



## The Role of Corporations in the Protection of Human Rights During Covid-19 Pandemic

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### Abstract

**Introduction to The Problem:** The essential role of corporations in the economic growth of a country is often accompanied by violations of human rights. In handling COVID-19, there is a tendency to clash between the need to fulfill the right to health and economic recovery, which results in the marginalization of human rights. Corporations still have to take responsibility for respecting human rights because a number of human rights aspects from the perspective of workers are vulnerable to being violated.

**Purpose/Objective Study:** This study addresses the question of what corporations' roles are in protecting and respecting human rights during the pandemic, as well as what steps corporations take to fulfill their human rights responsibilities.

**Design/Methodology/Approach:** This study uses normative legal research methods by collecting primary data to support secondary data. Data was obtained through legislation, library materials, and comparisons of previous research.

**Findings:** Corporations, like the state, bear the same responsibility for respecting and protecting human rights through a series of measurable steps. Corporate responsibility in responding to economic difficulties and the health crisis during the COVID-19 pandemic is carried out by making reasonable efforts to prevent and reduce the impact of COVID-19 on workers' rights, as well as developing internal policies and establishing operational guidelines for respecting human rights in the management of a company.

**Paper Type:** Research Article

**Keywords:** Corporations; Human Rights Protection; Covid-19

### Introduction

There are two key values that form the basis of the concept of human rights. The first is "human dignity" and the second is "equality" (McCrudden, 2008). These two key values are hardly controversial, which is why human rights are supported by almost all countries, cultures, and religions in the world. Human rights (HAM) are always synonymous with state power. People generally agree that the power of a country or a particular group of individuals should not be unlimited or arbitrary. The goal should



be a jurisdiction that upholds the human dignity of all individuals in a country. So far, the common understanding of human rights is that it is only a matter of the relationship between the state and the citizens. Whereas human rights are actually broader than that, business entities or corporations, are also obliged to protect human rights (Weissbrodt & Kruger, 2017).

Previously, The World Health Organization (WHO) inevitably decide COVID-19 as a pandemic since the 11th March (Ramadani et al., 2021). Indonesia, which was also exposed to the covid-19 virus, soared to become the country with the most exposure victims in Southeast Asia, with as many as 218,382 positive victims and a death toll of 8,723 (Koedoes et al., 2021). Based on a report from Business and Human Rights Asia-Pacific with the title "Human Rights Due Diligence and COVID-19: A Rapid Self-Assessment for Business", socio-economic shocks caused by the global spread of Covid-19 occur when conditions of inequality and ecological fragility are at an acute point. Vulnerable and marginalized groups are the most affected by this pandemic, considering that they have fewer resources to protect themselves from exposure to health risks, access health care, or buy goods they need (Perry et al., 2021). The company, as a corporation, plays an important role in the context of a country's economic growth, in improving people's welfare. In addition to encouraging economic growth, corporations also encourage the development of social and cultural changes in an ideal society (Acs & Szerb, 2007).

Several studies show that there is a polemic in the fulfillment of human rights during the pandemic (Ramadani & Rezah, 2021) (Al-Fatih et al., 2020). The National Commission for Human Rights (KOMNAS HAM) released the distribution of complaints about human rights violations from January to April 2019. From this data, corporations are said to be among the parties most complained about by the public. The number of complaints related to allegations of human rights violations by corporations submitted to KOMNAS HAM was 29 (twenty-nine) cases. The complaints consist of 14 (fourteen) cases of land disputes, 13 (thirteen) labor disputes, one regarding environmental pollution, and one case concerning online motorcycle taxi partnership disputes. Apart from being economically strong, corporations have a strong tendency to violate the human rights, because, politically, many corporations are involved in government bodies. Over the past two decades, there has been mounting criticism regarding the negative human rights impacts of corporate conduct (Schrempf-Stirling & Wettstein, 2017).

The illegal waste disposal of the corporation that affects climate change provides the fact of the corporate economic crime in the environment (waste disposal) (Patra et al., 2022). A typical case is waste disposal by a palm oil corporation that contaminates the river from which local people are operating. In this case, the defendant is sentenced to eight months in prison and a fine of \$8 million (Pakpahan & Firdaus, 2020).

