2014

Baseline Study on the Nexus Between Corporate Social Responsiblity & Human Rights

An Overview of Policies & Practices in ASEAN

Report Prepared by Thomas Thomas (Leader) and Alexander Chandra (Member) of the Study Team on Business & Human Rights of the ASEAN Intergovernmental Commission on Human Rights (AICHR)

1. Background

The Member States of the Association of Southeast Asian Nations (ASEAN) are collectively undergoing a period of rapid economic development. As ASEAN continues to improve its competitive strength in the business arena and integrates itself into the global economy, there is a need to ensure that standards in corporate governance and accountability, transparency, and legitimacy are to be observed and maintained. Businesses that are based and/or operating in the ASEAN region are increasingly facing expectations to demonstrate that they operate in a responsible manner. Governments in the region are beginning to provide guidance to companies, including through agencies, such as national stock exchanges and corporate regulators, official investment insurance or guarantee agencies, and national human rights institutions (NHRI).

Parallel to this development, there is also a growing recognition given to the corporate social responsibility (CSR) as a relevant concept and tool for business entities to promote and protect human rights. In other words, good business practices do not only contribute to the promotion of and respect for human rights, but, conversely, the respect for human rights also makes very good business sense for companies as well as for States.

It is against this background that the ASEAN Intergovernmental Commission on Human Rights (AICHR) decided to pursue a baseline analysis on the nexus between business and human rights. Accordingly, the Commission set up an ad-hoc team (hereafter to be referred to as the 'Study Team') to implement the said study above. More specifically, the Baseline Study, as articulated in its Terms of Reference, is expected provide a comprehensive assessment on CSR as it relates to the promotion and protection of human rights in the ASEAN region. It was also expected that the outcome of the study could serve as the foundation for the establishment of a common framework to accelerate the promotion of CSR and human rights in the region. Aside from providing a better understanding of the current state of play in relation to the nexus between the two variables above, including the application of international standards in ASEAN context, this Baseline Study will also support policy development in line with the ASEAN Socio-Cultural Community Blueprint. The Blueprint's section on 'Social Justice and Rights' calls for CSR principles to be incorporated into the corporate agenda of businesses in the region and contribute towards the sustainable socio-economic development in ASEAN Member States (AMS).

It has to be emphasised from the beginning, however, that this baseline study should be viewed in light of the fact that ASEAN composes of Member States that are of different levels of socio-economic development. In addition, different AMS also hosts to a variety of different types of business enterprises and industry sectors. This, accordingly, necessitates the Study Team to employ a holistic and pragmatic approach in its assessment on the CSR and human rights nexus. The Study Team also calls for efforts to understand the unique situation faced by each AMS in this field, as well as common bases for future guidance. Whilst acknowledging the unique characteristics of ASEAN and its AMS, this Baseline Study will make strong reference with established internationally recognised frameworks, particularly such as the United Nations (UN) "Protect, Respect, and Remedy" framework for business and human rights, the subsequent Guiding Principles for Business and Human Rights, and other relevant internationally recognised tools and measurements to regulate corporate conducts. These include the United Nations Global Compact (UNGC) Principles, ILO Declaration on Fundamental Principles and Rights at Work, The ISO26000 International Guidance Standard on Social Responsibility and the Global Reporting Initiative.

2. About this Baseline Study

This Baseline Study on CSR and human rights is part of the Five Years Work Plan of the AICHR,[1] which would allow the Commission a better understanding on the emerging human rights-related issues pertaining to corporate conducts in the ASEAN region. According to the Baseline Study's terms of reference, the specific aims of this exercise are to, *inter alia*: (1) identify state practices in facilitating or encouraging CSR, including business respect for human rights, in each of the AMS, ranging from policies and processes to regulation and enforcement measures; (2) highlight CSR practices of ASEAN-based businesses as they relate to human rights; (3) explore the activities of various actors involved in the promotion of CSR, particularly with reference to human rights; (4) assess the level of engagement and dialogue between CSR promoters, AMS, and business entities, and identify areas where further engagement would be mutually beneficial, as well as tools and mechanisms that may help to facilitate such engagements; (5) identify various mechanisms, judicial and non-judicial, that would allow the victims of human rights abuses of corporate conducts to seek effective access to remedy; and, finally, (6) formulate initial recommendations to the region as a whole, including further works to be carried out, to develop a common framework to accelerate the promotion of CSR and human rights in the region.

The implementation of this Baseline Study was carried out by a Study Team, which comprises two primary expert researchers, and ten members of National Focal Point, each nominated by each of the AICHR members. Aside from secondary sources available publicly, when and if relevant, much of the inputs gathered for this Baseline Study were collected through national-level consultations carried out by each of the National Focal Point. In some cases, inputs gathering exercises were also made possible by the participation of member of the Study Team in various public policy discussion fora organised by various state- and non-state entities across the region. The Study Team, subsequently, consolidated and performed a comparative analysis of the data and research collected by the National Focal Points.

3. CSR and Human Rights: What and Where are the Linkages?

3.1. Understanding CSR

Despite its astounding ascendancy in recent years, the principles of CSR have actually been an integral part of enlightened business practices for quite sometimes now (Jamali and Mirshak, 2006: 244). The unfortunate lack of consensus on the definition of CSR, however, has led experts and practitioners define and interpret the term freely as best fits their purpose, resulting in definitions and interpretations that are often biased by underlying value-judgements and ideologies (Kristoffersen *et al.*, 2005: 2). Notwithstanding this fact, CSR has often been understood as firms' responsibility not only for the economic consequences of their activities, but also for their social and environmental implications (AHRC, 2008). It encompasses not only what companies do with their profits, but also how they make them. The current understanding of CSR should go beyond philanthropy and compliance, and addresses how firms manage their economic, social, and environmental impacts, as well as their relationship in all key spheres of influence, such as the workplace, the marketplace, the supply chain, the community, and the public policy realm (CSRI, 2008).[2]

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[1] AICHR's Five Year Work Plan also identifies other nine thematic studies on the issues relating to human rights, which are either being carried out at the moment, or to be conducted sometimes in the near future. These additional thematic studies would cover issues such as migration, trafficking in person (particularly women and children), child soldiers, women and children in conflicts and disasters, juvenile justice, the right to information in criminal justice, the rights to health, the rights to education, the rights to life, and the rights to peace. Further information concerning AICHR's Five Year Workplan can be accessed from the official website of the Commission at (accessed 19 December 2013): http://aichr.org/documents/

[2] Amongst some relevant definitions of CSR include that of the UN Global Compact (2013: 4), which defines the term as 'a company's delivery of long-term value in financial, social, environmental, and ethical terms', and that of the European

These days, although the term CSR is often used interchangeably with those of corporate responsibility, corporate citizenship, social enterprise, sustainability, sustainable development, triple-bottom line, corporate ethics, and/or corporate governance, each with their own interpretations of good business conducts, all these terms point to the same directions – that is the increasing demand for firms to contribute to sustainable development, to engage in public-private partnership and the necessity for them to be accountable not only to their shareholders, but also to other stakeholders, such as their employees, consumers, suppliers, local communities, policy-makers, and society at large (CSRI, 2008). There is also a rising convergence in CSR principles and practice among the slew of initiatives and tools.

3.2. Why Use CSR as a Tool to Promote and Protect Human Rights?

There are at least two major reasons why CSR can be a useful tool to assist the promotion and protection of human rights. Firstly, there is an increasing evidence that a growing number of firms, especially large ones, are integrating CSR in their core business activities. The shrinking role and resources of government to adequately address socio-economic problems in their territories and the increasing demand and pressures from investors and consumers for firms to act socially responsibly are some of the key drivers that encourage firms to utilise CSR in their core business activities. Accordingly, the use of CSR as a tool to promote and protect human rights does not necessarily create an additional obligation for firms, but, instead, encourage firms to sharpen their CSR activities to cover the issue of human rights.

