



MANUSHYA

Empowering Communities | Advancing Social Justice



MEETING REPORT

Regional NBA Dialogues on
Business & Human Rights

Eastern, Northeastern, Southern
& Northern Thailand
Jan - March 2017





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MEETING REPORT

REGIONAL NBA DIALOGUES ON BUSINESS & HUMAN RIGHTS

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TABLE OF CONTENTS

ABBREVIATIONS	4
OUR ROLE IN BUSINESS & HUMAN RIGHTS IN THAILAND	5
ACKNOWLEDGEMENTS	7
INTRODUCTION	9
EXECUTIVE SUMMARY	10
OBJECTIVES OF THE DIALOGUES	12
DAY 1: CSO TRAINING ON THE UN GUIDING PRINCIPLES ON BUSINESS & HUMAN RIGHTS	14
SESSION 1: UPR COMMITMENTS RELATING TO BUSINESS & HUMAN RIGHTS AND THE IMPORTANT ROLE OF CIVIL SOCIETY	15
KEY MESSAGES	15
OVERVIEW	16
SESSION 2: THE UN GUIDING PRINCIPLES ON BUSINESS & HUMAN RIGHTS	26
KEY MESSAGES	26
OVERVIEW	27
DISCUSSION	28
SESSIONS 3 & 4: WORKING GROUPS TO DISCUSS THE IMPACT OF BUSINESSES ON HUMAN RIGHTS AND REPORTING BACK IN PLENARY ON THE BUSINESS & HUMAN RIGHTS SITUATION IN THAILAND	43
KEY MESSAGES	43
OVERVIEW	43
DAY 2: SUB-REGIONAL DIALOGUE ON BUSINESS & HUMAN RIGHTS TO INFORM THAILAND'S NATIONAL BASELINE ASSESSMENT	47
SESSION 1: AICHR THAILAND: BUSINESS & HUMAN RIGHTS AND THE UNGPS	49
KEY MESSAGES	49
OVERVIEW	49
PANEL DISCUSSION	49
SESSION 2: PANEL DISCUSSION WITH THE MINISTRY OF JUSTICE	52
KEY MESSAGES	52
OVERVIEW	52
PANEL DISCUSSION	52
SESSION 3: UN GLOBAL COMPACT NETWORK THAILAND	55
KEY MESSAGES	55
OVERVIEW	55
SESSION 4: VOICES FROM THE GROUND: CIVIL SOCIETY PERSPECTIVE ON THE HUMAN RIGHTS SITUATION RELATED TO BUSINESS AND HUMAN RIGHTS IN THAILAND	58
KEY MESSAGES	58
OVERVIEW	59
RECOMMENDATIONS	68
SUMMARY	85
ANNEXE	88
AGENDA	88



ABBREVIATIONS

AICHR	ASEAN Intergovernmental Commission on Human Rights
AIPP	Asia Indigenous Peoples Pact
CFS	Committee on World Food Security
EIA	Environmental Impact Assessment
HRDs	Human Rights Defenders
HRIA	Human Rights Impact Assessment
IFC	International Finance Corporation
NAP	National Action Plan
NBA	National Baseline Assessment
NCPO	National Council for Peace and Order
NHRCT	National Human Rights Commission of Thailand
NHRIs	National Human Rights Institutions
PTT	Public Company Limited
RTG	Royal Thai Government
UNGPs	UN Guiding Principles on Business and Human Rights



OUR ROLE IN BUSINESS & HUMAN RIGHTS IN THAILAND

At Manushya Foundation, we strongly believe in the importance of collaboration and cooperation to further human rights and social justice and recognise the importance of approaching our work in a constructive manner to ensure the greatest positive change for the communities we serve. However, while we work with any and all willing partners to advance these causes, Manushya Foundation is a completely independent human rights organisation. Our willingness to work with 'champions' to create a fairer, more equitable world is based solely on the needs of communities, with the singular purpose of ensuring no individual or group is the victim of human rights abuses caused by business conducts. Our approach lies on the empowerment of invisible and marginalised communities, sharing knowledge with them so they can assert their rights, facilitating their meaningful engagement in the NAP process so they can become 'agents of change' providing solutions to improve their livelihoods.

Working with the Rights and Liberties Protection Department of the Ministry of Justice in Thailand is a crucial element of achieving this. However, we see a key difference between working *with* and working *for*. For us, collaboration and critique are inseparable partners, and while we are enthusiastic to cooperate, we do so with our driving force of community empowerment at its core. This means that when we work with others, the working relationship has to be based on mutual respect for each other, ideally safeguarded by applying a bottom-up approach and not a top-down one. Our primary motivation and guiding principles are the needs of communities, not the needs of those we are collaborating with. So while we believe the value of strong relationships with those in power cannot be denied as essential tools in the fight for human rights, we will not develop and maintain such relationships based on anything other than achieving the goals of the communities we serve, and we will not and have not ever shied away from being strong, critical voices against those we are working with when necessary to advance the needs of communities. Our independence is crucial to us and is what enables us to effectively tackle rights violations and inequality in Thailand.



Our role in the Sub-Regional Dialogues, and the NBA/NAP process as a whole, was that of a bridge, enabling communities to reach key advocacy targets who had the power to affect genuine change, and a platform for community's voices to be heard when they are so often ignored. The release of this report aims to inform the Thai government during the NAP consultation, and serve as an important reminder of the needs and experiences of communities in Thailand.



ACKNOWLEDGEMENTS

The Sub-regional Dialogues on Business and Human Rights were held to inform the Thailand National Baseline Assessment and ensure that local communities can meaningfully engage in the development of the Royal Thai Government's upcoming National Action Plan on Business and Human Rights (NAP). The Manushya Foundation, together with the **Thai CSOs Coalition for the UPR**, the **Ministry of Justice of the Royal Government of Thailand**, and the **Global Compact Network** came together to discuss the issues related to business and human rights in Thailand and identify challenges, gaps and ways to implement the UNGPs at the domestic level.

The two-day dialogues took place in the four main regions of Thailand in Chiang Mai (29 - 30 January 2017), Khon Kaen (23 - 24 February 2017), Hat Yai (20 - 21 March 2017) and Rayong (30 - 31 March 2017).

Manushya Foundation would like to express deep appreciation to all the participants in the dialogues, who included representatives from local communities and civil society organisations, such as environmental and community-based human rights defenders protecting their livelihoods and lands in the face of development projects, indigenous peoples, formal and informal labour workers, trade unions, fishermen folks, LGBTI individuals, people living with HIV/AIDS, sex workers, people with disabilities, the government of Thailand, private actors and the Thai representative to the ASEAN Intergovernmental Commission on Human Rights (AICHR), **Dr Seree Nonthasoot**.

Manushya Foundation would like to sincerely thank all panellists and participants for their contribution: **Prabindra Shakya**, Human Rights Campaign and Policy Advocacy Programme Coordinator at Asia Indigenous Peoples Pact (AIPP); **Nada Chaiyajit**, Capacity Building Coordinator at Manushya Foundation; **Dr Seree Nonthasoot**, Thai representative AICHR; **Mrs Nareeluc Paechaiyapoom**, Director of the International Human Rights Law Team at the Rights and Liberty Protection Department of the Ministry of Justice; and **Dr Netithorn** from the Global Compact Network Thailand.



Manushya Foundation is deeply grateful for Internews' financial support, which made the sub-regional dialogues possible.



INTRODUCTION

The very core of Manushya's mission is ensuring community voices, needs, and experiences are at the heart of the human rights response. Following a preliminary desk review of the business and human rights situation in Thailand, it became strikingly apparent that while some areas are well accounted for with regards to business and human rights in Thailand, significant gaps existed. A number of communities facing gross business related rights violations were being ignored in the current discourse, denying these groups the ability to have their experiences considered and their needs met. It is from this that the need to have sub-regional dialogues was borne. The dialogues served as an opportunity and a platform for communities who are denied access to traditional decision making spheres and whose experiences of rights violations are disregarded. We invited representatives of the Ministry of Justice with the goal of the experiences of communities informing the National Action Plan of Business & Human Rights, empowering communities to share their experiences and have direct exposure to those in power.

This document provides a record and summary of all of the Sub-Regional Dialogues held by the Manushya Foundation. It will address the presentations given, which were the same across all events, and then showcase the discussions that happened following each presentation, separated by region. Finally, it will highlight recommendations made by communities over the course of the dialogues, grouped both regionally and thematically, demonstrating both the experiences and demands of local communities in Thailand who face business related human rights violations.



EXECUTIVE SUMMARY

The Sub-regional Dialogues on Business and Human Rights were held to inform Thailand's National Baseline Assessment (NBA) on Business and Human Rights, developed by Manushya Foundation to ensure local communities can have their concerns and voices heard and be at the centre of the business and human rights response in Thailand. Manushya Foundation, together with the Thai CSOs Coalition for the UPR, and the Ministry of Justice came together to discuss the issues related to Business and Human Rights in Thailand and identify challenges, gaps and ways to implement the UNGPs at the domestic level. The two-day dialogue took place in four regions including Chiang Mai (January 29-30 2017), Khon Kaen (February 23-24 2017), Hat Yai (March 20-21 2017) and Rayong (March 30-31, 2017) and was financially supported by Internews. The purpose of the workshops was to ensure that the participants understood the UPR commitments made by the Royal Thai Government (RTG) to develop a National Action Plan on Business and Human Rights and the essential role of the civil society in the NAP process.

The NBA Dialogues were part of Manushya Foundation's strategy to develop an independent CSO NBA ensuring voices and evidence from the ground are captured to inform an evidence-based National Action Plan (NAP). Since the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice is the government agency responsible for the development of the National Action Plan (NAP) on Business & Human Rights, Manushya invited RLPD and the UN Global Compact Network Thailand to join forces and collaborate on the NBA Dialogues so they could hear directly from local and affected communities to inform the government's NAP. This secured a bottom-up approach was implemented in the NAP process, as well as provided a safe space for participants, by guaranteeing the protection of local communities and human rights defenders who engaged in Manushya Foundation's Business & Human Rights strategy.

On the first day, a CSOs training session on the UN Guiding Principles on Business and Human Rights (UNGPs) took place in order to prepare communities to engage in a constructive and productive dialogue with the government and private actors on the following day. It was critical to build the capacity of local communities on the business and human rights principles and frameworks to ensure they can



leverage the UNGPs as a tool to address their human rights challenges and provide solutions to the RTG and private actors. Communities facing challenges and being impacted by business conduct were the main civil society participants, who were given the opportunity to bring forward their issues and solutions. They included: environmental human rights defenders, indigenous peoples, community-based human rights defenders protecting their livelihoods and lands in the face of development projects, formal and informal labour workers, trade unions, fishermen folks, LGBTI individuals, people living with HIV/AIDS, sex workers and people with disabilities.

The first session focused on the Royal Thai Government's UPR Commitments related to Business and Human Rights and the important role of civil society, and was facilitated by **Emilie Pradichit**, Founder and Director of Manushya Foundation, and **Nattaporn Artharn**, Community Empowerment Coordinator of Manushya Foundation (and Business and Human Rights Focal Point of the Thai CSOs Coalition for the UPR). **Prabindra Shakya**, Human Rights Campaign and Policy Advocacy Programme Coordinator of Asia Indigenous Peoples Pact (AIPP), held the second session on the UNGPs. The third session consisted of thematic working groups that discussed the impact of businesses on the human rights situation in each region of Thailand, and was held by **Nattaporn Artharn**, and **Nada Chaiyajit**, Capacity Building Coordinator of Manushya Foundation. The last session of the day was for the participants to share their experiences, challenges, and solutions.

On day two, a dialogue on Business and Human Rights between CSOs, the RTG and the private sector was held to inform the National Baseline Assessment and ensure communities could share their struggles in the context of business and human rights and provide community-led recommendations to inform the NBA. The first session was facilitated by **Dr Seree Nonthasoot**, Thai representative to AICHR and focused on the UNGPs and the responsibilities of states and businesses, in order to raise awareness on the UNGPs and the NAP process.

Mrs Nareeluc Paechaiyapoom, Director of the International Human Rights Law Team, Rights and Liberty Protection Department at the Ministry of Justice, facilitated the second session. Her presentation highlighted the Royal Thai Government's commitments to address and work on Business and Human Rights



issues, and provided the timeframe for the development of the NAP on Business and Human Rights.

Dr Netithorn, from the UN Global Compact Network Thailand, held the third session, which stressed that human rights are at risk of violation by the businesses. Following the three speakers, **Nattaporn Artharn** provided an overview of the human rights situation related to business and human rights in each region and invited representatives from local communities to present their perspective and provide recommendations on the specific issues affecting them. The discussions covered violations to labour standards; negative impacts on community rights, livelihoods, health and the environment; and the protection of human rights defenders (HRDs).

The workshop was an important step for the local communities and members of the Thai CSOs Coalition for the UPR to engage in the NAP process, by providing key input in the development of the NBA. The NBA is the first step towards the development of a NAP and it is critical that local community voices could inform the process in a safe and empowering environment by providing them with the tools to understand the issues and share knowledge back to their communities.

OBJECTIVES OF THE DIALOGUES

The sub-regional dialogues' objectives were as follows:

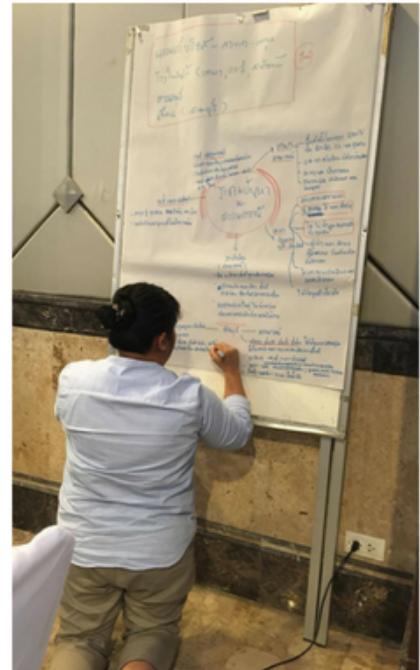
1. Ensure that participants understand the UPR commitments made by the RTG to develop a NAP on Business and Human Rights and the important role civil society has to play.
2. Detail the activities and plan to develop a CSO NBA, including documentation of human rights violations and impacts of businesses on the rights and livelihoods of communities.
3. Explain to participants the importance of the UNGPs and the work of the UN Working Group on Business and Human Rights.
4. Encourage participants to prepare their interventions for the dialogue on the second day with the government and private actors.
5. Allow local communities to share their struggles and challenges caused by business conducts and provide community-led recommendations to address and improve the human rights situation, as well as inform the NBA.

