



Chapter 4: Human Rights Defenders

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MANUSHYA

Empowering Communities | Advancing Social Justice

Manushya Foundation
& Thai BHR Network,
*Chapter 4: Human Rights
Defenders. 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 4: HUMAN RIGHTS DEFENDERS	9
I. Overview	10
II. Challenges	11
III. Action Plan	12
Pillar I: State duty to Protect (Protect)	12
Pillar II: Corporate responsibility to respect (Respect)	21
Pillar III: Access to Remedy (Remedy)	26



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 4: Human Rights Defenders

Explanation: We, Manushya Foundation and Thai BHR Network welcome the efforts of the Royal Thai Government (RTG) to ensure the protection of human rights defenders by ratifying various international human rights treaties that address their rights 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). However, it is vital that the RTG ratifies the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and that all domestic implementation take these commitments into consideration with respect to protection and safeguarding human rights defenders. In this respect, it is important that while addressing the protection of human rights defenders, this chapter 3 addresses all threats of risk, actual risks and reprisals faced by human rights defenders including with respect to their right to freedom of expression, their right to privacy and their right to freedom of assembly; with particular attention to persons or groups of persons that face a higher level of risk such as women human rights defenders, migrant workers, indigenous peoples, environment and community rights defenders. The provisions of comprehensive and effective remedies, with actionable implementation must also be incorporated.

We thank the RLPD for following our third priority area as identified during our [National Baseline Assessment \(NBA\) Regional Dialogues](#) held in January-March 2017 to address the protection of human rights defenders, 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 human rights defenders fails to guarantee the effective protections and remedies to human rights defenders against the violation of their rights through physical harassment and judicial harassment in the form of SLAPP lawsuits; particularly through its failure to address weak, ineffective or themselves violate the rights of human rights defenders and their representatives. Examples of such legislations include Articles 44, 47, 48 and 279 of the 2014 interim Constitution; Articles 265 and 279 of the 2017 Constitution; NCPO Announcement 7/2014; NCPO Order 13/2016; Section 326-328 of the Criminal Code; Section 161/1 and 165/2 of the Criminal Procedure Code; Section 14 of the 2007 Computer-related Crime Act; the CyberSecurity Bill; and the draft Act on Prevention and Suppression of Torture and Enforced Disappearance. Also, completely absence and disturbingly so is the regulation of the activities of businesses with respect to their human rights impact and their impact on gender, highlighting the indifference towards the protection of human rights of individuals against the adverse impact of business activities.

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 attempts to regulate large-scale businesses registered with the Stock Exchange of Thailand (SET), we note that the draft NAP lacks mandatory measures to hold businesses accountable for the adverse impacts of their actions on human rights defenders, 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 additions to address gaps in the NAP
<p>Page 69: The Declaration is also connected with other international human rights laws, such as the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention for the Protection of All Persons from Enforced Disappearance, etc.</p>	<p>Page 69: The Declaration is also connected with other international human rights laws, such as the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of All Forms of Discrimination against Women, International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, the International Convention for the Protection of All Persons from Enforced Disappearance, etc.</p>
<p>Page 69: Cases that have been raised include the disappearance of human rights defenders, such as Mr. Somchai Neelapaijit and Mr. Porlajee Rakjongcharoen; the disproportionate charges for wrongdoings in lawsuits against human rights defenders; and violations against human rights defenders.</p>	<p>Page 69: Cases that have been raised and are yet to be resolved include the disappearance of human rights defenders, such as Mr. Somchai Neelapaijit and Mr. Porlajee Rakjongcharoen; the disproportionate charges for wrongdoings in lawsuits against human rights defenders; and violations against human rights defenders.</p>