Secondly, as in the case with the promotion of CSR within the firms itself, increased media attention on the roles that firms play in instigating human rights abuses globally has also led to increased awareness amongst investors and consumers to pressure firms to pursue business conducts that are human rights sensitive. A recent survey amongst 1,000 adults of 18 years or older in November 2013 by the KPMG, for instance, suggests that nearly 70 percent of consumers under the age of 30 consider social issues, such as sustainability, human rights, and fair trade before making their purchases.[3] Although the above-mentioned survey focused on the US-based consumers, the so-called Generation 'X' and 'Y' of Southeast Asia are likely to catch up with this trend sooner or later. Overall, there is certainly an increasing recognition amongst firms that the respect towards human rights can add value to their businesses.

Precisely because of this that there are now increasing number of firms that incorporate human rights considerations in their upstream (e.g. policy) and downstream (e.g. practice and evaluation) CSR strategy. The Japanese electronics giant, Toshiba, for instance, has incorporated human rights in its CSR, as well as its wider activities. Its so-called 'Standards of Conduct' stipulates the necessity of the firm and its subsidiaries to adhere 'to all relevant laws and regulations, respect for fundamental human rights, and prohibition of discriminatory treatment, child labour and forced labour'.[4] Moreover, despite being frequently accused of being a human rights violator, the operation of the British Petroleum (BP) in Indonesia is increasingly guided by the firm's human rights policy, which the

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Union's (EU) that describes the CSR as 'a concept whereby companies integrate social and environmental concernin in their business operations and in their interactions with their stakeholders on a voluntary basis' (European Commission, 2011: 3). Another relevant definition for CSR is provided by the ISO 26000 (n.d.), which refers CSR as the 'responsibility of an organisation for the impacts of its decisions and activities on society and the environment through transparent and ethical behaviour that [: (1) contributes to sustainable development, including health and the welfare of the society; (2) takes into account the expectations of stakeholders; (3) is in compliance with the applicable law and consistent with international norms of behaviour; and (4) Is integrated throughout the organisation and practiced in its relationship'.

[3] As quoted from the PR Newswire (2013).

[4] As highlighted in the CSR Section of the official website of Toshiba at (accessed 19 December 2013): http://www.toshiba.co.jp/csr/en/performance/human_rights/policy.htm

firm claims to be in line with the UN Universal Declaration of Human Rights and the Voluntary Principles on Security and Human Rights.[5]

Increasingly, furthermore, formal collaborations amongst major multinational corporations (MNCs) to advance the promotion of human rights are also common these days. One such collaborations can be seen in the framework of the Global Business Initiative on Human Rights (GBI), which was launched in 2009 with the aim of advancing human rights in a business context around the world. Led by a core group of 18 major MNCs headquartered across the globe, the GBI's activities are focused not only on the recognition on the importance of firms from all global regions to commit to human rights protection, but also on the deepening of peer learning whereby the firms involved in the initiative could share best practices in the advancement of human rights in their business activities.[6]

In addition to these initiatives, CSR activities today are also complemented with a range of global corporate governance tools and measurements that could potentially enhance firms' commitments to high business practices and standards. Amongst some of these initiatives include, *inter alia*, ISO 26000,[7] the United Nations Global Compact (UNGC),[8] Global Reporting Initiative (GRI),[9] Extractive Industries Transparency Initiative (EITI),[10] and, of course, the already mentioned UN Guiding Principles on Business and Human Rights (UNGP).[11] Recently, there has also been an effort to develop a twin standards for human rights reporting and assurance. Dubbed as the Business and Human Rights

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[5] As highlighted in the official website of the BP at (accessed 19 December 2013): http://www.bp.com/sectiongenericarticle.do?categoryId=9004774&contentId=7009150

[6] The activities of the GBI are built on the pioneering work of the now defunct Business Leaders Initiative on Human Rights. A more detailed information concerning the GBI is available on the Initiative's official website at (accessed 19 December 2013): http://www.global-business-initiative.org/

[7] Launched in 2010, ISO 26000 provides guidance on the ways in which businesses and organisations can operate in a socially responsible way. Unlike other ISO standards which requires certification, ISO 26000 only works as a guidance to assist firms to act in an ethical and transparent way that contributes to sustainable development, including the health and welfare of society. Aside from clarifying the definition of social responsibility, ISO 26000 also assists businesses and organisations translate principles into effective actions and allows the sharing of best practices relating to social responsibility at the global level. Further information concerning ISO 26000 is available from its official website at (accessed 2 January 2014): http://www.iso.org/iso/home/standards/iso26000.htm

[8] The UNGC is a strategic policy initiative by the UN to encorage businesses to align their operations and strategies with the ten universally accepted principles in the areas of human rights, labour, environment, and anti-corruption. It was expected that, by doing so, businesses, as primary driver of globalisation, can help ensure that markets, commerce, technology, and finance advance in ways that benefit economies and societies everywhere. It is the largest corporate sustainability initiative in the world, with arond 10,000 signatories based in more than 140 countries. Further information concerning the UNGC initiative is available from its official website at (accessed 2 January 2013): http://www.unglobalcompact.org/

[9] The GRI is a leading organisation is a non-profit organisation that promotes economic sustainability. More specifically, it promotes the use of sustainability reporting as a way for organisations to become more sustainable and contribute to sustainable development. Its sustainability reporting is also known as the Ecological Footprint Reporting, the Environmental Social Governance Reporting, the Triple Bottom Line Reporting, and the Corporate Social Responsibility Reporting. Further information concerning the GRI is available from its official website at (accessed 2 January 2014): https://www.globalreporting.org/Pages/default.aspx

[10] EITI is a global collaboration of governments, firms, and civil society to improve the openness and accountable management of revenues from natural resources. Countries that implement the EITI standard are expected to ensure full disclosre of taxes and other payments made by oil, gas, and mining companies to governments. These payments, subsequently, are to be pblished in the annual EITI report, which is available publicly. Further information on the EITI is available from its official website at (accessed 2 Janary 2014): http://www.eiti.org

[11] The UNGPs are a global standar for preventing and addressing the adverse impacts on human rights linked to business activity. It was unanimously endorsed by the United Nations Human Rights Council as the framework for corporate human rights responsibility initiative of the UN. It encompanses three main pillars on the ways in which businesses could implement the framework, which include: (1) state duty to protect human rights; (2) corporate responsibility to respect human rights; and (3) access to remedy for victims of business-related abuses. Further information concerning the UNGP is available from, inter alia, Business and Human Rights Resource Center's official website at (accessed 2 January 2014): http://www.business-humanrights.org/SpecialRepPortal/Home/Protect-Respect-Remedy-Framework/GuidingPrinciples

'Reporting and Assurance Framework Initiative' (RAFI), the project, which is currently being developed by Mazars, a global auditing and accounting firm, and Shift, a non-profit centre on business and human rights, has specific aims to introduce not only a standard for companies to issue a Human Rights Statement that states the extent to which their internal policies and processes align with the NGP (the 'reporting standard'), but also a standard for independent human rights assurance providers to provide a Human Rights Assurance that attests that the company's Human Rights Statement is a fair representation (the 'assurance standard') (Mazars and Shift, 2013: 3).[12] Overall, all these tools and measurements do not only assist the improvement of firms' internal governance, but they can also serve as voluntary platforms to expand further the accountability and transparency of their corporate conducts *vis-a-vis* the wider public.

3.3. Potential limitations of CSR in addressing business and human rights nexus

Whilst possessing much potential to serve as a corporate governance tool, CSR might not be the most comprehensive approach to address the complex relations between business and human rights. Aside from the fact that most firms are still coming to grip with their human rights responsibilities as a result of the relatively recent emergence of a comprehensive legal framework surrounding business and human rights (Johnson, 2013), there are at least five other potentially weak points of CSR as a tool to bridge business and human rights relationship. Some of these points can be interrelated to one another.

