



## MEETING REPORT

Coalition Building Workshop on  
Business & Human Rights:  
"Building Solidarity Among Local  
Communities, Academics &  
Experts: Towards a Thai BHR  
Network"

Elizabeth Hotel,  
Bangkok, Thailand  
18-20 November 2017



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COALITION BUILDING WORKSHOP ON BUSINESS & HUMAN RIGHTS: "BUILDING SOLIDARITY AMONG LOCAL COMMUNITIES, ACADEMICS & EXPERTS: TOWARDS A THAI BHR NETWORK"

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18-20 November 2017



Thai CSOs Coalition  
for the UPR





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# ABBREVIATIONS

<b>BHR</b>	Business and Human Rights
<b>CRC</b>	Community Resource Centre
<b>CSO</b>	Civil Society Organisation
<b>CSR</b>	Corporate Social Responsibility
<b>EIA</b>	Environmental Impact Assessment
<b>HRIA</b>	Human Rights Impact Assessment
<b>IHRM</b>	International Human Rights Mechanisms
<b>LPN</b>	Labour Rights Promotion Network Foundation
<b>NAP</b>	National Action Plan
<b>NBA</b>	National Baseline Assessment
<b>PLHIV</b>	Persons living with HIV
<b>PTTGC</b>	PTT Global Chemical Public Company Limited
<b>TBHRN</b>	Thai BHR Network
<b>UNGPs</b>	United Nations Guiding Principles
<b>UPR</b>	Universal Periodic Review



# OUR ROLE IN BUSINESS & HUMAN RIGHTS IN THAILAND

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

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



# ACKNOWLEDGEMENTS

As part of its work in Thailand, the Manushya Foundation (Manushya) aims to further strengthen the capacity of local communities and members of the Thai CSOs Coalition for the UPR, of which many are suffering rights violations at the hand of corporations, to effectively engage in the Universal Periodic Review (UPR) implementation phase and to hold the Royal Thai Government (RTG) accountable on its UPR commitments related to business and human rights.

During its second Universal Periodic Review (UPR), the Thai government received 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). In light of this, 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 development, implementation and monitoring of the NAP. To this end, since the beginning of 2017, Manushya has reached out to local communities and national, regional and international experts on business and human rights to:

- Develop a CSO national baseline assessment (NBA) on business and human rights, with communities' challenges and needs put at the centre of the assessment,
- Empower local communities to conduct evidence-based research and, together with academics, document business and human rights issues they face, and
- Empower grassroots to tip the balance of power between businesses and governments versus CSOs, and encourage more bottom-up approaches that view CSOs as equal partners. For that purpose, in addition to building capacities on BHR knowledge, Manushya also provides sub-grants to establish and sustain a national network on BHR comprising communities, academics and experts, called the "Thai BHR Network".

As part of its business and human rights strategy, and in order to achieve its third objective aiming at empowering grassroots through the establishment of a sustainable national network on BHR comprising communities, academics and



experts called the “Thai BHR Network”, Manushya Foundation, together with the Thai CSOs Coalition for the UPR, organised the 3-day Business and Human Rights Coalition Building Workshop. The workshop took place on 18-20 November 2017, at the Elizabeth Hotel, Bangkok, Thailand.

First and foremost, Manushya Foundation wishes to express its deep appreciation to all those who joined and participated in this Business and Human Rights Coalition Building Workshop under the banner of *Building Solidarity Among Local Communities, Academics & Experts*. This 3-day workshop gathered more than 70 participants including community members and leaders, academics, researchers, international and national NGO representatives. The Coalition Building Workshop benefitted from the insightful discussion of presenters who shared their knowledge, experience and concerns on Thailand’s BHR situation. These included: **Worawan Sukrarook**, Mekong Campaign Coordinator, Earth Rights International; **Kornkanok (Chompoo) Wattanapoom**, Thai Lawyer, Earth Rights International; **Sugarnta Sookpaita**, Northern BHR Coordinator and Coordinator of the Migrants Workers Federation (MWF); **Sompha Jaikhla**, Southern BHR Coordinator, Southern BHR Coalition; **Patchareeboon Sakulpitakphon**, Business and Human Rights Expert in Private Sector Engagement; **Sompong Srakaew**, Director, Labour Rights Promotion Network Foundation (LPN); **Sor Rattanamanee Polkla**, Co-founder & Coordinator, Community Resource Centre (CRC); and **Nattaya Petcharat**, Stella Maris Songkla.

**Emilie Pradichit**, Founder and Director, Manushya Foundation; **Nattaporn Artharn**, Community Empowerment Coordinator, Manushya Foundation, and **Nada Chaiyajit**, Capacity Building Coordinator, Manushya Foundation, moderated this 3-day workshop.

Thanks are also extended to **Ms. Suphamat Phonphra**, **Tanida Itthiwat**, and **Adeline Parrado**, Programme Officers at Manushya Foundation, for the great organisation of the two-day experts meetings.

Manushya would like to sincerely thank **Ms. Charlotte Lush**, Human Rights Research & Advocacy Officer at Manushya Foundation, and **Ms. Christina Burchia**, intern at Manushya Foundation, for the development of workshop report. Special





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Manushya Foundation would also like to acknowledge the financial contributions of **Internews** and the **Foreign Commonwealth Office (FCO)** – without whom the 3-day BHR Coalition Building Workshop would not have been possible.



Thai CSOs Coalition  
for the UPR





# EXECUTIVE SUMMARY

On 18-20 November 2017, Manushya Foundation organised a 3-day BHR Coalition Building workshop entitled *Building Solidarity Among Local Communities, Academics & Experts*. In the context of community empowerment regarding business and human rights (BHR) issues in Thailand, it was important for Thai civil society to share knowledge and strategies, and mobilise to influence and lead the future of the business and human rights discourse in Thailand.

**Emilie Pradichit**, Founder and Director, Manushya Foundation; **Nattaporn Artharn**, Community Empowerment Coordinator, Manushya Foundation; and **Nada Chaiyajit**, Capacity Building Coordinator, Manushya Foundation, moderated this three-day workshop.

On the first day, **Ms. Emilie Pradichit**, Founder and Director, Manushya Foundation, welcomed all participants and began the workshop by stressing the importance of community mobilisation, empowerment and participation in relation to BHR issues in Thailand. Session 2 was facilitated by representatives from Earth Rights International, **Ms. Worawan Sukraroeek**, Mekong Campaign Coordinator, and **Ms. Kornkanok (Chompoo) Wattanapoom**, Thai Lawyer, who explained the relationship between business and human rights, the 3 pillars of the United Nations Guiding Principles on Business and Human Rights (UNGPs), as well as trans-boundary case studies relating to community rights and the environment. In the afternoon, Manushya Foundation's Community Empowerment Coordinator, **Ms. Nattaporn Artharn** recapped Session 1 and 2 in a participatory format, allowing participants to test their understanding and ask for clarifications regarding the three pillars of the UNGPs and the National Action Plan (NAP) on BHR. During the last session of the first day, a participatory approach was followed whereby thematic working groups provided an overview of their challenges and experiences related to their group challenges. Thematic groups included: *indigenous peoples; land grabbing and SEZs; management of natural resources and environmental impacts; women's rights and gender equality in the workplace; migrant workers; labour rights of formal and informal workers; and anti-discrimination policies for LGBTI, PLHIV, drug users and sex workers*.



On the second day, **Ms. Patchareeboon Sakulpitakphon**, Business and Human Rights Expert in Private Sector Engagement, and **Mr. Sompong Srakaew**, Director, Labour Rights Promotion Network Foundation (LPN), commenced the day by sharing their experiences and knowledge of working towards private sector engagement with regards to human rights. In the afternoon, different working groups discussed possible steps that should be followed by businesses to respect human rights by providing their community solutions to address violations, and strategies on practical actions that could be taken to raise awareness on their issues and influence consumers.

On the third day, **Ms. Nattaya Petcharat** from Stella Maris Songkla shared her knowledge and experience on establishing a non-state-based grievance mechanism. Following, **Ms. Sor Rattanamanee Polkla**, Co-founder & Coordinator at the Community Resource Centre (CRC), provided an overview on accessing state-based judicial grievance mechanisms. During the final two sessions of the BHR Coalition workshop, participants from all regions of Thailand discussed the possibility and importance of building a BHR Coalition. At the end of the session, the participants decided to join forces and launched the Thai BHR Network (TBHRN).

The workshop was an important step for community members, academics, experts, and researchers to engage in an all-inclusive and participative dialogue on BHR challenges, problems, strategies and possible solutions.

## WORKSHOP OBJECTIVES

- Explore the purpose, importance, challenges and requirements of the UNGPs and CSOs role in the NAP process and content.
- Share communities' challenges, difficulties and issues when working on BHR.
- Strategise the mobilisation and reinforcement of local communities as central actors to respond to BHR challenges in Thailand, and the steps to be taken by businesses to respect human rights.



- Review the need for coalition building and discuss its goal, purpose, target, and leverage.

## WORKSHOP OUTCOMES

- During the workshop, the importance of active participation and the inclusion of communities in the drafting and implementation of the NAP and the future of BHR issues was stressed.
- Various BHR issues were identified and discussed: LGBTI, sex workers and people living with HIV are continuously discriminated in the workplace, and public arena. Indigenous peoples face legislation that facilitates evictions, bias from public agencies, misrepresentation in the media, and struggles interpreting laws. Migrant workers face obstacles based on unequal wages, discriminatory business practices, lack of bargaining power and protection under the law. The environment and land-related rights groups highlighted that the government rarely facilitates participatory approaches, and communities are not being sufficiently informed and included in decision-making processes.
- In terms of actions to be taken by businesses, communities emphasised their right to meaningfully participate in any business project affecting them or their land. Participants also expressed the need to move beyond scientific knowledge, and towards the integration of community knowledge/customs/beliefs. Finally, participants wish for a decentralisation of decision-making regarding government and business activities.
- Communities' strategies to influence the BHR environment included organising public forums, collecting credible evidence and setting-up databases, preparing community-led Environmental Impact Assessments (EIAs) and community knowledge packages, and raising awareness among private actors and the public.
- The Thai BHR Network (TBHRN) was established, which will adhere to the values of respect, human dignity and non-discrimination. The ultimate goal will be to share knowledge and learn from each other. The TBHRN will focus on sharing expertise, communicating strategies and issues, and advocating their





solutions. Communities are agents of change who can use BHR as a powerful tool.

## PARTICIPANT INFORMATION

A total of 61 participants from 42 organisations attended the Coalition Building Workshop on Business & Human Rights “Building Solidarity Among Local Communities, Academics and Experts: Towards a Thai BHR Network” in Bangkok, Thailand.



### Regional Level

12 People  
2 Organisations



### National Level

6 People  
5 Organisations



### Community Level

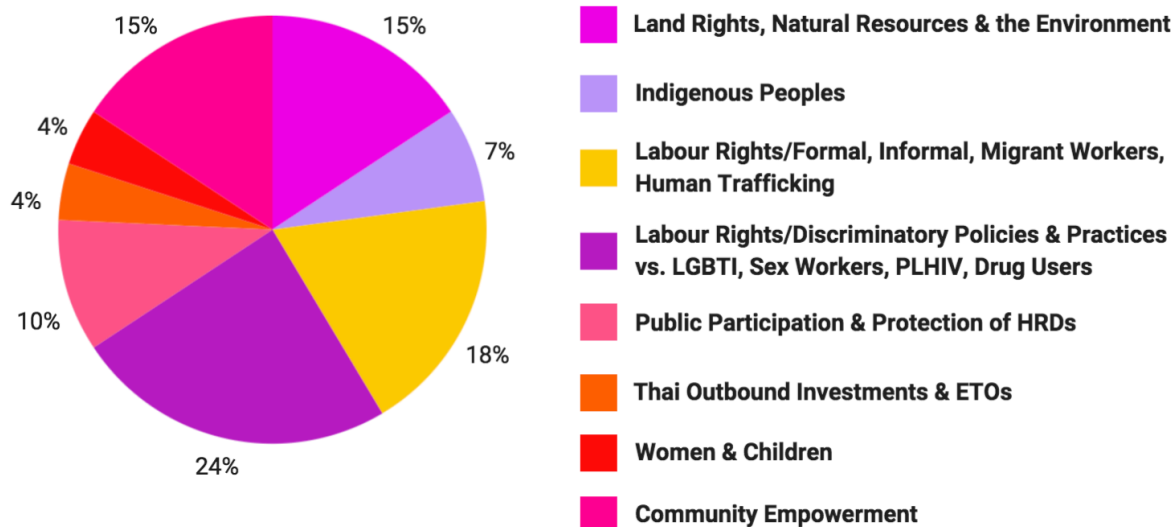
51 People  
33 Organisations



### Academics

3 People  
3 Organisations

A diverse background of participants formed 8 thematic working groups based on their human rights issues. Below, the total numbers of participants have been showed according to their human rights focus in the context of business and human rights.





