**UNITED NATIONS DEVELOPMENT PROGRAMME**

**Project Title**: *Business and Human Rights in Asia: Promoting Responsible Business Practices through Regional Partnerships (B+HR Asia)*

**Project Number:**

**Implementing Partner:**

**Start Date:** **End Date:** **PAC Meeting date:**

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| **Brief Description** |
| Over several decades in Asia, pro-growth economic policies have encouraged a rapid influx of foreign direct investment (FDI) and increased international trade flows. In turn, these forces have driven significant gains in jobs, industrial production, and innovation, as well as achievements in health care provision and education. Yet, fast-paced economic development has also resulted in a wide variety of human rights abuses, and devastating levels of environmental degradation with long term regional and global consequences. There is now wider concern among governments, businesses, consumers, and youth, that the adverse impacts of business operations in Asia may be jeopardizing the future prosperity of the region. To ensure a sustainable future, a renewed commitment is required to international labour standards and the provision of decent work­­­, environmental protections, rights to land and livelihood, and the rights of migrants, women and indigenous peoples, under the framework provided by the UN Guiding Principles on Business and Human Rights (UN Guiding Principles).The goal of this five-year project is to promote the implementation of the UN Guiding Principles in Asia through regional efforts focused on advocacy, policy development, technical advisory support, capacity building, awareness raising, innovation platforms, regional peer learning events, and South-South cooperation. As such, this regional project contributes to the UNDP Asia-Pacific Regional Programme Output 2.3 Institutions, networks and non-state actors strengthened to promote inclusion, access to justice, and protect human rights (UNDP Strategic Plan 2.2.2 and 2.2.3). Project activities are channelled towards five (5) principle outputs: 1) regional peer learning and training events that build regional momentum and inform progress on implementation of the UN Guiding Principles; 2) regional strategies in support of the advancement of National Action Plans, or similar policy frameworks, in furtherance of implementation of the UN Guiding Principles; 3) a partnership architecture bringing greater coherence to policy and advocacy efforts among actors working on a regional level on business and human rights; 4) strengthened CSOs and NHRIs that provide access to effective remedy for violations of human rights in the context of business operations and; 5) greater policy coherence and public discourse on trade and international investor agreements, and their relationship to the business and human rights agenda. Based on a year-long scoping and piloting phase, funded by the Regional Development Cooperation Section at the Embassy of Sweden in Thailand, the proposed project will be implemented by the UNDP Bangkok Regional Hub in collaboration with UNDP Country Offices in the region and in partnership with regional initiatives, NHRIs, CSOs, other UN agencies, and the UN Working Group on the issue of human rights and transnational corporations and other business enterprises.  |

Contributing Outcome (UNDAF/CPD, RPD or GPD):

Indicative Output(s):

|  |  |
| --- | --- |
| **Total resources required:** |  |
| **Total resources allocated:** |  |
| **UNDP TRAC:** |  |
| **Donor:** |  |
| **Donor:** |  |
| **Government:** |  |
| **In-Kind:** |  |
| **Unfunded:** |  |

Agreed by:

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| Government | UNDP | Implementing Partner |
| Print Name: | Print Name: | Print Name: |
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# Development Challenge

**Introduction**

Asia has long been synonymous with economic dynamism. Over the last several decades, the value of capital investment and trade flows has ballooned in the region, lifting hundreds of millions of people out of poverty. Today, the ASEAN sub-region is the world’s sixth largest economy—with a combined GDP of almost US$2.6 trillion—and the world’s fourth largest exporting economy.[[1]](#footnote-2) South Asia’s economic heft is also measured in superlatives. In 2017, the sub-region delivered more than 60% of global economic growth.[[2]](#footnote-3) With these figures in mind, some economists believe Asia will become the world’s largest economic region by 2030.[[3]](#footnote-4)

These growth trajectories are primarily due to private sector forces, unleashed by pro-growth policies, backed by foreign direct investment (FDI), and driven by the productivity gains of global value chains. These factors in turn, have led to high employment, and technological and management innovations. Stronger education, workforce skills and health care provision has resulted, incomes have risen, and new industries and domestic markets have taken root.

However, rapid growth has not been without costs and risks. In many countries in Asia, economic growth is linked to contaminated water supplies, accelerated deforestation, and increased air pollution. Large infrastructure projects have led to environmental degradation, land grabs, and displacement. Labour-intensive manufacturing has enabled hazardous working environments, exploitation, and other rights violations with long term implications on the stability and prosperity of individuals, families and communities.

Human rights risks and environmental degradation have also complicated trade relationships between advanced and emerging economies. Human rights abuses in factories, fishing boats, and plantations have given rise to contentious debates over social values and the role of trade in supporting or undermining those values. Documented abuses have also imposed significant reputational, legal and operational costs on firms. In some countries, foreign direct investment (FDI) flows, a critical factor in income and value generation, may have been diverted or delayed because of these costs and risks. An uneven commitment in some countries to international labour standards, and to the rights of migrants, women and indigenous peoples, as well as to environmental protection, is at the heart of these challenges. Still, consumers in countries in Asia, Europe and elsewhere are demanding accountability, and parliaments are enacting legislation raising both compliance and litigation costs. European Union (EU) negotiations on Free Trade Agreements (FTA) and Generalized System of Preferences (GSP) are also requiring that countries in the region do more to show respect for human rights in supply chains. Relatedly, banks and international financial institutions are also increasingly under pressure to comply with environmental, social, and governance (ESG) considerations.

Asia is at an inflection point. Many governments in the region recognise that with the right policy choices, the costs and risks associated with high rates of economic growth can be reduced, if not eliminated. There is stronger recognition that a business environment respectful of human rights can in fact enable new levels of trade, FDI and technology transfers needed to sustain job growth, and further strengthen health and education provision, and achieve sustainable development. For their part, private sector firms and state-owned enterprises increasingly recognize that even small changes to their supply chain management policies can empower women in the workforce, reduce greenhouse gas emissions, help eliminate poverty in all its dimensions, and reduce the risk of social unrest from systematic human rights violations.

Although there is substantial variance between countries, there is growing enthusiasm among business, government and civil society actors in Asia to reflect on the costs and risks of growth. Through a coordinated approach, rooted in the United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles) and supported by the United Nations Development Programme (UNDP), **this regional and national level initiative will help strengthen human rights and promote sustainable business practices, minimizing disruptions to trade, and accelerating global progress towards sustainable development goals.**

1. *United Nations Guiding Principles on Business and Human Rights*

The **United Nations Guiding Principles on Business and Human Rights** (UN Guiding Principles) is widely recognized as the most authoritative, normative framework guiding efforts to reduce or eliminate the adverse impact of business operations on human rights. Some experts[[4]](#footnote-5) have described it as **the single most important innovation in promoting sustainable business practices in the last 25 years.**

The UN Guiding Principles were endorsed by the United Nations Human Rights Council in 2011. They do not promulgate new obligations but rather re-state and clarify a set of focused commitments under existing international human rights law. They set out and detail a ‘**Protect, Respect, and Remedy**’ framework to address human rights risks in the context of business operations. Importantly, the UN Guiding Principles delegate responsibilities for business to share in the overall scope of activities in support of human rights. The UN Guiding Principles also provide guidance on the measures states must take to ensure this framework has its intended impact.

Under the first pillar of this framework, the state is recognized as having the primary legal responsibility to **protect** the human rights of their citizens through, “appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.”[[5]](#footnote-6) This means that while states are not per se responsible for human rights abuses committed by private sector actors, they are required under international human rights law to refrain from cooperating with businesses that do violate human rights and to consider the full range of measures available to them to prevent and remedy their abuses.

The second pillar of the framework requires businesses to **respect** human rights. According to the UN Guiding Principles, “this means [businesses] should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.”[[6]](#footnote-7) This approach recognizes that international law does not impose direct legal obligations on corporations with regard to human rights; instead, the UN Guiding Principles principally requires businesses to: 1) ‘do no harm’ (avoid causing or contributing to adverse human rights impacts); 2) to carry out appropriate human rights due diligence measures, and; 3) to otherwise prevent or mitigate adverse human rights impacts linked to their operations, products or services, among other actions.

Finally, the third pillar of the Guiding Principles framework requires states to ensure, through judicial, administrative, legislative or other appropriate means, that people impacted by business operations have access to effective **remedy** when human rights abuses occur. The remedies provided by states may include “apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.”[[7]](#footnote-8) These remedies can be judicial or non-judicial and can be administered by independent bodies, such as NHRIs. States also have a responsibility to ensure the public is aware of the right to remedies, and that survivors of abuses are adequately supported, both financially and otherwise. Under this set of obligations, the state must ensure that such mechanisms are effective and well-resourced.

Businesses also have responsibilities under the remedy pillar. Businesses should provide for legitimate, accessible, predictable, equitable, and transparent grievance mechanisms, to ensure disputes are addressed early and remediated directly. These mechanisms can serve to identify adverse human rights impacts as a part of an enterprise’s human rights due diligence efforts.

2. *National Action Plans*

Successful implementation of the UN Guiding Principles requires that they are owned and understood by multiple ministries, state-owned enterprises, private sector firms, CSOs, NHRIs, and the public. To help ensure the likelihood of buy-in from such a wide group of stakeholders, states have been encouraged to develop National Action Plans.

National Action Plans (NAP) are “government-drafted policy documents that articulate state priorities and indicate future actions to support implementation of legal obligations or policy commitments.”[[8]](#footnote-9) The European Union[[9]](#footnote-10) and subsequently the UN Human Rights Council[[10]](#footnote-11) (HRC) urged states to develop National Action Plans (NAPs) on business and human rights that would define how implementation of the UN Guiding Principles would be taken forward in their respective territories.