II. Challenges	
Original Text	Suggested changes in the wording & Suggested additions to address gaps in the NAP
<p>Pg. 73 and 74: Updating relevant laws, rules, regulations, policies, and measures - Accelerate the adoption of the draft on the Prevention and Suppression of Torture and Enforced Disappearance Act B.E...; the amendment of the Witness Protection Act B.E. 2546 (2003); the amendment of Article 161/1 of the Criminal Procedure Code to prevent Strategic Litigation Against Public Participation (SLAPP); and review or repeal any laws, regulations, rules, or orders that limit the rights and liberties of people and that provide conditions exempting government officials from getting punishments, such as the Highways Act B.E. 2535/1992 (updated version B.E. 2549/2006), Public Assembly Act B.E. 2558 (2015), Article 116 of the Criminal Code, National Council for Peace and Order (NCPO) Order No. 3/2015, etc.</p>	<p>Pg. 73 and 74: Updating relevant laws, rules, regulations, policies, and measures in line with international obligations, commitments and standards - Accelerate the Review, amend and subsequently ensure the adoption of the draft on the Prevention and Suppression of Torture and Enforced Disappearance Act B.E...; the amendment of the Witness Protection Act B.E. 2546 (2003); the amendment of Article 161/1 of the Criminal Procedure Code to prevent Strategic Litigation Against Public Participation (SLAPP); and review or repeal any laws, regulations, rules, or orders that limit the rights and liberties of people and that provide conditions exempting government officials from getting punishments, such as Articles 44, 47, 48 and 279 of the 2014 interim Constitution, Articles 265 and 279 of the 2017 Constitution, the Highways Act B.E. 2535/1992 (updated version B.E. 2549/2006), Public Assembly Act B.E. 2558 (2015), Article 116, 326-328 of the Criminal Code, National Council for Peace and Order (NCPO) Announcement 7/2014, NCPO Order No. 3/2015, NCPO Order 13/2016, Section 14 of the 2007 Computer-related Crime Act, and the CyberSecurity Bill etc.</p>
<p>Pg. 74: Building capacity of Human Right Defenders - Create a list of lawyers with an expertise in fighting cases on human rights to assure people that they will be protected from rights violations; and conduct training to develop the capacity of communities and human rights defenders on government services, and other forms of support, such as bail process, law enforcement, etc.</p>	<p>Pg. 74: Building capacity of Human Right Defenders - Create a list of lawyers with an expertise in fighting cases on human rights to assure people that they will be protected from rights violations; provide protection to these lawyers against pending and future SLAPP lawsuits; and conduct training to develop the capacity of communities and human rights defenders on government services, and other forms of support, such as bail process, law enforcement, etc.</p>
<p>Pg. 74: Improvement of implementation by the government - There also remain concerns over limitations on public gathering, the prohibition of peaceful protest, the use of "attitude adjustment", and SLAPP lawsuits by the government and private sector.</p>	<p>Pg. 74: Improvement of implementation by the government - There also remain concerns over limitations on public gathering, the prohibition of peaceful protest; the use of "attitude adjustment"; the use of legislations to violate freedom of expression and the right to privacy of persons; the use of harassment, threats to violence, and force; arbitrary arrest and detention; enforced disappearances; omission of individuals from decision-making process on aspects that affect them; difficulty in accessing information on violations; and SLAPP lawsuits by the government and private sector.</p>

For a deeper understanding of challenges faced by those affected by the adverse impact of businesses related to the protection of human rights defenders, 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.

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	Ratification of international human rights conventions and collaboration with various human rights mechanisms, or through foreign policy and diplomatic channels	Develop a clear definition of Human Rights Defenders by analysing international standards, taking into consideration all categories of persons that are part of civil society including stateless persons; in order to integrate this into a binding national legislation	Ministry of Justice	2562-2566 B.E. (2019-2023)	Consultation with relevant government agencies, HRDs and their representative organisations or individuals to develop a clear definition of HRDs	- National Strategy on security - National strategy on balancing and improving the public administration system - SDG No. 11,16 - UNGP No. 1, 3, 5, 7
		Accelerate the process in ratifying relevant conventions, such as International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), according to the commitment of the National Legislative Assembly on 10 March 2017	Ministry of Justice	2562-2566 B.E. (2019-2023)	Ratified International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)	- National strategy on balancing and improving the public administration system - SDG No. 11,16, 17 - UNGP No. 1, 3, 5, 7
		Promote meaningful cooperation with UN and ASEAN human rights mechanisms, including by extending an invitation for official country visits by the UN Special Rapporteur on the situation of Human Rights Defenders	All agencies	2562-2566 B.E. (2019-2023)	Conducted official visit to Thailand, or in the form of technical visit of the relevant special procedure of the UN Human Rights Council	- National strategy on security - National strategy on balancing and improving the public administration system - SDG No. 11,16, 17 - UNGP No. 1, 3, 5, 7



