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Business and Human Rights in Regional Economic Integration: A Comparative Analysis of the European Union and ASEAN

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ABSTRACT
Regional organisations such as the European Union (EU) and the Association of Southeast Asian Nations (ASEAN) have established free trade agreements among their member states, necessitating a legal and regulatory framework for cross-border business. As economic integration deepens, there is a growing recognition that businesses must not only pursue profit but also uphold human rights standards. This shift is reflected in the United Nations (UN) Framework on Business and Human Rights, which is built upon the three core principles of Protect, Respect, and Remedy, as well as the UN Guiding Principles on Business and Human Rights (UNGPs). These principles emphasize the responsibilities of states and businesses to prevent human rights violations and provide effective remedies for those affected. This paper conducts a comparative analysis of how the EU and ASEAN regulate business and human rights within their respective regions, with a particular focus on their adoption and implementation of the UN Framework and UNGPs. The EU has developed a robust legal framework, including mandatory human rights due diligence laws and corporate accountability mechanisms, while ASEAN's approach remains largely voluntary and cooperative, relying on national policies and regional guidelines.

KEYWORDS: Regional Organisation; European Union; Association of South East Asian Nations; Human Rights Due Diligence; Corporate Sustainability Due Diligence Directive.

1. Introduction

In United Nations Resolution A/HRC/8/5, adopted on April 7, 2008, the Secretary-General's Special Representative for Business and Human Rights, John Ruggie, established a framework for engaging with states, business actors, and citizens on business responsibility for people's human rights. The United Nations Resolution A/HRC/17/31, dated March 21, 2011, sets out 31 guiding principles, often referred to as the Guiding Principles on Business and Human Rights (UNGPs). Interestingly, when the member states unanimously agreed to establish the United Nations Human Rights Council, the Council convened the UNGP. Things like this are extremely rare.[1] As stated in previous chapters, the UN Resolution on Business and Human Rights has three pillars. The first is the state's responsibility to protect its citizens. The second pillar says the corporation's responsibility is to respect, and the third pillar says that access to remedies for people is important.[2]

[1] John Ruggie, Just business, not as Usual, (2013), Lee Kuan Yew School of Public Policy, Public Lecture June 10.
[2] UN Guiding Principles 101: A Beginner's Guide to the UN Guiding Principles on Business and Human Rights, <https://shiftproject.org/resources/ungps101/> accessed on 5 May 2022.

Moreover, agreeing does not mean it will be easy to implement. Thus, countries have implemented this resolution into their regulation. Therefore, the United Nations resolution mandated that states create and implement derivative rules within their countries. Interestingly, in addition to being members of the United Nations, many countries are also members of regional organizations. This regional organization aims to regulate the welfare and security of its member states, as one of the regional organizations has been inaccessible to trade; it must also regulate laws and regulations that apply to member states relating to business activities that do not harm human rights. Thus, their member country has guidelines on how its member states conduct business and can apply the UN mandate to companies and human rights. Integration into regional organizations must establish clear rules for business, particularly considering the opening of free markets among member countries. This integration cannot neglect the human rights of citizens. Thus, human rights must be one of the rules applicable in regional organizations, including for business actors. For the above reason, this article analyses the state of business and human rights in the European Union and ASEAN, examining their similarities and differences and proposing novel ideas to address the existing challenges.

2. Methodology

This article employs doctrinal legal research, supplemented by a mixed-method approach to ensure a comprehensive investigation international organizations on human rights responsibility. The doctrinal research methodology employed in this study is sometimes referred to as the black-letter approach. The black-letter approach is a research methodology that seeks to provide detailed raw material. This Methodology primarily comprises primary written sources. Therefore, this article will focus on analysing the UNGPs and how they are applied in human rights regimes among regional organization.

3. Business and Human Rights within the EU

3.1. EU and Human Rights Protection

The European Union (EU) plays a critical role in promoting human rights in its internal and external policies. In recent decades, the EU has increasingly focused on the intersection of human rights and business, shaping a regulatory framework that aligns corporate practices with international human rights standards. The EU's actions are guided by its commitment to human rights, democracy, and the rule of law, with businesses being viewed as key players in fostering sustainable development, ethical trade, and responsible practices. The EU is one of the world's leading advocates of human rights protection, both within Europe and globally. In the business context, the EU's human rights framework is closely tied to its efforts to regulate corporate responsibility. The EU recognizes that businesses have a significant impact on human rights through their operations, supply chains, and interactions with workers, communities, and consumers.