At the time of writing, thirty-seven governments and non-state actors (such as NHRIs) across Europe, the Americas, Africa and Asia have launched NAPs or NAP-related processes on implementation of the Guiding Principles.[[11]](#footnote-12) In Asia, five countries—Indonesia, Japan, Malaysia, Thailand, and South Korea—have announced their intentions or are in the active process of developing these policy initiatives.

Countries often announce their intention to develop a NAP or present their NAP at the **United Nations Forum on Business and Human Rights[[12]](#footnote-13)** (UN Forum) held every year in Geneva. The UN Forum is the global platform for yearly stock-taking and lesson-sharing on efforts to move the UN Guiding Principles on Business and Human Rights from paper to practice. At these forums, civil society, business and other governments may make observations on the quality and thoroughness of NAPs or strategic plans from the floor.

As noted above, NAPs should be developed through transparent and inclusive processes. They should be devised with the participation of stakeholders that may be particularly vulnerable to business-related human rights abuse, such as children, women, indigenous peoples, ethnic minorities and persons with disabilities.’ The non-participation of any of these groups would imperil the quality and effectiveness of NAPs.

Moving companies and governments in the direction of inclusivity is an obvious but important means of ensuring NAPs reflect the needs of the poor and vulnerable. Leveraging incentives is key to this effort. UNDP has applauded Thailand for its approach ensuring participation of vulnerable groups in the consultation phase of the NAP processes, further incentivizing the practice. UNDP has also facilitated forums during which CSOs and human rights defenders have encouraged the country to do more. Monitoring implementation will also be important, and again here UNDP and CSOs can both give credit to countries taking an inclusive path or direct informed but constructive criticism towards those that shun participation.

However, UNDP is cognizant that placing undue pressure on governments to ensure participation may have unfortunate repercussions. Human Rights can be a controversial topic in some parts of Asia where outsider pressure to do more may minimize gains, or even reverse the direction of travel. Recognizing this, the current Chairperson of the UN Working Group on Business and Human Rights (UNWG), Anita Ramasastry, noted that “NAPs do not necessarily have to be perfect documents from the outset, they need to clearly indicate the political will and commitment and sufficient engagement, they can be perfected along the way since they are a work in progress subject to necessary periodic reviews.” In other words, consultation and transparency may not optimized in the first go. What is required instead is to achieve, “evidence of progress,” again in the words of UNWG Members.

3. *Regional Momentum in Support of the UN Guiding Principles*

During 2017, UNDP and its partners put efforts behind the adoption of an ASEAN-wide strategic framework on Business and Human Rights (B&HR) to build regional endorsement and coherence. An idea first introduced in 2016, this *ASEAN Strategy on CSR and Human Rights* (ASEAN CSR Strategy*)* encountered resistance from Member States as well as from other stakeholders. At this stage, the hopes that this would produce a regional approach have been postponed. However, in parallel to the ASEAN CSR Strategy, UNDP has invested in a separate strategy that is producing results at the regional level.

Putting on hold for the time being the promotion of the ASEAN CSR Strategy through institutional channels at the Association of Southeast Asian Nations (ASEAN), UNDP has invested its advocacy efforts at the national level with the aim of producing a regional race-to-the-top. This strategy is paying significant dividends, as evidenced by the increasing number of governments in Southeast Asia that are pursuing or contemplating NAPs on B&HR. Following the example of Thailand, Malaysia has announced its intention to adopt a NAP, and is currently building up the institutional structures needed to implement the UN Guiding Principles. Others, like Indonesia are developing B&HR “roadmaps” or workplans for specific business sectors.

Nurturing these trends, an already well-developed community of industry advocates, human rights activists, and development practitioners are deepening their work on a wide variety of thematic areas or industry-specific B&HR activities. While leading national and multi-national corporations are embedding human rights due diligence approaches into their operational policies and corporate communication profiles.

Indeed, the pace of change in the region is encouraging. Driven in large part by intensifying consumer interest in how the products are made, the B&HR Agenda has evolved into a global force. In Asia in particular, social media platforms have widened discussions on the treatment of migrant labourers and on the environmental implications of food production on the circular economy, manufacturing and extractive industries. Leaders in government and the private sector in both the Global North and Global South are responding by moving climate change, water pollution and deforestation, among other environmental issues, to the top of their agendas.

Government uptake of the B&HR agenda is also proceeding rapidly in the region in part because UNDP has been able align its advocacy efforts with increasingly intense discussions over trade and investment policy. Regional competition over FDI and trade has always been strong, yet with recent trade agreements brokered and broken, coupled with threats of trade sanctions from major partners, the intensity of competition has been ratcheted up further still. Countries are now more focused on profiling themselves as business-friendly settings, free of reputational, operational and litigation risks linked to political instability, corruption, environmental disasters or human rights violations.

**Thailand**’s embrace of the UN Guiding Principles and public announcement of its intention to develop a NAP on B&HR, may be understood in this context. (The development of the Thailand NAP involves a two-year process that culminates in September 2018.) In response to allegations that the country’s fishing, shrimp peeling and broiler chicken industries were systematically engaging in violations of labour rights, including documented cases of forced labour, Thailand found itself facing the threat of sanctions from key trading partners, and boycotts from large wholesale and retail buyers. In the face of this threat, Thailand adopted the UN Guiding Principles as a tool to guide its efforts in cleaning up these and other industries. Thailand’s announcement in June 2017, that it would examine more fully the adverse impact of its industries on human rights spurred Indonesia and Malaysia to do the same. Please see Annex A: Regional and Country Profiles, for a more thorough political economy analysis of the factors driving the adoption of the Business and Human Rights agenda in Thailand and six other countries detailed below.

In November 2017, the Malaysian Minister of Integrity and Good Government announced his country’s intention to launch a National Action Plan (NAP) on Business and Human Rights at the UN Forum on Business and Human Rights in Geneva, Switzerland. Due in part to growing international concern over the treatment of migrants in its construction, electronic and palm oil supply chains, **Malaysia** has also expressed its interest in bettering its international reputation among investors and large Multinational Corporations (MNC). **Indonesia** has also indicated in international forums that it will launch a “roadmap” or other such policy development vehicle to complement the consultation efforts of the country’s NHRI, Komnas HAM. Like Thailand, Indonesia may be reacting to international awareness of documented cases of forced labour in its palm oil, fishing and seafood industries. Further, rampant deforestation due to the unfettered expansion of palm oil plantations has raised the threat of sanctions against the importation of palm oil as a part of Europe’s biofuel blend. In conclusion, in Southeast Asia, movement towards the implementation of the UN Guiding Principles in Thailand, has had regional repercussions, driving momentum in support of the B&HR agenda in Malaysia and Indonesia, raising awareness among producers and shareholders, and putting would-be perpetrators of abuses on notice.

UNDP is currently pursuing a similar strategy in South Asia. Despite gains made by partners to the *Sustainability Compact for Bangladesh*, labour rights violations continue in the form of dangerous working conditions, a lack of protection for unions, and widespread employer abuse of marginalised groups. Further, labour and women rights advocacy remains scattered and is sometimes unfocused. Various Ministries and the Human Rights Commission of **Bangladesh** have expressed their interest in the development of a NAP on Business and Human Rights to bring greater coherence to efforts and have requested UNDP technical and coordination support. The UPR (Universal Periodic Review) for Bangladesh took place in May 2018. The recommendations provide an opportunity for the government to formally register its commitment to the UN Guiding Principles before the Human Rights Council.

Certainly, movement in Bangladesh will give added momentum to interest already expressed by the government of **India** in the B&HR agenda. The UN Working Group has informed UNDP that the government has strong interest in developing a NAP and would like to go beyond Corporate Social Responsibility (CSR) as a modality for engaging the private sector in sustainable development. The government has already showed interest in UNDP providing technical assistance as progress is made.

Vietnamese government delegations continue to engage in international and regional forums on B&HR but have yet to endorse the UN Guiding Principles on an official level. Recent environmental disasters in **Viet Nam** by foreign-owned steel mills and the outcry by thousands of local community members that followed, placed a harsh spotlight on the potential of adverse impacts of business to cause social instability. Marked by a rapid rate of market transformation, a growing technology sector, and increasing demands for norm change from its sizable youth population, the government of Viet Nam privately acknowledges that it will need to place more attention on the needs and expectations of its people. Ongoing trainings and advocacy by the UNDP Country Office in Vietnam will strengthen the appeal of the B&HR framework, designed to minimize or in fact prevent violations of rights in business operations, and related social disruptions.

As noted above, ASEAN has so far resisted efforts to develop a regional strategic plan on B&HR, or even on CSR for that matter. However, the **ASEAN Intergovernmental Commission on Human Rights (AICHR)** has embraced B&HR as one of AICHR’s priority areas of action. Evidencing its support, AICHR has co-hosted three large regional events on the subject in less than two years. With UNDP as a partner, AICHR’s work on B&HR has allowed for the continuation of regional exchanges of best practices, the establishment of regional advocacy networks and the strengthening of institutions to tackle transboundary issues. Though following short of endorsement of a regional strategy, AICHR activities and platforms will accelerate regional momentum further.

*4. Challenges*

Despite considerable progress on B&HR in Asia, challenges persist. Notably, some governments in Asia lack awareness about the UN Guiding Principles or express disinterest in the topic, given other human rights priorities or controversies. The business-case for implementing the UN Guiding Principles remains unclear to these important duty-bearers, as with owners of small and medium sized enterprises. In some cases, any reference to human rights brings significant political weight to the discussion, and lead to incorrect assumptions about the B&HR agenda’s scope and focus. Some government and private sector actors may believe that the B&HR agenda is anti-business in its thrust, and that B&HR advocates are unsympathetic of the risks and challenges that business people face in making enterprises profitable. Further, industries insulated from public scrutiny often see only risk and no practical incentive to engage or learn more about the place of human rights in their operations. They have yet to understand or fully appreciate the “business case” for pushing a B&HR agenda. A lack of awareness at every level of government, and among businesses, large and small, is often the biggest obstacle to engagement.