# OPENING REMARKS

The opening session included opening remarks by **Emilie Pradichit**, Founder & Director, Manushya Foundation.

**Emilie Pradichit** welcomed all participants, activists, experts, academics, researchers and community members. Following this, all participants introduced themselves stating their names and their association. The following organisations/associations, and occupation groups were present during the BHR Coalition Building Workshop:

*From the Northern Region:*

- Centre for the Protection and Revival of Local Community Rights (CRC) /Northern Regional Nodes of the Thai CSOs Coalition for the UPR
- Sangsan
- Hmong Indigenous Human Rights Lawyer
- IMPECT
- Indigenous Women's Network in Thailand (IWNT)
- HRDF
- Empower Foundation
- Rainbow Dream
- Thai Drug Users Network

*From the North-eastern Region:*

- Academic Researcher from Mahasarakham University
- Samacha Khon Jon Korani Kuen Pakmoon (Pak Mun Dam)
- Women Living with HIV Network Thailand
- Amnat Charoen Women's Friend Centre
- Singburi Community Organisation Council/Singburi Women Group
- Human Rights Lawyer at Esaan Land Reform Network
- Thai Samakee Subdistrict Administrative Organisation
- New Esaan Movement



*From the Central and Eastern Region:*

- Community Researcher & Rainbow Sky Network Association of Thailand, RSAT / Central & Eastern Regional Nodes
- Sansa YMP Labour Union
- Valeo Rayong Labour Union
- AGC Thailand Labour Union
- Change East Network
- Nakornnayok River Conservation Network
- HIV/AIDS Network
- Health and Opportunity Network/LGBT Network
- Rak Talae Thai Association
- Informal Labour Network (Thailand)
- Home Net Thailand Association

*From the Southern Region:*

- Southern BHR Coordinator: Tapan Community Land Council
- Southern Regional Node: Patani Institute and Muslim Attorney Council, MAC
- Academic Researcher from the Faculty of Law, Thaksin University
- Student from the Faculty of Law, Thaksin University
- Mt. Boudou Network
- River Conservation Youth
- Songkla-Pattani Network against the Tepha coal-fired powerplant / Thepa Community
- SERC
- Human Rights Lawyer
- Andaman Power Phuket
- Rung Andaman Phuket
- M-Moon, LGBTI

*Experts*

- Director, Labour Rights Promotion Network Foundation (LPN)
- Co-founder & Coordinator, Community Resource Centre
- Private Sector Engagement, BHR Consultant
- Mekong Campaigns Coordinator, Earth Rights International
- Earth Rights International/ Global Bertha Fellow for Human Rights
- Stella Maris
- The Mekong Butterfly

# SESSION ONE



OBJECTIVES OF THE COALITION  
BUILDING WORKSHOP: RECLAIMING  
CIVIL SOCIETY'S ROLE IN THE  
DEVELOPMENT OF THE NATIONAL  
ACTION PLAN (NAP) ON BUSINESS AND  
HUMAN RIGHTS IN THAILAND





# SESSION 1

## OBJECTIVES OF THE COALITION BUILDING WORKSHOP:

### RECLAIMING CIVIL SOCIETY'S ROLE IN THE DEVELOPMENT OF THE NATIONAL ACTION PLAN (NAP) ON BUSINESS AND HUMAN RIGHTS IN THAILAND

#### KEY MESSAGES

- Communities are human rights experts; they need to be the ones owning their solutions.
- The Thai CSO Coalition for the Universal Periodic Review (UPR) process represents the first time in which communities came together as one strong voice.
- The key objective is to have communities at the centre of the BHR response and the National Action Plan (NAP) in Thailand.
- Communities must engage in UN processes by providing credible, crosschecked and reliable information and evidence on BHR abuses.

#### OVERVIEW

Manushya Foundation outlined its role as a “bridge / platform facilitator” in which it leverages the UPR process to ensure local communities’ participation and guarantee communities’ voices, challenges, needs and solutions are central to the BHR response in Thailand, following a credible strategy and methodology. Emphasis was put on the important role of communities and the benefit of working as a coalition, with the examples of BHR coalitions in Northern and Southern Thailand given.



## PANEL DISCUSSION

This session was facilitated by:

- **Emilie Pradichit**, Founder & Director, Manushya Foundation

Registered in Thailand in 2017, Manushya is a young NGO focused on community empowerment. Manushya's goal is for communities in Thailand and in the region to be driving the human rights response. As such, it is important that the government hears about communities' issues and needs, and receives solutions. More concretely, Manushya aims to build on the capacity of communities to use international human rights mechanisms (IHRM), which are core tools in the fight for human rights in countries like Thailand where the government remains reluctant to respect human rights. IHRM can be used to pressure governments, as well as private actors. Communities are human rights experts, because no one else knows better what communities face on a daily basis and what is needed. Because of this, communities need to own their solutions. Manushya's key activities include monitoring and documenting human rights violations, facilitating human rights trainings on the UPR and BHR, providing sub-grants for communities to facilitate trainings on the UPR process and BHR, and community mobilisation.

*"Our goal is to empower and encourage local communities to send information related to human rights violations to UN mechanisms because communities own and know the truth."*

**Emilie Pradichit**,  
Founder & Director, Manushya  
Foundation

### **UPR Process, BHR Commitments and the Importance of Community Inclusiveness**

The UPR Process corresponds to both a political and human rights process, whereby every member state is reviewed on the human rights situation in the state every five years, with the aim of improving the human rights situation in the respective country. The UPR is one option that allows Civil Society Organisations (CSOs) to engage in a dialogue with diplomats and inform them about the human rights situation on the ground. In turn, every five years governments themselves will report human rights progress and regression in their countries, and other



member states as well as CSOs may write their own report on the situation. Credible information submitted by CSOs can then be compared with the government's report to identify similarities and/or differences. This represents a crucial mechanism in order to hold governments accountable and assess the validity of their human rights claims.

All UN member states can make recommendations, while communities and CSOs do not. However, UN member states and diplomats rely on recommendations taken from CSOs and communities, which represent the voices emanating from the ground. As such, when working on IHRM it is important that communities engage in the process, especially in environments where civic space is limited. **Emilie Pradichit** emphasised that communities are the holder of truth, which is why it is significant to engage and share experiences with the international community on what is actually happening. If the truth does not reach UN bodies, the human rights situation is unlikely to improve.

The Thai CSO Coalition for the UPR process was the first time in which communities came together as one strong, unified voice. By working together and supporting each other, communities build solidarity. Factsheets on 22 issues covering a wide range of human rights issues were developed to lobby diplomats. The factsheets also outlined community solutions aiming to raise diplomats' and the international communities' awareness on human rights issues that were overlooked in the past such as indigenous peoples, migrants, and land-related rights.

During its review in 2011, Thailand received 159 recommendations; in 2016, Thailand received 249 recommendations. This increase in recommendations can be traced back to a worsening human rights situation after the coup, as well as the advocating and lobbying activities of communities. A key recommendation related to BHR was brought forward by Sweden, asking the Thai government to draft a NAP on BHR in order to implement the UNGPs. Other BHR related recommendations were submitted by Nigeria (human rights relating to economic growth in local areas); Bolivia (protect rights of peasants and farmers in local areas); Maldives (monitor enforcement of environmental legislation to protect community rights); and additional recommendations were given on migrant workers, labour rights, gender equality and protection of HRDs living in rural areas. It was the first time



that the Thai government received such a large amount of recommendations on BHR issues.

In order for UN human rights bodies to monitor abuses and violations, these bodies need to receive credible evidence and information. Thereby, CSOs and communities play a crucial role as they may inform the UN on the human rights situation on the ground providing possibly different and adverse opinions as the government. **Emilie Pradichit** stressed the importance of community engagement in UN processes, and the need to provide credible, crosschecked and reliable information. As the Thai government accepted BHR related recommendations and the UNGPs, communities, as experts of their issues, must remain the centre of implementing solutions.

### **Manushya's Strategy Focusing on the Importance of Community Inclusiveness in the BHR Discourse in Thailand**

Manushya decided to take on a BHR project supporting 15 groups all over Thailand, in which regional nodes monitor the human rights situation in their respective area. The key objective is to have communities at the centre of the BHR response and the NAP in Thailand. The goal is to ensure the content of the NAP evidence-based, and is informed by communities and their experiences of the impacts of business activities. Manushya is currently developing a desk review and NBA, which requires the development of new evidence, with communities working with academics to document specific cases of rights violations. In contrast to the community NBA supported by Manushya, the government should develop its own NBA, followed by the development of the NAP in September 2018.

### **Credible Evidence and Documentation**

Human rights violations committed by businesses are largely reported by media outlets. While some issues, such as human trafficking in the seafood industry, are well documented, impacts on communities or discriminatory practices are mostly only found in the news. In order to ensure that international bodies take cases seriously, it is crucial to document incidents and abuses in a credible and methodologically sound manner. Community-led research is needed to document BHR issues, and to counter defamation charges brought by companies. Secondly, multi-stakeholder regional meetings, trainings and dialogues with the government and private actors foster the development of credibility. However, it has also been





noted that private actors appear not to be ready to meet with communities and hear their points of view. Manushya currently provides technical assistance to four teams of researchers and academics documenting the most challenging human rights violations in Thailand. The goal is to create a credible evidence model that communities and individuals in Thailand can use. Without credible evidence, communities lack the credibility necessary to put pressure on the government and private sector.

# SESSION TWO



WHAT ARE THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (UNGP) & HOW CAN CIVIL SOCIETY ENGAGE IN THE IMPLEMENTATION OF THEM?



## SESSION 2

WHAT ARE THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (UNGP) & HOW CAN CIVIL SOCIETY ENGAGE IN THE IMPLEMENTATION OF THEM?

### KEY MESSAGES

- Businesses, who are often central actors in rights violations, have minimal responsibility when it comes to human rights.
- The UNGPs outline that states have to protect human rights, businesses should respect human rights, and there must be access to remedy in cases of violations.
- A participatory approach when drafting the NAP will be crucial in order to reflect on the problems on the ground related to business activities.

### OVERVIEW

Colleagues from Earth Rights International shared their knowledge and experience on the relationship between BHR, the 3 pillars of the UNGPs, and the importance of the NAP, as well as trans-boundary case studies relating to community rights and the environment.

### PANEL DISCUSSION

This session was moderated by:

- **Nada Chaiyajit**, Capacity Building Coordinator, Manushya Foundation



Worawan Sukrarook, Mekong Campaign Coordinator, Earth Rights International; and Kornkanok (Chompoo) Wattanapoom, Thai Lawyer, Earth Rights International

Earth Rights International works on a variety of international human rights issues including extra-territorial human rights violations involving Thai companies and international investors, community rights, and environmental impacts. The current business landscape has many effects on people and the environment; however, international law is only binding to governments, and not private actors. Businesses, who are often central to human rights violations, have minimal responsibility when it comes to human rights. Therefore, Earth Rights International is also campaigning for businesses to adhere to the UNGPs.

### **The UN Guiding Principles**

The UNGPs are a set of principles, approved by the UN, aiming to prevent human rights violations. The UNGPs state that states have to protect human rights, businesses should respect human rights, and there must be access to remedy in cases of violations. The UN endorsed the UNGPs in 2011 with the purpose of specifying and identifying corporate responsibility and the role of the state. In order to reduce human rights abuses caused by companies, the UNGPs place significant emphasis on the role of businesses.

Similarly to the UN Global Compact, which outlines the need to respect labour and environmental standards, the UNGPs are not a legally binding sets of measures. Every state and business may apply the principles to its work. The UNGPs require states to regulate the relationship of business and human rights; meaning the guiding principles seek to apply international human rights law to the business sector. So far, international human rights law has been binding to states but not to private actors.

The UNGPs are built upon three pillars – the ‘Protect, Respect, Remedy’ framework:

#### ***1. Protect***

The state has a responsibility to protect human rights violations caused by any party. The state needs to protect citizens from government organs, the private



sector or individuals. Protect means that there must be proper procedures and policies in place to prevent, investigate and punish perpetrators.

