



Original Article

Evaluating the Implementation of UNGPs on Business and Human Rights: Insights from Indonesia and Vietnam

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Abstract: The development of the paradigm of responsibility for human rights makes corporations actors who should be accountable and held accountable for their activities in addition to the state. In line with the expansion of human rights actors, the United Nations (UN) released the UN Guiding Principles on Business and Human Rights (UNGPs on BHR), which serve as global guidelines for corporations to position themselves as human rights actors. This principle also underpins standardizing regulations on the relationship between business and human rights and calls on governments and corporations to identify, prevent, mitigate, and provide remedies for actual and potential adverse human rights impacts. However, the principle is a soft law that is non-legally binding, which hampers human rights enforcement against corporations, especially in countries that do not ratify it. This article aims to review and evaluate the implementation of the UNGPs on BHR principles in Indonesia and Vietnam. This research uses a doctrinal legal research method and examines literature and secondary data to analyze the legal framework and its implementation. The results of this study show a not-so-significant gap between the UNGPs on BHR principles and the implementation practices in Indonesia and Vietnam. Both countries have committed to adopting the principles into their national legislation and concretizing them in the National Action Plan, which is a real manifestation of both countries' commitment to advancing the values of respect for human rights in business activities.

Keywords: Evaluate, Human Rights, UNGPs on BHR, Business Activities.

1. Introduction

The implementation of the UN Guiding Principles on Business and Human Rights

(UNGPs on BHR) in Indonesia has not been implemented optimally. Although it has been stipulated in Presidential Regulation (Perpres) No. 60 of 2023 concerning the Action Plan

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(National Plan), it remains general and requires more specific regulations and frameworks. This is intertwined with the implementation that has not been complied with by companies. As a country that expressed support for the UNGPs on BHR, Indonesia is responsible for ensuring the compliance of companies, especially multinational corporations, in implementing these principles, as are other countries such as the UK, Germany, Norway, Japan, and Vietnam [1].

In fact, the private sector has become one of the actors in the fulfillment of human rights alongside the state, as human rights thinking has developed [2]. The private sector or companies are responsible for the realization of human rights in various ways that include respecting and protecting human rights along the company's value chain; avoiding causing or contributing to human rights violations through business activities and behavior; providing remedies for those whose rights have been violated by business [3, 4]. In business and society studies, human rights issues and related behaviors have been discussed, such as labor rights, child labor [5], modern slavery, physical integrity violations, or businesses operating or collaborating with oppressive regimes [2].

This issue was the background for the birth of the UNGPs on BHR in 2011. The UNGPs on BHR build on the "Protect, Respect and Remedy" framework, which is linked to three pillars of action. The first pillar focuses on the state's duty to protect against human rights violations, the second focuses on the corporate responsibility to respect human rights, and the third focuses on the right of victims to access effective remedies. Quoted from the National Plan of Action (NAP) on Business and Human Rights, there are 55 countries that have expressed support for the UNGP on BHR, with 4 classifications, namely 1) active, namely implementing NAP or developing NAP, 2) developing, namely implementing business and human rights principles but not developing NAP, 3) inactive, namely no longer implementing NAP and not developing new NAP, 4) other, namely the NAP has expired or is still under development.

Based on the state's obligation to implement the UNGP on BHR, Vietnam is classified as an active country that already has an NAP. Meanwhile, Indonesia is classified as other because previously, Indonesia had an NAP BHR with a period of 2023 - 2025 (expired) and was in the process of being developed again for the next period. Indonesia has issued Presidential Regulation No. 60 of 2023, which establishes the National Strategy for Business and Human Rights (Stranas BHR). This is implemented through BHR Action, a further elaboration of Stranas BHR to be implemented by ministries, institutions, local governments, business actors, and other stakeholders. However, the existence of Presidential Regulation No. 60 of 2023 is still general and in principle. This means that elaboration and harmonization are needed to ensure uniformity and effective implementation in the field, and strict supervisory measures are needed to ensure that companies comply with Decree No. 60 of 2023 [6].

Practice in several developed jurisdictions, such as the UK, the Netherlands, and Australia, suggests that implementation of the UNGP on BHR typically commenced with the adoption of a NAP [1]. For example, the UK first implemented it in Good Business as a UK Government commitment, which was later reflected in the Modern Slavery Act. In addition, the UK launched the Modern Slavery Assessment Tool to make it easier for state institutions to evaluate and monitor how businesses operate to prevent human rights violations. Companies are also given ways to avoid business practices that enslave workers [7]. In addition to the UK, the Netherlands officially endorsed the NAP on Business and Human Rights in 2013 through the ACCESS Facility. The drafting of this policy was led by the Ministry of Foreign Affairs, with relevant ministries involved in the discussion, such as the ministries of economy, security, law, and social labor [8]. In Australia, the Australian Human Rights Commission and the Australian Human Rights Institute have summarized and reported

on the implementation of the Business and Human Rights Guidelines [9].

