



Chapter 3: Community Rights, Indigenous Peoples, Land-related Rights, Natural Resources and the Environment



MANUSHYA

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Manushya Foundation
& Thai BHR Network,
*Chapter 3: Community Rights,
Indigenous Peoples, Land-related
Rights, Natural Resources and the
Environment. Comments on the final draft
National Action Plan (NAP) on Business and
Human Rights (BHR) in Thailand, (March 2019).*



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About the Thai BHR Network

The Thai Business and Human Rights Network (TBHRN) is an informal, inclusive and intersectional coalition of human rights defenders, community leaders, researchers, academics, and non - governmental organisations from the local, national and regional spheres, who are joining hands to ensure local communities are central to the business and human rights response in Thailand. The Network engages in advocacy, dialogue, and monitoring of business and human rights commitments made by the Royal Thai Government, in particular in engaging in the development and monitoring of the National Action Plan on Business and Human Rights. More information on the TBHRN and its role can be accessed at:
<https://www.manushyafoundation.org/coalition-building-workshop-report>

Table of Contents

TOWARDS A STRONG NATIONAL ACTION PLAN (NAP) ON BUSINESS AND HUMAN RIGHTS (BHR)	1
1. Sharing our Story & Perspective on the Process to develop the NAP on BHR	3
1.1. Clarification on Manushya Foundation and the Thai CSOs Coalition for the UPR’s role in the First National Dialogue on Business and Human Rights, 22 December 2016	3
1.2. Our Independent CSO National Baseline Assessment (NBA) on Business and Human Rights to inform the four key priority areas of the NAP on BHR and center community voices in the business and human rights discourse	3
1.3. A zero draft NAP on BHR not taking into consideration voices from the ground	5
1.4. Consecutive Draft NAPs not made public for comments and not widely disseminated	5
1.5. We Welcome a non-rushed NAP process but note that the final Draft NAP on BHR is still excluding affected communities	6
2. Sharing our Comments on the Final Draft NAP on BHR to ensure a strong NAP on BHR to regulate corporate activities in Thailand	7
CHAPTER 3: COMMUNITY RIGHTS, INDIGENOUS PEOPLES, LAND-RELATED RIGHTS, NATURAL RESOURCES AND THE ENVIRONMENT	9
I. Overview	10
II. Challenges	12
III. Action Plan	13
Pillar I: State duty to Protect (Protect)	13
Pillar II: Corporate responsibility to respect (Respect)	33
Pillar III: Access to Remedy (Remedy)	37



Towards a strong Thai National Action Plan (NAP) on Business and Human Rights (BHR) to regulate corporate activity, that is inclusive of communities voices' affected by the adverse impacts of businesses conducts and operations, communities' challenges and their recommendations

Comments on the final draft National Action Plan (NAP) on Business and Human Rights (BHR) in Thailand

by Manushya Foundation & Thai BHR Network

15 March 2019

[Manushya Foundation](#)¹ and the Thai Business & Human Rights Network ([Thai BHR Network](#)), its inclusive and intersectional coalition of human rights defenders, community leaders, researchers, academics, and non-governmental organisations together ensure local communities are central to the business and human rights response and discourse in Thailand. This is achieved through advocacy, dialogue and monitoring of business and human rights commitments made by the Royal Thai Government (RTG), in particular by engaging in the development and monitoring of the National Action Plan (NAP) on Business and Human Rights (BHR). The Thai BHR Network is an inclusive and intersectional network of grassroots communities, civil society, academics and experts, including representatives from and/or working on the following issues: *rights of migrant workers, labour rights (formal and informal workers), trade unions, indigenous peoples, stateless persons, community rights, land-related rights, environmental rights, people with disabilities, LGBTI individuals, sexual and reproductive health, drug users, people living with HIV, sex workers, women's rights, the protection of human rights defenders, the impact of Thai outbound investments and trade agreements.*

We sincerely appreciate the efforts of the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ) towards the drafting of a National Action Plan (NAP) on Business and Human Rights (BHR), in accordance with its international commitments under the second Universal Periodic Review (UPR) of Thailand that took place on 11 May 2016 and to comply with the United Nations Guiding Principles on Business and Human Rights (UNGPs). We also welcome the efforts of the RLPD in ensuring a transparent process through a publicly available

¹ Manushya Foundation is a women-led organization promoting community empowerment to advance social justice, peace and human rights. One core area of Manushya Foundation focuses on Business and Human Rights with the goal to ensure communities are at the center of the Business & Human Rights discourse, speaking with one strong unified voice, following a bottom-up approach to tip the balance of power and hold private actors and ASEAN governments accountable for their human rights obligations and business-related actions, using the lens of the UNGPs to do so. In Thailand, Manushya Foundation supported the creation and is working with an inclusive and intersectional coalition, the 'Thai Business & Human Rights Network' (TBHRN). Manushya Foundation builds the capacity of the network members to enable them to all advocate together serving as Agents of Change, bringing about positive change to the lives of their communities, through awareness raising campaigns, community-led and participatory research, BHR capacity building and sub-granting. More info on Manushya Foundation can be accessed here: <https://www.manushyafoundation.org/>

[draft of the NAP on BHR](#), while opening it for [comments](#) from civil society and other relevant stakeholders. Furthermore, with respect to the content of the NAP, we acknowledge and appreciate the significant efforts made by the RLPD to strengthen the provisions that comprise the overview, challenges and the action plan that reflect aspects, laws, policies and practices to be undertaken.

However, in our role as independent civil society and grassroots organisations and while representing, and working with as well as for communities affected by the adverse impacts of business activities; we believe that it is essential for us to address all shortcomings to ensure the adoption of an effective NAP on BHR that is inclusive of all the issues faced by affected communities, resulting in the creation of a policy document that reiterates already existing business and human rights commitments while holding the State and businesses accountable for them; through a process of protecting rights, ensuring respect for these rights, and providing for the access to remedy for the violation of rights.

Gender Lens: Additionally our analysis of the final draft of the NAP on BHR, led us to the conclusion that it fails to provide an effective gender lens. As a women-led organisation that recognises the importance of protecting and empowering women to guarantee a dynamic response to business and human rights activities and their impacts, we have ensured to include a strong gender lens² throughout our comments. This we do by addressing all women groups that participated and contributed to the [Regional National Baseline Assessment Dialogues](#)³, the [first experts meeting](#) to inform the independent national baseline assessment on business and human rights in Thailand⁴, and the [second experts meeting](#) to discuss the findings and recommendations of the independent national baseline assessment on business and human rights in Thailand.⁵ This gender lens has been applied throughout our comments, including with respect to labour rights and protections guaranteed to women workers and sex workers; discrimination of women and LGBTI individuals; rights of rural and indigenous women including access to information and participation in decision-making processes related to the management of land, natural resources and the environment; and protection of women human rights defenders.

² For a more in-depth analysis and understanding of the application of a gender lens to the implementation of the UN Guiding Principles of Business and Human Rights (UNGPs) in Thailand, please refer to the **Working Paper on 'Applying a Gender Lens to the UN Guiding Principles on Business and Human Rights in the context of Thailand' developed by Manushya Foundation** to guarantee the inclusion of women's concerns and solutions to regulate the negative gender impact of corporate activities. The paper is available at: <https://www.manushyafoundation.org/bhr-cso-nba-thailand>

³ The four regional NBA dialogues were conducted by Manushya Foundation as follows: The Northern Regional NBA Dialogue in Chiang Mai (29 - 30 January 2017), The Northeastern Regional NBA Dialogue in Khon Kaen (23 - 24 February 2017), The Southern Regional NBA Dialogue in Hat Yai (20 - 21 March 2017) and The Eastern and Central Regional NBA Dialogue in Rayong (30 - 31 March 2017). Please access the NBA Regional Dialogues Report here: Manushya Foundation, *Meeting Report: Regional Dialogues for the CSO National Baseline Assessment (NBA) on Business and Human Rights*, (2017), available at: <https://www.manushyafoundation.org/nba-dialogues-report>

⁴ Manushya Foundation, *Executive Summary: First Experts Meeting to inform the independent national baseline assessment on business and human rights in Thailand, 2-3 September 2017*, (2017), available at: <https://www.manushyafoundation.org/single-post/RELEASE-OF-FIRST-BHR-NBA-EXPERTS-MEETING>

⁵ Manushya Foundation, *Executive Summary: Second Experts Meeting to discuss the findings and recommendations of the independent national baseline assessment on business and human rights in Thailand, 28 February-1 March 2018*, (2018), available at: <https://www.manushyafoundation.org/single-post/2018/07/31/RELEASE-OF-SECOND-BHR-NBA-EXPERTS-MEETING>



1. Sharing our Story & Perspective on the Process to develop the NAP on BHR:

We, Manushya Foundation and Thai BHR Network welcome the acknowledgment by the RLPD of our work and the contributions made by representatives from our BHR coalition, who work on aspects related to the rights of migrant workers, labour rights (formal and informal workers), trade unions, indigenous peoples, stateless persons, community rights, land-related rights, environmental rights, people with disabilities, LGBTI individuals, sexual and reproductive health, drug users, people living with HIV, sex workers, women's rights, the protection of human rights defenders, the impact of Thai outbound investments and trade agreements. We also were grateful to the RLPD for the safe space provided by cooperating in implementing Manushya Foundation's business and human rights' [strategy](#); in particular, the co-hosting of four [Regional National Baseline Assessment Dialogues](#) (January-March 2017), the [first experts meeting](#) to inform the independent national baseline assessment on business and human rights in Thailand (2-3 September 2017), and the [second experts meeting](#) to discuss the findings and recommendations of the independent national baseline assessment on business and human rights in Thailand (28 February-1 March 2018). We are truly grateful for our mutual cooperation in ensuring that concerns and solutions of affected communities are central to the NAP on BHR.

1.1. Clarification on Manushya Foundation and the Thai CSOs Coalition for the UPR's role in the First National Dialogue on Business and Human Rights, 22 December 2016

We would like to provide some clarity on the information shared in the introduction to the final draft NAP on BHR. The First National Dialogue on Business and Human Rights was organised by the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ), along with the Representative of Thailand to AICHR, Global Compact Network Thailand and the National Human Rights Commission of Thailand on 22 December 2016. Manushya Foundation and its community coalition, the Thai CSOs Coalition for the UPR, were not co-organisers. Manushya Foundation and communities we work with were merely present as participants only. As a reminder, Manushya Foundation was still in the process of being established end of December 2016 and was officially founded in January 2017. Moreover, we would like to highlight the fact that there was no civil society representative on the panel discussion that took place during this meeting. In addition, at that stage, civil society was not included in the NAP Committee that was established for the purpose of overseeing the drafting of the NAP.