Facts in recent years have revealed that companies working in the field of natural resources or related to them, commit numerous human rights violations, such as deforesting forests for mining, land clearing, and dumping waste into rivers. Ironically, in some cases, companies can even pose a threat to the surrounding community where they do business, while the means to enforce corporate accountability remain limited and poorly adapted to the current global realities (Fišera, 2017). Not to mention the hidden cooperation between the government and companies. It can lead to the assumption that the company's existence amid a society that is supposed to provide prosperity wreaks havoc on the surrounding community, and, of course, this action is a form of violation on human rights such as the right to live, the right to a healthy environment, and the right to safety that should be guaranteed by the state and respected by all parties. Allegations of human rights violations and environmental destruction by corporations are expected to continue if there are no preventive measures by the company to avoid the impacts that occur as a result of its corporate operations. Since 2005, discussions and development of instruments that link the relationship between business and human rights have been initiated by the United Nations (UN).

In addition, business corporations are facing bankruptcy in an unprecedented situation, the COVID-19 Pandemic situation, which has resulted in the loss of millions of jobs. Belief in the resilience of the global economy and the institutions, companies, and the rules and norms that underpin it is facing the toughest test in history. The business response to the crisis, especially companies that receive assistance from other countries to continue operating, will shape the public's attitude of distrust towards the private sector in the years to come, especially during the COVID-19 pandemic.

Layoffs become the way entrepreneurs use to avoid significant losses (Juaningsih, 2020). As reported by CNN Indonesia of July 31, 2020, the dissolution rate of work reached more than 3.5 million, based on data from the Statistic Center Agency (BPS) of 29.12 million working - age citizens affected by the covid-19 plague. Details of the 29.12 million people affected by the pandemic, unemployment due to 2.56 million covid-19; Not a labor force because a covid-19 of 0.76 million people; While unemployed because the covid-19 totaled 1.77 million people; And those who work with a reduced working hours of 24.03 million people.

The important and positive role of corporations in the economic growth of a country is often followed by violations that lead to criminal laws. It is not uncommon for corporations to do unfair business, which is not only detrimental to a country and its consumers but can also be categorized as a criminal act. When a corporation commits a criminal act, it can be held accountable for the crime committed, either directed at its management or directed at the corporation (Ali, 2011).



In accordance with Andrew Clapham's view, this is a form of expanding corporate responsibility in human rights offenses because the effects of crimes committed by corporations turn out to have a lasting and extraordinary impact. In fact, it was found that crimes were committed by corporations repeatedly, and in some cases, gross and systemic human rights violations were found. For example, massive natural exploitation that has an impact on environmental damage that threatens people's rights to life; land grabs that threaten community rights to land; the disappearance of indigenous peoples and other activities in the name of investment and development.

Corporate (operational) actions that have an impact on human rights violations have at least three dimensions of violation. Violations that can occur internally within the company, for example, such as low labor wages, excessive working hours, child labor, and others. The second dimension is the existence of violations against the surrounding community. For example, in the plantation sector, the control of community land for the company's business activities is carried out illegally. The third dimension is violation of the environment; environmental damage due to extractive companies and plantations. For example, the rate of deforestation is quite high.

People also tend to depend on the company they work for, so when a business violates human rights, its workers tend to accept it on the grounds of economic need. The dimensions of the impact of human rights violations due to corporate operations on vulnerable groups can include groups of women, children, persons with disabilities, minority groups, indigenous peoples, and other vulnerable groups (Deva, 2012). Based on these issues, this research should be elevated into normative studies that examine the reasons why corporations should be held accountable for bad practices that harm human rights, as well as the extent to which corporations play a role in protecting human rights and their actions to fulfill their human rights responsibilities.

### **Methodology**

This research uses a method of normative or doctrinal legal research. The author collects data from secondary data consisting of primary and secondary legal materials such as statutory regulations, articles, journals, and case reports. The dataset for this study was gathered through legal literature research, which included reviewing and retrieving the results of relevant documents. The data was analyzed systematically through qualitative descriptive methods, which means that the researcher collects and selects the analyzed data and then systematically organizes the results into concrete information.