Other practices can also be analyzed from Vietnam, which has been established in Vietnam's National Baseline Assessment. There are two stages of implementation, namely stage 1, the Initial Assessment of the Regulatory Framework on Responsible Business Practices in Vietnam in 2020, and stage 2, the Assessment Report on the Performance of Responsible Business Practices in Vietnam. Phase 1 is based on an assessment of 4 aspects, namely Corporate and Investment Law, Labor Rights Business in the Community Responsible, Business Practice and Vulnerable Groups and Access to Remedy [10]. This is motivated by the awareness of the Vietnamese government in providing social protection for workers in both formal and informal businesses, including vulnerable groups.

The choice of Vietnam as an example in this comparative study is relevant because it is a country implementing business and human rights principles amid rapid investment growth. Vietnam's economic success story is largely based on the Government's strong commitment to increased trade and closer collaboration with business in economic policy and planning. Businesses play an important role in Vietnam's economic development by contributing to tax revenues and employment and by improving the living standards of a large number of Vietnamese [10].

In implementing business and human rights principles, Vietnam recognizes that the approach cannot be applied in a uniform manner across all types of businesses. Companies need to adjust to the characteristics of each business. This is because companies will focus on risks to people, which are often complex, and human rights due diligence must go beyond the checklists and tools available [2]. Rather than having fully implemented Human Rights Due Diligence (HRDD), Vietnam has only initiated policy discussions and pilot programs to encourage responsible business conduct. The actual

implementation of HRDD remains in its early stages and is not yet legally mandatory.

In light of the issues and urgency discussed above, as well as lessons drawn from comparative experiences in other jurisdictions, it is important to identify state responsibilities for implementing the UNGP on BHR in general and to analyze the comparative implementation of the UNGP on BHR in Indonesia and Vietnam. This research examines the legal framework adopted in both countries and compares their approaches to implementation, challenges, and remaining gaps in each country.

2. State Responsibility in Implementing the UNGP on BHR: Global Perspective

2.1. UNGPs on BHR as an International Legal Instrument to Ensure the Fulfillment of Business and Human Rights Principles

The UNGPs on BHR adopted by the United Nations (UN) Human Rights Council in 2011 is the first global legal framework to guide states and businesses on human rights responsibilities. The establishment of the UNGPs on BHR is the result of the UN's preparation and efforts to set global standards for businesses [11]. Actually, the idea of researching and developing human rights standards for business began in the 1970s [11], but the process initially encountered opposition and disagreements among countries [12].

In general, the UNGPs on BHR outline the human rights responsibilities of states and businesses through three main pillars:

a) The state duty to protect, which is in principle a legal and moral obligation to protect individuals from human rights violations committed by third parties, including by businesses or corporations. This obligation can be implemented by creating and enforcing national laws that protect human rights, regulating and supervising corporate activities, especially in high-risk sectors (e.g., mining,

forestry, and manufacturing), and providing effective grievance and remediation systems.

Corporate responsibility to respect human rights means, in principle, ensuring that companies do not cause or otherwise contribute to human rights violations, either directly or indirectly, and that they develop strategies and take active steps to prevent them. For example, by preparing a clear and comprehensive human rights policy, conducting Human Rights Due Diligence (HRDD) in business operations. As well as dealing with human rights impacts that have occurred through a recovery mechanism (remediation).

The right to access to remedy, which in principle emphasizes effective access to remedy for victims of human rights violations in business activities through both legal and non-legal mechanisms. For example, providing access to judicial or court assistance and mediation mechanisms at the company level. The state, in this case, has a role in providing access to remediation and in mediating the settlement of industrial relations.

Furthermore, the UNGP on BHR comprises 31 principles, with the first 10 outlining 2 basic and 8 operational principles. In this case, the state plays a central role in protecting human rights through specific legal and policy mechanisms and in ensuring that businesses and corporations do not violate them. The implementation of the UNGPs on BHR has a broad scope because it involves three actors, namely the State, corporations, and society, covering issues ranging from those with a direct impact, such as the fulfillment of workers' rights, to those with an indirect impact, such as environmental aspects.

Despite the global consensus around the UNGPs on BHR, their non-binding nature raises critical questions about state accountability and corporate responsibility. The dominance of soft-law instruments indicates that global business and human rights norms rely more on moral persuasion than enforceable obligations. A study by Tomi Apra Santosa and Hamdani explains that the UNGPs on BHR have contributed to

establishing global standards that encourage ethical and transparent corporate behavior regarding human rights. However, the soft-law nature of the UNGPs on BHR presents challenges to consistent application across jurisdictions. Implementation is sometimes left to the discretion of companies and states [13].