Moreover, EU is a global leader in promoting business and human rights. Through a combination of legislation, trade agreements, and international advocacy, the EU seeks to ensure that businesses respect human rights and contribute to sustainable development. While challenges remain in ensuring corporate accountability and providing access to justice for victims, the EU continues to shape global norms through initiatives such as the Corporate Sustainability Due Diligence Directive and its ongoing commitment to the United Nations Guiding Principles on Business and Human Rights (UNGPs).

3.2. EU Embraces UNGPs Three Pillar Framework

In relation to Pillar 1 (state responsibility to protect). EU encourages its member states to develop National Action Plans (NAPs) on business and human rights. These plans outline how each state will implement the UNGPs, including measures to ensure businesses respect human rights. For instance, the EU Non-Financial Reporting Directive (NFRD) requires large companies to disclose information on their social and environmental impacts, including human rights issues, thus enhancing transparency.

Moreover, with regard to Pillar 2 which emphasizes corporate responsibility to respect, EU is encouraging businesses to integrate human rights due diligence into their operations. Human rights due diligence involves identifying, preventing, mitigating, and addressing human rights impacts linked to a business's activities. The proposed EU Mandatory Human Rights Due Diligence (HRDD) legislation would require companies to assess their human rights and environmental impacts across their entire supply chains.

Finally, concerning Pillar 3, access to remedy. The EU supports both judicial and non-judicial mechanisms for victims of business-related human rights abuses. This includes supporting national and European courts in adjudicating human rights cases involving corporations. The European Network of National Human Rights Institutions (ENNHRI) plays a crucial role in helping victims access remedies.

There are a number of examples on how EU have been promoting UNGPs. For example, the EU NFRD, introduced in 2014, mandates large companies (with over 500 employees) to report on their sustainability practices, including human rights. It focuses on non-financial disclosures related to Environmental, Social, and Governance (ESG) factors. Further, the Corporate Sustainability Reporting Directive (CSRD), a revision of the Non-Financial Reporting Directive NFRD, is expected to extend these reporting requirements to more companies and increase transparency. Likewise, the EU's Green Deal commits to making Europe climate-neutral by 2050. This initiative also integrates social responsibility, encouraging businesses to adopt sustainable practices that respect human rights, particularly in supply chains. There is an overlap between environmental sustainability and human rights, particularly regarding the rights of workers and communities affected by environmental degradation.

More importantly, the EU Conflict Minerals Regulation (2017/821) ensures that companies importing tin, tantalum, tungsten, and gold (commonly known as 3TG minerals) into the EU do not contribute to human rights abuses in conflict-affected areas. It requires companies to undertake supply chain due diligence to prevent human rights violations linked to mineral extraction. The EU Action Plan on Human Rights and Democracy (2020-2024). This action plan integrates business and human rights considerations into EU foreign policy, trade agreements, and development cooperation. It supports the protection of human rights defenders and promotes responsible business conduct globally.

3.3. EU Directive on Corporate Sustainability Due Diligence

On 24th May 2024, EU member states formally confirmed the Corporate Sustainability Due Diligence Directive (CSDDD).[3] This proposed directive aims to introduce mandatory human rights and environmental due diligence for companies operating in the EU. It would require businesses to identify, assess, prevent, and mitigate adverse human rights impacts in

[3] European Parliament legislative resolution of April 24, 2024, on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM(2022)0071 – C9-0050/2022 – 2022/0051(COD)).

their operations and supply chains. The directive would apply to oversized and smaller companies in high-risk sectors, such as textiles, mining, and agriculture. The final sights of this landmark law after a 4-year legislative process at the EU level and almost a decade of advocacy.[4] Member states have two years to transpose into national legislation. Civil society welcomed the directive as a gamechanger, despite its loopholes, and called on EU governments to ensure robust national legislation, effective implementation, and enforcement. The passage of the CSDDD by the European Parliament marks a significant step forward in promoting corporate accountability and sustainability across the EU.

Adopting the CSDDD by the European Parliament signifies a crucial step in enhancing corporate accountability and sustainability within the EU. This directive mandates the implementation of comprehensive due diligence practices across supply chains to identify, prevent, and mitigate adverse human rights and environmental impacts arising from corporate activities.[5] The CSDDD aims to protect workers, communities, and ecosystems from harm caused by corporations by requiring companies to examine and address their social and environmental responsibilities. However, the directive's success depends on several critical factors. The scope and stringency of the due diligence requirements placed on companies, as well as the strength of enforcement mechanisms to ensure compliance, are essential. Additionally, the effectiveness of the CSDDD relies on active engagement and cooperation among stakeholders, including civil society organizations, affected communities, and industry representatives, throughout the implementation and monitoring phases.