DAY ONE



CSO TRAINING ON THE UN GUIDING PRINCIPLES ON BUSINESS & HUMAN RIGHTS

SESSION ONE



UPR COMMITMENTS RELATING TO
BUSINESS & HUMAN RIGHTS AND THE
IMPORTANT ROLE OF CIVIL SOCIETY



SESSION 1

UPR COMMITMENTS RELATING TO BUSINESS & HUMAN RIGHTS AND THE IMPORTANT ROLE OF CIVIL SOCIETY

KEY MESSAGES

- In 2016, as part of the Universal Periodic Review (UPR) process, the Royal Thai Government received a recommendation from Sweden “to develop, enact, and implement a National Action Plan (NAP) on Business & Human Rights in order to implement the UN Guiding Principles on Business & Human Rights.”
- The Rights & Liberties Protection Department of the Ministry of Justice is responsible for developing the NAP.
- The role of Manushya in the NAP process, and its goals, include:
 - Ensuring local voices, concerns & solutions are at the centre of the development of the NAP.
 - Building the capacity of civil society to ensure it can effectively engage with the NAP process.
 - Empowering communities to document and monitor business conduct and the governments progress towards its business & human rights commitments.
- The methodology followed is as follows:
 - Legal and policy analysis of the compliance of Thai legislation and policies with the UNGPs.
 - Documentation of cases of human rights violations caused by private actors.
- Key human rights issues identified in the process include land related rights, impacts of the environment, anti-discrimination policies, migrant workers, human trafficking, child labour, labour rights, and the protection of HRDs.
- The NBA will focus on three key dimensions: violations to labour standards, impacts of business activities on indigenous peoples, community rights, livelihoods and the environment, and the protection of human rights defenders.



OVERVIEW

The first session addresses the Royal Thai Government's UPR commitments relating to human rights and civil society's role within this. It examined the process, methodology and content of civil society's part to play in the Thai government's fulfilment of its UPR commitments relating to business and human rights, in particular the National Baseline Assessment (NBA) that was to be developed to complement the government's National Action Plan (NAP) on business and human rights.

Emilie Pradichit, Founder and Director of Manushya Foundation, and **Nattaporn Artharn**, Community Empowerment Coordinator of Manushya Foundation (and Business and Human Rights Focal Point of the Thai CSOs Coalition for the UPR) facilitated this session.

Part 1: Process

In May 2016, Thailand underwent the UPR process, in which it received a recommendation from Sweden to “to develop, enact, and implement a national action plan (NAP) on Business and Human Rights in order to implement the UN Guiding Principles on Business and Human Rights (UNGPs).” The NAP represents a collection of voluntary pledges to promote human rights principles and practices in the business sector, and is the responsibility of the Rights & Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ). The RLPD is responsible for implementing Thailand's international human rights obligations, including UPR recommendations, and in facilitating cooperation and protection of local communities and human rights defenders (HRDs) in regards to human rights.

In regards to this, Manushya's vision and key objective is to empower the Thai CSOs Coalition for the UPR to engage with the Royal Thai Government and corporate actors in the implementation of the UPR commitments on business and human rights. To achieve this, three core objectives were established: ensuring local concerns & solutions are at the centre of the development of the NAP; building the capacity of civil society to ensure it can effectively engage with the NAP process; and empowering communities to document and monitor business conduct and the governments progress towards its business & human rights commitments.



1. Ensure Local Voices, Concerns and Solutions are at the Centre of the Development of the NAP

Manushya will conduct an independent CSO NBA to provide credible evidence of the human rights realities on the ground. This will be done through gathering and analysing existing evidence on the human rights impacts of businesses in Thailand, developing new, community led research on rights violations committed by corporate actors, and analysing the compliance of the legal framework in Thailand with the UNGPs. Between January 2017 and March 2018, the NBA will be developed, with the NAP being launched in September 2018 by the MoJ.

2. Capacity Building for Effective CSO Engagement & Advocacy: UNGPs & Human Rights Due Diligence

To develop capacity, Manushya Foundation will build Thai CSOs knowledge on the UNGPs and other business and human rights frameworks. This will be achieved through a number of capacity building workshops, focusing on a wide range of crucial skills and knowledge to ensure communities can have an effective input in the business and human rights process in Thailand. In addition to this, it will bring stakeholders (CSOs, the government and the private sector) together to discuss challenges, solutions, and enable them to effectively collaborate to advance human rights, of which the NBA dialogues played a key role in making a reality. Finally, research findings on the human rights impacts of businesses will be informed through expert stakeholder inputs, through the running of two experts meetings which brought together communities, renowned experts such as members of the UN Working Group on Business & Human Rights, and other stakeholders.



The rationale behind the desire to build capacities on the UNGPs and corporate accountability was that human rights and development are not contradictory concepts. The business and human rights agenda is not anti-business, however, companies cannot make money unfairly through violating human rights at a cost to local communities. Taking a human rights approach enables companies to mitigate the risks they face by not respecting human rights, namely legal risk, reputational risk and operational risk. By conducting human rights due diligence, which is the effective, in depth analysis of a business's human rights impacts, companies are able to mitigate this risk to themselves and the risk to rights holders. Taking a human rights approach benefits everyone, and we believe that building capacities of all stakeholders is crucial to ensure these benefits can be genuinely felt.

3. Empowerment of Communities to be 'Agents of Change', Documenting and Monitoring Business Conduct and the Government's UPR Commitments

Manushya aims to empower communities to become key actors in the business and human rights response in Thailand, seeking to tip the balance of power between business and governments versus CSOs, enabling more bottom-up approaches in which CSOs are viewed as equal partners. To do this, it facilitated the creation of a 'Thai Coalition on Business & Human Rights', made up of CSO representatives from all over Thailand to ensure one strong, unified voice with which to fight for human rights. Secondly, Manushya provides sub-grants to communities to support the development of the network and research activities. Finally, Manushya develops the institutional capacities of the Business & Human Rights network to ensure it is effective and sustainable.

Communities developed and undertook a number of initiatives that furthered this objective, including:

- Field visits to monitor the human rights situation and collect data.
- Documenting human rights violations.
- Undertaking community based human rights education on the UPR and business & human rights.
- Community mobilisation.



We believe it is that essential communities are at the heart of any human rights response. This goes beyond simply enabling them to have a seat at the table. Affected communities can and should be at the heart of human rights research, advocacy and policy work. By empowering communities to be ‘agents of change’, enabling them to take control of the documentation of rights violations and lead what, where, how and who is the focus of research, more representative, accurate, and compelling data on the human rights situation is gathered. This necessarily has a positive impact on the resulting human rights response, meaning any initiatives borne out of this will address the real needs of communities, and ensure power is placed back where it should be, with local people.

Part 2: Methodology

1. Legal & Policy Analysis of the Compliance of Thai Legislation and Policies with the UNGPs

The methodology employed for the legal and policy analysis of the compliance of Thai legislation and policies with the UNGPs is as follows:

- NBA template developed by ICAR-DIHR for Pillar 1 (UNGPs 1 – 10) and Pillar 3 (UNGPs 25 – 31)
- NBA template developed by ICAR-ISHR for the protection of human rights defenders
- Pillar 2 methodology to be included in the NBA
- Expert papers for extra-territorial obligations (ETOs) by the ETO Watch Working Group, and for digital rights.

2. Documentation of Cases of Human Rights Violations Caused by Private Actors: Realities and Voices from the Ground

The methodology followed in documenting cases of human rights violations first begins with an analysis of existing evidence to identify gaps and missing areas. Following this, new credible evidence is developed through:

- Regional dialogues in which there is an equal power balance through preparation training by experts experienced in working with communities (AIPP).



- Community workshops in which there is an equal power balance though preparation training by experts experienced in working with communities (ALTSEAN-Burma).
- Community and academic led documentation using the Business and Human Rights Resource Centre (BHRRC) checklist tool, in which there is an equal power balance though training by experts (BHRRC).

To analyse the existing evidence to identify gaps or missing areas, a preliminary desk based review was conducted with examined existing data relating to the adverse human rights impacts of businesses in Thailand and of Thai companies abroad. Following the development of this, it became apparent that the following human rights issues have been the most rigorously subjected to documentation:

1. Forced labour and abusive labour practices;
2. Trafficking of persons;
3. Migrant workers;
4. Child labour.

The following sectors have been the most researched in terms of business and human rights concerns:

1. Fisheries and the seafood processing industry;
2. The food industry (fruit processing, poultry, frozen food);
3. The extractive industry (mining).

The following issues have been reported more recently and have been subject to less documentation:

1. Violations of land-related rights;
2. Rights of indigenous peoples to land and natural resources;
3. Violations of rights to livelihoods impacted by development projects;
4. Freedom of expression and assembly of land and environmental HRDs who oppose development projects;
5. Discriminations against marginalised groups (LGBTI persons, women, people with disabilities) by private companies and/or in access to work.

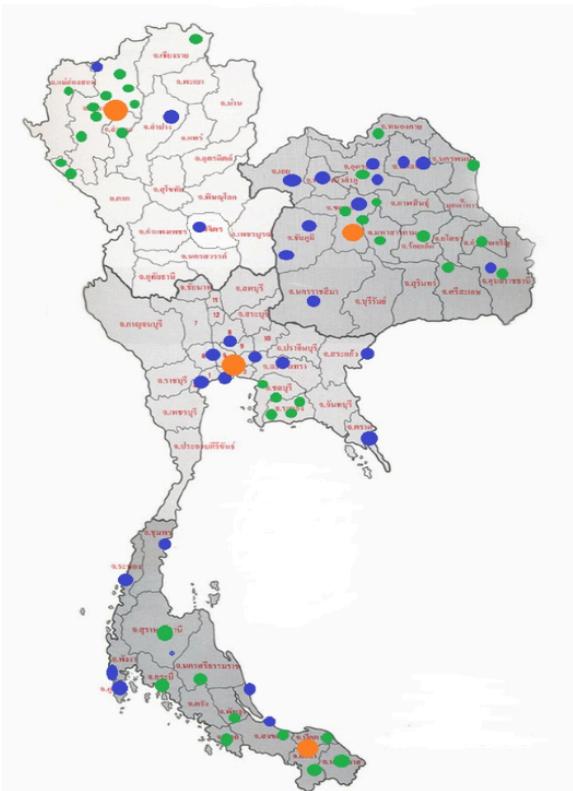
In response to the lack of credible evidence addressing these issues, a number of initiatives were launched. The sub-regional dialogues will be organised with the MoJ and UN Global Compact Network of Thailand (UNGCT) to inform the NBA and



gather community recommendations between January and March 2017. Following this, community workshops focusing on corporate accountability will be held between May and June 2017. These will enable communities to carry out community-led human rights documentation using the BHRRC documentation checklist tool, which was conducted between June and December 2017. Finally, expert papers will be developed on trans-boundary/ETO cases, indigenous peoples and digital rights between August and December 2017.

Community & Academic-led Research – Researchers & Methodology

Community members, lawyers and academics will conduct research to document the adverse impacts of business conduct on community rights, livelihoods and the environment. The ‘Thai CSOs Coalition for the UPR’ is instrumental in this. The coalition consists of four regional hubs: Northern, Northeastern, Eastern and central, and Southern regions. Within these regions, 13 thematic focal points address specific areas of human rights (as can be seen in figure 1), and there are two sub-regional business and human rights CSO coalitions to mobilise on advocacy and campaigning. In addition, the following academics and lawyers will document the adverse impacts of business conduct:



Southern Thailand

Ms Saovanee Kaewjullakarn

Professor Lecturer, Faculty of Law at Thaksin University

Northern Thailand

Ms Napaporn Songprang

Deputy Director at CPR

Mr Sarawut Pinkata

Attorney at CPR

Eastern & Central Thailand

Ms Wannapong Yodmuang

Advocacy Coordinator at RSAT

Mr Pakorn Areekul

Political activist

Northeastern Thailand

Mr Chainaron Sretthachau

Professor Lecturer, Mahasarakham University

Ms Nattaporn Arthan

Community Empowerment Coordinator at Manushya Foundation



CSOs Human Rights Monitoring & Reporting System of the Thai CSOs Coalition for the UPR



Figure 1 – Map of Thai CSO Coalition for the UPR

Methodology

The following methodology is to be employed in the research:

Business & Human Rights Resource Centre documentation checklist – to ensure an authoritative, expertly designed and managed methodology is carried out.

Interview consent form – to respect the confidentiality of the interviewee.

Methodology form, addressing:

1. What method is applied to gather the evidence?
 - a. Interview, focus group discussion, public hearing, meetings, court decisions etc.
2. What types of evidence are gathered?
 - a. Testimony, photographs, video, government data, satellite imagery, scientific test results, official statements, police complaints, NHRCT investigation etc.