Firstly, CSR, since its inception, has been generally thought of as a 'voluntary' initiative undertaken by firms to operate in an economically, socially, environmentally sustainable manner. Whilst there is increasing evidence of multinational firms' willingness to adopt a human-rights sensitive CSR, there is little guarantee that all 'voluntary' CSR initiatives can be human rights friendly. Indeed, as argued by Middleton and Pritchard (2013: 61), although CSR policies have the potential to commit business to high standards of practice in the absence of rigorous legal requirements by the state, they can also be used as a means to hide poor practices behind public relation campaigns. To a large extent, the true nature of CSR activities remains ambiguous in the mind of business and policy decision-makers in Asia generally (Debroux, 2006: 17). Moreover, the relatively high levels of corruption, weak civil and political rights, and constrained media in ASEAN might render CSR an ineffective tool to address the complex business-human rights relationship (Middleton and Pritchard, 2013: 61).

Secondly, and in relation with the first point above, the majority of CSR activities carried out by firms in Asia remains philanthropic in nature. Though it is true that, in the context of Asia, the so-called 'classical philanthropy', such as building schools, hospitals, and cultural institutions, is far from being an added-on and is driven by social necessity (Sharma, 2013: 29), firms in the region, by and large, are still lagging behind in comparison to their Western counterparts in taking into account wider strategic social considerations, such as human rights and employment, into their CSR activities (Debroux, 2006: 19).[13]

Thirdly, in line with the first two points above, although many of CSR activities originate in the field or from the staff in a 'bottom-up' approach, many of such initiatives are also determined through a 'top-bottom' approach, with top executive management makes key decision on the way in which their CSR initiatives are to be formulated and implemented (Rangan, 2012: 3). In contrast, human rights, by its

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[12] The initial consultations on the development of this project has been focused on ASEAN. Further information concerning RAFI is available from the official website of the Shift at (accessed 7 January 2014):
http://shiftproject.org/project/human-rights-reporting-and-assurance-frameworks-initiative-rafi

[13] Elsewhere, however, Debroux (2008: 25) also observes that recent initiatives from Asian firms show that they become more active in this respect. Whilst for the time being the focus on environmental issues is dominant, a growing number of Asian firms are also starting to adopt CSR practices and reporting standards embedding a broader definition of CSR, including responsibility vis-a-vis workers and human rights.

very nature, is a 'bottom-up' process – in that it is based on the inherent dignity of every person, and these include basic rights and freedoms to which all humans are entitled (Avery, 2006). When it comes to human rights, as Avery further maintains, however, firms do not necessarily get to pick and choose from a range of issues with which they feel comfortable to work on. Accordingly, whilst there is certainly a strong 'business case' for respecting human rights, firms should be obliged to respect human rights at all times, not just when it suits them.

In fact, from human rights law perspective, not only that it is a complex task to identify the human rights content of CSR, it is equally challenging to identify the obligations of firms in relation to issues such as labour standards and international crimes, most of which due to uncertainty of rules regulating these issues, as well as the non-legal nature of the substantial part of these obligations (Ogutuga, 2010:). Accordingly, as Ogutuga emphasises further in his argument, CSR does not necessarily add any extra 'protection' in the protection of human rights. Since the application of international and domestic constitutional law of human rights in the territory of a country is unequivocal and applicable to all organisations, such as government bodies, firms, etc., the scope of human rights norms application should be limited to 'human rights' which can be directly affected by firms.

Fourthly, it is also important to stress that corporate behaviours these days are also affected by international commercial treaties (e.g. trade and investment). Unfortunately, the existing trends of CSR in Southeast Asia (e.g. 'voluntary', 'top-bottom', and 'philanthropic') are insufficient means for businesses to respect human rights. Despite their apparent differences of normative priorities regarding efficiency and justice, the discourses on international commercial treaties and human rights have multiple related contexts and mutual influences (Potter, 2012: vi). For instance, states' obligations under the World Trade Organisation (WTO) and international investment treaties may constrain regulatory measures to ensure business to respect human rights and to prevent business activities that could result in social and environmental harm (Lim 2013: 45). Two cases below highlights the way in which international commercial treaties, which are essential legal frameworks with which transnational firms could pursue their cross-border operations, could potentially hamper the promotion and protection of human rights.

The first case looks at the linkages between international trade agreements, intellectual property rights (IPR), and access to medicine. Whilst it is true that intellectual property regime generally seeks to balance the moral and economic rights of creators and investors with the wider interests and needs of the society (Chapman, 1998: 1), it is also widely recognised that the call by many pharmaceutical lobby groups, especially those from developed countries, for the expansion of patent protection through free trade agreements (FTAs) increases not only the price of medications, but also limit the accessibility of affordable medicines by the poor. Unfortunately, fearful of sanctions and desires of increased tariffs liberalisation, developing countries often trade away IPR provisions with important public health implications for ostensible economic benefits (Brennan *et al.*, 2013: 6). In the current negotiations of the US-led Trans-Pacific Partnership (TPP), for instance, major humanitarian organisations, such as *Medecines Sans Frontier* (Doctors Without Borders), argue that the new IPR rules to be imposed by the TPP could severely restrict access to affordable, life-saving medicines for millions of people (MSF, 2012: 1), especially those in developing and least-developed countries.

The concern over the increase price of medicines is not only prevalent amongst developing and the least developed nations, but is also increasingly common even amongst some developed countries. The Pharmaceutical Benefit Scheme (PBS) is a pharmaceutical pricing scheme that was introduced by the Australian government in 1948 to address concerns on the availability of vital new medicines, such as penicillin, to all Australians. Overtime, the scheme has turned into a multi-billion dollar subsidy to health consumers where the federal government would fund any difference between the maximum co-payment and the full price paid to the pharmaceutical firms. A year leading to the completion of

the US-Australia FTA, however, US pharmaceutical industry lobby group, the Pharmaceutical Research and Manufacturers of America (PhRMA), and its counterpart in Australia, Medicines Australia, mounted a campaign to convince negotiators from both sides that Australian PBS is a barrier to trade. These lobby groups argued that the Australian PBS was in need of major reform so as to allow a 'win-win' FTA for both sides. The attack on the PBS provides a compelling example on the way in which free trade arguments are enlisted to undermine social policies that act not as barriers to trade, but to excess profit (Hamilton *et al.*, 2013: 373-375).[14]

Another case underlines the potential problems that international investment treaties may have on the promotion and protection of human rights. As in the case with many of its neighbours in the region, Australia has signed numerous bilateral investment treaties (BITs) since the end of 1980s. A number of its FTAs also cover Investment Chapter, which includes the so-called investor-state arbitration provisions (Mangan, 2010).[15] Using the 1993 Australia-Hong Kong BIT, Philip Morris Asia (PMA), which is based in Hong Kong, filed a lawsuit against the Australian government over the latter's decision to make plain packaging mandatory for cigarettes from December 2012.[16] This policy was aimed for the purpose of curbing cigarette smoking in the country. Whilst Canberra stated that the law was 'one of the most momentous public health measures in Australia's history' (BBC News, 2011), the PMA argued that this new policy would have adverse impacts on the industry, such as the increase of counterfeit cigarette in the market, and, consequently, the loss of profit (PMA, 2011). This case illustrates the ability of giant global corporations to abuse international commercial treaties, often at the expense of human rights protection.

