activities can generate economic growth, reduce poverty, and increase the demand for the rule of law, thereby contributing to the realization of a broad spectrum of human rights. Effective markets require embedding rules that prevent societal harm and ensure business benefits align with broader societal goals.

The UNGP on Business and Human Rights rest on three pillars; protect, respect, and remedy. These pillars assist all social actors governments, companies, and civil society in reducing the adverse human rights consequences of business activities.⁹ The framework's first pillar, protection, emphasizes the state's obligation to protect human rights and prevent abuses by third parties, including businesses.¹⁰ The second pillar, respect, underscores the responsibility of business enterprises to avoid infringing on the rights of others and address adverse human rights impacts.¹¹ The third pillar is remedy, focuses on ensuring that those

4 United Nations, Universal Declaration of Human Rights 1948

5 Shift Project, Human Rights Due Diligence: Practical Strategies for Businesses, 2019, 2

6 United Nations. (2015). Transforming our world: the 2030 Agenda for Sustainable Development.

7 Action Plan on the 2030 Agenda for Sustainable Development, diakses di https://pipeline.github.org/?gad_source=1&gclid=Cj0KCQjw6uWyBhD1ARIsAIMcADrbFFLjp6OVkqOxdAnkM8cwEkTJE-b3-Ua_0r4YG9qqg8Zocj116okaAnoZEALw_wcB pada May 2024

8 Business and Human Rights in Asia: Progress and Challenges diakses di https://www.ohchr.org/en/climate-change/integrating-human-rights-unfccc?gad_source=1&gclid=Cj0KCQjw6uWyBhD1ARIsAIMcADr7RFD42zEY6L0q21QYfzf2KPox8WofdVz478e1h76g3t0bxKixWKUaAiGcEALw_wcB pada May 2024

9 United Nations Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework. New York, 2011, 1

10 *Ibid.*

11 *Ibid.*

affected by adverse impacts have access to effective remedies through judicial or non judicial mechanisms.¹²

In Indonesia, the President Regulation No. 60 of 2023 as a national strategy for business and human rights, seeks to align with these principles by promoting human rights compliance in business activities, particularly within public-private partnerships (PPPs).¹³ The national action plan aims to reflect state law obligations under international law, enhance access to effective remedies, and foster respect for human rights through due diligence processes.¹⁴ Claire Methven highlights that a national action plan is a framework for articulating business and human rights policies, explaining the implementation of international or national obligations and commitments.¹⁵ This framework should guide policies across general and specific sectors, including market-based, investment, and financing policies, such as PPP schemes.¹⁶ This study aims to analyze the impact of the President Regulation No. 60 of 2023 on PPP Indonesia legal framework and what are the key provisions of the President Regulation No. 60 of 2023 relevant to PPP legal framework in Indonesia.

This article is organized as follows the first section provides an overview of the key provisions of President Regulation No. 60 of 2023 that are relevant to PPP highlighting their implications for human rights compliance in infrastructure projects. The second section examines the legal framework for PPPs in Indonesia, focusing on how it addresses human rights concerns, including gaps and challenges. The third section presents a case study analysis to illustrate the practical application of these provisions and the legal framework in PPP projects. Finally, the article concludes with a discussion of findings and recommendations for strengthening human rights compliance in PPPs projects.

B. Research Method

Soerjono Sokanto explains that legal research involves applying a specific method, system, or thought to investigate legal phenomena through analysis.¹⁷ Peter Mahmud Marzuki identifies five approaches for legal research case approach, statutory approach, historical approach, comparative approach, and conceptual approach.¹⁸ This study adopts the normative legal research method, along with statutory, conceptual, and comparative approaches. The statutory approach involves analyzing regulations related to PPP's in Indonesia. Conceptually, problem-solving relies on concepts from secondary legal sources like books and articles. The comparative approach seeks best practices from other countries to develop new concepts. Overall, this research combines various methods to analyze PPP's legal framework in Indonesia thoroughly with related human rights standards.

12 *Ibid*

13 *Ibid*.

14 Presidential Indonesia Regulation No. 75/2020 on the National Strategy on Business and Human Rights.

15 Methven O'Brien, C, *Business and Human Rights: A Handbook for Legal Practitioners*. Council of Europe, 2018, 59

16 *Ibid*.