Part 3: Content

The NBA will focus on three dimensions as follows, and each section will address the following themes:



1. Violations of labour standards
 - a. Working conditions and occupational health and safety for formal, informal and migrant workers
 - b. Trade unions
 - c. Protection of migrant workers
 - d. Forced labour, human trafficking and modern slavery
 - e. Child labour
 - f. Sex work
 - g. Discriminatory policies and practices (gender inequality, LGBTI, persons with disabilities, people living with HIV, ethnic minorities, indigenous peoples and women)

2. Impacts of business activity on indigenous peoples, community rights, livelihoods and the environment
 - a. Indigenous peoples
 - b. Community rights (right to information, public participation)
 - c. Environment (EIA, EHIA)
 - d. Land-related rights (right to food, right to housing, land grabbing, land evictions, special economic zones)
 - e. Investments
 - i. Thailand's investments abroad (trans-boundary cases and extraterritorial obligations)
 - ii. Bilateral trade agreements/free trade agreements and the negative impacts on access to affordable medicine

3. The protection of human rights defenders

Each chapter will follow the subsequent format:

- Context related to thematic issue
- Relevant international standards (UNGPs Pillar 1)
- BHR framework/companies framework (UNGPs Pillar 2)
- Analysis of compliance of Thai national legal and policy framework with the UNGPs (Pillar 1 & 2)
- Practices on the ground, containing information from:
 - Desk review of existing evidence
 - Information from the NBA dialogues



- Community and academic research and documentation of rights violations perpetrated by businesses
- Access to remedy
 - Legislative framework
 - State based judicial remedy
 - State based non-judicial remedy
 - Non-state based, non-judicial grievance mechanisms
- Experts opinions and best practices
 - States best practices
 - Businesses best practices
 - CSOs best practices
- Recommendations to:
 - The government
 - Companies
 - Key stakeholders

SESSION TWO



THE UN GUIDING PRINCIPLES ON BUSINESS & HUMAN RIGHTS



SESSION 2

THE UN GUIDING PRINCIPLES ON BUSINESS & HUMAN RIGHTS

KEY MESSAGES

The UNGPs

- The UNGPs establish a three-pillar framework that addresses the human rights responsibilities of states and businesses, although due to their voluntary nature and the monopoly and power of businesses over the government it is difficult to ensure businesses comply with the UNGPs.
- At the UN level, the implementation of the UNGPs is promoted by the Working Group on Business and Human Rights, which can make recommendations and urge states to address human rights issues; the Working Group can receive cases related to business and human rights.

Civil Society

- CSOs are invited to use all the local, national and international mechanisms available to them in order to put pressure on the state and businesses.

The NAP

- One of the main priorities of the NAP is the establishment of a stronger complaint office to which complaints about issues on business and human rights can be submitted.
- CSOs play a fundamental role in ensuring that states and businesses keep their human rights commitments and have to play an active part in the NAP process.
- Advocacy for the application of the UNGPs can be developed in various ways; CSOs can develop recommendations and action plans for businesses and states or use global frameworks and file complaints to the international institutions that provide financial support to many companies.



OVERVIEW

The second session focused on The UN Guiding Principles on Business and Human Rights (UNGPs). The main objective of the session was to explain to participants the importance of the UNGPs and the work of the UN Working Group.

Prabindra Shakya, Human Rights Campaign and Policy Advocacy Programme Coordinator of, Asia Indigenous Peoples Pact (AIPP) held this session.

Part 1: Background on the Guiding Principles

Human Rights Concepts

Human rights are the universal protections all individuals are entitled to, regardless of sex, nationality, race, language, religion, or any other characteristic. The state has a responsibility to protect, respect and fulfil these rights. Individuals and groups must be protected from rights violations, must not have their human rights restricted, and must be allowed the exercise their rights freely. Businesses, together with states, are obligated to defend and protect the human rights of individuals and groups.

Business & Human Rights

While traditionally human rights have been seen as the preserve of the state, businesses have both an impact upon human rights and a role to play in regards to them. The operations of businesses can negatively impact upon individual's experiences of human rights, both positively or negatively.

Examples of the **positive** impact of businesses on human rights:

- Employment (ICESCR Article 6)

Examples of the **negative** impact of businesses on human rights:

- Land grabbing
- Pollution (ICESCR Article 12)
- Forced Labour (ICCPR Article 8)
- Discrimination in the hiring process/at work

Examples of cases of human rights violations caused by businesses:



- Child labour by Nike in China;
- Death penalty to environmental activists for protesting against exploitation by Royal Dutch Shell plc. (Shell) and the Nigerian government in Nigeria;
- Industrial disaster in the Bhopal gas tragedy, causing workers to be exposed to a dangerous work environment involving toxic gas that resulted in deaths in India.

While cases of rights violations caused by businesses can be well documented, it is often difficult to bring affected individuals to justice due to the monopoly businesses have and their power over governments. While the UNGPs serve as an essential tool to combat business related rights violations, their status as a soft law instrument limit their ability to force businesses to change their practices and rectify their behaviour. To ensure that businesses keep to their human rights commitments, the UNGPs should expand their responsibilities.

Timeline of the UNGPs

- 2005 – John Ruggie was appointed as the UN Secretary-General’s Special Representative.
- 2008 – John Ruggie developed the UNGPs with the “Protect, Respect and Remedy” framework, although the framework cannot preclude international or national legal developments.
- 2011 – The UN Human Rights Council adopted the UNGPs.

DISCUSSION

The following section will showcase discussions that were held following the presentation on the UNGPs at each of the regional dialogues.

Northern Region

Question: If the state does not sign and ratify a convention or a treaty, how can the human rights obligations it contains be implemented?

Answer: Every UN member state is responsible for respecting human rights as stated in the Universal Declaration of Human Rights (UDHR). A state does not have to sign a convention to implement its rights; member states are naturally required to protect individuals’ rights.



Northeastern Region

Question: Are there any businesses that violate the rights of individuals or groups?

Answer: Yes, a paper manufacturing company called STB releases wastewater into the river that negatively affects individuals.

Prabindra's additional response: In cases such as these, the UNGPs suggest the victim must inform the government and ask to be protected. Additionally, under the third pillar of the UNGPs, individuals can demand compensation from the state and the responsible company.

Question: Do the UNGPs apply to state-owned enterprises such as the Electricity Generating Authority of Thailand? Is this not contradictory as state-owned enterprises operate as businesses and occasionally have negative impacts on individuals and communities, yet the state is responsible for protecting rights?

Answer: If it is in the form of a state-owned enterprise, then both pillars (pillar one and two) apply, meaning that the state has the duty to protect and respect human rights. In Thailand, this applies in the case of Public Company Limited (PTT) and other state-owned enterprises.

Southern Region

Question: Given your experience working with both the public and private sectors, do you think achieving an effective National Action Plan is possible?

Answer: I think it is possible in terms of management, judging from my years of experience with the Provincial Health Assembly and National People's Assembly of Thailand. I believe that as the government accepted the recommendation regarding the NAP, they will make sure that the implementation goes according to plan.

Question: Do you agree with the duties of the state in terms of protection, respect, and fulfilment of our human rights? How does the state keep its commitments?

Answer: I believe that when the state makes an agreement with the UN, civil society has a key role to play in ensuring states keep to their commitments. Civil society organisations, acting as the voice of local communities, should be stern and make sure that the state fulfils its obligations.

Question: What should the state do to promote human rights?



Answer: The state should listen to the voices, needs and experiences of communities to promote human rights.

Eastern Region

Question: How is it possible for businesses to violate human rights with impunity?

Answer: From the perspective of a migrant worker, lawmakers play an essential role. Victims know their rights are being violated, however, lack of information and access to the relevant mechanisms to fight against rights violations limits their ability to act. Employers are aware of this, and due to their greater resources and understanding of the law they are able to take advantage of this and disregard the rights of their workers.

Answer: Businesses can violate human rights without getting punished because their capital power is above the state and laws.

A participant expressed his doubts about the UNGPs and the agreement between the government and business. They suggested there should be laws to indicate how much business sector should pay for compensation.

Question: Who passes the law?

Answer: The government.

Question: It is apparent that even though we consider the government ineffective, we will have to work with them to achieve human rights. Given this, should we try to pass laws and policies in the areas that affect people the most?

Answer: Laws should be made based on the goal of punishing businesses for violating human rights, whoever they affect. For instance, an oil company in Mexico was punished for an oil leakage. If there are laws that punish businesses, this will incentivise them to follow the rules.

Question: How can a UN resolution be implemented in the private sector if the government has not implemented it themselves? For example ILO 8798 in Thailand.

Answer: Any resolutions adopted by the Human Rights Council apply to all member states of the UN. In Thailand, CSOs are in the process of contributing towards the drafting the NAP, which stakeholders should be involved in. This serves as a further incentive for states to implement standards and commitments made in UN resolutions.



Part 2: What are the UN Guiding Principles on Business & Human Rights?

The UN Guiding principles address the role of businesses in human rights, and how they should abide by and implement human rights standards.

UNGP Three Pillar Framework

The three-pillar framework of the UNGPs is as follows:

1. **Protect** – Policies and regulations should be enacted to protect the human rights of the people. The state must protect its people from any sort of rights violation, including violations caused by businesses and enterprises. Even though states are not responsible for human rights abuses caused by the private sector, they must take a stand for their citizens and punish companies who are responsible for abuses. The UNGPs encourage states to urge businesses to respect human rights, both domestically and internationally.
2. **Respect** – Businesses must respect human rights by trying to avoid the violation of individual's human rights and address the potential human rights risks their business operations may cause. The state and the private sector should acknowledge their duty to respect and protect human rights. The UNGPs suggest companies conduct a human rights impact assessment (HRIA) to analyse and become aware of human rights impact of their business. A statement is then created as a form of agreement to respect the rights of individuals. By assessing the human rights impacts of their operations, businesses are able to prevent rights violations happening in the future.
3. **Remedy** – The state is responsible for providing access to remedy through judicial, administrative, and legislative means. Businesses are responsible for preventing and remediating any infringement of rights that they have contributed to. Non-judicial mechanisms must be legitimate, accessible, predictable, rights-compatible, equitable, and transparent. Examples of non-judicial mechanisms include: parliamentary panels, National Human Rights Institutions (NHRIs), and complaint offices. States should make sure that there are no barriers for individuals who wish to access grievance mechanisms, for example, by having interpreters available if needed and by



providing other tools to assist with remedy. Business-level mechanisms are encouraged to operate through dialogue and engagement.

Features of the UNGPs

The features of the UNGP are as follows:

- They are applicable to all states, all companies of all sizes, all sectors, and all countries.
- They are applied to state laws.
- They are a distinct, but complementary responsibility between states and companies.
- They do not present new legal obligations, but rather a clarification and elaboration on existing obligations and practices for states and business.
- Businesses cannot simply compensate for human rights abuses. For example, if a business project leads to forced evictions, the business cannot build a school to compensate for the violence. Remedy is different from corporate social responsibility (CSR).
- They contain a “smart mix” of regulatory and voluntary approaches.

Shortcomings of the UNGPs

- They are purely voluntary, limited in scope, and lack effective oversight mechanisms (there are no specific courts for the UNGPs). States need to enact and enforce legislation to translate the UNGPs into domestic law.
- There are no broad agreements on what standards directly apply to businesses.
- Despite the existence of the UNGPs, a number of rights violations still occur.

What can the state and businesses do to protect, respect and remedy human rights?

According to the first pillar of the UNGPs, states must protect people from business-related abuses within their territory/authority. It should prevent, mitigate and address human rights violations through policies, legislation, regulations and adjudication, and set up a system which forces businesses to respect human rights. For example, the state can encourage Thai companies operating in other countries to respect the human rights of the people living in those countries.

The second pillar focuses on the duty of businesses to respect human rights. According to the second pillar, businesses should do no harm and address the



negative impacts that their activities could have on communities as part of their due diligence. Businesses should make policy commitments and carry out impact assessments and they should report on possible negative impacts before conducting projects. To ensure effective integration of human rights into businesses operations, businesses should seek assistance on how to properly implement the UNGPs.

The need to provide access to remedy, as set out in the third pillar, falls on both the state and businesses. Both the state and business should ensure access to remedy and should eliminate or reduce barriers in accessing justice. Operational-level (company or site level) grievance mechanisms play an important role in providing remedy and addressing impacts before they become worse. Senior level officers from the business sector should gather with community members and educate them on the existing grievance mechanisms they can utilise to access remedy. Also, states and business should provide monitoring mechanisms that are legitimate, accessible, predictable, equitable, transparent, and rights-compatible; provide a source of continuous learning; and provide operational-level mechanisms.

DISCUSSION

Northern Region

Pillar 1

Question: In the special economic zone in Mae Sot, the state issued a business a certificate of ownership over local people's land. Is the state guilty of violating people's rights?

Answer: The state is guilty; the announcement of the special economic zone without inclusion of local people is a violation of land rights. This happens often, in many areas, and highlights the flaws in a number of current laws and the failings of the government. To tackle issues like this we should make our voices heard. Once the government provides a hearing, there is going to be an opportunity to discuss and find solutions together. Businesses should be held accountable to prevent these violations happening in the future.



Pillar 2

Question: There was a case where a landowner let people farm on his land, but only if the farmers bought and used fertilizers and insecticides from him. The farmers also had to give away half of the produced goods to the landowner. Complying with the conditions, the farmers only received THB 80 from all the work they did. How can the UNGPs be applied to this kind of case?

No answer was provided due to limited time.

Pillar 3

Question: Indigenous peoples are discriminated against regarding the issuing of ownership certificates due to their crop rotation practices. However, crop rotation is intrinsic to the culture of our indigenous peoples. How can we claim our rights?

Answer: We must think about which right we are going to claim and which law, policy, or principle can be used to support the claim for our right. We also must think about collecting information, and utilising judicial mechanisms and international human rights mechanisms for support.

Southern Region

Pillar 1

Question: Do you think it is necessary for Thailand to have laws to protect human rights from being violated by businesses?

Answer: For the case of Map Ta Phut, victims can only get access to remedy through legal channels, which is ineffective, so more than just legislation is needed. I think there should be laws to address the problem in an effective manner and punish the perpetrators that don't involve going through courts. In addition, there should be community based grievance mechanisms established through legislation, to ensure that the methods adopted by businesses in regards to human rights are sustainable and fair to communities.

Pillar 2

Question: Did any business enterprise in the area cover the negative impacts they caused with the promotion of some social programs?

Answer: Yes, the coal power plant promised to build a playground in the community for children.



Northeastern Region

Pillar 2

Question: Is it right for factories, which are the main contributors to global warming due to carbon emissions, to try and further their social responsibility initiatives by growing trees in another area under international policy?

Answer: The UNGPs talk about the right to environment broadly and do not talk specifically about carbon emissions. However, according to the UNDP as far as the right to a healthy environment is concerned, human rights cannot be offset. For example, it is not possible for a company to cut trees in the Northeastern region and compensate for the harm caused by growing trees in the Chiang Mai region.

Pillar 3

Question: What is your understanding on remedy?

Answer: Compensation.

Question: How do you get access to remedy?

