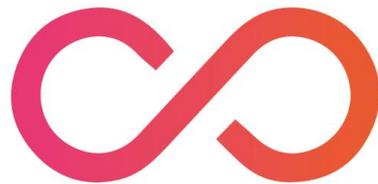




Strategy Note



MANUSHYA

Empowering Communities | Advancing Social Justice

Implementing Business & Human Rights Commitments in Thailand

2017 – 2018



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Empowering Communities | Advancing Social Justice

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STRATEGY NOTE

Implementing Business & Human Rights Commitments in Thailand

2017 – 2018



**Thai CSOs Coalition
for the UPR**

Empowering Thai CSOs & Local Communities to engage with the Private Sector and the Royal Thai Government in the implementation of the UPR commitments on Business & Human Rights

#UNGPs #BizHumanRights #CorporateAccountability

1. Background

1.1. The Thai CSOs Coalition for the UPR

Thailand's second Universal Periodic Review (UPR) took place on May 11 2016 when the Royal Thai Government's human rights record was reviewed by 99 UN Member States at the UN Human Rights Council, and 249 recommendations were received. Following the review, the Royal Thai Government (RTG) has accepted the recommendation to develop, enact, and implement a national action plan (NAP) on Business and Human Rights in order to implement the UN Guiding Principles on Business and Human Rights (UNGPs), and it has made the voluntary pledges to promote human rights principles and practices in the business sector.¹ After the Adoption of the Working Group report, the RTG shall effectively implement these commitments into action to improve the human rights situation in Thailand. The Rights and Liberties Protection Department of the Ministry of Justice has been given the responsibility to implement the UPR commitments on business and human rights and to develop the National Action Plan (NAP).

UPR Info Asia has been supporting human rights defenders and local communities' engagement in the UPR since its opening in May 2015. It has been working closely and intensively with community-based human rights defenders and grassroots organizations in Thailand to ensure local voices and concerns are at the centre of the UPR process and implementation phase.² These efforts culminated with the creation of the *Thai CSOs Coalition for the UPR*³, comprising local communities from all human rights sectors and across Thailand.⁴ The coalition is as of today the widest coalition of Thai CSOs ever brought together to contribute to the UPR process and other UN human rights mechanisms as well as development obligations. The formation of the *Thai CSOs Coalition for the UPR* has enabled local communities from different regions of Thailand, experiencing similar challenges (such as land evictions, land grabbing, abusive working conditions), to meet each other and build solidarity, creating momentum and commitment to work together as a strong national movement to hold the government accountable and corporate actors on business and human rights standards.

¹ Please see Recommendation 158.49 by Sweden: "Develop, enact and implement a national action plan on business and human rights in order to implement the UN guiding Principles on Business and Human Rights"; Recommendation 158.148 by Nigeria: "Address the issue of human rights in the pursuit of economic growth in local areas"; and Recommendation 158.149 by Bolivia: "Implement measures to promote and protect the rights of peasants and other people working in rural areas".

² More information on the formation of the *Thai CSOs Coalition for the UPR* in February 2016 is available at the following link: <https://goo.gl/s87QDG>

³ Ibid.

⁴ For an overview of the human rights issues addressed by the *Thai CSOs Coalition for the UPR*, please access their UPR Advocacy Factsheets, (March 2016), providing a good understanding of the human rights situation in Thailand, across the country: <https://goo.gl/xy6hAk>



1.2. The Manushya Foundation – “Empowering Communities - Advancing Social Justice”

By the end of 2016, *UPR Info Asia* had reached its goal to ensure the *Thai CSOs Coalition for the UPR* becomes an independent coalition which could effectively move forward as a committed human rights movement in Thailand, promoting inclusion and equality, ensuring all human beings are treated equally, and respecting the interdependence and indivisibility of human rights: economic, social and cultural rights being equally important to civil and political rights.

Through the closing of *UPR Info Asia*, a new foundation was born, the **Manushya⁵ Foundation** (Manushya). Founded in 2017, the Manushya Foundation is an Asia regional non-governmental organisation aimed at empowering communities to advance Human Rights, Social Justice & Peace. Manushya serves as a “bridge” to Engage, Mobilise and Empower Agents of Change by: connecting Humans through the inclusive coalition building; and by developing strategies focused at placing local communities’ voices in the center of human rights advocacy and domestic implementation of international human rights obligations and standards. Manushya 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.