1.2. Our Independent CSO National Baseline Assessment (NBA) on Business and Human Rights to inform the four key priority areas of the NAP on BHR and center community voices in the business and human rights discourse

Manushya Foundation decided to push back on the absence of critical community voices through our [business and human rights strategy](#)⁶ and we invited the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ) to collaborate on the process to inform the NAP, by ensuring communities are at the center of this process and to provide them with a safe space to share evidence-based information on the issues they face and their recommendations to resolve these challenges. For that purpose, we decided to develop our own [Independent CSO National Baseline Assessment \(NBA\) on business and human rights in Thailand](#)⁷ to identify the key priority issues to inform the NAP on BHR,

⁶ Manushya Foundation, *Business & Human Rights Strategy*, (2017), available at: <https://www.manushyafoundation.org/thailand-bhr-strategy>

⁷ Manushya Foundation & ThaiBHRNetwork, *Independent CSO National Baseline Assessment on Business and Human Rights in Thailand*, (2019), available at: <https://www.manushyafoundation.org/bhr-cso-nba-thailand>

ensuring the most challenging human rights issues and adverse impacts of business conducts could be addressed in the next five years plan (2019-2023).

This collaboration resulted in the [Regional National Baseline Assessment \(NBA\) Dialogues](#)⁸, co-organised by Manushya Foundation along with the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ), and the Global Compact Network Thailand, with communities directly sharing with the government and businesses the issues they face related to business and human rights in Thailand and identifying challenges, gaps and ways to implement the UNGPs at the domestic level through the provision of action-oriented recommendations. These dialogues that took place in the four regions of Thailand, Chiang Mai on 29 and 30 January 2017; Khon Kaen on 23 and 24 February 2017; Hat Yai on 20 and 21 March 2017; and Rayong on 30 and 31 March 2017, were organised as a result of equal monetary contributions by both Manushya Foundation and the RLPD. As previously explained, these dialogues informed our independent CSO NBA and not an official government NBA, ensuring voices and evidence from the ground are captured to inform an evidence-based National Action Plan (NAP), and led to the identification of three main priority areas by communities and Manushya Foundation.

We are grateful to the RLPD for following the three priority areas in their drafting of the NAP, as identified by Manushya Foundation and the affected and marginalized communities involve in our strategy during our four National Baseline Assessment (NBA) Regional Dialogues, which includes the priority areas of:

- Violation to Labour Rights and Standards;
- Community Rights, Indigenous Peoples, Land-related Rights, Natural Resources and the Environment; and
- Protection of Human Rights Defenders.

Following this, on 2-3 September 2017, a [First Experts Meeting on Business and Human Rights \(BHR\) in Thailand](#)⁹ was organised to bring together national, regional, and international experts in the field of Business and Human Rights. At this meeting, Manushya Foundation presented its methodology to develop an Independent CSO National Baseline Assessment (NBA) on business and human rights in Thailand, including findings of its desk review, findings of the Regional NBA dialogues and community led-research involving local communities and members of the Thai CSOs Coalition for the UPR. At this meeting, a fourth priority area was identified related to **‘trade agreements and Thai outbound investments’**. We appreciate the addition of this priority area as well through the development process of the draft National Action Plan (NAP) on Business and Human Rights (BHR).

From 28 March to 1 February 2018, we organised a [Second Experts Meeting to discuss the Findings and Recommendations of the CSO National Baseline Assessment \(NBA\) on Business and Human Rights](#)¹⁰ which brought back together relevant stakeholders to discuss the findings and recommendations of the CSO NBA on BHR in Thailand. While co-hosted with the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice and Thailand's Representative to the ASEAN Intergovernmental Commission on Human Rights (AICHR), this event was entirely

⁸ Supra Note 3.

⁹ Supra Note 4.

¹⁰ Supra Note 5.

organised by Manushya Foundation. Professor Surya Deva, member of the UN Working Group on the issue of human rights and transnational corporations and other business enterprises (also referred to as the Working Group on Business and Human Rights), was invited as a key expert to provide input into the CSO NBA on BHR.

1.3. A zero draft NAP on BHR not taking into consideration voices from the ground

Subsequently, the Right and Liberties Protection Department (RLPD) uploaded the zero draft NAP on BHR on its website for the public to give comments between 27 June and 31 July 2018. The challenge herein remained that those most affected by the adverse impact of business activities who are thus important stakeholders in this process, often do not have access to such online forums whereby submission of comments can be made. Thus, we urged the RLPD to ensure it engages those communities that are most affected through inclusive, accessible processes by following other good practices such as seen in the case of [India's Scheme for Para-Legal Volunteers \(PLVs\)](#)¹¹, whereby the government empowers PLVs to serve as a bridge with people at the grassroots level by reaching out to individuals at their doorstep to impart awareness on the law and access to systems and services.

1.4. Consecutive Draft NAPs not made public for comments and not widely disseminated

Furthermore, the NAP was further amended to create a second and [third draft of the NAP](#) (version of 22 August 2018) that was to be deliberated upon. However, this information was only shared with a few community members and CSOs by the RLPD through unofficial channels without any effort to widely disseminate it. Additionally, this draft NAP (version of 22 August 2018) was shared only two hours prior to a CSO consultation organised by the RLPD. This CSO consultation to discuss the draft National Action Plan (NAP) on Business and Human Rights (BHR) was organised by the RLPD along with the National Human Rights Commission of Thailand (NHRCT), UNDP and OHCHR on 23 August 2018. While Manushya Foundation and the Thai BHR Network welcomed the initiative, to protest the lack of transparency in the process of drafting the NAP and sincerity towards the adoption of community input on priority issues, challenges, recommendations and action towards implementation; we did not attend the event during the morning and organised a [press conference](#)¹² [calling on the government](#)¹³ to:

- Ensure information of consultations, particularly the drafts of the NAP, are circulated widely and well in advance so that the concerned communities and civil society groups can provide comments and meaningfully participate in the drafting process.
- Include representation of the concerned communities and civil society groups in the NAP drafting committee, so as to secure sincere participation and transparency in the process.

¹¹ National Legal Services Authorities (NALSA) of India, *Scheme for Para-Legal Volunteers (Revised)*, (2014), available at: https://nalsa.gov.in/sites/default/files/scheme/Scheme_%28Para_Legal_Volunteers%29.PDF

¹² Manushya Foundation, *'We Are Not Quiet, You're Just not Listening': Morning Press Conference*, (23 August 2018), available at: <https://www.manushyafoundation.org/single-post/Morning-Press-Conference-%E2%80%9CWe-Are-Not-Quiet-You-Are-Just-Not-Listening%E2%80%9D>

¹³ Manushya Foundation, *'Nothing About Us, Without Us' Thai BHR Network delivers its Statement calling on a Transparent & Sincere NAP process and content*, (23 August 2018), available at: <https://www.manushyafoundation.org/single-post/%E2%80%9CNothing-About-Us-Without-Us%E2%80%9D-Thai-BHR-Network-delivers-its-Statement-calling-on-a-Transparent-Sincere-NAP-process-and-content>

- Undertake additional regional consultations with meaningful engagement of all relevant stakeholders on successive draft NAPs developed, to ensure the formulation of a NAP that addresses all relevant concerns and adopts concrete actions with respect to the actual situation on the ground.

Furthermore, the [statement](#)¹⁴ also urged the government to ensure that the process of finalisation of the NAP is not rushed; and that communities, as well as involved government authorities and companies are educated about the rights and processes of business and human rights to contribute to the development and future implementation of the NAP. This statement was also presented to the government and international organisations during the afternoon session of the public consultation.

1.5. We Welcome a non-rushed NAP process but note that the final Draft NAP on BHR is still excluding affected communities

As a result of these community led endeavours, we are glad to note and are deeply obliged that the RLPD did not rush the process to release the National Action Plan (NAP) on Business and Human Rights (BHR) by September 2018, as announced during the 23 August 2018 CSO consultation. We also welcome the efforts of the RLPD, to fulfil our other calls by ensuring that the content of the National Action Plan (NAP) on Business and Human Rights (BHR) is more detailed in comparison to previous drafts. However, following our review of the final draft NAP on BHR, we were disappointed to find that the draft NAP on BHR fails to acknowledge and address the circumstances of all communities, through its failure to capture certain challenges and recommendations made by them or by ignoring whole communities and their rights altogether, or addressing these communities in a manner that is detrimental to addressing the adverse impacts they face as a result of business activities. Further, we also welcome the attempt by the RLPD to adopt a more transparent process, through the provision of a publicly available draft of the NAP on BHR, while opening it for comments from civil society, from 15 February 2019 to 15 March 2019. **Nevertheless, we remain disappointed that the RLPD will not be undertaking additional regional consultations with meaningful engagement of all relevant stakeholders, as requested in our statement¹⁵ of 23 August 2018.** .

As an independent CSO, Manushya Foundation recognises the importance of [engaging, mobilising and empowering communities](#) at the grassroots level; to ensure that their voices are at the center of the response to engage constructively with and provide effective solutions to address concerns related to the enjoyment of and the violation of their rights due to the negative impact of business conducts and activities. Therefore, throughout the process on the development of the NAP, Manushya Foundation and the Thai BHR Network have constantly contributed to and ensured the engagement of local communities in Thailand through their substantive contributions in the development process and the content of the NAP. However, we would like to highlight that the duty to obtain input from affected communities on the challenges they face owing to the adverse impact of business conducts and activities, is one that should be undertaken by the government. It is unfortunate that the resources dedicated to the development of the NAP were redirected to other aspects in the development process that were considered more important, with the monetary resources thus being insufficient for such community consultations.