This article, therefore, limits its focus to three major aspects: labor, environmental protection, and indigenous peoples, and global supply chains, because these sectors represent the most frequent and severe forms of corporate human rights violations across jurisdictions. Some of these scopes can be described as follows:

b) Labor aspects

This aspect includes the protection of workers' rights, such as living wages, humane working hours, occupational safety and health, freedom of association, and anti-discrimination. Therefore, the state has a vital role in ensuring that labor regulations align with human rights standards and in requiring companies to conduct human rights due diligence to prevent labor exploitation. In implementing the third pillar, namely access to remedy, both the state and corporations must have an effective, easily accessible complaint mechanism for workers.

This classic problem in employment is usually characterized by labor exploitation, such as inhumane hours, inadequate wages, child labor, and exposure to dangerous working conditions. Usually, the business model associated with these practices is mass production that prioritizes quantity and high profit margins. The problem is that corporations seek to reduce labor costs in the production process by limiting or failing to fully fulfill employees' rights. The result is economically beneficial for corporations, but not with the fulfillment of human rights.

Various real examples are carried out by various companies suspected of labor exploitation, such as child exploitation in the cocoa industry in the Ivory Coast and Ghana by Nestle which employs children in hazardous working conditions [14], cases of exploitation of

factory workers in Southeast Asia by Nike who reportedly work under pressure, long working hours and substandard wages [15], as well as cases of privacy violations caused by strict supervision and inhumane work environments by Amazon in several countries such as the US, Germany, UK and India [16].

c) Environment and indigenous people aspect

This aspect highlights the respect for indigenous peoples' rights to land and natural resources based on the principle of Free, Prior, and Informed Consent (FPIC). It also focuses on preventing environmental pollution and ecological degradation caused by business activities. In this case, the state must have strict regulations to reduce the environmental impact of business operations and protect local communities. The intersection between business activities and the environment and surrounding communities is inevitable because the two are interconnected.

Assessment of social and environmental impacts receives greater attention when corporations operate in high-risk sectors, such as mining, forestry, and manufacturing. One example that also demonstrates that companies are held responsible for environmental harm in climate litigation is the Dutch court decision in *Royal Dutch Shell v. Milieudefensie* [17]. The essence of the case is that Shell, as a transnational company operating in the Netherlands, cannot be released from, or bear the same responsibility as, the State for achieving climate change targets. In the verdict, the use of the UNGPs in relation to BHR principles was explicitly mentioned and even served as the basis for the panel of judges' decision-making [17]. The verdict also has a positive impact on corporations' involvement in preserving the environment and addressing climate change.

d) Aspects of the supply chain and migrant workers

In principle, this aspect covers the protection of workers in the global supply chain, including migrant workers who are vulnerable to forced labor and exploitation. Corporations have an obligation to conduct human rights due diligence

down to suppliers/subcontractors. The state's role in this can be done through regulating and supervising cross-border business practices, including migrant labor, by ensuring there is no slavery or forced labor. The fulfillment of migrant workers' rights is much more complex than the usual aspects of labor, because it involves various parties across national borders. In some cases, countries have special bodies or commissions that regulate the protection of migrant workers who work abroad, including diplomatic representatives of the country.

Migrant workers are particularly vulnerable to exploitation. They are considered lower-class workers who are forced to take menial jobs abroad. One example of the alleged exploitation of migrant workers occurred in Qatar's 2022 World Cup preparation project [18]. Manual laborers who are not from Qatar are usually recruited from Nepal, Bangladesh, and India to work on stadium and other infrastructure projects. They are allegedly victims of exploitation of migrant workers with forced labor practices under the kafala system, where passports are withheld, low wages, excessive working hours, and inhumane living conditions. In a report published by the Qatar Business and Human Rights Resource Center, several thousand workers allegedly died during the project. This condition certainly received public attention and international condemnation [18].

In international law, the UNGPs on BHR can be seen as a soft-law instrument, or their binding force rests on the moral or political commitment of each state. This means it has no legal force (i.e., is not legally binding) if the state does not adopt it into its national legislation. However, in global developments, international legal instruments of a soft-law nature that regulate human rights principles have become a common method and commitment to be adopted as widely as possible in state domestic law. Moreover, the morally binding nature of the UNGP on BHR can be legally enforced when it has been adopted or implemented in the national action plan (NAP) of each country. This means that even though it is soft law, it can have legal

consequences after the state regulates it under the rule of law.