Exacerbating these factors, political circumstances, informed by shrinking civil space, may make business owners and government officials reluctant to speak publicly in support of human rights. Without awareness of what the B&HR agenda involves, some might choose to focus on other priorities, or invest instead in CSR initiatives. Meanwhile, violations of human rights continue at a systemic level with long term and often tragic consequences for workers, communities, families and the environment.

**Human Rights Priorities**

The adverse impacts of business in Asia are most keenly felt on labour rights (including migrant workers’ rights), women’s rights, land rights, and rights linked to the environment. More specifically, businesses are often implicated of land-grabbing, gender discrimination, sexual exploitation and violence, abusive working conditions and environmental degradation. The following sections outline the adverse impacts that business operations may have on human rights and the environment in Asia.

1. Labour rights and migrant worker rights

In Asia, growth in GDP rates have not yet been accompanied by a similar rate of improvement in working conditions.[[13]](#footnote-14) In fact, Asia consistently scores lower on most measures of working conditions and labour rights than other regions.[[14]](#footnote-15) Forced labour and child labour rates are among the world’s highest. The International Labour Organization estimates that from 2012, nearly 21 million people are victims of forced labour globally, of which over half (11.7 million) are in Asia-Pacific. This is a considerable increase from ILO’s first estimate in 2005, when 9.49 million were estimated to be victims of forced labour in Asia. Approximately 168 million children in the world are subject to child labour, of which the largest proportion (78 million) are located in Asia and the Pacific.

Low wages are also linked to other rights violations, including the right to realise a living wage. Three-hundred and thirty million people remain trapped in extreme poverty in Asia.[[15]](#footnote-16) In fact, extreme poverty levels in many countries in Asia are above the global average. (The global average for extreme poverty is 10.7%. In South Asia that figure is 14.7%).

When labourers migrate in Asia, their chances of improved wages increase. Yet, these wages are often subjected to significant deductions from recruitment agencies, employers and repatriation companies. These and other practices, including ID confiscation, create significant vulnerabilities, linked to grave human rights abuses of migrant workers and human trafficking. In fact, the exploitation and abuse of migrant workers in countries with large migrant labour populations, such as Malaysia and Thailand, has been well documented. Many of these workers do not hold legal documents (or have them confiscated by their employers). They may live in squalid conditions in accommodation provided by their employers. They can have their wages withheld on a regular basis and are often subject to physical ill-treatment.

Because of their status, migrants may lack legal protection or be unable or unwilling to contact human rights defenders or others that can help them to exercise their rights. The enjoyment of labour rights in the region is further imperilled by the often hostile regulatory and political environment facing trade unions and labour rights defenders.

In addition, workers often face extremely hazardous working conditions. The fire at the Tazreen Fashions garment factory in Bangladesh in 2012 killed 112 workers and injured over 200. The collapse of the garment assemblage factory at Rana Plaza in the same year resulted in the deaths of 1,130. Other less notable incidents continue to occur throughout the region, highlighting the perils of working in factories that are not effectively overseen by labour inspectors in countries where unions are badly organized or unable to operate due to threats and intimidation by government and business.

2. Women’s rights and business

Abuses of human rights by businesses may have unique and disproportionate impacts on women. Given gender roles and expectations, women may be more vulnerable to rights violations in the workplace than men, including forced labour, child labour, sexual harassment and exploitation, and violence. This is particularly true when women are subjected to “apprenticeship arrangements” or other bounded labour arrangements in the garment and other industries.[[16]](#footnote-17)

The same holds for land rights, for instance, in cases involving eminent domain. Some governments in the region offer land concessions to corporations to build factories or infrastructure, often at the expense of local community interests. Yet even when adequate compensation is paid to owners of the land women often fail to benefit given their lack of status as title-holders. Thus, women can be victimized twice over: the first time when the land they live and work on is dispossessed, and a second time when they do not receive appropriate compensation for a lack of legal title.

On a more systemic level, there is a pervasive gender pay gap, which has widened in South Asia and East Asia in recent years. According to ILO, “the gender wage gap is further magnified by the over-representation of women in low-wage jobs, raising their risk of poverty, which can also contribute to the over-representation of women in working poverty.”[[17]](#footnote-18) Women suffer the indignities of low-wage work due to discrimination and occupational segregation, and cultural expectations that ascribe women with domestic and unpaid care work responsibilities. The disadvantaged position of women in the workplace is further exacerbated by a low level of social protection coverage, and under-representation in decision-making and in leadership roles. In addition, the health of pregnant women is often protected by existing maternity protection policies, but that their equal rights as workers are not. Most notably, many pregnant women are harassed until they feel forced to leave their jobs.

3. Environmental rights and climate change

Asia faces significant water management, deforestation and land degradation, air pollution, and climate change challenges that threaten to undermine future growth, food security, and regional stability.[[18]](#footnote-19) Twenty-eight percent of rivers and 48% of lakes are unfit for any use (including industrial) in the People’s Republic of China, while in India over 200 districts in 19 states have severely contaminated groundwater. In addition, over 60% of national territory in Thailand and over 50% of national territory in Indonesia has been subjected to significant land degradation from 2000 to 2010. A staggering 24% of major Asian cities exceed WHO sulphur dioxide concentration standards.

Infrastructure projects including dams, pipelines and mines have severely compromised livelihoods, human health, and human habitats in Asia. Flawed environmental and social impact assessments have facilitated the growth of heavily polluting industries and land clearing for plantations, sometimes in or adjacent to fragile wildlife reserves or human settlements. Improper management of externalities, and a lack of accountability for regulatory violations have led to public health emergencies, soil and water contamination, habitat destruction for wildlife and loss of biodiversity.

Such crises are seemingly commonplace across the region. A 2016 toxic spill from a steel plant in Northern Vietnam led to severe water pollution in three coastal provinces, leading to a massive loss of marine life, devastating livelihoods. The palm oil industry in Indonesia and Malaysia continues to be implicated in illegal deforestation and land appropriation, impacting the environmental rights of indigenous communities. The Hazaribagh tanneries in Bangladesh, continue to pump out hazardous chemicals into waterways, despite orders from the High Court to shut the tanneries down.

A lack of strong regulatory controls and community participation in development processes also has long-term consequences for climate change impacts. As Asia is host to most of the world’s poor, the region is particularly vulnerable to the onset of severe weather patterns and sea-water rise, and related impacts on food security. Unabated warming could largely diminish previous achievements of economic development and improvements.[[19]](#footnote-20)

Shrinking civil space for discussion of controversial business operations only serves to marginalize discussions on climate change further. Activists, environmental rights advocates, and even scientists are threatened with lawsuits, arrests, and intimidation to discourage them from engaging on discussions of large infrastructure projects, including special economic zones.[[20]](#footnote-21)

4. Land rights

Global supply chains have been a key factor in Asia’s pursuit of export-led growth. To facilitate global supply chain requires, governments have reduced tariffs, liberalized investment rules, and privatized state enterprises. This has been accompanied by changes in land-use regulations that have afforded governments more incentives and powers to grant land concessions to industry. However, the legality of these concessions has given rise to significant levels of litigation and in many cases, violent confrontations.

Today, Southeast Asia is considered the most prone region to land conflict in the world.[[21]](#footnote-22) According to research, land conflicts in Southeast Asia are also among the most intractable—only 6 out of 51 have been resolved.[[22]](#footnote-23) Companies and governments have forced communities from their customary lands to make way for private investments in land intensive industries such as agriculture, mining, forestry and hydroelectric power. In Myanmar, reports indicate that private corporations are collaborating with the military in confiscating land and in forced evictions, which are carried out with poor resettlement plans and inadequate compensation, thereby giving rise to problems of food security and loss of income. In Indonesia, palm oil developers have destroyed native, community forests, eliminating livelihoods and driving rapid ecosystem loss. As a result, Indonesia is second only to Brazil in carbon emissions due to deforestation. In the Philippines, conflicts over land have resulted in a frightening increase in assassinations of land rights and environmental defenders; more murders in fact, than in any other Asian country.

Notably, most complaints received by the National Human Rights Institutions in Myanmar are related to alleged land rights abuses, and they make up a sizeable proportion of the case load for NHRIs in Indonesia, Thailand and Malaysia. Importantly, the abuse of land rights often correlates with other rights violations, including labour rights, women’s rights, rights of Indigenous Peoples, environmental rights, and rights to livelihood.

Decisions over the allocation of land are frequently made without the adequate participation of affected communities, including Indigenous Peoples who are disproportionately affected because they are traditionally dependent on land. Further, when human rights defenders take up the issue of land rights, they have been threatened, intimidated and harassed by law enforcement agencies. Some have been murdered and others forcibly disappeared.

5. Human rights defenders

Human rights defenders (HRDs) in Asia, including victims of abuse and advocates or organizations working on their behalf, can face legal harassment, intimidation, and/or violence, including arbitrary arrest and detention, torture, enforced and involuntary disappearance, and murder. In fact, the Special Rapporteur on Human Rights Defenders, identified defenders working on business and human rights controversies as among the most vulnerable groups of human rights activists.[[23]](#footnote-24) The situation of land and environmental rights defenders is particularly grave.[[24]](#footnote-25)

Migrant HRDs have heightened concerns owing to their enhanced vulnerabilities, including threats of deportation from their host countries for speaking out. Organizations working with migrants have been targeted for severe reprisals. In Malaysia, Philippines and Thailand, there have been numerous cases of alleged or attempted murder of defenders, including of Indigenous Peoples.

Due to prevailing gender dynamics in the region, women and LGTBI human rights defenders can face greater risks to their well-being. In fighting for rights, women HRDs may also be at odds with social structures, traditional practices, and interpretations of religious precepts. These challenges can invite reprisals from religious groups, tribal elders, community members, family members and even members of the human rights community that uphold patriarchal attitudes and practices. The risks and vulnerabilities which women HRDs face take gender-specific forms ranging from verbal abuse, to sexual harassment and rape.