Manushya will work closely with the Thai CSOs Coalition for the UPR to influence, inspire and work with Asian communities in order to enable them to own the human rights situation in their countries and be at the center of the human rights response. Manushya focuses in empowering communities to become agents of change, so they can constructively provide their very own solutions to governments. No one knows better than them their true needs and how we could all work together to bring about positive change. The answers and solutions lie with communities. Therefore, the **Manushya Foundation connects humans across Asia promoting the similar vision of “empowering communities to advance social justice”, by building capacities, sharing experiences, developing innovative strategies and strengthening solidarity.**

Responding to shrinking civic space by accessing UN Human Rights Mechanisms and developing credible evidence:

The *Manushya Foundation* focuses its work in countries where civic space is shrinking to support communities accessing justice through UN human rights mechanisms (UPR, treaty bodies and special procedures), following innovative and constructive strategies. The foundation ensures an equal and inclusive participation of communities across Asia so that they can effectively hold their government to account, while building credible evidence to investigate and monitor the human rights situation, and ultimately advance human rights. The Manushya Foundation works towards “*Engaging, Mobilising and Empowering*” local voices to build human rights movements, be at the centre of the human rights response and become the agents of change in their countries.

1.3. Empowering Thai CSOs & Local Communities to be at the center of the implementation of the business and human rights commitments in Thailand

As part of its work in Thailand, the Manushya Foundation aims to further strengthen the capacity of local communities, members of the *Thai CSOs Coalition for the UPR*, of which many are experiencing adverse human rights impacts of corporations, to effectively engage in the UPR implementation phase and to hold the RTG accountable on its UPR commitments to address the adverse human rights impacts of business in Thailand.

⁵ Manushya or Manushya means “Human Being” in Sanskrit. “Manushya” is a term being understood by many communities across Asia and in the world, meaning “humans”, “human being”, or even “human rights” (such as manusia in Bahasa or Malay).

2. Challenges

Based on the consultations and activities held with local communities in 2016, two challenges have been identified as hindering the meaningful participation of Thai CSOs and local communities in monitoring the RTG's implementation of its UPR commitments on business and human rights:

- First, there is a critical need to build the knowledge of local communities on business and human rights standards, as well as to support the development of evidence-based documentation related to the adverse human rights impacts of business activities in Thailand, to ensure the inclusion of community concerns in the development of the future National Action Plan on Business and Human Rights, to be developed by the RTG by September 2018. The empowerment of local communities was also identified as a critical need to ensure a fair “power balance” between government, private actors and local communities.
- Secondly, most local communities lack institutional capacities which limit their ability to receive direct funding, to hold community consultations, to further build their peers' capacities, and to engage in advocacy with local authorities on business and human rights issues.

3. Responding to challenges: *“Empowering Local Communities to engage with the Corporate actors and the Royal Thai Government in the implementation of the UPR commitments on Business & Human Rights”*

3.1. Overview of the project objectives and expected outcomes

To respond to these challenges (a) lack of evidence-based documentation on the adverse human rights impacts of business activities in Thailand, and (b) lack of technical and institutional capacity of Thai CSOs and local communities to engage on business and human rights issues, Manushya Foundation developed a project including three key objectives. Indeed, after the Thai government received, during its Second Universal Periodic Review (UPR), a recommendation from Sweden to develop a National Action Plan (NAP) on Business and Human Rights (BHR) with the view to implement the UN Guiding Principles on Business and Human Rights (UNGPs), Manushya developed a strategy aiming at empowering communities to be at the centre of the business and human rights response in Thailand, by guaranteeing their central role throughout the NAP process. To this end, since the beginning of 2017, Manushya has reached out to local communities, national and regional experts on business and human rights to:

- Develop a national baseline assessment (NBA) on BHR, with communities' challenges and needs put at the centre of the assessment,
- Empower communities to conduct evidence-based research and, together with academics, document BHR issues they face, and
- Empower grassroots to tip the balance of power between businesses and governments versus CSOs, and encourage more bottom-up approaches which view CSOs as equal partners.