2	Amendments of relevant laws, rules, regulations, policies and measures	<p>Push for the review, amendment and repeal of relevant laws, mechanisms and protocols to enable the protection of HRDs, such as through amendment to the witness protection law by defining intimidation and harm, covering criminal defendants who report torture, detailing procedures on obtaining a new identity and for immediate protection in emergency situations, specifying power, role and functions of the Witness Protection Office and staff, and allowing enforcement of directives to police and other agencies; and amendment to criminal procedure with express provisions on penalty for intimidating witnesses, and criminalising acts that obstruct justice etc.</p>	Ministry of Justice	2562-2566 B.E. (2019-2023)	A review of policy and laws, as well as relevant measures and mechanism to enable the protection of HRDs	<ul style="list-style-type: none"> - National strategy on security - National strategy on balancing and improving the public administration system - SDG No.16 - UNGP No. 1, 3, 5, 7
		<p>Review and amend Articles 44, 47, 48 and 279 of the 2014 interim Constitution and Articles 265 and 279 of the 2017 Constitution, in line with international obligations</p>	Ministry of Justice	2562-2563 B.E. (2019-2020)	Constitutional provisions that protect the rights of individuals	<ul style="list-style-type: none"> - Concluding observations by UN Human Rights Committee - UNGP
		<p>Adopt a binding national legislation on HRDs by setting out a legal definition. State obligations in this legislation should include the development of protection mechanisms to ensure physical and psychological safety; protection of HRDs from</p>	Ministry of Justice	2562-2563 B.E. (2019-2020)	<ul style="list-style-type: none"> - A legislation developed in consultation with HRDs - Provisions complimented with the specific examples, including in relation to businesses and the local context 	General Assembly Declaration on Human Rights Defenders



		unlawful interference with their privacy and from attack, threat or criminalisation; and access to information relevant to obtain accountability and appropriate remedies				
		Draft an independent anti-SLAPP legislation and amend provisions (Section 161/1 and 165/2 of the Criminal Procedure Code) to protect all HRDs from judicial harassment in the form of civil and criminal lawsuits, while providing for access to justice, the right to a fair trial, the right to appeal and other forms of remedy in case of the violation of rights. There must be a clear outline of the purpose, definition of terminology used such as ‘bad faith’, and applicable to cases filed by public prosecutors and private individuals. Burden of proof herein must be placed on the business to prove that the case filed is not frivolous and has a legitimate basis.	Ministry of Justice	2562-2563 B.E. (2019-2020)	<ul style="list-style-type: none"> - An anti-SLAPP legislation or provision that protects all HRDs, including migrant workers, women human rights defenders (WHRDs) environmental and community rights defenders - An anti-SLAPP legislation or provision that protects individuals against frivolous lawsuits, while providing them with remedy and compensation. 	
		Following the ratification of the ICPPED, adopt the draft Act on Prevention and Suppression of Torture and Enforced Disappearance revising it to ensure that it complies with the ICPPED, particularly on retaining Section 11 and 12 of the Bill and amending Section 32 to remove the supervisory role in command	Ministry of Justice	2562-2563 B.E. (2019-2020)	A comprehensive and effective Act on Prevention and Suppression of Torture and Enforced Disappearance	- ICPPED



		responsibility from just being 'direct'. It should also include the definition of enforced disappearance, its non-derogable nature, non-refoulment, criminal liability for acts beyond direct commission, and provision of safeguards				
		Repeal or amend NCPO Announcement 7/2014, head of the NCPO Orders 3/2015 and 13/2016, Sections 326-328 of Thailand's Penal Code, the 2015 Public Assembly Act, Section 14 of the 2007 Computer-related Crime Act, and the CyberSecurity Bill that allows for arbitrary detention, criminalises defamation and infringes on basic freedoms.	- Ministry of Digital Economy and Society - Ministry of Justice	2562-2564 B.E. (2019-2021)	Protection of specific rights such as the right to freedom of expression, the right to freedom of association and assembly, the right to access information, and the right to public participation	- General Assembly Resolution 53/144 - EU Guidelines on Human Rights defenders
3	Protection of human rights defenders	To determine or review the policies, protocols, procedures, and mechanism to protect HRDs, which includes women human rights defenders; in order for them to have safe conditions of work, and to provide training to encourage law enforcement agencies to implement these measures in practice	- Ministry of Justice - Royal Thai Police - Ministry of Industry	2562-2566 B.E. (2019-2023) 2562-2564 B.E. (2019-2021)	- Drafting, review, or improvement of policies, mechanisms, processes or measures to protect HRDs, including HRDs who are women and indigenous peoples. - Provide training on such policies, mechanisms, processes or measures to	- National strategy on security - National strategy on balancing and improving the public administration system - SDG No. 5,16 - UNGP No. 1, 3, 5, 7 - CEDAW - UNDRIP