In some cases, the state has been complicit in these violations. On occasion government authorities prosecute the law selectively against defenders. In other cases, government security sector actors have conspired with companies to commit acts of violence or intimate defenders. Perpetrators of violence against HRDs are sometimes provided protection or are simply not prosecuted for their crimes. Compounding these circumstances, there is a new wave of new legal restrictions impeding human rights work, including on freedoms of assembly, association, expression and movement.

Laws and activities related to anti-terrorism, national security and emergency measures also have a significant impact on the work of civil society organizations (CSO). These laws have undercut the legal status, organizational management, and funding status of non-governmental organizations. Increasingly, companies are using defamation charges, tax investigations, deregistration of organizations and other measures as obstacles to deter NGOs to do their work. The costs of defending themselves from such claims can be exorbitant and sometimes lead to bankruptcy for both organizations and individuals.

Attacks on those who turn to social media is another worrying development in the region. A court in Northern Viet Nam recently sentenced a blogger to 14 years in prison for writing about the steel mill’s impact on marine life. The recent amendment to the 2007 Computer Act of Thailand criminalizes the 'liking' or dissemination of information on social media platforms that are “likely to cause damage to the public”. The overreach and vagueness of cyber-security laws is echoed in legislation in Malaysia (1998), the Philippines (2012), Bangladesh (2018) and Pakistan (2016). These laws virtually ensure that rights defenders will be kept from reaching a public audience through social media; they also ensure that the public will be kept from participating in human rights debates.

**Impact on Poverty Alleviation**

Poverty is a result of violations of human rights including, disempowerment, discrimination and exclusion. Poverty expresses itself in a lack of access to physical assets, like nutritious food, suitable shelter and clothing, but also to social goods, such as good health and education, and to opportunities to fulfil one’s potential. Living in poverty is to live a life without freedom from fear and violence and to feel untethered to one’s land, environment and wider community. Human rights abuses are a root cause of poverty, as they debase our sense of dignity and our physical capacities. This is true whether these abuses occur at the hands of government security forces or agents of corporations.

Businesses have been implicated in a wide variety of seemingly intractable human rights and environmental rights abuses which have translated into greater multi-dimensional poverty. For example, businesses have been responsible for illegal land appropriation, deforestation, hazardous levels of water and air pollution, forced labour, sexual harassment and exploitation, and discrimination against migrants and minorities. Yet too often, these violations have been wilfully ignored in the name of economic development, social harmony, regionally-recognized values or some other wider good that is too vague to challenge. Accountability of business-related human rights abuses, occurring at the hands of private actors, are also more easily veiled by complex corporate ownership and management structures, and opaque corporate governance rule which spread liability unevenly across a vast chain of actors. Plausible deniability strategies, underwritten by fully resourced public relations campaigns, can frustrate even the most straightforward allegations of abuse.

The Business and Human Rights in Asia: Promoting Responsible Business Practices through Regional Partnerships (B+HR Asia) project, will assist in alleviating poverty by addressing the multitudinous and unique forms of human rights abuses that occur in the context of business operations and supply chains in Asia. The B+HR Asia project posits that if the UN Guiding Principles are implemented more widely, then: consultations with communities impacted by businesses can clearly articulate human rights challenges and risks; governments, businesses and civil society can convene and share ideas for solutions; and business perpetrators of injustice can be more clearly identified and subjected to remedial action. As a result, people in the region experience less poverty, or at least, less poverty over the duration of their lives, while mitigating poverty’s long term, even multi-generational consequences.

Informed by discussions with civil society, the UNDP B+HR Asia Project will bring a greater attention to the importance of Free, Prior and Informed Consent (FPIC) provisions of industrial and agricultural development initiatives particularly at the local level and in participation with local government. FPIC is particularly salient in the planning of Special Economic Zones, transportation projects linked to the Belt and Road Initiative, and hydropower projects on the Mekong and Salween, which may have disproportionate impact on the poor.

In pursuit of poverty alleviation, the project will also encourage the government and business sectors to integrate the Human Rights Based Approach (HRBA) to development in their interaction with local communities through, inter alia, baseline assessments in support of NAPs. These assessments can demonstrate how business operations can and must be changed to mitigate negative impacts on rights holders. On the basis of these assessments, follow up recommendations, and dialogue with businesses will be encouraged to embrace HRBA to development.

**The Challenge to Government and Business**

For too long, a significant number of governments in Asia have proven either unable or unwilling to hold businesses accountable for violations of human rights. Laws have either been insufficient in protecting rights, or willfully ignored. In other cases, national institutions have sometimes lacked the capacity to enforce them due, for instance, to a lack of investigatory and enforcement resources.[[25]](#footnote-26) Governments have been unclear, or feigned ignorance, about their powers to punish businesses of human rights violations, in particular, foreign-owned enterprises. High rates of corruption have engendered a climate of impunity, which has allowed human rights abuses in business operations to grow in scope and severity. Though a seemingly intractable problem, the recent elections in Malaysia and further afield in South Korea, reveal a growing intolerance for corrupt practices in Asia.

Governments have also been concerned that their own state-owned-enterprises (SOEs) could be implicated or somehow held accountable for human rights violations. Lastly, but no less frequently, governments have lacked the appropriate policy framework, regulatory instruments, or other tools to challenge MNCs or other actors in the business sector, including International Financial Institutions (IFIs) that underwrite some of their activities.

Regardless of these political and capacity challenges, governments can and must enforce compliance with existing laws and regulations and hold business leaders and their agents to account. Consumers, shareholders, workers, and executives are demanding action in greater numbers every year.

1. Market trends and transformations

Indeed, the wider recognition of the impacts of business on human rights risks have accelerated a discussion on the need for a transformation of business and state practices, as well as legal and regulatory approaches. There is a growing awareness that business and government must be held accountable for human rights and environmental rights violations. Consumers are demanding that national and multi-national corporations (MNC) in the region must re-examine their production methods and “clean and green” their operations and supply chains through credible environmental and social impact assessments, more thorough reconsideration of management incentives, and stronger, long-term engagements with civil society. Most importantly, governments must step up and acknowledge their role in protecting and remedying human rights abuses that occur in the context of business operations. As the links between trade, human rights, and sustainable development become more widely recognized, governments must be encouraged to develop national actions plans or launch other strategic-level processes to ensure a whole-of-government approach to bettering human rights conditions in the context of business operations.

Gratefully, some governments and large multinational corporations (MNC) are heeding the trends. Some MNCs already adopting stronger auditing practices, conducting trainings of third-party suppliers, developing codes of conduct, crafting new management incentives, and listening more closely to workers’ voices. Yet, as noble as these efforts are, most are confined to those MNCs with deep pockets and a high degree of exposure to consumer sentiment, particularly those MNCs in the garment, food and electronics industries. Many more business-to-business corporations and small and medium sized enterprises (SMEs) have little incentive to adopt international standards of human rights due diligence, or to remedy abuses that have already occurred.

2. The 2030 Agenda for Sustainable Development

Government and business must also undertake another set of actions, recognizing the profound impact that the private sector can have on human rights through investments in one or more of the 17 Sustainable Development Goals (SDGs). Unanimously agreed by the Member States of the United Nations, the SDGs provide a comprehensive framework for approaching global inequalities, poverty, and environmental challenges. Given these ambitions it is estimated that the SDGs will require an investment of USD 5-7 trillion per year over the next 12-15 years. Thus, it is critical to marshal private sector expertise and capital, channeling their corporate social responsibility (CSR) human rights contributions into the achievement of specific Goals that are themselves aligned with core business functions. Further, there must be a better understanding that CSR contributions, as important as they may be, are predicated on efforts to address human rights risks, with due attention to the UN Guiding Principles on Business and Human Rights and the 2030 Agenda for Sustainable Development. In fact, the private sector can contribute significantly to the SDGs by driving human rights considerations through its supply chains. Even small changes to operational and supply chain management policy can make a significant impact on the lives of women workers, migrants, communities, and the environment.

For example, when businesses conduct robust environmental impact assessments and monitor their operations and supply chains for violations of environmental laws, they substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination (SDG 3.9). Businesses can develop and enforce anti-discrimination policies in furtherance of efforts to end its impact on women and girls (SDG 5.1) while ensuring women’s full and effective participation in economic life (SGD 5.5). By investing more in monitoring, auditing and complaints systems throughout their supply chains, businesses can contribute to ending forced labour in all its forms (SDG 8.7). Businesses can enhance grievance mechanisms, complaints systems, and whistle blower protections, while forgoing frivolous claims of defamation against human rights defenders, to ensure greater access to justice (SDG 16.3).

The links between the SDGs (including Goals 13-15 on the environment and climate action) and environmental rights are also substantial and yet undervalued. Awareness of the linkages is a fundamental part of any communication product or training event around Business and Human Rights. UNDP will continue to stoke dialogue and provide advice to private sector, CSO and governments on how their activities can support reporting on the SDGs, including under Goals 13-15. Additionally, the project envisions a significant amount of attention to driving policy coherence around the SDGs, CSR, Responsible Business Conduct (RBC), and the Business and Human rights agenda.

Furthermore, the 2030 Agenda makes specific reference to the UN Guiding Principles as a means of implementation. The 2030 Agenda recognizes that businesses have an important role to play in supporting States to ensure the SDGs are achieved. For its part, the State is committed to fostering “a dynamic and well-functioning business sector, while protecting labour rights and environmental and health standards in accordance with relevant international standards and agreements and other ongoing initiatives in this regard, such as the Guiding Principles on Business and Human Rights . . .”[[26]](#footnote-27) As such, the UN Guiding Principles are a central to the dynamic between the private sector and governments as they pursue jointly, the priority objectives of the 17 SDGs.

