

HUMAN RIGHTS DISCLOSURE IN ASEAN

A collaboration
between the ASEAN
CSR Network, the
Institute of Human
Rights and Peace
Studies, Mahidol
University and
Article 30

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EXECUTIVE SUMMARY



Mahidol University
Project for the Establishment of
The Institute of Human Right
and Peace Studies



ARTICLE | THIRTY

BUSINESS &
HUMAN RIGHTS

LIST OF ABBREVIATIONS

ACN	ASEAN CSR Network
ACWC	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children
AEC	ASEAN Economic Community
AICHR	ASEAN Intergovernmental Commission on Human Rights
ASEAN	Association of Southeast Asian Nations
BHR	Business and Human Rights
CSOs	Civil Society Organizations
CSR	Corporate Social Responsibility
ESG	Environmental, Social and Governance
GLCs	Government-Linked Companies
GRI	Global Reporting Initiative
HR/PUB/11/04	Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework
HRDD	Human Rights Due Diligence
HRIA	Human Rights Impact Assessment
IDX	Indonesia Stock Exchange
IGWG	Intergovernmental Working Group
IHRP	Institute of Human Rights and Peace Studies
ILO	International Labour Organization
NAPs	National Action Plans
NHRIs	National Human Rights Institutions
OSH	Occupational Safety and Health
PSE	Philippine Stock Exchange
PWD	Persons with Disabilities
RBC	Responsible Business Conduct
SDGs	Sustainable Development Goals
SET	Stock Exchange of Thailand
SGX	Singapore Exchange
SOE	State-Owned Enterprise
SOGI	Sexual Orientation and Gender Identity
UNGC	United Nations Global Compact
UNGPs	United Nations Guiding Principles on Business and Human Rights
TAFEP	Tripartite Alliance for Fair Employment Practices

ABOUT CONTRIBUTING PARTIES

About ASEAN CSR Network (ACN)

Founded in December 2010, ASEAN CSR Network (ACN), an accredited ASEAN entity, is a regional network that promotes responsible business conduct, to achieve a sustainable, equitable and inclusive ASEAN Community. Its vision is to create a responsible business community that makes ASEAN a better place to live for all. ACN creates change by influencing and working with different actors, ranging from ASEAN bodies, ASEAN member states to the private sector, civil society and international organisations, who have the power to influence the way businesses operate. It provides a platform for networking and cooperation at the ASEAN level, supports capacity-building and training activities, helps catalyse thought leadership and collective actions on CSR and key related issues including business integrity, business and human rights, gender equality, and environmental sustainability.

For more information, please visit www.asean-csr-network.org.

About the Institute of Human Rights and Peace Studies, Mahidol University (IHRP)

The Institute of Human Rights and Peace Studies (IHRP) is the result of a recent merger between Mahidol University's Center for Human Rights Studies and Social Development (est. 1998) and the Research Center for Peacebuilding (est. 2004). IHRP combines the experience and perspective both centers have to offer. IHRP is uniquely interdisciplinary and is redefining the fields of peace, conflict, justice and human rights studies, in the Asian Pacific region and beyond. The IHRP is committed to the advancement of human rights and peace by educating human rights and peace practitioners, promoting outreach programs to community and international organizations and conducting cutting edge research on important issues.

For more information, please visit www.ihrp.mahidol.ac.th/

About Article 30

Article 30 promotes innovation and best practices in the field of business and human rights. We do this by producing cutting-edge content and offering expertise on both the letter and spirit of human rights in commercial contexts. Our team combines legal, political, and social practitioners with widely varied backgrounds and experiences. Technical compliance with the UN Guiding Principles is important, but it is only a starting point for Article 30. Article 30 is about the deeper purpose of human rights: meaningful change, reckoning with tough challenges, mobilizing innovative ideas, enabling people to take action on their own behalf, and realizing new levels of buy-in, resiliency and sustainability.