2.2. State Responsibility in Implementing the UNGPs on BHR: ASEAN Practices

In practice, not all ASEAN member states have adopted the UNGPs on BHR. This means that ASEAN's commitment to upholding the UNGPs on BHR is not 100% unanimous. Table 2.2.1. shows that only 4 of 10 ASEAN member states are committed to upholding human rights in business activities.

Table 1.2.1. Status of NAPs of ASEAN Member States

Countries	Status		
	Active	Developing	Other
Indonesia	X	X	
Philippines	X	X	X
Viet Nam		X	X
Brunei	X	X	X
Cambodia	X	X	X
Lao PDR	X	X	X
Thailand		X	X
Malaysia		X	X
Myanmar	X	X	X
Singapore	X	X	X

Source: The Danish Institute for Human Rights, 2026.

The Global National Action Plans classify countries into three categories based on their commitment to establishing national action plans (NAPs) through domestic legislation. Active status is interpreted as a country that implements NAPs or is accompanied by updates for development, while status under development is attributed to countries that are developing NAPs but have not yet put them into practice, and finally, other status is intended for countries that no longer implement NAPs and are not developing new NAPs or there is no national initiative to realize NAPs.

In reality, only Thailand, Vietnam, and Malaysia have national action plan policies in the ASEAN region. Meanwhile, Indonesia is included in the "other" category because it previously had a National Action Plan (NAP),

which expired in 2025. Indonesia has concretized it into a National Strategy on Business and Human Rights, approved and signed by the President on 26 September 2023, and officially issued as Presidential Regulation Number 60 of 2023. On the other hand, Thailand is arguably the earliest ASEAN country to have a national action plan, which started in 2019 and has been updated to the second generation for 2023-2027. The Thai government announced that the top priority issues in Thailand's NAP are: 1) Labor, 2) Land, environment and natural resources, 3) Human rights defenders, and 4) Cross-border investment and multinational companies.

Finally, Vietnam's NAP, titled National Action Plan for Improving Laws and Policies to Promote Responsible Business Practices in Vietnam, was endorsed and published on July 14, 2023. Vietnam's NAP includes five main components. The first component focuses on capacity building and awareness raising on policies and laws related to Responsible Business Practices. The second component aims to strengthen policies and laws, with special emphasis on labor, investment, the protection of vulnerable groups' rights, environmental protection, and consumer protection. The third component is designed to improve the effectiveness of implementing established policies and laws. The fourth component establishes a mechanism for sharing information about the results of activities in international programs, forums, and conferences related to the RBP. The last component establishes a process for periodic review and update of the NAP. Meanwhile, Malaysia has gained active status with the Collective of Applied Law of Legal Realism (CALR), Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM), and Bahagian Hal Ehwal Undang-undang Jabatan Perdana Menteri (BHEUU), organizing the first consultation on business and human rights. The consultation focused on issues relating to migrant workers, undocumented migrants, refugees, and asylum-seeking individuals within

the framework of the National Action Plan (NAP) process.

3. Comparison of Implementation of UNGPs on BHR: Indonesia and Vietnam

3.1. Implementation of UNGPs on BHR in Indonesia

To embody the principles of business and human rights, Indonesia has established a legal basis through Presidential Regulation Number 60 of 2023 on the National Strategy for Business and Human Rights. The National Strategy on Business and Human Rights ("Stranas BHR") is a road map for national policies used as a reference by stakeholders such as ministries/institutions, communities, labor unions, and business actors for the advancement of protection, respect, and restoration of human rights. With the juridical basis, the Government of Indonesia has committed to integrating the principles of Business and Human Rights, consisting of three pillars (The State duty to protect human rights, The corporate responsibility to respect human rights, The need for greater access to effective remedy) into national policy.

In support of this commitment, the Government of Indonesia has initiated various

research, socialization, and/or capacity-building initiatives for civil servants across ministries and other stakeholders on Business and Human Rights. At the same time, the community has also been active in disseminating information, research, and education on human rights in the business world to various parties, including business actors and communities. From a business perspective, various steps have been taken to incorporate human rights into business strategies. Furthermore, businesses have conducted numerous training sessions, voluntarily conducted risk assessments of human rights violations, compiled internal company guidelines (codes of conduct), and participated in the regional and international arena in the realm of Business and Human Rights.

Through the Perpres, there is a website-based platform, namely the Business and Human Rights Risk Assessment (PRISMA), which is used for self-assessment by companies to mitigate business and human rights risks (the PRISMA Platform can be accessed at the following link: <https://prisma.kemenkumham.go.id/>). PRISMA was originally under the authority of the Director General of Human Rights of the Ministry of Law and Human Rights of the Republic of Indonesia, but following a change in the ministry, it is now under the authority of the Ministry of Human Rights.