Finally, much of the current debates on CSR and human rights nexus have been centred on large companies, with little attention given to small- and medium-sized enterprises (SMEs). Indeed, not only that the vast media attention given to large companies has made them particularly concerned to protect and enhance their reputation, they are also generally better resourced to invest in CSR activities compared to their SME counterparts (Smith, 2013). With regard to human rights, however, SMEs can be as responsible as large companies in instigating the infringement of human rights. Given the large proportion of SMEs in many economies, their policies and actions can have considerable impacts to social (e.g. income, working conditions, and working environment) and environmental (e.g. pollution) issues (Jeppesen *et al.*, 2012: 9). Small- and medium-sized Batik[17] producers in Solo, Indonesia, for example, has been alleged to have dumped large amount of their waste to the Jenes River that runs through the city. The scale of the pollution in the river prompted the local authority to initiate a capacity building initiative to allow SMEs to better manage their waste (Solo Pos, 2012).

Whilst some attentions have recently been given to the potential role of SMEs to protect human rights at the global level, such efforts remain work in progress. This perception is, of course, changing. SMEs are increasingly finding themselves as part of a value chain process where large companies demand their small and medium-sized suppliers to pay more attention to their sustainability performance (Smith, 2013). Notwithstanding this fact, if CSR is to serve as a means to improve corporate conducts in the area of human rights in ASEAN, it is imperative that this should cover firms of all sizes.

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[14] For other case examples covering the relationship between international commercial treaties and human rights, see, inter alia, Lim (2013: 45-51).

[15] ISA provision normally allows a home state's investor to bring claims directly against the host state for illegally interfering with its investment, thus strengthening the protection of the former's investment in the latter. Accordingly, we have witnessed the increase pressures from foreign investors for ISA provision to be added in the investment treaties that host states conclude with home states (Nottage, 2012: 2).

[16] Philip Morris is a US-based firm. Although Australia has an FTA with Australia, this FTA does not include a provision on investor-state dispute settlement. Such a provision, however, is available in Australia-Hong Kong BIT. Precisely because of this that Philip Morris decided to use its subsidiary in Hong Kong to file the lawsuit against the Australian government.

[17] Batik is an Indonesian traditional cloth that is made using a manual dyeing technique that has been selected in the cultural heritage list of the United Nations Educational, Scientific, and Cultural Organisation (UNESCO).

It is not surprising, therefore, that the use of CSR as a tool to address business and human rights nexus is often viewed with scepticism. Indeed, some national and regional human rights non-governmental organisations (NGOs) and civil society networks in ASEAN, such as the Asian Forum for Human Rights and Development (Forum-Asia) and the Solidarity for Asian People's Advocacy (SAPA) Task Force for ASEAN and Human Rights, for instance, have called the AICHR and ASEAN to adopt the so-called 'human rights-based approach to corporate accountability in ASEAN' instead. Aside from the fact that there is not yet an agreed upon definition of CSR and no authoritative assessment of the performance of CSR in ASEAN, the high tendencies towards high level of corruption, weak civil and political rights, and constrained media would likely increase the risks of poor business practices in the region. Accordingly, the ineffectiveness of 'voluntary' CSR approach reinforces the need for strong, enforceable and comprehensive corporate accountability standards at national and regional levels (Middleton and Pritchard, 2013: 61).

4. **Different approaches to CSR: Learning from Others**

CSR is increasingly becoming an integral policy component of many regional institutions across the world. The approach they take varies based their experience, values and national/regional priorities.

Amongst regional institutions is the European Union (EU), has since the early 1990s, urged its business community to take a more active stance against social exclusion. The formulation and implementation of CSR policy was used not only to maximise benefits and minimise negative impacts of economic integration, but also to achieve the overall equitable and inclusive growth. (M. Mohan, 2011)

In 2001, the European Commission produced a green paper, entitled: 'Promoting a European Framework for Corporate Social Responsibility', which outlined not only the grouping's CSR principles, but also introduced some tools, and set out numerous questions for relevant EU institutions to address in relation to CSR promotion in the region. In its 2008 European Competitiveness Report, the Commission also dedicated one whole chapter on the nexus between CSR and competitiveness. The Report specifically argues that CSR not only has a social, moral, and ethical imperative, but is also good business (The European Commission, 2009).[18]

Subsequently, on October 2011, the European Commission launched its renewed strategy for CSR for the 2011 to 2014 period as a follow up of its earlier commitments to enhance the promotion of CSR in the region.[19] In this strategic document, the European Commission (2011: 4) maintains that, whilst the economic crisis and its social consequences have, to some extent, damaged consumer confidence and level of trust in business, the renewing efforts to promote CSR were expected to create sustainable growth, responsible business behaviour, and durable employment generation in the medium- and long-term (p. 6).[20]

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[18] See, in particular, Chapter 5 of the 2008 European Competitiveness Report.

[19] For further details on the EU's renewed strategy on the CSR, see European Commission (2011).

[20] In its renewed strategy for CSR for the period of 2011-2014, the European Commission identified eight major agendas to be pursued, and these included: (1) the enhnacement of the visibility of CSR and the dissemination of good practices (such as through the creation of an European award, and the establishment of sector-based platforms for enterprises and stakeholders to make commitments and jointly monitor progress); (2) the improvement of trusts towards businesses (e.g. through the organisation of public debates on the role and potential of enterprises, etc.); (3) the development of a short protocol to guide the development of future self- and co-regulation initiatives; (4) the enhancement of market rewards for the implementation of responsible business conducts; (5) the improvement of firms' disclosure of social and environmental information; (6) the integration of CSR into education, training, and research; (7) the emphasis to be given to the importance of national and sub-national CSR policies; and (8) the alignment of European and global approaches to CSR (European Commission, 2011: 8-15).

In order to improve the promotion and implementation of CSR across the region, the EU also holds the so-called 'European Multistakeholder Forum on CSR' on a regular basis. The Forum, which was established in 2002, is hosted and facilitated by the European Commission and brings together representatives from European business communities, trade unions, non-governmental organisations (NGOs), and other stakeholder groups.[21]

Historically Japanese businesses had taken the interest of society in the conduct of business. The traditional Japanese business philosophy for business longevity, "Sanpo-Yoshi" finds its roots in the Omi merchants of over 800 years ago. It translates as "good for 3 parties", meaning the seller, buyer and society. [22]

The Japanese Business Federation (Keidanren), in continuing with the tradition of business as part of Society, playing a role in addressing social issues, incorporates CSR values in their "Charter of Corporate Behaviour" since 14 Sept 1991. This Charter has gone through several revisions keeping up to date with societal expectations and trends. The latest and 6th revision took place on 14th Sept 2010, and incorporates guidance from ISO26000, and in its foreword states "In recent years, the idea that all organisations should realize and discharge their social responsibility for sustainable development of Society".[23] 99% of Japanese company publishes a sustainability report on their operations to show their according to the KPMG International Survey of Corporate Responsibility Reporting 2011. [24]

Within the Japanese government leadership in CSR comes from the Ministry of Economy, Trade and Industry (METI). They coordinate CSR work with other government agencies, conduct research and organize multi stakeholder roundtable conferences to serve as a framework for collaborative efforts.[25]

In the US, the State Department has a Corporate Social Responsibility (CSR) team in the Bureau of Economic and Business Affairs to lead the Department's engagement with U.S. businesses in the promotion of responsible and ethical business practices. EB's CSR team coordinates a cross-functional, intra-departmental, and interagency team to provide support and guidance on major areas of responsible corporate conduct. They work with businesses to support, partner and promote the rule of law and respect for human rights. "The US expects companies to act in a responsible manner throughout their operations". The government actively supports the OECD Guidelines for Multinational Enterprises.[26]

US companies are global and has in reaction to expectations of stakeholders been responding with responsible business practices. They have leading examples in innovative CSR practices.

Within ASEAN, every National Focal Point has been able to cite good practices of companies in their country. There is no shortage of good practices in the AMS. This means that we can learn from each other to reach and go beyond global standards on CSR.

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[21] For further detail on the European Multistakeholder Forum on CSR, see, the European Commission (n.d.).