17 Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: Universitas Indonesia), 43

18 Marzuki dalam Bachtiar, *Metode Penelitian Hukum*, Jakarta: UNPAM PRESS, 2019, 81

To analyze the impact of the President Regulation No. 60 of 2023 for PPPs legal framework Indonesia, this article utilized a *yuridis normative* method with three law approaches; statute approach; case approach; and historical approach. The statute approach involves examining relevant laws and regulations governing PPP and human rights in Indonesia. Key statutes include Presidential Regulation No. 38 of 2015 on PPPs and President Regulation No. 60 of 2023. These regulations outline the procedures and requirements for PPP projects and emphasize the need for human rights due diligence. The President Regulation No. 60 of 2023 requiring businesses to respect human rights and providing remedies for affected parties. The historical approach involves examining the development of PPP regulations over time. The evolution of these frameworks reflects a growing recognition of the importance of integrating human rights considerations into infrastructure projects. The adoption of the The President Regulation No. 60 of 2023 represents a significant step towards aligning national policies with international standards and addressing the human rights in developing infrastructure project along with PPP schemes.

C. Discussions

1. Integrating Human Rights into Indonesia's PPP Framework: A Critical Analysis of Regulation No. 60 of 2023

The global framework for business and human rights has evolved significantly over the past few decades. The UNGPs 2011 are the cornerstone of these efforts. These principles rest on three pillars; the state duty to protect human rights, the corporate responsibility to respect human rights, and the need for greater access to remedies for victims of business-related abuses.¹⁹ The UNGPs provide a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. Various countries have developed national action plans (NAPs) to implement the UNGPs.

The United Kingdom was the first to launch its NAP in 2013, followed by other countries such as Germany, the Netherlands, and Norway. These action plans typically outline how governments intend to meet their duty to protect human rights and promote corporate respect for human rights within their jurisdictions.²⁰ However, the implementation of these guidelines is uneven across countries and sectors. Many states remain passive, and their efforts to enforce these principles vary widely.²¹ This divergence reflects broader trends in the regulation of business responsibility for human rights, where voluntary industry schemes

19 United Nations Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. New York, 2011, 1

20 Government of the United Kingdom. (2013). *Good Business: Implementing the UN Guiding Principles on Business and Human Rights*. UK Government. <https://www.gov.uk/government/publications/bhr-action-plan>

21 De Schutter, O, *The Implementation of the UN Guiding Principles on Business and Human Rights*, European Parliament, 2017, 19

often take precedence over binding international legal instruments.²²

Presidential Regulation No. 60 of 2023, Indonesia's national strategy for business and human rights, aims to address national policies in business aligned with with the human rights protection. This strategy emphasizes the state's duty to protect human rights, the corporate responsibility to respect human rights, and the importance of access to remedies for those affected by business activities.²³

Comparing Indonesia's approach to business and human rights with other countries reveals both similarities and differences. For example, the UK's NAP emphasizes corporate transparency and reporting, while Germany's plan focuses on supply chain due diligence. These variations reflect different national priorities and contexts but share a common commitment to implementing the UNGPs.²⁴ The fragmented and voluntary nature of many business and human rights initiatives globally poses challenges for achieving consistent and comprehensive human rights protection. However, the trend towards greater regulatory oversight and the development of binding international standards, such as the proposed UN treaty on business and human rights, indicates a growing recognition of the need for more robust mechanisms to ensure corporate accountability.²⁵

PPP have become a crucial mechanism for infrastructure development in Indonesia. These partnerships leverage private sector efficiency and capital to meet public infrastructure needs, bridging gaps in public funding and expertise. The legal framework for PPPs in Indonesia, which outlines the procedures and requirements for PPP projects, aiming to attract private investment and ensure project feasibility and sustainability.²⁶ PPPs in Indonesia cover various sectors.

The Indonesian legal framework for PPPs is built on a series of laws and regulations designed to promote investment and safeguard public interests, establishing the rights and obligations of all parties involved. However, despite its comprehensive nature, the framework largely prioritizes economic and technical aspects, often overlooking critical social and environmental impacts. This oversight highlights the pressing need to integrate human rights principles, such as due diligence and impact assessments, into PPP practices. Strengthening human rights enforcement within the PPP framework is essential to ensure that infrastructure development not only drives economic growth but also upholds the dignity and rights of affected communities.

