

THE PROMOTION OF DECENT WORKING CONDITIONS FOR FORMAL AND INFORMAL WORKERS

THEMATIC ASSESSMENT CHAPTER
OF THE INDEPENDENT CSO
NATIONAL BASELINE
ASSESSMENT (NBA) ON BUSINESS
& HUMAN RIGHTS



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PRIORITY AREA 1: LABOUR RIGHTS & STANDARDS

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Thai BHR Network,
*The Promotion of Decent
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About the Thai BHR Network

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

<https://www.manushyafoundation.org/coalition-building-workshop-report>

SPECIAL THANKS

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Through our Independent CSO National Baseline Assessment (NBA) on Business & Human Rights (BHR) in Thailand, we hope to provide the foundation for a meaningful National Action Plan (NAP) on Business and Human Rights (BHR), which would guarantee that Thai businesses are not committing or involved in human rights abuses wherever they operate. We strongly believe that our NBA on BHR could serve as a starting point to raise awareness on the challenges faced by affected communities on the ground, could help address corporate accountability, and ensure responsible business conduct. We see the Thai NAP on BHR as a critical opportunity for civil society and grassroots communities to engage collectively in order to promote a Thai economy that is sustainable and respectful of human rights, while building an understanding of private actors on the adverse impacts of their activities. It is our aspiration that this independent CSO NBA on BHR would influence the Thai NAP on BHR; a NAP that is inclusive of communities' voices, concerns and solutions. We truly believe that this represents a great opportunity for open, frank, transparent and constructive dialogue among all relevant sectors, so that we can all continue working together to ensure that Thai corporations respect human rights at home and abroad.

Emilie Palamy Pradichit
Founder & Executive Director
Manushya Foundation

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ABBREVIATIONS

AIDS	Acquired Immunodeficiency Syndrome
ASEAN	Association of Southeast Asian Nations
BHR	Business and Human Rights
CEDAW	Convention/Committee on the Elimination of All Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CHRB	Corporate Human Rights Benchmark
CNG	Compressed Natural Gas
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organisations
CSR	Corporate Social Responsibility
DLPW	Department of Labour Protection and Welfare
ECOSOC	United Nations Economic and Social Council
EGAT	Electricity Generating Authority of Thailand
EHRD	Environmental Rights Defender
HRD	Human Rights Defender
HRDD	Human Rights Due Diligence
HIV	Human Immunodeficiency Virus
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on the Protection of Migrant Workers and Members of their Families
IFC	International Finance Corporation
ILO	International Labour Organisation
LGBTI/ LGBTIQ	Lesbian, Gay, Bisexual, Transgender, Intersex / Lesbian, Gay, Bisexual, Transgender, Intersex, Queer
LRC	Labour Relations Committee
MoJ	Ministry of Justice
MoL	Ministry of Labour
MSDHS	Ministry of Social Development and Human Security
NAP	National Action Plan
NBA	National Baseline Assessment
NCP	National Contact Point
NCPO	National Council for Peace and Order
NESDB	National Economic and Social Development Board
NGO	Non-Governmental Organisation
NHRC	National Human Rights Commission of Thailand
NLA	National Legislative Assembly
NSC	National Strategy Committee
OAA	Old Age Allowance
OECD	Organisation for Economic Co-operation and Development
RLPD	Rights and Liberties Protection Department
RTG	Royal Thai Government
SDG	Sustainable Development Goals
SME	Small and Medium Enterprise
SOE	State-Owned Enterprise
THB	Thai Baht
TLS	Thai Labour Standards
UDHR	Universal Declaration of Human Rights
UN	United Nations



UNGA
UNGC
UNGPs
UNHCR
UPR
WIEGO

UN General Assembly
UN Global Compact
UN Guiding Principles on Business and Human Rights
United Nations Human Rights Council
Universal Periodic Review
Women in Informal Employment: Globalising and Organising



INTRODUCTION: Manushya Foundation's Business & Human Rights Strategy

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

After the Thai government received, during its second UPR, a recommendation from Sweden to develop a National Action Plan (NAP) on BHR with the view to implement the UNGPs, Manushya developed a strategy¹ 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, national, regional and international experts on business and human rights to:

- Develop a CSO NBA on BHR, 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 grass-root organisations to tip the balance of power between businesses and governments versus CSOs, and encourage more bottom-up approaches which 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".² The Thai BHR Network is an inclusive and intersectional network of grassroots communities, civil society, academics and experts, including representatives from and/or working on the following issues: *rights of migrant workers, labour rights (formal and informal workers), trade unions, indigenous peoples, stateless persons, community rights, land-related rights, environmental rights, people with disabilities, Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) individuals, sexual and reproductive health, drug users, people living with HIV, sex workers, women's rights, the protection of human rights defenders (HRDs), the impact of Thai outbound investments and trade agreements.*

As part of its BHR strategy and in order to inform the development of the independent CSO NBA, Manushya Foundation has supported the formation of the Thai BHR Network and has conducted a series of consultations to identify the key priority areas, as well as community-led recommendations: four Regional NBA Dialogues (January-March 2017),³ the first experts meeting to inform the independent NBA on BHR in Thailand (2-3 September 2017), and the second experts meeting to discuss the findings and recommendations of the independent NBA on BHR in Thailand (28 February-1 March 2018).⁴

In order to guarantee the safety of local communities and HRDs engaging in Manushya's strategy, all these six consultations were co-organised with the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ), Thailand.

Throughout the four regional NBA dialogues and the two experts' meetings, Manushya and members of the Thai BHR Network have identified four main areas of focus for the CSO NBA:

- 1) Violations of Labour Rights and Standards;
- 2) Impacts on community rights, indigenous peoples, livelihoods, land-related rights, natural resources and the environment;
- 3) The protection of HRDs;
- 4) Trade agreements and outbound investments.

These four priority areas of focus influenced the content of the Government's NAP on BHR, following our key four priority areas. Thus, this Chapter falls under Priority Area 1 and is part of Manushya Foundation and the Thai BHR Network's Independent NBA on BHR in Thailand.⁵

Manushya Foundation and the Thai BHR Network, an inclusive and intersectional coalition of HRDs, community leaders, researchers, academics, and non-governmental organisations (NGOs) together ensure local communities are central to the BHR response and discourse in Thailand and work together to inform the development of the NAP on BHR, as well as to monitor and support its effective implementation, with communities' voices and solutions at the centre.

Role of Manushya

“Empowering local communities to be at the centre of BHR discourse and of the NAP on BHR”

At Manushya, 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 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 in the empowerment of invisible and marginalised communities, sharing knowledge with them so they can assert for 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 RLPD of the MoJ 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. 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.



METHODOLOGY

The methodology used in the research, analysis and writing for this Chapter on the Promotion of Decent Working Conditions for Formal and Informal Workers in the context of BHR in Thailand relies on primary and secondary data and resources. Primary sources, including voices, concerns, cases, experiences and recommendations of local communities and experts, were collected directly from Manushya Foundation's BHR activities; including:

- Four Regional NBA Dialogues on BHR conducted from January to March 2017;⁶
- Four regional capacity building workshops on BHR to demystify corporate accountability to HRDs⁷ held in May-June 2017;
- Two Experts Meetings to get input from national, regional and international experts to inform its NBA and ultimately provide guidance for the development of the NAP on BHR. The First Experts Meeting aimed at informing the CSO NBA on BHR in Thailand in Bangkok (2-3 September 2017) and the Second Experts' Meeting focused on Findings and Recommendations for CSO BHR NBA in Bangkok (28 February to 1 March 2018);⁸ and
- The BHR Coalition Building Workshop held on 18-20 November 2017.⁹

Secondly, this Thematic Chapter is based on desk-research and presents an analysis of the international, regional and national legal and policy frameworks pertaining to community rights, the management of natural resources and the environment in Thailand, including in the context of BHR and the UNGPs. The research included a systematic literature review of United Nations (UN) human rights bodies' and NGOs' reports, observations and recommendations; online news articles; expert papers; and other publications.