Articles 4 (four) to 11 of CSDD emphasize the obligation of corporate due diligence into 6 (six) actions, these are: a). Companies should integrate due diligence into their policies and establish an appropriate due diligence policy that is updated annually; b). Companies should identify actual or potential adverse impacts arising from their activities, those of their subsidiaries and any business relationships; c). Companies should prevent and mitigate potential adverse impacts, and bring actual adverse impacts to an end and minimize their extent; d). Companies should establish and maintain a complaints procedure. It must be possible for these complaints to be lodged by affected persons, trade unions, and civil society organizations; e). Companies should monitor their due diligence policy and measures at least once a year, based on qualitative and quantitative indicators; and f). Companies should publicly communicate on due diligence. Companies not covered by the NFRD communicate due diligence through an annual report on their website.

Furthermore, sufficient resources, capacity-building efforts, and technical assistance are crucial to helping companies and tiny and medium-sized enterprises (SMEs) meet their due diligence obligations. While the CSDDD is a commendable step toward promoting corporate sustainability and responsibility, its success relies on robust enforcement, stakeholder participation, and supportive measures to ensure compliance. This will enable the EU to further its commitment to sustainable development and the protection of human rights. Moreover, it is suggested that the European Union's CSDDD integrate these principles to strengthen its effectiveness in addressing corporate wrongdoing. By incorporating

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4 Dominik Fuchs, “Obligations of the Private Sector To Protect Reporting Persons: A Comparative Analysis of the EU Whistleblower Protection Directive and the Draft Corporate Sustainability Due Diligence Directive,” *InterEULawEast* 10, no. 2 (2023): 51–80.

5 Yenkong Ngangjoh-hodu et al., *The Proposed EU Corporate Sustainability Due Diligence Directive and Its Impact on LDCs: A Legal Analysis* (Helsinki, Finland: Ministry for Foreign Affairs of Finland, 2023).

mechanisms for exemplary damages and corporate dissolution, the CSDDD can enhance its capacity to hold corporations accountable for their actions.[6]

The EU introduced the CSDDD as part of its broader efforts to promote sustainable business practices under the European Green Deal and Sustainable Finance Agenda. This directive starts on February 23, 2022 – The European Commission proposed the directive. On December 1, 2022, the European Council adopted a negotiating position. On June 1, 2023, the European Parliament approved its version of the directive. On 14th December 2023, the EU institutions reached a provisional agreement. By March 15, 2024 – The EU Council achieved consensus on the directive, allowing it to move forward. Moreover, on the 24th April 2024, the EU formally confirmed the directive, marking a significant step in the enforcement of corporate due diligence. The initial intend was that this directive is expected to be fully implemented by 2026-2027, with companies required to integrate due diligence processes into corporate activities.[7]

The CSDDD aims to establish corporate due diligence obligations for human rights and environmental protection, ensuring companies identify, prevent, mitigate, and remediate negative impacts within their supply chains. It also introduces legal accountability mechanisms for businesses that fail to comply, promotes sustainable business models aligned with the EU's climate and human rights goals, and establishes corporate due diligence obligations for human rights and environmental protection. Strengthen corporate governance by requiring board-level oversight of sustainability policies.

The CSDDD applies to EU-based companies and non-EU Companies. The EU-based company, with more than 500 employees and a turnover exceeding €150 million, and more than 250 employees and a turnover exceeding €40 million, if at least 50% of revenue comes from high-risk sectors such as agriculture, mining, or textiles. Moreover, non-EU companies with operations in the EU meet similar financial thresholds. The directive primarily affects large multinational corporations, though smaller companies indirectly involved in supply chains may also need to comply. SMEs operating as suppliers to larger corporations will need to align with sustainability standards to maintain and strengthen their business relationships.

The directive introduces new legal responsibilities for companies, including Mandatory due diligence obligations covering global supply chains, a duty for company directors to oversee and integrate due diligence into corporate strategy, penalties and liability mechanisms for non-compliance, access to justice for victims of corporate human rights violations and annual reporting obligations to enhance transparency. This means companies must adopt proactive sustainability approaches rather than rely on reactive crisis management.

The CSDDD mandates a six-step due diligence process: Identify and assess risks in corporate operations and supply chains by conducting risk analyses; prevent and mitigate human rights abuses and environmental harm through policy adjustments and supplier engagement; monitor and track the effectiveness of due diligence measures using key performance indicators (KPIs); remediate adverse impacts where harm has occurred, including financial compensation for victims; engage stakeholders, including affected

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6 Emmanuel Kojo Nartey, “Addressing Corporate Human Rights Violations and Environmental Harm: Advancing a Holistic Remedial Framework through Tort Law and the EU Corporate Sustainability Due Diligence Directive (CSDDD),” *Athens Journal of Law* 10, no. 3 (2024): 345–72.