## ***2. Respect***

Businesses have a responsibility to respect human rights, and should avoid activities that are going to violate human rights and need to minimize impacts of violations in cases where abuses do happen. The most important rule of the respect pillar is human rights due diligence (HRDD). HRDD requires businesses to assess the human rights impacts of their operations, and from this conduct activities responsibly, apply human rights standards and prevent human rights violations throughout their supply chains.

## ***3. Remedy***

In case of human rights violations, the state needs to provide proper and effective remedy procedures. Grievance mechanisms must not only be provided in the form of judicial-mechanisms by the government, but also in form of non-judicial mechanisms by private actors.

## **NAP and UNGPs**

The UN recommends that each country create its own NAP in order to apply the three UNGP pillars in a national context, with the expectation that the NAP will become a tool for the government to protect affected people from human rights abuses. A major component of the NAP is its reflection on the state responsibility to protect human rights in line with international human rights law and its commitment to respect human rights by auditing businesses and assessing human rights violations. Secondly, the NAP must reflect the country's context and define human rights issues. In order to create fairness and reliability, communities are central to the NAP process in Thailand. A participatory approach will be crucial to reflect on the problems on the ground related to business activities. Hence, a transparent NAP process requires the participation of all stakeholders. Once the NAP has been designed, its implementation will have to be constantly monitored and reviewed, and if needed also updated.

## **Trans-Boundary Cases**

- The activities of the ABC mining company caused serious health problems to local communities, due to polluted water from the mine spilling over into



different villages. However, despite the Thai government's acceptance of implementation of the UNGPs, the company was not held accountable. Later on, the affected communities themselves filed a complaint with the NHRCT.

- Furthermore, investment banks fund projects that cause serious human rights violations. In the case of Mitr Phol sugar plantation, Earth Rights International raised issues with the International Quality Control Organisation, of which Mitr Phol is a member company. Earth Rights International uses various channels, from judicial to company-led non-judicial mechanisms to seek remedy for communities and villagers.

In times of multinational and supranational companies holding immense powers, and increased development project being implemented across Asia, it is crucial to emphasise companies' extra-territorial obligations (ETOs). Companies have to respect human rights in whichever country they operate.

## DIALOGUE

During this stage, participants were encouraged to reflect on Earth Rights International's presentation and ask questions.

### **Businesses' Awareness of Human Rights**

One participant inquired as to the level of awareness among businesses about Thai investors. Awareness has been described as a key challenge; most international companies are listed on the stock market, which requires them to file a report outlining their compliance with rights protection measures.

### **Retaliation by Businesses**

One participant remained concerned with companies using SLAPP lawsuits to silence human rights defenders and journalists. While in the past, enforced disappearances were reported; nowadays companies make use of SLAPP lawsuits to silence critique. Companies use court actions against defenders, whether through SLAPP cases or the Computer Crime Act.



# SESSION THREE



COALITION BUILDING & REFLECTIONS  
FROM THE NORTHERN & SOUTHERN  
BUSINESS & HUMAN RIGHTS  
COORDINATORS "EXPERIENCE SHARING"



## SESSION 3

### COALITION BUILDING & REFLECTIONS FROM THE NORTHERN & SOUTHERN BUSINESS & HUMAN RIGHTS COORDINATORS “EXPERIENCE SHARING”

#### KEY MESSAGES

- There is a need to foster a human rights dialogue in Thailand in order to secure a greater understanding of human rights.
- All participants can play a key role in facilitating a human rights dialogue and education. As agents of change, everybody should share his/her human rights knowledge with peers, colleagues, friends and other community members.
- Accessibility is key to all grievance mechanisms.
- Civil society, community members and networks will play a central role in the upcoming processes, namely the creation of the NBA and the consideration of this by the government for the NAP.
- After the launch of the NAP it will be hugely important to continuously evaluate and monitor the implementation of the NAP.

#### OVERVIEW

During this session, Manushya’s Community Empowerment Coordinator **Nattaporn Artharn** recapped sessions 1 and 2 in a participatory format, allowing participants to test their understanding of the three pillars of the UNGPs and ask for clarification if necessary. Furthermore, this session outlined subsequent BHR developments and implementations such as the NBA and NAP.

#### DIALOGUE

This session was facilitated by:

- **Nattaporn Artharn**, Community Empowerment Coordinator, Manushya Foundation
- **Nada Chaiajit**, Capacity Building Coordinator, Manushya Foundation



This session opened with general remarks and questions by participants following the first two sessions of this workshop.

First, a lack of education and human rights knowledge was mentioned as a key barrier to Thailand's realisation of human rights. Students in secondary school or university lack an understanding of human rights. The majority of people are unable to explain the meaning of human rights and are unaware of human rights abuses and violations. Second, participants expressed that human rights defenders should always take human rights into consideration, and feel free to talk about and advocate for human rights. It has been highlighted that doctors and professors in academia talk solely about rights but do not touch upon human rights issues. Hence, community members wondered how to mainstream human rights, as it must become a central part of life.

*"There will always be new challenges. Hence, we have to empower a new generation of activists. We want to live in a world where urban, indigenous and all other groups can peacefully and harmoniously enjoy life together."*

**Noraeri & Katima,**  
Indigenous Women's Network of  
Thailand

Similarly, **Chainarong Srettachau**, Professor Lecturer at the Faculty of Humanities and Social Science, Mahasarakham University, explained that Thailand offers only one Bachelor's program on human rights. In light of this, he will incorporate BHR in his 16-week human rights course, which will also include field visits. He offered to share his core syllabus on understanding human rights with interested community members. Finally, he argued that Thai citizens tend to think in very nationalistic terms, and the older generation in particular views human rights defenders as evil.

**Keeratakan Techawattanakul** from Rainbow Dream emphasized that indigenous peoples often face a greater risk of human rights violations due to their lack of citizenship. She raised the issue of tourism in indigenous peoples' (IPs) territory, whereby IPs' traditional knowledge is being appropriated by the Thai state, with IPs being showcased like 'animals in a zoo'.

Subsequently, **Emilie Pradichit** expressed the importance of developing a curriculum to train children, as well as illiterate individuals and people that are



unable to pursue university degrees. All participants in this workshop and members of the various regional networks represent agents of change. As agents of change one has the responsibility to share his/her knowledge with surrounding communities and individuals. The goal is to bring people together, and share information and knowledge, which in turn should be shared at home with various community members. Not everyone has the luxury of access to education in Thailand.

### **The Three Pillars of the UNGPs**

Following this open discussion, **Nada Chaipayjit** and **Nattaporn Artharn** recapped sessions 1 and 2 in a participatory format. This presentation focused on the three UNGP pillars, namely, Protect, Respect, and Remedy. The government is responsible for protecting human rights and needs to introduce relevant laws and policies to achieve this. Businesses are called upon to respect human rights through paying fair wages, abiding by labour laws, and following human rights regulations. Finally, remedy must be effective and accessible for everybody to hold violators to account.

As stated under Pillar 3 of the UNGPs, if businesses violate human rights, grievance mechanisms must be present to address injustices, such as state-based judicial or non-judicial grievance mechanism. Protection mechanisms are facilitated through government legislations, decrees and regulations following international standards. Nevertheless, judicial and non-judicial mechanisms lack accessibility. These barriers need to be addressed, so that all citizens can access judicial and non-judicial mechanisms. Accessibility is key to the effectiveness of all grievance mechanism. Participants stated the frustration of businesses refusing to attend NHRCT hearings and sending government agencies on their behalf as has been reported in Isaan. Therefore, emphasis should be placed on cooperation. The objective of a possible BHR coalition is to understand the role of the government and business, and effectively counter abuses as one force.

### **NBA and NAP**

Subsequently, the timeline and importance of the NBA and NAP have been discussed, whereby the NBA will outline the current situation based on expert recommendations, research reports and community documentations. After the NBA is launched, the government will consider findings and recommendations as



part of the NAP process. In the meantime, various meetings and workshops will take place in order to prepare for negotiations with the government and businesses, as the government announced that it would invite representatives of civil society to participate during the implementation phase of the NAP. After the launch of the NAP in September 2018 it will be of great importance to continuously evaluate and monitor the implementation of the NAP and keep track of government and business performance with regards to human rights.



# SESSION FOUR



COMMUNITY SHARING "BUSINESS & HUMAN RIGHTS CASES THROUGHOUT THAILAND"





## SESSION 4

### COMMUNITY SHARING “BUSINESS & HUMAN RIGHTS CASES THROUGHOUT THAILAND”

#### KEY MESSAGES

- LGBTI persons, sex workers and people living with HIV are continuously discriminated against in the workplace and public arena.
- Indigenous peoples face legislation allowing land evictions, bias from public agencies, misrepresentation in the media, and struggles interpreting laws.
- Migrant workers face obstacles including unequal wages, discriminatory business practices, a lack of bargaining power and limited protection under the law.
- Communities highlighted that the government rarely facilitates participatory approaches, and communities are not being sufficiently informed and included in decision-making processes.

#### OVERVIEW

Following a participatory approach, participants from all regions of Thailand shared their challenges, their work and how they support communities. Finally, three BHR Coordinators from the North and South shared their experience and knowledge about the coalition building work they are doing in Northern and Southern Thailand, focusing on migrant workers’ rights, land related rights, management of natural resources, and community rights, as part of Manushya Foundation’s sub-granting programme.

#### DIALOGUE

A participatory approach was followed for this session whereby the participants split into four thematic working groups to discuss their challenges and experiences related to the issues they were focused on. Following this, all groups reported their findings and discussions with all participants.



This session was facilitated by:

- **Emilie Pradichit**, Founder & Director, Manushya Foundation
- **Nada Chaiajit**, Capacity Building Coordinator, Manushya Foundation

## **Discriminatory Policies and Practices Working Group**

### *LGBTI*

A key challenge stated by the group is the lack of awareness around human rights issues faced by LGBTI persons, people living with HIV, people with disabilities and sex workers. The current education system in Thailand does not address the challenges and rights of marginalised groups. The group also cited recruitment as a challenge, whereby various businesses discriminate against LGBTI persons during recruitment. Additionally, businesses fail to provide safe spaces for marginalised groups such as LGBTI people, or people with disabilities.

### *Sex Workers*

The sex workers rights group cited violent abuses against sex workers, and strict rules followed by employers including monthly HIV testing in the entertainment business as key challenges they face. Male sex workers, in particular, are often disregarded in human rights discourse in Thailand, despite them facing severe abuses by the police, employers and clients. In general, because sex work is criminalised in Thailand, sex workers lack bargaining power. Furthermore, sex workers are subject to different laws representing barriers to their health and access to services. Regarding these various barriers, the working group stated the need to examine solutions. One solution includes the collection of evidence on barriers and abuses faced by sex workers, for instance documenting forced HIV testing.

### *People living with HIV (PLHIV)*

Lastly, in terms of PLHIV, the group underlined the need for better and more accessible health services and support mechanisms. It is vital that more channels are being used to raise awareness, and that complaint mechanisms are being utilised. While theoretically, policies are laid out to protect PLHIV, PLHIV are still face pervasive marginalisation. People living with HIV fear constant stereotyping and discrimination. Finally, the group stated that injecting drug users should not be



treated as criminals, instead, they need support mechanisms and accessible and effective public services.

### **Indigenous Peoples Group**

The working group mentioned various challenges; first, indigenous peoples are bound to the education and core syllabus as outlined by the Thai government. In light of this, the indigenous peoples working group highlighted the need to provide training for students and youths on human rights. Second, the legislative framework in Thailand does not facilitate the realisation of indigenous peoples rights; on the contrary, legislation aims to reclaim forests and evict communities from their ancestral land. Third, indigenous peoples face bias from government officials and agencies, and misrepresentation in media, which falsely publicises arrests of indigenous peoples as drug-related crimes. Finally, indigenous peoples struggle to interpret laws due to language barriers and the complexity of legal definitions. To conclude, the working group emphasised the importance of building networks, working together, and learning from each other.

### **Migrant Workers and Labour Union Group**

Migrant workers face obstacles based on unequal wages between nationals and migrants, disparities in pay between male and female migrants, discriminatory business practices such as the confiscation of official document and passports, and unreasonable job termination. Furthermore, female migrant workers are deprived of maternity leave. Undocumented workers have no bargaining power and face even more serious issues and difficulties as they lack protection under labour law in Thailand. Another key challenge emanates from the subcontractor system. The group stated their wish to expand their advocacy work and improve data collection mechanisms. Previously, there were no networks working on the issue of BHR, but today the group is enthusiastic to learn from and work with other groups.