THE PROMOTION OF DECENT WORKING CONDITIONS FOR FORMAL AND INFORMAL WORKERS

CONTEXT

Given the relationship between workers, their employers, and the state, worker's rights are often highlighted as the situation where 'business' and 'human rights' most often intersects. This can be clearly seen in the case of working conditions, where issues such as employment status, working hours and social security; occupational health and safety, and the differences experienced by workers employed in the formal and informal sector, which amount to 16,872,900 and 20,774,300 workers respectively in Thailand.¹⁰ While working conditions are often one of the areas with the most regulations and legal protections, there often exist significant gaps between policy and practice, with workers being unable to access the rights that are supposedly guaranteed to them by the law. This can be seen in Thailand, where working conditions are safeguarded by numerous acts and conventions covering a broad range of issues such as job status, minimum wage, social security, working hours, and health and safety at work.¹¹ However, despite these protections, violations are common, particularly for workers employed in Thailand's informal sector, which is currently unregulated under Thai law.¹² There are economic incentives for many businesses operating within the informal sector to remain unregulated. It can often be more lucrative as companies are able to avoid government regulations such as minimum wages, and exempt themselves from reporting obligations linked to working conditions, in particular with respect to health issues associated with labour.¹³ Conflict of interests between the government and businesses can therefore often arise regarding the regulation of informal labour. The RTG has started to rectify this, through ministerial regulations targeting sectors that are known to partake in informal labour, such as fishing and domestic work. However, the unregulated nature of the informal sector makes it difficult to monitor, and represents a challenge to the development of effective laws and policies.¹⁴

Nevertheless, collective actions led by workers through the formation of trade unions, amongst other measures, provide an extra layer of protection in standing for their rights. This persists despite the absence of effective regulatory measures, but excessive regulation of collective action by workers in practice.¹⁵ However, workers and their right to collective action are increasingly under threat. In 2018 alone, workers in 65 countries faced physical violence and other threats, while trade unionists from nine countries were murdered.¹⁶ In addition, it was found that out of the 142 countries in which surveys were carried out, 87% had violated the right of workers to strike, and 81% prohibited collective bargaining partially or entirely.¹⁷

1. INTERNATIONAL & NATIONAL LEGAL AND POLICY FRAMEWORKS: Existing Laws and Policies, Gaps and Legal Challenges

1.1. International Human Rights Standards

International obligations on worker's rights such as working conditions, protection and remediation are set out in the International Covenant on Economic, Social and Cultural Rights, 1996 (ICESCR),¹⁸ in the International Labour Organisation (ILO) Conventions, and in the Sustainable Development Goal (SDG) 8 of the 2030 Agenda.¹⁹ SDG 8 sets out the four pillars of ILO's Decent Work Agenda namely employment creation, social protection, rights at work, and social dialogue.²⁰ The ICESCR sets forth a number of standards with regard to employment and the working standards that workers are entitled to. Article 7 of the Covenant recognises the right of individuals to just and favourable working conditions, including fair remuneration, safe and healthy working conditions, equal opportunity in employment, leisure, and reasonable limitation on working hours.²¹ This article is further explained in the Committee on Social Economic and Cultural Rights' (CESCR) General comment no. 23 on the right to just and favourable conditions of work.²² Article 8 of the Covenant acknowledges the right 'to

form and join trade unions, and the right to strike' and Article 9 furnishes the 'right to social security, including social insurance'.²³

1.1.1. Right to a minimum wage

The ILO Minimum Wage Fixing Convention No. 131 (1970) requires the State to set a legally enforced minimum wage, which '[takes] into consideration [...] the needs of workers and their families, the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups; as well as economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment'.²⁴ The ILO Protection of Wages Convention No. 95 (1949) sets out regulations and standards with regard to wages.²⁵ It states that wages payable in money shall be paid only in legal tender, and that wages should also be paid directly and regularly to the worker.²⁶ Employers are also prohibited from limiting the freedom of the worker to dispose of his/her wages.²⁷

1.1.2. Rights with respect to working conditions

The ILO Labour Inspection Convention No. 81 (1947) 'secures the enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety and health, welfare [...] and other connected matters, in so far as such provisions are enforceable by labour inspectors'.²⁸ The ILO Hours of Work (Industry) Convention No.1 (1919) sets out acceptable standards with regard to working hours.²⁹ The Convention prevents excessive hours of work, and protects worker's health and safety by limiting working hours and providing adequate periods for rest and recuperation, including weekly rest and paid annual leave.³⁰

1.1.3. Rights of workers on occupational safety

The ILO Occupational Safety and Health Convention No. 155 (1981) requires States to create an adequate and appropriate system of inspection to ensure that laws and regulations concerning occupational safety and health in the work environment are being practised.³¹ It also provides guidelines to employers and workers to help them comply with legal obligations.³² In addition, there are sector specific ILO Conventions that deal with occupational health and safety in the following areas: Safety and Health in Construction Convention No. 167 (1988), Safety and Health in Mines Convention No. 176 (1995), and Safety and Health in Agriculture Convention, No. 184 (2001). The ILO Promotional Framework for Occupational Safety and Health Convention No. 187 (2006) promotes 'continuous development and improvement in occupational safety and health to prevent occupational injuries, diseases and deaths, by the development, in consultation with representative organisations of employers and workers, of a national policy, national system, and a national programme'.³³ The ILO Employment Injury Benefits Convention No. 121 (1964, amended in 1980) sets out employer's responsibilities if a worker is injured, and the benefits that workers are entitled to.³⁴ The Convention states that employers have a duty of care to their employees if there is a work-related incident, and that this will manifest in the form of compensation, payment of medical fees, etc.³⁵ On the rights of pregnant workers, the ILO Maternity Protection Convention No. 183 (2000) ensures that no work is given that could hurt or put at risk the mother or child, and guarantees no less than 14 weeks paid maternity leave and the ability to take additional leave if complications arise.³⁶

1.1.4. Rights of certain categories of workers

The ILO Working Conditions (Hotels and Restaurants) Convention No. 172 (1991) ensures that hotel and restaurant workers are entitled to regular, reasonable hours of work, adequate time off, and are given advance notice of working hours, while receiving a regular fixed income.³⁷ The ILO Domestic Workers Convention No. 189 (2011) calls for the recognition of the economic and social value of domestic work and sets out the responsibility of States to take measures to 'ensure the effective promotion and protection of the human rights of all domestic workers'.³⁸ The act covers a number of issues relating to working conditions, including protection against abuse, harassment, and violence (Art. 5); the right to decent working conditions (Art. 6); the right to the minimum wage (Art. 11) ; the right to take annual leave and holiday (Art. 10) ; and the right to a 'safe and healthy working environment' (Art. 13).³⁹

1.2. Regional Commitments

The Association of Southeast Asian Nations (ASEAN) Guidelines for Corporate Social Responsibility (CSR) on labour, the ASEAN Guidelines for Occupational Safety and Health, and the ASEAN Guidelines on Good Industrial Relations Practices provide a regional framework for the adherence to and compliance with international labour standards. The ASEAN guidelines for CSR on labour aim at promoting a CSR grounded in the belief that it will contribute to the fulfilment of the SDGs, particularly goal 8 that seeks to ‘promote sustained inclusive and sustainable economic growth, full and productive employment and decent work for all.’⁴⁰ The ASEAN Guidelines for Occupational Safety and Health direct and assist small and medium enterprise (SME) employers on the ‘development, implementation, evaluation, and improvement of their safety and health management system.’⁴¹ The ASEAN Guidelines on Good Industrial Relations Practices requires a strong legal framework to be adopted in ASEAN countries as a basis for good industrial relations.⁴² This includes basic rights and requirements for ‘just working conditions, stable employment, minimum standards, a safe and healthy environment, and to express their views as well as participate in decision-making that has significant implication for them and their workplace’.⁴³

1.3. National Legal & Policy Framework

1.3.1. National Legislation on working conditions, social security, and occupational safety

The national framework in Thailand guarantees labour protection through several legislations, set out hereinafter. The Labour Protection Act B.E. 2541 (1998, amended 2017) guarantees universal protection to all employees and regulates working conditions, setting out standards on areas such as working hours, overtime, holidays, leave, and maternity leave.⁴⁴ It also ensures that workers and companies collaborate on issues such as salary and welfare, achieved through the creation of committees.⁴⁵ The act also demands fundamental welfare for workers in the form of sufficient toilets, freshwater, and first aid within the workplace.⁴⁶ The Home-based Worker Protection Act B.E. 2553 (2010) provides protections for workers who perform their work at home, as opposed to the location of the employer.⁴⁷ The Act sets out the need for workers to receive proper contracts, the right to receive a minimum wage, safeguards and standards with regard to the timeline, costs and expenses associated with the work, and health and safety standards for home-based workers.⁴⁸ The Social Security Act B.E. 2533 (1990, amended in 2015) guarantees social security entitlements for workers in Thailand.⁴⁹ The Act sets out the payment of a monthly contribution to the Social Security Fund by workers, which is complemented by contributions from the employer and the government.⁵⁰ Workers are then able to access a number of benefits and protections from the fund, including ‘injury or sickness benefits [...], maternity benefits, invalidity benefits, death benefits, child benefits, old-age benefits, and unemployment benefits except for those who are uninsured’.⁵¹ The Workmen’s Compensation Act B.E. 2537 (1994) sets out the responsibility of employers to provide compensation and pay medical expenses to their employees.⁵² Workers are entitled to compensation if they suffer from injury or sickness, including if those can ‘cause death or disappearance’ as a result of their work, and if they need to obtain industrial rehabilitation.⁵³ If the employee dies, the employer is also liable to pay the funeral cost of the employee.⁵⁴