7 Under the current CSDDD timeline, EU Member States are required to incorporate the directive into national law by 26 July 2028. The updated regulations will take effect on 26 July 2029, and covered companies must begin publishing annual online sustainability due diligence reports for financial years starting on or after 1 January 2030.

communities and workers, through consultations and impact assessments. Moreover, report publicly on due diligence actions and outcomes in sustainability reports.

EU Member States must establish penalties for companies that fail to meet due diligence obligations, which may include financial sanctions and trade restrictions. Companies can face civil liability if they fail to prevent harm within their supply chains, which may lead to lawsuits from affected communities and non-governmental organizations (NGOs). The directive provides victims of corporate misconduct with legal avenues to seek justice, enabling them to claim compensation even outside the EU. Regulatory bodies will oversee corporate compliance and issue fines for violations, creating a robust enforcement mechanism.

The impact on business and supply chain for large, medium, and small companies (SMEs). A large company requires extensive supply chain mapping and risk assessment to identify sustainability risks. When this occurs, it may lead to contract terminations with non-compliant suppliers to reduce liability exposure.[8] Moreover, medium and small corporations are indirectly affected, as the larger companies will impose compliance requirements to maintain their partnerships. Thus, small and medium-sized companies must align their operations with sustainability standards to avoid losing contracts to larger firms. To expand their activities to include more small and medium-sized companies, they required additional resources, including expertise, to comply with due diligence requirements.

Companies must address human rights concerns, including forced and child labor, in their manufacturing and agricultural supply chains. Discrimination and unsafe working conditions, ensuring diversity, inclusion, and fair wages. Freedom of association and collective bargaining, allowing workers to organize freely. On environmental issues, companies are required to prevent deforestation in supply chains by verifying raw material sourcing, limiting carbon emissions and pollution through sustainable production methods, and ensuring sustainable resource use and biodiversity protection by promoting circular economy practices.

The CSDDD represents a significant shift in corporate accountability, as it makes sustainability due diligence a legally binding requirement. It ensures that businesses priorities human rights and environmental protection across their global supply chains.

4. Business and Human Rights Framework in ASEAN

In contrast to the EU, ASEAN needs to develop legal frameworks and policies faster to promote business and human rights. However, there has been some positive development in recent years, with some ASEAN countries taking steps to promote responsible business conduct. The business and human rights (BHR) regime in Asia is a complex and evolving landscape influenced by diverse political systems, economic priorities, and cultural contexts. While progress has been made in integrating human rights into business practices, challenges persist due to weak enforcement, corporate resistance, and varying levels of government commitment. Asia's business and human rights regime is still developing, with progress in some countries but significant gaps in enforcement and accountability. Economic priorities often take precedence over human rights; however, international pressure and evolving legal frameworks are driving a gradual change.

Many Asian countries are signatories to international human rights treaties, and some have adopted the UNGPs. However, unlike Europe, Asia lacks a regional human rights court or a legally binding framework for business and human rights. However, the 2012 ASEAN Human Rights Declaration is a non-binding declaration that mentions corporate responsibility

[8] Increased legal liability exposure, meaning companies must be proactive in preventing violations.

but lacks enforcement mechanisms. For example, Asian Development Bank (ADB) initiatives, which encourage corporate responsibility in projects but do not enforce human rights laws. Some trade agreements include human rights clauses, pressuring governments to align with international norms.

The discussion on human rights in ASEAN began at the 1993 Annual Meeting of ASEAN Foreign Ministers. Nevertheless, the ASEAN Human Rights Declaration (AHRD) was adopted in Phnom Penh, Cambodia, on November 18, 2012. The AHRD consists of 40 Articles, which are divided into six parts: general principle (nine Articles), civil and political rights (ten Articles), economic, social, and cultural rights (eight Articles), due to development (three pieces), right to peace and cooperation in the promotion and protection of human rights (2 Articles). Moreover, the AHRD drafting took almost two years. The draft began in September 2010,[9] was finished and entered into force on November 18, 2012. The drafting process was taking place because the draft given was always rejected by two- or three-member states. The AHRD is significant to the development of human rights in Southeast Asian countries. This statement is based on two reasons.

First and foremost, AHRD clarifies the mandate of the ASEAN Intergovernmental Commission on Human Rights (AICHR).[10] Second, the AHRD is a precursor to a formal treaty for the region. The American Declaration of Human Rights and Duties of Man preceded the American Convention on Human Rights. The Universal Declaration of Human Rights preceded the two covenants, specifically the International Convention on Civil and Political Rights (ICCPR) and the International Convention on Economic, Social, and Cultural Rights (ICESCR).[11] Adopted in 2012, the ASEAN Human Rights Declaration outlines the fundamental human rights recognised by ASEAN member states. It emphasizes the protection of economic, social, and cultural rights, which are relevant to business operations. While the AHRD is not legally binding, it reflects ASEAN's commitment to protecting human rights and serves as a foundation for further developments in business and human rights practices.