### **Results and Discussion**

#### **The Role of Corporations in Protecting and Respecting Human Rights**

In the last two decades, human rights experts and activists have begun to make breakthroughs by linking the activities of non-state actors, especially corporations, to human rights. Their efforts are motivated by concerns about the increasing number of cases of human rights violations involving corporations, either directly or

indirectly, and the increasing inaccessibility of a country's national law in regulating their economic activities that cross national borders. Several notes must be considered in implementing human rights obligations (Waagstein, 2010):

- a. The emphasis on the existence of individual obligations towards human rights can not be used as a requirement for obtaining human rights. In other words, obligations and rights must be carried out simultaneously.
- b. The horizontal nature of human rights does not mean that every private being has the same obligations as the state. In this case, it should be emphasized that the obligation to protect the human rights of individuals or legal entities does not mean that there has been a transfer of responsibility from the state to other institutions. Every institution, whether state or not, has obligations towards human rights under their respective roles and functions.

Regarding the private-public or horizontal-vertical dichotomy, criticism of the public nature of human rights does not mean that this opinion seeks to eliminate the distinction between the public and the private, even though the distinction is, in most cases, untenable. On the other hand, the criticism states that human rights are not only about public but also private matters. Furthermore, the criticism, in this case, would like to emphasize the view that the public-private or horizontal-vertical dichotomy of human rights cannot be used as a major factor in determining whether or not the state should intervene in an issue or whether other institutions should comply with human rights provisions or not. The argument here is methodological, namely that courts or competent institutions should not reject cases of human rights violations by individuals or legal entities based solely on "an absence of government involvement" (Waagstein, 2010).

#### ***United Nations Guiding Principles on Business and Human Rights (UNGPs)***

In June 2011, the United Nations Human Rights Council approved a Human Rights Guide for corporations called the United Nations Guiding Principles on Business and Human Rights (UNGPs). The main principles governing the relationship between business and human rights require businesses to incorporate human rights values into their operations. The status of this principle is as a global normative framework for business and human rights. This principle was developed by the UN Secretary General's Special Envoy, John Ruggie. In this guide, it is stated that corporations, as business entities, are positioned as subjects who have responsibility for the processes and impacts of their business activities on society (J. Ruggie, 2011). These principles have the support of several companies, including civil society organizations, trade unions, and other stakeholder groups. Based on the United Nations Guiding Principles on Business and Human Rights (UNGPs) document, three main pillars support the UNGPs (Jägers, 2011):

1. The first pillar is addressed to the government, namely the obligation to protect human rights (the state's duty to protect human rights). The government must protect individuals from human rights violations by third parties, including businesspeople.



2. The second pillar, the company, is responsible for respecting human rights (the corporate responsibility to respect human rights). This means that the company does not violate internationally recognized human rights by avoiding, reducing, or preventing the negative impact of its operations.
3. The third pillar, the victim, needs to get access to the remedy. Victims have a need to expand access to effective remedies, both through judicial and non-judicial mechanisms.

These principles place the company's position as a legal subject in the international human rights legal regime by placing the company's responsibility in the form of the company's responsibility to respect human rights (obligation to respect). It does not include the obligation to protect, which is the duty of the state to carry it out.

The role of the United Nations guiding principles in business and human rights still rests on the state, despite third party abuses. In the performance of its duty, a country can take steps by issuing discretions to give a corporation an obligation to respect human rights (Juwita, 2017). The state institution of human rights as it was constitutional from the constitution of the Republic of Indonesia in 1945 played a part in ensuring that human rights be protected and enforced. Not only that, the establishment of human rights is by no means the only duty of executive institutions (governments) as commissioned UUD NRI 1945 Chapter 28I (4) as the most advanced military organizer. But the implications for the UUD NRI 1945 change have resulted in AD hoc institutions established with laws and judicial institutions that have played a significant role in the establishment of human rights in Indonesia. In addition, in today's development, the judiciary in practice often does the enforcement of human rights. A number of judicial decisions in the constitutional court application for materials tests have been made for contemporary development into the human rights protection gate (Putra, 2015).