Answer: Gather people together and make complaints to the provincial government (which is one of the non-judicial mechanisms).

Question: Does Siam Cement Group (SCG) have a grievance mechanism?

Answer: I do not have information on this because most of the time, I make complaints to the government.

Eastern Region

Pillar 3

Question: Do businesses provide complaints mechanisms for employees?

Answer: Complaints mechanisms that do exist are contained purely in the private sector, so there are minimal checks and balances, and the mechanism itself is not very effective. Due to its ineffectiveness, CSOs can act as the external investigator on violations.

Prabin provided additional comments: The UNGPs provide guidance on how the non-judicial grievance mechanism should be. If there is no grievance mechanism, companies have to establish a grievance mechanism at both the place of operation and their headquarters. At the operational level, companies should appoint a senior level officer to look into the complaints and implement changes accordingly, because often, the complaints are received, but no action is taken. Moreover, after



the complaint centre is established, the community should be informed about the service and companies should set up a monitoring system.

Part 3: Implementation of the Guiding Principles

The implementation of the UN Guiding Principles takes place at two levels: the UN level and the state level.

Working Group on Business and Human Rights

When the United Nations drafted the UNGPs, it also established the Working Group on Business and Human Rights. The Working Group, consisting of five members, was established by the Council as a special procedure with the mandate to promote dissemination and implementation of the UNGPs. With this mandate, the Working Group is able to collect information and make recommendations to the government. The Working Group can also receive cases regarding business and human rights and urge states to address human rights related issues. In addition, CSOs can invite Working Group members to visit their countries and learn about their problems.

Forum on Business and Human Rights

The Annual Forum in Geneva, established by the Human Rights Council, is a platform for all stakeholders including states, businesses and CSOs to discuss trends, challenges, and good practices in the implementation of the Guiding Principles. The forum also presents strong opportunities for advocacy. Last year, for example, after a CSO representative presented information about human rights violations committed by a mining company, the company asked the CSO to have a discussion in order to address the impacts of the human rights violations.

Part 4: National Action Plans

In 2013, the Working Group, along with other stakeholders, called upon governments to engage in processes to develop National Action Plans as a means to implement the UNGPs. An increasing number of states have started to engage in such processes, while others have indicated their intentions to do so. In Asia, the most progressive country on implementing a NAP is Malaysia. SUHAKAM (the Malaysian NHRI) submitted a strategic framework to the Malaysian government in March 2015. For Thailand, the Ministry of Justice initiated the NAP process and will be working on the NAP moving forward. Therefore, Thai CSOs have a good



opportunity to input into the business and human rights situation as the government has initiated a NAP, made commitments and began the process of developing a NAP. Once that plan is formed, implementation will happen and change will follow. As long as the plan is well formulated and well developed, the implementation will be a success. Thailand is the only country in Asia where the Ministry itself is working on the NAP. Other countries in Asia have been using their National Human Rights Commissions.

Guidance on NAPs

The NAP is a cycle and is not a one-time process. The UNGPs provide guidance on the NAP, which is divided into 5 phases:

Phase 1: Initiation

- Formal government commitment;
- Create a format for cross-department collaboration and designate leadership;
- Create a format for engagement with non-governmental stakeholders;
- Develop and publish a work plan and allocate adequate resources;

Phase 2: Assessment and consultation

- Get an understanding of adverse corporate human rights impacts;
- Identify gaps in State and business implementation of the UNGPs;
- Consult stakeholders and identify priority areas;

Phase 3: Drafting of the initial NAP

- Draft the initial NAP;
- Consult the draft with interested stakeholders;
- Finalise and launch the initial NAP;

Phase 4: Implementation

- Implement actions and continue cross-departmental collaboration;
- Monitor the implementation of the NAP;
- Ensure multi-stakeholder monitoring;

Phase 5: Update

- Evaluate impacts of the initial NAP and identify further gaps;
- Consult stakeholders and identify priority areas;
- Draft updated NAP, consult, finalise and launch.



DISCUSSION

Northeastern Region

Question: How can CSOs file complaints to the Working Group on Business and Human Rights?

Answer: First, I would suggest filing complaints to the National Human Rights Commission of Thailand (NHRCT). Communities can also submit complaints to the Special Department of Investigations and the Ministry of Justice. You should first start with local authorities and then move your way up to the national authorities if the problem persists. Unfortunately, in Thailand, there are not enough mechanisms to address all these issues.

Question: Is there any international body, such as the UN, to file complaints to?

Answer: Unfortunately, the UN Working Group is not taking many cases at the moment. However, you can still file a complaint through the UN Working Group and it might help put international pressures on the business causing the violations. You should also develop a press release in order to gather international attention. You should not use just one mechanism, but multiple mechanisms in order to put pressure on the state and businesses.

Question: If you could develop the National Action Plan today, what would be your primary recommendation?

Answer: As Thailand does not have any strong monitoring mechanisms; I would suggest creating a stronger complaint office so you can submit complaints about issues on business and human rights.

Part 5: How to use the UNGPs

Governments and businesses have adopted the UNGPs and they have been incorporated into many global frameworks. The following examples illustrate how the UNGPs are incorporated into global frameworks and how these can help advocate for the application of the UNGPs:

- The UN Global Compact is an association of businesses under the United Nations, with policies requiring businesses to respect human rights. If businesses associated with the UN Global Compact violate human rights, victims can send complaints to the UN Global Compact about the violations or



abuses. In Thailand, the members of the UN Global Compact include PPT, CP and other big companies. Even though these companies are rich, they do need financial support from international banks, which are also members of the UN Global Compact. Therefore, the companies would have to comply with the standards and procedures imposed by the UN Global Compact.

- The International Finance Corporation (IFC) of the World Bank provides loans to private companies or smaller banks. These private companies or banks are required to respect human rights, as respecting human rights is one of the policies of the IFC. If companies funded by IFC violated human rights, victims can send complaints to the IFC to stop funding those companies or banks.

The mechanism and procedures adopted by these organisations adhere to the UNGPs.

To ensure effective implementation of the UNGPs through these financial sources, the following steps for advocacy should be followed:

1. Identify the companies and actors that can be leveraged, such as: OCBC (mechanism of UN Global Compact), OECD, International Finance Corporation (IFC), Committee on World Food Security (CFS), UNCTAD or any related governmental mechanism;
2. Follow the money (to find out investors/financiers and consumers);
3. Find out what standards or policies can be applied (government regulations or bank policies);
4. Identify the most effective advocacy targets and strategies;
5. Document, mobilise, engage, and lobby (complaints, petitions, media advocacy, and so on).

DISCUSSION

Northern Region

Question: Regarding a case in Mae Sot, can the UNGPs be applied to a small local company that is backed up by Charoen Pokphand (CP)?

Answer: The UNGPs can be applied to companies of all sizes. Advocacy targets do not necessarily need to be in line with the recommendations made by Prabindra. There are many ways and many targets to advocate for. CSOs could develop their



documentation and action plan, and then provide it to the business. We can force them to commit to something.

Question: How can people with different experiences utilise the UNGPs?

Answer: People could start by thinking about the 3 pillars and how it applies to them and their situation, in order to make recommendations to formulate what we want the state and businesses to do.

Discussion about special economic zone in Mae Sot:

- Khun Tee from Rak Chiang Khong, who is against special economic zones policy and bombing islet practices, shared that the state should have a consultation before the announcement of special economic zones and also be required to provide information, such as lists of manufacturers with the type of project and its impacts on the people. Khun Tee added that the state should establish an organisation to monitor and investigate business and human rights-related issues
- A participant stated that they want the military government to take responsibility for using article 44 and to announce which special economic zones violate the land rights of local villagers. They continued that the government should take responsibility, as businesses are yet to invest in that area. They recommended that article 44 should be amended, because it is not in line with UNGPs and it has given too much power to businesses.
- Villagers have no certificate of ownership over their lands. If they have the certificate, the government is required to pay them compensation.
- Businesses are going to hire Chinese workers, affecting the rights of workers in Mae Sot.
- Although the government has issued certificates of ownership of land to villagers, the government continues to claim that the land belongs to the government. The state has to review this kind of order and slow down its implementation until a government wide standard is established.

Northeastern Region

Question: Please give example of business-related human rights violations and apply it to the three pillars of the UNGPs.

Answer: An example would be a case of biomass power plant, which bought thousands of rai of land under the government's control. The negative impact was



scrambling for land, water and food of the communities. Thus, we have the duty to be critical about the situation based on the UNGPs.

Southern Region

Question: How big do businesses need to be in order for the UN to take into account the negative impacts caused by them?

Answer: It is clear that the UNGPs are applied to companies of all sizes. However, regarding the complaints channel, the Working Group focuses more on spreading awareness than investigation. So, they have only looked into some cases. For example, in Thailand, the Working Group is currently looking into issues such as the seafood industry. However, it does not mean that we should not send complaints to them. We can send complaints to them and use the entire channel as much as possible. The complaints can be sent through emails and we should not only send the complaints to the Working Group, but also circulate them to other organisations in order to make them aware of the situation.

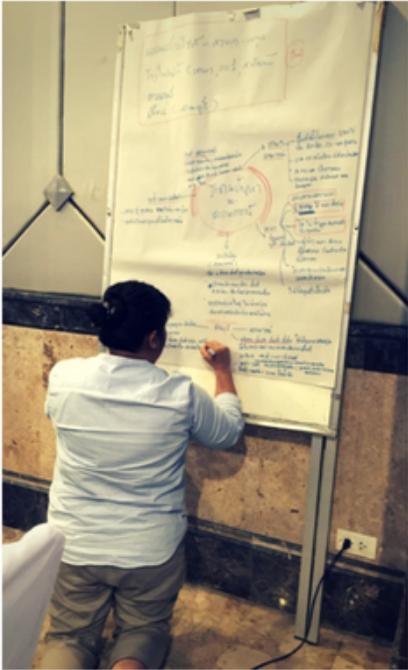
Question: How can we give suggestions to communities if companies claim to have received license in extracting stones from mountains for construction? Bombing is used for extraction, which has negative effects for the communities such as dust issues. Affected villagers were afraid to make complaints, as they feared being threatened.

Answer: We can assist the communities by providing trainings on security in their areas and build their capacity to monitor the threats.

Question: What can we do to make companies include people in the grievance mechanism?

Answer: It is the responsibility of Manushya Foundation to create tools in building capacities of the victims.

SESSIONS THREE & FOUR



WORKING GROUPS TO DISCUSS THE
IMPACT OF BUSINESSES ON HUMAN
RIGHTS & REPORTING BACK IN PLENARY
ON THE BUSINESS & HUMAN RIGHTS
SITUATION IN THAILAND



SESSIONS 3 & 4

WORKING GROUPS TO DISCUSS THE IMPACT OF BUSINESSES ON HUMAN RIGHTS AND REPORTING BACK IN PLENARY ON THE BUSINESS & HUMAN RIGHTS SITUATION IN THAILAND

KEY MESSAGES

On the basis of the feedback provided by the facilitators on the reports presented by the spokesperson of the different working groups, the following key points were identified:

- LGBTI, people living with HIV and sex workers should promote non-discrimination as the essential foundational principle of legislation.
- As for mechanisms that provide funds to promote access to remedy, the potential contribution from businesses should be carefully considered.
- When it comes to promotion of genuine recognition of indigenous people's rights, monitoring implementation of policies is central.
- It is fundamental to refer clearly to existing laws, mechanisms and the UNGPs in any recommendations in order to facilitate advocacy.
- Recommendations should include measures to protect HRDs and address safety issues.
- A timeframe should be set for a complaint mechanism.

OVERVIEW

During the third session participants broke into working groups to discuss the legal framework in Thailand, challenges they have faced and the negative impact of businesses on the rights and livelihoods of communities in the four sub-regions of Thailand. Each working group was then invited to provide solutions to address their challenges and selected a rapporteur to report back in plenary.



The session was facilitated by **Nattaporn Artharn**, Community Empowerment Coordinator, Manushya Foundation (Business & Human Rights Focal Point, Thai CSOs Coalition for the UPR).

The fourth session of the day consisted of a discussion in plenary on the impact of businesses on the human rights situation in each of the four sub-regions of Thailand. The participants reported back in plenary and shared their experiences, challenges and solutions. Participants suggested areas of focus for the groups working on issues moving forward.

The session was facilitated by:

Prabindra Shakya, Human Rights Campaign and Policy Advocacy Programme Coordinator at Asia Indigenous Peoples Pact (AIPP)

Nada Chaiyajit, Capacity Building Coordinator at Manushya Foundation (SOGIE Focal Point, Thai CSOs Coalition for the UPR).

Communities made the following recommendations:

Labour Rights

- The Fishing Industry -

Southern Region

Regarding the recommendations, the group should provide more details and criteria on how the government and businesses should act.

- Discriminatory Practices: LGBTI, People Living With HIV & Sex Workers -

Northern Region

The group should focus on increasing discussion on issues involving business and human rights, which impact them in the Thai context. Strong recommendations exist, in particular the key recommendation for the NAP to include non-discrimination based on gender and health status as a foundational principle. In addition, the recommendations should not only protect, but also promote non-discrimination. Furthermore, the recommendations should address the duty of both states and businesses to ensure people access social services.



Southern Region

The group should add more details on the existing laws, mechanisms, and time frame on business and human rights initiatives to facilitate advocacy and allow the government to implement them correctly.

Community Rights & Livelihoods

- Land Rights, Natural Resources & the Environment -

Northern Region

Ideas for the recommendations on the funds were given, with the example of the Netherlands being used as a guideline for the group to consider when making recommendations in the future. According to Prabindra, the National Action Plan in the Netherlands provides funds through an initiative called Access Facility, which aims to promote access to remedy, with the funds belonging to the Dutch government. While creating the funds, there was an argument on whether businesses should contribute to the funds or not. Eventually, it was decided that businesses should not contribute to the funds due to the conflict of interests. Also, it is exploitative as businesses can use their contribution to the funds to claim that they do respect human rights. As a result, the Dutch Government promoted a policy on CSR to impose progressive taxes on businesses and use the taxes gathered as funds. In this way, the funds would be more independent and not under the influence of businesses.