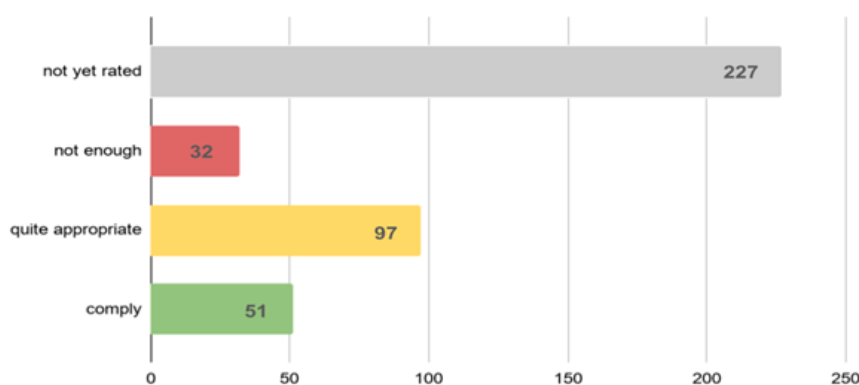


Figure 3.1.2 Classification of Company Assessments in PRISMA.
(Source: <https://prisma.kemenkumham.go.id/>).

The concept is that each company registers itself and verifies 13 predetermined indicators, including: Human Rights Policy; Labor; Working Conditions; Trade Unions; Privacy; Discrimination; Environment; Agrarian and Indigenous Peoples; *Corporate Social Responsibility (CSR)*; Grievance Mechanism; Supply Chain; Human Rights Impact of the Company. Each indicator includes various questions related to the company's fulfillment of human rights obligations. For example, the labor indicator will validate data on wages, worker demographics, employee contracts, and various other indicators.

Based on observations on the PRISMA website, 529 companies have registered and conducted business risk and human rights assessments. The results of the assessment are classified into four groups: not yet rated (grey), not enough (red), quite appropriate (yellow), and complies (green).

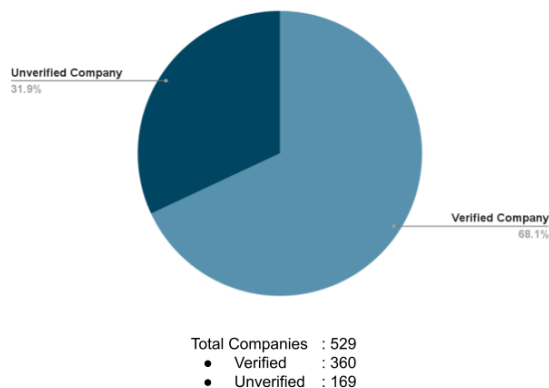


Figure 3.1.1. Company Registered in PRISMA
(Source: <https://prisma.kemenkumham.go.id/>).

In an initial review, the Perpres is intended to promote awareness among stakeholders. This is the right step for the government because Indonesia is still a country that has only recently adopted international instruments on BHR. However, in practice, it remains just a formality because it is voluntary, so the government cannot force it on business actors. In addition, there is still a lot of resistance among the public

because they still have the paradigm that human rights are only related to humanitarian issues, genocide, and so on. Therefore, the Presidential Regulation, which has been in effect since 2023 and will expire in 2025, in the future requires a new reformulation related to the paradigm (shifting paradigm) of the national strategy in business and human rights.

On the other hand, resistance comes not only from the community but also from companies, as business actors still consider human rights due diligence a cost with no significant impact. In fact, in international circles, human rights due diligence can improve the company's reputation among investors, which in turn can attract additional capital injections. The company also considers that the BHR due diligence incorporated into PRISMA does not carry certain legal implications, given its *voluntary* nature.

The prospect of future regulation, which is projected to be stipulated by the latest Perpres as the next step (Stranas BHR phase two), will adopt the development of global BHR issues and also a paradigm shift by classifying companies as mandatory and still voluntary. The classification will certainly rely on clear indicators to determine which companies are already required to conduct assessments and which are still voluntary. The hope is that companies will follow the government's instructions to conduct human rights compliance assessments. The observation results show that this Perpres is still in the study and formulation stages, with a target completion date of 2025.

Future projections for the implementation of human rights due diligence will involve a wider range of stakeholders, including business organizations and associations in Indonesia, such as the Indonesian Employers Association (APINDO) and the Indonesian Chamber of Commerce (KADIN). This collaboration is intended to make it easier for the government to enforce the latest regulations on BHR due diligence. In addition, this step is a solution to the problem of company resistance, as

collaboration can serve as a bridge between the government and companies.