For more information, please visit www.article30.org/

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EXECUTIVE SUMMARY

When the UN Human Rights Council unanimously endorsed the United Nations Guiding Principles on Business and Human Rights (UNGPs) in June 2011, the Guiding Principles became the authoritative global norm and an objective measure of social responsibility and sustainability. Under the UNGPs, States are to protect human rights, business enterprises are to respect human rights and both States and business enterprises must ensure effective remediation should violations or harm occur. As part of their responsibility to respect human rights, business enterprises are to disclose at least 21 points of information as detailed in HR/PUB/11/04: “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework”. Human rights disclosure tells stakeholders what kind of strategy or system companies have in place to manage their human rights impact. This collaborative study between ASEAN CSR Network, the Institute of Human Rights and Peace Studies, Mahidol University and Article 30 sought to establish a baseline understanding of human rights disclosure in the region by probing material made available by the top 50 publicly listed companies in the stock exchanges of Indonesia, Malaysia, the Philippines, Singapore and Thailand. As the aim was to establish a regional baseline and encourage good examples, the report does not name, shame or praise companies relative to specific content.

“At present, human rights disclosure among top-listed companies in ASEAN falls substantially short of the benchmark set by the UNGPs.”

At present, human rights disclosure among top-listed companies in ASEAN falls substantially short of the benchmark set by the UNGPs. The lagging human rights disclosure in ASEAN reflects a lack of specific guidelines and oversight from national and regional authorities. It also shows that, as a collective, companies in the region have been marginally responsive to the global business and human rights (BHR) push. This is increasingly noteworthy as the UN Human Rights Council’s Open-Ended Intergovernmental Working Group (IGWG) on transnational corporations and other business enterprises with respect to human rights published the ‘Zero Draft’ of a Business and Human Rights Treaty in July 2018. Such developments indicate a field that is evolving swiftly, even if not linearly, creating a situation where parties can become under or unprepared and non-compliant without realizing it. This study provides a baseline for stakeholders in ASEAN to move forward. By identifying disclosure gaps, offering good examples from the region and highlighting points of leverage such as National Action Plans (NAPs) and stock exchange disclosure regulations, the study aims to inform efforts to align with the UNGPs and prepare ASEAN governments and companies for the possibility of a legally-binding treaty.

Key Findings

- Currently, human rights disclosure in Indonesia, Malaysia, the Philippines, Singapore and Thailand falls substantially short of the international norm set in the UNGPs both in terms of extent and quality.
- There appears a strong correlation between the level of human rights disclosure in a country and the Environmental, Social and Governance (ESG) disclosure rules, requirements and guidance mechanisms of the stock exchange in that country. Stock exchange regulations may be a potent catalyst for mainstreaming the responsibility to respect human rights in ASEAN.
- The presence of dedicated human rights policies serves as a strong indicator in determining whether a company has processes in place that live up to the standards the UNGPs call for.
- In select cases, some of the lowest-listed companies scored better than top-listed companies in the same country.
- Despite the spotlight on human trafficking in the region, the regional prominence of the Palermo Protocol and the ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children, only 15.6% of top-listed companies make any mention of human trafficking as a focal issue.

Methodology

To assess the aforementioned 250 top-listed companies in ASEAN, the research team closely analysed Pillar II of the UNGPs, the corporate responsibility to respect human rights, and converted 21 points of requisite disclosure to 21 diagnostic questions that seek to assess the maturity of human rights disclosure in a company. These 21 diagnostic questions were then grouped into six categories: Fundamental Human Rights Commitments; Policy Statements on Human Rights; Operational Information; Due Diligence; Monitoring and Reporting; and Claims and Remediation. Grouping the 21 diagnostic questions helped to streamline the report and made it possible to identify trends. However, the report refers to particular diagnostic questions (ex. diagnostic Qx) whenever those questions reveal important insights and added value that might otherwise be lost. Beyond measuring human rights disclosure vis-a-vis the UNGPs, the study utilized nine additional diagnostic questions to assess whether companies disclose information regarding some of the most salient and/or talked about human rights themes in ASEAN. These are human rights themes that all top-listed companies in the region need to manage. In all, each company was scored against the following 30-point diagnostic framework ¹:

1. Please refer to Annex for full description of the diagnostic questions and their respective counterparts in the UNGPs.