¹⁴ Thai BHR Network, *Statement to the government: 'Thailand: Call On The Government To Be Sincere And Transparent In The Drafting Process Of The National Action Plan On Business & Human Rights With Respect To The Process And Content'*, (23 August 2018), available at: <https://www.manushyafoundation.org/nap-statement>

¹⁵ *Ibid.*

2. Sharing our Comments on the Final Draft NAP on BHR to ensure a strong NAP on BHR to regulate corporate activities in Thailand

We submit these comments as a means to ensure a constructive engagement with the RLPD, in order to ensure the development of an effective and inclusive NAP that is representative of all communities and the issues faced by them, and that adequately address all these challenges through the provision of detailed step by step and timebound actions, which are comprehensive while ensuring the smooth operation and implementation of the NAP at all levels of society. To achieve this, as part of our comments to the NAP, we are providing changes and additions to the NAP to ensure compliance with international human rights standards and the UNGPs, and address the concerns, gaps and needs as identified by grassroots communities, civil society, academics and experts, throughout the implementation of Manushya Foundation's business and human rights [strategy](#), and analysed in Manushya Foundation and the Thai BHR Network's [Independent National Baseline Assessment on Business & Human Rights in Thailand](#). For that purpose, we are suggesting the following comments below:

- changes to the wording of the NAP in **red colour**,
- additions to the wording based on concerns and gaps identified in **blue colour**, and
- additional action points (in **blue colour**) to enable and ensure that this document is actionable as a whole in order to guarantee the compliance of State actions and business practices with the UNGPs and other international commitments made and obligations set out therein. In order to produce a more-accessible and user-friendly NAP, we also suggest that the government includes the table of the 'action plan' as an annex or appendix, rather than inside the content of the NAP itself, as it has been applied with success in other countries including [France](#)¹⁶ and [Switzerland](#).¹⁷

While we submit these comments, we are cognisant of a fact related to the structure of the final draft of the NAP that must be highlighted. Structurally, a National Action Plan (NAP) should not be a replication of a National Baseline Assessment (NBA). Instead, it should be developed following the guidance of the UN Working Group (UNWG) on Business and Human Rights (BHR), as set out in the [2016 Guidance on National Action Plans on Business and Human Rights](#).¹⁸ According to this guidance, a NAP must explain what constitutes government action with a good mix of mandatory and voluntary measures that clearly and effectively outlines current and planned activities by the government. This should be compiled under each guiding principle of the UNGPs; through the provision of the text of the guiding principle, current activities, and planned activities with an inclusion of specific objectives, activities to be carried out, an attribution of clear responsibilities of relevant entities, a timeframe for implementation, and performance indicators to evaluate the implementation and impact of the action. Under each guiding principle, the NAP should also endeavour to address each of the priority areas identified.

¹⁶ Ministère des Affaires Etrangères et du Développement International, "National Plan for the Implementation of the United Nations Guiding Principles on Business and Human Rights", (2017), available at: <https://www.diplomatie.gouv.fr/en/french-foreign-policy/human-rights/business-and-human-rights/article/the-national-plan-for-the-implementation-of-the-united-nations-guiding>

¹⁷ Confédération Suisse, *Report on the Swiss strategy for the implementation of the UN Guiding Principles on Business and Human Rights*, (2016), available at: <https://www.news.admin.ch/news/message/attachments/48579.pdf>

¹⁸ UN Working Group on Business and Human Rights, *Guidance on National Action Plans on Business and Human Rights*, (2016), available at: https://www.ohchr.org/Documents/Issues/Business/UNWG_NAPGuidance.pdf

Although aware of this shortcoming in the structure of the final draft of the NAP, owing to the time constraint we are just providing comments within the framework of the government developed final draft of the NAP. Additionally, we are aware and acknowledge the fact that this is the first NAP being drafted by the Royal Thai government and that it is due within a short timeframe, by 2019. Therefore, we instead express our hope that this is resolved in the next NAP drafted by the government that will be operational from 2024-2029, and that it will follow the guidance of the UNWG; identifying new priority areas and planning actions, guiding principle by guiding principle, with the comprehensive activities of the action plan indexed as an annex.

While clear gaps remain to be resolved in the final draft NAP on BHR in order to guarantee that Thai businesses are not committing or involved with human rights abuses wherever they operate, we strongly believe that our comments, if taken into consideration for the finalisation of the NAP on BHR, could strengthen it and could create a starting point to address corporate accountability and ensure responsible business conduct. We see the Thai NAP on BHR as a critical opportunity for civil society and grassroots communities to engage collectively to promote a Thai economy that is sustainable and respectful of human rights, while building understanding of private actors on the adverse impacts of their activities. We hope the final Thai NAP on BHR will allow for open, frank, transparent and constructive dialogues among all relevant sectors, so that we could all work together to ensure that Thai corporations respect human rights at home and/or abroad.

Chapter 3: Communities, Land, Natural Resources and the Environment

Suggested Title: Chapter 3: Community Rights, Indigenous Peoples, Land-related Rights, Natural Resources and the Environment

Explanation: We, Manushya Foundation and Thai BHR Network welcome the efforts of the Royal Thai Government (RTG) to adhere to international rights and standards with respect to community rights and rights related to land, natural resources and the environment by ratifying various international human rights treaties including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD), and by voting in favour of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). However, it is vital that these international rights and standards are implemented in domestic legislations, policy and practice in an effective and appropriate manner. In this respect, it is important that while addressing community rights, rights related to land, natural resources and the environment; this chapter 3 ensures the promotion and protection of the rights of individuals and communities to manage land, natural resources and the environment; and adverse impacts on them as a result of business activities and development projects. These rights of individuals and communities must also be expanded to include the right to access information and participation in decision making processes, through the Free, Prior and Informed Consent (FPIC) of those affected. These rights as guaranteed to marginalised persons and groups, such as women and indigenous peoples who disproportionately face negative impacts of government or business sponsored projects often undertaken as development actions, must also be specifically highlighted.

We thank the RLPD for following our second priority area as identified during our [National Baseline Assessment \(NBA\) Regional Dialogues](#) held in January-March 2017 to address violations to labour rights and standards, and we appreciate its efforts to ensure it is more detailed in comparison to the previous drafts of the National Action Plan (NAP) on Business and Human Rights (BHR). Nevertheless, following our review of the action plan and for the UNGPs to be upheld on the ground, we believe that this has to be further broken down into detailed step by step and timebound actions, which are comprehensive while ensuring the smooth operation and implementation of the NAP at all levels of society. To achieve this, as part of our comments to the NAP, we are providing changes and additions to the NAP to ensure compliance with international human rights standards and the UNGPs, and address the concerns, gaps and needs as identified by grassroots communities, civil society, academics and experts, throughout the implementation of Manushya Foundation's business and human rights [strategy](#), and analysed in Manushya Foundation and the Thai BHR Network's [Independent National Baseline Assessment on Business & Human Rights in Thailand](#). For that purpose, we are suggesting the following comments below:

- changes to the wording of the NAP in **red colour**,
- additions to the wording based on concerns and gaps identified in **blue colour**, and
- additional action points (in **blue colour**) to enable and ensure that this document is actionable as a whole in order to guarantee the compliance of State actions and business practices with the UNGPs and other international commitments made and obligations set out therein. In order to produce a more-accessible and user-friendly NAP, we also suggest that the government includes the table of the



‘action plan’ as an annex or appendix, rather than inside the content of the NAP itself, as it has been applied with success in other countries including [France](#) and [Switzerland](#).

General Comments: This chapter on community rights, indigenous peoples, rights related to land, natural resources and the environment is primarily flawed due to its failure to use the word ‘indigenous peoples’, despite its reference to Free, Prior and Informed Consent (FPIC) and its usage in decision making processes, including for strategies, policies and various projects such as land management and forest protection, and large-scale development projects, in line with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In addition, further denying the rights of indigenous peoples, UNDRIP does not find any mention in the action plan. Moreover, there is a deficiency while addressing laws that are in conflict of international standards with respect to community rights, rights related to land, natural resources and the environment; with gaps and violations either being set out inadequately or left out entirely. Examples include the absence of NCPO Orders that violate these rights, and a negligence in challenging the flawed amendment to the Factory Act, the National Forest Act, the Community Forest Act, the National Park Act, the Wildlife Conservation Act and the Land Code.

Finally, to ensure compliance with the State duty to protect under Principle 3 of the UNGPs, effective guidance must also be provided to business enterprises on how to address and mitigate human rights impacts throughout their operations. While the draft NAP considers regulating the activities of the business sector with respect to rights related to land, natural resources, and the environment and through regular reporting, we note that the draft NAP lacks mandatory measures to hold businesses accountable for the adverse impacts of their actions in relation to community rights and rights related to land, natural resources and the environment, and should be inspired by global good practices, such as the [UK Modern-Slavery Act 2015](#), and the [French Corporate Duty of Vigilance Law 2017](#). Finally, the draft NAP fails to provide a detailed action plan for businesses which could guide their actions to be in compliance with the UNGPs; and these comments seek to remedy this shortcoming by providing such a detailed action plan.

I. Overview	
Original Text	Suggested changes in the wording
<p>Page 41: Further, paragraphs 2 and 3 of Article 42 guarantee communities the right to manage, maintain, and gain benefits from natural resources, the environment, and biological diversity in a balanced and sustainable manner, according the methods specified by law.</p>	<p>Further, article 43 of the Constitution of the Kingdom of Thailand paragraphs 2 and 3 of Article 42 guarantees communities the right to manage, maintain, and gain benefits from natural resources, the environment, and biological diversity in a balanced and sustainable manner, according the methods specified by law.</p>
<p>Page 41: In Article 8, it is laid out that it is the duty of the state, and of any state agency, to provide communities and people with information, explanation, and reasoning before any</p>	<p>Page 41: In Article 58 8, it is laid out that it is the duty of the state, and of any state agency, to provide communities and people with information, explanation, and reasoning before any attempt to operate, or allow any person to operate, is made if such operation might have severe impacts on natural</p>



<p>attempt to operate, or allow any person to operate, is made if such operation might have severe impacts on natural resources, quality of life, health, living standards, and on the interest of the people, community or the environment. If such operation might have negative impacts the state must undertake actions; they should provide education and assess the impacts of the operations on the environment and on the people’s and communities’ health. Further, the state should hold consultation with relevant stakeholders, communities, and the people.</p>	<p>resources, quality of life, health, living standards, and on the interest of the people, community or the environment. If such operation might have negative impacts the state must undertake actions; they should provide education and assess the impacts of the operations on the environment and on the people’s and communities’ health. Further, the state should hold consultation with relevant stakeholders, communities, and the people.</p>
<p>Page 43: According to the laws, all ethnic minorities and ethnic groups in Thailand receive protection and have access to public services including education, medical treatment, and career opportunities.</p>	<p>Page 43: According to the laws, all indigenous peoples ethnic minorities and ethnic groups in Thailand receive protection and have access to public services including education, medical treatment, and career opportunities.</p>
<p>Original Text</p>	<p>Suggested deletions + additions to address gaps in the NAP</p>
<p>Page 43: Meanwhile, the local communities should help in monitoring encroachment, as well as preserving and developing the forest. This has greatly contributed to a decrease in the slash-and-burn method of cultivation.</p>	<p>Page 43: Meanwhile, the local communities should collectively help in monitoring encroachment, as well as preserving and developing the forest to maintain its fertility. This has greatly contributed to a decrease in the slash-and-burn method of cultivation and the clearing of forests.</p>
<p>Page 47: The Industrial Estate Authority of Thailand has used the state land to develop industrial estates in all three special economic zones aforementioned, which have been transferred legally without any expropriation of land from the people.</p>	<p>Page 47: The Industrial Estate Authority of Thailand has attempted to use used the state land to develop industrial estates in all three special economic zones aforementioned, which have been transferred legally without any expropriation of land from the people. Despite these attempts, it has been found that the Industrial Estate Authority of Thailand has had to obtain land by expropriation from the local people following the payment of compensation in certain instances, such as the Special Economic Zone in Amphor Mae Sot, Tak Province.</p>
<p>Page 47: Another important challenge is the protection of human rights during the operation of large-scale development projects, aiming to increase economic growth, especially with regard to its impacts on the way of life of the people and the environment. The government has issued various measures, such as determining for the process in systematically conducting studies on the possibilities and impacts on the environment and health; establishing a committee to regulate;</p>	<p>Page 47: Another important challenge is the protection of human rights during the operation of large-scale development projects, aiming to increase economic growth, especially with regard to its impacts on the way of life of the people and the environment. The government has issued various measures, such as determining for the process in systematically conducting studies on the possibilities and impacts on the environment and health through the production of a report of Environmental Impact Assessment (EIA); establishing a committee to regulate; as well as having measures to support or provide remedy to the affected people, such as allocating shelter. However, the government has decided to slow down some projects according to the demands from the civil society by trying to find</p>