Southern Region

The overall recommendations are good, but they have to relate more to business and human rights. What the group can do is to include details on the UNGPs in the recommendations. Also, there should be recommendations on the involvement of communities in the processes and the monitoring system.

In the report on human rights, issues on diverse cultures and ways of life should also be mentioned, as well as measures to protect HRDs and address safety issues. Regarding complaint mechanisms, there should be a timeframe for it. For example, if there is a complaint, a timeframe should be set on the period that will be taken to release the response.



- Indigenous Peoples -

Northern Region

Indigenous cultures are taken advantage of for the purpose of tourism. However, when it comes to real recognition of the indigenous peoples' rights, they are not recognised. Therefore, it is important to be clear on how to formulate the case for protecting indigenous people in relation to business and human rights, such as clarifying that the case of the indigenous peoples is related to cultural rights and business. Regarding the recommendations, they should include the implementation of policies, such as providing recommendation for businesses to report on their implementation after the policies are formulated.

The feedback from participants was incorporated into the report and the results of the report review are discussed on day two.

DAY TWO



SUB-REGIONAL DIALOGUE ON BUSINESS
& HUMAN RIGHTS TO INFORM
THAILAND'S NATIONAL BASELINE
ASSESSMENT

SESSION ONE



AICHR THAILAND: BUSINESS & HUMAN RIGHTS AND THE UNGPS



SESSION 1

AICHR THAILAND: BUSINESS & HUMAN RIGHTS AND THE UNGPS

KEY MESSAGES

- The UNGPs recognise the distinct and complementary responsibility of both states and businesses to respect, protect and fulfil the human rights of individuals;
- The responsibilities of the state include the development of the National Action Plan on Business and Human Rights with the participation of all stakeholders;
- The NAP processes within the United Kingdom has shown that participation in the NAP can help businesses to protect the reputation of the brand, foster better understanding with government and civil society, mitigate the risk to be sued, and attract investors.

OVERVIEW

The first session of the day addressed the UNGPs and was presented by **Dr Seree Nonthasoot**, representative of Thailand to AICHR. The session discussed the UN Guiding Principles and the responsibilities of the state and businesses. The objective was to raise awareness on the UNGPs and the NAP.

PANEL DISCUSSION

Background on the UNGPs

Previously, it was the state's responsibility to respect, protect, and fulfil the human rights of individuals in its territory. Shortly after, the UN recognised that businesses also influence the human rights of individuals as their projects lead to both positive and negative impacts on individuals. For that reason, the UN created guiding principles to raise awareness among people affected by business and human rights. The principles include all business such as SME, big companies, small companies, public companies and state enterprises to respect human rights.



Responsibility of state regarding the UNGPs

The responsibilities of the state in the UNGPs include developing the National Action Plan on Business and Human Rights with the participation of all stakeholders.

Responsibility of states and businesses regarding UNGPs

The guiding principles provide 3 pillars:

- **Protect** – The state is responsible for protecting its people from human rights violations by third parties such as business enterprises. This is possible through policy-making, investigation and enforcement.
- **Respect** – Businesses are responsible for avoiding the violation of human rights by carrying out due diligence to avoid infringing on the rights of others. Businesses should not be ignorant to or ignore violations and need to take actions against them to avoid reputational consequences. The principles under the three pillars are applied to businesses of all sizes and are made suitable for all of them. For example, SMEs might not have to do reports on human rights, while large businesses are required to do so.
- **Remedy** – The state is responsible for providing access to remedy through judicial, administrative and legislative means and for preventing infringements on the rights by businesses. Non-judicial mechanisms should be legitimate, accessible, predictable, rights-compatible, equitable, and transparent.

National Action Plan (NAP)

The NAP processes within the United Kingdom have shown that participation in the NAP can help businesses in eight ways:

1. To protect the reputation of the brand;
2. To secure clients;
3. To secure employees;
4. To have a better understanding between the government sector, private sector and CSOs;
5. To mitigate the risks to be sued;
6. To attract investors;
7. To have a better collaboration with government to conduct business;
8. To support the ethics and values of the organisation.

SESSION TWO



PANEL DISCUSSION WITH THE MINISTRY OF JUSTICE



SESSION 2

PANEL DISCUSSION WITH THE MINISTRY OF JUSTICE

KEY MESSAGES

- The Thai government needs to work on the development and implementation of a NAP, as provided by the UPR recommendation on business and human rights received from Sweden;
- A National Dialogue on Business and Human Rights and the regional baseline assessments are organised to inform the NAP and provide knowledge about the issues to be included in the first NAP, which will be drafted in 2018;
- The ASEAN experts advisory meeting in collaboration with AICHR, Manushya Foundation, UN Global Compact and Thai CSO coalition will support the draft of the NAP;
- After its launch by the cabinet, the NAP should be reviewed and amended periodically.

OVERVIEW

The second session was on the implementation of the UNGPs in Thailand and was conducted by **Nareeluc Paechaiyapoom** from the Department of Rights and Liberty Protection of the Ministry of Justice. The topics of discussion were related to the reasons why the Thai government must work on business and human rights and the timeframe for the development of the National Action Plan on Business and Human Rights.

PANEL DISCUSSION

The three reasons why the Thai government must work on business and human rights are as follows:

1. The Ministry of Justice has been responsible for five treaty bodies. Since 2016, the Ministry has been assigned for the work surrounding ICESCR. It was previously the responsibility of the Office of the Attorney General.



2. The Thai government received a UPR recommendation on business and human rights from Sweden, who recommended that the Thai government develops, enacts and implements a NAP on Business and Human Rights in order to implement the UNGPs.
3. The Ministry of Justice has been responsible for drafting Human Rights Action Plans since 2004, when it drafted the first Human Rights Action Plan. Currently, Thailand is under the third Human Rights Action Plan, which will be in use until 2018, and is drafting the fourth Human Rights Action plan to be implemented in 2019. The plan will include business and human rights.

Timeframe

1. Established a Committee on the National Action Plan;
2. Arranged a National Dialogue on Business and Human Rights on 20 December 2016;
3. Conducted an NBA by organising 4 regional baseline assessments. The agenda was to provide knowledge on business and human rights in the morning and a group discussion discussing human rights issues in the region and prioritise which issues should be in the first NAP;
4. Arrange the ASEAN experts advisory meeting in collaboration with AICHR, Manushya Foundation, UN Global Compact and the Thai CSO Coalition to give suggestions on how the plan should be drafted;
5. Draft a NAP in 2018 and discuss it with stakeholders;
6. Send the NAP to the cabinet for consideration and launching;
7. Have periodic reviews and amendments to the NAP.

SESSION THREE



UN GLOBAL COMPACT NETWORK
THAILAND



SESSION 3

UN GLOBAL COMPACT NETWORK THAILAND

KEY MESSAGES

- Economic disparities among the rich and the poor, gender discrimination in the workplace, unfair employment conditions, forced labour and barriers to international trade are among the main challenges that need to be addressed by businesses.
- Innovation and the internet promoted the creation of employment opportunities and efficiency at work but caused a shift in general working practices, which will result in a decrease in long-term employment.
- The greater levels of freedom of expression that the internet and social media can open up individual's to a greater risk of defamation charges.
- Innovations in machinery and robotics could lessen risks faced by workers because robots and automation could replace humans in the dangerous jobs, however this will often lead to greater unemployment, which can have significant human rights impacts.
- Sanctions for business should be more diverse and be based on international law, national law and the policies of financial institutions.

OVERVIEW

Dr Netithorn, from the UN Global Compact, led the third session. The session discussed human rights as risks and opportunities for business in 2016.

Human Rights Risks and Opportunities

In the session, a number of the human rights risks that are emerging in relation to businesses were highlighted. Additionally, opportunities for improved human rights and better business practices were discussed. These are as follows:

- There are economic disparities and wide gaps between the rich and the poor people in the world, which can have a significant impact on individual's experiences of human rights. Good and fair tax policies could help address these problems.



- Gender inequality against women and LGBT people at the workplace presents a significant threat to individual's human rights, with women and LGBT people facing discrimination in both the hiring process and while employed.
- Innovation and the internet create employment opportunities for people because the internet can act as a facilitator for individuals to carry out work for businesses. Additionally, the internet helps people be more efficient at work and enables people to work from home and take more work-related leave than in the past. Due to the shift in the working practices, the number of freelancers will increase, while long-term employment will decrease.
- There are serious refugee problems in many places of the world, which can make individual's vulnerable to exploitative working practices, forced labour and trafficking.
- There are barriers regarding international trade. For example, Donald Trump wants to move all manufacturing bases back to the U.S., which will affect the countries that were previously manufacturers for the U.S.
- Supply chains are often a key site of human rights abuses, due to the fact that management of supply chains can be complicated. Some large businesses have about 10,000 suppliers in their supply chain, making the monitoring process more challenging.
- There are risks to the right to privacy presented through the use of personal data by businesses. For example, data provided by people to businesses, like private bank account information, can be used incorrectly by being sold to other companies.
- Freedom of expression through social media often leads to defamation charges.
- In industries such as construction, businesses should be more aware of labour rights law because the working conditions in such industries are more dangerous and could lead to human rights violations. Innovations in machinery and robotics could lessen the risk for this kind of work because robots and automation could replace humans in the dangerous jobs. However, automation often leads to greater unemployment, which can adversely impact human rights.
- The way to punish and sanction businesses should be more diverse. Punishments and sanctions are based on international law, national law and policies of the banks. For example, a bank policy would determine whether an organisation would qualify for a loan by looking at their human rights practices.

SESSION FOUR



VOICES FROM THE GROUND: CIVIL SOCIETY PERSPECTIVES ON THE HUMAN RIGHTS SITUATION RELATED TO BUSINESS & HUMAN RIGHTS IN THAILAND



SESSION 4

VOICES FROM THE GROUND: CIVIL SOCIETY PERSPECTIVE ON THE HUMAN RIGHTS SITUATION RELATED TO BUSINESS AND HUMAN RIGHTS IN THAILAND

KEY MESSAGES

- The Northern and Southern regions suffer from human rights violations related to land, agriculture and the environment, which are perpetrated by the government and businesses, particularly the destruction of agricultural productivity and land grabbing.
- Human rights violations facing migrant workers in the Northern region range from the inability to register for the benefits they are entitled to, to severe abuses such as forced labour and human trafficking.
- Large-scale development projects without proper management have had many negative environmental impacts on communities in the South.
- Traditional fishery and food security of local communities are threatened by businesses operating both in Southern and Eastern Thailand.
- LGBT individuals suffer from discrimination in employment and lack of equal access to services in the business sector.
- Industrial development in the Eastern region has had a negative impact on local communities and the environment, leading to an increasing number of people living on limited resources, air and water pollution, and overcrowding.
- Workers in Eastern Thailand face limitations in the enjoyment of their rights; pregnant women, elderly workers, interns and LGBTQ persons are victims of unfair treatment in the workplace; there are documented cases of workers being subjected to abuse in an attempt to force them to terminate their contracts; and many industries and sectors impose limitations on the right to assembly.
- A monitoring mechanism does not exist to ensure effective implementation of labour legislation.
- Bad laws and policies that favour the private sector have facilitated human rights violations in the different regions.



OVERVIEW

The fourth session focused on the human rights situation related to business and human rights in each of the four regions. Group discussions were held, facilitated by government officials, focusing on what should be included in Thailand's upcoming NAP, with three distinct groups speaking: CSOs, government officials, and representatives of the private sector. The reports were based on the issues discussed on day one with the incorporation of feedback to speakers from the first day. There were four reports from each sub-region of Thailand, however, as there was no reporting back in plenary, the fourth session did not constitute a dialogue as CSOs and the government were separated.

Nattaporn Artharn facilitated this session.

The following section of this report will highlight the issues presented by each region and then showcase recommendations made by communities, grouped thematically and following the UNGP pillars.

While the session offered communities an essential platform to voice their experiences and offer recommendations based on their unique insight into the human rights situation in the area, the lack of dialogue from government facilitation was a missed opportunity by the government. Focusing more on reporting back in plenary and constructive dialogue would have enabled a more collaborative approach, and given the government an opportunity to more deeply understand and work together with communities to ensure the NAP is representative of their views and experiences. While the input from communities was nevertheless invaluable, we hope this session served as an important learning opportunity from the government about the importance of embracing community voices wholeheartedly, and moving beyond simply allowing communities a platform to speak to genuinely integrating their views and empowering them to be part of the human rights response.



The Human Rights Situation Related to Business and Human Rights in Northern Thailand

Natural Resources & the Environment

Punyaphat Kamonnet presented issues relating to the environment and use of natural resources that had arisen in Northern Thailand. Human rights violations that occur in the North regarding these areas revolve around issues of land grabbing and a lack of consultation with the community prior to the implementation of policies or projects. The current laws in Thailand governing land use are poor, including those addressing fair access to land and other forms of land use, such as land rental contracts with the Treasury Department and community title deeds. Regarding management of natural resources and environment, laws include the National Environmental Quality Act B.E. 2535, the Factory Act B.E. 2535, and the Industrial Estate Authority of Thailand Act B.E. 2522, which help to ensure proper management of natural resources. However, the negative impact of bad laws being implemented in Thailand, such as Article 44, outweighs the benefits of good legislation.

Punyaphat presented examples in which the government's implementation of bad laws has caused suffering for local communities. The National Council for Peace and Order (NCPO) have facilitated rights violations, for example by carrying out the forest reclamation policy, which is among the most problematic policies in regards to forest management. The forest reclamation policy of the NCPO aims to increase forest coverage by 10% in Thailand. The implementation of such a policy involves the destruction of agricultural productivity, evictions, the arrest of villagers, and land grabbing to reclaim the forest. Moreover, Article 44 by the NCPO is problematic as it turns land that belonged to local villagers (without certificate of ownership) into public land. Through the invocation of Article 44, the government revoked land ownership from local communities and declared the land as publically owned to facilitate its lease to the private sector. Also, in relation to special economic zones, exemptions are provided that enable businesses to avoid implementing the Town Planning Act and Building Control Act. The exemptions are provided by the NCPO order. This leads to concerns about the environmental and agricultural impacts to villager's land that is inside special economic zones. Furthermore, a business that wins an auction of an industrial district can completely manage the district and bypass EIA or EHIA requirements.