		<p>Establish development frameworks that are gender responsible particularly on obtaining Free Prior and Informed Consent (FPIC), provide resources to authorities at all levels to respond to violence against women HRDs, address threats and attacks they are specifically vulnerable to, and ensure remedies and its access are strengthened to be gender appropriate to provide them fair redress.</p>			<p>law enforcement agencies - HRDs feel better protected as a result of the adoption of these action-based activities.</p>	
		<p>Consult and cooperate in good faith with indigenous peoples affected, through their own representatives or institutions, to ensure their free and informed consent prior to the approval of development project utilising or exploiting their land, water and other resources, and their protection from harassment during this process</p>				
		<p>Ensure effective regulation of business activities through mandatory due diligence obligations for companies including through Human Rights Impact Assessments and Gender Impact Assessments; including HRDs in these and other decision-making processes that affect their rights; and requiring disclosure of information on corporate structure and</p>	<ul style="list-style-type: none"> - Ministry of Environment and Natural Resources - Ministry of Industry - Ministry of Labour - Ministry of Justice 	<p>2562-2564 B.E. (2019-2021)</p>	<ul style="list-style-type: none"> - Due diligence mechanisms such as HRIAs include an assessment of actual and potential human rights impacts; integration and action upon finding; tracking of the effectiveness of responses; and communication on how impacts are addressed - Processes are done in 	



		governance, contracts, license concessions, business relationships, scientific information about company operations, and company filings from companies, their subsidiaries and in their supply chain.			consultation with HRDs, with the inclusion of early as well as meaningful stakeholder engagement with all potentially affected communities	
		Refrain from using extra-legal means that require or pressure private sector to unnecessarily or disproportionately interfere with freedoms. Any demands, requests and measures to take down digital content or access customer information must be based on validly enacted law and authorised by an impartial and competent authority.	- Ministry of Digital Economy and Society - Electronic Transactions Development Agency (ETDA)	2562 B.E. (2019)	Demand, request or measure is subject to external and independent oversight and demonstrates a necessary and proportionate means of achieving one or more legitimate aims	
		Include the protection of HRDs in the 4th National Human Rights Plan. <i>The human rights plan, its design and implementation must be primarily based on direct democracy and the involvement of human rights defenders</i>	Ministry of Justice	2562 B.E. (2019)	- Inclusion of issues faced by HRDs in the 4th National Human Rights Plan, including recognition, support and protection - Inclusion of clearly outlined results and outcomes along with timeline to achieve them	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 1, 3, 5, 7



		Organise consultations with HRDs by collaborating meaningfully to prevent, address, and provide remedy for adverse impacts on human rights. The working group or committee created for such consultation must ensure the proportionate and equal involvement of HRDs.	<ul style="list-style-type: none"> - Ministry of Foreign Affairs and Ministry of Justice - Ministry of Defense - Ministry of Justice - Other relevant agencies 	2562-2566 B.E. (2019-2023)	Periodically consult with HRDs	<ul style="list-style-type: none"> - National Strategy on security - National strategy on balancing and improving the public administration system - SDG No. 11,16 - UNGP No. 1, 3, 5, 7
		Establish a working group with equal representation of human rights defenders, business sector, and the state; to resolve issues of human rights violations by the identification of gaps and determination of solutions through consultations within this working group	<ul style="list-style-type: none"> - Ministry of Justice 	2562-2564 B.E. (2019-2021)	Collaborative involvement of all sectors and stakeholders	
4	Building knowledge and understanding	Study and exchange good practices regarding measures to promote Freedom of Expression in order to apply them to the Thai context	<ul style="list-style-type: none"> - Ministry of Foreign Affairs - Ministry of Justice 	2562-2566 B.E. (2019-2023)	Studied and exchanged good practices regarding measures to promote Freedom of Expression in various countries and international organisations	<ul style="list-style-type: none"> - National strategy on developing and building the capacities of human resources - SDG No. 11,16, 17 - UNGP No. 1, 3, 5, 7,8,10
		Organise trainings for law enforcement officers to build their knowledge and understanding of the enforcement of laws to protect HRDs, such as with respect to the organisation of public gatherings and Freedom of Expression pertaining to human rights, etc. This includes, training public prosecutors and inquiry officers to actively protect individuals	<ul style="list-style-type: none"> - Royal Thai Police - Ministry of Defense - Ministry of Justice - Ministry of Foreign Affairs - Ministry of Social Development and Human Security, - National Human Rights Commission of Thailand 	2562-2566 B.E. (2019-2023)	<ul style="list-style-type: none"> - Training is conducted for law enforcement officers to build knowledge and understanding in enforcing laws related to the protection of human rights for officials in the agencies - Illustrations on the local context, sector specific and community specific examples are provided - A decline in the number 	<ul style="list-style-type: none"> - National strategy on balancing and improving the public administration systems - SDG No. 11,16,17 - UNGP No. 1, 3, 5, 7,8,10