1.3.2. National Legislation on collective action, dispute resolution and protection of jobseekers

The right of freedom of association and the right to bargain collectively are covered in the 2017 Constitution which provides in Section 42 that ‘a person shall enjoy the liberty to unite and form an association, co-operative, union, organisation, community or any other group’ and in Section 74 that the State has to establish a labour relations system in which all parties can take part.⁵⁵ Violating international obligations and standards, the State Enterprise Labour Relation Act B.E. 2543 (2000) contains provisions restricting ‘liberty of dwelling, and the [...] liberty [to form] an association, a union, a federation, a cooperative, a farmers group, a private organisation or any other groups’ for State enterprises.⁵⁶ The Act addresses how employment conditions and labour disputes should be addressed, and if a resolution cannot be reached it must be referred to the Relations Affairs Committee, whose decision on disputes are final.⁵⁷ The Act also sets out the right of employees of State enterprises to form labour unions and prohibits employers’ lockouts and employees’ strikes.⁵⁸ The Labour Relation Act B.E. 2518 (1975) establishes the Labour Relations Committee (LRC) consisting of representatives of

both employers and employees, with the authority to make decisions on employment conflicts.⁵⁹ It requires companies with a staff of over 20 to have agreed upon written conditions of employment, which are in accordance with the standards set out within the Act and establishes the duty of the employers to transfer money to the social security fund.⁶⁰ Furthermore, the Act also stipulates that companies have a mechanism for employer and employee negotiations in case of disputes, including in the form of employee associations and trade unions.⁶¹ The Employment and Jobseeker Protection Act B.E. 2528 (1958) provides for the State to set up an employment office, the Department of Employment, to be responsible for providing 'public employment services free of charge, for monitoring and regulating domestic and overseas recruitment agencies in order to protect job-seekers from exploitation by business operators, for providing them with assistance, and for setting a skill testing standard for a job-seeker who wants to work abroad'.⁶²

1.3.3. The 20-year National Strategic Plan and the Rights of Workers

A 20-year National Strategy Plan has been drafted as a national development plan that sets out a framework, on which all present and elected governments will have to base their policies and allocate their budget.⁶³ This document provides for a social security strategy requiring that Thai labour be protected, and ensuring quality as well as safety in the workplace.⁶⁴ It requires that the Thai labour standards of care match the international benchmark as set by international legislations and policy documents.⁶⁵ It also calls for a social welfare system that ensures collaboration between the government, local authorities, community related organisations, CSOs, and business enterprises, in order to develop an effective and economised system.⁶⁶ It is believed that such a cost saving social welfare system will promote access to social security, for both formal and informal workers.⁶⁷ However, this plan contains provisions with an overly loose and broad terminology, thus leaving its application up to the interpretation of the National Strategy Committee (NSC) set up by this Plan.⁶⁸ This Committee consists of 34 members, 17 ex-officio, and 17 qualified members, appointed by the Cabinet, meaning that it is made up of National Council for Peace and Order (NCPO) members and its allies.⁶⁹ This reinforces the grip they kept for 20 years on the country's governance and legislations, and ensures its continuity, even if a new democratic government were to be elected.⁷⁰

1.3.4. The Factories Act and its amendments⁷¹

On 22nd February 2019, the National Legislative Assembly (NLA) amended the Factories Act of 1992 to change the definition and regulation of factories in the country. A factory has been redefined by this Bill as a place where the machinery exceeds 50 horsepower, with 50 workers or more. All places of work that do not meet these qualifications are not required to register any longer, and, as result, are subject to lesser regulations. Due to the amendment, 43% or 60,000 factories will no longer be subjected to regulations under this Act. As the establishment of these small factories, especially in residential areas, is left unregulated, it is expected that these establishment practices will grow exponentially. The physical limits of a factory were redefined as well, they can now be easily expanded under the amendment to Article 19/1 of the Factories Act. To further encourage investment, factory licences will also have no expiration date. Besides, following the removal of Articles 14 and 15 of the Act, there is no need to comply with renewal procedures. This slackening of procedural regulations over factories will result in lesser physical inspection of the premises, meant to ensure that the establishment meets the environmental or labour standards, otherwise expected for the renewal of a license. This suspension of licensing and deregulation for small factories, will likely cause an increase in pollution and disincentivise factories to meet standards of decent work.

2. APPLICATION OF THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS TO PROTECT, RESPECT AND REMEDY DECENT WORKING CONDITIONS

2.1. Pillar I & Pillar III - The duty of the state to protect decent working conditions and the right to collective bargaining, and to ensure effective access to remedy

Pillar 1 of the UNGPs provides a basis for state response to human rights violations committed by businesses, with respect to working conditions in both the formal and informal sector. Guiding Principle 1 of the UNGPs

requires states to ‘prevent, investigate, punish, and redress abuse of rights through the utilisation of policy, legislation, regulation, and adjudication’.⁷² Transparent and clear laws are vital to the process of ensuring that businesses operate without violating human rights and labour rights.⁷³ States must also regulate businesses to guarantee compliance with laws that establish working conditions, minimum wage, and social protection measures, in addition to regulating informal labour.⁷⁴ It is also essential that, where states function as economic actors, they maintain these regulations in their business operations and adhere to the guidelines set out therein.⁷⁵

In addition to enacting legislation and setting up regulatory frameworks, it is also necessary to operationalise them.⁷⁶ With respect to decent work, an example would be the implementation of health and safety standards in factories. States can enforce this, for example, by setting up oversight bodies for monitoring compliance of these standards by factories, and issuing sanctions on their failure to comply.⁷⁷ This aspect can be undertaken by labour inspectors and other such regulatory bodies.⁷⁸ States can provide businesses with guidelines on how to conform with these standards.⁷⁹ They can require businesses to undertake due diligence of their business, their subsidiaries and their suppliers, thus determining how labour standards are complied with in their supply chain.⁸⁰ The State can also provide incentives for compliance with these standards.

Theoretically, Thailand has partially complied with guiding principle 2 of the UNGPs, which mandates states to set out clear expectations of how they want all businesses within their territory and jurisdiction to respect human rights.⁸¹ Labour protections are enshrined under Thai law, but the enforcement of these laws remains questionable.⁸² Indeed, it is not enough for states to merely provide laws protecting labour rights covering minimum wage, overtime, holiday pay and annual holidays;⁸³ they must also actively ensure that businesses follow the laws and guidelines set out. In addition, these protections only exist for workers in the formal economy, leaving informal workers with minimal protection.⁸⁴ There is no clear expectation set out that businesses operating in the informal sector must respect human rights.⁸⁵ In addition, with the promotion of increased investments, a deregulation promoted by legislations such as the Factories Act, and in the absence of oversight, States are not only failing to regulate, but businesses are also being encouraged, more than ever, to violate labour standards. Furthermore, the government has not provided a comprehensive and effective guidance to business enterprises on how to respect human rights.⁸⁶ This is demonstrated by the unclarity of various aspects of the law. It is essential for the Thai government to provide clearer directions on labour laws to businesses, in order to prevent them from inadvertently breaking the laws or consciously taking advantage of these unclarity to avoid complying with labour standards.⁸⁷

In Thailand, violations to labour standards are addressed by labour courts,⁸⁸ the workmen’s compensation fund,⁸⁹ and through the National Human Rights Commission of Thailand (NHRCT).⁹⁰ As such, this is in line with guiding principle 25 of the UNGPs, which sets out the need for States to “take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy”.⁹¹ However, a key aspect of this principle and subsequent principles addressing different types of remedies is their effectiveness.⁹² In practice, it happens on several occasions that judges award compensation instead of reinstating unlawfully dismissed employees.⁹³ Moreover, penalties are rarely applied against businesses for labour rights violations.⁹⁴ This lack of sanctions upon violations creates an environment that enables future violations to occur. Therefore, the effectiveness of these remedies is questionable, and so is Thailand’s fulfilment of its duty to provide effective access to remedy.

Violations in the informal sector are also difficult for states to address, owing to their very nature as unregulated and informal. It is therefore necessary for states to reduce barriers to state-based judicial as well as non-judicial remedies,⁹⁵ to ensure that all individuals who may have suffered from human rights violations are able to access remedies. This will help broaden the scope of dispute resolution faced by informal labour workforce and ensure a judicial development that complies with emerging trends.

2.2. Pillar II & Pillar III - The corporate responsibility to respect decent working conditions and the right to collective bargaining, and to ensure effective access to remedy

Under Pillar 2 on the duty of businesses to respect, guiding principle 11 dictates that businesses should ‘address adverse human rights impact’.⁹⁶ For this purpose, ‘the responsibility of businesses to respect human rights refers to internationally recognised human rights – understood as principles concerning fundamental rights set out in ILO’s Declaration on Fundamental Principles and Rights at Work.’⁹⁷ These include the human rights of workers, the principles and rights set out in the eight core ILO Conventions including ‘the right to work, the right to equal pay for equal work, the rights to equality at work, the right to just and fair remuneration, the right to a safe work environment, the right to rest and leisure, the right to a family life, the right to freedom of association, and the right to organise and participate in collective bargaining’.⁹⁸ Guiding principle 13 sets out that businesses can be involved in negative human rights impacts in three ways. The first is that they may cause negative impacts.⁹⁹ For instance, the lack of safety precautions could result in employees being injured, therefore failing to fulfill the company’s obligation to ensure occupational health and safety.¹⁰⁰ The second is that the business may contribute to negative impacts.¹⁰¹ An example of this is a company’s indulgence in its purchasing practices, that provides an incentive for suppliers to force employees to work unpaid overtime.¹⁰² The third method in which businesses could contribute to adverse impacts is if they are linked to such impacts.¹⁰³ For instance, if the company’s products are manufactured using forced labour.¹⁰⁴ These apply to all businesses irrespective of ‘their size, sector, operational context, ownership, and structure’.¹⁰⁵