Basically, the regulation on Stranas BHR is intended to address global challenges, especially the issue of corporate compliance for a BHR actor. In addition to the Presidential Regulation on Stranas, human rights due diligence arrangements and instruments were introduced by the Organization for Economic Co-operation and Development (OECD) and the Corporate Sustainability Due Diligence Directive (CSDDD). The OECD Due Diligence Guidance aims to provide practical guidance to companies on preventing and mitigating the risk of negative impacts related to labor, human rights, the environment, bribery, consumer protection, and corporate governance. Meanwhile, the CSDDD stipulates the obligation for companies to conduct adequate due diligence on human rights and the environment in the context of their own operations, their subsidiaries' operations, and the operations of business partners engaged in a range of corporate activities.

In addition to the adoption of the two instruments above, Indonesia already has several due diligence mechanisms for BHR actors, initiated by certain ministries and specific to sectoral businesses. For example, for fishermen in the marine business, there is the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 35 of 2015 concerning the System and Certification of Human Rights in Fisheries Business. On the other hand, in the commodity trading sector, there is a Timber Verification and Legality System (SVLK) mechanism, which has been accommodated in the Regulation of the Minister of Environment and Forestry of the Republic of Indonesia Number 8 of 2021 concerning Forest Planning and Preparation of Forest Management Plans, as well as Forest Utilization in Protected Forests and Production Forests. The purpose of this instrument is to ensure that wood products and raw materials used are obtained from sources that can be verified for authenticity and management in accordance with applicable

legality standards. Timber is categorized as legal if all aspects, including timber origin, logging permits, logging systems and procedures, transportation processes, processing, and trading activities, meet all stipulated provisions. However, the application of these instruments is fragmented and varies by sector, which certainly lacks national uniformity. This is what the Ministry of Human Rights addresses through its business - and human-rights-based risk assessment program.

3.2. Implementation of UNGPs on BHR in Vietnam

Vietnam is the third country in Southeast Asia, after Thailand and Indonesia, to implement the UNGPs on BHR [19]. For Vietnam, the development of business and human rights principles is essential to build a legal framework that effectively supports the state's obligation to protect human rights in business activities and aligns with global trends. The State should focus on strengthening the legal framework, monitoring corporate compliance, raising awareness, promoting corporate accountability, fostering international cooperation, and providing mechanisms to address the adverse impacts of corporate activities on human rights.

Previously, corporate responsibility for human rights has not been an area that has received significant attention and has not been effectively addressed by relevant government institutions and organizations in Vietnam [20, 21]. However, since 2018, greater involvement by NGOs and UNDP-supported initiatives has gradually broadened the discourse on corporate responsibility and environmental sustainability.

The obstacle is the lack of willingness and capacity among governments, their agencies, companies, and international and local NGOs, as human rights and business are often seen as separate domains that do not interact with each other. In addition, companies prioritize CSR that is familiar and has a clear legal structure. [20]. However, through its National Action Plan to Promote Responsible Business Practices ("NAP RBP" in Vietnam), adopted on July 14th, 2023,

and valid for 2023 - 2027, Vietnam is responding to global demands as economic growth and investment in the country increase. The formulation process has been conducted since 2018 and has received support from UNDP (United Nations Development Program) in Vietnam, the Ministry of Justice, and Sweden. In addition, various stakeholders, including businesses, civil society organizations (NGOs), and international experts, have been involved in developing Vietnam's NAPs [22].

The instrument aims to encourage and empower businesses to operate responsibly, taking into account the "Profit, People, and Planet" (3P) principles. The three principles are intended so that business activities in Vietnam do not only pursue profits, but there are two other principles that are important, namely people, both workers and communities, and the environment (planet). The existence of these two principles aims for business sustainability.

Furthermore, the development of the three principles is focused on 5 topics or issues, namely

Table 2.2.1. Elaboration of 5 Topics from the National Action Plan to Promote Responsible Business Practices in Vietnam [23]

Topic	Description
Investment	Investment is one of the priorities in improving Vietnam's economic growth. This is evidenced by the value of FDI (foreign direct investment), which continues to increase to reach USD 19 billion by 2023 and showed an increase of 7.9% year-on-year in January-May 2025. Vietnam itself has an ambitious GDP growth target, aiming for at least 8% by 2025 and planning for double-digit growth in the following years.[24] But through its NAP RBP program, Vietnam has begun to make sustainable improvements to the investment system. For example, the plan to publish an investment project screening toolkit to ensure investment conformity with local characteristics and development priorities and updates to the Bidding Law to strengthen investment project governance and integrate ESG aspects. The hope is that Vietnam's investment will not only encourage economic growth but also be in line with human rights principles.
Labor or employment	Along with the massive employment in Vietnam, the government continues to make adjustments with respect to human rights principles. Various policies will be taken such as reviewing laws and regulations related to the promotion and protection of labor rights and employee welfare; releasing policies on labor protection, worker retraining, and protection of worker rights in relation to digital platform companies; the New Trade Union Law and its implementing documents; and preventing and stopping acts of gender-based violence in the work environment.
Responsible business practices and vulnerable groups	Similar to the labor aspect, the protection of vulnerable groups focuses on anti-discrimination and affirmative action policies. For example, reviewing legal documents related to gender equality, anti-discrimination and protection of the rights of vulnerable groups in business activities to align with international standards, including: Law on Gender Equality, Law on Persons with Disabilities, Law on Children, and documents guiding their implementation; developing a Gender Transition Law to implement Article 37 of the Vietnamese Penal Code.