Migrant Workers

The presentation on the issues related to migrant workers in Mae Sod, led by **Butsayapa Srisompong**, focused on poor working conditions migrant workers face and the resulting human rights violations caused by this. The migrant workers are entitled to protection under the Labour Protection Act 1998, Social Security Fund Act, Labour Relations Act 1975, Announcement on Minimum Wage, and Announcement on Compensation for Skilled Labour. Moreover, the Criminal Injuries Compensation Fund Act grants migrant workers benefits.

Despite the legal protection provided by the laws mentioned, migrant workers still face challenges, as there are limitations to the benefits they are entitled to due to legal loopholes and a lack of effective oversight. For example, monitoring mechanisms are ineffective and do not ensure implementation of existing labour legislation. Workers over the age of 55 years are ineligible to register for benefits and services. Some public hospitals under the Ministry of Public Health do not let migrant workers and their dependents purchase health insurance, or they charge them double the price. Employers are often not in compliance with Ministerial Regulations and violate wage rules. The government is also unable to force employers to comply with the Social Security Act as it only applies to migrant workers with passports. Migrant workers with Pink ID cards and/or undocumented workers have no access to the right provided by the Act.

The case of the special economic zone in Mae Sod was given to highlight the detrimental impact businesses have had on migrant workers in the area. As Mae Sod is part of a special economic zone, it serves as an attractive destination for those looking for work and so there are increasing numbers of migrant workers in the area. There are a number of documented cases of rights violations faced by migrant workers in Mae Sod, with many being unable to exercise the rights they are entitled to under current labour legislation and being subjected to numerous abuses from the private sector. The majority of migrants affected are those working in factories, in the agricultural sector, in domestic roles and children.

Examples of exploitation and rights abuses experienced by migrants were cited. Migrant workers are not informed about their rights and have no official contract. Even if they have contracts, often, these are not written in a language the migrants understand. Due to employees' limited understanding of the terms in their



contracts, many contracts between employers and migrant workers are exploitative, with employers taking advantage of the language barrier to create contracts with unfair or illegal conditions. Many migrant workers have never received fair wages or even the minimum wage, and some have never received wages at all and are overworked. Moreover, migrant workers have also faced unfair dismissal without advance notice or compensation. Also, employers, who prevent migrant employees from going outside the assigned area or changing employers, confiscate workers' passports and work permits. Many migrant workers have also been victim to gross rights abuses in the form of forced labour and human trafficking.

Furthermore, migrant worker's health is often put at risk due to a sub-standard working environment. For example, migrant workers in the agricultural sector face risks because the equipment used is not safe, with workers often being required to use pesticides that are toxic. These inadequate conditions flourish due to the lack of qualified staff or security, and ineffective monitoring of working conditions and workplace safety. Even worse, duty bearers (governmental officials and employers) take no responsibility when it comes to compensating workers when their health suffers because of their work.

The Human Rights Situation related to Business and Human Rights in Southern Thailand

Large-Scale Development Projects

Large-scale development projects without proper management have had many negative environmental impacts on communities in the South. There are some good laws seeking to address potential problems that can arise from the operation of large-scale development projects in community areas, including: the National Environmental Quality Act B.E. 2535, the Factory Act B.E. 2535, the Industrial Estate Authority of Thailand Act B.E.2522, the Public Health Act B.E. 2535, the Hazardous Substance Act B.E. 2535, the Industrial Products Standards Act B.E. 2511 and the Maintenance of Public Sanitary and Order Act B.E 2535. These pieces of legislation help to address the adverse effects industrial factories or large-scale development projects can have on communities and the environment. However, bad laws, such as NCPO Order No. 9/2016 on environmental quality promotion and maintenance, NCPO Order No. 3/2016 and NCPO Order No. 4/2016, have created channels for business-related human rights violations to occur.



Rights abuses relating to large-scale development projects in Southern Thailand are often the product of the negative environmental impacts these projects cause for local communities. The Southern Development Plan has initiated 20 large-scale development projects, such as Bara deep-sea port in Satul Province, a coal power plant in Chooporn Province, and a 150000 rai industrial estate in Satul Province. Despite being subjected to the numerous negative environmental impacts posed by these large scale development projects, affected communities were not engaged in any of the processes leading up to the projects and were not informed about the negative effects these projects could have on them.

Land, Agriculture & the Environment

In the South, a number of rights violations are documented that relate to land, agriculture and the environment, which are perpetrated by both the state and the private sector. Thailand has some good policies on land, such as policies on fair access to land and other form of use, guaranteed by a certificate of utilisation and land rental contracts with the Treasury Department, which allow members of the public to rent and use deforested lands. In addition, there is legislation to facilitate land ownership and the transfer of title deeds. Besides having good policies, policies on land issues are often implemented effectively, such as the implementation of cabinet resolutions that facilitate land reform with the involvement of civil society. Also, a commission on government land encroachment was established.

Despite having good policies to address land rights, there are gaps in laws and policies that can lead to violations of land rights. Gaps identified include limitless land ownership and title holding; the misuse of the Land Utilisation Law, especially industrialising agricultural land and using community forests; disputes over overlapped land, such as in national parks and public properties; discrepancies in government and public testimony in land mapping; and no standard measure to handle land disputes. In terms of land, state policies often violate the rights of communities, such as policies on national park area declaration and forest reclamation. The policies impose protected areas over farmland tilled by villagers. Without land title deeds, the villagers are expelled from their land. Additionally, the lifestyle of communities who are dependent on rubber has been changed since modifying rubber plantations became illegal. Laws such as the National Reserved



Forest Act, B.E. 2507 benefits businesses but result in the disruption of communities' traditional way of life. The Act allows people to tend land but only when they have rented it. The rent is higher than what local communities can afford, while it is not the case for businesses. Policies on land also benefit businesses in terms of agriculture and water. Agriculture is affected as businesses monopolise seeds and farming goods, leading to market monopolisation. Water is managed to serve the interest of business sector and water management is based on industrialisation policy and water management for agriculture, not on the needs of local residents. These can often lead to a fight for water between local communities and businesses, with businesses triumphing.

Fisheries

Fishing remains one of the most important industries in the Southern part of Thailand. However, the industry is subject to threats from businesses operating in the area. Thailand has good laws to protect marine resources, such as the Fishery Act B.E. 2558 and the Marine and Coastal Resources Management Promotion Act B.E. 2558, which help to address potential issues and mitigate against rights violations. Despite these laws being in place, communities still suffer due to the bad management and exploitation of resources, which is possibly due to the existence of poor laws that contradict the benefits of other, more positive legislation.

The representative from the group working on the fishing industry presented the issues, and provided a greater insight into the situation of this sector in Southern Thailand. The methodology used by businesses in catching fish and the exploitation of marine resources for business purposes serves as the foundation for problems and abuses faced by communities. The use of destructive fishing gears has led to the decimation of small fish, the disruption of the reproduction of fish, and damage to marine ecology in the area. Additionally, fishing is carried out during fishes' spawning period, causing the reproduction cycle to be disrupted and eventually depleting the fish population. Furthermore, traditional fisheries are affected negatively by large fishing boats, which encroach on traditional fishing grounds. This forces traditional fisheries to change methods or to risk extinction. Investors want licenses on territorial waters, giving them exclusive rights over marine resources, such as cockles in Pattani.



LGBT & Discrimination

LGBT individuals are provided with protection under the Gender Equality Act 2015 and SOGIE components were included in the 3rd National Human Rights Action Plan. Positive signs have been seen regarding the implementation of this. After the Gender Equality Act was implemented, the Gender Equality Investigation Committee was set up to receive complaints and investigate on the cases. Additionally, training on the Gender Equality Act for government officials and other related organisations were organised. On the civil society side, campaigns to increase public understanding of gender diversity were conducted by various CSOs. Nevertheless, legal loopholes and general inefficacy have had negative consequences for LGBT persons. For example, with the Gender Equality Investigation Committee there is a delay in investigation after complaints are received and no final ruling is made to set a precedent. Also, the training on Gender Equality Act did not achieve national coverage, especially in remote regions and provinces.

The representative from the LGBT group presented situations in which businesses discriminate against LGBT individuals, giving examples of discrimination in employment and a lack of equal access to services in the business sector. Regarding discrimination in employment, companies refused to accept applications from LGBT individuals due to their LGBT status, or did accept the applications while imposing conditions for them to change. For example, a trans woman employee would be required to wear a short haircut and dress like a man. Moreover, LGBT individuals encounter hostile working environments, facing issues such as bullying in the workplace and verbal harassment. Regarding equal access to services in the private sector, certain hotels and pubs do not allow transgender people to enter and they are discriminated against at entertainment parlours. Transgender people are sometimes denied entry into and use of the ladies' room and are not given sales promotions due to their trans status.

The Human Rights Situation related to Business and Human Rights in Eastern Thailand

Resource Management

Thailand has good laws to address potential problems regarding resources management. Notably, the National Environmental Quality Act B.E. 2535, the Factory Act B.E. 2535, the Industrial Estate Authority of Thailand Act B.E. 2522, the



Public Health Act B.E. 2535, the Hazardous Substance Act B.E. 2535, the Industrial Products Standards Act B.E. 2511, and the Maintenance of Public Sanitary and Order Act B.E. 2535. This legal framework helps to address the adverse effects the industrial factories or large-scale development projects settled in community areas can possibly have on the communities and the environment. However, bad laws, such as NCPO Order No. 9/2016 on environmental quality promotion and maintenance, NCPO Order No. 3/2016, and NCPO Order No. 4/2016, have created channels for business-related human rights violations to occur. The Eastern region of Thailand is the centre of food and agriculture industries, and there is also a booming tourism sector. However, industrial development in the region has led to an increasing number of people living on limited resources, as the development has been carried out without proper management. Environmental impacts have also occurred, with industries affecting the environment negatively by releasing air and water pollution; toxic waste is released from industrial factories without proper management and eventually pollutes local water. Businesses also negatively affect the region through encroachment on food production. Moreover, due to the establishment of industrial factories and businesses that drew people to settle in, the region suffers from overcrowding and traffic.

Traditional Fisheries

Traditional fisheries in Eastern Thailand are under threat due to the establishment of larger fishing industries in the area. Thailand has good laws to protect marine resources, such as the Fishery Act B.E. 2558 and the Marine and Coastal Resources Management Promotion Act B.E. 2558, which help to address the problems that could possibly occur. Despite having good laws on the management of marine resources in place, communities still suffer from negative consequences from bad management and exploitation of resources. Bad laws facilitate the process, such as the Amnesty on Commercial Fishing Boat. Eastern Thailand is rich in marine resources and the fishing communities depend largely on these resources to make their living. However, since industries were established within the fishing areas of communities, they have encroached on marine resources, causing the local fishing communities to be affected. Local fishing communities' livelihoods are negatively affected due to increased competition and scarcity of resources. The destruction of local fishing activities due to the establishment of industries needs to be addressed and fixed as it threatens the food security of the local community.



Labour Sector

Workers in Thailand are entitled to protections under the Labour Protection Act 1998, the Social Security Fund Act, the Labour Relations Act 1975, the Announcement on Minimum Wage, and the Announcement on Compensation for Skilled Labour. Moreover, workers are provided with benefits granted by Criminal Injuries Compensation Fund Act. However, workers have faced limitations in accessing the benefits they are entitled to under the law. For example, a monitoring mechanism does not exist to ensure the effective implementation of labour legislation. Workers over 55 years of age are ineligible to register for benefits and services. In addition, there is a lack of a universal government standard of practice to handle workers and ensure they are protected. Many companies and businesses do not treat certain workers fairly, such as pregnant women, elderly workers, interns, LGBTQ and many more. Many companies do not provide benefits to these groups and neglect certain safety standards, such as violating the right to maternity benefits (ILO 183) by refusing to provide pregnant women with maternity leave. Workers also experienced unfair termination of their employment contracts. When the employment contract is terminated, the employees often have to go through court proceedings, preventing them from being employed again for long periods of time and thus limiting their ability to earn and support themselves. In addition, workers do not receive compensation for their time in court. Some companies try to terminate employment contracts early by traumatizing and exhausting their workers; this is clearly a violation of fundamental human rights. Also, companies do not respect the workers' dignity by refusing to assign workers to their jobs, confining them to certain fields, psychologically abusing workers and subjecting them to conditions that make them unable to continue working. Furthermore, the workers cannot fully enjoy their right to assembly because many industries and sectors impose limitations on this. In addition, sexual harassment in workplace takes place without proper repercussions.



RECOMMENDATIONS

General Business & Human Rights Recommendations

Pillar 1: Protect Recommendations

- The state must establish a mechanism or organisation specifically tasked with the investigation, monitoring and evaluation of business and human rights issues. The organisation must be composed of representatives from the government, the private sector and civil society.
- The state should enact a capacity development programme for all of its personnel and related agencies to ensure all employees and partners have thorough understand of human rights.
- The state must effectively integrate and implement human rights principles and practices into all aspects of public administration.
- The state should provide capacity development training on human rights principles and practices for the private sector.
- The state should improve existing government mechanisms through the integration of human rights practices and principles.

Pillar 2: Respect Recommendations

- Businesses need to immediately adopt and implement the UNGPs to prevent human rights violations.
- Businesses should conduct a thorough human rights impact assessment annually, detailing the human rights impacts of their operations and their compliance with international business and human rights standards. This should be publically released in a human rights report and easily accessible to the public, with a clear explanation of the methodology followed in conducting the assessment.
- All personnel working in the private sector should receive human rights capacity development training to ensure they have a thorough understanding of human rights principles and their practical implementation.
- Businesses must provide effective remedy to negative impacts their operations may have on the mental health and livelihood of communities. This remedy should be timely, well publicised, and easily accessible.



- The private sector must strictly adhere to all national legal requirements of the territories in which they operate, in particular those governing human rights.
- In partnership with civil society, the private sector should develop joint evaluation mechanisms to monitor the human rights impacts of their operations.
- Businesses must comply with international standards governing business and human rights, including, but not limited to, the UNGPs.
- Businesses must develop actionable contingency plans, both in general and for specific projects they may embark on, to swiftly and effectively deal with any negative human rights impacts of their operations.
- The private sector must carry out human rights due diligence in line with human rights principles, as opposed to CSR.