### **Community Rights/ Environment/ Land-related Rights Group**

This group has highlighted various cases to present their challenges and concerns:

- First, the case of the Pak Mun Dam in Ubon Ratchathani Province, where communities have not been consulted on the project, despite the fact that the project would have serious effects on the ecosystem and lives of individuals. When it comes to natural resource projects, the government rarely facilitates participatory approaches. Affected communities of the Pak Mun Dam have not



received fair compensation for the past 26 years, with generations of people having their livelihoods undermined.

- Second, communities affected by the Thepa coal-fired power plant station in Songkhla province were not interviewed in the EIA process, and the government only invited individuals who agreed to the project. Affected communities have approached various government agencies to seek remedy; however, no agency replied despite the fact that the power plant will be built by EGAT, a state-owned enterprise. Further, on 17 November, 16 members of the Songkla-Pattani network against the Thepa coal-fired power plant were arrested while marching to meet the Prime Minister in order to submit him a petition letter, according to section 41 (2) of the 2017 Constitution.
- Similarly, the project of the Pak Bara deep seaport did not follow proper EIA procedures. Due to the lack of open participation and consultation with affected communities, local communities held protests. Following this, protesters faced abuse and violence from police and government officials.

Last but not least, the working group highlighted the constant failure of participatory processes, the complex and ambiguous language in contracts that should inform communities, and the practice of designing projects in ways that allows for the avoidance of EIAs. More alarming is that the consultant company hired to conduct the EIA or EHIA did not understand the realities on the ground. The group cited the need to work together to bring about more structural change at a policy level.

To conclude this session the two BHR Coordinators from the North and South shared their points of view.

**Sompha Jaikhla**, Southern BHR Coordinator, Southern BHR Coalition, sees the greatest challenges in land-related rights. He argued for the need to leverage and voice the concerns of various groups who are documenting intersecting issues. He advocated for a central platform to learn from one to another, whether it is based on the same or different BHR issues. The various networks should work together to share the burden to create equality and seek to achieve a universal human rights movement.



**Sugarnta Sookpaita**, Northern BHR Coordinator and Coordinator of the Migrants Workers Federation (MWF), expressed concern about labour rights as she has worked with multiple trade unions. A common network would empower this movement, and allow sharing knowledge and experience. She furthermore shared her three-point principles that she always applies when facing new human rights issues. These are, firstly, listen to the story and feel others suffering; secondly, create a friendship; thirdly, follow up on the situation and figure out whether one can contribute to provide relief.

To close the session, **Worawan Sukraroek**, Mekong Campaign Coordinator, Earth Rights International, drew attention to the importance of establishing a coalition, because working together allows a greater audience to be reached and a stronger message to be sent. Furthermore, other outlets like the media as well as tools like advocacy should be utilised to foster the strengths of coalitions and alliances.

# SESSION FIVE



WHAT IS THE ROLE OF BUSINESS IN  
RESPECTING HUMAN RIGHTS?  
"BHR" NOT "CSR"





# SESSION 5

## WHAT IS THE ROLE OF BUSINESS IN RESPECTING HUMAN RIGHTS? “BHR” NOT “CSR”

### KEY MESSAGES

- A company's understanding of human rights depends on its awareness and commitment to human rights, and not simply on its use a public relations tool.
- When companies engage in shared values and sustainability, they are willing to examine their own internal practices, demonstrating a more strategic change.
- Companies are not transparent due to the fact that the release of information leads to increased liability.
- Tackling human rights issues in Thailand requires serious collaboration and problem solving to address common problems.
- The government cannot tackle human trafficking alone; hence, there is a need for the private sector and CSOs/NGOs to contribute to tackling the issue together. We need to network at all levels to solve the problem of human trafficking.

### OVERVIEW

During this session **Patchareeboon Sakulpitakphon**, Business and Human Rights Expert in Private Sector Engagement, and **Sompong Srakaew**, Executive Director of the Labour Rights Promotion Network Foundation (LPN) shared their experiences of working towards private sector engagement to respect human rights.

### PANEL DISCUSSION

This session was moderated by:

- **Emilie Pradichit**, Founder & Director, Manushya Foundation



## Patchareeboon Sakulpitakphon, Business and Human Rights Expert in Private Sector Engagement

**Patchareeboon Sakulpitakphon** has been working on CSR and BHR, demonstrating to companies, including multi-national corporations such as Nestle and Mars, what they can do to improve the human rights situation.

‘CSR’ can be seen as the lowest level for companies to act responsibly and sustainably, by sponsoring projects or giving money to communities. BHR represents a more strategic alignment of human rights and companies’ actions. It is more sustainable to create shared value and sustainability, where more mature companies are those who recognize the long-term risks of not respecting human rights. When companies engage in shared values and sustainability, they are willing to examine their own internal practices, demonstrating a more strategic change.

*"Working together with communities on Human Rights Impact Assessments is the way to go. It will help both the communities and the private sector effectively solve issues, rather than continuously shifting blame to one another."*

**Patchareeboon Sakulpitakphon,**  
BHR Expert in Private Sector  
Engagement

A company’s understanding of human rights depends on its awareness and commitment, and not simply on its usage for PR motives. The time has passed in which companies and stakeholders could use the excuse of not knowing about human rights in order to avoid changing their practices. Today we see more ways in which companies are being held accountable for human rights abuses, with more countries passing laws concerning human rights issues. For instance, the UK’s Modern Slavery Act represents a unique, binding example that asks companies to release statements on their strategy to combat slavery. However, a very limited amount of countries have laws such as this. Another technique to check on private actors’ human rights responsibility can be found in performance initiatives, such as the Corporate Human Rights Benchmarking Initiative, which assesses the human rights performances of top 500 companies. Only one Thai company is listed in the benchmarking initiative.



## **Businesses and the UNGPs**

A central weakness of the UNGPs is that they are voluntary and not legally binding on private actors. Today, six years after the formulation of the UNGPs, only big global brands follow the principles. In Thailand, very few companies are aware of the UNGPs and even less are implementing them. Some businesses might mention the UNGPs in their policies, but few private actors are operationalizing them. Although the UNGPs are supposed to be guidelines, they lack detail and in-depth clarification on the meaning of the business responsibility to respect human rights.

### **UNGP Pillar 2**

Pillar 2, the business responsibility to respect human rights, is divided into two parts, namely foundational principles and operational principles. As part of foundational principles, the UNGPs explain to companies that they should respect human rights. However, first and foremost companies seek to abide to local laws, and not to international human rights standards. This has been described as causing a serious gap in the interpretation of the UNGPs. Furthermore, as part of the operational principles, principle 15 recommends a policy commitment and human rights due diligence. Human rights due diligence is a long-term process whereby the company adopts a policy commitment to embedding respect for human rights. HRIA represent one activity within the process, while HRDD has to be observed throughout the life cycle of business activities and their supply chains.

The UNGPs operational principles recommend businesses implement a human rights policy by undergoing an assessment, identifying risks and providing solutions, aligning it to human rights laws and international standards, publishing a human rights policy, which is signed off by senior staff. While all companies should have a published human rights policy in place, Thai companies are still reluctant to do so. Companies are not transparent due to the fact that the more information they release the greater their liability. Asian companies in particular, as compared to Western companies, are more conservative in releasing information like human rights policies.

Each company is responsible for their own understanding and operationalization of Pillar 2. If companies do not have dedicated human rights staff, they hire



consultants. However, the continuous dependence on external consultants may not lead to sustainability and proper implementation in the long run.

Finally, Unilever was the first company to release information on human rights. The policy referred to international law, outlined their employee commitment, explained its human rights assessment, provided detailed training, and named all senior management staff that agreed to the policy. Also, H&M implemented a strong supply chain monitoring system after a building collapse in Bangladesh.

### Sompong Srakaew, Executive Director of the Labour Rights Promotion Network Foundation (LPN)

**Sompong Srakaew**, Executive Director of the Labour Rights Promotion Network Foundation (LPN), facilitated the second part of this session. He presented the work of the LPN in partnering with the private sector and government agencies in order to implement projects and activities to promote labour rights and foster human rights. Acting in the national interest to empower the working people, LPN aims at widening the network in South East Asia, together with governments and multilateral organisations.

#### Thailand's Labour Problems

There are two ways of thinking about migrant labour; namely through the perspective of social stability and capitalism/investment, and human rights and human security. While the government examines migrant labour through the lens of social stability, capitalism and investment, CSOs tend to look at migrant labour through a human rights and human security framework. Currently, Thailand faces a variety of labour problems spanning from human trafficking and exploitation of resources, to the foreign media spreading news on the situation. Thailand is more concerned about international media outlets as this generates reputational risks for the

*"To find innovative solutions for addressing human rights violations by business, CSOs have to collaborate and strategize with the private sector. The working relationship has to be based on mutual respect, ideally safeguarded by MOUs."*

**Sompong Srakaew**,  
Director & Founder, Labour Rights  
Promotion Network Foundation



companies and would affect investors' decision regarding Thailand. Furthermore, government provision of basic rights and services to migrant workers are insufficient and ineffective. Following, **Sompong Srakaew** provided examples of child labour and human trafficking abuses that have been investigated and uncovered by the LPN. Cases included severe malnutrition of sea-workers, child labour in the fishing industry and shrimp peeling factories, severe health impacts, and horrendous living standards.

### **Need for Change of Context**

It was highlighted that there is a need to change how we talk and act in regard to forced labour and human trafficking. Thailand is currently confronted with the problem of human trafficking, mass migration, and labour rights violations. Thailand is not alone in the world, it is part of the global community, and can no longer deny the existence of forced labour and reality of migrant workers. Mutual understanding has been cited as a key component; tackling human rights issues requires serious collaboration and problem solving to common problems.

### **Solutions through Cooperation**

**Sompong Srakaew** provided examples on how to work together to combat human trafficking. The government cannot tackle human trafficking alone; hence, there is a need for the private sector and CSOs to contribute tackling the issue. We need to network at all levels to solve the problem of human trafficking.

The LPN has been networking nationally and internationally with, for instance, Anti-Human Trafficking Network in Thailand, Cambodia and Thailand Anti-Human Trafficking, Thai and Migrant Fishers Union Group, Solidarity Committee for the Protection Myanmar Migrant Workers, Migrant Working Group, LPN's Volunteering at Myanmar Live, Migrant Union Network in Thailand, the Multi-Stakeholder Initiative for Accountable Supply Chain of Thai Fisheries. LPN has also developed local mechanisms with the goal of improving workplace environments and combatting inequality; for example, watchdog volunteers alert LPN through a hotline when informed about human rights abuses and violations.

Additionally, LPN has been supported by JTIP-US, UNACT, Terre Des Hommes Germany and Netherlands, The Freedom Fund - Humanity United, Plan International, and other NGOs and government agencies. In addition, the following



businesses and trade associations approached LPN and opened partnerships: TFFA, TFPC, Thai Union Group, Narong Seafood Company, Good Luck Factory Sunny Vale, Charoen Pokphand Foods PCL, Myanmar Live Magazine, and Western Union. For instance, a partnership between the LPN and the Thai Union Group led to the implementation of a project supporting five schools in locations with a higher number of migrant children, and the implementation of a support learning centres project that was financed by the Thai Union Group. Furthermore, LPN partnered with Myanmar Live Magazine to produce content on labour rights issues and provide contact information for migrants in need in this newspaper in Burmese language, particularly targeting Burmese migrants. DTAC and TRUE have now also shown interest in placing ads in the magazine.

### **Project Example: Fishermen Centre**

In order to reach victims of human trafficking and forced labour in the most high-risk industry, the fishing industry, LPN is currently in the process of setting up a Fishermen centre at the port of Mahachai, with the vision to expand to other coastal provinces. The Fishermen centre will allow for the establishment of a collaborative social network of fishing crews in each fishing area. The centre will act as a coordinating point for labour complaints and those in need of legal assistance, a service contact point for addressing a variety of problems, and a mobile health centre for those in need of first aid. Furthermore, the centre will be able to trace and reunite fishermen to their families in Thailand, Myanmar, Cambodia or Laos. Last but not least, the centre can act as a vital information point through the distribution of information packages, brochures and free magazines. In conclusion, **Sompong Srakaew** underlined the importance of brainstorming and implementing new initiatives and projects in partnership with private sector agents.