On access to remedies, businesses must carry out Human Rights’ Due Diligence (HRDD) ‘to identify, prevent, mitigate and account for [...] human rights violations’¹⁰⁶ including in the matter of the workers’ rights. This could include monitoring of employee working hours through timesheets, keeping accurate records of holiday pay, and regularly interviewing workers to ensure their rights are being respected. Businesses should create mechanisms allowing workers to raise their concerns regarding their rights, and act accordingly. While the UNGPs do mandate the establishment of company-based grievance redressal mechanisms, it also stresses the importance of trade unions and the role these play in addressing labour disputes - in addition to other judicial and non-judicial forms of grievance redressal.¹⁰⁷ Trade unions in Thailand have repeatedly faced barriers and opposition from businesses subsidiaries at the country level as well as from the headquarters, with rampant anti-union measures and activities occurring during the union members’ registration and negotiations.¹⁰⁸ To comply with the UNGPs and other responsibilities set out therein, companies and their subsidiaries should refrain from preventing attempts at grievance redressal through collective bargaining. Moreover, multi-stakeholder collaborative initiatives based on human rights standards exist in Thailand and around the world, as will be discussed in the section on best practices and through the provision of codes of conduct, performance standards, framework agreements, complaints mechanisms, and other similar provisions.¹⁰⁹ These meet the requirement for making effective grievance mechanisms available to those who would like to raise legitimate concerns.¹¹⁰

3. PRACTICES ON THE GROUND: CHALLENGES, IMPACTS & SIGNIFICANT CASES

Challenge 1: At present, laws and policies on worker’s rights are inadequate, with significant gaps in their enforcement

Impact

In Thailand, the laws and policies on worker’s rights do not cover every right, nor every type of worker or all rights’ violations. Although the laws aim at protecting worker’s rights and ensure safe working conditions, they do so inadequately, with gaps in both policy and practice.¹¹¹

Case of inspections by the Department of Labour Protection and Welfare (DLPW) ¹¹²

In 2015, the DLPW under the Ministry of Labour (MoL) carried out inspections at 44,859 workplaces, which employed 1.6 million workers. These inspections focused mainly on industries, including wholesale/retail trade

(37%) and manufacturing (22%), with informal workplaces, such as construction (6%) and agriculture (2%) receiving fewer inspections. Through the inspections, the department found that 663 workplaces did not comply with labour protection laws. Most of these violations involved non-compliance with minimum wage, overtime and holiday pay, failure to provide annual holidays and to keep records of employee's wage payment and working hours, as well as failure to provide and announce work rules.

Challenge 2: Working conditions often do not meet standards set by international obligations and national legislations and policies

Impact

In Thailand, working conditions in practice are still substandard, and there is a general lack of respect for human dignity. Workers face numerous issues, such as employers' refusal to assign workers their jobs, confining workers to certain areas, abusing workers mentally, subjecting them to conditions that make them unable to continue their work, and not providing them with an adequate working environment in the form of health and safety.¹¹³

Case of fishing and seafood industry¹¹⁴

In a baseline study on working conditions in the fishing and seafood industry in Thailand, the ILO reported on the persistent challenges faced in the industry as follows: 34% of the workers claimed they were being paid less than the minimum wage, prior to deductions; women stated that they suffered from a wide gender pay gap as 52% of them received a pay that was below the legal minimum; 24% of fishermen saw their pay being withheld by vessel owners, sometimes for 12 or more months, and 34% of these individuals reported that they did not have access to their identity documents at all.

Challenge 3: There is a failure to comply with prescribed standards for occupational health and safety regulations

Impact

Workers in the informal economy are particularly likely to face sub-standard working conditions regarding occupational health and safety. For instance, informal workers and their families can easily be in an unsuitable work environment, as a result of their house being turned into a workplace.¹¹⁵ In addition, threats can arise due to a lack of adequate knowledge with regard to occupational health and safety needs. Moreover, while poor and faulty work tools can lead to accidents, unsuitable working posture can also cause workers to suffer from aches and pains.¹¹⁶ Informal workers can also suffer from other health and safety issues induced by their working conditions including: 'irregular employment, low wages leading to long working hours, and the lack of appropriate rest periods'.¹¹⁷ In addition, SMEs are also subject to occupational health and safety risks, with a large number of accidents and occupational diseases occurring within this sector.¹¹⁸ Thus, both the application and guarantee of protection regarding occupational health and safety is inconsistent, meaning some workers face riskier and more challenging working environments than others, simply due to the industry, sector or type of enterprise they work for or in.

Case of inspections by the DLPW¹¹⁹

Regarding occupational health and safety, in 2015, the MoL's DLPW carried out inspections at 16,538 workplaces, which employed 946,621 workers. As a result, the department found that 1,312 workplaces, or 8% of workplaces, violate the health and safety regulations. The failures to comply with the regulations include "the failure to establish safety committees, problems with machines and health check-ups, and inappropriate levels of heat, light, and noise in construction areas". The industries in which most violations to safety regulations occurred were the manufacturing, wholesale and retail trade, construction, and hotel and restaurant. After ordering the companies to make amends, most of them solved the violations. Nevertheless, inspectors still had to carry out more than 189 legal actions, following the failure of the employers in making amends or paying the required fine.

Challenge 4: There is a lack of knowledge on occupational health and safety, and a general negligence towards HRDD**Impact**

Despite an increased push for greater implementation of provisions on occupational health and safety in Thailand, gaps with regard to rights and responsibilities remain at the workplace. These exist both within businesses and amongst workers. There is a lack of information and publications on occupational health and safety management for the specific needs of each industry.¹²⁰ There is also a low awareness among workers on their safety and health because they lack knowledge on preventing occupational diseases and accidents.¹²¹ This creates a scenario in which businesses are unsure of how to implement appropriate sector and needs-based health and safety standards. Additionally, employees are unable to identify insufficient occupational health and safety measures, and thus fail to fight for the implementation of effective standards.

Case of safety at sea¹²²

A report by the Southeast Asian Fisheries Development Centre on safety at sea in Thai fisheries stated, ““case study respondents confirmed that in general, owners of fishing boats in Thailand do not pay considerable attention on safety issues and the quality of life of the crew working on board.””

Challenge 5: Although certain categories of informal workers are protected by legislations, they repeatedly face violations of their rights**Impact**

Informal workers, such as home-based workers, are protected by legislations. Despite the development of the Home-Based Worker Protection Act, they still face significant challenges and cannot prevent the violation of their rights in practice. Home-based workers, who are often women, fulfill remunerative work within their homes, but are found to have the lowest level of security and earnings amongst the Thai workforce.¹²³ The environment where home-based workers operate is largely unregulated. This environment is also often considered as being ““largely unknown, inappropriate and sometimes hostile to them””.¹²⁴

Case of Mrs Wimala Saengkaew¹²⁵

Mrs Wimala Saengkaew, known as Yui, worked as an embroiderer for ten years, earning a monthly income of five to six thousand Thai Baht (THB) (\$160 - \$190). When the company she worked for went out of business in 2000, Yui sought orders from other shops. She established an embroidery group, and as the number of members in the group grew, Yui had to find more work from more companies, including one that exported children's clothes made from organza to Nigeria. Yui worked long days, from seven in the morning to eight in the evening. Organza embroidering required her to breathe in the strong smell of kerosene every day. The oil can accumulate in the body and the starch-based fabric stabiliser could splash into one's nose, causing health damages. The company did not provide her with an employment contract. It only gave simple delivery notes and a notebook documenting delivery dates, the quantity of work delivered, and delivery signatures. Also, upon the reception of orders, wages were not paid instantly. With five lots of work delivered, only one lot was paid. One lot amounting to 1,200 pieces of embroidery; the group must send 6,000 pieces to get paid for 1,200 pieces. Despite the Homeworkers Protection Act mandating that workers must be paid promptly, this pattern of unpaid work continued. The embroiderers were also at the mercy of a quality control inspector. If any damage or substandard work was found, the work was rejected. With each rejection, wages were deducted at the rate of the clothing's price, which can be as high as 800 THB (\$25). Once, Yui gave a large amount of work to an outside group that failed to meet the supplier's timeline. Wages totalling 400,000 THB (\$12,700) were not paid. Although she tried to negotiate with the hirer, he claimed that the few days delay had a severe economic impact on him, and refused to pay. She had to work harder to support her family and pay the wages owed to the embroiderers. In retaliation, group members took her household appliances, television and linoleum away, leaving her house almost unfurnished.

Challenge 6: Informal workers are treated differently than formal workers; and are unable to access the same rights and protections**Impact**

Out of the total 38.7 million persons employed in 2010, 62.3% were categorised as informal workers.¹²⁶ Since informal workers in Thailand cannot be categorised as employees, as defined by the Labour Protection Act, the majority of protective laws do not apply to them.¹²⁷ While some laws have been implemented to protect workers in the domestic and agricultural sectors, their enforcement mechanisms are weak and ineffective, due to employers' unwillingness to comply.¹²⁸ Moreover, informal workers do not have employment contracts and they are unaware of their rights and of accessible mechanisms to challenge abuse and violations.¹²⁹ They are also ignored by social security laws, and therefore not entitled to unemployment, health and retirement insurance, and worker's compensation benefits.¹³⁰

Case of informal workers¹³¹

A study underlined that informal workers systematically present lower earnings at all earning levels compared to formal workers. There is a large income gap between formal and informal employment, with workers in the non-agricultural sector earning an average of three times more than those in the agricultural sector.