Having the AHRD means ASEAN has two existing human rights pillars: the instrument and the mechanism. Nevertheless, these two pillars do not make ASEAN to have a "complete" human rights system, because a human rights system must be supported by three pillars: human rights instrument, mechanism for compliance, and judicial organ.[12] Thus, ASEAN needs one important pilar, that is: the judicial organ.

4.1. ASEAN Inter-governmental Commission on Human Rights

Intergovernmental and governmental institutions are developing the ASEAN Human Rights system. In the inter-governmental, there are the ASEAN Inter-Governmental Commission on Human Rights (AICHR), ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), ASEAN Committee on the Implementation of the ASEAN Declaration on the Implementation of the Protection and Promotion of the Rights of Migrant Workers (ACMW), and ASEAN Secretariat. The government Has national human rights institutions in Indonesia, the Philippines, Thailand, Malaysia, and Myanmar, as well as the Southeast Asia National Human Rights Institutions

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9 *Ibid*.

10 Catherine Shanahan Renshaw, The ASEAN Human Rights Declaration 2012, (2013), *Human Rights Law Review* 13, no. 3 (2013): 557–579.

11 *Ibid*.

12 Hien Bui, “The ASEAN Human Rights System: A Critical Analysis, (2016) *Asian Journal of Comparative Law* 11, no. 1 p. 111–40.

Forum (SEANF). However, the AICHR drafted the ASEAN Human Rights Declaration. The AICHR was established in 2009 under Article 14 of the ASEAN Charter. AICHR's mandate is to promote and protect the human rights and fundamental freedoms of the people, and to uphold international human rights instruments, as prescribed in the Universal Declaration of Human Rights (UDHR) and the human rights conventions to which ASEAN member states are parties.

4.2. Business and Human Rights Development in ASEAN

The AICHR- was established in 2009 as the main body responsible for promoting human rights within the ASEAN region. While AICHR's mandate is primarily advisory and does not have enforcement powers, it plays a vital role in advocating for the protection of human rights, including in the business sector. AICHR has participated in dialogues and initiatives focused on Business and Human Rights to incorporate the UNGPs into regional policies and encourage businesses to respect human rights.

ASEAN's journey toward integrating human rights and business and human rights principles is still in its early stages. While some progress has been made, particularly in adopting NAPs and promoting Corporate Social Responsibility (CSR), significant challenges remain in the corporate sector. The dialogue within member states primarily focusses on BHR or a specific aspect of the human rights discussion. The first dialogue was held during the fifth Interregional Dialogue (4-6 June 2018) in Bangkok, Thailand. In the meeting, member states will share their best practices of implementing BHR within individual countries—the 28th meeting of the ASEAN Intergovernmental Commission on Human Rights, scheduled for March 25, 2019, in Bangkok. There are so-called AICHR priority programs and activities.

Business and human rights, along with sustainable development, children's rights, women's rights, the rights of persons with disabilities, and freedom of expression and freedom of religion and belief, are on the agenda. Interregional dialogue "sharing good practices on Business and Human Rights" June 10-11, 2019, in Bangkok. During this time, member states discussed developing a national business and human rights action plan, as well as the relationship between the UNGPs and trade liberalization through a free trade agreement. On September 21, 2021, the ASEAN Human Rights Dialogue in Jakarta was held via video conference. This provides a regional platform on human rights among the ASEAN Member States (AMS) and share best practices and experiences in promoting and protecting human rights in their respective country.

However, the ASEAN CSR Network was established in 2011 to promote corporate social responsibility in the region. The network aims to promote sustainable business practices, improve working conditions, and enhance environmental sustainability. Moreover, there have been efforts to address human rights abuses in the region, particularly in relation to the palm oil industry. The roundtable on sustainable palm oil, in which ASEAN countries have developed a certification scheme to promote sustainable palm oil production and prevent human rights abuses.

The ASEAN is playing an increasingly significant role in promoting human rights, particularly in the context of business operations. As one of the most economically dynamic regions in the world, Southeast Asia faces significant human rights challenges arising from the rapid expansion of industries such as manufacturing, agriculture, mining, and tourism. The BHR framework, primarily guided by the UNGPs, is becoming increasingly relevant in ASEAN, particularly in addressing corporate human rights violations and promoting responsible business practices. ASEAN's approach to human rights and business is still evolving, with member states at different stages of integrating human rights into corporate responsibility

frameworks. The region is working toward better alignment with global business and human rights standards, although challenges remain due to political, economic, and cultural differences among member states. ASEAN's progress in integrating business and human rights principles is still formative. The UNGPs provide the global framework, and ASEAN member states are working to align with them, albeit at varying levels of implementation.