VISION & KEY OBJECTIVES

Empowering the *Thai CSOs Coalition for the UPR* to engage with the Royal Thai Government and corporate actors in the implementation of the UPR commitments on business and human rights
#UNGPs #BizHumanRights #CorporateAccountability

CREDIBLE EVIDENCE



Gather and analyse existing evidence on the human rights impacts of business in Thailand



Develop new evidence: community-led research on rights violations committed by corporate actors



Analyse compliance of the legal framework in Thailand with the UNGPs through a National Baseline Assessment (NBA)

CAPACITY - BUILDING



Build knowledge of Thai CSOs on the UNGPs and other business and human rights frameworks



Bring stakeholders (CSOs, Government, Private Sector) together to discuss challenges, solutions, and collaboration



Inform research findings on human rights impacts of business with experts stakeholders' inputs

EMPOWERMENT



Facilitate the creation of a Thai CSOs Network on Business & Human Rights



Provide sub-grants to support the development of the network and research activities



Develop institutional capacities of the Business & Human Rights network to ensure sustainability

WORK PRINCIPLES



Human-rights based and centered on communities' needs



Transparent, inclusive, and collaborative with all stakeholders



Professional, expert, and evidence-based research methodology

Objective 1: Develop a CSO National Baseline Assessment (NBA) on business & human rights by end of 2017, including community & academic-led documentation, to inform the development of a National Action Plan on Business & Human Rights by 2018

Methodology: A NBA will be developed to evaluate Thailand’s current implementation of the UN Guiding Principles on Business and Human Rights (UNGPs) and of relevant business and human rights standards. Based on the findings of the NBA, policy recommendations will be proposed for the development of the NAP. The structure of the NBA will follow the 2014 template developed by the Danish Institute for Human Rights (DIHR) and the International Corporate Accountability Roundtable (ICAR) and hence mirror the structure of the UNGPs in three pillars.⁶ Each UNGP pillar is broken down and operationalized into indicators and scoping questions aiming at assessing compliance with the UNGPs at national level. To assess compliance with Pillar II, indicators and a methodology for data collection needs to be developed as the DIHR/ICAR NBA template does not address Pillar II. The Manushya Foundation will aim at meaningfully engaging with the private sector, notably to assess compliance of the corporate duty of due diligence under Pillar II of the UNGPs, through the UN Global Compact in Thailand, chambers of commerce, and trade unions. The Manushya Foundation will also analyse the legal and policy framework pertaining to the protection of Human Rights Defenders in the context of business and human rights in Thailand, following the 2016 NBA template on Human Rights Defenders’ Rights, developed by the International Corporate Accountability Roundtable (ICAR) and the International Service for Human Rights (ISHR).⁷

The NBA will be developed based on desk-research and analysis, as well as on a comprehensive programme of multi-stakeholders consultations, and development of community & academic-led research to identify human rights impacts of businesses and private foreign investments, propose responses, and engage government and corporate actors to take action on human rights.

Sub-regional Dialogues on Business & Human Rights to inform the NBA: together with the Rights and Liberties Protection Department of the Ministry of Justice, dialogues will take place to capture realities from the ground at the sub-regional level and to inform the CSO NBA, from January to March 2017. Representatives from local communities, the government, corporate actors and the Thai Representative to AICHR, Dr. Seree, will take part in the sub-regional multi-stakeholders dialogues.

Community & Academic-led research to inform the NBA: to ensure meaningful inclusion of communities’ concerns linked to business activities in the NBA, support to local CSOs working on business and human rights issues in Thailand will be provided to develop and gather evidence-based documentation of the adverse human rights impacts of businesses. Such research will be conducted from June to December 2017 and will be developed together with academic researchers and experts, following the documentation checklist for reporting corporate human rights abuses developed by the Business & Human Rights Resource Centre and ESCR-Net.⁸

⁶ ICAR & DIHR, (2014), *National Action Plans on Business and Human Rights: A Toolkit for the Development, Implementation, and Review of State Commitments to Business and Human Rights Frameworks*, available at: <http://icar.ngo/analysis/napsreport/>