## **DIALOGUE**

In concluding this session, all participants were invited to raise issues and concerns with Patchareeboon Sakulpitakphon and Sompong Srakaew.

### **Implementing Legal Obligations for Businesses**

Participants expressed concerns over the fact that many companies lack a human rights perspective and understanding; they only take their responsibility to respect



human rights as a form of charity or a way to benefit from tax deductions. Similarly, participants inquired on the process of implementing legally binding human rights standards for businesses. **Patchareeboon Sakulpitakphon** provided the example of health and safety standards which ten years ago were not followed by companies. Today, it is mandatory for businesses to pass an audit on health and safety or they will be punished. Hence, corporations have adopted health and safety standards/departments and have audits. Unless the law stipulates that companies have to conduct a HRIA, companies will remain reluctant. Additionally, Thai consumers need to be more aware and informed about BHR. The Thai general public still has insufficient fundamental human rights understanding. Without this key human rights understanding within civil society, the pressure on governments and businesses will remain weak. The same holds for Thai companies; businesses lack a human rights perspective and knowledge. **Patchareeboon Sakulpitakphon** asserted that in Thailand, so far, no business truly acts according to human rights standards; only some small start-ups and social enterprises act in a more socially minded way. The core mission of any company is to make profit. In order to make the UNGPs sustainable, one needs to focus on the policy level.

At the global level, there exists no example of placing human rights law on business activities. The 'French Duty of Vigilance law' requires companies to share their human rights due diligence process to identify child labour and human trafficking in supply chains. However, this law is not open to human rights in general, just trafficking and child labour in France. Similarly, the UK Modern Slavery Act requires any company operating from or in the UK to release a statement on how they plan on combatting human trafficking in their supply chain. These laws have several weaknesses, such as the complexity of supply chains or weak implementation mechanisms.

### **Community-led HRIA**

**Emilie Pradichit** also inquired on the importance of community-based HRIA. Community-led HRIA are complementary assessments, comparable to shadow reports. HRIA are the way to go in the future as they foster understanding for both the community and businesses, and represent a crucial starting point in resolving issues.





## **HRIA**

Participants also argued that companies are not being held accountable and are not responsive when it comes to the needs of communities. As HRIAs are not mandatory, companies dismiss their value. One way to mobilise companies to conduct HRIAs would be if investors demanded greater transparency and accountability from businesses, and did not invest in companies that lied about their HRIAs.

## **Partnerships with Private Actors**

One participant questioned how one could justify partnerships of CSOs with businesses and capitalists who at the same time represent human rights violators. It has been highlighted that it is impossible for NGOs and CSOs to disregard private actors. Business actors are operating and people are working in their factories or on their boats. Civil society cannot request workers to not work for certain factories. For LPN, communities and individuals are at the core of every issue; hence, their work solely evolves around tackling their issues, which requires partnerships with human rights violators. Legal teams help to draft MoUs with companies, and companies have technologies that can also be useful to NGOs or CSOs.

# SESSIONS SIX AND SEVEN



WORLD CAFÉ – “HOW BUSINESS SHOULD  
RESPECT MY HUMAN RIGHTS & WHAT  
CAN WE DO TO RAISE AWARENESS AND  
INFLUENCE CONSUMERS?”



## SESSIONS 6 AND 7

WORLD CAFÉ – “HOW BUSINESS SHOULD RESPECT MY HUMAN RIGHTS & WHAT CAN WE DO TO RAISE AWARENESS AND INFLUENCE CONSUMERS?”

### KEY MESSAGES

- Communities highlighted their right to meaningfully participate in any business project affecting them or their land.
- Communities also expressed the need to move beyond scientific knowledge, and towards community knowledge/customs/beliefs.
- The working groups wished for a decentralisation of government and business decision-making processes.
- Strategies on practical actions included facilitating open forums, raising awareness among public and private actors, partnering with private actors and CSOs, drafting community-led EIAs and community knowledge packages, collecting credible evidence, and setting-up databases.

### OVERVIEW

Different working groups discussed the possible steps that should be followed by businesses relating to their respecting working group issue to respect human rights by providing their community solutions to address violations caused by business conducts, as well as strategies on practical actions that could be taken to raise awareness on their issues and influence consumers.

### DIALOGUE

During this session, participants split up into five groups and discussed strategies on practical actions they could take to raise awareness on their issues and possible steps that could be taken by businesses. Following, all groups reported their findings and discussions with the entire team.



This session was facilitated by:

- **Nattaporn Artharn**, Community Empowerment Coordinator, Manushya Foundation

## COMMUNITY SOLUTIONS FOR RESPONSIBLE BUSINESSES

– Community Rights & Natural Resources –

The **Community Rights and Natural Resources Group** outlined the following practical community strategies, and human rights commitment proposals for businesses:

- Communities must be at the centre of EIA. While most companies have a hidden agenda, communities must be meaningfully included in the entire process.
- There should be greater transparency and full disclosure of projects affecting communities in their mother tongue language.
- Integrate and respect local wisdoms, indigenous customs and beliefs, not only the scientific paradigm.
- Establish human rights standards for the business sector, like the ISO certification, in particular, a human rights certification.
- Fully implement a participatory approach; it is indigenous peoples fundamental right to be at public hearings and be included in the EIA process.
- Conduct HRIAs including calculation of the cost effectiveness, productivity cost, preliminary assessment, and impact on communities.
- Set up an insurance fund for companies to deposit funds that could be used in the remedy process if there is any human rights impact.
- Develop “community local knowledge packages”.
- Develop a separate community EIA, which can be compared with companies’ EIA.
- Ban products that violate human rights in their manufacturing processes.
- Stop the enactment of the Environmental Bill.
- Decentralise development projects; affected communities need to be the centre of decision-making.



Participants further underlined the continuous lack of community inclusion in decision-making processes. Decisions that have serious adverse effects on communities all over Thailand are repeatedly being made without communities' consent. Participation and inclusiveness remain unknown words. Second, communities are repeatedly lacking sufficient information to make an informed decision. Projects affecting communities require previous assessment processes such as the EIA and now the HRIA. Local communities feel alienated from and confused by such scientific and highly technical reports. Wisdoms, customs and beliefs of local communities need to be taken into consideration. Communities need to acquire more power in the reporting processes. Furthermore, public hearings have been described as not genuine. Some public hearings advertise the event, give out free rice, and claim that a public hearing took place. For instance, for the Thepha coal power plant project, attendees received crops or cash. Communities request a change in participatory processes and to be respected as meaningful stakeholders.



## COMMUNITY SOLUTIONS FOR RESPONSIBLE BUSINESS

– Land-related Rights, Indigenous Peoples and Community Rights –

The **Land Rights, Indigenous Peoples and Community Rights Group** outlined the following practical community strategies and human rights commitment proposals for businesses:

- Consult with communities before the enactment of any new law, especially when affecting communities, following a participatory approach. There should be a core assessment process by which people and the government would reveal all laws that will impact people.
- Decentralise government, giving more authority and power to locals in the management of their land and resources. Local communities hold information and knowledge about their land, but so far, decisions are only being made behind closed doors by high-level government officials.
- Move beyond scientific evidence, and towards community data and knowledge when drafting policies or projects that affect people's lives. For instance, communities have already developed a community history and gathered community resources in order to confirm the total cost for the community. On the issue of land, communities use GPS to compile a history of land use.
- Open forums to propose solutions to create understanding on how to solve the land problems, conducted by the civil sector.
- Improve advocacy and communication. Thai citizens lack an understanding of human rights, for example, people living in cities do not understand the real cost of deforestation.
- Enact new a community rights bill and land banks bill. The current bills are inadequate.
- Rearrange the Justice Fund Bill. Processes in the current Justice Fund Bill are very slow and ineffective.

Similarly as to the previous group, participants expressed concerns regarding participation, citing numerous examples about the lack of participatory approaches when it comes to forest reclamations, announcements of protected areas and land grabbing.



## COMMUNITY SOLUTIONS FOR RESPONSIBLE BUSINESS

– Women and Children –

The **Women and Children Group** outlined the following practical community strategies, and human rights commitment proposals for businesses:

- Collect data on the tourism sector from guesthouses and hospitality facilities in Chiang Mai.
- Identify, work with and include all stakeholders.
- Adjust processes according to context and approach actors in order to access information.
- Organise forums to provide information, mobilise, identify challenges, and raise awareness.
- Establish a platform to engage with businesses in an open dialogue.
- Sign multiparty MoUs starting with one district and extend to other districts.
- Build partnerships, networks and alliances because human rights are not a single issue.

One participant expressed the wish to receive some allocation from forest park fees that are collected from tourists who visit the forest that hosts communities. Another participant also expressed their concern about insurgencies in Pattani and the Deep South. The government tried to solve the issue by pouring resources into the area and implementing development projects, however, the human rights situation has not been resolved.





## COMMUNITY SOLUTIONS FOR RESPONSIBLE BUSINESS

### – Eliminating Discriminatory Policies & Practices –

The **LGBTI & Discriminatory Practices Group** outlined the following practical community strategies, and human rights commitment proposals for businesses:

#### *HIV/AIDS*

- Develop a database containing credible evidence of discriminatory policies and business practices, such as the refusal to hire PLHIV or people using drugs.
- Educate businesses on PLHIV and people using drugs.
- Community members and companies should work together to eliminate discrimination. This will require partnering with other actors, such as hospitals, the Ministry of Health, CSOs or police officials.
- Raise awareness. There is a need to use online platforms, websites, Facebook, Youtube and other channels to explain that PLHIV and people using drugs are still members of society and are not to be discriminated against.
- Develop a complaints database that is accessible to everybody to submit complaints.

#### *LGBTI/ Sex Workers*

- Decriminalise sex work to ensure sex workers can enjoy decent working conditions in entertainment businesses.
- Work with owners of brothels and tourist operators under the name “Happy Service”.
- Partner with government agencies that give out business licenses, such as the Ministry of Labour and Public Health.
- Raise awareness in Thai society about LGBTI persons and sex workers.
- Open safe spaces for sex work.
- Educate hotel owners and nightlife businesses about LGBT, change their mind-sets of LGBTI people and explain the benefits of hiring LGBT people, for instance in Phuket businesses could make greater profit as half of Phuket tourists are LGBT.



## COMMUNITY SOLUTIONS FOR RESPONSIBLE BUSINESS

### – Labour Rights of Formal, Informal, Migrant Workers –

The **Labour Rights Group** outlined the following practical community strategies, and human rights commitment proposals for businesses:

#### *Formal workers*

- Formal workers should have employers they can raise issues with, such as improving working conditions. At the same time, trade unions must be involved in any human rights issue, acting as a middleman between employees and employers. A brainstormed strategy of the group would be to implement a kind of MoU between trade unions and companies, which should identify the roles of each party to achieve a common understanding.
- Facilitate an annual review on human rights plans on top of the other review on health benefits. Things change quickly so we need to keep up with the changing world.
- Collect statistical data to quantify human rights violations, also related to health checks.

#### *Informal Workers*

- Monitor brokers and subcontractors, and require them to report on their work.
- Talk to the Ministry of Labour and work with them so they can announce ministry regulations on informal workers.
- Educate labour inspectors on BHR.
- Enact laws to protect informal workers, first and foremost domestic workers.
- Propose the Ministry of Labour to set up a database for informal workers. The current database at the National Statistic Office only includes formal workers.



### *Migrant Workers*

- There is a need for meaningful and constant dialogue among different stakeholders.
- In terms of formulation of policies, there should be trade unions or groups of workers that work together and provide advocacy on health or improving their working conditions. Therefore, if the companies would like to show that they promote human rights they would have to engage workers in the development of policy.
- Increase the quantity of accessible and understandable information. Employers should prepare contracts and documents in the workers' language, and companies should have translators available to facilitate communication.
- Build awareness among consumers to check on companies' compliance with human rights regulations.
- Collect credible data. Both CSOs as well as business should collect data on, for example, number of incidents and accidents in workplace to support human rights.

# SESSIONS EIGHT AND NINE



HOW CAN WE ACCESS REMEDY IN THE  
CONTEXT OF BUSINESS & HUMAN  
RIGHTS?