# Strategy

**Introduction**

Based on the findings from the scoping phase period, UNDP has identified opportunities to further accelerate regional momentum taking place in Asia towards the implementation of the UN Guiding Principles. UNDP proposes to develop and implement the regional project**, Business and Human Rights in Asia: Promoting Sustainable Business through Regional Partnerships (B+HR Asia).** Project activities are aligned with human rights priorities and development challenges listed above, recognize regional social-political sensitivities, and leverage incentives for governments and businesses to engage in the implementation of the UN Guiding Principles. A decidedly regional approach will be taken, in recognition of how many B&HR challenges are transboundary in nature, but also to capitalize on the efforts of regional institutions—most notably ASEAN—to integrate regional economies. A regional approach will also ensure that emerging B&HR norms will be more deeply embedded into the fabric of business and political discourse in Asia, whether those discussions take place in ASEAN forums, Asia-Pacific Economic Cooperation (APEC) meetings, or bilateral consultations.

Based on several scoping missions, UNDP proposes building further regional momentum through investments in seven (7) countries, with the list expanding if new opportunities come forward. The 7 target countries were chosen according to the following criteria: 1) importance of the country to building regional momentum and cohesion on B&HR; 2) size and influence of the country’s economy; 3) political will favoring engagement on B&HR; 4) strength of support from the UNDP Country Office and national partners; 5) alignment with UNDP’s Strategic Plan and; 6) the presence of an NHRI.

The seven countries that have been identified to further the project’s regional programming purposes include: **Bangladesh, India, Indonesia, Malaysia, Sri Lanka, Thailand, and Viet Nam**. A full scoping mission to India has been conducted in June of 2018, leading to a deeper understanding of the opportunities, and any required adjustments to resource allocation and resource mobilization plans. The final decision on the extent of programming in India will be made by the Project Board in January 2019. Programming in China is increasingly a possibility.

Though momentum is building in South Asia, the pace is less dramatic, and results from programming may be less robust. UNDP intends to create regional momentum in South Asia by deepening an appreciation of the widening gap between Southeast Asia and South Asia in its reputational profile. After review against criteria cited above the following countries will not be targeted for interventions at this time: Cambodia, Fiji, Laos, Maldives, Mongolia, Myanmar and the Philippines. However, these and other countries will be invited to attend regional events, including trainings and workshops. China fits many of the criteria for engagement but has yet to be fully scoped. Further advocacy missions may be required in the coming years, in response to invitations for discussions with governments. Below is a more detailed look at the logic behind selecting 6 focus countries for B&HR interventions.

**The Role of Middle-income Countries in Promoting Change**

The intention of the B+HR Asia project is to create sustainable, regional approaches to solving what are distinctly regional problems. In particular, regional discussions and regional problem-solving efforts are required to ensure the cross-border protection of rights and enforcement of laws. These considerations have three implications for programming. First, programmatic interventions must target higher income countries, such as Thailand and Malaysia, where the human rights abuses of Cambodians, Burmese and vulnerable groups occur and where offending firms are domiciled. Secondly, to ensure wider regional implementation, the program must identify and encourage influential countries to adopt the UN Guiding Principles regardless of their status as middle-income or lower-income countries. Lastly, programmatic interventions must use its resources sparingly, targeting those countries where the potential for uptake of the UN Guiding Principles is most promising. None of these points imply that countries that are less influential in the region, express a lack of political will, or are otherwise unwelcoming of our early advocacy efforts will be ignored by the B+HR Asia project. In fact, all countries in ASEAN will be included in all activities of Regional nature that constitute the greatest part of the programmatic interventions.

1. Locus of violations and corporate domicile

Adequate protections for migrant labour is arguably one of the most pressing human rights issues in Southeast Asia today, requiring interventions in multiple settings, including middle-income host countries, where jobs for migrants are plentiful and where labour-related abuses occur. Regional approaches are also required to strengthen accountability and cooperation on transboundary environmental challenges, which necessarily invites interventions in middle-income countries where many perpetrators of environmental rights abuses are legally domiciled.

To illustrate the point further, consider the impact that some Thai agribusiness and fisheries industries have had on the rights of migrant populations from Cambodia, Laos, and Myanmar. Any effort to secure the rights of migrants requires that Thai companies be held accountable under the laws of Thailand, where the companies in question are headquartered. Further, constructive engagement towards solutions requires the involvement of Thai justice officials, civil society actors and human rights defenders. In short, programming in Thailand and other middle-income countries in SE Asia is required to strengthen the rights of people that originate from lower income countries in the region.

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Notably, Malaysian, Thai and Vietnamese private sector firms and State-owned Enterprises (SOE) are increasingly investing in factories, plantations and energy generation plants in poorer, neighboring states. These same firms are mostly shielded from liability for abuses that they commit while operating abroad. Again, interventions are required in these higher-income countries to ensure accountability.

In Indonesia, the palm oil industry is directly responsible for huge fires that have left Singapore, Malaysia and other countries vulnerable to dangerously high levels of air pollution. Indonesian palm oil companies are also reportedly responsible for the fastest levels of deforestation in the world today, accelerating climate change with impact for the wider region and beyond. Thus, interventions in Indonesia, Southeast Asia’s largest economy, are required to address a regional challenge that impacts on rich and poor nations alike.

Working to ensure that the operational policies and practices of companies from both lower and middle-income countries are embedded in the UN Guiding Principles will have positive repercussions for the region and its people, particularly in poorer countries with weaker levels of the rule of law and less capacity to manage environmental and social impact assessments. Thus, driving regional acceptance of the UN Guiding Principles is a core objective of the B+HR Asia project.

2. Strategic considerations for regional implementation of UN Guiding Principles

Driving momentum towards regional implementation of the UN Guiding Principles requires interventions in influential, middle-income countries in SE Asia to unlock the potential of constructive rivalries between nations. UNDP’s early efforts to encourage the implementation of the UN Guiding Principles resulted in their endorsement by the Thai Prime Minister in May of 2017. This, in turn, led to announcements from the governments of Indonesia and Malaysia to either produce a National Action Plan on Business or Human Rights or embark on a similar strategy.

Importantly, Thailand endeavors to be a regional leader on Business and Human Rights and will likely use its chairmanship of ASEAN in 2019 as a way of encouraging further discussion and increasing appetite for implementation of the UN Guiding Principles in other Southeast Asian countries. Viet Nam, which is also showing nascent levels of interest in the B&HR agenda will chair ASEAN in 2020. UNDP is investing in these countries to ensure buy-in at the regional level. Indeed, where Thailand, Malaysia, and Indonesia adopt and implement the UN Guiding Principles, an ASEAN strategy on business and human rights may emerge. UNDP and its partners in ASEAN will revisit the potential of an ASEAN strategy in 24 months when we anticipate a critical mass of support from ASEAN Members.

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Viet Nam, while increasingly interested in the B&HR agenda, has yet to advance the profile of human rights in business operations. However, UNDP is targeting Viet Nam for project intervention given the strength of its rapidly developing economy and its regional influence, its willingness to agree to international trade and investment agreements with human rights clauses, and the scale of human rights abuses and environmental challenges that its people face.

Currently, the South Asian Association for Regional Cooperation (SAARC) is not considered a regional organization fully ready to take the B&HR agenda forward at the current moment. Thus, investments in multiple South Asian countries— Bangladesh, India and Sri Lanka—are being made to unleash constructive competition between countries in the region. Sri Lanka’s private sector sees itself as a champion of human rights and environmental stewardship and seeks to lift the heavy reputational burden of its civil war as a means of attracting investors. The eagerness of its private sector to embrace the UN Guiding Principles might move garment manufacturers in Bangladesh and India to consider their Business and Human Rights profiles. Bangladesh is a low-middle income country suffering reputational damage to its main export industries. Its government has also shown interest in adopting the UN Guiding Principles. India is currently a middle-income country, but high levels of inequality has resulted in significant levels of poverty. Here too, the government has expressed interest to UNDP in implementation of the UN Guiding Principles.

3. Ensuring the best possible return on country-level investment

Government interest and demonstrations of political will are significant factors in determining when and where interventions can and should be targeted. Large investments of time and resources in countries where there is skepticism towards international human rights in general, or to the B&HR agenda in particular should arguably be avoided. Instead, it believes that as Indonesia, Thailand, Malaysia and others implement the Guiding Principles, countries currently unwelcoming of the B&HR agenda will over time be drawn into endorsement and implementation themselves. The B+HR Asia project is a regional project with regional ambitions. Thus, it will target interventions at the country level as carefully as possible to ensure a strong return on investment at the regional level.

While country investments are instrumental to B+HR Asia’s regional objectives, the reverse is also true: regional activities are critical to encouraging countries to take action on B&HR. Thus, the bulk of project support will support regional peer learning, advocacy and capacity building efforts. These regional level activities will always be open to, and in fact, encourage participation from all countries even where interest or political will is currently in short supply.

**A Four-pronged Approach**

With the above considerations in mind, UNDP will apply a four-pronged approach towards ensuring UNGP implementation, informed heavily by a political economy lens. Under the first prong, UNDP will make investments in advocacy and awareness raising at the national level to stoke a regional “race-to-the-top” in endorsement and implementation of the UN Guiding Principles. The second prong involves UNDP making use of the UPR process, and others, to ensure government commitment and meaningful CSO participation. Under the third prong, UNDP will leverage the economic incentives driving government interest and action on the UN Guiding Principles to ensure government buy-in, inclusive participation, and strong whole-of-government efforts. Under the fourth and final prong, UNDP will work closely with business allies to harness the voice of the private sector and use it to impress upon policy makers the seriousness by which leading producers and consumers seek changes in the human rights profile of the region.