⁷ ISHR & ICAR, (2016), *Human Rights Defenders in National Action Plans on Business and Human Rights: A Thematic Supplement to ‘National Action Plans on Business and Human Rights: A Toolkit for the Development, Implementation, and Review of State Commitments to Business and Human Rights Frameworks’*, available at: https://www.ishr.ch/sites/default/files/documents/ishr_icar_hrds_in_naps_guidance_eng.pdf

⁸ Business & Human Rights Resource Centre and ESCR-Net, (2016), *Documentation checklist for reporting corporate human rights abuses*. Available at: <https://business-humanrights.org/en/checklist-documenting-corporate-human-rights-impacts>

Experts Advisory Group: the development of the NBA will be guided and further defined in consultation with national, regional, and international experts in the field of business and human rights (experts advisory group) and in full transparency and partnership with the Rights and Liberties Protection Department of the Ministry of Justice of Thailand, leading the development of the National Action Plan on Business and Human Rights. An Experts Advisory Group composed of relevant stakeholders from civil society, academia, NHRIs, government, and the private sector will be created to provide technical advice and support at various stages of the project to ensure inclusion and a successful completion of the objectives of the project. An Experts Advisory Group meeting will be held in September 2017 to ensure the experts can guide the priorities of the NBA.

In February 2018, a final validation consultation to present and discuss the NBA will be held at the national level comprising all key actors who have been involved in the development of the NBA, from community leaders, to the RTG, corporate actors, the National Human Rights Commission of Thailand, and the national, regional and international experts of the Experts Advisory Group. The CSO NBA is expected to be launched end of March 2018.

Expected outputs/outcomes:

- 4 sub-regional dialogues to inform the development of the NBA, organized together with the Rights & Liberties Protection Department of the Ministry of Justice;
- Desk review research analyzing the current legal framework and the existing evidence related to business and human rights in Thailand, undertaken by the Manushya Foundation, members of the Thai CSOs Coalition for the UPR and Academic researchers;
- Experts Advisory Group meetings to advise, guide and validate on the priority issues, findings and recommendations of the NBA;
- Documentation of business-related rights violations using the Business and Human Rights Resource Centre online tool undertaken by the Manushya Foundation, the Thai CSOs Coalition for the UPR and Academic researchers;⁸
- Experts papers sharing “good practices” and “recommendations” to inform the NBA;
- Landmark national report on adverse impacts of businesses and foreign investments on human rights;
- One national validation consultation to finalise the NBA;
- Development of a CSO NBA informing the future NAP on business and human rights.

Objective 2: Strengthen the capacity of Thai CSOs and local communities to effectively engage with the government and corporate actors on business and human rights, and hold them accountable on business and human rights commitments

Capacity-building workshops on business and human rights will take place at the sub-regional level to ensure Thai CSOs can propose solutions, seek remedies and can engage the government and corporate actors to take actions on human rights and respect the UPR Commitments related to Business and Human Rights. The capacity building workshops will focus on the UNGPs and the importance of “corporate accountability”. The sub-regional capacity building workshops will be held in May-June 2017 and will stress on the need to prepare communities to negotiate with the private sector and the government and provide solutions for specific project impacting their rights and livelihoods.

In addition to understanding the UNGPs, the workshops will also provide participants with an opportunity to learn about the importance for companies to undertake a Human Rights Impact Assessment (HRIA) as part of exercising their “due diligence” requirement under the Pillar II of the UNGPs. Indeed, the HRIA is a process to measure the gap between the human rights commitments of the state (human rights in principle) and the actual enjoyment of these rights by rights-holders (human rights in practice). By calling on the participation of all stakeholders involved in the investment project, the HRIA seeks to identify the rights that are not respected, or indications that they might not be respected in the future, so that satisfactory solutions can be found. Further, the workshops will also focus on the formulation, uses and limitation of NAPs for business and human rights.