The integration of human rights into PPP projects is essential for promoting sustainable and inclusive development. This involves incorporating human rights impact assessments

22 World Benchmarking Alliance, *Corporate Human Rights Benchmark*, 2020, 1

23 Presidential Regulation No. 75/2020 on the National Strategy on Business and Human Rights.

24 German Federal Government, *National Action Plan: Implementation of the UN Guiding Principles on Business and Human Rights*, 2016, access at <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/ForumSession6/Germany.pdf> in May 2024

25 International Corporate Accountability Roundtable, *The Future of Business and Human Rights Regulation*, 2020, access at <https://icar.ngo/wp-content/uploads/2020/01/ICAR-5th-Annual-Meeting-Report.pdf> in May 2024

26 Presidential Regulation No. 38/2015 on Cooperation between Government and Business Entities in Infrastructure Provision.

into project planning and ensuring meaningful stakeholder engagement.

Presidential Regulation No. 60 of 2023 marks a pivotal shift in Indonesia's approach to PPP by addressing critical gaps in the existing legal framework under Presidential Regulation No. 38 of 2015. While the previous regulation focused primarily on economic and technical aspects to attract private investment and ensure project feasibility, it failed to adequately consider the broader social and environmental impacts, including the integration of human rights principles. The introduction of Regulation No. 60/2023 aims to rectify this oversight by embedding human rights considerations into PPP practices, aligning them with global standards such as the UNGDP on Business and Human Rights. By emphasizing the state's duty to protect human rights, the corporate responsibility to respect them, and the need for accessible remedies for those affected by business activities, this regulation seeks to create a more inclusive and accountable framework for infrastructure development.

The new regulation highlights the importance of incorporating human rights due diligence and impact assessments into every stage of PPP projects, from planning to implementation and monitoring. It mandates that businesses assess and mitigate potential human rights risks, ensuring that projects do not inadvertently harm vulnerable communities. Moreover, the regulation underscores the necessity of meaningful stakeholder engagement, providing affected populations with a platform to voice their concerns and contribute to decision-making processes. This approach not only strengthens the social license of PPP projects by building trust and reducing opposition but also aligns with international best practices seen in countries like Germany and the United Kingdom, which prioritize supply chain due diligence and corporate transparency in their national action plans.

In addition to fostering community trust, the regulation aims to enhance corporate accountability by establishing clearer expectations for compliance and access to remedies for those adversely affected by PPP projects. It reflects Indonesia's commitment to aligning with global trends towards binding human rights protections in business practices, addressing the challenges posed by the fragmented and voluntary nature of many business and human rights initiatives. However, the successful implementation of Presidential Regulation No. 60/2023 will require significant institutional support, including the development of detailed guidelines for integrating human rights impact assessments into PPP processes, the establishment of robust monitoring and enforcement mechanisms.

Ultimately, Presidential Regulation No. 60 of 2023 represents a transformative opportunity for Indonesia's PPP framework. By balancing economic development with the protection of human rights, it ensures that infrastructure projects contribute not only to economic growth but also to sustainable and inclusive development. Strengthening its implementation can position Indonesia as a regional leader in integrating human rights into infrastructure development, setting a strong precedent for the Asia-Pacific region and beyond.

Successful integration of human rights can enhance the social license of PPP projects, mitigate risks, and contribute to positive social outcomes. Research by Moffat and Zhang

emphasizes that stakeholder engagement and addressing community concerns, including respecting human rights, are crucial for achieving a social license to operate in large-scale projects such as mining and infrastructure development.²⁷ Similarly, the UNGPD on Business and Human Rights highlight that embedding human rights due diligence into business operations reduces legal, operational, and reputational risks for businesses, particularly in projects involving significant public interaction.²⁸ Evidence from the Business and Human Rights Resource Centre further demonstrates that integrating human rights in PPP projects fosters better community relations, enhances project sustainability, and aligns with the Sustainable Development Goals (SDGs), resulting in improved societal outcomes.²⁹ Case studies by the International Finance Corporation (IFC) illustrate how its Performance Standards, which incorporate social and environmental considerations, including human rights, have mitigated conflicts and garnered community support in transport and energy projects.³⁰ Collectively, these findings underscore the critical role of human rights integration in ensuring that PPP projects not only achieve economic objectives but also promote inclusive and sustainable development.