<p>as well as having measures to support or provide remedy to the affected people, such as allocating shelter. However, the government has decided to slow down some projects according to the demands from the civil society by trying to find a common solution through consultation with the people in the area.</p>	<p>a common solution through consultation with the people in the area. There is also a necessity to expand the consideration of issues while determining a remedy, based on and to include damage caused and resultant adverse impacts.</p>
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<p style="text-align: center;">II. Challenges</p>	
<p style="text-align: center;">Original Text</p>	<p style="text-align: center;">Suggested changes in the wording & Suggested additions to address gaps in the NAP</p>
<p>Page 48: Ethnic minorities/ethnic groups - Consultation with ethnic minorities and ethnic groups that is in line with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) needs to be organised so that those groups will be able to engage in decision making processes in various aspects, including strategies, policies, projects, developing policies on land management and forest protection, and large-scale development projects. Furthermore, the government should consider refraining from prosecuting encroachment cases in situations where ethnic groups have lived in the forest prior to the declaration of forest reserved area over such area. Moreover, the government should develop measures so that protection will be fairly provided to ethnic groups so that these groups can live in the forest and earn a living.</p>	<p>Page 48: Indigenous Peoples Ethnic minorities/ethnic groups - Consultation with indigenous peoples ethnic minorities and ethnic groups that is in line with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) needs to be organised so that those groups will be able to engage in decision making processes in various aspects, including strategies, policies, projects, developing policies on land management and forest protection, and large-scale development projects. Furthermore, the government should consider refraining from prosecuting encroachment cases in situations where indigenous peoples and ethnic groups have lived in the forest prior to the declaration of forest reserved area over such area. Moreover, the government should develop measures so that protection will be fairly provided to indigenous and ethnic groups so that these groups can live in the forest and earn a living.</p>
<p>Page 47: Amendment of relevant laws, rules, regulations, policies, and measures, especially laws concerning land management, natural resources, and the environment that have been affected by business operations, such as Factory Act, Minerals Act, and Promotion and Conservation of National Environmental Quality Act B.E. 2535 (1992); addressing problems regarding misunderstandings on the enforcement of Article 44, NCPO Orders related to Special Economic Zones, forestry, land, agriculture, fisheries, city planning, etc;</p>	<p>Page 47: Amendment of relevant laws, rules, regulations, policies, and measures, especially laws concerning land management, natural resources, and the environment that have been affected by business operations, such as Factory Act, Minerals Act, the National Reserved Forest Act, Community Forest Act, the National Parks Act, the Wildlife Conservation Act, the Land Code, and Promotion and Conservation of National Environmental Quality Act B.E. 2535 (1992); addressing problems regarding misunderstandings on the enforcement of Article 44, NCPO Orders related to Special Economic Zones, forestry, land, agriculture, fisheries, city planning, such as NCPO Order Nos. 64/2014, 66/2014, 4/2015, 17/2015, 3/2016, 4/2016, 9/2016, 74/2016, 28/2017, 47/2017, etc in violation of the rights of individuals according to international standards; complying with the recommendations of the National</p>

<p>complying with the recommendations of the National Human Rights Commission on the amendment of laws related to the environment and laws supporting public participation in decision-making processes; investigating the impact on local people and risks arising due to changes to natural resources and the environment, before enforcing any law or issuing any order.</p>	<p>Human Rights Commission on the amendment of laws related to the environment and laws supporting public participation in decision-making processes; investigating the impact on local people and risks arising due to changes to natural resources and the environment, before enforcing any law or issuing any order.</p>
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For a deeper understanding of challenges faced by those affected by the adverse impact of businesses related to the community rights, rights related to land, natural resources and the environment, please refer to the [thematic assessment chapters developed as part of the Independent National Baseline Assessment on Business & Human Rights in Thailand, by Manushya Foundation](#) and the Thai BHR Network.¹⁹

III. Action Plan

Pillar I: State duty to Protect (Protect)

No.	Issue	Activity	Responsible agencies	Timeframe	Indicator	Compliance with National strategy, SDGs and UNGPs
1	<p>Improving Review, amend or repeal relevant laws, rules, regulations, policies, and measures</p>	<p>Review, amend, repeal and/or draft laws, rules, regulations, and measures related to the management of land, water sources, forests, and climate that are affected by business activities, particularly with respect to development projects. In this respect, repeal or amend NCPO order 64/2014, 66/2014, 4/2015, 3/2016, 4/2016, 9/2016 and 28/2017, and the Forest Mastery Plan</p>	<ul style="list-style-type: none"> - Ministry of Agriculture and Cooperatives - Ministry of Natural Resources and Environment - Ministry of Industry 	<p>2562-2566 B.E. (2019-2023)</p>	<ul style="list-style-type: none"> - Numbers of laws, rules, and regulations related to the management of land, water sources, and climate that are affected by business operations, which have been reviewed, amended, and enacted - Repeal and review is carried out through prior, participatory consultation with local civilian agencies 	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - Articles 41, 42, 43, 57, 58, 59, and 77 of the 2017 Constitution - SDG No. 6,13,14,15 - UNGP No. 1,3,5,7 - Articles 2, ICCPR - Articles 25-27 of the ICESCR - ICERD

¹⁹ Manushya Foundation & ThaiBHRNetwork, *Independent CSO National Baseline Assessment on Business and Human Rights in Thailand*, (2019), available at: <https://www.manushyafoundation.org/bhr-cso-nba-thailand>



	<p>Ensure policies governing waste-to-energy plants are amended to include provisions that prevent lowering of regulatory standards in their operation, establishment of the plants takes place following public consultation, and due diligence processes are put in place to analyse impacts on the people and the environment</p>			<p>and communities in decisions affecting them</p>	
	<p>Review existing laws that have an impact on individual and collective community rights and the process of public participation, and enact new laws guaranteeing community rights of the local population, indigenous peoples, as well as peasants and women in rural areas without discrimination; in the management of land (traditional), natural resources and the environment</p>	<ul style="list-style-type: none"> - Ministry of Agriculture and Cooperatives- - Ministry of Natural Resources and Environment - Ministry of Industry - Ministry of the Interior 	<p>2562-2566 B.E. (2019-2023)</p>	<ul style="list-style-type: none"> - Number of laws related to the participation process of communities that have been reviewed - Number of effective laws that guarantee community rights that have been enacted 	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - Article 43 of the Constitution - SDG No. 6,13,14,15 - UNGP No. 1,3,5,7 - CEDAW - United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) - UN Declaration on the rights of peasants
	<p>Review the Factory Act by requiring the factory to be established further from the community. Additionally, repeal the amendment to the Factories Act and the original provisions restored, with respect to the regulation of all industrial establishments so they do not violate right of the community to a healthy environment and the right to be consulted prior to establishment or expansion of the operations of these</p>	<ul style="list-style-type: none"> - Ministry of Industry - Ministry of Natural Resources and Environment 	<p>2562-2566 B.E. (2019-2023)</p> <p>2562-2562 B.E. (2019-2021)</p>	<ul style="list-style-type: none"> - A review of the Factory Act to consider indicating the distance between the location of the factory and the community - A repeal of amendment to the Factory Act that violates community rights - Repeal and review carried out by prior, participatory consultation with local civilian agencies and communities 	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 6,13,14,15 - UNGP No. 1,3,5,7



		'factories'				
		Review laws that lead to contract farming in agricultural sector	Ministry of Agriculture and Cooperatives	2562-2566 B.E. (2019-2023)	Number of laws that are reviewed and proposed to prevent or reduce contract farming in agricultural sector	- National strategy on creating competitive capabilities - SDG No. 2 - UNGP No. 1,3,5,7
		Push forward the Land and Building Tax Act B.E.	Ministry of Finance	2562-2566 B.E. (2019-2023)	A meeting is convened to consider the draft Land and Building Tax Act B.E.	- National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 13,15 - UNGP No. 1,3,5,7
		<p>Push forward the draft Community Forest Act B.E.</p> <p>Revise law, policy, regulations and related measures that violate community rights with respect to land and forests including the National Forest Act, the Community Forest Act, the National Park Act, the Wildlife Conservation Act and the Land Code to ensure community rights and management of natural resources, as guaranteed in accordance with Article 43 of the Constitution of Thailand. These laws should also permit indigenous peoples and local communities, who have been living in forests to continue to do so and set clear guidelines on</p>	Department of Forestry, Ministry of Natural Resources and Environment	<p>2562-2566 B.E. (2019-2023)</p> <p>2562-2563 B.E. (2019-2020)</p>	<p>A meeting is convened to consider the draft Community Forest Act B.E.</p> <p>- These laws affirm the right to participation of communities in meaningful consultations and to take part in government decision making.</p> <p>- An independent monitoring mechanism established to oversee the review process</p> <p>- In reviewing these laws, authorities ensure full and effective participation of communities and their representative organizations, including</p>	<p>- National strategy on creating growth on the quality of life that is environmentally friendly</p> <p>- SDG No. 13,14,15</p> <p>- UNGP No. 1,3,5,7</p> <p>- Concluding Observations of the UN Human Rights Committee</p>



		this.			indigenous peoples	
		Review and utilise the Land Bank Act to protect land belonging to farmers to ensure their livelihood, while settling debts and providing compensation for land lost.	Ministry of Natural Resources and Environment	2562-2563 B.E. (2019-2020)	Land Bank Act provides protection to land and livelihood of farmers	
		For relevant agencies to consider the comments and recommendations made by the National Human Rights Commission of Thailand, which the Cabinet also had a resolution on; in order to use them to amend the Promotion and Conservation of National Environmental Quality Act B.E. 2535 (1992) to ensure the use of community knowledge in decision making processes on projects and its implementation through community participation to determine impact of a project through the Cumulative Environmental Impact Assessment (CEIA) and Community Health Impact Assessment (CHIA), accelerate the drafting of the Public Participation in Public Policy Processes Act B.E...., and issue regulations to report on the	Ministry of Natural Resources and Environment	2562-2566 B.E. (2019-2023)	<ul style="list-style-type: none"> - Consideration taken to implement the recommendations made by the National Human Rights Commission of Thailand - A meeting is convened to consider the Public Participation in Public Policy Processes Act B.E.... and regulations regarding reporting on the Pollutant Release and Transfer Registers (PRTR) 	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - Article 11, National Health Act B.E. 2550 (with respect to CHIA) - SDG No. 11,13,14,15 - UNGP No. 1,3,5,7