## SESSIONS 8 AND 9

### HOW CAN WE ACCESS REMEDY IN THE CONTEXT OF BUSINESS & HUMAN RIGHTS?

#### KEY MESSAGES

- There is a need to raise awareness among business owners of the need to respect their workers' rights.
- In terms of the human rights situation of migrant workers, private actors are becoming more aware because of consumer pressure to eat sustainable food and food that has been produced in adherence to labour rights standards.
- Remedies are important to end violations of human rights. However, the ultimate goal is to avoid reoccurrence of violations by ensuring that perpetrators are being held accountable for their actions.
- Remedy does not only include monetary compensation, but also prevention of future potential violation of rights, as well as rehabilitation.

#### OVERVIEW

**Nattaya Petcharat** from Stella Maris Songkla, who shared her knowledge and experience at Stella Maris on establishing a non-state based grievance mechanism, facilitated the first part of the session. **Sor Rattanamanee Polkla**, Co-founder & Coordinator at the Community Resource Centre (CRC), who shared her knowledge and experience on accessing state-based judicial grievance mechanisms, facilitated the second part.

#### PANEL DISCUSSION

Nattaya Petcharat, Stella Maris Songkla

This talk focused on establishing non-state-based grievance mechanism, through the work of **Stella Maris**. Stella Maris manages three key offices in Songkla, Si Racha, and Bangkok. Under the Catholic Bishop Council in Thailand, Stella Maris



also runs three offices especially targeting seafarers in Chonburi, Rayong and Pattani provinces.

### **Human Rights Issues**

Stella Maris works on a variety of issues. First, the organisation provides services to migrant workers, especially in the fishing industry, spanning from the provision of health services through the set-up of small health contact points for migrant workers, to the assistance of acquiring documentation for workers, as migrant workers often face discrimination and barriers when it comes to accessing public services. The organisation also handles complaints relating to debt bondage in the fishing industry, non-compliance of minimum wages and working hours, human trafficking and forced labour, and other labour violations. Many workers in the fishing industry face the issues of debt bondage, in which salary would be withheld to ensure that workers would stay on the fishing boats. Before workers enter fishing boats, employers pay some salary in advance and put the fisherman in debt. Employers will pay some wages but wait 6 months to one year to pay the full salary. Secondly, employers do not follow minimum wage regulations. Minimum wages differ in each province; however, migrant workers often do not know the legally required amount of compensation. Third, the number of working hours is also contentious, and fishing boats do not provide overtime pay.

In terms of occupational health and environment, campaigns have been initiated on safety procedures on fishing boats through the organisation of trainings and collaboration with skippers and owners. Stella Maris provided medicine boxes for boats, labelling medicine in the native language of migrant workers. Child labour and exploitation of female workers in the fishing and processing industry have also been highlighted as key issues. Furthermore, Stella Maris also works with construction workers and facilitates their repatriation processes, and partners with unions to resolve disputes.

### **BHR Non-Judicial Remedy Mechanisms**

In terms of the human rights situation of migrant workers, private actors are currently becoming more aware because consumers want to eat sustainable food and food that has been produced adhering to labour rights standards. Some businesses have also signed up to the UN Global Compact Network Thailand, which is mindful of the environment and workers' rights. However, companies should





have written policies on their human rights responsibility, because some businesses simply announce they are socially responsible but lack any relevant guidelines. Furthermore, in Thailand, the seafood industry faces pressure and scrutiny by the government and civil society. Hence, it is crucial to monitor companies' supply chains to make sure that the whole process follows human rights guidelines and HRDD. This has resulted in companies trying to be more careful because of reputational risk.

Regarding complaint mechanisms; among the fishery industry, there is the Command Centre to Combat Illegal Fishing, which helps those who have been trafficked or been victim of illegal employment. The Ministry of Labour also provides hotline assistance for this. Regarding CSO's complaint mechanisms, Stella Maris works on a case-by-case basis and may receive complaints, investigate claims and contact relevant agencies. Complaints are being received in the whole Southern region, from migrant workers from neighbouring countries (Myanmar and Cambodia, and some from Vietnam). Another at risk group identified at the end of last year was Indonesian seafarers.

### **Raising Awareness**

There is a need to raise awareness among business owners to respect their workers' rights. Even small fishing boats follow very different perspectives, treating migrant workers as inferior in comparison to Thai workers. Government agencies need to ensure that businesses not only reap benefits but also pay attention to the welfare of their workers and communities. This is the expectation of sustainability.

**Sor Rattanamanee Polkla, Co-founder & Coordinator, Community Resource Centre (CRC)**

### **Accessing State-Based Judicial Grievance Mechanisms**

The Community Resource Centre (CRC) focuses on human rights infringements, development projects and environmental problems through building networks, working with communities and raising awareness regarding development projects benefitting businesses but often times destroying communities' livelihoods. CRC's work is based on the usage of legal instruments and mechanisms to support people.



Remedies include compensation or rehabilitation for illness or injury, and recovery processes when it comes to the environment. Remedies are important to end violations of human rights. However, the ultimate goal is to avoid reoccurrence of violations by ensuring that perpetrators are being held accountable for their actions, whether through paying compensation or legal punishment. Only accessing remedy through mediation processes and compensation payment represents impunity. It allows criminals to go unpunished. Part of remedy is the punishment of the perpetrators of criminal acts. Remedy does not only include monetary compensation, but also prevention of future potential violation of rights, as well as rehabilitation.

### **State-Based Judicial Grievance Mechanisms**

The Thai judicial system features a variety of courts. The basic courts include civil and criminal courts. In the provinces, however, only one court is available; only certain provinces may also host provincial courts which would act as both civil and criminal courts. The remedy foreseen in civil and criminal courts relates to compensation. There are civil cases for compensation and criminal courts cases for criminal punishment, for instance. But on top of that, when the matter relates to the environment, both civil and criminal courts are relevant. Other specialist courts are the labour court, criminal court for corruption by government officials, and anti-human trafficking divisions within criminal courts. Administrative courts can also be relevant to BHR issues as many projects are related to government officials holding various responsibilities.

Furthermore, the arbitration system is part of the judicial mechanism. Arbitration occurs when parties agree to resolve a conflict because they do not trust the court. Thereby, the parties would use arbitration at the governmental, national or international level.

### **Cases undertaken by CRC**

The CRC is currently involved in the following cases seeking remedy for affected parties:

- First, the extraterritorial case of the Xayaburi Dam in Laos, where violations already occurred in the process of building the dam, due to failure to organise public hearings. This ETOs case was raised at the administrative court asking to



abolish the contract with EGAT (a Thai state-owned enterprise) to buy electricity.

- Second, the lignite mine in Lampang province, which also led to problems in terms of public hearing, and falsified reports.
- Third, the Khao Khua Stone mining project led to cracked houses, negative health impacts, and a fear of explosions. The CRC asked for prosecution through the Songkhla provincial court stressing the issue of mental remedy, and linking it to a violation to the right to live in a safe area. The first court dismissed the case as no law covered mental health matters. Following, the Appeal Court ruled in favour of the affected parties and requested compensation for the communities.
- Fourth, the Rayong oil leak case that poisoned fish in the sea. Mediation started at the beginning, and PTTGC wanted to pay 30 000 baht in compensation. Even after 4 years, since the oil spill took place on 27 July 2013, fishermen were unable to fish. The compensation amount proposed by PTTGC did not compensate adequately for the oil leak impacts on the environment and livelihoods of the fishermen. One case was opened at the provincial court, which required PTTGC to pay 5 million baht and come up with an ecological rehabilitation system. Another case opened at the civil court, which is currently on going, with the trial hearing of the last two witnesses on 19-20 June 2018.

### **State-Based Non-Judicial Grievance Mechanisms: the NHRCT**

The National Human Rights Commission of Thailand (NHRCT) is supposed to be an independent state-based non-judicial grievance mechanism. The NHRCT is relatively unknown to the general public. The NHRCT has the mandate to investigate violations, report on it and make recommendations to the RTG to ensure access to remedy for victims. However, the commission does not hold the power to punish those who do not follow their recommendations. The decision on what should be investigated and what should not is rather challenging. For example, migrant workers from Myanmar who worked on the Thammakaset Farm requested the NHRCT investigate their case regarding human trafficking and labour rights violations. After the migrant workers submitted their working time sheets to the commission as proof of their claims, their employer sued the workers for theft of their time sheets. The employers asserted that these documents were their property. This shows the sensitivity of the NHRCT as the case increased the negative outcomes for those who complained.



### **Non-State Based Non-Judicial Grievance Mechanisms**

Organisations and businesses may create their own grievance mechanisms, for example online systems for consumers' rights, or internal complaint mechanisms such as with the case of the oil leak in Rayong province, which occurred on 27 July 2013. An external system relates to control agencies that look into businesses to ensure that there are no violations. Officially, there are no such control agencies in Thailand. The Ministry of Commerce only looks into regulations but not violations by businesses; and the Bureau of Consumers Rights Protection only looks into consumers' rights. For workers, the Ministry of Labour outlines compliance mechanisms within that ministry. Other non-state agencies like Stella Maris will help ensure access to remedy through mediation or negotiation until victims are compensated.

### **OECD Contact Point**

As a non-judicial mechanism the OECD provides contact points whose role is to promote the adherence of OECD's Guidelines for Multinational Enterprises. OECD member states opened NCPs in their territories and began providing a mediation platform for complaints.

### **Regional Grievance Mechanisms: AICHR**

At the ASEAN level, there is the ASEAN Intergovernmental Commission on Human Rights (AICHR). Issues can be proposed at that level on topics such as labour rights, LGBTI access to employment, access to land etc. AICHR's role is to define standard procedures. However, AICHR does not provide any protection or grievance mechanisms.

## **DIALOGUE**

During this stage, participants were encouraged to reflect on Stella Maris' and CRC's presentation and ask questions.

### **Stella Maris Grievance Mechanisms and Access to Remedy**

One participant asked for clarifications on the grievance mechanisms provided by Stella Maris. Regarding remedies, Stella Maris initiated a complaint mechanism



consisting of a preliminary interview to clarify the violation that occurred. The second step would be for Stella Maris to contact social welfare. For victims of forced labour or trafficked persons Stella Maris collaborates with the Social Development and Human Security Department. Trafficking victims will find temporary shelter with government agencies; however, for some cases, victims would seek shelter with Stella Maris. In terms of repatriation, Stella Maris coordinates with the Social Welfare Team, or may assist in tracing victims to their families. Finally, counselling represents another key service, whereby psychologists can provide temporary mental relieve to victims of human rights abuses.

### **Effectiveness of Non-Judicial Grievance Mechanisms**

One participant was concerned that migrant workers had more channels to seek remedy, while Thai workers seem to face greater obstacles in seeking remedy. The accessibility and effectiveness of grievance mechanisms in Thailand has certainly been described as a major challenge. Thai workers may make use of trade unions; however, national restrictions on the right to assembly have placed a severe burden upon the establishment of effective trade unions. Government hotlines have also been described as ineffective. Government grievance channels are difficult to access, ineffective and unable to answer the needs of people who faced human rights abuses. On the other hand, NGOs have shown better coordination and more willingness to set-up grievance mechanisms. Stella Maris tries to answer needs with the help of interpreters and communication channels such as Line and Facebook, as well as external partnerships that build upon the capacity of Stella Maris.

One participant added that trade union's influence has significantly deteriorated and been weakened. In the past, unions would work as NGOs; while today, unions are almost non-existent. As long as unions cannot effectively organise workers and assist in labour disputes, there will be no access to remedy.

### **Effectiveness of Judicial Grievance Mechanisms**

One participant inquired as to ways to reach genuine and effective remedy. It has been outlined that the problem is not a lack of channels and agencies to file complaint; it is rather the ineffectiveness of these channels to address people's needs and issues adequately. More should be done in terms of disseminating relevant publications and make them accessible, to build confidence among the



general public. The CRC's role is currently to fill this gap within the access to remedies. However, state agencies need to expand, reach out to people and facilitate their access to grievances mechanisms. For example, due to international pressure only workers in the fisheries and seafood industry get attention; but what about construction workers, discrimination at the workplace, and the mental suffering of human trafficking and forced labour victims? There are many issues that require the adoption of effective measures by government agencies.

Finally, one participant wondered how to best share the knowledge on state-based judicial grievance mechanisms with affected communities and the public. NGOs and CSOs, such as Manushya and community members, have to become messengers to disseminate information, hold trainings and workshops, and work together as a network and mobilise as civil society.