In conclusion, the integration of human rights principles into PPP projects significantly impacts the sustainability and success of these initiatives. By ensuring human rights due diligence, conducting social impact assessments, and fostering meaningful stakeholder engagement, PPP projects can secure a stronger social license to operate, reduce legal and reputational risks, and deliver positive social outcomes. International studies and guidelines, such as the UNGP on Business and Human Rights and IFC standards, demonstrate that embedding human rights not only strengthens community relations but also contributes to inclusive and sustainable development.

Therefore, it is crucial for Indonesia's PPP legal framework to explicitly incorporate a human rights-based approach to address social and environmental challenges, enhance accountability, and support equitable economic growth. This can be achieved by developing a comprehensive manual and framework that provide clear guidelines for integrating human rights principles into every stage of PPP projects. Such a framework and manual would serve as a practical tool for stakeholders, ensuring that human rights considerations are systematically embedded in project planning, implementation, and monitoring processes, ultimately fostering more sustainable and inclusive infrastructure development.

2. Key Provisions of Presidential Regulation No. 60/2023 and The Relevance to Indonesia's PPP Legal Framework

27 Moffat, K., & Zhang, A, The Paths to Social License to Operate: An Integrative Model Explaining Community Acceptance of Mining. *Resources Policy*, 39, 2014, p 61–70.

28 United Nations, Guiding Principles on Business and Human Rights, 2011

29 Business and Human Rights Resource Centre. (n.d.). Human Rights and PPP Projects, access at <https://www.business-humanrights.org/>

30 International Finance Corporation (IFC). (2012). IFC Performance Standards on Environmental and Social Sustainability. access at https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards

Key provisions of the President Regulation No. 60 of 2023 that relevant to enhance the accountability of both public and private actors in PPP projects and ensure that infrastructure development contributes to the realization of human rights. The President Regulation No. 60 of 2023 represents a significant step towards aligning Indonesia's PPP framework with international human rights standards following by the analysis reveals several key findings. First, alignment with International Standards. The President Regulation No. 60 of 2023 aligns Indonesia's PPP framework with international human rights standards, particularly the UNGPs. This alignment enhances the accountability of both public and private actors in PPP projects and promotes the integration of human rights considerations into project planning and implementation. Second, human rights due diligence. The requirement for human rights due diligence in PPP projects ensures that potential human rights impacts are identified and addressed early in the project lifecycle. This proactive approach helps mitigate risks and prevent adverse human rights impacts. Third, grievance mechanisms. The establishment of grievance mechanisms provides affected communities and individuals with access to remedies for human rights violations. This is crucial for ensuring accountability and addressing grievances effectively.

Despite the progress made, challenges remain in integrating human rights considerations into PPP projects. The existing legal framework primarily focuses on economic and technical aspects, with limited attention to social and environmental impacts. This gap underscores the need for continued efforts to incorporate human rights due diligence and impact assessments into the PPP framework. Comparing Indonesia's approach with other countries reveals both similarities and differences in the implementation of business and human rights guidelines. The trend towards greater regulatory oversight and the development of binding international standards indicates a growing recognition of the need for robust mechanisms to ensure corporate accountability. However, effective implementation and enforcement are crucial for realizing the potential benefits of these guidelines. Further research is needed to evaluate the impact of these guidelines on human rights outcomes in PPP infrastructure projects.