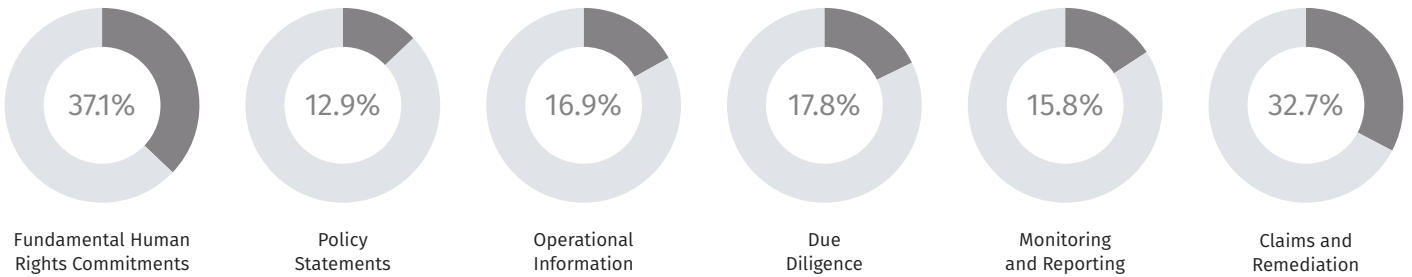
Diagnostic Framework

	Category	Question and Description	
UNGP DISCLOSURE	Fundamental human rights commitments	<p>1 Commitment to human rights</p> <p>4 Commitment to UN Guiding Principles on Business and Human Rights</p> <p>5 Commitment to international laws and standards</p>	
	Policy statements on human rights	<p>2 Statement of policy on human rights</p> <p>6 Policy approved by the most senior level of the company</p> <p>7 Persons / departments who helped to draft the policy</p> <p>8 Human rights experts help to draft the policy</p>	
	Operational information	<p>9 Communicate the human rights policy across the supply chain</p> <p>10 Person / department to operationalize human rights efforts</p> <p>11 Process / protocols for human rights efforts</p>	
	Due diligence	<p>12 Human rights due diligence efforts</p> <p>13 Stakeholders engagement during due diligence process</p>	
	Monitoring and reporting	<p>3 Central source of human rights information</p> <p>14 Result of human rights due diligence</p> <p>15 Track performance or effectiveness of human rights efforts</p> <p>16 Identify salient human rights issues</p> <p>17 How the company manage salient human rights issues</p>	
	Claims and remediation	<p>18 Direct stakeholders to a channel</p> <p>19 Complaints handling</p> <p>20 Remediation process and mechanisms</p> <p>21 Correct areas of concern</p>	
	THEMATIC DISCLOSURE	Thematic questions	<p>22 Commit to non-discrimination</p> <p>23 Commit to combat forced labour</p> <p>24 Commit to combat human trafficking</p> <p>25 Commit to combat child labour</p> <p>26 Commit to combat sexual harassment</p> <p>27 Commit to safe and healthy work conditions</p> <p>28 Commit to freedom of association and collective bargaining</p> <p>29 Commit to protection of the environment</p> <p>30 Commit to protect the rights of the person with disabilities</p>

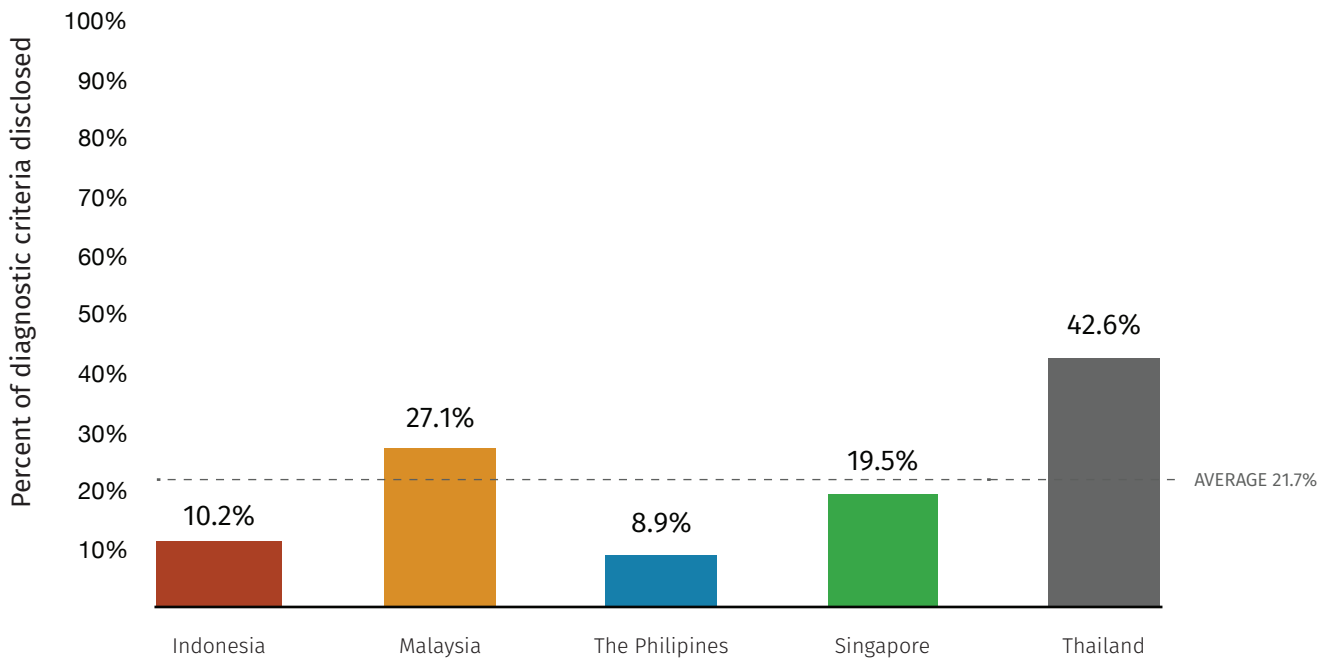
UNGP Disclosure Across Select ASEAN Countries