#### ***OECD Guidelines for Multinational Enterprises***

The OECD Guidelines for Multinational Enterprises, also known as "*Les principes directeurs de l'OECD a l'intention des entreprises*," are another principle that cannot be overlooked when it comes to business and human rights. This guidance on human rights is adapted to the "protect, respect, and remedy" framework advocated by the United Nations. According to the OECD Guidelines, states must protect human rights. However, multinational companies are also required to comply with the laws and regulations of the countries where they operate (Ruggie & Nelson, 2015). Based on OECD Guidelines, the Basic Principles for Multinational Companies Relating to Human Rights are as follows:

- a. In the context of activities, the company avoids causing or contributing to impacts that are detrimental to human rights and addresses these impacts if they occur.
- b. Look for ways to prevent or reduce adverse human rights impacts that are directly related to the company's business operations, products, or services in a business relationship, even when the company does not contribute to those impacts.



- c. Have a policy that commits to respecting human rights.
- d. Carry out due diligence related to human rights, taking into account the size, nature, and context of its operations as well as the magnitude of the risk of adverse human rights impacts.
- e. Provide or cooperate through an acceptable process for redressing impacts that are detrimental to human rights when the company knows that it has contributed to the impact.

The principles mentioned above have provided a global standard for corporations on how corporations should respect and protect human rights wherever they operate, so that corporations can avoid or reduce the impact of human rights. Respecting human rights means that corporate companies must avoid acts that violate the human rights of others and must address the adverse human rights impact in which the company is involved.

#### ***National Action Plan On Bussiness and Human Right***

Following up on the implementation of the UNGP in Indonesia, KOMNAS HAM and the Institute for Community Studies and Advocacy (ELSAM) initiated the preparation of the National Action Plan (RAN) on Business and Human Rights. Launched in June 2017, the drafting team claims that Indonesia is the first country in Southeast Asia to have a NAP on Business and Human Rights. One of the state's legal political commitments in the context of business relations and human rights is manifested through the preparation of the NAP on Business Corporations and Human Rights to prevent and reduce the impact of corporate operations on human rights. Therefore, the NAP on Business Cooperatives and Human Rights must accelerate actions to ensure the protection and respect of human rights in state policies and decisions relating to the relationship between economic actors and human rights. Countries must use the various options available to them, including all public and market-based policies based on those options, to make changes.

According to ELSAM and Human Rights National Commission, The NAP on Corporate Business and Human Rights can be used as a policy strategy developed by the state to protect human rights from the adverse impacts of corporate operations in accordance with the UN Guiding Principles. At least it can illustrate into 2 (two) aspects, as follows:

- 1) Instruments to implement the United Nations Guiding Principles on Business and Human Rights and reflect the duty of states under International Human Rights Law to protect human rights impacts associated with harmful corporate business.
- 2) Instruments to promote respect for human rights through a due diligence process.

The presence of the NAP on Business and Human Rights to cover the negligence of the RAN HAM 2015-2019 discussed business and human rights. Stipulated through Presidential Regulation Number 75 of 2015, RAN HAM is more focused on issues of disability, children, and vulnerable community groups. In line with the three pillars of



the UNGP, the NAP on Business and Human Rights also emphasizes that respect and protection of human rights is not solely the responsibility of the state. Corporations also carry the same responsibility. Therefore, the NAP on Business and Human Rights recommends several steps that can be taken by corporations:

- 1) Create internal policies or regulations to avoid the occurrence or involvement of activities or business relationships that harm human rights and address these impacts;
- 2) Carry out periodic human rights due diligence by identifying, preventing, mitigating, and carrying out accountability for impacts on human rights. Human rights due diligence includes assessing potential and actual impacts on human rights, integrating and acting on findings, tracking responses, and communicating how these impacts are addressed;
- 3) Develop analytical standards to identify, assess, and manage human rights risks and impacts of business activities, particularly the rights of affected vulnerable groups, then integrate the findings of the assessment into the company's management system;
- 4) Encourage regular meetings between corporations, governments, Komnas HAM, NGOs, and the community to share best practices and obstacles faced in the application of business and human rights principles;
- 5) Provide a recovery mechanism for victims affected by corporate operations by taking into account the specific needs of protecting the rights of vulnerable groups, such as children's rights, women's rights, rights of persons with disabilities, rights of indigenous peoples, rights of the elderly, LGBT groups, the rights of religious minorities, and other vulnerable groups;
- 6) Comply with sustainable financing policy standards as regulated in the IFC (International Finance Corporation) Sustainability Framework, Collevocchio Declaration, and Equator Principles so that projects run by corporations do not violate human rights and damage the environment;
- 7) strengthen the role and function of the Business and Human Rights Working Group (BHRWG) to develop strategies to integrate the Guiding Principles into corporate operations;
- 8) Placing corporate social responsibility programs within the framework of a rights-based approach to strengthen the protection of the rights of affected communities, especially vulnerable groups;
- 9) Implement corporate social responsibility that is tailored to the needs and rights of affected communities, especially vulnerable groups, by involving local civil society organizations.

However, it has been almost three years since the NAP for Business and Human Rights has been present in this Republic, but in fact, corporate respect for human rights is still minimal. According to data reported by the KOMNAS HAM, one of the indicators is the corporation's position as one of the parties involved in the most high-profile human rights violation cases.



### ***Corporate Social and Environmental Responsibility (TJSL/CSR)***

Company responsibilities in fulfilling Human Rights (HAM) include:

1. The company has the following obligations:
  - a. Avoid involvement (complicity) in human rights violations resulting from the company's operations;
  - b. Avoid getting involved in human rights violations committed by others in their business network; and
  - c. Overcome negative impacts on their business operations.
2. Companies are expected to take a series of steps to respect human rights, including conducting human rights due diligence to identify, prevent, address, and account for the impact of human rights violations as a result of their business.
3. The company is also expected to develop programs and mechanisms for internal recovery mechanisms. d. These principles must then be incorporated into company policies and programs to ensure that a company complies with and respects human rights.

Indonesia normalizes social and environmental responsibility (TJSL/CSR) in its legislation as an obligation accompanied by sanctions against corporations. Although there is no universally accepted definition, in general, CSR can be defined as a collection of company policies and practices related to stakeholders, values, compliance with legal provisions, community appreciation, the environment, and the commitment of the business community to contribute to sustainable development. The company, on the other hand, must balance the profit earned with the social and environmental rights of the community who are affected by the company's activities. Corporate Social Responsibility (CSR) is a program that is used as corporate social responsibility, which is then believed to be a program that can reconcile the relationship between business activities and human rights. Although CSR has been regulated as a mandatory corporate program, the concept of CSR implemented in Indonesia has not been oriented towards human rights.

The beneficiaries of CSR programs can be grouped into three categories: customers, workers, and the community. The CSR program covers the core values of human rights (HAM), fair operating practices, the environment, employment, customer service, and community empowerment and involvement. As has been done by one of the private banks (Bank BCA), by continuing to carry out CSR activities amid the COVID-19 pandemic with various adjustments and implementation of strict health protocols.

### **Steps Taken by Corporations in Fulfilling Human Rights Responsibilities**

Under the provisions of international and national human rights law, the holder of human rights obligations is the state. However, in the context of the world of work, the direct party who is obliged to fulfill workers' rights is the company or corporation, especially if it is in the private business world. The state is obliged to protect workers from human rights abuses committed by employers or companies. In recent times,



there has been a consensus at the international level that companies have human rights responsibilities that are "independent of state duties or capacities that apply universally to all companies in all situations" (Ruggie, 2011).

All businesses and corporations have a responsibility to respect human rights, even in times of economic hardship and public health crises. The responsibility to respect human rights requires businesses to know and demonstrate that they have taken all reasonable measures to prevent and mitigate the human rights impacts of the COVID-19 response. Both states and corporations have an important role in preventing and mitigating the impact on human rights of the Covid-19 Pandemic crisis in a business context, and in ensuring that measures taken to support economic recovery are carried out with respect for human rights (Voss, 2020).