# SESSIONS TEN AND ELEVEN



COALITION BUILDING FOR A "FAIR  
POWER BALANCE"



# SESSIONS 10 AND 11

## COALITION BUILDING FOR A “FAIR POWER BALANCE”

### KEY MESSAGES

- All regions must be represented in the BHR process; hence, a coalition would allow for the involvement of all regions and issues in one network.
- The majority of participants expressed their interest and willingness to build a common BHR coalition; reasons included making a greater impact, greater dissemination of information, and sharing of good practices and challenges.
- However, participants also named various concerns and challenges when it comes to building a BHR coalition; namely effective communication channels, dissemination of information and security.
- Participants established the ‘Thai BHR Network’ (TBHRN), which will adhere to the values of respect, human dignity and non-discrimination.

### OVERVIEW

Following a participatory approach, all participants from all regions of Thailand discussed national coalition building, further addressing how to build a support platform to ensure communities are at the centre of the NAP but also beyond: at the centre of the BHR response in Thailand, being considered equal stakeholders. At the end of the session, the participants agreed on building a common BHR Coalition, which will be named Thai BHR Network (TBHRN).

### DIALOGUE

This session was facilitated by:

- **Emilie Pradichit**, Founder & Director, Manushya Foundation
- **Nattaporn Artharn**, Community Empowerment Coordinator, Manushya Foundation
- **Nada Chaiyajit**, Capacity Building Coordinator, Manushya Foundation



This workshop has examined the three UNGP pillars, the role and importance of each agent to implement the principles, and the various BHR issues documented on the ground, since the UN developed the UNGPs and the Thai government agreed to follow the guidelines. Hence, the following questions arise:

- How can civil society and communities be empowered?
- How can pressure be put on the government?
- How can this network demonstrate to the government that its actions and progress is being watched?

It will be crucial that the government receives information from civil society and communities, which can be included as factual information in the NAP. The government has already accepted that it will consider civil societies' recommendations as part of the NAP. Manushya will ensure that the government receives this information. The information does not belong to any organisation, but it represents the collective information of this network. When it comes to gathering information, information must be well documented and verified, also known as fact verification, which represents the internationally accepted way of gathering information.

### **BHR Intersectional Coalition: Moving Beyond Regional Networks**

The majority of participants agreed on the importance of creating a national intersectional coalition, because the more people come together to tackle issues of BHR together, the more people could be mobilised and informed about human rights abuses committed by the business sector. A strong BHR intersectional coalition has the power to bring about greater change. For instance, concerns of LGBTI tie to other issues, such as indigenous peoples, land-related rights, sex workers, labour rights. The issues each regional network is working on can be relevant to multiple other issues. Communities working with PLHIV have explained that they mainly work on health issues; however, they saw the connection that PLHIV are also affected by, for example, land-related rights issues. Indigenous peoples have highlighted that a coalition would allow them, as a small regional network, to align with other and larger networks to increase their influence. Furthermore, participants saw value in building an intersectional coalition in terms of sharing good practices and new ideas, and possibly disseminating abuses and violations in the form of a documentary or other advocacy tools.



### **BHR Coalition Building: Challenges and Concerns**

Various challenges and concerns have also arisen from the discussion on building a coalition. First, participants were concerned about the operational aspect of a coalition. For instance, people asked which communication channels could be used in order to inform each other and stay up to date. Multiple participants highlighted the need for a centralised communication system. Second, some community members were also concerned about the safety aspect, which might deteriorate after the establishment of a coalition due to the member size and type. Manushya committed to leverage secure and safe communications channels. Third, some regional networks underlined that their regional networks give them confidence in their work. Confidence is needed to build a fruitful coalition. Hence, participants asked how this confidence could be strengthened. In order to keep this confidence alive once a coalition is set up, it has to be crucial that all networks receive the same weight, and nobody will be overlooked or discriminated against. All participants committed to share information equally and not discriminate against each other.

### **BHR Intersectional Coalition: Objective, Mission, and Goal**

Participants cited the importance of a clear objective, mission, and goal to ensure that everybody's views and expectations are equally represented. The exchange and dissemination of information should follow an all-inclusive and participatory model.

One participant argued that building a coalition should be a gradual process facilitated through the exchange of different ideas and strategies. Community members from the Southern Region questioned how to connect with each other and keep the energy and enthusiasm alive. The need to have a joint objective and mission is crucial in order to build this coalition, and transform this into a symbolic movement. Last but not least, it will be important to remember that each organisation works on different issues. Hence, priorities may differ across the spectrum. This can be seen as strength as it allows for the inclusion of a variety of perspectives and issues from a pool of various skills and experiences.

As a response to participants' enthusiasm as well as concerns regarding a BHR Coalition, **Emilie Pradichit** outlined Manushya's perspective on and support for this



undertaking. It is crucial that local communities and community members are aware of international mechanisms, and know how to build credible evidence. The time when others would speak on behalf of local communities is over. After CSO networks were built, such as the Thai CSOs Coalition for the UPR, community members showed the government and diplomats that they owned their issues because they are the experts of their issues, providing community recommendations for public and private actors. Manushya only provided the technical support for CSO networks, and the space and platform to communicate and become one visible, strong network. A coalition can only be successful if everybody treats one another equally with respect. When it comes to other regional or international organisations, collaboration is needed to share objective and mission. Communities will be the ones at the forefront; they will be the ones sharing their issues, their problems and their recommendations.

*"Local communities became visible; and with visibility comes empowerment. They became central to the human rights response, acting as 'Agents of Change'."*

**Emilie Pradichit,**  
Founder & Director, Manushya  
Foundation

### **Thai BHR Network (TBHRN)**

Finally, 55 participants voted for the establishment of a BHR Coalition. Out of these, 29 participants voted for the name of Thai BHR Network (TBHRN). The Network will adhere to the values of respect, human dignity and non-discrimination. The ultimate goal will be to share knowledge and learn from each other. The TBHRN will focus on sharing expertise, communicating strategies and issues, and advocating their solutions. Communities are not victims, but agents of change who can use BHR as a powerful tool.

## **FINAL COMMENTS**

Participants stressed the importance of organising such workshops in order to come together, hear about the issues that other community member's face, which provides motivation and strengthens the feeling of togetherness, solidarity and burden sharing. Furthermore, participants also highlighted the knowledge they



gathered from experts, academics, and community members during this workshop, and acquired inspirations for further strategies.

Additionally, participants also highlighted the unique and resourceful work with Manushya, which has been described as the only organisation that empowers communities to connect with international mechanisms. In the future, Manushya hopes and encourages community members to disseminate their knowledge and experience without Manushya. Finally, communities also offered their availability to share additional experiences and technical support to other communities in the room.



# ANNEXES



## AGENDA & LIST OF PARTICIPANTS





# ANNEXE 1

## AGENDA



Thai CSOs Coalition  
for the UPR



Coalition Building Workshop on Business & Human Rights:  
*Building Solidarity Among Local Communities, Academics &  
Experts – Towards the establishment of the Thai BHR  
Network*

18-20 November 2017, 9:00 - 17:00  
Komchai Room (3<sup>rd</sup> floor), Elizabeth Hotel, Bangkok

Day 1 – 18 November 2017	
TIME	TOPIC
8:30 – 9:00	Registration
9:00 – 9:15	<b>WELCOMING REMARKS by Manushya Foundation</b> <ul style="list-style-type: none"><li>• Welcome participants</li><li>• Introduction of all participants</li><li>• House rules &amp; Housekeeping</li></ul>
9:15 – 10:15	<b>Session 1: Objectives of the Coalition Building Workshop: Reclaiming Civil Society Role in the development of the National Action Plan (NAP) on Business and Human Rights in Thailand</b>



Objective	<i>Manushya Foundation will share knowledge on the current NAP process in Thailand, and its role as a “platform facilitator” leveraging on the UPR process, to ensure local communities’ participation, as well as to guarantee communities’ voices, challenges, needs and solutions are central to the BHR response in Thailand, by following credible strategy and methodology. Emphasis will be put on the important role of communities’ and the benefit of working as a coalition, with example of BHR coalitions in the Northern and Southern Thailand. Further details on the UNGPs and NAP will be shared in the following session.</i>
Facilitator	<ul style="list-style-type: none"> <li>• <b>Emilie Pradichit</b>, Founder &amp; Director, Manushya Foundation</li> </ul>
Q&A	Discussion with participants.
10:15 – 10:30	Coffee Break
10:30 – 12:30	<b>Session 2: What are the UN Guiding Principles on Business and Human Rights (UNGPs) &amp; How CSOs can engage in the implementation of the UNGPs through Coalition Building?</b>
Objective	<p><i>Friends and colleagues from Earth Rights International will share knowledge on the following:</i></p> <ul style="list-style-type: none"> <li>- Relationship between business and human rights, with case studies,</li> <li>- 3 pillars of the UNGPs,</li> <li>- What is a NAP on BHR?</li> <li>- Why CSO’s voices are important in the NAP?</li> <li>- The importance of Coalition Building;</li> <li>- How Thai CSOs contribute to the Thai overseas investment, and the work of the ETOs Working Group</li> </ul>
Facilitators	<ul style="list-style-type: none"> <li>• <b>Worawan Sukrarook</b>, Mekong Campaign Coordinator, Earth Rights International</li> <li>• <b>Kornkanok (Chompoo) Wattanapoom</b>, Thai Lawyer, Earth Rights International</li> </ul>
Q&A	Discussion with participants.
12:30 – 13:30	Lunch Break
13:30 – 15:00	<b>Session 3: Coalition Building (continue) &amp; Northern &amp; Southern BHR Coordinators “Experience Sharing”</b>
Objective	<i>To stress on the need of coalition building and discuss its goal, purpose, target, leverage – and for BHR Coordinators in the North and South to share knowledge about the coalition building work they are doing in the Northern and Southern Thailand, focusing on migrant workers’ rights, land related rights, management of natural resources, community rights.</i>
Facilitators	<ul style="list-style-type: none"> <li>• <b>Worawan Sukrarook</b>, Mekong Campaign Coordinator, Earth Rights International</li> <li>• <b>Sugarnta Sookpaitha</b>, Northern BHR Coordinator and Coordinator of the Migrants Workers Federation (MWF)</li> <li>• <b>Sompha Jaikhla</b>, Southern BHR Coordinator, Southern BHR Coalition</li> </ul>
Format	Participatory Approach to kick off discussions on a national coalition on BHR (to be continued on Day 3)
15:00 – 15:15	Coffee Break



15:15 – 17:00	Session 4: Community Sharing “BHR cases throughout Thailand”
Objective	<i>Following a participatory approach, for all participants from all regions of Thailand to share their challenges, their work and how they support communities, and give feedback on how they think the UNGPs could fit into their work.</i>
Facilitators	<ul style="list-style-type: none"> <li>• <b>Emilie Pradichit</b>, Founder &amp; Director, Manushya Foundation</li> <li>• <b>Nada Chaiyajit</b>, Capacity Building Coordinator, Manushya Foundation</li> </ul>
Format:	Participatory Approach

Day 2 – 19 November 2017	
TIME	TOPIC
9:00 – 12:30	Session 5: What is the Role of Business in Respecting Human Rights? ‘BHR’ not “CSR”
Objective	<p><i>For friends and experts working towards private sector engagement to respect human rights, to share knowledge on the Pillar 2 of the UNGPs, and on the following:</i></p> <ul style="list-style-type: none"> <li>- <i>Why companies link BHR and SDGs?</i></li> <li>- <i>What is “human rights due diligence”?</i></li> <li>- <i>What are companies’ responsibilities?</i></li> <li>- <i>What is a Human Rights Impact Assessment?</i></li> <li>- <i>What is a meaningful stakeholders’ engagement?</i></li> <li>- <i>Case studies and sharing of good practices of multi-stakeholders initiatives to ensure respect of human rights due diligence</i></li> </ul>
Speakers	<ul style="list-style-type: none"> <li>• <b>Patchareeboon Sakulpitakphon</b>, Business and Human Rights Expert in Private Sector Engagement</li> <li>• <b>Sompong Sakaew</b>, Director, Labour Rights Promotion Network Foundation (LPN)</li> </ul>
Q&A	<p>Discussion with participants.</p> <p>Note: Coffee Break will be served from 10:15 to 10:30</p>
12:30 – 13:30	Lunch Break
13:30 – 15:30	Session 6: World Café – “How Business should respect my Human Rights & What can we do to raise awareness and influence consumers?”