		Pollutant Release and Transfer Registers (PRTR).				
		Repeal NCPO Order 47/2017 that revokes city planning in the EEC provinces of Chonburi, Rayong and Chachoengsao, which will result in the violation of national and international standards on human rights, community rights and land-related rights	- Ministry of Natural Resources and Environment	2562-2563 B.E. (2019-2020)	- Repeal of NCPO Order 47/2017 - Restoration of city plans and the process of city planning at the provincial level, with the inclusion of local communities in the process	
		Revise the rule of the Office of the Prime Minister on Public Consultation B.E. 2548 to be in line with international standards and revise the announcement of the Ministry of Natural Resources and Environment on the same issue to ensure implementation and monitoring of practice.	- Office of the Prime Minister - Ministry of Natural Resources and Environment	2562-2563 B.E. (2019-2020)	Policies are revised to include evaluation of projects and activities, to determine their effect on the environment and the community, and determination of solutions to address adverse impacts through an effective and inclusive public consultation process.	
		Review the law on mines, to indicate the area for mining. It must also be amended to ensure (1) public participation in EIA and EHIA process, with effective public hearings; (2) strict prohibition of mining operations in protected forests, by dismissing EIA for mining concessions; (3) sufficient time to assess the impact of mining	Ministry of Industry	2562-2566 B.E. (2019-2023) 2562-2563 B.E. (2019-2020)	- Law on mines and areas for mining have been reviewed - Assessment of the promulgation of these laws is carried out, to determine if responsible government agencies undertook a RIA process, and to make such assessment public	- National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 13,14,15 - UNGP No. 1,3,5,7 - CERD General Recommendation No. 23



	<p>activity on environment and communities affected; (4) appointment of representatives from the local community and CSOs through a democratic process, instead of by the National Mineral Management Committee; (5) Detailed provision of environmental restoration through secure processes. Amend section 7 to include provisions ensuring respect for the traditional ownership rights of indigenous peoples</p>				
	<p>Review and amend the provisions of the Constitution of 2017, particularly Sections 43 and 57 to define, specify and recognize indigenous peoples. Include a constitutional right and corresponding state duty, for the protection of their traditional cultures and community rights.</p>	Ministry of Justice	2562-2564 B.E. (2019-2021)	<ul style="list-style-type: none"> - This is done in consultation with IPs, and in their best interest - Recognition of indigenous peoples and their rights, must be in a manner approved by them. - Special attention is paid to indigenous women in granting nationality and ensuring access to services and protections by them. - There is specific reference in any legislations and policy of 	<ul style="list-style-type: none"> - Article 1 and 27 of the ICCPR - Concluding observation of the UN Human Rights Committee - United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
	<p>Adopt the United Nations Declaration on the Rights of Indigenous Peoples as a binding national legislation and implement it, particularly on the legal definition of “Indigenous people”.</p>				



		Review and amend the provisions of the Nationality Act 1965, to recognize and grant nationality to IPs, without any restrictions with respect to indigenous children born before 1992. Special attention should be given to indigenous women in granting nationality and ensuring their access to rights and protection.			all the indigenous groups in Thailand and they are approached to understand the specific challenges they face with respect to the violation of their rights and recognition	
2	Public participation	Promote the management of community forests to address the problems related to the co-existence of forests and communities, through the creation of solutions to address laws that prohibit land ownership and registration of communities who reside in an area designated as a reserved forest by these laws	Ministry of Natural Resources and Environment	2562-2566 B.E. (2019-2023) 2562-2564 B.E. (2019-2021)	Activities, projects or measures held to promote or address the management of community forests	- National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7
		Disclose all news and information to the public in an accessible manner without any reservation on areas affected by large-scale development projects and Special Economic Zones, on EIA, EHIA and HRIA reports and the amendments made to them, on upcoming projects, and other information related to the community's well-being and the environment; especially by providing information to stakeholders and communities who are at a risk of being affected. Any information sought by an individual or community	- Office of the National Economics and Social Development Board - Ministry of Interior (Department of Public Works and Town & Country Planning) - Ministry of Industry - Ministry of Transport - The National Environment Board	2562-2566 B.E. (2019-2023)	- Require advertisement of the project to all people, prior to the start, during, and on completion of the project; by the government and private sector jointly - Increase channels for publicising information about projects to the public especially to stakeholders, for them to know more about the project - Convene public consultations with the people living in all areas	- National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 9,11,13,14,15 - UNGP No. 1,3,4,5,7 - Article 1 of ICCPR - ICESCR - CCPR General Comment No. 12 - CERD General Recommendation No. 12



		<p>affected by activities of business enterprises should be made available, through the responsible agency such as ONEP. Record of dissemination of information should be maintained</p>			<p>affected by the project, even those that are remote</p> <ul style="list-style-type: none"> - Information is accessible in its entirety, both in a language and mode by every socio-economic level 	
		<p>Organise inclusive and participatory public consultations with all concerned individuals, including various relevant ethnic groups and indigenous peoples, by allowing individuals and communities to have access to comprehensive information and to be involved in the decision-making process; through their Free, Prior and Informed Consent (FPIC) in developing involvement in the Environmental Impact Assessments, the consideration of land expropriation, land management, the conservation of government forests etc. before proceeding with any projects, their implementation, monitoring and evaluation from inception to completion. This includes their involvement in large-scale development projects related to the management of energy, electricity, petroleum, mineral extraction, and natural resource exploration; in order to promote the role of individuals and communities by considering their</p>	<ul style="list-style-type: none"> - Office of the National Economics and Social Development Board - Ministry of Agriculture and Cooperatives - Ministry of Natural Resources - Ministry of Energy - Ministry of Interior - Ministry of Industry 	<p>2562-2566 B.E. (2019-2023)</p>	<ul style="list-style-type: none"> - Number of activities/projects organised to gather the comments of the people on the operation that affect them - The public consultations must be undertaken at all levels of operation, from the community to national level and must be conducted, through an inclusive process that ensures representation in an equal and equitable manner. - Free, Prior and Informed Consent (FPIC) is obtained in the form of a signed consent form - Assistance from international community working in the area of community, environment and business is sought to ensure compliance with international standards 	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 7,11,13,14,15 - UNGP No. 1,3,4,5,7,8 - United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) - 2015 Concluding Observations of the Committee on Economic, Social and Cultural Rights to Thailand - 2017 Concluding Observations of the Human Rights Committee to Thailand - 2012 concluding observations of the Committee on the Elimination of Racial Discrimination to Thailand



		culture and livelihood in the areas of project development.				
		Develop a guidebook to promote access to information for people to access their right to participation, which should be done in a proactive way	- Ministry of Natural Resources and Environment - Ministry of Energy - Ministry of Industry	2562-2566 B.E. (2019-2023)	A published guidebook explaining the right to participation of people in the implementation of government projects	- National strategy on creating growth on the quality of life that is environmentally friendly - SDGs No. 11,13,14,15 - UNGPs No. 1,3,4,5,7
3	Environmental Impact Assessment or Environmental Health Impact Assessment (EIA or EHIA), Human Rights Impact Assessments (HRIA), and Gender Impact Assessments (GIA)	Determine for the development of the Environmental Impact Assessment, Environmental Health Impact Assessment, and Human Rights Impact Assessment (HRIA) particularly the representatives of affected communities , which are assessments done with the participation of people from all relevant sectors. The assessments should be impartial, independent, and transparent. It should also be monitored and examined after the HRIA, GIA, EIA or EHIA is approved, by CSOs, institutions or Independent experts with knowledge of the issues faced by affected communities . This is to prevent the business sector from violating rights after projects are approved.	- Ministry of Natural Resources and Environment - Ministry of Industry	2562-2566 B.E. (2019-2023)	- All project operations include the development of HRIA, GIA , EIA or EHIA as required by law, with people or communities in the areas included in the process. - A process to monitor the implementation of the project periodically, by an independent individual or institution accepted by local and affected communities to determine whether the impacts are being dealt with	- National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7,8, 18 - 2017 Concluding Observations of the Human Rights Committee to Thailand - 2012 Concluding Observations of the Committee on the Elimination of Racial Discrimination to Thailand



	<p>Review and improve the environmental impact assessment system, the public participation process of people, and the participation of stakeholders from the start of the project and in all processes, and reveal reports of the impact assessment to inform the public. The information should be easy and convenient to access, in a form and language that is understandable to affected communities. An expert panel of multi-sectoral experts on human rights, environment, geoscience, community development, policy, planning, administration and governance should be setup as an independent panel for this.</p>	<ul style="list-style-type: none"> - Ministry of Natural Resources and Environment - Ministry of Energy - Ministry of Industry 	<p>2562-2566 B.E. (2019-2023)</p>	<ul style="list-style-type: none"> - A review and improvement of the environmental impact assessment system, public participation process of the people, and the participation of stakeholders - Have the channel to access the result of the EIA or EHIA 	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing and improving the public administration system - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7,8
	<p>Strengthen the current environmental impact assessment process, especially in the context of large-scale development projects, such as the construction of basic infrastructure projects, mines, agribusinesses, extractives and energy</p>	<ul style="list-style-type: none"> - Ministry of Natural Resources and Environment - Ministry of Energy - Ministry of Industry - Ministry of Transport 	<p>2562-2566 B.E. (2019-2023)</p>	<p>Enforcement of EIA/EHIA strictly, especially in large-scale development projects</p>	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing and improving the public administration system - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7,8
	<p>Monitor and inspect the compliance with measures prescribed in Environmental Impact Assessment reports, to prevent while correctly and promptly addressing impacts that are expected to arise from the project activities (through</p>	<ul style="list-style-type: none"> - Ministry of Natural Resources and Environment - Ministry of Industry - Ministry of Energy - Ministry of Transport 	<p>2562-2566 B.E. (2019-2023)</p>	<p>Monitoring and inspection of compliance with measures specified in the EIA/EHIA report, in order to prevent and address impacts that may arise in the future</p>	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing and developing the public administration system - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7,8