Like states, corporate actions are judged on how they respond to crises and address the needs of the most vulnerable. The state, through the government, must take legal and policy steps to oblige and enable corporations to respect human rights in response to the Covid-19 crisis. Regardless of whether and how governments fulfill their human rights obligations in response to Covid-19, all business corporations have a responsibility to respect human rights even in times of economic hardship and public health crises. The responsibility to respect human rights requires businesses to know and demonstrate that they have taken all reasonable steps to prevent and mitigate the human rights impact of COVID-19.

### ***Responsibilities in the Employment Sector***

Respecting direct employees' rights is essential, and all corporations must ensure the health and safety of their workers (especially if they are required to work during a pandemic), in accordance with labor law standards (Arnold, 2010). However, to respect human rights, corporations must be held accountable for all those affected by their activities. This often includes day laborers, non-contracted workers, temporary employees, workers in precarious work situations, those working throughout the supply chain, and affected customers and communities. For example, early in the crisis, a multinational garment company committed its garment manufacturers to accepting and paying for its orders rather than using force majeure clauses, ensuring the livelihoods of workers throughout its supply chain (Anner, 2022).

It must be emphasized that all companies bear responsibility for their workers during emergencies such as the COVID-19 pandemic. That means a range of actions, including providing safe and healthy working conditions in situations where workers have no choice but to work from their offices, workplaces, or facilities other than their homes. This means protecting workers from exposure to the virus by offering the necessary tools, including equipment such as face masks and disinfectants, to staff members who may meet the general public as part of their job. It also means taking care to protect staff from catching the virus through direct physical exposure to visitors and customers. This is particularly relevant for workers making deliveries for



courier companies; workers in customer-facing situations, such as banks, supermarkets, and pharmacies; and workers in restaurants, including those offering delivery services, among many other businesses that require human interaction. Such protection should be offered to all workers, even those who are subcontractors or employees of subcontractors. Where it is possible to work from home and where a worker has the means and technology to work from home, companies should enable their staff to do so during the current crisis. That includes making appropriate efforts to provide resources for working from home and assisting with the steps needed to ensure a safe area to work in.

Countries are carrying out various interventions by making recommendations that will greatly help create better conditions to deal with the Covid-19 Pandemic, by taking steps:

- a. To address systemic inequalities, state actions in response to COVID -19 should include strengthening worker protections and labor rights (e.g., minimum wages, paid sick leave), correcting gender inequalities in the world of work (e.g., anti-discrimination laws, protection for workers in the informal sector), increasing social safety nets for all workers and their families (e.g., health and unemployment insurance), and expanding income to fund social protection and other measures aimed at the most vulnerable through addressing tax inequities (e.g., preventing the use of tax havens).
- b. As business enterprises adapt to the challenges faced by COVID-19, they must strive to fully instill respect for human rights in them, ensuring sustainable practices throughout the value chain. This means securing concepts such as living wages and paid sick leave for workers, but also looking beyond one's formal employees so that all those affected by business policies and practices are not placed in vulnerable situations. In line with the Sustainable Development Goals, businesses must strengthen global partnerships and promote and promote human rights through the sharing of resources, knowledge, and visionary thinking to help create new systems for transitioning to a more sustainable future.

Several provisions in Convention No. 155 and its recommendations offer preventive and protective measures to reduce the negative health and safety impacts of pandemics such as COVID-19 in the world of work. Some of these provisions are (ILO, 2020):

- a. Employers should be required to ensure, to the extent reasonably practicable, that the workplaces, machines, equipment and processes under their control are safe and without risks to health and that the chemical, physical and biological substances and agents under their control are free from health risks when appropriate protective measures are taken.
- b. Employers should be required to provide, where necessary, adequate protective clothing and personal protective equipment to prevent, as far as is reasonably practicable, the risk of accidents or adverse health effects.