[22] Sanpo Yoshi is explained as: "When you go abroad to do business, it is most important to always keep in mind: -To make sure that the garments you are selling satisfy all customers in that country; - Think and act customers first; - Never aim for a short term high profit; - Be humble that you are dependent on God's blessing; - Do business with a caring mind for the people in the region; - Never lose faith in God in order not to have a malicious mind.
By so doing, you are in line with reason and will be able to keep a healthy body and mind." (source: www.meti.go.jp/english/policy/economy/corporate_accounting/pdf/121114_11.pdf

[23] www.keidanren.or.jp/english/policy/csr.htm

[24] http://www.kpmg.com/TW/zh/Documents/ccs/KPMG-international-corporate-responsibility-reporting-survey-2011.pdf

[25] http://www.meti.go.jp/english/policy/economy/corporate_accounting/pdf/121114_11.pdf

[26] http://www.humanrights.gov/2013/05/01/u-s-government-approach-on-business-and-human-rights/

5. The geographies of corporate social responsibility in the ASEAN region: Policies and practices

Table 1. Selected basic ASEAN indicators (as of 31 January 2014)

Countries	Total land area	Total population	Population density	Annual population growth	GDP at current prices	GDP / capita	
	Km^2	Thousands	Persons / Km^2	Percent	US$ million	US$	US$ million ppp
	2012	2012	2012	2012	2012	2012	2012
Brunei	5,769	399.8	69	1.7	16,969.7	42,445.5	55,399.6
Cambodia	181,035	14,741.4	81	1.5	14,411.2	977.6	2,515.6
Indonesia	1,860,360	244,775.8	132	1.5	878,223.4	3,587.9	4,971.4
Lao PDR	236,800	6,514.4	28	2.0	9,083.1	1,394.3	2,904.5
Malaysia	330,290	29,518.0	89	1.6	305,154.4	10,337.9	16,975.4
Myanmar	676,577	60,976.0	89	1.0	52,524.9	861.4	1,450.2
Philippines	300,000	97,690.9	326	1.9	250,542	2,564.6	4,339.4
Singapore	715	5,312.4	7,429	2.5	276,609.5	52,068.7	61,461.2
Thailand	513,120	67,912.0	132	0.5	366,126.6	5,391.2	9,610.8
Vietnam	330,951	88,772.9	268	1.1	141,669.1	1,595.9	3,706.5
ASEAN	**4.435,617**	**616,613.7**	**139**	**1.4**	**2,311,314.7**	**3,748.4**	**5,865.4**

Source: ASEAN Secretariat (2014).

Despite being around for quite sometimes now, CSR is relatively a new subject in the ASEAN region. Although skeptics argue that CSR, at least for the time being, is unlikely to become a decisive source of competitive advantage in the region (Debroux, 2006: 21), it is gaining popularity amongst businesses, albeit slowly and unevenly. It is important to note, however, that the ASEAN region is extremely diverse in many ways, and these are evidenced in the region's political, economic, socio-cultural structures. Table 1 highlights the diversity of the region, in terms of land area, population, and gross domestic product (GDP).

Table 2. Membership of the ACN and the UNGC business signatories across ASEAN (as of March 2014)

Countries	Member of the ACN?	Any UNGC business signatories?	Number of UNGC signatories	UNGC network?
Brunei Darussalam	No	No	1	No
Cambodia	No	No	0	No
Indonesia	Yes	Yes	111	Yes
Lao PDR	No	No	1	No
Malaysia	Yes	Yes	61	Yes
Myanmar	Yes	Yes	65	Yes
Philippines	Yes	Yes	55	Yes
Singapore	Yes	Yes	65	Yes
Thailand	Yes	Yes	36	No
Vietnam	Yes	Yes	66	Yes

Source: Authors' own research for the ACN, and UNGC (n.d.).

As in the case with its political, economic, and socio-cultural structures, the development of CSR in the region is also diverse. This, to a large extent, is a reflection of the fundamental differences amongst and the state of economic and social development, as well as priorities, for each of the AMS. The diversity of CSR development across the region can also be measured through, amongst other things, the representation of organisation from each of the AMS in the recently set up ASEAN CSR Network

(ACN)[27] and firms from each of the AMS signing up to the 10 Principles of the UN Global Compact (UNGC). Table 2 illustrates such a diversity.

In order to ease the analysis of policies and practices of CSR across the ASEAN region, the Study Team groups the ten AMS into three categories: Higher Income (Singapore and Brunei Darussalam), Middle Income (Indonesia, Malaysia, the Philipppines, Thailand, and Vietnam), and Lower Income (Cambodia, Lao PDR, and Myanmar).

5.1. ASEAN's higher income countries: Singapore and Brunei Darussalam

5.1.1. The enabling environment for corporate sustainability

- **National governments play a major role in setting the CSR agenda**

In Singapore and Brunei, the two smallest and wealthiest countries in the ASEAN region, government plays a large role in the development of the CSR agenda. With low rates of poverty and comprehensive social services provided by the government, the CSR agenda is focused on supporting national objectives and policies, especially in the areas of economic sustainability and national cohesion.

The CSR movement in Singapore involves vast stakeholder participation, and has taken off relatively well, particularly with the formation of the Singapore Compact for CSR.[28] As a national society platform, the membership of the Singapore Compact for CSR does not only include those of corporate sectors, but also covers those of employer federations, non-governmental organisations (NGOs), and trade unions. The establishment of this platform has led to relatively strong take up and interest in internationally accepted principles and standards, such as the UNGC and ISO 26000. addition, a guidance from the stock exchange encouraging listed companies to report on their sustainability initiatives has pushed reporting numbers up.

However, to really get CSR and sustainability into the mainstream, CSR advocates in Singapore are turning to thier government. There has been a call amongst CSR advocates in the country for a national umbrella body as the focal point in government to promote CSR officially and provide a strategic and consolidated approach towards setting national CSR policies in line with the long-term goal of economic, environmental and social sustainability.[29]

The same, however, cannot be said for Brunei, where government influence over business affairs is strong and CSR is not yet on its agenda. This may yet change as Brunei attempts to diversify its economy and attract more investments outside of the oil and gas sector. During its chairmanship of ASEAN in 2013, Bandar Seri Begawan played instrumental role in setting up a common agenda amongst the AMS, and this included the promotion of CSR as one of the strategies under the ASEAN Socio-Cultural Community Blueprint.

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[27] Launched on 11 January 2011, the ACN is a regional network of CSR bodies that seek to serve as a platform for networking, exchange of best practices, and facilitating peer-to-peer discussions in ASEAN. It also intends to serve as a repository of ASEAN knowledge on CSR, a capacity builder for CSR implementation, and an advocate for CSR-related issues in the region. Further information concerning the ACN is available in its official website at: http://www.asean-csr-network.org/c/

[28] Further information concerning the Singapore Compact for CSR see its official website at (accessed 5 May 2014): www.csrsingapore.org

[29] This view, for example, was shared by Kwek Leng Joo, the President of the Singapore Compact for CSR, in his opening speech at the 4th International CSR Summit, which took place in Singapore on 27 September 2012. The summary of this speech, and that of the Summit, is available at the official website of the Singapore Compact for CSR at (accessed 5 May 2014): http://www.csrsingapore.org/c/news?start=20

- **Strong regulations and enforcement allow companies to focus on internal processes and risk mitigation**

Businesses in Singapore and Brunei are generally highly compliant with existing laws in the country as enforcement capabilities of government are high and corruption is low. As a result, businesses can have a more forward-looking CSR philosophy that focuses on strengthening internal capabilities and mitigating business risks beyond what is required by law. Issues that may hurt the firms' reputation or place the firms at risk of government action, such as product quality and safety, procurement and sourcing policies, labour standards, and workplace health and safete, are generally high on the agenda. This has become evident in recent cases in Singapore where alleged discriminatory practices at the workplace were exposed.