		<p>from SLAPP lawsuits, by exercising their ordinary powers set out in Sections 140-143 of the Criminal Procedure Code to dismiss cases that amount to SLAPP lawsuits in the first instance. All officials responsible for promoting and regulating business activities must also be trained on human rights, the role of HRDs, their rights and the protections they are guaranteed</p>			<p>of prosecutions that amount to SLAPP lawsuits</p>	
		<p>Organise activities to build the capacity of communities and of HRDs in the community. Awareness campaigns should also inform communities of human rights and the role of those who defend them, particularly in the context of businesses</p>	<ul style="list-style-type: none"> - Ministry of Interior (Department Of Provincial Administration) - Ministry of Justice 	<p>2562-2566 B.E. (2019-2023)</p>	<ol style="list-style-type: none"> 1 .The target population in 76 provinces and 878 districts has knowledge, understanding, and can protect themselves from being a victim of human rights violations 2. Staff have skills, knowledge, efficiency and potential that were developed through the provision of knowledge and guidelines on human rights to the Deputy District Chief and administrative officers in 76 provinces and 878 district 3. Inspect, monitor and eradicate risks in vulnerable areas in 76 provinces, not less than 1 time / month, and in the district area of 878 districts, not less than 2 	<ul style="list-style-type: none"> - National Strategy on security - National strategy on developing and building the capacities of human resources - National strategy balancing and improving the public administration systems - SDG No. 11,16 - UNGP No. 1, 3, 5, 7



					times / month on all occasions that they arise in a timely and effective manner	
		Create a list of lawyers/legal advisors with an expertise and understanding, of mechanisms and policies to address cases on human rights violations	- Ministry of Justice - Office of the Attorney General	2562-2566 B.E. (2019-2023)	Have a list of lawyers /legal advisors with an expertise and understanding, of mechanisms and policies to address cases on human rights violations	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 1, 3, 5, 7
		Provide correct knowledge to people on their rights, and educate HRDs about various services for assistance that are provided by the state, on the bail process, on law enforcement, etc.	- Office of the Attorney General - Ministry of Justice	2562-2566 B.E. (2019-2023)	Have an activity to provide knowledge to people on their rights, as well as provide knowledge to HRDs on assistance and services provided by the state, the bail process, law enforcement, etc.	- National strategy on developing and building the capacities of human resources - National strategy on balancing and improving the public administration systems - SDG No. 11,16 - UNGP No. 1, 3, 5, 7, 8, 9,10
		Undertake an annual or biennial periodic study on the situation of HRDs in Thailand led by or with the participation of the National Human Rights Commission of Thailand (NHRCT) and in consultation with civil society organisations and HRDs, to inform measures towards stronger measures for HRDs in business contexts	- Rights and Liberties Protection Department - National Human Rights Commission of Thailand	2562-2566 B.E. (2019-2023)	Production of a study that is inclusive of the voices of all HRDs including women, indigenous peoples, migrant workers, LGBTI,	- National strategy on developing and building the capacities of human resources - National strategy on balancing and improving the public administration systems - UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms



5	Address root causes that result in risks faced by human rights defenders	Prevent corruption amongst State officials, institutions and mechanisms that result in or magnify the violation of rights. Policy and practices should be outlined to address abuse of public authority when it directly or indirectly leads to the violation of the rights of HRDs or places a barrier on their work	Ministry of Justice	2562-2564 B.E. (2019-2021)	A conducive legal, institutional and administrative framework for HRDs	
		Address corporate capture through the influence that corporations exert over the government, by providing checks and balances to ensure that government legislations, policy and practice do not marginalise HRDs and infringe on their rights by only responding to the needs of businesses with influence	Ministry of Justice	2562-2564 B.E. (2019-2021)	Any instances of interference by non-state actors in the peaceful exercise of rights of individuals is rectified using precautionary, preventive and reparative measures	
		End impunity of perpetrators responsible for serious human rights violations affecting the rights of persons and the work of HRDs. For this, effective accountability measures must be set out, along with access to alternative mechanisms or protections on the failure of these measures. Companies must also be held accountable for failing to act on information of rights violations provided by NGOs and HRDs	Ministry of Justice	2562 B.E. (2019)	A safe and enabling environment for HRDs is ensured through independent and transparent measures	

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, including those under the UNGPs and SDGs	Allocate sufficient resources towards the fulfilment of international standards, in the online and offline work of the company through due diligence by Human Rights Impact Assessments (HRIAs), Gender Impact Assessment, rights-oriented design and engineering choices, stakeholder engagement, strategies to prevent or mitigate human rights risk, transparency, and effective remedies.	Businesses		- Design and implementation of corporate human rights accountability provisions that draw on both internal and external expertise - Meaningful input received from customers, affected rights holders, civil society and HRDs in due diligence mechanisms and community HRIAs.	- UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - International Finance Corporation (IFC) Performance Standards - UNGPs Reporting Framework - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
		Partnering of companies with HRDs who can assist them in the realisation of their UNGPs and SDG commitments, through the implementation of compliant policy and practice. HRDs can help companies produce successful evaluation tools to assess a company's human rights due diligence including actual and potential human rights risks, such as the Corporate Human Rights Benchmark which features an indicator on the commitment to respect HRDs.	Businesses		This approach reduces costs and operational obstacles by minimising the risk of community conflict, which can result in interrupted operations, security costs, human resource lost to crisis management and litigation.	- UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - International Finance Corporation (IFC) Performance Standards - UNGPs Reporting Framework - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
		Abstain from advocating for legislations that restrict civic	Businesses	2562 B.E. (2019)	Coordination with domestic civil society and	- UNGPs Pillar II - SDGs



		space, in contravention of the duty to respect set out for businesses in the UNGPs through corporate capture of the legislature. Companies should understand and promote an open civic space which is beneficial to them and their economic well-being.			affected communities across a shared civic space to assist grasp the import of legislations, and ensuring a social license to operate.	<ul style="list-style-type: none"> - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - International Finance Corporation (IFC) Performance Standards - UNGPs Reporting Framework - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
		Business enterprises and HRDs should contribute to the full respect of freedoms of expression, association and assembly, by promoting a system characterized by non-discrimination, a transparent and accountable government, and freedom from corruption. This can be achieved by engaging on these issues using measures that are consistent with international standards; by engaging with governments and through direct, indirect and collective advocacy in the form of short-term reactive steps or long-term, affirmative policy.	Businesses	2562-2564 B.E. (2019-2021)	This discretionary responsibility is adopted using measures that promote the 'do not harm' principle, including through jurisprudence that reinforces the idea that omission or inaction may be equated with complicity.	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - International Finance Corporation (IFC) Performance Standards - UNGPs Reporting Framework - 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	Integrate and act on the findings of human rights due diligence processes by determining ways to exercise leverage or deciding whether to terminate	Businesses	2562-2563 B.E. (2019-2020)	Effectiveness of this action is tracked by analysing qualitative elements, such as company specific indicators; the views of	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global



		relationships when leverage cannot be built following evaluation. This can be achieved by taking action in light of the companies normative responsibility under the UNGPs to prevent and mitigate human rights impacts; prioritizing and addressing severe impacts; and by understanding how the company is involved in causing or contributing to them			those affected; and the actions of suppliers and others they are in a business relationship with.	Compact - International Finance Corporation (IFC) Performance Standards - UNGPs Reporting Framework - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
		Take all necessary and lawful measures to ensure that business practices do not cause, contribute or remain complicit in human rights abuses. Avoid State requests to participate in censorship or surveillance; structure arrangements with corporate partners to ensure all parties uphold human rights responsibilities; and build leverage in pre-existing business relations to prevent or mitigate adverse human rights impacts.	Businesses	2562-2563 B.E. (2019-2020)	All actions resulting from external interactions of the business are without adverse actual and potential human rights impacts that the business causes, contributes to or is linked with through any operation, investment, product or service.	- UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - International Finance Corporation (IFC) Performance Standards - UNGPs Reporting Framework - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
3	Business contribution to the promotion of the rights of HRDs	Promote best practices of businesses that protect human rights, including those of HRDs that are engaged in positive action, in this respect particularly in countries and sectors where they are at high risk. Corporations can assist with raising awareness amongst businesses, by helping translate	Businesses	2562-2563 B.E. (2019-2020)	The 'duty of care' of parent companies is extended to countries where corporations have headquarters, country offices, subsidiaries or suppliers.	- UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - International Finance Corporation (IFC) Performance Standards - UNGPs Reporting Framework