Average UNGP Diagnostic Disclosure Scores Across All 250 Companies by Category

The companies in focus currently disclose the most information under the category of Fundamental Human Rights Commitments and the least information under the category of Policy Statements. This reflects a situation where companies acknowledge human rights but do not specify how they intend to manage their human rights footprint.



Average Cumulative Score of the Top-Listed 50 Companies in Each Country Against the 21 UNGP Diagnostic Questions



When assessed against the sum disclosure expectations of the UNGPs, the collective of top-listed companies in Thailand stand apart. However, even the cohort in Thailand provides less than half of the information that is called for. Indonesia and the Philippines have the most room for improvement. This graph exhibits intra-regional gaps that deserve further study.

Country-Level Commitments to Human Rights

- Only 22% of companies in Indonesia have publicly available statements of policies on human rights²¹ (diagnostic Q2), meaning that less than a quarter of the top 50 companies listed on the Indonesia Stock Exchange (IDX) have any form of public human rights blueprint.
- With 84% of the top-listed companies in Malaysia making some type of commitment to human rights²¹ (diagnostic Q1), there is a foundation in place. Gaps remain particularly around dedicated statements of policies that indicate how companies manage their human rights impacts.
- Top-listed companies in the Philippines provide the least amount of information on human rights in the cohort. Only 34% of companies made any type of commitment to human rights in publicly available material (diagnostic Q1) and only 12% have a statement of policy on human rights (diagnostic Q2). No company in the Philippines made an explicit commitment to the UNGPs (diagnostic Q4) based on the review of available documents.
- Singapore's stock exchange, like those of Malaysia and Thailand, requires ESG disclosure as a listing rule. However, top-listed companies in Singapore are notably behind Malaysia, Thailand and the global trend in the domain of human rights disclosure.
- Thailand scored the highest amongst the select five countries and appears to be trailblazing on human rights disclosure in ASEAN. 94% of top-listed companies in Thailand make a commitment to human rights (diagnostic Q1).

2. Given the emphasis on human rights policy statements, it is worth presenting the key directives from HR/PUB/11/04: "Guiding Principles on Business and Human Right: Implementing the United Nations 'Protect, Respect and Remedy' Framework":