- **CSR as a tool for maintaining business competitiveness, fostering innovation**

With relatively mature and stable economies, higher income AMS are looking to boost their long-term economic sustainability and competitiveness. Not having to deal with an anti-poverty agenda, focus is shifted towards issues related to workforce development, shareholder value, and product innovation. Singapore's real estate industry is an example of how companies are turning to CSR and sustainability in order to enhance their competitiveness and boost their product offering. The industry's top players publish extensive sustainability reports and subscribe to the Green Marks scheme of the Building and Construction Authority (BCA), an industry standard for environment-friendly buildings. 'Green buildings' are one of the hottest trends in the real estate industry. Although it is unclear if developers are able to command a price premium or larger market share because of this, it is being used heavily in their marketing efforts and has become an industry norm.

5.1.2. Characteristics of an ASEAN approach to corporate sustainability

- **Anti-corruption, transparency high on the agenda**

Singapore consistently ranks as one of the most corrupt-free countries in the world.[30] Brunei is likewise recognized as an exception in ASEAN when it comes to corruption. It is clear that the governments of both countries intend to sustain such corrupt-free environment by enforcing strict regulations and tough penalties on offenders. Singapore's Corrupt Practices Investigation Bureau (CPIB), for example, has a wide and strong mandate to investigate corruption-related offenses in both the public and private sectors.

With both countries having very low personal income tax policies, governments depend on business and corporate taxes to fund social service programs and infrastructure development. Corporations are aware of this relationship and take the obligation seriously. This extends to other areas of operation where transparency and compliance are keys (e.g. employment of foreign workers and contracts with government agencies). For example, Singapore's conglomerates who are venturing into neighbouring markets, such as China, Vietnam, Indonesia, Philippines, Thailand, often adopt a ' we do not pay to play' policy when it comes to doing business elsewhere. Recognising that corruption is rampant in developing countries, these firms develop clear zero-tolerance policies to guide their executives and inform potential partners. Business executives speak off the record of walking away from deals because of demands for bribes and other unethical considerations. This is driven by their accountability to authorities and shareholders in their home market.

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[30] See, for example, Transparency International's Annual Corruption Perception Index, which is available in the official website of the Transparency International at (accessed 3 January 2014): http://www.transparency.org/research/cpi/overview

- **MNCs, government-linked companies leading the way in CSR practice**

MNCs are bringing 'Western' CSR practices and adapting them to the local context. This includes the introduction of 'triple bottom line' framework that, as mentioned earlier, emphasises environmental, social and economic sustainability. These principles are likewise adopted by large local conglomerates with an eye toward being recognized as world-class companies. This comprehensive approach goes beyond philanthropic activities that are more common across Asia.

Many home grown Singaporean companies are included in the DOW Jones Sustainability Index - a strong recognition of their practices.[31] Government-linked companies and agencies are likewise influencing the CSR agenda significantly and help provide strong links to the larger national agenda. In Singapore, the National Environment Agency was the first government agency to issue a sustainability report, a move that is sure to catch the attention of private corporations it works with. NTUC Fairprice, a co-operative and the country's largest grocery chain, adopts the national trade union's mission of moderating food prices and providing employment opportunities for the disadvantaged.

In Brunei, meanwhile, Brunei Shell Petroleum, a partnership between Royal Dutch Shell and the Brunei government, is responsible for introducing CSR practices into the country, with an emphasis on environmental sustainability and workplace health and safety.

- **Low civil society participation and collaboration in CSR space; but consumer expectations voiced through social media**

Neither Singapore nor Brunei has particularly vibrant civil societies. Non-Governmental Organisations (NGOs) in these two countries are focused on providing social welfare programs, often in partnership with government, rather than on advocating for political, environmental, or consumer rights. Corporate engagements with civil society are mostly limited to donations or employee volunteer programs.

Consumers, however, are still able to voice their opinions both individually and collectively through social media. Firms in developed countries, including Singapore in particular, are becoming more and more responsive to issues being discussed in non-traditional media. This extends not only to complaints or issues related to their products and services, but also to their employees, management, and other stakeholders.

5.2. ASEAN's middle income countries: Indonesia, Malaysia, the Philippines, Thailand, and Vietnam

5.2.1.   The enabling environment for corporate sustainability

- **Governments view CSR as complimentary to the anti-poverty agenda**

Governments in ASEAN's middle income countries have jumped on to the CSR bandwagon, and are calling on the private sector to provide greater support to the national anti-poverty agenda. Seen as an opportunity to link the social agenda with the business agenda, government agencies are knocking on corporate doors to fill in funding gaps in key government programmes in education, livelihood development, and health services, amongst others. Financial donations to government programmes

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[31] The DJSI is a group of indexes that evaluate the sustainability performance of the largest 2,500 companies listed on the Dow Jones Global Total Stock Market Index. Launched in 1999, it is technically the oldest running global sustainability benchmarks that has become a reference point for investors and companies alike. Further information concerning the DJSI is available from its official website at (Accessed 3 January 2014):
http://www.sustainability-indices.com/

are justified by businesses as a contribution towards the country's long-term economic viability and used as material for public relations campaigns. Moreover, efforts at legislating CSR have also focused on the business sector's contribution to the social agenda through funds and expertise. For example, Indonesia's CSR law mandates that companies that use the country's natural resources should invest a prescribed percentage of profits in social development projects. A similar law was authored in the Philippine Senate but has not been approved to date.

- **Strong civil society serves as both 'watchdog' and strategic partner**

ASEAN's developing countries have strong civil society sectors that are highly vocal and visible. This presence constantly puts pressure on corporations to be more responsible. Negative impacts of business operations find their way to news sites and social media platforms quickly. Civil society groups may also lead calls for boycotts or protests against corporate offenders. In recent years, however, many NGOs are also realising the potential that CSR has in addressing common issues. Whether as a source of funding or with the intent of building lasting partnerships, NGOs are sitting on the same table as corporations to explore ways to work together. Corporations, on the other hand, are welcoming this opportunity to work with NGOs in order to boost their reputation and leverage their resources. This shift in strategy on both sides, from confrontation to collaboration, provides a space for CSR to have more relevance and impact.

- **Business associations and networks actively advocating for greater CSR**

Each of ASEAN's middle-income countries has a national business network actively advocating for CSR, whether as a stand-alone CSR network (i.e. UNGC Local Network), or as part of larger business associations. This includes management clubs, foreign chambers, and industry groups. The number of CSR-related events and conferences in the region is another indicator that the CSR agenda is reaching a wider audience. Each ASEAN developing country currently has a national CSR conference, though varying widely in scale and reach, and most have hosted regional and international CSR events. In addition, stock exchanges in the region have also shown an increased attention to CSR. The Malaysian and Thai bourses, for example, have issued guidelines to its members to encourage the reporting on their CSR and sustainability initiatives. In general, there is increased reporting on CSR and sustainability across the region. Despite active advocacy, best practices can still be found in only a handful of firms, with many, especially Small- and Medium-Sized Enterprises (SMEs), still lagging behind. Awareness-raising has to be coupled with more focused capacity-building and professional training efforts if CSR practice is to reach a 'tipping point' and become a business norm rather than an exception.

5.2.2. Characteristics of an ASEAN middle income country approach to corporate sustainability

- **CSR practice starts off with philanthropy, evolves towards stakeholder engagement and 'license to operate'**

The strong presence of family-owned and controlled conglomerates has a strong influence on the practice of CSR in ASEAN's developing countries. Philanthropic initiatives that range from contributions to religious organisations and social welfare programmes to educational scholarship funds and the like are the most common form of 'CSR.' This emphasis on philanthropy is attributed to both a cultural and societal expectation for the business to give back to society and the desire to build up the controlling family's name and legacy, often in honour of the founding patriarch. The institutionalisation of these initiatives, whether as a corporate foundation, under the management of the corporate affairs team, or through a separate, dedicated, CSR department, paves the way towards evolving and improving CSR practices that are shifting towards long-term stakeholder engagement and addressing key business issues in the value chain.