Pillar 3: Remedy Recommendations

- Businesses must immediately effectively address any negative human rights impacts that have occurred due to their operations, offering effective remedy to affected communities and putting measures into place to ensure abuses will not happen again.
- Businesses should set out specific measures for remedy in the case of rights violations, and effectively publicise them throughout their operations and to the general public.
- The state should provide effective access to both judicial and non-judicial remedy for victims in the case of business related human rights violations.
- The state should establish a remedy fund to for those who have been negatively impacted by business related human rights violations, from which compensation for abuses can be accesses easily, quickly and fairly.
- Rights Protection Centres should be established in areas in which businesses operate in order to protect local communities from rights violations and offer support to businesses in implementing human rights practices in their operations.
- Remedies offered by both the state and private sector must be provided promptly, fairly, and within a specified timeframe.
- Complaint centres should be set up at the local level, particularly in remote and marginalised communities to ensure all people have access to remedy.
- The state must coordinate with civil society and the private sector when developing remedy to ensure fair solutions are developed.



- Access to remedy should also be applied to those who have undergone court proceedings.
- Businesses need to develop and establish effective complaints mechanisms, with management being supervised at a senior level to ensure issues are resolved in a timely manner.

Violations to Labour Standards

- Decent Work & Working Conditions-

Pillar 1: Protect Recommendations

- The state should immediately adopt ILO conventions 87, 98, and 183.
- The state should set up an independent body to monitor labour rights violations.
- The state should enact laws that protect labour rights, in line with international standards. These laws should mandate both the state and the private sector to protect labour rights.
- The state should set up a timeline on labour-related lawsuits with 90 days being the maximum time frame for processing a case (90 days is the maximum amount of time an individual can go without income).

Pillar 2: Respect Recommendations

- Businesses must make contributions to a remedy fund, which is accessible at all workplaces in the case of rights violations.
- The private sector must establish complaints mechanisms with dedicated personnel who have the power to act to remedy abuses. The person in charge must have decision-making power and fix a clear timeframe to solve problems, with worker participation.

Pillar 3: Remedy Recommendations

- The private sector needs to develop guidance on human rights policies in the workplace that can be immediately implemented by businesses
- The state must set up a justice fund for individuals who are the victim of labour rights violations so that they can be supported in legal proceedings.
- Businesses must not terminate employees who are currently in legal disputes.



- The Fishing Industry -

Pillar 1: Protect Recommendations

- The state must strictly enforce current legislations governing the fishing industry, including the Fishing Act.
- The state must raise provide trainings on business and human rights issues in the fishing sector for the government, the private sector and civil society.
- The government should increase punishments for rights violations in the fishing industry through the review, revision and improvement of current legislation, conducted in partnership with a people's committee representing civil society.
- The state should strengthen concessionaire laws.

Pillar 2: Respect Recommendations

- Businesses should raise awareness about the detrimental impact of the use of destructive fishing gear.
- Businesses should develop policy commitments addressing their human rights impacts in the fishing sector.
- Joint mechanisms between the private sector and civil society should be developed to monitor the implementation of human rights standards, based on a mutual agreement.

Pillar 3: Remedy Recommendations

- The state and private sector should immediately remedy any adverse human rights impacts suffered by traditional fisher folk.
- The private sector should offer effective remedy in any future cases of rights abuses in the fishing industry.
- Effective campaigns to raise awareness should be carried out by both the state and private sector about the potential and actual human rights impacts business operations can have on fisher folk, and the necessary principles and practices relating to this to tackle violations.
- Compensation should be offered to those in the fishing industry who are the victims of rights violations to cover the loss of their occupations and livelihoods.
- Mechanisms should be put in place by both the state and private sector to protect local villagers who are dependent on fishing industries.



- Trade Unions -

Pillar 1: Protect Recommendations

- The state should support the collective organisation of farmers in order to help them gain more negotiating power.

- Migrant Workers -

Pillar 1: Protect Recommendations

- Migrant workers must receive fair wages, in line with Thai national minimum wage.
- The state must ensure migrant workers and their children are able to attain equal access to education with Thai citizens.
- Human rights education should be made mandatory in schools and incorporated into the national curriculum in order to disseminate knowledge about human rights principles and violations within the community.
- The state should ensure businesses provide health insurance to migrant workers and help cover health related expenses.

Pillar 2: Respect Recommendations

- Businesses should carry out effective human rights due diligence and incorporate this into their business practices to avoid infringing human rights.
- Businesses should provide health insurance to migrant workers and help cover health related expenses.

Pillar 3: Remedy Recommendations

- Effective access to both judicial and non-judicial remedy should be provided to migrant workers who are victims of human rights abuses.
- A complaints mechanism should be created and instigated for migrant workers who suffer rights violations, specifically at the provincial level.
- Businesses should establish workplace based grievance mechanisms, with grievances being processed within 60 days.



- Sex Work -

Pillar 1: Protect Recommendations

- The state should immediately decriminalise sex work by revoking the Prevention and Suppression of Prostitution act.

- Discriminatory Policies & Practices -

Pillar 1: Protect Recommendations

- The state should enact legislation to prevent discrimination in any form, which is implemented effectively.
- The state should enact legislation that guarantees the right to access health insurance for all, regardless of gender, ethnicity, sex, age or any other determining feature.

People Living with HIV:

- The state should eliminate all laws and policies that force people to undergo HIV testing during the employment and recruiting process.
- The state should develop concrete guidelines to ensure the private sector effectively adopts good practice with regards to prevention and management of HIV/AIDS in the workplace.
- The state should enact a clear policy stipulating that health insurance is accessible to all, regardless of health status.
- The state should develop clear guidelines about access to treatment for HIV/AIDS and ensure all service providers adopt them.

Elderly Persons:

- The state should change the age of retirement from 60 to 65 to ensure that elderly persons can work for longer, with greater accessibility for work opportunities.
- The state should provide financial support to elderly persons who wish to work freelance.



People with Disabilities:

- The state should enact special measures for people with disabilities to give them greater access to freelance work.

LGBT:

- The state must ensure efficient enforcement of the Gender Equality Act to address unfair gender discrimination in the workplace. The Ministry of Social Development and Human Security should collaborate with the Ministry of Labour to raise awareness in relevant sectors about employment laws within a two- year timeframe and revise labour law in compliance with the Gender Equality Act and other welfare laws.
- The state must ensure efficient enforcement of the Gender Equality Act to address unfair gender discrimination with regard to service delivery. The Ministry of Social Development and Human Security should conduct a consultation meeting with the private sector to raise their awareness on gender equality and the Gender Equality Act once a year and to monitor the situation.

Pillar 2: Respect Recommendations

- Businesses should adopt politics and regulations that ensure they will respect human rights, with these being applied across all aspects of the business's operations.
- Businesses should not discriminate against anyone on any grounds, including people living with HIV and people who are LGBTQI.

Elderly:

- Businesses should increase the time period available to elderly persons to access their services.

Disabilities:

- Businesses should provide ability appropriate careers for people with disabilities and continuing professional development support.
- Businesses should act in compliance with current legislation governing the employment of persons with disabilities, and hire disabled people over opting to pay contributions into the fund.
- Businesses should ensure all workplaces have the appropriate facilities needed to aid people with disabilities.



PLHIV:

- Businesses should not terminate the employment of PLHIV based on their HIV status.
- Businesses should not impose compulsory HIV testing on prospective or current employees.
- Businesses should provide support for employees in need of HIV treatment.

LGBT:

- The private sector must act in strict compliance with the Gender Equality Act by eradicating discrimination in employment and ensuring that the businesses employment policy excludes any gender biases.
- Businesses should develop clear policies with effective deterrents to prevent sexual harassment and discrimination in the workplace, with incidents being punishable.
- The private sector should report every year on gender equality in workplaces, including relevant information on gender discrimination, and make this report publically available.
- Businesses should implement policies to prevent gender discrimination toward users of services, with specific punishments put in place against the violators, including the staff with the potential to terminate their employment.

Pillar 3: Remedy Recommendations

- Mechanisms for remedy should be provided by both the state and private sector, and these should be well publicised at the local level.
- Companies should provide remedy for the physical and mental impacts rights violations they caused have had, responding effectively to the needs of affected persons and communities.
- Companies should establish grievance mechanisms for remedy that have a clear timeframe.
- The state and private sector should effectively use funds for remedy with participation from all stakeholders.

PLHIV:

- The state and private sector should provide systematic and clear mechanisms for remedy at the local level for PLHIV who have suffered rights violations.



- A committee for the protection of rights relating to HIV/AIDS should be set up at the Tambon, district and provincial levels with effective oversight and a mandate to offer genuine remedy.
- Businesses should establish grievance mechanisms to address termination of employment on the grounds of HIV status.

LGBT:

- Make complaint process according to the Gender Equality Act accessible, with the participation of all relevant stakeholders, and ensure that it is carried out within the timeframe specified in the relevant Ministerial Regulation.
- Businesses should develop, in partnership with all relevant stakeholders, complaints mechanisms that can be accessed in workplaces and entertainment venues and in which complaints are processed in a specified timeframe.
- A fund should be set up, as per the Gender Equality Act, with all relevant stakeholders being members of the fund committee. The fund should be used effectively to meet the needs of injured parties within a specified timeframe.
- The private sector should set up a remedy fund to provide for injured parties and ensure that it is used appropriately. It should meet the needs of the injured parties and be provided within a specific timeframe.
- The state and business sectors should document the situation of LGBTI employment.

- Unified Recommendations -

Supply Chains: *Formal & Informal Workers, Migrant Workers, Human Trafficking*

Private actors shall respect human rights due diligence and commit to a supplier code of conduct expecting suppliers to act with transparency and respect fundamental human rights for all people: to treat their employees/workers with fairness, respect and dignity, and to follow practices that protect the environment, as well as the health and safety for the people working in their facilities.

Workplace Anti-Discrimination Policy: *People Living with HIV, LGBTI Individuals, People Living with Disabilities, Elderly Persons*

Private actors shall not discriminate and shall promote the principle of “equal opportunity” and take “affirmative action” measures to ensure against discrimination in employment, recruitment, advertisements of employment,



compensation, termination, upgrading, promotions, and other conditions of employments against any employee or job applicant on the bases of race, creed, colour, national origin, sex, sexual orientation and gender identity, age, and health status. In particular, private actors will ensure people living with HIV, LGBTI individuals, people living with disabilities and elderly persons will not face any kind of discrimination.

Equality in Accessing Services: *PLHIV, Stateless Persons*

Banks and insurance companies shall take measures to ensure against discrimination in accessing loans, banking and insurance services. In particular, banks and insurance companies shall not discriminate against people living with HIV and stateless persons.

**Impacts on Community Rights, Indigenous Peoples,
Livelihood & the Environment**

- Community Rights -

Pillar 1: Protect Recommendations

- The state must have to consult potentially affected communities to be able to designate an area for a project.
- The state shall promote and uphold the ways of life, local cultures, identities and fundamental rights of communities.
- The state will disclose any information concerning development projects by the state and private sector, and any potential laws and policies relating to this, to communities that may be affected in order to facilitate public debate.
- The state should revise and review existing mechanisms that monitor the implementation of state authorities, with the purpose of updating them.
- The Provincial Strategic Plan (SEA) should be developed based on public participation and it must ensure that all developments be made in compliance with the SEA.
- The state must develop a mechanism to monitor and inspect any laws, policies or projects that may impact the community.
- The state should review and revise existing laws that can impact the rights of traditional communities, with public participation as their foundation.



- The state will promote and support community based research and local wisdom relating to agriculture.
- The state should support and promote the living weirs in collaboration with the community.
- The state should enact policies that seek to protect local communities traditional way of life.

Pillar 2: Respect Recommendations

- Businesses should ensure local communities have a significant role when designating an area for a project.
- Businesses should provide thorough, accessible and well-publicised information to the public about their activities and projects, with a focus on good governance and human rights principles.
- Businesses must work with local communities to ensure any production systems are compatible with community needs.
- The private sector must allow effective stakeholder participation at all stages of any projects and respect decisions made by the community regarding projects that impact the community.
- Businesses should ensure any projects they implement are suitable for local residents and effectively incorporate local identity.
- In collaboration with civil society, the private sector should develop joint monitoring mechanisms to assess the human rights impacts of businesses operations.
- Civil society should be intimately involved in businesses due diligence processes.

Pillar 3: Remedy Recommendations

- With significant civil society input, the state should develop a mechanism to monitor and assess any policies and development projects that may impact communities, with both the state and private sector being fairly held to account for negative human rights impacts.
- Remedial measures from both the state and private sector should offer remedy for negative impacts on psychological, social and physical wellbeing; local resources; and the environment.
- A restoration fund must be established by the state and private sector, with effective public participation, to rectify long-term impacts on livelihoods, with



communities having mandated decision-making power as to the use of the fund.

- In order to be able to implement a project, a business must first have to establish a fund to guarantee against any risks for the community, which can then be utilised in the case of grievances.
- The state must be responsible for taking the business sector to court if they cause any impact on the community (applicable when the community has not undertaken the litigation by themselves).
- The private sector shall develop operational policies that cater to the needs of the community and a joint mechanism to assess the effectiveness of this policy based on participation of all sectors.
- Businesses should conduct meaningful dialogue and assessment of existing grievance mechanisms with civil society and implement any suggested amendments.
- A council made up of local community members affected by business operations should be established to monitor and manage the long-term impacts of companies.
- Businesses must immediately cease any operations that have cause irreparable damage to communities.
- A joint mechanism for dialogue should be established between those who have violated rights and their victims, with the Department of Rights and Liberties Protection acting as a mediator.
- A fund to protect and remediate affected persons should be set up by the private sector with support from CSOs, and it should be made a legal entity with ten or more members from civil society and the private sector.
- Centres for rights protection should be established in communities that are affected by business operations and offer a complaint mechanism for local residents.

- Indigenous Peoples -

Pillar 1: Protect Recommendations

- The state should enact regulations imposing companies to respect the FPIC (free, prior, informed consent) of IPs, prior the approval and development of any project.