This strategy will take **five years** to fully mature and produce its intended results. The five-year period will allow for meaningful engagement with a wide variety of actors from various sectors—business, civil society, government, multi-lateral organizations, including International Financial Institutions—and secure their buy in. Trust from some of these actors, many of which are new to UNDP participation in this space, will require time and tailored approaches. Furthermore, approaches to the private sector will need to be tailored to different industries and with due attention to business interests, sector strategies, and the size of businesses. A variety of ministries, including Ministries of Finance, Economy, Justice, Environment, Women, Land, Social Welfare, etc. will need to be approached and later, skilled-up according to their functions. Again, trust will be at a premium, and trust comes over time. Managing the attendant complexity of managing these various entities will be supported by members of the partnership architecture and UNDP Country Offices, but even with these substantial assets at hand, a five-year project period will better ensure returns on investments with new partners with complex profiles.

1. Prong 1: Promote regional momentum and collaboration through regional dialogue and peer learning opportunities and investments at the country level

Though international forums are essential to ensure wider uptake of the UN Guiding Principles, UNDP also recognizes the positive role that national governments in Asia have played in driving momentum at the regional level. As noted above, interest in the B&HR agenda is developing rapidly due in part to strong regional competition over investment and trade. Continued advocacy efforts at the national level will have regional implications, giving added momentum in support of the B&HR agenda, raising awareness and putting would-be perpetrators of violations on notice.

UNDP will focus on opportunities to drive regional progress from the bottom-up. UNDP has learned that building interest at the national level requires that national B&HR champions be identified and supported. These national champions are typically well-versed in B&HR concepts, act as trusted advisors to governments, but maintain their independence as civil society actors or leaders of NHRIs. UNDP B+HR Asia project will work closely with these champions, linking them to support and ongoing programming efforts at UNDP Country Offices to maximize advocacy and technical support efforts. Further, UNDP will bring these champions to the table at regional forums to speak to developments in their home countries, sharing lessons learned with other regional champions.

Further, UNDP will champion country efforts, especially where these countries have produced NAPs that meet international standards. Leading countries with standard-setting NAPs will be showcased as a model for other countries, before business, government, media, IFIs and international institutions. These country-champions, represented by various government officials and national B&HR champions, will attend Regional Dialogues and Regional Trainings jointly hosted by UNDP and ASEAN. At these events, as described below in more detail, government, civil society, and business will detail lessons learned in the implementation of the UN Guiding Principles.

1. Prong 2: Leverage international standing

Some countries in the region are seeking to enhance their human rights profile to strengthen their international standing and reputations in furtherance of wider soft power ambitions. Other countries in the region, for example Indonesia, have an interest in shoring up their human rights credentials in a bid to participate in international bodies such as the UN Security Council. For these countries, international human rights mechanisms including the Universal Periodic Review (UPR) present important opportunities to raise their international credentials. The UPR is also an important opportunity for CSOs, NHRIs and others to engage in discussions that provoke deeper and potentially more incisive reflection on progress, including on efforts to implement the UN Guiding Principles. Given the wide level of participation from governments, civil society and the private sector, the yearly UN Forum on Business and Human Rights in Geneva is also an important venue for a country to demonstrate commitment and progress.

UNDP will leverage the UPR process to encourage governments to implement the UN Guiding Principles. In connection with this, UNDP will support CSOs and NHRIs where appropriate to report to the Human Rights Council on the need for governments to embrace the B&HR Agenda, to develop National Action Plans, and when adopted, to fully implement them. CSOs will also be supported to assist in monitoring the implementation of any recommendations related to the UN Guiding Principles that are adopted by Member States.

UNDP is aware that governments may be more interested in the visibility that the UN Guiding Principles provide, than on taking real action. Thus, UNDP will ensure the quality of National Action Plans through advocacy missions and dialogue, training events and roundtables and validation exercises that include policy makers at regional meetings. UNDP will also deploy its own technical capacities and CSO partner expertise where necessary. It will convene stakeholder consultations and validation exercises. UNDP will also upskill CSO partners where necessary to engage in shadow reporting and monitoring in parallel with UPR processes. UNDP will take strong measures to ensure that government commitments under the B&HR agenda are not merely for public relations purposes, and that processes, content and implementation meet international standards.

Importantly, UNDP will also bring human rights defenders (HRD) to regional and international forums, to promote relevant parts of the Framework Principles on Human Rights and the Environment,[[27]](#footnote-28) and the underlying treaties and conventions to which it is pinned, including the Paris Agreement. HRDs and CSOs will also be supported in connection to B&HR advocacy before the Committee on Economic, Social and Cultural Rights, as well as Committee on the Elimination of Discrimination Against Women, when these opportunities arise.

1. Prong 3: Make the business case

Currently, some governments in the region are showcasing their efforts to address and prevent human rights violations in a bid to maintain trade links or to increase international investment. Endorsement of the UN Guiding Principles and the roll out of a National Action Plan to implement it, sends a strong message to the international business community that a country is serious about reducing or eliminating the risks of doing business in its territory. Implementation also enhances a country’s profile as a safer place to do business than other alternatives in the region. However, to better make the business case, governments will need high-level platforms to showcase their progress to the world, and in particular to investors and consumers. States will also require strong levels of technical assistance, among other kinds of support, to ensure their efforts to implement the UN Guiding Principles will meet international standards.

Recognizing this, UNDP will emphasize the strong business-case for implementing the UN Guiding Principles, drawing attention to the potential contributions that the B&HR agenda can make to the national economy, and to efforts to eliminate poverty and reduce inequalities. UNDP will galvanize and harness the voices, perspectives, and advocacy efforts of the private sector, UN system, civil society, and trade and investment policy experts through the strengthening of a “partnership architecture,” among other activities. UNDP will also leverage its substantial convening power to build regional platforms for countries to share lessons learned and showcase their progress to the international business community. UNDP will provide assistance in developing NAPs and provide advisory support on implementation, as well as publish reports and studies on progress on B&HR in the region, while hosting roundtable discussions on the links between trade and human rights.

1. Prong 4: Recognize business as partners and advocates

Business is not a passive actor in efforts to build momentum in the region. In fact, some businesses have been pressuring governments to take action to help clean up industries and create a level-playing field for several years now. The voice of the private sector is by some accounts the most valuable advocacy tool at the disposal of B&HR defenders and champions. Furthermore, many business leaders embrace the UN Guiding Principles as providing clarity to what is expected of them and their respective industries. Individual businesses, including small and medium sized enterprises (SMEs) may also have much to gain when they are recognized by UNDP and others, for investing in quality environmental and social impact assessments, human rights due diligence policies, and careful supply chain management. Increasingly, foreign buyers of energy, natural resources, garments, electronic components from Southeast Asia seek long term relationships with reliable, low risk suppliers that share the same values as their clients.

However, it is also true that business champions of sustainable development and human rights abound, and that rhetoric often outstrips action. UNDP will carefully work with credible business actors, including business associations such as the Global Compact Networks, national and international Chambers of Commerce, and industry-specific bodies to harness and project the voices that are actively supporting the UN Guiding Principles. In some cases, UNDP will host events and invite private sector champions to help showcase the progress of businesses as a means to reward and validate their efforts. It will also use these events to encourage their peers to support and normalize these sustainable practices. UNDP will also explore ways to further motivate individual businesses to champion business and human rights, through a sustainable-business-partner campaign, or other efforts linked to certifying or validating the efforts of private sector businesses.

**Maintaining a Regional Focus for the Development of Norms**

The work being conducted at the national level will be further leveraged to produce regional results through three platforms. These platforms will also ensure the sustainability of efforts at the regional level many years after the project is closed.

The first platform involves the ASEAN Intergovernmental Commission on Human Rights (AICHR). Established by Article 14 of the ASEAN Charter of 2008, AICHR’s mandate is “to develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN Community,” AICHR has undertaken various activities at the regional and national levels since its establishment. In cooperation with UNDP, OHCHR, UN Environment, UNHCR, UN Women and other UN agencies, AICHR has expanded its range of activities to cover a multitude of subject areas. Business and Human Rights has been a recurring item on its agenda since 2016, involving either formal dialogues or less formal workshops on four occasions. AICHR has partnered with UNDP in all of these efforts. Importantly, AICHR intends to continue partnering with UNDP on Business and Human Rights as expressed recently in its UN-AICHR “Programme of Work – 2019-2021.” AICHR’s interest should be sustained over the next decade or more as trade agreements with the EU and others increasingly include human rights and sustainable development clauses as negotiation points. Engagement in Business and Human Rights agenda should also be sustained over the long term with increased uptake from countries outside of ASEAN including Japan, South Korea, and potentially from China and India. ASEAN is now considered a leader in Asia on this item, and given commercial and political import, will see value maintaining this position. Lastly, the Business and Human Rights agenda will become more interesting to other Commissions in ASEAN, including under the Economic Pillar, ensuring that AICHR will want to stay engaged to inform other Commissions and Committees of its progress. Risks of decreasing interest also exists of course, especially as the rotating-chair governance structure of ASEAN ensures changes in focus every year. However, the body of work already behind AICHR will ensure that Business and Human Rights remains a sub-heading on any workplan regardless of the chairmanship.

The second platform involves the institutionalization of the Regional Forum on B&HR, and the gradual transfer of ownership to the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) as project implementation draws to a close. UN ESCAP is the regional development arm of the United Nations for the Asia-Pacific region. Created in 1947 and made up of 53 Member States, UN ESCAP is a long-time partner to governments in the region best known for its norm-setting, technical assistance and capacity building role on macroeconomic issues, poverty reduction pathways, and trade and investment policy formation. ESCAP uses its convening power to promote analysis and peer learning around these and other development issues that may be sensitive or of an emerging nature and require further advocacy and negotiation. Finally, ESCAP provides a forum for its member States, “to promote regional cooperation and collective action in pursuit of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals, assisting countries to achieve shared economic growth and social equity.”