Challenge 7: Workers in the informal sector face barriers in accessing decent working conditions, occupational health, safety, social security benefits, and other labour protections, due to policies that violates their rights**Impact**

Due to frequent fines, inspections, and other forms of repeated harassment; street vendors and motorcycle drivers generally regard the actions of local government and law enforcement officers to be an impediment to rather than a means of enabling their livelihoods.¹³² Since 2014, restrictions placed on the use of public space following the Bangkok Metropolitan Authority's policy to 'return the footpath to pedestrians' have limited activities in public spaces, particularly those undertaken by vendors.¹³³ This policy has led to the revocation of the legal status of thousands of vendors and hundreds of legal vending areas; evictions in areas where unlicensed vending had been tolerated in the past; a ban on day-time vending; and the removal or relocation of vendors within a short period after notices were given.¹³⁴

Case of study by Women in Informal Employment: Globalising and Organising (WIEGO)¹³⁵

In a study on the informal economy in four different occupational sectors in Bangkok by WIEGO, vendors at Moobaan Nakila stated that they have managed to return to their markets regardless of the threats of eviction they have experienced for many years. Nevertheless, the vendors are placed under constant stress due to the uncertainty of their situation, which in turn, prevents them from improving their market conditions. Likewise, motorcycle taxi drivers have also had unpleasant experiences with law enforcement and other agencies, due to a legal framework which they described as one that allowed these agencies to "take advantage" of them, through constant demands for payment.

Challenge 8: The right of workers to collectively bargain and to access other remedies are generally disregarded and violated**Impact**

As of 2015, Thailand counted 1,520 registered trade unions, involving 180,097 State-Owned Enterprise (SOE) employees and 454,681 private-sector employees.¹³⁶ Thereby, union membership represented 3.5% of wage and salary workers, up from 3.1% in 2007.¹³⁷ Informal workers' networks and organisations have been set up, such as associations of taxi drivers, in the form of societies or cooperatives or associations of labour in the agricultural sector; however, they continue to lack serious bargaining power.¹³⁸ Trade unions represent a critical access point for workers of all sectors and industries in addressing labour-related disputes. In the past, various attempts have been made to dissolve unions, and limit the organisation of labour and movements of workers in

Thailand.¹³⁹ The Thai government has refused to ratify ILO Conventions 87 and 98 which cover the right to association, the right to organise and the right to engage in collective bargaining.¹⁴⁰ While the 2007 Constitution contained a provision to guarantee worker's organisation, the lack of an organic law hindered its implementation.¹⁴¹ Limited protection is provided in the amendment of the Labour Relations Act 1975 and the State Enterprise Labour Relations Act 2000, which guarantees the right to organise and bargain only for workers in the formal private sector excluding all civil servants, state employees, and workers in the informal sector.¹⁴² The outlined restrictions to assembly and to form unions are fuelling worker's limited understanding of labour rights and violations thereof. This, in turn, contributes to workers' lack of knowledge and information about mechanisms to seek assistance and ultimately remedy.

Case of Y-Tec¹⁴³

Y-Tec, a Japanese-owned auto parts manufacturer in Prachinburi province, monitored union members with CCTV, submitted them to random drug tests, dismissed some, forced others to resign, and filed a defamation charge against the union president over a social media post. While there is no union recognition, workers sometimes stage protests and strikes against working conditions. On 26 December 2016, workers formally registered the Prachinburi Automobile Part Workers Union, and sought recognition from Y-Tec. However, the company separated union from non-union members by putting them on night shifts. The company forced workers to resign on the basis of disrupting the working environment and increased its pressure by bribing and paying out workers to quit their jobs. Despite the submission of a complaint to the LRC, the company failed to comply with the order to reinstate workers. Subsequently, Y-Tec filed a legal appeal as well as defamation charges against the union president, Ruangsak Klaimala, and against an academic who criticised the company's practices.

4. EXAMPLES OF GOOD PRACTICES AND GUIDELINES TO GUARANTEE COMPLIANCE WITH THE UN GUIDING PRINCIPLES ON BUSINESS & HUMAN RIGHTS AND IN THE IMPLEMENTATION OF LAW AND POLICY

4.1. Good Practices & Guidelines led by Multi-stakeholders' Initiatives

4.1.1. Compliance with Thai Labour Standards: CSR of Thai Businesses (TLS 8001-2010)

For compliance with national standards and international obligations with respect to labour management, the Ministry of Labour of the government of Thailand developed a set of guidelines called the Thai Labour Standards (TLS): CSR of Thai Business (TLS 8001-2010), to serve as good practice for businesses and their subsidiaries to comply with.¹⁴⁴ In addition to requiring the establishment of a management system and representative within a business for the management of policies on social and labour accountability, it also sets guidelines on remuneration, working hours, disciplinary deductions or penalties, freedom of association and collective bargaining, occupational safety and health, as well as basic welfare provisions.¹⁴⁵ While these guidelines are by no means inclusive of all the laws, policies, and practices to be implemented for ensuring decent working conditions for formal and informal workers, it does serve as a good starting point. With the goal of obtaining a TLS certification from the MoL, these guidelines have been implemented in the management practices of several Thai companies and their subsidiaries.¹⁴⁶

4.1.2. Thailand's social protection under the pensions' system

Under the Voluntary Social Insurance Scheme, the government of Thailand participates in the contributory pension system by providing a contribution matching that of the contributing person, institution or enterprise.¹⁴⁷ In addition, a minimum universal social pension, the Old Age Allowance (OAA) in Thailand exists for all citizens who are aged 60 or over.¹⁴⁸ To many in the informal economy, this serves as the only form of pension that they have access to.¹⁴⁹ While this is a step in the right direction, it is still a far way off from making these individuals self-sufficient, and from protecting and promoting their rights.

4.1.3. Thai government subsidies on fuel prices for informal workers

To address the increasing cost of fuel globally, the RTG is attempting to provide Gasohol 95 at subsidised rates, through SOEs such as PTT Plc and its grassroots scheme to motorcycle taxis,¹⁵⁰ expanding on its previous policy of subsidising the cost of fuel, particularly compressed natural gas (CNG) for street vendors.¹⁵¹ However, this subsidy is only available to motorcycle taxi drivers who hold welfare cards and are registered with the Department of Land Transport.¹⁵² Therefore, while this is a good practice benefitting informal workers who are working as motorcycle taxi drivers or street vendors, the problem remains that the welfare card in itself carries with it a host of issues. Amongst these, the primary issue is the wrongful registration of welfare cards. While the Office of the National Economic and Social Development Board (NESDB) estimates the number below the poverty line to be four to five million people,¹⁵³ 11.1 million people are registered for welfare cards.¹⁵⁴ Even if the poverty line is lifted by two times, the amount would increase to eight to nine million, which is still lower than the 11.1 million that obtained cards.¹⁵⁵ There have also been claims that the screening committee re-screened the applications until the number reached 11 million,¹⁵⁶ pointing towards a misuse of this process and issuance of welfare cards.

4.2. Business-led Good Practices & Guidelines

4.2.1. Aligning with the principles of the UN Global Compact (UNGC)

With more than 12,000 members in 160 countries, the UNGC is the largest corporate sustainability project, with participants from the business sector, labour associations and organisations.¹⁵⁷ To align with international laws and policies on sustainable business practices, the UNGC has set out ten guiding principles on human rights, labour, environment, and anti-corruption, and a number of collaboration and innovation examples as goals in practice.¹⁵⁸

With respect to decent working conditions, the UNGC principles 1 and 2 stipulate that ‘businesses should support and respect the protection of internationally proclaimed human rights’ and ‘make sure that they are not complicit in human rights abuses’.¹⁵⁹ While addressing decent working conditions, these principles cover minimum wage, occupational health and safety, working hours, rest periods, annual leave, welfare measures, and so on. They are also in line with CESCR’s General Comment No. 23 on the right to just and favourable conditions of work.¹⁶⁰ On access to remedies by workers, principle 3 requires ‘businesses to uphold the freedom of association and effective recognition of the right to collective bargaining’.¹⁶¹

Businesses part of the UNGC are expected to incorporate these principles in their operations and annually report on how their efforts have progressed,¹⁶² a step that has been taken by businesses in Thailand as well.¹⁶³ Failure to do so for two consecutive years, results in expulsion from the UNGC.¹⁶⁴ In Thailand, over 50 companies have signed on to the UNGC and a number of them have made commitments to abide by its principles.¹⁶⁵ Notable amongst them are the CP group,¹⁶⁶ PTT¹⁶⁷ and True,¹⁶⁸ who have taken steps to ensure the adherence to and understanding of international human rights principles.