'License to Operate' remains a key foundation of CSR practice as the business environment in ASEAN's middle-income countries is riddled with corruption and weak enforcement of regulatory standards. Government-issued licenses are not enough to persuade other stakeholders of a business' trustworthiness. Corporations are expected to go beyond what the law requires and engage in community development projects based on the local challenges faced. The importance of these initiatives is magnified in extractive industries where civil society groups and local community stakeholders have a keen interest in the operations of companies and their effects on local communities and the environment.

The internalisation of CSR is another aspect of the CSR movement that is gaining attention as CSR practices evolve in these middle-income ASEAN countries. This refers to CSR initiatives that address 'core business' issues and can refer to workplace health and safety, improving environmental footprints, and employee engagement and development programs. Generally speaking, this pertains to the notion that 'CSR is not about how you spend money but how you make money', differentiating CSR from philanthropy. This is more in tune with the European thinking towards CSR.

- **Innovative 'Bottom of the Pyramid' approaches, multi-sector partnerships emerging**

There is another shift that is being discussed in CSR forums and discussions across ASEAN: how businesses can create value for those that are at the 'bottom of the pyramid' while turning a profit. The discussions, and emerging business models, frequently mention Michael Porter's 'Creating Shared Value' approach that was made popular in the corporate world by Nestle.[32] Whether within large corporations or SMEs, the emphasis is shifting towards finding business solutions to poverty. This concept is generally called 'Strategic CSR', 'CSR 2.0', or a 'CSV approach', depending on preference. 'Social Entrepreneurship' is also loosely used, especially when the issue is discussed within the confined of the SMEs. In addition, this new paradigm has also provided a space for the corporate sector to pursue collaboration with the civil society groups. ASEAN's middle-income countries have active civil societies that are shifting tactics, from 'naming and shaming' corporate offenders, towards a more collaborative approach with the business sector.

- **Climate change and related issues being taken seriously**

It should come as no surprise that a mostly archipelagic region is very worried about the effects of climate change. The debate regarding the science of climate change is over in ASEAN, at least among corporates. The focus is on preparing for the future as ASEAN braces for stronger typhoons, droughts and all the expected challenges that climate change brings. Disaster preparedness and response, together with food security, are among the top climate-change related concerns in the region. It is in these areas that firms are looking to engage more with governments and NGOs to find long-term partnerships that can help prepare them and their stakeholders for the worst. Experiences from the tsunami that hit Indonesia, massive flooding in the Philippine and Thai capitals in recent years, as well as news regarding other massive disasters around the world, have exposed national capabilities to respond to them.

All these have certainly been a wake-up call for all sectors, businesses included, of the need to work together to ensure economic sustainability. Across the region, platforms for public-private

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[32] 'Creating Shared Value' is a business concept first introduced in Harvard Business Review's article, entitled: *Strategy and Society: The Link between Competitive Advantage and Corporate Social Responsibility*. The concept was later expanded by Michael E. Porter and Mark R. Kramer in a follow up article that provides insight and examples of companies that have developed strong links between their business strategies and CSR. For further details concerning this concept see, *inter alia*, Porter and Kramer (2011).

partnerships have been formed to provide a vehicle for wide-scale and efficient response to disasters that have happened or are expected to happen. Examples include the Indonesia Disaster Resource Partnership, Thai Disaster Response Resource Network, and the Philippine Disaster Recovery Foundation, all of which are networks designed to bring together the public, private and civil sectors, and map out a strategic multi-sector response to a common concern. Businesses are also beefing up capabilities in managing business continuity, ensuring the safety of its employees, and disaster relief efforts.

A common assessment on all these developments is that there is a need for greater communication and long-term planning across all sectors, and that the business sector has an essential role to play in providing both resources and expertise.

5.3. ASEAN's lower income countries: Cambodia, Lao PDR, and Myanmar

5.3.1. *The enabling environment for corporate sustainability*

- **Political, economic change is on the horizon**

If the recent revolutions in the Arab Spring are any indication, political change in single party governments are inevitable. Some will take longer than others, and each will take a different route, but it is bound to happen. Myanmar has already started its unexpected transformation and the region is crossing its fingers for its success. With political transformation will come an increased interest in economic opportunities and an enhanced role for the business sector to play in national development.

- **Strong presence and influence of international agencies in the development agenda**

As ASEAN's least developed countries attempt to transform themselves politically and economically, international bodies are casting a strong presence through development aid, trade agreements and external pressure to conform to international standards and norms. With diverse interests and objectives, it is interesting to see how governments will respond in terms of policies and regulations. Myanmar's transition presents a tough test for its government as well as international stakeholders. Its ASEAN neighbours, particularly Laos and Cambodia, are likewise watching intently for any lessons they may gain and opportunities that may arise.

- **Competition to attract foreign investors may boost interest in international CSR standards, frameworks**

As ASEAN's least developed countries increasingly open their economies to the rest of the world, there will be strong competition amongst these economies to attract investors. There is strong hope that foreign direct investments will boost economic productivity, inject taxes to government programmes, and lift people out of poverty. However, this also presents the tangible risk of opening up its people and resources to exploitation, and that the tax money and other economic benefits will find their way to the pockets of only a handful. Whilst local policies are still developing, established CSR standards and frameworks can provide a guide for governments and businesses. In Myanmar, for example, few firms have already signed up to the UN Global Compact and there is interest in knowledge and training around CSR from the business federation. Introducing these concepts early in their economic development may provide the opportunity for a more sustainable and long-term approach.

5.3.2. _Characteristics of an ASEAN approach to corporate sustainability_

- **Very low awareness, CSR in nascent stages**

With high government control, uncompetitive corporate landscape, and weak civil societies, CSR has simply not thrived in ASEAN's lower income countries. Business leaders have not had any incentive or regulation to encourage them to practice CSR. This will change as the economic and political landscape changes. Government leaders are reaching out to international groups and have shown a willingness to explore partnership and collaboration in the area of CSR.

- **State-controlled enterprises can influence, set benchmarks for the kind of CSR practice in the country**

With highly protectionist economic policies that favour local businesses, a good number of which are state-owned, a shift in mind-set is needed in order to grow local businesses and allow these least developed economies integrate more with ASEAN and the rest of the world. CSR is one of the global trends that will have to be adapted by local firms in order to participate in the global economy. Precisely because of close ties that most large firms in these economies form with their governments, it is within their self-interest and capacity to lead the way. International groups are ready and willing to provide guidance and support, whilst national governments have mouthed support for CSR and sustainability practices. It is a question of how and when state-controlled enterprises will respond.

- **Foreign investors may use CSR as a 'competitive edge' in gaining entry to key industries**

As economies in Cambodia, Laos and Myanmar aim to open up key industries to foreign direct investments, a company's track record in CSR may provide them an edge in gaining favour with host governments and their citizens. This is especially important in industries such as manufacturing, agriculture and mining, which have histories in other countries of creating harsh working environments and depleting natural resources. Private enterprises who are early adopters of CSR may also use it as a competitive advantage and differentiator. CSR can help position them as ideal partners for foreign investors looking to enter their home market.

5.4. Commonalities and implications

5.4.1. _Commonalities_

- **Philanthropy is strong -- ingrained in cultural expectation, accepted as part of CSR agenda**

The large presence of family firms across ASEAN influences the CSR landscape significantly. With strong emphasis on legacy building, coupled with poverty-related issues surrounding firms in their areas of operation, philanthropy is expected to remain as a big part of the CSR agenda in ASEAN. In addition, religion and cultural values also play key part in driving CSR practices in the region. It is common practice amongst Thai businesses, for instance, to donate to Buddhist temples, whilst firms in the Philippines provide support to Catholic churches and festivities. Despite the diverse religious and cultural traditions in ASEAN, the link between culture and CSR remains a common thread. To a large extent, most ASEAN firms accept CSR as part of its social responsibility and sustainability efforts. The challenge is not to displace philanthropy but to build on it as a starting point for more innovative approaches.