UN ESCAP strongly supports the advancement of the Business and Human Rights agenda in Southeast Asia and has co-sponsored related events, including the AICHR Dialogues held each year starting in 2016. In fact, the Deputy Executive Secretary for Sustainable Development, Kaveh Zahedi, provided opening remarks at the AICHR Dialogue on Business and Human Rights in 2018. UNDP and ESCAP have preliminarily agreed to produce policy products on the nexus between trade and human rights through this project. UN ESCAP Trade and Investment Division has increased its involvement with the Business and Human Rights agenda and plans closer collaboration with UNDP. This will include, among other things, the sharing of workplans, and cooperation on policy and technical products.

Overtime, UNDP believes that ESCAP Members will begin to take ownership at the state level of the Business and Human Rights agenda. Ownership of the agenda will also be facilitated by engagement with the UNWG on Business and Human Rights. The UNWG has already committed to provide ESCAP with substantive support through a long-term engagement with ESCAP. Of course, this cooperation will go well beyond the life-span of the proposed UNDP B+HR Asia project. Ownership will also advance as ESCAP-UNDP events and publications give greater profile to the topic of Business and Human Rights before its 53 Member States.

The ESCAP Trade and Investment Division also serves as the secretariat of the ESCAP Business Advisory Council (EBAC). EBAC working groups are being reformed at this time. UNDP and the Trade and Investment Division are exploring the feasibility of facilitating private sector perspectives on Business and Human Rights, through an emerging EBAC Sustainable Development Sub-Committee.

The third platform involves the robust engagement of the Asia Pacific Forum (APF), a regional network of National Human Rights Institutions (NHRI). Interest in the UN Guiding Principles among NHRIs has been growing exponentially in the B&HR agenda. Three NHRIs in ASEAN are already recognized as leading best practices on B&HR: SUHAKAM, NHRC Philippines and NHRC Thailand. B&HR is also a strategic priority of the APF, as is joint learning and communication between NHRIs to address cross border challenges. APF, as a current partner to UNDP and as a member of B+HR Asia’s Partnership Architecture, will participate in capacity building, peer learning and advocacy opportunities over the project period to increase the likelihood that a regional platform for B&HR emerges under the aegis of the APF.

According to APF, “promoting respect for human rights by business is a priority for the APF and [its] members.” With this in mind, relationship building between APF, AICHR and ESCAP will ensure that the agenda lives well after the proposed project ends.

**Theory of Change**

The four-pronged strategy above is underpinned by the project’s theory of change (TOC), which provides for the following:

If the economic and political interests driving policy by national governments and businesses can be leveraged to ensure endorsement and implementation of the UN Guiding Principles on B&HR, and if governments, businesses, CSOs, NHRIs, and representatives of affected communities are supported and convened with the purpose of devising policies and partnerships to strengthen human rights and protect the environment in the context of business operations, then: these stakeholders can draft and jointly own and implement regional strategies, effective National Action Plans and other solutions that raise awareness of problems and potential solutions; stakeholders can engage in peer learning and knowledge sharing; businesses can effectively develop and participate in mechanisms to protect human rights through multi-stakeholder initiatives and networks; legal and accountability frameworks can be strengthened to prevent, mitigate and remedy violations; NHRIs can play a key role in devising and overseeing the implementation of polices and resolve disputes in a just manner; disruptions to trade relations can be minimized through greater policy coherence and; business and government can contribute effectively to impacting positively on people’s lives, environmental protection, and achieving sustainable development goals.

# Results and Partnerships

With a presence in 36 countries across Asia-Pacific through 24 country offices, UNDP is well placed to support implementation of the UN Guiding Principles on a truly regional scale. Since 2015, UNDP has been at the forefront of efforts to build momentum behind the B&HR agenda, facilitating regional exchanges of best practices, and through the establishment of regional awareness raising and advocacy efforts. Working with ASEAN CSR Network, a regional platform for networking and cooperation at the ASEAN level, UNDP will deepen programmatic impact in Southeast Asia.

The particular interventions outlined below, are based on the findings of a year-long scoping phase supported by the Government of Sweden. These include references to activity lines specifically assigned to ASEAN CSR Network (ACN).

**Expected Results**

This section describes the outputs and activities that will be delivered by the Project. Progress made will be monitored through outcome indicators to measure the extent to which the Project has led to changes in policies, practices and behaviors. The outputs were designed to lead to specific results, of course, but also to maximize their potential to overall awareness raising potential. A lack of awareness, despite UNDP’s work B&HR over the last two years, remains one of the most significant barriers to regional and national buy-in. Awareness of the UN Guiding Principles requires creating different opportunities, for example, through regional forums, technical assistance provision, innovation labs policy roundtable and through efforts to strengthen the partnership architecture. Each of the outputs below should also raise the visibility and understanding of the UN Guiding Principles among the widest possible variety of stakeholders.

Output 1: Regional momentum strengthened toward implementation of the UN Guiding Principles through advocacy and regional dialogue on opportunities, priorities and challenges of implementation

Since 2016, UNDP, AICHR and ACN have been introducing dialogues that have proven instrumental in fostering a race-to-the-top in implementation of the UN Guiding Principles in Southeast Asia. Continued dialogue bringing in new sub-topics and deeper levels of sophistication to the discussion on B&HR will stoke new rounds of collective action, and regional momentum. UNDP is well placed to ensure that regional dialogue involves meaningful South-South exchange, and constructive dialogue between disparate stakeholders given UNDP’s status as a longstanding and trusted partner to both governments and civil society. Leveraging its convening power, UNDP will continue to host regional peer learning events and expert-level workshops. Regional and international dialogue events also help increase interest among states by providing an opportunity to gain visibility on progress. In this regard, UNDP will continue to facilitate participation of key stakeholders to the annual Forum on Business and Human Rights in Geneva to showcase progress, validate efforts, and share lessons learned before an audience of international organizations, ministerial-level officials, and corporate executives.

Working with ACN, UNDP will also help ensure due attention to ASEAN Guidelines for CSR on Labour. These Guidelines were adopted at the 24th ASEAN Labour Ministers Meeting. Priority areas as identified by the Guidelines include forced labour, child labour, conditions of work and life, industrial relations and migrant workers. The Guidelines are based on international standards on labour such as the ILO Conventions and the UNGPs.

UNDP will also work with ACN to address the problem of environmental degradation, deforestation and human rights violations in the palm oil sector by working with business networks that promote sustainable palm oil. ACN is a founding member of the Southeast Asia Alliance for Sustainable Palm Oil (SASPO) that promotes the usage of certified sustainable palm oil and proposes to work with the business sector such as the SASPO to create awareness, and eventually develop solutions in the regional context to address the issue of environmental rights in the palm oil sector. Further, UNDP will work with ACN to address illegal, unreported and unregulated (IUU) fishing. IUU fishing is a result of irresponsible and illegal business practices that disregard environmental concerns. High level regional events proposed will seek solutions through a human rights and an environmental or resource protection lens.

1.1 Host regional high-level dialogue events that support peer learning and strengthen political will and South-South cooperation

1.1.1 Co-host five (5) regional dialogue forums on progress towards the implementation of the UNGPs, including review of South-South cooperation and learning

1.1.2 Develop three (3) videos and three (3) social media communication products to introduce gender and environmental dimensions, and other sub-topics to a widening B&HR agenda

1.2 Host regional expert-level workshops supporting capacity building, focused on the environment, and the specific needs of women, migrants and indigenous peoples

1.2.1 Host five (5) regional expert-level workshops on the UNGPs, or similar event identifying priority areas of action and best practices

1.2.2 Promote ASEAN Guidelines for CSR on Labour with focus on forced labour, child labour, conditions of work and life, industrial relations and migrant workers (ACN)

1.2.3 Co-organize four (4) regional forums and/or workshops with business networks in ASEAN such as the Southeast Asia Alliance for Sustainable Palm Oil to create cross-sectoral awareness and engagement to develop solutions to address the issue of environmental rights in the palm oil sector (ACN)

1.2.4 Co-organize four (4) workshops with business and other stakeholders in ASEAN to draw clear linkages between IUU fishing and BHR, with ACN’s main focus on corporate involvement in these activities (ACN)

1.3 Key stakeholders actively participate in Global Forum on Business and Human Rights

1.3.1 Five (5) events co-hosted at the annual Forum on Business and Human Rights, showcasing progress made by countries, and sharing lessons learned

1.3.2 Provide support to NHRIs, CSOs, and government in their engagement at the annual Forum on Business and Human Rights

Output 2: Support development and implementation of regional and national legislative and policy frameworks

Although there is significant momentum in support of the UN Guiding Principles,manyStates in Asia have been slow to develop NAPs (or run the risk of developing poorly designed NAPs) and other policies that would vastly facilitate or improve implementation. Moreover, legislative frameworks in some countries contain significant gaps that open the door to infringements on labor, land, environmental and other human rights. UNDP will advocate for implementation of the UN Guiding Principles—leveraging state interests and incentives as necessary—and provide policy guidance, technical support, and trainings around key B&HR issues related to women and the environment, with the purpose of ensuring strong regional and national buy-in. These efforts will be coupled with awareness raising to ensure public understanding and support.

When UNDP assists in the development of NAPs, it will strive to include a monitoring framework and ensure any indicators of progress are simple, measurable, realistic and timebound. Roles and responsibilities for implementation should also be addressed and costed in the NAP.

Even where UNDP is not provided space to input into a NAP, UNDP will convene a regular multi-stakeholder group to review progress on NAP implementation in each country. This group will convene one month before the UN Forum on Business and Human Rights. On an ad hoc level, UNDP will also review progress on existing NAPs on Human Rights, and any national UPR reviews as relevant. UNDP will also leverage the yearly NAP review of all countries at the UN Forum on Business and Human Rights referenced above, to encourage strong and timely NAP development. UNDP will use scheduled country visits from the UN Working Group on B&HR as a means of baseline setting and verification of progress.