Environment	Vietnam's future environmental policies include improving legal documents on natural resources and the environment to support Vietnam's NAP RBP. This study will certainly take place simultaneously and continuously. The goal is to support sustainable business practices and fulfill SDGs and EVFTA (EU-Vietnam Free Trade Agreement and Investment Protection Agreement)/CPTPP (The Comprehensive and Progressive Agreement for Trans-Pacific Partnership) commitments.
Consumer Protection	This aspect emphasizes the principle of "people", namely the community or in this case consumers, namely by carrying out the preparation of documents on the Law on the Protection of Consumer Rights and conducting research and preparing proposals for the preparation of laws on personal data protection.

Source: Author's Preparation.

The implementation of the UNGPs on BHR in Vietnam can be viewed from two perspectives. On the one hand, it is a significant progress and demonstrates Vietnam's commitment to compliance with global business and human rights principles, but on the other hand, there are many adjustments from both legislative and corporate aspects [23]. These adjustments include the following:

- a) Review and propose adjustments to the Code of Civil Procedure and related documents;
- b) Research and review laws and regulations on handling administrative violations in the fields of investment, labor, environmental protection, protection of vulnerable groups, and consumer protection;
- c) Research, review, and propose improvements to the Commercial Arbitration Law and related legal provisions on conciliation and out-of-court dispute resolution.

Based on Le Thi Tuyet Ho's writing, Vietnam's NAP policy should be more progressive, meaning that Vietnam should expand their state obligations to cover foreign business activities, and Vietnam should work with global organizations such as the United Nations, OECD, and ILO to learn from and implement international human rights and business standards while drawing on the experiences of countries that have successfully implemented NAPs, such as Germany and the UK. Vietnam needs to study the experiences of

countries with similar economic and social contexts or those in the same region, such as Thailand, to adopt and adapt policies to fit the national context [19].

Le Thi Tuyet Ho's article intertwines facts about the challenges of implementing the NAP BHR in Vietnam. First, citing recent research by Indriana and Putri in 2026, coordination between Vietnamese ministries in oversight remains ineffective and limited, resulting in issues of data transparency and fragmented oversight. This is because human rights violations still occur in separate sectors, such as tourism, industrial estates, and land administration [25].

Second, based on research conducted by Dr. Nguyen Thi Thanh Hai (associate professor at the Institute of Human Rights at the Ho Chi Minh Academy of Politics in Vietnam) at the Norwegian Center for Human Rights, the mandatory HRDD requirement under European law has indeed impacted companies connected to the Vietnamese market, such as those in France, Germany, and Norway. She observed that HRDD has shifted the business landscape in Vietnam from simply fulfilling external social audits to an ongoing internal process for assessing, preventing, and addressing human rights risks [26]. Within this framework, HRDD relates not only to compliance but also to the protection of environmental, labor, and other workers' rights [27].

However, Dr. Nguyen's research also shows that Vietnam is not yet fully prepared to implement HRDD obligations (they remain voluntary). In his comparative paper on the EU and Vietnam legal frameworks, he noted that Vietnam's legal system has adopted some international labor norms, but significant issues remain in legal definition, enforcement capacity, corporate responsibility, and supply chain transparency. This suggests that the norm is adopted, but enforcement and infrastructure remain weak. The findings indicate that increasing awareness and basic understanding of HRDD remain common challenges for companies, including large corporations and SMEs. The report also notes that companies already implementing HRDD continue to face obstacles such as staffing and budget shortages, as well as supply chain complexity. This supports the assumption that many corporations view HRDD as an operational and administrative burden, rather than a strategic investment; as a result, participation remains low, and enforcement is limited.

3.3. Comparative Implementation of the UNGPs on BHR in Indonesia and Vietnam

In general, the implementation of the UNGPs on BHR in Indonesia and Vietnam has similarities, both in their initiation and in their future challenges. Both countries can be said to still be in the early stages of developing these principles. However, when viewed in the context of ASEAN, both countries show a more positive commitment than other ASEAN member states. Nevertheless, Kate Macdonald's article explains that implementing the UNGPs on BHR in SEA countries involves complex issues, including effectiveness and domestic challenges. The effectiveness of the UNGPs on BHR actually depends on the extent to which market dynamics, civil society involvement, and state commitment can produce concrete incentives for behavioral change. In a context where these driving forces are weak, the implementation of the UNGPs risks becoming merely symbolic.