- **CSR a strategy for regional and global recognition and participation**

As markets in the West go through a slow recovery process from the impact of the global financial crises of the late 2000s, ASEAN businesses are positioning to take advantage of growth opportunities in Asia, whilst, at the same time, bracing for increased competition in their home turf. In an effort to further drive this growth, ASEAN laid a framework for the formation of an ASEAN Community, dubbed as the 'Roadmap for an ASEAN Community', in 2009, which is to be carried out up until the full implementation of the Community by the end of 2015. As ASEAN's governments try to turn this into reality by lowering trade barriers and investing in infrastructure, the promotion of CSR has also been identified as a key strategy in ensuring sustainable socio-economic development.[33] It calls for greater collaboration between the private and public sectors and the development of a CSR public policy framework for the region which recognizes international principles and standards.

As ASEAN tackles the roadblocks to an integrated economic community, CSR will continue to emerge as the business response to helping solve some of the region's pressing concerns, such as rampant corruption and extreme poverty among them. Regional bodies, including ASEAN-related organs, such as the AICHR, are working to engage the private sector more and discuss how businesses can contribute to the ASEAN development agenda, especially in areas not traditionally linked by ASEAN companies to CSR, such as human rights.

- **Governments still figuring out how to promote CSR, experimentation to be expected**

With discussions in business circles are advancing rapidly, governments are still figuring out how to take advantage of this concept that is relatively new to them. Many businesses are pushing for more incentives in the form of tax breaks and public recognition. On the other hand, some governments are considering legislating for more regulations that will require companies to practice CSR, though they are equally uncertain on how to proceed. Some experimentation in this regard – whether it is providing for incentives or more regulatory requirements – is to be expected as governments try to update their policies and programs to accommodate the growing demand for CSR. Business networks will have a role to play in keeping an open dialogue with their national governments on how best to push the national CSR agenda forward.

At the global level, meanwhile, there is recognition that responsible business conduct will make a positive difference in addressing many social and environmental issues. The Guidelines for Multinational Enterprises of the Organisation for Economic Cooperation and Development (OECD) (2008), which sets comprehensive guidance for responsible business conducts, is expected to affect non-OECD countries as 85 percent of global foreign direct investments are either coming from or taking place in OECD countries. As mentioned earlier, however, this is ony one of many other initiatives of CSR at the global level that AMS cannot ignore.

5.4.2. *Implications*

- **CSR advocates need to bridge gap between top CSR performers and the laggards**

Across countries in ASEAN, and within the businesses among each country, there is a large gap in terms of CSR knowledge and practice. Multinational companies and conglomerates are generally in tune with the latest trends, although some small and medium enterprises are providing real examples of

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[33] This is reflected in the ASEAN Socio Cultural Community blueprint (ASCC) 2009-2015. Further information on the ASCC Blueprint is available from the official website of the ASEAN website at (accessed 3 January 2014): http://www.asean.org/archive/5187-19.pdf

business innovations through CSR. Accordingly, not only that there is a strong need to increase awareness and education on CSR-related isses generally, but also to target this information campaign initiative to key sectors and groups, such as ASEAN's least developed countries (Cambodia, Laos, Myanmar), small- and medium-sized enterprises (SMEs), and key industries (e.g. agriculture, mining and manufacturing). More importantly, ASEAN, as a whole, also needs to improve the documentation of best practices and the sharing of knowledge across countries in the region.

- **Non-businesses stakeholders need to be educated on CSR and sustainability issues too**

An emerging challenge in getting the CSR and sustainability message out is the lack of understanding, especially among non-business stakeholders. Business leaders interviewed shared that governments, NGOs, and media in general still did not have the correct appreciation for CSR. They still see CSR simply as philanthropy. Governments and NGOs approach companies merely as source of funding, while media reports primarily on corporate giving and volunteer efforts. Consumer education will also have to increase in order to provide companies with an added incentive to pursue CSR.

- **ASEAN will chart its own CSR course and agenda, but can learn from others success and mistakes**

Whether as a source of competitive advantage for ASEAN businesses, or a means to providing business solutions to poverty, the CSR landscape in ASEAN will continue to evolve according to the changing political, economic and social landscape. As the region continues its efforts to integrate into one market and one community, CSR will be defined and re-defined based on context and need. However, the underlying principles behind CSR as espoused by the UN Global Compact and other international frameworks will play a prominent role in providing guidance to corporations and national governments. Likewise, experiences of other countries and regions in their own CSR journey can provide valuable lessons. These can be unlocked through increased regional and international cooperation in CSR forums and roundtables.

6. Conclusion and policy recommendations

Based on the assessment on the CSR policies and practices and their relevance to the promotion and protection of human rights in the ASEAN region described in earlier sections, the Study Team proposes a number of policy recommendations to be considered in the future works of the ASEAN (including its Member States) and its relevant organs, including the AICHR, which include:

1. Most AMS are already in possession of rules and regulations that attempt to directly or indirectly address the potential adverse impacts of corporate conducts on human rights. Whilst specific regulations at both national and regional levels that address CSR and human rights linkages would be welcomed, *the immediate priority for AMS is to accelerate and strengthen the implementation and enforcement of the existing rules and regulations that deal directly with such adverse impacts of business conducts*.

2. The *governments of AMS need to take leadership* in encouraging and enabling businesses to implement and embed CSR values throughout their organisations. Businesses can be a force for good and they have to conduct themselves with responsible business conduct for their social license to operate. CSR and its links to human rights can be a competitiveness advantage as well as address social and environmental issues in ASEAN. The governments have taken a first step by including CSR as a strategic objective for the ASEAN Community 2015. It has through the ASEAN Foundation formed the ASEAN CSR Network. The next step is for *AICHR/ASEAN to identify a body/organization to take a coordinating role, taking into account the recently established ACN*.

3. ***ASEAN to develop a CSR strategy for the grouping***. This will be an expansion of the objectives of the ASEAN Community 2015 Blueprint and will bring the various aspects of CSR under one heading. The post 2015 ASEAN agenda has to incorporate people centred and people orientated policies and practices. It needs the involvement of all stakeholders. This requires better coordination and alignment of efforts by different ASEAN pillars, agencies and AMS. AICHR/ASEAN could consider ACN to take this role.

4. Awareness on both CSR and human rights in ASEAN remains low. As a result, ***more efforts to socialise not only CSR, but also its linkages with human rights***, are needed amongst the private sectors, more specifically, and the wider public, more generally. AICHR/ASEAN could consider ACN, the organisation that had been formed to achieve these objectives.

5. Companies can be overwhelmed with the growing number of regulatory and other requirements that are set to examine their human rights performance. For AICHR's CSR-human rights works to succeed, it is imperative that ASEAN and its AMS should develop ***an ASEAN-wide CSR-Human Rights Guideline*** that is in line with the internationally accepted business and human rights principles, such as the UNGP, ISO 26000, and so on.

6. Given the potential limitation that CSR has in addressing the increasingly complex relations between business and human rights, there is a strong potential for the current ***discussion on CSR and human rights within the AICHR, more specifically, and the ASEAN region, more generally, to be broadened*** to include other stakeholders*.*

7. Recent debates and discussion on CSR and human rights, as well as the wider business and human rights, in the region is still very much focused on large and transnational corporations. ***Small- and Medium-Sized Enterprises (SMEs) make up the bulk of the economic players in ASEAN, and their activities also have the potential to undermine human rights in the region***. Accordingly, greater attention must also be paid to these economic actors in the current discourses on CSR, as well as the wider business, and human rights linkages. Efforts need to be intensified to build the capacity of SMEs to embed CSR within their organisations.

8. ***Another study should be undertaken in 2 to 3 years*** to measure progress in AMS and recommend further steps.

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