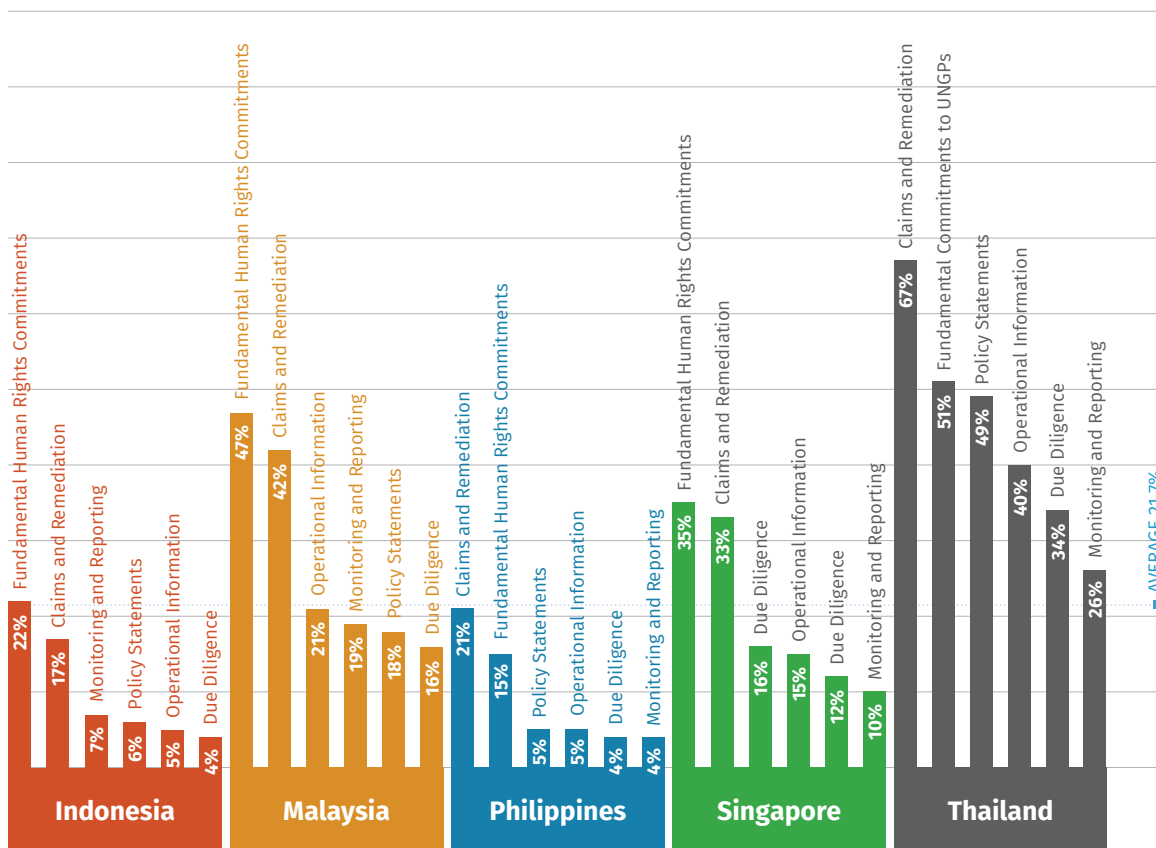
GP 15. In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including: (a) A policy commitment to meet their responsibility to respect human rights. ...

GP 16. As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy ...

3. This could be as brief and vague as a one-sentence mention of human rights in any company material or platform.

Comparative Illustration of the UNGP diagnostic disclosure scores, per country and category

Percentages represented in the graph are rounded to facilitate ease of reading.