In relation to Pillar one, state duty to protect human rights, is to develop NAPs on Business and Human Rights. Some ASEAN countries have begun developing or considering NAPs in line with the UNGPs. These plans outline how states will protect human rights, ensure corporate accountability, and provide access to remedies for victims of business-related human rights violations.

Thailand is a pioneer in ASEAN, having adopted the first National Action Plan on Business and Human Rights in 2019.[13] Thailand's NAP focuses on four key areas: labour rights, land rights, the environment, and the protection of human rights defenders. Followed by Vietnam in July 2023[14] and Indonesia in September 2023.[15] Meanwhile, Malaysia and the Philippines,[16] remain at the development stage, consultations have begun to develop their NAPs, and Singapore promotes corporate responsibility but has not committed to a NAP on BHR.

Regarding regulatory frameworks and enforcement, ASEAN member states generally have domestic laws that protect human rights, including labour rights, environmental regulations, and anti-corruption measures. However, enforcing these laws remains challenging in some countries due to weak regulatory bodies, corruption, and political instability. Certain ASEAN countries, such as Singapore and Malaysia, have established robust legal frameworks to protect workers' rights and environmental standards. However, these laws may not always fully align with international human rights standards.

With regard to Pillar two, corporate responsibility to respect human rights; CSR has gained traction across ASEAN, with businesses increasingly recognizing the importance of ethical operations. Some ASEAN governments have actively promoted corporate social responsibility initiatives, encouraging businesses to respect labour standards, minimize environmental harm, and contribute to local communities. In countries like the Philippines and Indonesia, businesses are required to conduct CSR activities, particularly in sectors such as mining and energy, where companies are mandated to invest in the communities in which they operate. A corporation has an obligation to do human rights due diligence. Human rights due diligence is critical in ensuring businesses respect human rights throughout their supply chains. However, most ASEAN countries still need mandatory human rights due diligence laws. Some ASEAN companies, as well as giant multinational corporations, have voluntarily adopted human rights due diligence processes, often driven by pressures from global supply chains and consumer demand for responsible business practices.

Finally, concerning Pillar three, access to remedy, judicial and non-judicial mechanisms, and access to effective remedies for victims of business-related human rights abuses, are remain a significant challenge in ASEAN. While legal systems in many ASEAN

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[13] Muslim Mr Dokho, "Thailand's Engagement on the United Nations Guiding Principles on Business and Human Rights (UNGPS): Motives Behind the Implementation of the Action Plan (2016), Thammasat University.

[14] Global NAPS, Vietnam, <https://globalnaps.org/country/vietnam> accessed on November 11, 2024

[15] *Ibid*.

[16] Benjamin, Golda, and Bobbie Sta Maria. "National Action Plans on Business and Human Rights in the ASEAN: Observations and Recommendations on the Procedural Aspects of NAP Development, "*Business and Human Rights: Holding Governments Accountable in Asia* (2018): 5.

countries offer judicial remedies, these mechanisms can be slow, expensive, and subject to political interference. Some countries have established national human rights institutions (NHRIs), such as the National Human Rights Commission of Indonesia (Komnas HAM) and the Philippine Commission on Human Rights (CHR), which provide non-judicial mechanisms for addressing complaints of human rights violations. However, these institutions often need more enforcement powers and rely on recommendations rather than binding rulings. Moreover, several companies in ASEAN have implemented grievance mechanisms as part of their CSR or human rights policies, enabling workers and communities to raise concerns about human rights abuses. However, these mechanisms are often underutilised or ineffective due to a lack of awareness or trust. Some companies have partnered with international organisations in sectors such as palm oil and garment manufacturing to establish third-party grievance mechanisms to address worker exploitation and environmental concerns.

4.3. ASEAN Initiatives on Business and Human Rights

Within ASEAN, there are a number of initiatives to develop implementation framework for Business and Human Rights. First, the ASEAN CSR Network (ACN) is a regional initiative that promotes corporate social responsibility and business ethics throughout the region. It encourages businesses to adopt responsible practices that respect human rights and the environment. ACN has raised awareness of the UNGPs among businesses and governments in ASEAN and has supported capacity-building programs to improve corporate responsibility. ASEAN regularly hosts regional dialogues and workshops on business and human rights, bringing together stakeholders from the public and private sectors, civil society, and academia to discuss challenges and solutions in promoting responsible business conduct. These platforms have raised awareness of the UNGPs and encouraged ASEAN member states to develop NAPs and strengthen their enforcement mechanisms.