4.2.2. Participation in the UNGC Action Platform on Decent Work in Global Supply Chains

In 2017, the UNGC established an Action Platform on Decent Work in the Supply Chain as a means to facilitate dialogue and collaboration with respect to businesses and their role in promoting decent work in the supply chain.¹⁶⁹ This platform helps in the promotion of SDGs, the UNGPs, the ILO’s Fundamental Principles and Rights at Work, and the ten principles of the UNGC.¹⁷⁰

4.2.3. Management of risks with the International Finance Corporation’s (IFC) Performance Standards on Environmental and Social Sustainability

Guided by standards set in the international conventions of ILO and the UN, the IFC’s Performance Standards on Environmental and Social Sustainability provides guidance for businesses IFC invests in, in terms of responsibility and risks and impacts identification, in an attempt ‘to avoid, mitigate and manage the risks and impacts as a way of doing business in a sustainable way’.¹⁷¹ Performance Standard 2 addresses labour and working conditions, providing for the balance between economic growth and protection of the rights of workers.¹⁷² This standard requires the assessment of working conditions such as wages, benefits, working hours, overtime,

compensation, and leave; membership to worker's organisations; collective bargaining; terms of employment; occupational health and safety, and adverse impacts associated to the supply chain.¹⁷³

4.3. Good Practices & Guidelines led by Multilateral Initiatives

4.3.1. Assessing the human rights performance of businesses according to the Corporate Human Rights Benchmark (CHRB)

The CHRB is a multi-stakeholder initiative which methodologically assesses the performance of businesses in line with human rights standards, including the UNGPs, amongst other international instruments and standards set therein.¹⁷⁴ This was compiled following a consultation with more than 400 representatives including businesses, investors, state actors, CSOs, academics, and those with legal expertise.¹⁷⁵ One of its indicators evaluates if a business is committed to respecting the human rights of workers by 'respecting the principles concerning fundamental rights at work in the eight ILO core conventions as set out in the Declaration on Fundamental Principles and Rights at Work, together with those human rights of workers that are particularly relevant to the industry. There must also exist a statement of policy committing it to respect the human rights of workers in business relationships.'¹⁷⁶

4.3.2. The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises and the National Contact Points (NCPs) for Responsible Business Conduct

In line with applicable laws and international standards, the OECD Guidelines for Multinational Enterprises provides governmental recommendations to multinational corporations.¹⁷⁷ These are multilateral, non-binding principles, and standards that establish responsible business conduct in a global context, and promote positive practices of businesses towards the economy, environment, and society.¹⁷⁸ For the implementation of these guidelines, governments have established agencies called NCPs.¹⁷⁹ Complaints regarding human rights violations and their impact on the supply chain are brought against transnational corporations through this non-judicial mechanism.¹⁸⁰ There are several examples of complaints brought before and decided upon by NCPs. In the case of Thailand, Suzuki, Electrolux, and Mölnlycke are relevant examples of complaints regarding the working conditions of both formal and informal workers.

A coalition of trade unions and NGOs from Thailand and Japan filed a complaint against the Japanese Suzuki Motor Corporation for violation of labour rights, including the right to freedom of association and collective bargaining by its manufacturing unit in Thailand.¹⁸¹ The complaint filed called for the development and implementation of due diligence procedures, prosecution of those who violated the labour rights of workers, and provision of reparation for harm suffered.¹⁸² The Corporation communicated to the NCP in Japan that they refused to participate in any attempt at mediation with complainants, but they did agree to respect and submit to all legal procedures undertaken in Thailand.¹⁸³ In response, the NCP solely recommended that the company and its subsidiary in Thailand comply with the OECD Guideline for Multinational Enterprises.¹⁸⁴

Complaints were filed before the Swedish NCP, against Electrolux and Mölnlycke by the NGO Swedwatch, for two separate instances of anti-union conduct. In the Electrolux case, the complaint concerned actions by a subsidiary of Electrolux in Rayong, which was associated with anti-union practices following wage negotiations.¹⁸⁵ After these negotiations, they suspended the trade union's chairperson, placed all the protesters in detention against their will, and fired about a hundred employees who had taken part in demonstrations.¹⁸⁶ The complaint against Mölnlycke alleged that a Thai factory of the company refused to inform floor workers about the ongoing negotiations, and then subsequently suspended ten union members who disseminated related information, without providing any justification.¹⁸⁷ The NCP rejected both these complaints claiming that there were ongoing social dialogues between the local management and the trade union in both the cases.¹⁸⁸ These social dialogues were undertaken in response to the filing of the complaints before the NCP, and attempts were made by both companies to improve the situation, even though they denied having violated the OECD guidelines.¹⁸⁹ The NCP is still monitoring the situation.

As a grievance redressal mechanism, the problem remains that NCPs can only provide non-binding recommendations in response to a complaint. The enterprise can therefore choose whether to comply with or

not. A stronger enforcement of this accountability mechanism must be built into NCP's structure and in policy that guides its function.

5. RECOMMENDATIONS AND ACTION PLAN FOR THE STATE: PILLAR I AND PILLAR III

5.1. PILLAR I: STATE DUTY TO PROTECT

Priority Area 1	Adoption, repeal and amendment of laws and policies		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Enact laws and policies that protect labour rights in line with international standards.	Examples include the adoption of laws and policies that align with ILO Conventions 87, 98, 131, 183 and 189.	The NLA, MoL	The laws should mandate both the State and the private sector to protect labour rights. Timeline: 3 years – 2019-2021
Repeal or amend laws and policies that violate labour rights and human rights including Articles 23 (3) and (4) of The Universal Declaration of Human Rights (UDHR); Articles 7 and 8 (1)(a)-(b) of ICESCR; RES 2008/18 of the United Nations Economic and Social Council (ECOSOC); United Nations General Assembly (UNGA) RES 31/15; United Nations Human Rights Council (UNHRC) Resolution 15/21; A/71/385 (2016) of the UN Special Rapporteur on the Right to Freedom of Peaceful Assembly and Association; CESCR General Comment No. 23; Article 27 of the ASEAN Human Rights Declaration; and the Concluding Observations for Thailand made by the CESCR in 2015 and by the Committee on the Elimination of Discrimination Against Women (CEDAW) in 2017.	The Labour Relations Act should be amended to prevent restrictions on the right to form a union and collectively bargain. A notification by the Wage Committee undermines the right to minimum wage of workers in certain sectors and must also be amended. Repeal the amendment to the Factories Act and ensure that the activities of all industrial establishments continue to be regulated through compulsory licensing, inspections and overall regulations to ensure the compliance with labour standards.	The NLA, MoL	Provisions must prevent discriminations and violations of international obligations and standards. Timeline: 2 years – 2019-2020 All establishments, no matter the size must be required to meet labour standards. Regular inspection should be undertaken to ensure their continued compliance. Timeline: 1 year - 2019
Ensure the enforcement of already existing laws guaranteeing labour protection.	This can be carried out through the formulation of policy and regulatory frameworks, incorporating protective measures.	The NLA, MoL	It must contain provisions on compliance with minimum wage, overtime work, holiday pay, and the provision of annual holidays. Timeline: 2 years – 2019-2020
Implement laws and policies which legitimise and	Participation of communities must be guaranteed with	The NLA, MoL	To address participation, it must cover individual

guarantee the participation of communities and workers in business-related decisions.	respect to their rights, including the right to collective action through the formation of trade unions.		situations, groups, and enterprises. Timeline: 1 year – 2019
Provide clear guidelines for businesses regarding labour laws that can be implemented with immediate effect.	Guidelines for businesses should address working conditions, occupational health, social security, and access to remedies and sexual harassment at the workplace.	The NLA, MoL	They should prevent companies from inadvertently breaking labour laws or taking advantage of the lack of clarity of the laws to avoid complying with labour standards. Timeline: 2 years – 2019-2020
Adoption, repeal and amendment of the law should not be subjected to ‘corporate capture’.	Governmental actors should refrain from promoting the interests of influential businesses while making any modifications or promulgating new laws.	The NLA	This is particularly relevant in cases where such business interests result in provisions that infringe on the rights of individuals. Timeline: 1 year – 2019
Adopt national policies on Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) in the world of work, and include such aspects in all poverty reduction strategies and development plans, towards the achievement of a standard of decent work, and to ensure occupational health and safety. This must be done in accordance with the provisions of ILO Convention No. 111 and ILO Recommendation No. 200.	The policies should provide clear and concise guidelines for employers to guarantee decent working conditions as well as occupational health and safety for all workers, particularly for those who are vulnerable due to their HIV status or at a higher risk owing to their profession, population group, and other aspects that increase their susceptibility.	The NLA, MoL, the Ministry of Public Health, (MoPH)	These should be developed with the involvement of organisations of employers and workers, organisations representing people living with HIV, and the health sector, both in design and implementation. Timeline: 2 years – 2019-2020

Priority Area 2	The State as an economic actor		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Promote the protection of rights when the government is entering into agreements with businesses or when state enterprises are involved.	The government should carry out economic activities with complete transparency and with respect for human rights. For instance, in procurement, supply and recruitment processes under the Government Procurement and Supplies Management Act.	Ministries and authorities involved in business transactions such as Ministry of Energy, Electricity Generating Authority of Thailand (EGAT)	Accountability measures must be provided. Timeline: 1 year – 2019
Inclusion of HRDs in the	The provisions in the Human	RLPD, MoJ	It must include clearly