This is also a challenge for both Indonesia and Vietnam [28].

In general, these challenges are also faced by Southeast Asian countries, as reported by the UN Working Group on Business and Human Rights and OHCHR in September 2025. For example, weak coordination between ministries often leads to fragmented implementation at the national and sub-national levels; inadequate monitoring and evaluation mechanisms in human rights assessment indicators; and a lack of resources, which hinders sustainable implementation and the capacity building needed to transform policies into concrete interventions on the ground [29].

Both Indonesia and Vietnam share similar structural challenges in implementing UNGPs on BHR. Similar results between the two countries that have adopted the NAP, yet still face enforcement limitations and similar structural constraints. First, both countries operate under soft-law instruments, which means that the UNGPs on BHR are adopted through non-binding instruments (e.g., presidential regulations in Indonesia and ministerial decisions in Vietnam) without clear legal sanctions. This weakens the incentive for businesses to comply beyond reputational gains.

Second, institutional capacity to monitor corporate behavior remains limited. In Indonesia, PRISMA functions as a voluntary self-assessment tool managed by the Ministry of Human Rights, but it lacks inter-ministerial coordination and independent verification. In Vietnam, although RAN 2023 introduces multi-stakeholder engagement, it remains fragmented across ministries, lacking centralized oversight and clear accountability mechanisms. Some human rights violations in business remain widespread and are handled by related sectors.

Third, the corporate sector in both jurisdictions often views Human Rights Due Diligence as an administrative cost rather than a strategic investment. The absence of tangible economic or legal incentives has led to low participation and minimal enforcement. In the

Vietnamese context, as reflected in Dr. Nguyen's research, HRDD has begun to reshape business conduct by moving companies away from merely responding to external social audits toward a more internal and continuous compliance process. Nevertheless, this shift remains limited because legal awareness remains low, policy and regulatory gaps persist, and the civil society space for human rights oversight

continues to narrow. These factors explain why the implementation results in both countries appear similar: the form of adoption is in place, but the substance of enforcement remains weak.

This contrast highlights that progress in implementing BHR depends not only on the adoption of the RAN but also on embedding the UNGP into domestic norms and enforceable institutional routines.

Table 3.3.1. Comparisons between Vietnam and Indonesia in Implementing the UNGPs on BHR

Aspect	Vietnam	Indonesia
Regulation	NAP is clear and operational	Stranas is still general and not detailed
Drafting Approach	Participatory and collaborative	Participatory, <i>Top-down</i> and more technocratic
HRDD & Risk Assessment	Set to become mandatory, but no specific platform on business and human rights assessments	Voluntary which will later be directed to become mandatory through PRISMA
Company Compliance	Compliance figures are not yet available	Compliance data can be seen, but there is still resistance from companies
Evaluation Mechanism	There is already an evaluation cycle and NAP updates	There is already an evaluation cycle and NAP updates

The difference, however, lies in the level of institutional readiness. Vietnam's NAP shows greater procedural clarity and external support (especially from the UNDP), while Indonesia shows greater regulatory ambition but weaker implementation and monitoring. This contrast highlights that progress in implementing BHR depends not only on the adoption of the RAN, but also on embedding the UNGP into domestic norms and enforceable institutional routines.⁴

4. Conclusion

The adoption of the UNGPs on BHR has implications for corporations, making them responsible for human rights violations arising from their business activities. *The* instrument is a soft law that does not impose an obligation on states to ratify it, which has implications for the few countries that have adopted it. ASEAN is no exception, where there are only 3 countries with active status and 1 country with other status.

Vietnam is classified as an active country that already have a NAP, meanwhile, Indonesia is classified as other because previously, Indonesia had a NAP BHR with a period of 2023-2025 (expired) and was in the process of being developed again in the next period. Although both are still in the early stages of implementation and require refinement, Indonesia has issued Presidential Regulation No. 60 of 2023 on the National Strategy for Business and Human Rights (Stranas BHR), while Vietnam has adopted the National Action Plan to Promote Responsible Business Practices in 2023. Then, in its journey, Vietnam tends to be more systematic and participatory, yet still a little conservative in its regulatory aspects, and it involves various stakeholders, such as civil society. Meanwhile, Indonesia, although it already has a self-assessment platform such as PRISMA, still makes it voluntary and has not addressed the law enforcement aspect. However, in the future, a mandatory second-generation Stranas regulation is projected.

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