Second, is the ASEAN Economic Community (AEC) Blueprint 2025. The AEC Blueprint 2025 includes commitments to sustainable economic growth and corporate governance. While the blueprint does not explicitly focus on human rights, it emphasizes the need for businesses to adopt ethical practices and contribute to social and environmental development. This blueprint reflects ASEAN's broader commitment to inclusive growth, in which businesses contribute to community well-being while pursuing economic objectives.

Third, is the ASEAN Guidelines for Responsible Business Conduct (ASEAN RBC Guidelines).[17] It was launched in 2021 as a framework to promote ethical and sustainable business practices in the ASEAN region. These guidelines are based on internationally recognized principles, particularly the UNGPs, the OECD Guidelines for Multinational Enterprises, and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy. It was adopted in 2021 by the ASEAN Business Advisory Council (ASEAN-BAC), with support from international organizations and stakeholders. The purpose of the ASEAN RBC Guidelines is to provide businesses with a voluntary framework for responsible business conduct (RBC) that aligns with ASEAN's economic growth while respecting human rights, labour rights, and environmental sustainability. The ASEAN RBC Guidelines apply across all ASEAN member states.[18] The ASEAN RBC Guidelines represent a significant step toward promoting ethical and sustainable business practices in Southeast

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[17] Wahab, Andika Ab. Inclusive and Responsible Business Conduct in ASEAN: Belt and Road Projects as a Model. (2023), *Asian Yearbook of International Economic Law* (Springer Nature Switzerland, 2023) 153-169.

[18] Radu Mares, "International frameworks for responsible business conduct. *"Responsible Business Conduct in Cambodia–A Textbook*, (Raoul Wallenberg Institute of Human Rights, 2024) p. 40-52.

Asia. However, its effectiveness depends on stronger national implementation, corporate commitment, and regional cooperation to move from voluntary guidelines to enforceable standards.

The ASEAN RBC Guidelines cover the guidelines that set key principles for businesses to operate ethically and responsibly, focusing on: a). Human rights and labour rights: Businesses should respect human rights as defined by the UNGPs, companies must avoid forced labour, child labour, and discrimination, and workers should have fair wages, safe working conditions, and freedom of association; b). Environmental protection and sustainability are required for business to adopt sustainable environmental practices and minimizing pollution, deforestation, and biodiversity loss, encouraging climate action and responsible resource management; c). Good governance and anti-corruption companies should operate with transparency, accountability, and ethical decision-making, promoting anti-bribery measures and compliance with national and international laws; and d). Fair business practices and consumer protection foster fair competition and responsible marketing, and businesses should priorities protecting consumer rights and data privacy.

The guidelines were developed through a multi-stakeholder consultation process involving ASEAN Member States, where governments provided input on aligning RBC with national policies, as well as businesses and industry groups. ASEAN-BAC engaged with private-sector representatives to assess feasibility, and civil society and international organizations, such as the ILO, UNDP, and OECD, contributed expertise on labour rights and corporate responsibility.

However, the ASEAN RBC Guidelines are voluntary,[19] which means that there is no legal enforcement, but governments and businesses are encouraged to adopt them, and ASEAN countries can use the guidelines to develop national policies and corporate regulations. Moreover, companies are encouraged to conduct human rights due diligence (HRDD) and improve supply chain responsibility. Thus, the ASEAN RBC Guidelines face numerous challenges due to their non-binding nature. The guidelines do not impose legal obligations, which weakens enforcement, and corporate resistance may occur because businesses may view RBC as a financial burden rather than an opportunity. Not to mention the varied national laws, ASEAN countries have different legal systems, making regional standardization difficult. Nevertheless, the ASEAN RBC Guidelines could strengthen responsible business practices; ASEAN may encourage mandatory HRDD in national policies, improve monitoring and reporting on corporate human rights and environmental impacts, and develop regional complaint mechanisms for business-related human rights violations.

5. Comparison of Business and Human Rights Framework in the EU and ASEAN

From **Table 1** below, it is shown that both regional organizations have established an agency to implement the BHR within their organisations. The EU is overseen by the EU Agency for Fundamental Rights (FRA), and ASEAN is governed by the AICHR. Furthermore, each regional organization has a main document on human rights. However, the document remains a declaration for ASEAN rather than a convention like the EU. The EU has a binding Charter of Fundamental Rights. Meanwhile, ASEAN has its soft-law ASEAN Human Rights Declarations.

[19] Mahdev Mohan, "Corporate Accountability in Southeast Asia: National Action Plans for Responsible Business Conduct under International Law, (2022) *ASEAN International Law* pg. 527-543.