National Human Rights Plan of 2019-2023.	Rights Plan must recognise, support and protect HRDs.		outlined results and outcomes that are expected, along with a timeline. Timeline: 1 year – 2019
Priority Area 3	Raising awareness with respect to rights		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Raise awareness on human rights and labour rights principles, practices, and processes.	Mandatory human rights education must be carried out to disseminate knowledge on the potential and actual impact of rights and on possible violations.	MoJ, MoL, the Ministry of Education	Training must be provided to civil society actors, the government, as well as to relevant private sector actors throughout the country. Timeline: 3 years – 2019-2021
Priority Area 4	Occupational Health and Safety		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Formulate policy to monitor occupational health and safety, in line with Article 7 of ICESCR; CESCR General Comment No. 9; UNGA RES 31/15; Article 2 of ILO Convention No. 187; ILO Recommendation No. 200, and ASEAN Guidelines for Occupational Safety and Health.	The policy must cover informal work; SMEs; and industries, sectors or enterprises where occupational health and safety of workers is at risk. It must also include specific measures or policies to address HIV and AIDS related to the workplace, including for those who are employed and seeking employment.	The NLA and MoL	To evaluate the effect and efficiency of the taken actions, interventions, outcomes, and the progress must be monitored. While drafting policy related to HIV and AIDS, ILO code of practice on HIV/AIDS must be taken into consideration. Timeline: 2 years – 2019-2020
Priority Area 5	Provision of social security measures		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Provide social security measures through public systems and institutions, when possible. Ensure that if privatised, social security and social protection are not sacrificed for economic efficiency and gain, in line with A/73/396 (2018) Report of the UN Special Rapporteur on extreme poverty and human right.	Protective measures should be put in place so that, even if privatised, sufficient resources and time are dedicated to the determination and provision of these services to all individuals, particularly those that would otherwise face marginalisation.	MoL, the Ministry of Social Development and Human Security (MSDHS)	Levels of accountability comparable to those adopted in the public welfare system should be maintained. Timeline: 1 year – 2019
Priority Area 6	Rights of workers in the Informal sector		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Provide clear guidelines for businesses and workers in the informal sector, in line with	Guidelines addressing basic labour rights such as the right to minimum wage, to decent	MoJ and the MoL	Put in place provisions for implementation and monitoring of applicable laws

Article 7 of ICESCR; Article 5 of Committee on the Elimination of Racial Discrimination (CERD); Article 11 of CEDAW; Article 33 of CRC; Article 27 of the Convention on the Rights of Persons with Disabilities (CRPD); Article 25 of the International Convention on the protection of all Migrant Workers and members of their Families (ICMW); Article 2 of ILO Convention No. 187; UNGA RES 31/15; CESCR General Comment No. 9; the ASEAN Guidelines for Occupational Safety and Health; A/71/385 (2016) of the United Nations Special Rapporteur on the Right to Freedom of Peaceful Assembly and Association; the recommendations made by the CESCR in 2015; and the CEDAW in 2017.	working conditions, and to occupational safety must be formulated.		and standards. Timeline: 3 years – 2019-2021
Provision of social security benefits to informal workers who work in a regulated environment.	Access to benefits such as health care, universal education, and social protection should be extended to informal workers who operate in a regulated environment with taxation.	MoL	Put in place provisions for implementation and monitoring of applicable law and standards, including workers' compensation. Timeline: 3 years – 2019-2021
Strengthen enforcement mechanisms that are weak or ineffective, with respect to informal workers who enjoy rights under the law.	Informal workers must be informed of their rights and of accessible mechanisms to challenge abuse and violation of rights.	MoL and MoJ	This is particularly with respect to domestic and agricultural workers. Timeline: 3 years – 2019-2021
Priority Area 7	Rights of migrant workers		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Ensure that businesses provide fair wages and social security to migrant workers.	This should include the provision of health insurance to migrant workers, to help cover health related expenses.	MoL	This must be in line with domestic laws and policies, specifically with respect to the Thai national minimum wage. Timeline: 3 years – 2019-2021
Provide access to the Employee Fund, in accordance with the Labour Protection Act.	Labour inspectors should simplify the process of document submission, for eligible undocumented workers to access the fund.	MoL	All workers must be able to access the fund, regardless of their legal status. Timeline: 1 year – 2019

Provide effective access to judicial and non-judicial remedies.	These remedies should be provided to migrant workers who are victims of human rights abuses.	MoJ and MoL	It must provide adequate compensation or other remedies. Timeline: 2 years – 2019-2020
A complaint mechanism should be created and implemented for migrant workers.	This mechanism should extend to migrant workers who suffer from rights violations, specifically at the provincial level.	MoJ and MoL	It must be accessible, effective and independent. Timeline: 2 years – 2019-2020
Priority Area 8		Addressing the economic loss caused by unpaid care work	
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Recognition of unpaid care work (such as cooking, washing cleaning, shopping, taking care of children, the ill, disabled, and elderly) by tracking how such work impacts the ability of persons to commit to paid work.	Determine the number of persons (predominantly women according to statistics) involved in unpaid care work, by tracking factors such as class and socio-economic status, amongst other aspects.	MoL, MSDHS	These statistics must help determine which steps should be taken to ensure the employment gap closes, including the gender wage gap, job segregation and a resulting access to income. Timeline: 2 years – 2019-2020
Reduction of unpaid care work, so that all households have equal access to professional paid care services.	This can be achieved through transferring the burden of unpaid care work to the State, through the provision of public subsidies and public provision of quality social care services. The improvement of infrastructures, particularly in rural areas, will also reduce the time spent on unpaid care work, such as carrying water, collecting firewood etc.	MoL, the MSDHS	These provisions should be provided to persons irrespective of class, socio-economic status, geographic location, citizenship, and type of work. Timeline: 2 years – 2019-2020
Redistribution of unpaid care work to other persons in the household.	Measures to achieve this include the implementation of regulations that require paternity and parental leave, and shorter work hours, among other provisions.	MoL	Enforcement of such measures should be ensured in a uniform manner. Timeline: 2 years – 2019-2020
Priority Area 9		Rights of marginalised groups	
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Ensure that companies do not neglect safety standards with respect to groups that are excluded and face discrimination.	Protections with respect to health and safety standards must be guaranteed and monitored.	MoL	All workers such as pregnant women, elderly workers, LGBTI persons, and indigenous communities, amongst others, must be treated fairly.

			Timeline: 3 years – 2019-2021
Ensure that companies provide benefits to these groups, such as the right of pregnant women to maternity benefits and maternity leave.	The State must adopt laws, such as ILO Convention 183 on Maternity Protection; and formulate policy to address discrimination. Laws should also address workers over 55 years, who are otherwise ineligible to register for benefits and services.	The NLA, MoL	All workers such as pregnant women, elderly workers, LGBTI persons, and indigenous communities, amongst others, must be treated fairly. Timeline: 3 years – 2019-2021

5.2. PILLAR III: ACCESS TO REMEDY

Priority Area 1	Law and policy on access to remedies and compensation		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Monitor the effective implementation of labour legislation and the occurrence of labour rights violations.	Set up an independent body with a transparent process to monitor implementation.	MoL	Maintain documentation to study patterns of implementation that can be used to remedy gaps. Timeline: 1 year – 2019
Review, revise, and improve current legislation to increase punishments for rights' violations, and to comply with international and domestic human rights standards set out in UDHR, ICESCR, and the UNGPs, and aligning with criminal law.	It must be carried out in consultation with a people's committee representing civil society and workers.	The NLA, MoJ	Consensus amongst civil society and workers can be obtained through coordination efforts carried out with trade unions at their centre. Timeline: 2 years – 2019-2020
Provide measures through law or policy that guarantee the protection of workers in legal disputes with their employers.	Measures must be included to protect workers from retaliation or termination. Whistle-blowers should also be guaranteed protection against retaliation.	The NLA, MoJ	There must be safeguards in place, if employers retaliate through indirect means. Timeline: 1 year – 2019
Priority Area 2	Process and content of grievance redressal mechanisms		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Provide a maximum timeframe for the processing of a case in a judicial and non-judicial labour-related grievance redressal mechanism.	This would place a limit on the maximum amount of time for which an individual has to go without an income. It could be set at 90 days.	MoJ, MoL	This must be reviewed upon enforcement. Timeline: 1 year – 2019
Ensure that the Justice Fund reaches workers who are victims of human rights and labour rights violations.	The Justice Fund should be made available for workers to access legal proceedings covering violations of labour rights and human rights.	RLPD, MoJ	Accessibility must be extended to workers from communities that are normally excluded or discriminated against, and stateless people. Timeline: 2 years – 2019-2020

Prevent non-execution of mediation agreements between businesses and workers.	An enforcement mechanism must be put in place for mediation agreements that are not legally binding. Workers should not have the responsibility of ensuring execution of these agreements.	moJ, MoL, and Labour Courts	The execution of mediation agreements must be part of the process before the Labour Court. Timeline: 1 year – 2019
Inspect termination of businesses that are part of grievance redressal processes.	Measures must be formulated to inspect the closing of businesses that have to pay compensation to workers, and ensure pending payment is completed before closure.	MoL and Labour Courts	To open a new business, companies must submit receipts of payment for compensation in previous cases. Timeline: 1 year – 2019
Compensation committee must provide appropriate compensation to workers without discrimination, in accordance with the 2001 Damages Act.	The capacity and resources of this fund, that is now running short, must be increased. The Compensation Committee must not discriminate against stateless and other undocumented workers.	RLPD, MoJ	The fund should address all aggrieved parties whose remedy cannot be covered by the convicted party. However, this should be subjected to the availability of funds. Timeline: 1 year – 2019