		<p>this information to suit the local context or sectoral practices. This can be bolstered by practical examples.</p>				<ul style="list-style-type: none"> - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
		<p>Assist in scaling up of existing positive practices in countries, sectors, and industries that respect and promote HRDs and civic freedoms. Business networks, business leader summits, & industry associations are leveraged for this purpose.</p>	Businesses	2562-2563 B.E. (2019-2020)	Compliance with international standards and obligations is ensured	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - International Finance Corporation (IFC) Performance Standards - UNGPs Reporting Framework - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)
		<p>Take measures to promote change in legislation and address the adverse impact of businesses on HRDs and human rights in countries where materials are being sourced from, even if not responsible for these violations. These measures can be a negative step to prevent a violation or a positive step aimed at promoting the rights of individuals including HRDs</p>	Businesses	2562-2564 B.E. (2019-2021)	A broader ethical responsibility that businesses owe to industries, economies, and people that they have benefitted from over the years, is realised	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - International Finance Corporation (IFC) Performance Standards - UNGPs Reporting Framework - Corporate Human Rights Benchmark (CHRB) - 12th National Economic and Social Development Plan of Thailand (2017-2021)



		Help by providing direct assistance to HRDs, such as by furnishing funds for the legal support of HRDs. While providing support, the supporting business can utilize this as a means to influence the litigating corporations to change their attitude and response to HRDs.	Businesses		Appropriate safeguards are in place while undertaking such support.	<ul style="list-style-type: none"> - UNGPs Pillar II - SDGs - OECD Guidelines for Multinational Enterprises - 10 Principles of the UN Global Compact - International Finance Corporation (IFC) Performance Standards - UNGPs Reporting Framework - 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	Complaints and requests for support	Establish effective, appropriate, and sufficient complaints and support mechanisms, to address human rights violations that may arise from business operations.	<ul style="list-style-type: none"> - Ministry of Justice - Ministry of Interior - Ministry of Commerce - Ministry of Industry 	2562-2566 B.E. (2019-2023)	Have effective, appropriate, and sufficient complaints and support mechanisms, to address human rights violations that may occur from business operations	<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
		For complaints filed against state authorities and law enforcement officials, ensure prompt investigation through impartial, independent and autonomous team of experts, by strengthening the Ombudsman,	Ministry of Justice	2562 B.E. (2019)	Capacity, resource and knowledge building of these individuals and institutions on business and human rights	<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



		the Administrative Courts and the National Human Rights Commission of Thailand (NHRCT) at the national and local level				
2	Promote a mediation system and other alternative non-judicial grievance redressal mechanisms	Promote mediation at all levels of the justice system, and by developing alternative dispute resolution mechanisms	- Office of the Attorney General - Ministry of Justice - Judicial system	2562-2566 B.E. (2019-2023)	Organise activities, projects or measures to promote mediation at all levels of the justice system as well as by developing alternative dispute resolution mechanisms	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31
		Promote company based grievance redressal mechanisms. Incorporate explicit human rights components into existing customer service and ethics-related grievance mechanisms, through hotlines that are accessible to users. It should permit cases to be brought by others on behalf of those who fear the process because of marginalisation	- Businesses	2562 B.E. (2019)	These mechanisms meet the effectiveness criteria in the UNGPs	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31
3	Litigation	Increase the capacity and budget, and provide assistance in accessing the justice system to victims who are HRDs and their families, such as through the Justice Fund and legal advisors. The Justice Fund and other such mechanisms must remain independent. This must include assistance for actual harm and	- Office of the Attorney General - Ministry of Justice	2562-2566 B.E. (2019-2023)	- Have consultants, channels/ mechanisms/ measures to assist HRDs in accessing the justice system - Accessibility to the Justice Fund is extended to include the stateless and indigenous HRDs	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31