		mitigation plans), and for them to serve as the baseline in preventing and addressing future impacts that may arise				
		Consider conducting the developing a process of Strategic Environmental Assessment (SEA), which is a process to systematically assess the environmental impacts that may arise from the implementation at the Policy, Plan and Program level (PPP) to achieve environmental sustainability goals in line with the Sustainable Development Goals	Office of the National Economics and Social Development Board	2562-2566 B.E. (2019-2023)	- Have a guideline for undertaking Strategic Environmental Assessment (SEA) - Action taken to promote and publicise the guideline for Strategic Environmental Assessment (SEA), in order for various agencies to implement	- National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing and developing the public administration system - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7,8,10
4	Special Economic Zones	Consider the suitability of a location based on the activities to be undertaken and the appropriate measures for land expropriation, as well as measures for consultation and fair compensation of the community to ensure that those that are most affected are part of such a process, particularly indigenous peoples and women.	- Ministry of Transport - Ministry of Natural Resources and Environment - Office of the National Economics and Social Development Board - Ministry of Agriculture and Cooperatives - Ministry of Industry	2562-2566 B.E. (2019-2023)	Have appropriate measures for land expropriation, as well as allocating fair compensation	- National strategy on creating growth on the quality of life that is environmentally friendly - National strategy for balancing and developing the public administration system - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7
		There should be measures to regulate the Special Economic Zones (SEZs) and Eastern Economic Corridor (EEC) to	- Office of the National Economic and Social Development Board	2562-2566 B.E. (2019-2023)	Have guidelines/measures to ensure that the Special Economic Zone (SEZ) and the Eastern Economic	- National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing



		comply with the highest standards regarding good governance and guidelines of companies by applying the UNGPs, in the methods of establishing and managing SEZs and the EEC	<ul style="list-style-type: none"> - Ministry of Commerce - Ministry of Industry - Ministry of Interior (Department of Public Works and Town & Country Planning) 		Corridor (EEC) comply with the highest standards regarding good governance and UNGPs	and developing the public administration system <ul style="list-style-type: none"> - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7,8,10,31
5	Management of natural resources and the environment	Enforce laws related to the management of natural resources and the environment by taking into consideration the protection of community rights, including those of indigenous communities such as Karen people as provided in the Cabinet Resolution approved on 3rd August 2010	<ul style="list-style-type: none"> - Office of the Attorney General - Ministry of Natural Resources and Environment 	2562-2566 B.E. (2019-2023)	Activities or projects to promote the efficient enforcement of laws related to the management of natural resources and the environment	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing and improving the public administration system - SDG No. 11,13,14,15,16 - UNGP No. 1,3,4,5,7,8,10
		Review and develop mechanisms on the management of natural resources and the environment by emphasising on the accessible and effective participation of all sectors, and to allow every affected individual and community to participate. Indigenous Peoples must be involved in environmental management and development of their land, according to their local knowledge.	<ul style="list-style-type: none"> - Ministry of Natural Resources and Environment - Ministry of Interior 	2562-2566 B.E. (2019-2023)	Revision and development of mechanism to manage natural resources and the environment by emphasising on the participation of all sectors	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing and improving the public administration system - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7
		Include women in decision-making processes regarding land, natural resources and the environment, specifically indigenous women and women	<ul style="list-style-type: none"> - Ministry of Natural Resources and Environment - Ministry of Interior - Ministry of 	2562-2564 B.E. (2019-2021)	<ul style="list-style-type: none"> - Monitoring the participation women, by collecting data and surveys - To effectively implement participation, the measures have to adjust to specific 	- CEDAW



		in rural areas; by ensuring their participation in an accessible, culturally-appropriate and gender-sensitive manner, with measures taken to ensure their effective participation in any decision that affects women and their access to land, by explicitly inviting women to meetings and holding separate meetings when required.	Agriculture and Cooperatives		women’s needs and concerns	
		Support the role of communities in conserving natural resources and checking the quality of the environment	- Ministry of Natural Resources and Environment - Ministry of Interior - Ministry of Agriculture and Cooperatives	2562-2566 B.E. (2019-2023)	Activities or projects to support the role of communities in conserving and reviving natural resources and the environment	- National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing and improving the public administration system - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7
6	Building communities’ and other sectors’ capacities	Build knowledge, skills, and academic knowledge of communities to enhance the effectiveness of production	Ministry of Agriculture and Cooperatives	2562-2566 B.E. (2019-2023)	Activities or projects to build knowledge, skills, and academic knowledge of communities to enhance the effectiveness of production	- National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing and developing the public administration system - SDG No. 11,12, 13,14,15 - UNGP No. 1,3,4,5,7
		Support the development of community-led research on traditional knowledge folk wisdom related agricultural practices	Ministry of Agriculture and Cooperatives	2562-2566 B.E. (2019-2023)	Projects or activities to promote and support the development of community-led research on folk wisdom traditional knowledge	- National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing and improving the public administration system - SDGs No. 11,12,13,14,15 - UNGP No. 1,3,4,5,7



	<p>Promote careers, household income, welfare, development of communities' way of life, as well as strengthening the security of communities living in highlands along the border and develop a 'Sufficiency Economy' village</p>	<ul style="list-style-type: none"> - Ministry of Social Development and Human Security - Ministry of Interior (Community Development Department) 	<p>2562-2566 B.E. (2019-2023)</p>	<ul style="list-style-type: none"> - People on highlands have their capabilities built and have a good quality of life - The happiness of An adequate standard of living of people in 52,680 villages 	<ul style="list-style-type: none"> - National strategy on security - National strategy on creating competitive capabilities - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7
	<p>Provision of trainings on human rights, including the rights of communities, to ensure human rights obligations, policies and practices are understood; by government ministries and agencies particularly those related to economic development, management of natural resources, land and the environment that are responsible for drafting and implementing business-related laws and policies</p>	<p>Rights and Liberties Protection Department of the Ministry of Justice</p>	<p>2562 B.E. (2019)</p>	<ul style="list-style-type: none"> - Regular assessments carried out ensure that the information and knowledge shared is understood and practiced - Trainings provided on human rights, including land rights, women rights and the rights of indigenous peoples 	
	<p>Conduct a survey of existing development projects in all parts of Thailand, to determine land disputes and other impacts on the community, taking into account archaeological and historical evidence to establish ownership and control of communities over land and resources.</p>	<ul style="list-style-type: none"> - National Human Rights Commission of Thailand - Ministry of Social Development and Human Security - Ministry of Natural Resources and Environment 	<p>2562-2563 B.E. (2019-2020)</p>	<ul style="list-style-type: none"> - A national enquiry that covers all communities and categories of individuals including indigenous peoples, women and community leaders - Reports of the process are made public 	
	<p>Conduct a comprehensive national inquiry on the impact of businesses on community rights and rights related to land, natural</p>				



		resources and the environment led by or with the participation of NHRCT, including with regional dialogues and seminars in order to further investigate challenges and draw recommendations.				
7	Ethnic minorities Indigenous peoples/ Ethnic groups	Adopt a national action plan on the implementation of UNDRIP. This must provide guidelines that legitimise and guarantee effective and politically meaningful participation in the decision-making process and equal representation in the governance of the country	Ministry of Social Development and Human Security	2562-2563 B.E. (2019-2021)	Operational steps are taken to ensure implementation of guidelines, including with relation to specific rights and assess its efficacy	
		The government should give importance to the ethnic groups, who are minorities and indigenous peoples , in the development of strategies, policies, and various projects to protect these ethnic groups and indigenous peoples in order for them to have a fair livelihood. This should involve a process of Free Prior and Informed Consent (FPIC) and a gender perspective; with those who have been expelled from their land being compensated in a fair and effective manner	<ul style="list-style-type: none"> - Ministry of Social Development and Human Security - Ministry of Natural Resources and Environment - Ministry of Interior 	2562-2566 B.E. (2019-2023)	Development strategies, policies, and projects in taking care of development, social welfare, society, and quality of life for people on highlands indigenous peoples and other ethnic groups	<ul style="list-style-type: none"> - National strategy on creating opportunities and social equality - SDG No. 10,11 - UNGP No. 1,3,4,5,7 - United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)



	<p>Full and effective participation of indigenous peoples should be ensured in the climate change mitigation processes of Thailand, including preparation and implementation of REDD+, to guarantee respect for indigenous peoples rights and knowledge in those processes.</p>	<ul style="list-style-type: none"> - Ministry of Natural resources and environment - Ministry of justice 	<p>2562-2563 B.E. (2019-2021)</p>	<p>Respect for the rights of indigenous peoples to access information and participate in decision-making is guaranteed</p>	
	<p>Require mechanism to have continuous and open discussions with the community to allow them to participate in decision making, including in cases of ethnic groups and indigenous peoples that are affected by the management of land and natural resources, and forest conservation; to allow them to determine their own development priorities. The government should obtain their Free Prior and Informed Consent (FPIC), for any development, strategies, policies and projects affecting them in line with the United Nations Declaration against Indigenous Peoples (UNDRIP)</p>	<ul style="list-style-type: none"> - Ministry of Social Development and Human Security - Ministry of Interior 	<p>2562-2566 B.E. (2019-2023)</p>	<p>Mechanism to discuss with the communities, people, indigenous peoples and the ethnic groups affected by the management of land and natural resources, and forest conservation</p>	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 10,11,13,14,15 - UNGP No. 1,3,4,5,7 - United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
	<p>Conduct a survey in the Southern part of Thailand, to determine the land disputes as well as other impacts on the community due to tourism establishments and protected area, in line with the concept of FPIC.</p>	<ul style="list-style-type: none"> - Ministry of Natural resources and environment - Ministry of tourism - Ministry of justice 	<p>2562-2563 B.E. (2019-2021)</p>	<p>- Survey is undertaken with effective participation of concerned communities; taking into account the archaeological and historical evidence, to establish the ownership</p>	<p>- CERD general recommendation no. 23.</p>