Priority Area 3		The right to collective bargaining and the formation of trade unions	
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Adopt laws to uphold the right to collective bargaining.	This can be done through the adoption of ILO convention 87 on the freedom of association and on the right to organise; and ILO Convention 98 on the right to organise and collective bargaining.	The NLA, MoJ, MoL	This would strengthen the access to remedies for violation of labour rights. Timeline: 2 years – 2019-2020
Protect workers from potential retaliation during unionisation process.	To register a union, at least ten workers are required to submit their names and the verification process vets employees' names and employment status. This process must be made confidential and must have built-in safeguards.	MoL	This process must not result in the violation of their other rights. Timeline: 1 year – 2019
Civil servants and other State employees must be allowed to bargain collectively.	They must be allowed to form and register unions, as opposed to associations through which they cannot collectively bargain.	The NLA	This must strengthen the access to remedies for violation of labour rights. Timeline: 2 years – 2019-2020
Support the formation of trade unions for marginalised and excluded communities, as well as informal workers.	This can be done through encouraging and supporting the collective organisation of these workers.	MoL	The process must help them gain more negotiating power. Timeline: 2 years – 2019-2020

Problems in the unionisation of migrant workers must be addressed.	Problems include: their right to only become members and not directors of a union; language barriers; lack of understanding of their rights; frequent changes in employment; restrictive union regulations; and segregation from Thai workers.	MoL	The process must help them prevent the violation of their other rights. Timeline: 2 years – 2019-2020
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5. RECOMMENDATIONS AND ACTION PLAN FOR BUSINESSES: PILLAR II AND PILLAR III

6.1. PILLAR II: CORPORATE RESPONSIBILITY TO RESPECT

Priority Area 1	Adherence to legislations and standards of human rights and labour rights		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Businesses must address adverse human rights impacts in which they are directly or indirectly involved, in compliance with national laws and international standards, as set out in the ILO Conventions and the UNGPs.	Through policies and practices, workers should be guaranteed the protection of their non-labour rights through human rights priorities, as particular to the sector, industry, and area of operation.	Businesses	Existing policy and modes of implementation must also be mapped for coverage and to determine gaps. Regular reviews and consultations with internal and external stakeholders will help create a robust policy. Timeline: 2 years – 2019-2020
Businesses must be held responsible for the human rights impact of their supply chain, determined in accordance with international human rights standards as established by the UDHR, ICESCR, and the UNGPs.	The supply chain recruitment, outsourcing, and subcontracting must be inspected to prevent practices that yield undesirable impact on human rights.	Businesses	This can be undertaken through the use of due diligence mechanisms to identify, prevent, mitigate, and account for actual and potential adverse impacts. Timeline: 2 years – 2019-2020
Provide workers with a good working environment, as affirmed by Articles 23(3) and 24 of UDHR; Articles 7 and 9 of ICESCR; CESCR General Comments No. 19 and 23; UNGA RES 31/15; RES 2008/18 of ECOSOC; A/71/385 (2016) of the UN Special Rapporteur on the Right to Freedom of Peaceful Assembly and Association; Articles 27 and 30 of the ASEAN Human Rights Declaration; and the Concluding Observations on	The work environment should be safe, include a fair and realistic minimum wage, reasonable working hours, social security, and recognition of rights of both formal and informal workers.	Businesses	Regular and periodic assessment of the working conditions, wage, hours of work, and social security measures guaranteed to formal and informal workers. Timeline: 1 year – 2019

Thailand made by the CESC in 2015 and the CEDAW in 2017.			
Refrain from using tactics that force employees to terminate their employment contracts early, in violation of human rights legislations and standards, like those established by the UDHR, ICESCR and the UNGPs.	Companies should not intentionally adopt policies and practices to traumatise, exhaust their workers or take any other steps that would violate their fundamental human rights.	Businesses	This should be analysed along with the concomitant acceptable standards based on the right(s) violated. Timeline: 1 year – 2019
Workers should be allowed to enjoy all their rights, including the right to assembly.	All businesses must remove limitations imposed on the full enjoyment of workers' right to assembly.	Businesses	Any action placing workers under the control of a business, government or any other actor would amount to such a limitation. Timeline: 1 year – 2019
Undertaking HRDD.	Businesses should use HRDD to identify, prevent, and mitigate human rights violations regarding working conditions. This can be done by effectively monitoring employees' working hours through timesheets, keeping accurate records of holiday pay, and regularly interviewing workers to ensure their rights are being respected.	Businesses	An effective HRDD process must include contributions from affected workers, civil society, individuals, and communities. They must be incorporated into business practices. Timeline: 2 years – 2019-2020
Align national initiatives that set up codes of conduct and ethics on business engagement with BHR, the UNGPs, and with standards provided in international legislations and policies.	The frameworks provided by the Code of Conduct of the Federation of Thai Industries and the Code of Ethics of the Thai Chamber of Commerce must be harmonised according to international labour and human rights standards.	The Federation of Thai Industries and the Thai Chamber of Commerce	While compliance with these codes is rewarded, businesses must also be held accountable for violations. Timeline: 1 year – 2019
Priority Area 2	Raising awareness and empowerment to access human rights and labour rights		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Educate workers on their rights and on remedies to violation of their rights.	This includes human rights and labour rights, under domestic and international legislations and policies. They must also be made aware of processes and policies on grievance	Businesses	The engagement of workers with their rights is essential and contributes to a more productive workforce. Timeline: 2 years – 2019-2020

	redressal, including regarding the compensation they are entitled to.		
Adopt a bottom up approach to empower those at the base of the supply chain and the organisational structure of the business and its subsidiaries.	To achieve this, structural change must address power imbalances, to ensure that the people whose rights are likely to be violated are in a position to amplify their voices. This will allow them to raise any concerns with respect to the violation of their rights and seek solutions. .	Businesses	Such structural change should be formalised through the implementation of a company policy that addresses internal structure and places this as a condition on subsidiaries and those part of the supply chain for continuing association with them. Timeline: 3 years – 2019-2021
Educate departments and sectors within the company on the importance of supply chain sustainability.	Companies should dedicate some time to educating those working in the company's management on the long-term benefits of a supply chain that respects laws, policies and good practices on decent working conditions.	Businesses	This should not just be implemented within large corporations, but also amongst their subsidiaries. Timeline: 2 years – 2019-2020
Priority Area 3	Platform for monitoring and tracking information		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Dedication of resources to ensure the sustainability of the supply chain is essential.	A team of professionals should be responsible for ensuring sustainability in supply chains, by monitoring standards of work adopted by businesses and individuals. Investment should be set aside to specifically target responsible sourcing from suppliers who maintain decent working conditions and standards of employment that workers are entitled to.	Businesses	This should serve to ensure that existing businesses and individuals as well as future entrants in the supply chain maintain decent working standards. Timeline: 1 year – 2019
Create a platform for data sharing or automated data systems that monitor and track supplier information, for instance through blockchain technology.	These platforms or systems should be designed to streamline the determination of where issues occur, and what are their root causes. Sharing these at the national or regional level will enhance tracking of rights' violation,	Businesses	This should result in an increased transparency in the supplier base when violations of working conditions occur. Timeline: 3 years – 2019-2021

	while reducing the resources that have to be dedicated to it.		
Priority Area 4	Addressing the economic loss caused by unpaid care work		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Provide solutions that recognise and reduce the economic loss caused by unpaid care work.	This can be achieved by innovating and implementing work practices that are care friendly. Also, the provision of in-house high quality and user-friendly care services by businesses can address this loss.	Businesses	These practices and provisions should recognise the gender and class dimensions proper to this issue. Timeline: 2 years – 2019-2020
6.2. PILLAR III: ACCESS TO REMEDY			
Priority Area 1	Process and result of grievance redressal mechanisms		
Recommendations (Goal to be achieved)	Actions	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Create complaint mechanisms for workers to raise concerns regarding their rights.	The mechanisms set up must be independent and fair, with dedicated personnel who have the power to act to remedy these abuses. The person in charge must have decision-making power and fix a clear timeframe to solve these problems.	Businesses	The mechanism must receive workers' concerns and take steps to remedy any present or future violations, with workers' participation. Timeline: 1 year – 2019
Grievance redressal mechanisms conducted within a company must provide an effective remedy.	Compensations must be provided for actual losses of livelihood, losses caused by unintended deficiencies and the costs incurred as a result of legal proceedings. The business must contribute to a remedy fund that can be used in the case of rights violations.	Businesses	Compensations must be full and adequate and cover the loss of occupation and livelihood. Timeline: 1 year – 2019
Avoid misleading workers on remedies and compensations available to them.	Businesses must refrain from directing workers to seek remedy from social security legislations with smaller benefits. They must instead direct workers towards compensatory funds, so that they are adequately compensated regarding treatment expenditures for their	Businesses	Compensations obtained must be sufficient and effective. Timeline: 1 year – 2019



injuries.

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MANUSHYA
Empowering Communities | Advancing Social Justice

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

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