		risk against individuals, both for business related human rights violations and against judicial harassment through SLAPP cases.				
		Consider the amendment of the law for public prosecutors, to be able to prosecute through class action lawsuits	Office of the Attorney General	2562-2566 B.E. (2019-2023)	Amendments made for the public prosecutor to be able to prosecute through class action lawsuits	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31
		Build knowledge and skills of officers who are responsible for the correct and just execution of laws, regulations, and policies for towards offences occurring outside the state	Office of the Attorney General	2562-2566 B.E. (2019-2023)	Training to build knowledge on the correct and just execution of laws, regulations, and policies for offences occurring outside the state is provided to officials	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31
		Refrain from and end all legal proceedings against individuals facing investigation, charges, or prosecution initiated by businesses for engaging in legitimate activities protected by international human rights law or for addressing 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.	- Ministry of Justice - Businesses	2562 B.E. (2019)	Compensation is full and adequate and extend to HRDs and their family	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31
		Take measures, in policy and practice, to ensure the security of HRDs can be guaranteed when accessing grievance redressal mechanisms. This can be	- Ministry of Justice - Judicial system - National Human Rights Commission of Thailand	2562-2563 B.E. (2019-2020)	A streamlines process of protection for HRDs and others approaching the grievance redressal system	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,26,27,28,29,31



		achieved by raising awareness on witness protection; increasing the staff and resources assigned to the Witness Protection Office; running it as an independent agency; providing specialised training for Witness Protection Officers; conduct trials in camera; and informing judges, public prosecutors, lawyers, doctors on witness protection.				
4	Remedy	Provide remedy to victims according to the UN Declaration on Basic Principles of Justice for Victims of Crime and Abuse in an appropriate manner, by taking into account their gender	Ministry of Justice	2562-2566 B.E. (2019-2023)	Improvement made to the system and measures to provide remedy to victims for it to be in line with the UN Declaration on Basic Principles of Justice for Victims of Crime and Abuse in an appropriate manner, by taking into account the gender of the victim	- National strategy on balancing and improving the public administration system - SDG No. 16 - UNGP No. 24,25,2627,28,29,31
		Coordinate to assist victims physically, mentally, socially, professionally, etc.	- Ministry of Social Development and Human Security - Ministry of Justice - Ministry of Public Health - Royal Thai Police	2562-2566 B.E. (2019-2023)	- Provide protection and take care of those who are discriminated against due to gender and are victims of violence - Have measures to coordinate between various agencies in order to provide assistance to victims physically, mentally, socially, professionally, etc.	- National strategy on balancing and improving the public administration system - SDG No. 5,11,16 - UNGP No. 24,25,2627,28,29,31



	<p>Effective remedies should be guaranteed to persons, with a legitimate interest in the cases of HRDs who are suspected of being victims of enforced disappearance. Policy measures must be implemented to ensure that relatives, representatives or counsel of these individuals are provided access to investigation proceedings and those before the court or other mechanisms to access remedies with respect to the disappearance</p>	Ministry of Justice	2562 B.E. (2019)	Relatives, representatives or counsel of victims of enforced disappearance obtain access to remedy	<ul style="list-style-type: none"> - Article 17(2)(f) of ICPPED - Report of the Working Group on Enforced Disappearances in its General Comment on the right to the truth in relation to enforced disappearances
	<p>Resist government and individual requests to restrict or remove content, by challenging orders before the court; if they lack a legal basis, violate legitimate rights. Develop clear redress mechanisms for individuals whose content that is legitimate under international human rights law, has been taken down. Companies should notify users that their content has been removed with basic reasons for the decision, with an opportunity to challenge those decisions.</p>	Businesses	2562-2563 B.E. (2019-2020)	<ul style="list-style-type: none"> - Only requests and orders that are legitimate under international human rights law are entertained - These mechanisms meet a due process threshold as defined by international human rights law, with the due process safeguards explained clearly in company policies - Internal guidelines for removal of content are published. 	<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>Study and analyse legal gaps and barriers to accessing justice of HRDs, in order to develop an effective process for remedy. Make such a study, its result and measures taken in response public</p>	Ministry of Justice	2562-2566 B.E. (2019-2023)	Study and analyse legal gaps and barriers to accessing justice for 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



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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.