		Review existing tourism plans and programs involving IPs and/or implement new community-based tourism initiatives, to advance the rights of indigenous peoples concerned with benefits shared fairly with the communities			and control of communities over their lands and resources - Review conducted periodically, on a bi-annual basis to reflect an analysis of all rights of the communities	
8	Improving the implementation of the public sector	Conduct investigation and prove the rightful ownership based on the person who owns the title deed and utilises the land to earn a livelihood , and issue a legal land title, including in line with and to recognise the traditional land tenure systems of indigenous peoples and require establishing a long-term mechanism for investigating, mapping and titling such traditional lands.	- Ministry of Agriculture and Cooperatives - Ministry of Interior	2562-2566 B.E. (2019-2023)	Investigation and the proving of the ownership of the land owner and the utilisation of land are carried out; the legal issuance of land title as specified by the law	- National strategy on balancing and improving the public administration system - SDG No. 11,16 - UNGP No. 1,3,4,5,7,8,10
		Consider providing measures to certify rural development and land policies; taking into consideration the gender dimension; and that prevent forced eviction. If there is a need to displace people, there should be Free Prior Informed Consent (FPIC) and those who are evicted from the area should receive compensation.	- Ministry of Natural Resources and Environment - Ministry of Interior	2562-2566 B.E. (2019-2023)	- Have measures to certify rural development and land policies, which take into consideration the gender dimension - Compensation is paid to the people who are evicted from the area	- National strategy on balancing and improving the public administration system - SDG No. 5,10,11 - UNGP No. 1,3,4,5,7 - United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
		Develop Environmental Impact Assessments, Human Rights Impact Assessments, and Gender Impact Assessments <small>business</small>	- Ministry of Natural Resources and Environment - Ministry of Interior	2562-2566 B.E. (2019-2023)	- Reports on the Environmental Impact Assessment, Human Rights Impact Assessment and	- National strategy on balancing and improving the public administration system - SDG No. 11,13,14,15



		<p>situation and cases of human rights violations that occurred, and determine measures to protect the human rights of villagers</p>			<p>Gender Impact Assessment business situation and cases of human rights violations that occurred are compiled - Measures to protect the human rights of villagers are determined</p>	<p>- UNGP No. 1,3,4,5,7</p>
		<p>Undertake extensive and meaningful consultations with community members and their representatives on ongoing and future transportation and infrastructure projects, investment treaties and free trade agreements to prevent violation of rights. This consists of including clauses to protect human rights just as business interests of the State and companies are; assessing social and environmental impacts or academic studies of development projects based on human rights principles, by seeking alternatives to manage water in ways that minimally alter ecosystems, or that affect the quality of life in the community; and reviewing the positive and negative impacts of Thailand’s resources management policies, in small and large projects to evaluate these as lessons learnt for future projects, and to establish a clear legal framework for sustainable</p>	<p>- Ministry of Industry - Ministry of Natural Resources and Environment</p>	<p>2562-2563 B.E. (2019-2020)</p>	<p>- Consultations are public, transparent, include the opinions of all those present, and provide adequate time for the synthesis of information in the treaty, agreement or on the project. - Evaluation of management of resources in particular water and the environment is undertaken, in order to make the realisation of human rights a prerequisite for sustainability. - Inclusion of a representation from communities on the decision-making bodies, such as those considering tenders at all times; to ensure legitimacy to such a process</p>	<p>2012 Concluding Observations of the Committee on the Elimination of Racial Discrimination to Thailand</p>



		development.				
		<p>development.</p> <p>Consider establishing Adopt and implement necessary laws, rules, regulations, or policies to require business sector to respect human rights, mechanisms to monitor and assess human rights situations in which all sectors are involved; including through mandatory human rights due diligence during an entire project cycle with regular reporting, which is publicly disclosed, particularly to the concerned communities in the project area, and their comments and suggestions are tracked and acted upon.</p>	<ul style="list-style-type: none"> - Ministry of Natural Resources and Environment - Ministry of Interior - Ministry of Justice 	2562-2566 B.E. (2019-2023)	<p>Mechanism to monitor and assess the human rights situations are established; representatives from all sectors should be involved</p>	<ul style="list-style-type: none"> - National strategy on balancing and improving the public administration system - SDG No. 11 - UNGP No. 1,3,4,5,7
		<p>Enhance the effectiveness of legal, structural and policy measures to ensure there is no violation of land-related, natural resource and environment related rights, such as through acts of land grabbing, forced evictions and an unsafe environment; to address abuse of public authority when it directly or indirectly leads to the violation of these rights. End impunity through effective accountability measures, along with access to alternative mechanisms or protections on the failure of these measures.</p>	<ul style="list-style-type: none"> - Ministry of Natural Resources and Environment - Ministry of Justice 	2562-2563 B.E. (2019-2020)	<ul style="list-style-type: none"> - A safe and enabling environment for communities and environmental rights defenders - Measures that are independent and transparent - A conducive legal, institutional and administrative framework for communities 	



9	Action taken on business sector	Consider the establishment of Establish mechanisms to monitor and investigate the actions of the business sector that violate rights related to land, natural resources, and the environment.	- Ministry of Natural Resources and Environment - Ministry of Industry - Ministry of Interior	2562-2566 B.E. (2019-2023)	Mechanism to monitor and investigate the actions of business sector that violate rights related to land, natural resources, and the environment	- National strategy on balancing and improving the public administration system - SDG No. 11,13,14,15 - UNGP No.1,3,4,5,7,8,10
		Consider establishing Adopt rules, regulations, or policies to guarantee encourage the business sector to will respect human rights such as through regular reporting, annual audits and renewals, or undertake human rights due diligence processes to identify, prevent, mitigate and address actual or potential human rights impacts. These processes should involve meaningful consultations with the affected communities and drawing on independent external expertise.	- Ministry of Justice - The Securities and Exchange Commission - Ministry of Industry - Ministry of Natural Resources and Environment	2562-2566 B.E. (2019-2023) 2562-2563 B.E. (2019-2020)	- Have rules, regulations, or policies to encourage business sectors to respect human rights, with particular attention to rural communities, indigenous peoples and women - A qualitative and quantitative analysis carried out, involving communities, CSOs, experts with knowledge of the local context, academics and government representatives	- National strategy on balancing and developing the public administration system - SDG No. 11,13,14,15 - UNGP No. 1,3,4,5,7
		Adopt necessary laws and regulations to establish criminal liability for violations of human rights by business enterprises in Thailand or Thai investments abroad, with strict penalties as appropriate	Ministry of Justice	2562-2563 B.E. (2019-2020)	Criminal liability for violation of human rights by business activities	



Pillar II: Corporate responsibility to respect (Respect)

No.	Issue	Activity	Responsible agencies	Timeframe	Indicator	Compliance with National strategy, SDGs and UNGPs, and business-oriented standards and guidelines
1	Fulfilment of International Obligations	Conduct assessments and due diligence processes through EIAs, EHIAs, HRIAs, GIAs, stakeholder engagement through FPIC, to determine the impact of business activities on individuals and communities; by carrying out periodic reviews of the project and share the reports with representatives of the community ensuring transparency in the report.	Businesses	2562-2563 B.E. (2019-2020)	<ul style="list-style-type: none"> - Inclusion of a community representative in the project review team of the company - Publicly available reports of periodic reviews and studies - Consideration of impacts on all communities, at all levels and with respect to all activities of the business enterprise - Effective and timely action taken in response to adverse impacts discovered by business enterprises - Community involvement reduces costs and operational obstacles, by minimising the risk of community conflict, which can result in interrupted operations, security costs, human resource lost to 	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - Guidelines for Social Responsibility (ISO 26000) - The AA1000 Stakeholder Engagement Standard (SES) - The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012) - International Finance Corporation (IFC) Performance Standards - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
		Carry out need assessment studies to create project plans without adverse impacts, including women in the assessment				
		Regulated, periodic and frequent visits to the community should be carried out by business representatives, to collect information on the detrimental effects of their business on the community and the environment				



	<p>Community members assistance is obtained to help companies produce successful evaluation tools to assess a company's due diligence obligations including actual and potential risks.</p>				crisis management and litigation	
	<p>Immediately decommission projects negatively affecting local communities and restore rivers and the environment to re-establish local communities' livelihoods.</p>					
	<p>Implement projects on social, cultural and community development, by directly connecting with the community and carrying out a needs assessment study to create project plans. A social development programme committee should be created to monitor, evaluate and oversee these projects carried out in the community. This committee should include representatives from the business, local government, and community.</p>	Businesses	2562-2563 B.E. (2019-2020)	<ul style="list-style-type: none"> - Constructive engagement, development and benefit to the community through these projects - A social development programme committee is established - Representatives of all communities affected, businesses and the local government agencies or departments are included in the committee 	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - Guidelines for Social Responsibility (ISO 26000) - The AA1000 Stakeholder Engagement Standard (SES) - The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012) - International Finance Corporation (IFC) Performance Standards - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021) 	



2	Abstain from policies and actions that violate human rights	<p>Take all necessary and lawful measures to ensure that business practices do not cause, contribute or remain complicit in violations, with respect to the rights of communities, by avoiding causing of or contribution to any actions that amount to land grabbing and forced evictions; structural arrangements with corporate partners to ensure that all parties uphold their responsibilities with respect to these rights; and build leverage in pre-existing business relations to prevent or mitigate adverse impacts of development projects or other business activities.</p>	Businesses	2562 B.E. (2019)	<p>All actions resulting from external interactions of the business are without adverse actual and potential human rights and gender impacts that the business causes, contributes to or is linked with through any operation, investment, product or service in the country or through extra-territorial investments.</p>	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - Guidelines for Social Responsibility (ISO 26000) - The AA1000 Stakeholder Engagement Standard (SES) - The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012) - International Finance Corporation (IFC) Performance Standards - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
		<p>Abstain from advocating for legislations that restrict the rights of communities, in contravention of the duty to respect through corporate capture of the legislature or through the enforcement of laws, policies and practices that violate the rights of individuals or communities. An example would be the Community Forest Bill which restricts rights and freedoms of people living in the forest, and wherein communities had no</p>	Businesses	2562 B.E. (2019)	<p>Coordination with domestic civil society and those affected in this process, ensures a social license to operate</p>	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - Guidelines for Social Responsibility (ISO 26000) - The AA1000 Stakeholder Engagement Standard (SES) - The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of



		consultation process or participation during the drafting of the legislation.				<ul style="list-style-type: none"> National Food Security (2012) - International Finance Corporation (IFC) Performance Standards - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
		Investors should ensure that they consider environmental and social risks as mitigating factors while investing in projects, within the country and abroad. Internal policy should mandate the requirement that investment projects address any negative impact that projects may have with respect to the environment and at the social level	Businesses	2562 B.E. (2019)	<ul style="list-style-type: none"> - Development in a sustainable manner is a priority in businesses' investment profile. - Independent assessments of mitigating factors are carried out by investors, before and during the project. 	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - Guidelines for Social Responsibility (ISO 26000) - The AA1000 Stakeholder Engagement Standard (SES) - The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012) - International Finance Corporation (IFC) Performance Standards - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)