The COVID-19 pandemic is a global health crisis. The impact of this pandemic on the global economy continues to grow exponentially, with short-term and long-term business implications. Companies need to respond to this crisis appropriately. Each level of the company structure has its own role in responding to and ensuring that best practices are adopted in dealing with this pandemic. In general, the suggestions below can be applied to different types of businesses, although some suggestions may have different levels of relevance, depending on the nature and size of the business, shareholding structure, or other factors:

- 1) Commitment to environmental, social, and corporate governance by demonstrating leadership and corporate culture; for example, the most important thing is to prioritize employee health and safety, and you must address the impact of COVID-19 on employees and business.
- 2) The role of the board of commissioners and directors in supervising and conducting risk management in overseeing the impact of this crisis;
- 3) The scope of control includes the internal control system, internal audit function, risk management, and compliance;
- 4) Transparency and disclosure by fostering trust through communication about the impact of Covid-19 on investors as well as all stakeholders (staff, clients, suppliers, local communities, and the government). The track record of continuous communication and openness can build goodwill and trust in the corporation.
- 5) Shareholders' rights, maintaining relationships with investors even though there is no direct shareholder meeting, even though virtual meetings are considered not always effective during the Covid-19 crisis.

Governance regarding stakeholders to support the company's sustainability, for example by activating a confidential reporting mechanism to accommodate reports from employees, suppliers, and clients related to preventing the spread of the virus. Then, steps were taken in an effort to protect workers from the continuity of corporate business during the Covid-19 Pandemic:

- a. Point 4 of the Ministry of Manpower Circular No. M/3/HK.04/III/2020 opens the possibility for companies, which have to limit business activities due to COVID-19, and workers to dialogue and make agreements regarding wage reductions during the pandemic. Better Work Indonesia (BWI) recommends that dialogue at the company level includes representatives of all elements within the company, namely management, trade union representatives and workers who do not have a union.
- b. MoM Circular No. M/3/HK.04/III/2020 does not explicitly prohibit companies from implementing the "no work, no pay" scheme. Nonetheless, the circular (section II. 4) refers to a possible "change in value and payment methods", which, in BWI's view, is an indication that wages can be renegotiated but not terminated altogether.



- c. Recommending companies to actively communicate with local governments about assistance schemes provided to workers and employers during the Covid-19 pandemic crisis. Examples include pre-employment cards, tax relief policies granted to workers in the manufacturing sector, and policies on credit relaxation.
- d. Ministry of Manpower Circular No. M/3/HK.04/III/2020 concerning Protection of Workers/Labourers and Business Continuity in the Prevention and Management of Covid-19 states that wages for workers who can not attend work due to the Covid-19 disease must be paid in accordance with laws and regulations. In addition to wages, when a company worker is declared a confirmed Covid-19 patient, BWI encourages the company to ensure that the worker concerned is protected from discriminatory treatment at work related to his health status.
- e. BWI always recommends companies to avoid termination of employment for permanent workers (PKWTT) and non-permanent workers (PKWT). BWI considers that mass layoffs are a last resort. In a situation where all efforts have been made, but termination of employment is unavoidable, it is recommended that the company refer to the Manpower Law no. 13/2003 CHAPTER XII concerning Termination of Employment to ensure the fulfillment of the rights and obligations of each party as mandated in the Manpower Law.

### **Conclusion**

This research shows that corporations are required to play an active role together with the state in the protection of human rights. This role can refer to a number of principles and legal frameworks at global and national levels, such as: 1) United Nations Guiding Principles on Business and Human Rights (UNGPs), which places corporations as legal subjects in international legal and human rights regimes and places the responsibility of companies to respect HAM (obligation to respect); 2) OECD guidelines, in which countries require multinational companies to harmonize their operations with the laws and regulations of the countries where they operate; 3) National Action Plan on Business and Human Rights as a policy strategy developed by the state to protect human rights from the adverse impacts of corporate operations; and 4) Fulfillment of Social and Environmental Responsibility periodically.

In general, all commercial or corporate activities have a responsibility to respect human rights, even during times of economic hardship and health crises such as a COVID-19 pandemic. Corporations, particularly those in the labor sector, can take actions to protect human rights that could greatly improve the conditions for dealing with the COVID-19 Pandemic. Such actions include but are not limited to ensuring the health and safety of workers who are required to work during the pandemic, being responsible for all those affected by their activities, which include daily workers, non-contracted workers, temporary employees, workers in non-permanent work situations, and those who work across the supply chain, as well as customers and affected communities, providing safe and healthy working conditions; protecting



workers from virus exposure with the necessary tools, including appropriate efforts to provide resources to work from home.

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