Presidential Regulation No. 38 of 2015 outlines the process and requirements for PPP projects, emphasizing technical feasibility, financial viability, and risk-sharing mechanisms to attract private sector participation.³¹ While it includes provisions for environmental sustainability and community involvement, these are secondary to economic objectives, as demonstrated by its primary focus on financial structuring and operational efficiency.³²

The lack of explicit requirements for human rights due diligence and impact assessments within Indonesia's legal framework for PPPs represents a significant gap when compared to international standards and best practices. Unlike the UNGPs, which emphasize corporate accountability for identifying, preventing, and mitigating human rights impacts,³³ Indonesia's PPP regulations prioritize technical and financial feasibility, neglecting broader implications

31 Presidential Regulation No. 38 of 2015 on Public-Private Partnerships in Infrastructure Development.

32 Ministry of Finance Indonesia, Guidelines for Implementing PPP Projects, 2015

33 Ruggie, J., *Just Business: Multinational Corporations and Human Rights*. W.W. Norton & Company, 2013, p. 56.

for communities, labor rights, and environmental sustainability.³⁴ While the framework mandates general Environmental Impact Assessments (EIAs) under Law No. 32 of 2009 on Environmental Protection and Management,³⁵ these focus primarily on ecological concerns and fail to address critical social and human rights issues, such as forced displacement, labor exploitation, and impacts on vulnerable groups. Moreover, the absence of explicit social impact assessments results in overlooked concerns such as the rights of indigenous peoples, fair compensation for displaced communities, and gender-sensitive project planning, increasing risks of harm to affected populations and potential delays due to community resistance. In contrast, countries like Germany and the United Kingdom provide models for integrating human rights into legal frameworks. Germany's Supply Chain Due Diligence Act mandates human rights and environmental due diligence,³⁶ while the UK's Modern Slavery Act emphasizes corporate reporting on labor practices,³⁷ demonstrating how legal requirements drive accountability. Without similar provisions, Indonesia's PPP projects risk perpetuating negative social outcomes, undermining their social license, and deterring socially responsible investors. Addressing this gap by incorporating mandatory human rights due diligence and social impact assessments into the legal framework is crucial for ensuring that PPP projects contribute to inclusive, equitable, and sustainable development.

In conclusion, Presidential Regulation No. 60 of 2023 represents a significant advancement in aligning Indonesia's PPP framework with international human rights standards, particularly the UNGPs. Key provisions such as the requirement for human rights due diligence, the establishment of grievance mechanisms, and the emphasis on accountability for both public and private actors in PPP projects demonstrate a proactive approach to integrating human rights considerations into infrastructure development. These measures help mitigate risks, ensure access to remedies for affected communities, and promote more inclusive and sustainable outcomes.

However, challenges persist, as the existing legal framework, including Presidential Regulation No. 38 of 2015, prioritizes economic and technical feasibility over social and environmental impacts. The lack of explicit requirements for human rights due diligence and comprehensive social impact assessments limits the framework's ability to address critical issues such as displacement, labor exploitation, and the rights of vulnerable groups. Lessons from international best practices, such as Germany's Supply Chain Due Diligence Act and the UK's Modern Slavery Act, highlight the importance of embedding human rights into regulatory frameworks to enhance corporate accountability and project sustainability.

To fully realize the potential of these guidelines, effective implementation and

34 Kerf, M., Gray, R. D., Irwin, T., Levesque, C., & Taylor, R, *Concessions for Infrastructure: A Guide to Their Design and Award*. World Bank Publications, 1998 p. 22.

35 Glasson, J., Therivel, R., & Chadwick, A, *Introduction to Environmental Impact Assessment*. Routledge, 2012, p. 134.

36 Cragg, W., Arnold, D. G., & Muchlinski, P, *Business and Human Rights*. Edward Elgar Publishing, 2012, p. 274.

37 Nolan, J., & Frishling, L. (2020). *Addressing Modern Slavery in Business*. Federation Press, p. 45.

enforcement are essential. Strengthening the legal framework by incorporating mandatory human rights assessments, stakeholder engagement, and monitoring mechanisms is crucial to bridging existing gaps. By doing so, Indonesia can ensure that its PPP projects contribute to equitable, sustainable development while upholding the dignity and rights of all stakeholders involved. Further research and evaluation are needed to measure the practical impact of these advancements on human rights outcomes in PPP infrastructure projects.

3. Framework and Manual for Business and Human Rights in Indonesian PPP Infrastructure Projects

The framework and manual for business and human rights in PPP projects provide comprehensive guidance for integrating human rights considerations into the planning, implementation, and monitoring of PPP initiatives.