3	Promote the rights of individuals and communities	Companies should understand and promote the rights of communities, which are beneficial to them and their economic well-being through policies and practices. An example is support to the management of forests in all forms by communities through community land titles, based on diverse cultural practices and local knowledge. Another example is negotiation for land expropriation based on human rights principles, and in a manner that is fair and just for the communities whose land has been expropriated .	Businesses	2562 B.E. (2019)	<ul style="list-style-type: none"> - Understanding and promotion of rights of communities, through positive steps taken in support. - Acceptance and recognition of forest management as a form of community land title. - Fair and just land expropriation process, based on human rights principles 	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - Guidelines for Social Responsibility (ISO 26000) - The AA1000 Stakeholder Engagement Standard (SES) - The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security - International Finance Corporation (IFC) Performance Standards - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
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Pillar III: Access to Remedy (Remedy)

No.	Issue	Activity	Responsible agencies	Timeframe	Indicator	Compliance with National strategy, SDGs and UNGPs
1	Complaint	There should be an establishment of channels for complaints, in cases where people are witness to or are adversely impact by business operations. This should be advertised for people to be informed, and by establishing	<ul style="list-style-type: none"> - Ministry of Justice - Ministry of Interior - Office of the Attorney General - Office of Attorney for Rights Protection, Legal Aid and Legal Execution 	2562-2566 B.E. (2019-2023)	Public sector, state enterprise, and business sector have channel for complaints provided to individuals who are affected by business operations and there has been announcement to	<ul style="list-style-type: none"> - National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 11,16 - UNGP No. 24,25,26,27,28,29,31



		complaint mechanism at the local level. The complaint mechanisms should also be in line with customary laws and practices of concerned communities in the project area and international human rights standards.			inform the public	
		For complaints filed against state authorities and law enforcement officials, ensure prompt investigation through an impartial, independent and autonomous team of experts, by strengthening the Ombudsman, Administrative Courts, and the NHRCT, at the national and local level	Ministry of Justice	2562 B.E. (2019)	Capacity, resource and knowledge building of these individuals and institutions on business and human rights	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31
2	Mediation and other alternative non-judicial grievance redressal mechanisms	Consider making Develop policies or laws to grant power to local agencies to address problems at the initial stage, or set up a local committee that is approved and accessible by all sides. Such committee must have the power to mediate at the local level	- Ministry of Interior Justice - Ministry of Interior	2562-2566 B.E. (2019-2023)	Mediation committee at the local or the community level	- National strategy on balancing and improving the public administration system - SDG No. 11,16 - UNGP No. 24,25,26,27,28,29,31
		Consider establishing Establish a centre to protect rights in problematic areas, by rendering decisions that are enforceable	Ministry of Justice	2562-2566 B.E. (2019-2023)	Have working group or centres to address rights violation in problematic areas	- National strategy on balancing and improving the public administration system - SDG No. 11,16 - UNGP No. 24,25,26,27,28,29,31



		<p>The role of NHRCT as an effective non-judicial grievance mechanism should be enhanced to remedy business-related human rights abuse, including for Thai investments abroad; through the granting of greater powers and mandate, and more resources to undertake its work. Further, setting up new mechanisms such as parliamentary committees could also be considered.</p>	<p>National Human Rights Commission of Thailand</p>	<p>2562-2564 B.E. (2019-2021)</p>	<p>These non-judicial mechanisms take into account the customary laws and practices of indigenous peoples, where they are in line with human rights standards</p>	
		<p>Provide accessible grievance redressal mechanisms to those affected by adverse impacts of development projects. Setup both physical and virtual systems for grievance redressal with effective remedies for language barriers. Company level redressal mechanisms must cooperate with public grievance redressal mechanisms, both judicial and non-judicial, and collaborate with the government and investors of development projects to provide fair treatment, just compensation, and appropriate remedies.</p>	<ul style="list-style-type: none"> - Ministry of Justice - Businesses 	<p>2562-2563 B.E. (2019-2020)</p>	<ul style="list-style-type: none"> - Number and details of grievances received - Complaints mechanisms are time bound and afford effective oversight 	<ul style="list-style-type: none"> - National strategy on balancing and improving the public administration system - SDG No. 11,16 - UNGP No. 24,25,26,27,28,29,31



		Business enterprises, associations or multi-stakeholder bodies should establish and participate in effective non-State-based grievance mechanisms at the operational levels. These can be included in the granting or renewal of licenses and/or agreements with business enterprises or in statutes of business associations with consideration for the size, operation and experiences or potential of harms of the business or the sector.	Businesses	2562-2563 B.E. (2019-2020)	- Mechanisms are culturally appropriate for indigenous peoples, when engaging with them - Effective grievance mechanisms meet the criteria of legitimacy, accessibility, predictability, equity, transparency, rights-compatibility and are based on dialogue and engagement	- National strategy on balancing and improving the public administration system - SDG No. 11,16 - UNGP No. 24,25,26,27,28,29,31
		Design and implement effective grievance mechanisms that are gender-responsive and respectful of women’s social contexts and legal status, to appropriately redress the impact of businesses activities on their rights, and provide fair compensation. They ensure that women’s land rights and interests are captured in such mechanisms, includes the assistance of local civil society and promotes iterative consultations with men and women from affected communities	Businesses	2562-2563 B.E. (2019-2020)	Remedies for corporate human rights abuses should be redressed in accordance with human rights law standards and principles are expeditious, accessible and meaningfully redress all types of harm	- National strategy on balancing and improving the public administration system - SDG No. 11,16 - UNGP No. 24,25,26,27,28,29,31
3	Prosecution	Consider punitive measures against Take measures to penalise violations of human rights by business enterprises that violate human rights as a criminal offence.	Ministry of Industry	2562-2566 B.E. (2019-2023)	Lawsuits or punitive measures on business organisations that violate human rights	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31



	<p>Increase the capacity, budget, and channels in receiving services from the Justice Fund and other support mechanisms. These must remain independent and include assistance for actual harm and risk against individuals, both for business related human rights violations and against judicial harassment through SLAPP cases.</p>	Ministry of Justice	2562-2566 B.E. (2019-2023)	<ul style="list-style-type: none"> - Consideration in increasing the channels in receiving service from the Justice Fund - Accessibility to the Justice Fund is extended to include the stateless and indigenous HRDs 	<ul style="list-style-type: none"> - National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31
	<p>Refrain from and end all legal proceedings against individuals facing investigation, charges, or prosecution initiated by businesses or the government, for exercising their rights or engaging in legitimate activities to address violations. Compensation must be provided for the actual loss to livelihood, the loss caused by intended deficiencies and the cost incurred as a result of legal proceedings.</p>	<ul style="list-style-type: none"> - Ministry of Justice - Businesses - Public Prosecutors Office 	2562 B.E. (2019)	<p>Compensation is full and adequate and extends to environment and community rights defenders, indigenous peoples and their family</p>	<ul style="list-style-type: none"> - National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31
	<p>Remove barriers to access effective judicial remedies for indigenous peoples and other communities that experience violations of their rights related to land, natural resources and the environment, by enforcing existing positive laws and policies by prioritising them over conflicting laws and policies; eliminating biases and discrimination through sensitization and awareness-raising of security and judicial</p>	Ministry of Justice	2562-2563 B.E. (2019-2020)	<ul style="list-style-type: none"> - Presence of structural and functional barriers, are reviewed periodically through a study of individual cases - Separate dedicated mechanisms for groups requiring particular attention such as indigenous peoples and women 	



		personnel; and addressing practical limitations of language challenges and need for legal assistance through provision of effective interpretation and free legal aid services				
		Take measures, in policy and practice, to ensure the security of community members and indigenous persons can be guaranteed when accessing grievance redressal mechanisms. This can be achieved by raising awareness, resources and streamlining the process on witness protection.	- Ministry of Justice - Judicial system - National Human Rights Commission of Thailand	2562-2563 B.E. (2019-2020)	- A streamlines process of protection for those approaching the grievance redressal system. - This protection extends specifically to marginalised groups including women, and indigenous peoples.	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31
		Increasing the efficiency of prosecuting civil and criminal cases related to the environment, natural resources, and land rights, while guaranteeing protection to communities and individuals based on international and national human rights principles and standards	Office of the Attorney General	2562-2566 B.E. (2019-2023)	Relevant law enforcement agencies have strictly prosecuted civil and criminal cases related to the environment, natural resources, and land rights	- National strategy for balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31
4	Monetary support	Consider establishing Establish land banks, to provide support to affected individuals. The land fund will be managed by communities	The Land Bank Administration Institute	2562-2566 B.E. (2019-2023)	Result on the study of guidelines for the establishment of a land bank in order to help affected people	- National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 11,16 - UNGP No. 24,25,26,27,28,29,31



		Study guidelines for establishing a participatory and inclusive hedge fund for people who have suffered as a result of business activities	- Ministry of Natural Resources and Environment - Ministry of Industry	2562-2566 B.E. (2019-2023)	Results of the study on guidelines to consider establishing a hedge fund for people who have suffered as a result of business activities	- National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 11,16 - UNGP No. 24,25,26,27,28,29,31
5	Remedy	Develop systematic and effective measures to provide remedy in a timely manner , to victims who are adversely impacted by the exploitation of natural resources or business activities that violate their rights related to land, natural resources, and the environment. The remedy should cover damages inflicted on body and spirit, according to the needs of individuals and communities affected by business activities and government projects. These should align with customary laws and practices of the concerned communities in the project area and in line with international human rights standards	- Ministry of Natural Resources and Environment - Ministry of Interior - Ministry of Justice - Ministry of Industry	2562-2566 B.E. (2019-2023)	- Public sector, state enterprises, and the business sector have measures to provide remedy to those affected by natural resource management or business activities that violate rights related to land, natural resources, and the environment - People affected by lengthened processes are compensated or their land returned	- National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 11,16 - UNGP No. 24,25,26,27,28,29,31 - Article 3 (a) of the ICCPR
		Develop plans to systematically revive land, natural resources, and the environment in places affected by business activities, through the involvement of local communities and indigenous peoples affected and utilising their traditional knowledge and local expertise	- Ministry of Natural Resources and Environment - Ministry of Interior	2562-2566 B.E. (2019-2023)	Public sector, state enterprises, and the business sector have plans to systematically revive land, natural resources, and the environment in places affected by the business activities	- National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 11,13,14,15,16 - UNGP No. 24,25,26,27,28,29,31



		Undertake fair and effective investigation into the disappearance, killing and other reprisals against land, community and environment rights defenders; by creating an independent, dedicated and well-resourced mechanism to protect and support defenders against ongoing and future reprisals, which are on the rise, including in business contexts	- NHRCT - Ministry of Justice	2562-2563 B.E. (2019-2020)	Steps taken to ensure access to justice for such reprisals to guarantee an end to impunity and insecurity in the indigenous communities from the government authorities, businesses or other community members	- National strategy on creating growth on the quality of life that is environmentally friendly - SDG No. 11,13,14,15,16 - UNGP
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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.