Objective	<p><i>For communities to break into working groups and discuss: (1) what steps business should follow in their particular case to respect human rights by providing their community solutions to address violations conducted by business conducts; (2) communities will also be invited to strategise on practical actions they could take to raise awareness on their issues and influence consumers:</i></p> <ul style="list-style-type: none"> <li>- <i>How companies should consult their employees for the development of human rights policies, health and security policies, etc;</i></li> <li>- <i>What is a meaningful participation for communities?</i></li> <li>- <i>How business should respect the FPIC of indigenous peoples?</i></li> <li>- <i>What is our right to information? How should we define it to respond to our needs?</i></li> <li>- <i>What strategy to follow to influence consumers? To raise awareness? What type of campaign?</i></li> <li>- <i>What type of human rights documentation to build credible evidence and influence policy makers?</i></li> </ul>
15:30 – 15:45	Coffee Break
15:45 – 17:00	<b>Session 7: Reporting back in Plenary</b>
Objective	<i>Following a participatory approach, for each working group to share their solutions and strategies to all.</i>
Format	Participatory Approach
<b>End of Day 2</b>	
<b>Day 3 – 20 November 2017</b>	
<b>TIME</b>	<b>TOPIC</b>
9:00 – 10:30	<b>Session 8: How can we Access Remedy in the context of Business &amp; Human Rights?</b>
Objective	<i>For friends and experts to share knowledge and their experiences in accessing remedies or in supporting communities accessing remedies in the context of BHR:</i>
Speakers	<ul style="list-style-type: none"> <li>• <i>Accessing State-based Judicial mechanisms by <b>Sor Rattanamanee Polkla</b>, Co-founder &amp; Coordinator, Community Resource Centre (CRC)</i></li> <li>• <i>Accessing State-based non-judicial grievance mechanisms by <b>Kornkanok (Chompoo) Wattanapoom</b>, Thai Lawyer, Earth Rights International</i></li> <li>• <i>Establishing a Non-state-based grievance mechanism by <b>Nattaya Petcharat</b>, Stella Maris Songkla</i></li> </ul>
Q&A	<p>Discussion with participants.</p> <p>Note: Coffee Break will be served from 10:15 to 10:30</p>



10:30 – 10:45	Coffee Break
10:45 – 12:30	<b>Session 9: World Café – “What type of Remedy do we want?”</b>
Objective	<i>For communities to break into working groups and discuss:</i> <ul style="list-style-type: none"><li>- <i>What type of remedies do we want for our specific context and population?</i></li><li>- <i>What type of grievance mechanism do we want?</i></li><li>- <i>What type of local grievance mechanisms for indigenous peoples?</i></li></ul>
12:30 – 13:30	Lunch Break
13:30 – 15:00	<b>Session 10: Reporting back in Plenary</b>
Objective	<i>Following a participatory approach, for each working group to share their solutions and strategies to all.</i>
Format	Participatory Approach
15:00 – 15:15	Coffee Break
15:15 – 17:00	<b>Session 11: Coalition Building for a “FAIR POWER BALANCE”</b>
Objective	<i>Following a participatory approach, all participants will continue the discussion on the national coalition building, with further detailing roles of coordinators, researchers, academics and how we could all support each other moving forward to ensure Communities are at the centre of the NAP but also beyond: at the centre of the BHR response in Thailand, considered as equal stakeholders.</i>
Format	Participatory Approach
<b>Closing</b>	



# ANNEXE 2

## LIST OF PARTICIPANTS

LIST OF PARTICIPANTS				
No.	Title	Name	Organization	Issue
<b>Manushya Team</b>				
1	Ms	Emilie Pradichit	Founder & Director, Manushya Foundation	UNGPs & Community Empowerment
2	Mr	Stuart Ward	Finances & Operations Administrator, Manushya Foundation	UNGPs & Community Empowerment
3	Ms	Nada Chaiyajit	Capacity Building Coordinator, Manushya Foundation	UNGPs & Community Empowerment
4	Ms	Charlotte Lush	Human Rights Research & Advocacy Officer, Manushya Foundation	UNGPs & Community Empowerment
5	Ms	Suphamat Phonphra	Programme Officer, Manushya Foundation	UNGPs & Community Empowerment
6	Ms	Tanida Itthiwat	Programme Officer, Manushya Foundation	UNGPs & Community Empowerment
7	Mr	Khamnuan Kheuntha	Consultant, Manushya Foundation	UNGPs & Community Empowerment
8	Mr	Emile Kinley-Gauthier	Consultant, Manushya Foundation	UNGPs & Community Empowerment
9	Mr	Daniel Polomski	Media Volunteer, Manushya Foundation	UNGPs & Community Empowerment
10	Ms	Adeline Parrado	Programme Associate, Manushya Foundation	UNGPs & Community Empowerment
11	Ms	Christina Burchia	Intern, Manushya Foundation	UNGPs & Community Empowerment
<b>Northern Region</b>				
12	Mr	Sarawut Pinkanta	Community Researcher/Northern Regional Nodes	Land rights, natural resources and environmental impacts
13	Mr	Laofang Bunditderdsakul	Hmong Indigenous Human Rights Lawyer	Indigenous Peoples
14	Mr	Panachai Junta	IMPECT	Indigenous Peoples
15	Ms	Katima Leeja	IWNT/IMPECT	Indigenous Peoples
16	Ms	Noraeri Thungmueangthong	Indigenous Women's Network in Thailand (IWNT)	Indigenous Peoples
17	Ms	Kanlaya Chularattakorn	Indigenous Women's Network in Thailand (IWNT)	Indigenous Peoples
18	Ms	Sugarnta Sookpaita	Migrant Workers Federation	Migrant workers
19	Mr	Tee Nayod	Migrant Workers Federation	Migrant workers
20	Ms	Suchart Intha	Migrant Workers Federation	Migrant workers
21	Ms	Chatchalawan Muangjan	Empower Foundation	Sex workers (Labour Rights)
22	Ms	Keeratikan	Rainbow Dream	LGBTI (Labour Rights /



		Techawattanakul		Discriminatory Policies and/ or Practices)
23	Ms	Yelly Phitakraksakol	Thai Drug Users Network	Drug user (Labour Rights / Discriminatory Policies and/ or Practices)
<b>North-eastern Region</b>				
24	Ms	Nattaporn Artharn	Community Empowerment Coordinator, Manushya Foundation	Public Participation & HRDs
25	Mr	Chainarong Sretthachau	Academic Researcher	Land rights, natural resources and environmental impacts
26	Ms	Junnapa Kuendee	Samacha Khon Jon Korani Kuen Pakmoon	Land rights, natural resources and environmental impacts
27	Ms	Saranya Boonpeng	Women Living with HIV Network Thailand	Women living with HIV (Labour Rights / Discriminatory Policies and/ or Practices)
28	Ms	Bubphawan Angkurasee	Amnat Charoen Women's Friend Center	Women's rights (Labour Rights / Discriminatory Policies and/ or Practices)
29	Ms	Thitiya Chutipun	Singburi Community Organisation Council/Singburi Women Group	Women's rights (Labour Rights / Discriminatory Policies and/ or Practices)
30	Mr	Siribhadee Yensiri	Human Rights Lawyer at Esaan Land Reform Network	Land rights, natural resources and environmental impacts
31	Mr	Somboon Singking	Thai Samakee Subdistrict Administrative Organization	Land rights, natural resources and environmental impacts
<b>Eastern &amp; Central Region</b>				
32	Mr	Pakorn Areekul	Community Researcher/ Central & Eastern Regional Node	Public Participation & HRDs
33	Ms	Wannapong Yodmuang	Community Researcher/ Central & Eastern Regional Node	LGBTI (Labour Rights / Discriminatory Policies and/ or Practices)
34	Mr	Wattana Sansa	YMP Labour Union	Labour Rights / Trade Unions
35	Mr	Kraithong Ngamsurat	Valeo Rayong Labour Union	Labour Rights / Trade Unions
36	Mr	Winai Payakko	AGC Thailand Labour Union	Labour Rights / Trade Unions
37	Mr	Manop Sanid	Change East Network	Community rights & Public Participation
38	Mr	Sitthichai Tanoothong	Nakornnayok River Conservation Network	Community rights & Public Participation
39	Ms	Malinee Wechasuk	HIV/AIDS Network	Sexual & Reproductive Health Rights
40	Mr	Punya Chusiri	HIV/AIDS Network	Sexual & Reproductive Health Rights
41	Ms	Watchree Sirimaha	HIV/AIDS Network	Sexual & Reproductive Health Rights
42	Mr	Sunaruk Kaeonukun	HIV/AIDS Network	Sexual & Reproductive Health Rights
43	Ms	Thissadee Sawangying	Health and Opportunity Network/LGBT	Sex workers (Labour Rights)





			Network	
44	Mr	Ratchayapornthawee Thanawattewakul	Health and Opportunity Network/LGBT Network	LGBTI (Labour Rights / Discriminatory Policies and/ or Practices)
45	Mr	Preeyapat Butprasert	Health and Opportunity Network/LGBT Network	LGBTI (Labour Rights / Discriminatory Policies and/ or Practices)
46	Ms	Saowalack Pratumthong	Rak Talae Thai Association	Human Trafficking (Labour Rights: Fishing policies)
47	Ms	Chatjaporn Loyplew	Rak Talae Thai Association	Human Trafficking (Labour Rights: Fishing policies)
48	Mr	Manop Kaewphaka	Informal Labour Network (Thailand)	Labour Rights / Informal workers
49	Ms	Puttinee Kaewphaka	Home Net Thailand Association	Labour Rights / Informal workers
<b>Southern Region</b>				
50	Mr	Sompha Jaikhla	Southern BHR Coordinator	Land rights, natural resources and environmental impacts
51	Ms	Kaosar Aleemama	Southern Regional Node	Land rights, natural resources and environmental impacts
52	Ms	Saovanee Kaewjullakarn	Academic Researcher	Public Participation & HRDs
53	Mr	Nattawut Chotikan	Faculty of Law, Thaksin University	Public Participation & HRDs
54	Mr	Manavee Dengdo	Mt. Boudou Network	Land rights, natural resources and environmental impacts
55	Mr	Asmee Pu	River Conservation Youth	Land rights, natural resources and environmental impacts
56	Mrs	Rokeeyoh Samaae	Tepha Community	Land rights, natural resources and environmental impacts
57	Mrs	Puttan Sakaekum	The State Enterprise Workers' Relations Confederation (SERC)	Labour Rights / Trade Unions
58	Ms	Supawadee Saiwaree	Lawyer	Land rights, natural resources and environmental impacts
59	Mr	Sompol Sitthiwetch	Andaman Power Phuket	LGBTI (Labour Rights / Discriminatory Policies and/ or Practices)
60	Mr	Rattathammanoon Meepon	Andaman Power Phuket	LGBTI (Labour Rights / Discriminatory Policies and/ or Practices)
61	Mr	Supachai Niyompong	Rung Andaman Phuket	LGBTI (Labour Rights / Discriminatory Policies and/ or Practices)
62	Ms	Nitaya Chuchuen	M-Moon	LGBTI (Labour Rights / Discriminatory Policies and/ or Practices)
63	Mr	Thankamol Bunchai	M-Moon	LGBTI (Labour Rights / Discriminatory Policies and/ or Practices)



64	Mr	Teerachai Sanjaroenki	The Mekong Butterfly	ETOs/ Thai Direct Investments
65	Ms	Kornkanok Wathanabhoom	Earth Rights International/ Global Bertha Fellow for Human Rights	ETOs/ Thai Direct Investments
<b>National Experts</b>				
66	Mr	Sompong Srakaew	Director, Labour Rights Promotion Network Foundation (LPN)	National expert: Human Trafficking
67	Ms	Sor. Rattanamanee Polkla	Co-founder & Coordinator, Community Resource Centre	National Expert: Community Rights & Access to Remedies
68	Ms	Patchareeboon Sakulpitakphon	Private Sector Engagement Specialist, USAID Asia Counter Trafficking in Persons, SSG Advisor	Regional Expert: Private Sector Engagement & UNGPs
69	Ms	Worawan Sukraroek	Mekong Campaigns Coordinator, Earth Rights International	National Expert: ETOs/ Thai Direct Investments
70	Ms	Nattaya Petcharat	Stella Maris Songkla	National Expert: Migrant Workers & Grievance Mechanism - Pillar 3
<b>Translators</b>				
71	Ms	Sutinna Ratanasompochkul	Interpreter	-
72	Ms	Kanok Suwanna	Interpreter	-
73	Ms	Chanida Bamford	Interpreter	-
74	Ms	Jaruwaree Snidwongsee	Interpreter	-





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.

Thai CSOs Coalition  
for the UPR