Expected outputs/outcomes:

- 4 Training of Trainers (ToT) held throughout Thailand to build capacities of communities on business and human rights, including: the importance of “corporate accountability” and the obligation for private actors to undertake a Human Rights Impact Assessment (HRIA) and undertake “stakeholder engagements” to allow communities to further engage with government and the private sector to find solutions for specific investment projects impacting their rights and livelihoods;
- The formulation, uses and limitations of NAPs are explained to communities so they can better prepare to engage with the RTG and corporate actors for the development of Thailand’s NAP;
- Thai human rights defenders and CSOs have increased capacity to effectively engage with the Royal Thai Government on critical human rights issues related to business and human rights;
- Thai human rights defenders and CSOs have increased knowledge and understanding of business and human rights principles and can engage in the development of the National Action Plan on Business and Human Rights.

Objective 3: Addressing “Power Balance” – Institutionalize and empower a strong and credible national network on business & human rights to effectively engage with the government and the private sector: the Thai Business & Human Rights Network, ‘Thai BHR Network’

For local communities to be able to effectively engage with the government and to address power imbalances with the private sector, activities will be organized to support the establishment of a national network on business and human rights, including a national consultation in November 2017 for community leaders, academics and experts, as well as institutional capacity-building trainings, and sub-granting to ensure the sustainability of the network.

Expected outcomes:

- Establishment of an Empowered National Network on Business & Human Rights, ‘Thai BHR Network’;
- Enhanced capacities of community leaders on structural management and resource mobilization;
- Sub-grants utilised to support community-specific needs;
- Thai human rights defenders, land rights defenders, environmental activists, migrant workers and indigenous peoples are empowered and have increased capacities to work and strategise together in a coordinated manner in order to pressure corporate actors and engage with the government to rectify curtailment of their rights.

IMPLEMENTING BUSINESS & HUMAN RIGHTS COMMITMENTS IN THAILAND

OVERVIEW OF THE PROJECT CYCLE





The Manushya Foundation: “Empowering Communities – Advancing Social Justice”:

Founded in 2017, the **Manushya Foundation** is an Asia regional foundation aimed at empowering communities to advance *Human Rights, Social Justice & Peace*, aiming at improving the human rights situation on the ground in Asia, leaving no one behind. The Manushya Foundation embraces the universality of human rights, promoting and protecting communities’ economic, social and cultural rights as well as civil and political rights; respecting the indivisibly and independence of human rights. It focuses its work in countries where civic space is shrinking to support communities accessing justice through UN human rights monitoring mechanisms (UPR, treaty bodies and special procedures), following innovative and constructive strategies. The foundation ensures an equal and inclusive participation of communities across Asia so that they can effectively hold their governments to account, while building credible evidence to investigate and monitor the human rights situation, and ultimately advance human rights. Communities are at the center of human rights and development concerns, and shall play a critical role in providing solutions to stakeholders (government and non-state actors) in order to improve their livelihoods and conditions. The Manushya Foundation works towards “*Engaging, Mobilising and Empowering*” local voices to build human rights movements, be at the center of the human rights response and become the agents of change in their countries, so they can constructively provide their very own solutions to governments. No one knows better than them their true needs and how we could all work together to bring about positive change. The answers and solutions lie with communities. Therefore, the **Manushya Foundation connects Humans across Asia promoting the similar vision of “empowering communities to advance social justice”, by building capacities, sharing experiences, developing innovative strategies and strengthening solidarity.**

ENGAGE – MOBILISE – EMPOWER

Thai CSOs Coalition for the UPR

The Thai CSOs Coalition for the UPR:

Created in February 2016, the **Thai CSOs Coalition for the UPR** comprises local communities and national civil society organizations from all human rights sectors and across Thailand. The coalition is as of today the widest coalition of Thai CSOs ever brought together to contribute to the UPR process and other UN human rights monitoring mechanisms as well as development obligations. The formation of the *Thai CSOs Coalition for the UPR* has enabled local communities from different regions of Thailand, experiencing similar challenges (such as land evictions, land grabbing, abusive working conditions), to meet each other and build solidarity, creating momentum and commitment to work together as a strong national movement to hold the government accountable on its international human rights obligations. The *Thai CSOs Coalition for the UPR* engages in a constructive manner by proposing solutions rather than naming and shaming.