Table 1. UNGPs Implementation in EU and ASEAN

	EU	ASEAN
Agency	1. EU Agency for Fundamental Rights (FRA); 2. European Court of Justice;	ASEAN Intergovernmental Commission on Human Rights (AICHR);
Human Rights Document	Charter on Fundamental Rights of the European Union (CFREU);	ASEAN Human Rights Declarations;
Binding Resolution/ Decision	1. The EU Directive on Corporate Sustainability Due Diligence (CSDDD) on April 24, 2024; 2. European Parliament Resolution of March 10, 2021, with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL)); 3. Corporate liability for serious human rights abuses in third countries. The European Parliament Resolution of October 25, 2016, on corporate liability for serious human rights abuses in third countries (2015/2315(INI));	N/A
NAPs	17 Members states (Belgium, the Netherlands, Denmark, Finland, Lithuania, Sweden, Italy, Germany, France, Ireland, Norway, Poland, Slovenia, Spain, and Czech Republic);	Thailand; Vietnam; and Indonesia.
Remedy Framework	Encourage establishing or joining a grievance mechanism.[20]	N/A

Moreover, the EU has made more movement regarding the implementation of BHR because the EU has two resolutions that have regulated specifically the BHR area, these are: a). The European Parliament Resolution of March 10, 2021, with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL)) and corporate liability for serious human rights abuses in third countries; and b). European Parliament Resolution of October 25, 2016, on corporate liability for serious human rights abuses in third countries (2015/2315(INI)). Meanwhile, ASEAN is still in a state of dialogue. The above Table also shows that 17 members have the NAP, while in ASEAN it is only found in three states. In the EU, around 65% of member states have a NAP, as of in ASEAN, the figure is only 25%. Another exciting aspect is that the EU has encouraged its members to

[20] Daniel Augenstein, Mark Dawson, and Pierre Thielbörger, "The UNGPs in the European Union: The Open Coordination of Business and Human Rights?" (2018) *Business and Human Rights Journal* 3, no. 1, p. 1–22.

establish grievance mechanisms for remedy, whereas ASEAN still needs to address this issue.

Furthermore, Ricard Wolford surveyed on how the companies from Europe and Asia conduct corporate social responsibility.[21] The study observed six elements: non-discrimination, equal opportunity, fair wages, vocational education, association, and human rights. The figure suggests that an increasing number of European companies are incorporating human rights into their corporate social responsibility practices, the number is higher as compared with their Asian counterpart. Likewise, in the AICHR's five-year work plan for 2021-2025, at priority area 2.5, which promotes a mechanism for Coordinating a Human Rights-Based Approach (HRBA) and Remedies in ASEAN, the organization will actively conduct regional consultations and share experiences, promoting the UNGPs in ASEAN. This action is based on documenting best practices and lessons learned in developing the NAP on business and human rights in the ASEAN region.

6. Conclusion

In conclusion, human rights protection in the business regimes of two regional organizations is in an emerging phase. However, the EU is one step ahead of ASEAN, where the EU has agreed on the Omnibus Law adopting CSDDD and not to mention that the EU has a regional court; thus, the EU has more comprehensive regulation compared to ASEAN on human rights protection and the protection of the individual in business activities.

Despite the positive steps taken by the EU and ASEAN, there are possible cooperation between the two regions to promote business and human rights, these include: a). A binding international agreement: The EU and ASEAN should collaborate to develop a binding international agreement on business and human rights. This agreement would establish a clear standard for responsible business conduct and provide a framework for holding companies accountable for human rights abuses; b). Public procurement: both EU and ASEAN should leverage their collective purchasing power to promote responsible business conduct. Governments could require companies to include human rights and responsible business practices in public contracts to demonstrate their commitment to these principles; and c). Civil society engagement: The EU and ASEAN should promote greater engagement with civil society organizations to ensure affected communities' voices are heard. Civil society organizations play a crucial role in monitoring and holding companies accountable for human rights abuses.

Business and human rights are critical issues that require urgent attention. While the EU has made significant progress in promoting responsible business conduct, there is still much work to be done in ASEAN. ASEAN has recognized the importance of business and human rights, but its efforts remain largely voluntary and non-binding. The challenges ASEAN faces in BHR implementation stem from weak enforcement, as governments often lack the political will or resources to regulate business-related human rights abuses. Labor exploitation, like forced labour, low wages, and unsafe working conditions, is common in industries like textiles, electronics, and agriculture. Land and environmental issues, such as land grabbing and deforestation linked to business activities (palm oil, mining), frequently harm indigenous communities. Victims of corporate human rights violations struggle to seek legal remedies due to weak judicial systems and government-business ties.

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[21] Welford, R. (2005). Corporate social responsibility in europe, north america and asia: 2004 survey results. *The Journal of Corporate Citizenship,* (17), 33-52.

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