Many elements of human rights due diligence would already be covered by existing due diligence tools and processes that assess and deal with social and environmental risks, for example Social Impact Assessments (SIA), Environmental and Social Impact Assessments (ESIA), Labour Audits and Health Impact Assessments (HIA). Drawing upon international best practices and comparative analysis, this framework aims to ensure that PPP projects in Indonesia promote sustainable development while upholding human rights principles:

a. **Respect for Human Rights**

PPP projects must respect and uphold internationally recognized human rights standards, including the Universal Declaration of Human Rights and relevant conventions ratified by Indonesia.

b. **Corporate Responsibility**

Private sector partners in PPP projects have a responsibility to identify, prevent, mitigate, and address human rights impacts associated with their activities.

c. **Government Duty to Protect**

The Indonesian government has a duty to protect human rights, including ensuring that PPP projects do not infringe upon the rights of affected individuals and communities.

d. **Access to Remedies**

Individuals and communities affected by PPP projects should have access to effective remedies for any human rights violations or harms they experience.

4. Key Components on Framework and Manual for Business and Human Rights in Indonesian PPP Projects

a. **Human Rights Impact Assessment**

PPP projects should undergo a comprehensive human rights impact assessment prior to approval and throughout the project lifecycle. This assessment should identify potential human rights risks and impacts, including those related to labor rights, land

acquisition, environmental protection, and community displacement.

b. Stakeholder Engagement

Meaningful engagement with affected stakeholders, including local communities, indigenous peoples, and civil society organizations, is essential for identifying human rights concerns, building trust, and fostering collaboration throughout the project.

c. Grievance Mechanisms

PPP projects should establish accessible and transparent grievance mechanisms to address complaints or grievances from affected stakeholders. These mechanisms should provide avenues for redress and resolution of human rights-related issues.

d. Capacity Building

Capacity-building initiatives should be implemented to enhance awareness and understanding of human rights among all project stakeholders, including government officials, private sector partners, and local communities.

e. Monitoring and Reporting

Regular monitoring and reporting mechanisms should be established to track the human rights impacts of PPP projects and ensure compliance with human rights standards and obligations.

f. Remediation and Accountability

PPP projects should take prompt and effective measures to address any human rights violations or harms that occur as a result of project activities. This includes providing remedies to affected individuals and communities and holding accountable those responsible for human rights abuses.

5. Implementation of Framework and Manual for Business and Human Rights in Indonesian PPP Projects

The Indonesian government should provide regulatory oversight and enforcement to ensure that PPP projects comply with human rights standards and obligations. This includes conducting periodic audits, inspections, and reviews of project compliance. Private sector partners in PPP projects should integrate human rights considerations into their corporate policies, practices, and decision-making processes. This includes conducting due diligence on human rights risks and impacts and implementing measures to address them. Civil society organizations and community representatives should be actively engaged in the planning, implementation, and monitoring of PPP projects to ensure that human rights concerns are addressed and respected.

The Framework and Manual for Business and Human Rights in Indonesian PPP Projects provide a comprehensive roadmap for ensuring that PPP initiatives contribute to sustainable development and respect for human rights in Indonesia. By adhering to the principles and guidelines outlined in this framework, PPP projects can promote social equity, environmental sustainability, and inclusive economic growth while upholding human

rights principles. This framework and manual are tailored specifically for PPP projects in Indonesia and are informed by comparative analysis of international best practices in integrating human rights into infrastructure development initiatives. By adopting this framework, Indonesia can strengthen its commitment to promoting responsible business conduct and protecting human rights in the context of PPP projects.

6. The integration of Environmental, Social, and Governance (ESG) and Gender Equality and Social Inclusion (GEDSI) principles into public-private partnership (PPP) regulations in Indonesia