- The state should enact measures to protect and restore the culture of Indigenous People in line with UNDRIP.
- The state should adopt the Act on the Council of Indigenous Peoples;
- The state should provide facilitators for IPs during legal proceedings (translator, lawyer and bail).
- The state should enact laws that protect the heritages and cultural wisdom of IPs (textile, art, herb);
- The state should enact legislation certifying utilisation and ownership of the land for IPs and territory of IPs.
- The state should promote participation of IPs in every level of development (local and national).
- The state should establish multilateral mechanisms to monitor and investigate the effect of business operations on the community.

Pillar 2: Respect Recommendations

- Companies should respect the FPIC principle of the IPs communities.
- Businesses should provide fair benefits to the community when utilising their land, resources, or any other community based element, product or idea.
- Businesses should have an operational policy to legitimately respect the culture, community rights, and the environment when pursuing projects.

Pillar 3: Remedy Recommendations

- Businesses operating in the area of IPs community should provide complaint mechanisms to help those that have been negatively impacted by their operations.
- The state should provide remedy for victims who have been negatively affected by the state-owned enterprises, or state's evictions related to SEZ.
- In the case that a perpetrator cannot be identified, instead, the state should provide fair compensation and remedy.

- Environment -

Pillar 1: Protect Recommendations

- The state shall revise and review environmental law and related laws in order to ensure compliance with human rights principles.



- The state shall reform the Environmental Impact Assessment process (EIA, EHIA) in order to allow public participation at every stage and it should be carried out by an independent organisation that is endorsed by the local community. While the assessment is under way, the state shall absolutely refrain from implementing the project.
- The state shall provide for an independent organisation to monitor human rights violations committed by the business sector and to monitor impacts of large-scale development projects.
- With involvement of all sectors, an independent organisation should be set up to monitor the impacts from business operation in the industrial sites.
- The state needs to develop a monitoring mechanism in order to hold businesses/individuals accountable for the destruction of marine life.
- NCPO Order no. 9/2558 must be repealed.

Pillar 2: Respect Recommendations

- Businesses must develop and implement policies to promote the rights of local community to preserve natural resources and the environment.
- Businesses must show greater responsibility and commitment to water waste management.
- Businesses need to have a way to mitigate, prevent and control industrial environmental impacts, such as through effective programmes to ensure the yearly reduction of carbon emissions.
- Companies should provide a measure to reduce, prevent, mitigate and alleviate environmental problems caused by their operations.

Pillar 3: Remedy Recommendations

- The state should reform the RLPD's complaints mechanisms.
- The NHRCT should have the decision making power with regards to environmental human rights violations, besides the power to investigate.
- The state and the business sector must be held responsible for restoring the environment, natural resources and the health of the affected community.
- News, information and results of the impact studies of state policy and private projects that affect the environment and people's health must be always be disclosed.
- Companies must provide a fund that can be tapped into by the community for their natural resource preservation and restoration.



- Land-Related Rights -

Pillar 1: Protect Recommendations

- The state must develop a mechanism to monitor and inspect the potential human rights impacts of either state or privately operated development projects. All relevant stakeholders must be equally involved in the monitoring process.
- Any news or information about mega-development projects and special economic zones must be disclosed by the state to the general public, especially stakeholders.
- The state must not use Article 44 and review NCPO orders with regard to special economic zones, forests, land, and postpone any business progress that may lead to human rights violations that are authorised by Article 44 until an official civil government is elected.
- The state has to issue certificates of ownership for villagers.
- The state has to provide fair investigation and proof of ownership of land.
- The state must establish a mechanism or organization for investigation, monitoring and evaluation of human rights relating to land. The organisation has to be composed of people from the government, businesses and CSOs.
- The state has to enact laws that forbid the government from arbitrarily taking ownership over the land and ensure these laws are suitable for agricultural businesses.
- The state shall set up and support a land fund managed by the community.
- The state shall promulgate progressive land tax laws to tax unused land.
- The state shall devolve resource management power to the local community at all levels and the process should be conducted with participation from the community.
- The state shall review or repeal the laws that aid seed monopolisation and other agricultural factors.
- The state shall develop a joint management system of water with the community.
- The government should develop a provincial protection protocol as a business investment zone.



Pillar 3: Remedy Recommendations

- The state must set out measures for remedy that are specifically tailored towards the potential human rights impacts faced in special economic zones.
- The state and businesses that benefit from using resources in the area have to be responsible for the establishment of a fund for remedy against long-term impact in the area.
- The state should support the development of local communities knowledge and skills in order to increase productivity and enable communities to use land more effectively.

- Unified Recommendations -

Community Rights & Indigenous Peoples: *Management of Natural Resources, Land Rights, Customary Lands of IPs, Community Rights*

Private actors shall establish a process that respect the right to Free, Prior and Informed Consent (FPIC) of Indigenous Peoples and other affected communities, to ensure they can meaningfully participate in the decision-making process, including timely and systematic stakeholder engagements related to forest conservation and sustainable resource management.

Environment, Community Rights & Indigenous Peoples: *Management of Natural Resources, Land Rights, Customary Lands of IPs, Community Rights*

Private actors shall ensure the processes of Environmental Impact Assessment (EIA and EHIA) and Human Rights Impact Assessments (HRIA) are conducted by an independent organisation accepted by the local communities; and while the assessment is under way, the private sector shall absolutely refrain from implementing the project.

Protection of HRDs

Pillar 1: Protect Recommendations

- The state shall provide for the protection of HRDs and review existing laws that can be used to criminalise HRDs.



Pillar 3: Remedy Recommendations

- The state must provide a fund to mitigate the negative impacts prosecution can cause HRDs.



SUMMARY

This report has sought to serve as both as a record of the knowledge shared and views expressed over the course of the NBA dialogues, and a platform to showcase the experiences of local communities throughout Thailand and the recommendations developed by them to combat rights violations they are currently facing. As can be seen in this report, the rights violations caused by businesses and the state and varied, complex and oftentimes severe. From the drastic impact of large scale development projects in the South to the plethora of abuses faced by migrant workers in the North, it is clear that now, more than ever, swift, effective and far-reaching initiatives on business and human rights are desperately necessary in Thailand. It is essential moving forward that the information so graciously presented by communities, and the thoughtful, much needed recommendations they developed are wholeheartedly embraced and implemented by the Thai government in the development of the NAP. The release of this meeting report seeks to inform the NAP consultation currently in process, and we hope that the valuable insights contained within it are utilised to their fullest extent.

Following the dialogues, the next steps for Manushya are to build the capacity of local communities to meaningfully contribute to the business and human rights response in Thailand, and to hold Experts' Meetings to ensure that the voices of communities are heard and that expert input on business and human rights can be gathered, with the aim of ensuring a representative, comprehensive and meaningful NAP development process and NAP.

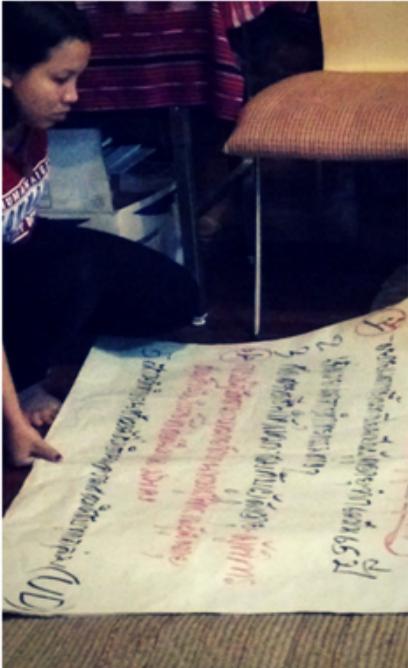
The Status of the NBA

Throughout the NAP process, Manushya has developed a NBA to inform and complement the NAP, enabling communities an opportunity to have their knowledge and experiences provide a crucial foundation for the direction taken in the Thai government's business and human rights efforts. However, on the completion of numerous workshops and the NBA dialogues, it was decided that sufficient information had been provided to the government directly from communities to ensure their much-needed input had been provided. As such, Manushya will now be releasing a series of working papers addressing the issues faced by communities in the context of business and human rights in Thailand.



By taking this approach, communities have not only been able to strongly, clearly and effectively articulate their experiences and demands to the government, but we will also be able to shine some much needed light on the business and human rights situation in Thailand for all, not simply those at the highest levels of power. We believe this is crucial. One of the biggest challenges in the human rights landscape in Thailand is often the lack of awareness of the rights abuses communities face and how to combat them. By releasing a series of working papers which highlights all business and human rights issues faced in Thailand, not only those which already receive considerable attention, we aim to shape the approach of both the private sector and the state and ensure they are held to account throughout the entire business and human rights approach, not purely the NAP consultation.

ANNEXE



AGENDA



ANNEXE

AGENDA

Sub-regional Dialogue on Business and Human Rights to inform the Thailand National Baseline Assessment

January to March 2017, 9:00-17:00
Chiang Mai, Khon Kaen, Hat Yai, Rayong

Day 1 CSOs training on the UN Guiding Principles on Business & Human Rights	
TIME	TOPIC
8:30 – 9:00	Registration
9:00 – 9:15	WELCOMING REMARKS & OBJECTIVES <ul style="list-style-type: none"> • Welcome participants and explain the objectives of the 2-day meeting • Introduction of all participants
9:15 – 10:30	Session1: UPR Commitments related to Business & Human Rights and the important role of Civil Society
Objective	<i>Ensure that participants understand the UPR commitments made by the Royal Thai Government to develop a National Action Plan on Business and Human Rights and the important role civil society has to play. To explain the activities and plan to develop a CSO National Baseline Assessment, including documentation of human rights violations and impacts of businesses on the rights and livelihoods of communities.</i>
Facilitator	<ul style="list-style-type: none"> • Emilie Pradichit, Founder & Director, Manushya Foundation
Q&A	Discussion with participants.
10:30 – 10:45	Coffee Break
10:45 – 12:30	Session 2: The UN Guiding Principles on Business and Human Rights (UNGPs)



Objective	<i>Explain to participants the importance of the UN Guiding Principles on Business and Human Rights and the work of the UN Working Group.</i>
Facilitator	<ul style="list-style-type: none">• Prabindra Shakya, Human Rights Campaign and Policy Advocacy Programme Coordinator, Asia Indigenous Peoples Pact (AIPP)
Q&A	Discussion with participants.
12:30 – 13:30	Lunch Break
13:30 – 15:00	Session 3: Working Groups to discuss the impact of businesses on the human rights situation in Northern Thailand
Objective	<i>For participants to break into working groups and discuss the legal framework, challenges and negative impacts of business on the rights and livelihoods of communities in their region. Each working group will be invited to provide solutions to address their challenges. Each working group will select a rapporteur to report back in plenary.</i>
Facilitator	<ul style="list-style-type: none">• Nattaporn Artharn, Community Empowerment Coordinator, Manushya Foundation (Business & Human Rights Focal Point, Thai CSOs Coalition for the UPR)
Q&A	Discussion with participants.
15:00 – 15:15	Coffee Break
15:15 – 17:00	Session 4: Working Groups to report back in Plenary on the impact of businesses on the human rights situation in their region
Objective	<i>For participants to report back in plenary and share their experiences, challenges and solutions.</i>
Facilitator	<ul style="list-style-type: none">• Prabindra Shakya, Human Rights Campaign and Policy Advocacy Programme Coordinator, Asia Indigenous Peoples Pact (AIPP)
Translator & Co-facilitator	<ul style="list-style-type: none">• Nada Chaiyajit, Capacity Building Coordinator, Manushya Foundation



(SOGIE Focal Point, Thai CSOs Coalition for the UPR)

Day 2

Dialogue on Business and Human Rights between CSOs, the Royal Thai Government, and the private sector

กำหนดการ

“การประชุมเชิงปฏิบัติการเพื่อประมวลและรับฟังข้อมูลและข้อคิดเห็นประกอบการจัดทำ รายงานประเมินสถานการณ์สิทธิมนุษยชนในภาคธุรกิจ) National Baseline Assessment – NBA)

ณ ภาคตะวันออกเฉียงเหนือ”

วันศุกร์ที่ ๒๔ กุมภาพันธ์ ๒๕๖๐

ระหว่างเวลา ๐๘.๓๐ - ๑๖.๓๐ น.

ณ โรงแรมอวานี ขอนแก่น ไฮเทล แอนด์ คอนเวนชั่น เซ็นเตอร์
อำเภอเมือง จังหวัดขอนแก่น

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๐๙.๐๐ น.	๑๑.๓๐ น.	ชี้แจงวัตถุประสงค์ของการประชุม
๐๙.๓๐ น.	๑๐.๓๐ น.	หลักการสหประชาชาติว่าด้วยธุรกิจกับสิทธิมนุษยชน) UN Guiding Principles on Business and Human Rights – UNGP) <ul style="list-style-type: none"> • ดร .เสรี นนทสุติ ผู้แทนไทยในคณะกรรมการระหว่างรัฐบาลอาเซียนว่าด้วยสิทธิมนุษยชน
๑๐.๓๐ น.	๑๒.๓๐ น.	การอภิปรายในหัวข้อ“ การดำเนินงานตามหลักการ UNGP ในประเทศไทย ” <ul style="list-style-type: none"> • นางสาวนริลักษณ์ แพไชยภูมิ ผู้อำนวยการกองสิทธิมนุษยชนระหว่างประเทศ กรมคุ้มครองสิทธิและเสรีภาพ <ul style="list-style-type: none"> • ดร.เนติธร ประดิษฐ์สาร The Global Compact Network Thailand (GCNT) <ul style="list-style-type: none"> • นางสาวณัฐพร อาจหาญ Business and Human Rights focal point of the Thai CSOs Coalition for the UPR
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MANUSHYA

Empowering Communities | Advancing Social Justice

Founded in 2017, Manushya Foundation serves as a bridge to **engage**, **mobilise**, and **empower** agents of change by: connecting humans through inclusive coalition building and; by developing strategies focused at placing local communities' voices in the centre of human rights advocacy and domestic implementation of international human rights obligations and standards.

Manushya Foundation strengthens the solidarity and capacity of communities and grassroots to ensure they can constructively raise their own concerns and provide solutions in order to improve their livelihoods and the human rights situation on the ground.