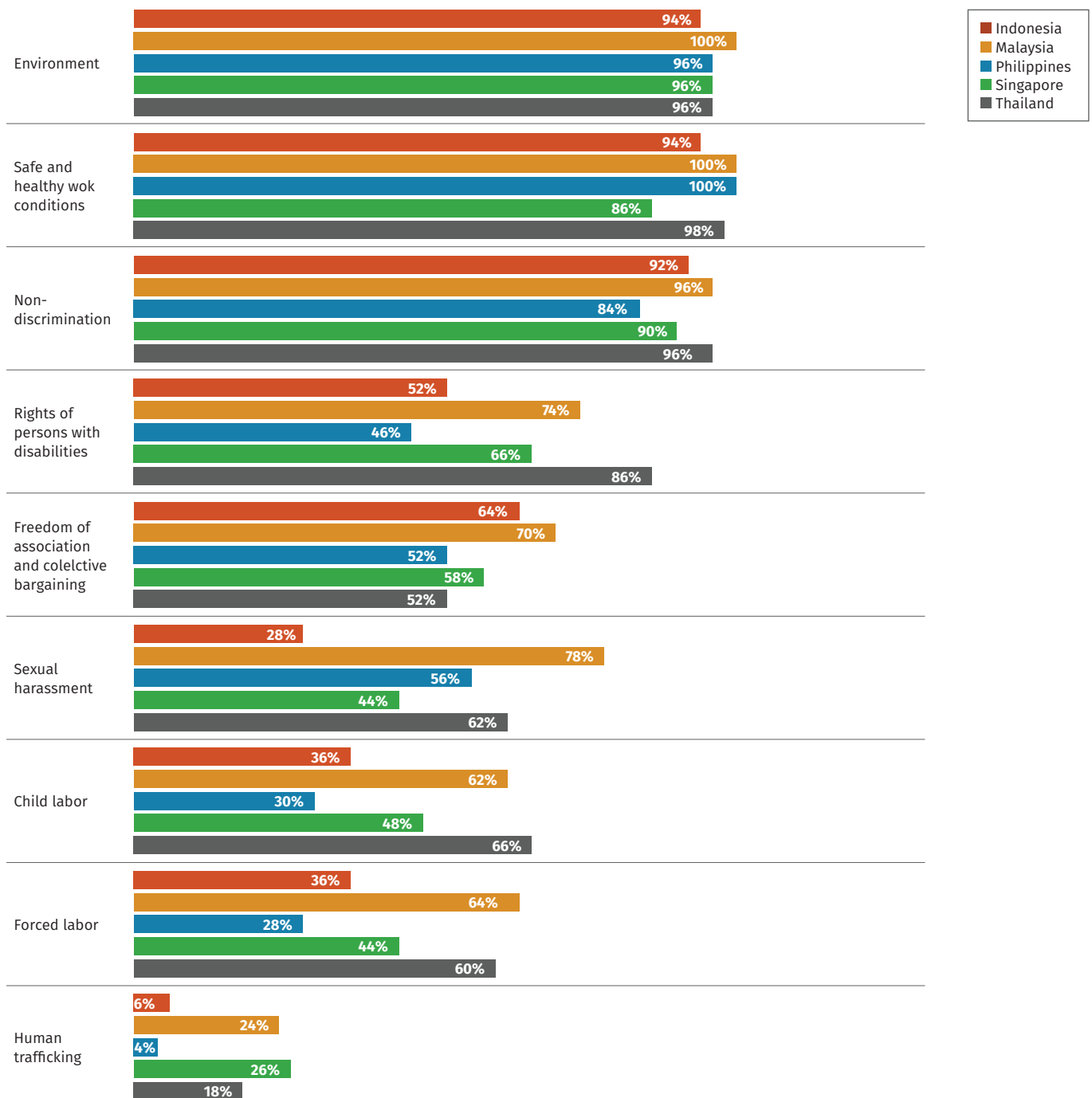
Thematic Diagnostic Disclosure Coverage Across Select ASEAN Countries

Average thematic diagnostic disclosure scores across all 250 companies

Almost all companies disclosed information related to protecting the environment (96% of companies), whereas less than 1 in 6 companies make mention of human trafficking.



Comparative scores of thematic diagnostic disclosure, per theme and country



Thematic coverage in certain areas varied widely. For instance, nearly 80% of the top-listed companies in Malaysia disclosed information around sexual harassment while less than 30% of companies disclosed such information in Indonesia. These may be areas for company-to-company learning opportunities in the region.

Top Ten Companies in Select ASEAN Countries

The following companies had the highest UNGP diagnostic disclosure scores across Indonesia, Malaysia, the Philippines, Singapore and Thailand and hence represent the most mature companies in select countries⁴.

N	Country	Company	GICS Description	HR Disclosure
1	Malaysia	SIME DARBY PLANTATION BHD	Consumer Staples	95%
1	Malaysia	SIME DARBY BERHAD	Industrials	95%
2	Singapore	WILMAR INTERNATIONAL LTD	Consumer Staples	90%
2	Thailand	CP ALL PCL	Consumer Staples	90%
2	Thailand	PTT GLOBAL CHEM	Materials	90%
2	Thailand	INDORAMA VENTURE	Materials	90%
3	Thailand	KASIKORNBANK PCL	Financials	86%
3	Thailand	PTT PCL	Energy	86%
3	Thailand	THAI OIL PCL	Energy	86%
3	Thailand	SIAM COMMERCIAL BANK PUB CO	Financials	86%

4. Several companies "tied" for the ranking of top three, thus we share all companies that achieve this ranking.