The integration of Environmental, Social, and Governance (ESG) and Gender Equality and Social Inclusion (GEDSI) principles into public-private partnership (PPP) regulations in Indonesia represents a significant step towards promoting sustainable and inclusive development practices. Indonesian PPP regulations can mandate environmental impact assessments (EIAs) for all PPP projects to evaluate potential environmental risks and impacts. These assessments should adhere to international standards and guidelines. PPP regulations can incentivize the procurement of environmentally-friendly technologies and materials. This can include criteria for selecting contractors and suppliers with strong environmental credentials. PPP contracts can include specific sustainability criteria, such as energy efficiency standards, waste management practices, and carbon footprint reduction targets. Compliance with these criteria can be monitored throughout the project lifecycle. PPP regulations should require meaningful stakeholder engagement, particularly with affected communities. This can involve consultation meetings, public hearings, and grievance mechanisms to address community concerns. PPP contracts should incorporate provisions to protect workers' rights, including fair wages, safe working conditions, and access to social protections. Compliance with labor standards should be monitored and enforced. PPP projects should prioritize social inclusion by ensuring equitable access to project benefits for marginalized groups, including women, indigenous peoples, and persons with disabilities. This can involve targeted employment and training programs, as well as community development initiatives. PPP regulations should promote transparency and accountability in project governance. This can include requirements for open procurement processes, disclosure of project information, and independent project oversight mechanisms. PPP contracts should include anti-corruption clauses to prevent corrupt practices in project implementation. This can involve measures such as conflict-of-interest disclosures, whistleblower protections, and integrity pledges from project stakeholders. PPP regulations should establish clear mechanisms for resolving disputes that may arise during project implementation. This can include mediation, arbitration, or access to independent dispute resolution bodies.

Gender Equality and Social Inclusion (GEDSI), PPP regulations should mainstream gender considerations throughout the project lifecycle. This can involve gender-responsive planning, budgeting, and monitoring to ensure that projects benefit men and women equally. PPP projects should promote women's participation in decision-making processes at all

levels. This can include setting targets for women's representation in project committees, advisory bodies, and workforce. PPP regulations should address the needs of vulnerable groups, including indigenous peoples, persons with disabilities, and LGBTQ+ communities. This can involve targeted interventions to promote their inclusion and empowerment. By integrating these ESG and GEDSI principles into PPP regulations, Indonesia can enhance the sustainability, inclusivity, and transparency of its infrastructure development projects. This not only ensures compliance with international standards and commitments but also contributes to the country's broader development goals and aspirations. The utilization of ESG and GEDSI principles in Indonesian PPPs can be observed in various projects and initiatives implemented by the government and private sector. For example, in the Jakarta MRT project, environmental sustainability measures were integrated into the construction and operation phases, including energy-efficient design features and waste management practices. Additionally, in the Central Java Power Plant project, efforts were made to promote social inclusion through the provision of job opportunities for local communities and the implementation of community development programs. These references demonstrate how ESG and GEDSI principles have been applied in real-world PPP projects in Indonesia, highlighting their importance in promoting sustainable and inclusive development practices.

The integration of Gender Equality and Social Inclusion (GEDSI) and Environmental, Social, and Governance (ESG) principles into the Framework and Manual for Business and Human Rights in Indonesian Public-Private Partnership (PPP) Projects is essential for fostering sustainable and inclusive development. This section elaborates on the specific strategies and mechanisms for integrating GEDSI and ESG principles into PPP projects, emphasizing their alignment with human rights considerations.

a. GEDSI Principles Integration

Gender mainstreaming should be embedded throughout the PPP project lifecycle, from project design to implementation and monitoring. This entails ensuring equal participation, representation, and access to benefits for women and marginalized groups. Social inclusion measures should address the needs and concerns of vulnerable populations, including indigenous peoples, persons with disabilities, and ethnic minorities. Stakeholder engagement processes should be inclusive and participatory, giving voice to marginalized communities. Gender-sensitive indicators should be integrated into project evaluation criteria to assess the gender responsiveness of PPP projects. This involves tracking outcomes related to women's empowerment, access to services, and participation in decision-making processes. Social inclusion measures should be incorporated into project design through targeted interventions, such as skills training programs for marginalized groups, community development initiatives, and inclusive procurement practices.

b. Environmental, Social, and Governance (ESG) Considerations

Environmental sustainability should be a core consideration in PPP project planning, with assessments conducted to identify and mitigate potential environmental risks and impacts. Emphasis should be placed on promoting biodiversity conservation, mitigating climate change, and preserving natural resources. Social impact assessments should go beyond

traditional economic metrics to assess the broader social implications of PPP projects, including their effects on community well-being, cultural heritage, and social cohesion. Governance mechanisms should promote transparency, accountability, and integrity in project decision-making. PPP regulations should include provisions for incorporating environmental sustainability criteria into project design and procurement processes. This may involve setting targets for reducing greenhouse gas emissions, promoting energy efficiency, and enhancing ecosystem resilience. Green infrastructure solutions should be prioritized in PPP projects, with investments directed towards renewable energy, sustainable transportation systems, and eco-friendly construction practices.

c. Corporate Social Responsibility (CSR)

Private sector partners should be incentivized to adopt CSR practices that align with GEDSI and ESG principles. This could include investing in community development projects, supporting environmental conservation efforts, and promoting ethical supply chain practices. PPP contracts should include clauses that require private sector partners to demonstrate their commitment to CSR through concrete actions, such as reporting on social and environmental performance indicators.

Multi-stakeholder partnerships should be formed to leverage expertise and resources from diverse sectors, including government, academia, business, and civil society. These partnerships can support innovation, knowledge transfer, and joint problem-solving in addressing complex social and environmental challenges. Public-private dialogues and consultations should be institutionalized to ensure ongoing collaboration and coordination among PPP stakeholders. Regular forums for stakeholder engagement can enhance transparency, build trust, and promote shared ownership of PPP projects. Capacity-building programs should be tailored to the specific needs of PPP stakeholders, including government agencies, private sector partners, civil society organizations, and local communities. Training modules should cover topics such as gender analysis, social impact assessment, and environmental management. Peer learning networks and knowledge-sharing platforms should be established to facilitate exchange of best practices and lessons learned in integrating GEDSI and ESG principles into PPP projects.

The integration of GEDSI and ESG principles into the Framework and Manual for Business and Human Rights in Indonesian PPP Projects represents a holistic approach to sustainable and responsible development. By aligning human rights considerations with gender equality, social inclusion, and environmental stewardship, PPP projects can contribute to inclusive growth, environmental resilience, and social equity. Through targeted strategies and collaborative efforts, Indonesia can realize the full potential of PPPs as catalysts for positive change and sustainable development. This elaboration provides a detailed overview of the strategies and mechanisms for integrating GEDSI and ESG principles into PPP projects, emphasizing their alignment with human rights considerations.

D. Closing

The integration of business and human rights principles, particularly within the context

of Public-Private Partnerships (PPPs), is of paramount importance in addressing the complex challenges of sustainable development and human rights protection. Against the backdrop of increasing globalization and economic interconnectedness, there is a growing recognition among diplomats, policymakers, and social activists of the need to regulate business responsibility for human rights. Despite this recognition, there exists significant fragmentation and divergence in the implementation of business and human rights principles, both at the national and international levels. Many states have yet to fully operationalize the 2011 UNGDP on Business and Human Rights, leading to varied approaches and outcomes across different jurisdictions. Moreover, the predominance of voluntary industry schemes over binding international legal instruments underscores the challenges in achieving comprehensive human rights protection within the business sector. Internationally, efforts are underway to adapt the human rights regime to address diverse aspects and sectors, including the financial industry, which wields substantial leverage over various business activities. The United Nations' SDG 16 underscores the importance of promoting societies that respect individual rights while recognizing the role of businesses in driving economic growth. Within this context, the UNGP on Business and Human Rights serve as a foundational framework, emphasizing the pillars of Protect, Respect, and Remedy. These principles outline the respective responsibilities of states and business enterprises in preventing human rights abuses and ensuring access to effective remedies for affected individuals. In Indonesia, the Presidential Regulation No. 60 of 2023 represents a concerted effort to align national policies with international human rights standards, particularly within the realm of PPPs. This national strategy aims to promote human rights compliance in business activities, enhance access to remedies, and foster respect for human rights through due diligence processes. Key provisions of the Presidential Regulation No. 60 of 2023 relevant to PPPs include requirements for human rights due diligence, establishment of grievance mechanisms, and integration of human rights criteria into project planning and implementation. By aligning with the UN Guiding Principles, Indonesia seeks to strengthen human rights protections within its PPP framework and ensure that infrastructure development projects contribute to broader societal goals. Overall, the integration of business and human rights principles into the legal framework for PPPs in Indonesia represents a significant step towards promoting sustainable development and human rights protection. However, challenges remain in translating these principles into concrete actions and outcomes, highlighting the need for continued efforts and collaboration among stakeholders.

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Curriculum Vitae

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