Working together, UNDP and ACN will conduct research that will supplement or inform the development of National Action Plans. Inter alia, these studies will likely include: 1) sustainability reporting in ASEAN based on GRI and relevant frameworks, to examine companies’ commitment, actions and impacts on economy and society; 2) human rights disclosure under relevant framework, to understand factors driving human rights disclosure and provide recommendations on how to improve the adoption and quality of disclosure/transparency practices; 3) follow-up study on financial inclusion to propose further practical interventions including responsible business, responsible investment, fair and alternative finance, with the objective of promoting an enabling environment for MSME, especially women-led enterprises’ sustainable development; 4) influence of corruption towards human rights protection in the context of environmental issues, and provide solutions to prevent/ address potential negative impacts and; case studies on good and bad business practices in ASEAN, including businesses’ adoption of UNGP and other international principles and standards on responsible business, to understand the business case for responsible business.

Research will also be complemented by tools, including the Women’s Rights Due Diligence Toolkit, and other compliance-related products that build upon the work of other organizations, including OECD. These tools, will ensure that NAPs and other policies can be followed up with action by the private sector.

The Women’s Rights Due Diligence Toolkit (WRDD) will outline measures businesses can take to avoid and address adverse impacts on women from various dimensions, including environmental, land rights, reproductive health rights, harassment and exploitation, that may be associated with business operations, supply chains and other business relationships. This WRDD Toolkit will also promote a common understanding among governments and stakeholders in Asia on due diligence, taking in views through a consultative process. The Toolkit will also include due diligence recommendations, and updated reflections from the UN Working Group on Business and Human Rights (UNWG).

In 2019, the UNWG will issue guidance on strengthening the “gender lens” on the UNGPs. This guidance will inform the Toolkit but also trainings that will be delivered by Global Compact Networks, branches of the International Organization of Employers, and other business associations. The product will complement the recently published OECD Due Diligence Guidance for Responsible Business Conduct.

2.1 Provide policy guidance and encourage governments of seven (7) countries (Bangladesh, India, Indonesia, Malaysia, Sri Lanka, Thailand and Vietnam) over the course of twenty-five (25) missions to develop NAPs or other strategic planning documents towards UNGP implementation

2.2 Produce and disseminate policy products in furtherance of NAPs development on B&HR

2.2.1 Five (5) policy products are delivered on lessons learned and evidenced-based impact in the Asia context regarding UNGP implementation targeting government policy makers

2.2.2 Five (5) evidenced-based research and policy products in furtherance of NAPs that target and encourage engagement of the private sector (ACN)

2.2.3 Utilize twelve (12) social media and web-based platforms (e.g. webinars) to develop outreach, training and communications products around policy documents to build awareness and capacity among the public and businesses actors (ACN)

2.3 Deliver technical support initiatives on NAP drafting process

2.3.1 Provide technical expertise, guidance and inputs into NAPs and other implementation strategies, ensuring that policies are properly consulted, costed, and include defined roles and responsibilities, among other indicators of quality.

2.3.2 Host eight (8) consultations and eight (8) validations on finalized NAPs and other strategic materials with stakeholders at national and regional levels

2.4 Deliver technical products focused on women’s rights, including Women Rights Due Diligence toolkit

2.5 Develop and implement with partners ten (10) capacity building events on NAP processes and best practices at the regional and national levels on the UNGPs

2.6 Develop and implement with partners thirty (30) awareness raising events at the regional and national levels on the UNGPs targeting communities impacted by business operations, private sector actors, CSOs, women, migrants and Indigenous Peoples.

Output 3: Strengthen regional partnership architecture, made up of UN system, NHRI, CSO, and private sector actors working on B&HR

There are strong stakeholders in the region active in the field of business and human rights. However, their efforts in advocacy, awareness raising, and capacity building are often scattered and ad hoc. Further, there are international and regional organizations with specialized mandates (e.g. women, environment, and migrants) that could be encouraged to do more in the area of business and human rights. In the face of challenging political headwinds, the collective voice of these actors working (or that could be working) on Business and Human Rights must be strengthened by embedding these actors into a network. Through a partnership architecture that UNDP has inspired during the scoping phase, UNDP will ensure more collaborative, coherent, and innovative efforts to raise the profile and the salience of a Business and Human Rights agenda in Asia. UNDP will build on the success of the knowledge-sharing labs it hosted in the past—which included NHRIs, CSOs, UN-system and business champions—to strengthen the partnership architecture, raise awareness among the public, and support behavioral change in government and in the business sector around the treatment of migrants, indigenous peoples, women, and other vulnerable groups. UNDP will also host innovation labs to link new technology solutions to B&HR challenges, and provide seed-funding to help ensure ideas get off the ground. See Annex: B, Seed Funding for Social Innovation Projects for more details on seed-funding initiative.

Playing a key supporting role to the partnership architecture, private sector champions and academia will be cultivated to echo partnership architecture messages and advocate for change before policy makers. Towards this end, UNDP will work with ACN to establish a Community of Practice (CoP) among private sector leaders. The CoP will be made up of progressive companies within ACN’s network of corporate partners. The COP will provide support to one another as they tackle challenges common to their mission of promoting responsible business within their organisations and spheres of influence. It will provide a platform for sharing knowledge, best practices, success stories and learning points, as well as provide relevant training where possible. Furthermore, UNDP will also work with ACN to leverage the assets of the Sustainability Consortium of Professionals and Educators (SCOPE) to ensure participation from academics. SCOPE was co-founded in July 2016 by ACN and the Centre for Governance, Institutions and Organizations (CGIO) at the National University of Singapore (NUS) Business School. It aims to have a constructive role to play in building an ecosystem of sustainability experts and advocates to promote sustainability as well as address business and organizational issues that impact on people lives and the environment. SCOPE will provide a platform for institutions, business and policy makers to share perspectives and practices so as to develop capabilities and capacities for the application of sustainability. Its primary activities include research and publications, trainings and dialogues.

ACN with UNDP support will administer the ASEAN Responsible Business Fellowship Programme. This programme seeks to build up the next generation of leaders for responsible business in Southeast Asia, harnessing the potential of the private sector in addressing key regional issues in human rights, anti-corruption and in environmental degradation. Particularly on human rights, this fellowship seeks to help business practitioners to identify the key human rights issues caused by business activity in this region; and to provide an overview on the type of industries that are most susceptible to lapses in human rights and how problems such forced labour practices inadvertently enter the supply chain.

Lastly, UNDP and ACN will work closely to provide supplementary funding to CSOs that work closely with business networks, engaged in addressing human rights issues. See Annex D.

3.1 Design and host five (5) partnership coordination and knowledge-sharing labs to strengthen cohesion and knowledge among partners working on B&HR

3.2 Facilitate private sector attendance and engagement in UN-hosted regional events, involving the UN partnership architecture on the UNGPs (ACN)

3.3 Conduct innovation labs involving CSO and UN system partners and private sector technology and social impact firms to address business and human rights challenges

3.3.1 Design and conduct three (3) innovation labs

3.3.2 Provide seed funding for three (3) social innovation projects and launch in three countries

3.3.3 Develop, implement and promote self-assessment tool to help companies monitor their adherence to the ASEAN Guidelines for CSR on Labour

3.4 Convene/engage academia partners through the Sustainability Consortium of Professionals and Educators (SCOPE) to promote research, teaching and practice of responsible business

3.5 Establish a Responsible Business Community of Practice (CoP) made up of progressive companies within ACN’s network of corporate and network partners (ACN)

3.6 Support twenty (20) beneficiaries of the ASEAN Responsible Business Fellowship Programme to develop the next generation of leaders for responsible business

3.7 Support CSOs working closely with private sector firms or business networks through Small Grants Fund (SGF) to build capacity and promote collective action for the SDGs, UNGPs, and responsible business conduct

Output 4: Increased awareness of all regional stakeholders of the UNGPs and strengthened access to effective remedy for violations of human rights in the context of business operations

Survivors of rights violations are frequently unable to obtain redress through judicial or non-judicial mechanisms, due to gender constraints, lack of rights awareness, geographic remoteness, costs, language or other cultural and knowledge barriers. The ability of human rights defenders to carry out their work on behalf of themselves or others, is also impeded by threats, intimidation and the misuse of criminal defamation litigation and cyber-security laws. Further, the work of human rights defenders is often misunderstood by the public in some countries. The UNDP B+HR Asia project will assist NHRIs and CSOs working with human rights defenders to provide legal assistance in furtherance of adequate remedies. UNDP will also conduct awareness raising activities, trainings, and peer learning events to familiarize international organizations, community-based organizations and the wider public with the UN Guiding Principles on Business and Human Rights and the work of NHRIs and CSOs. Trainings of NHRIs and CSO on B&HR issues will be provided as necessary and as requested. UNDP will also facilitate learning between OECD National Contact Points (NCPs) and NHRIs to strengthen capacities.

Seizing opportunities in mixed format events, blending SDG discussions with human rights discussions will ensure that the importance of remedy and other sometimes, controversial areas, are presented to diverse audiences. Thus, UNDP will work with ACN and ASEAN BAC and partners to organize an annual ASEAN Responsible Business Forum bringing together diverse stakeholders from governments, ASEAN bodies, the private sector and civil society to engage in practical discussions about the future of businesses, and how we can collectively advance and mainstream responsible and inclusive business across the three pillars of ASEAN Community: Political – Security; Economic and; Social and Cultural. The Forum will enhance the understanding of how responsible and inclusive business, as a cross-cutting issues, can help address key challenges faced by ASEAN, including but not limited to access to remedies; human rights due diligence in the supply chains; gender equality; business integrity and anti-corruption; financial inclusion; micro, small and medium-sized enterprises (MSMEs) development; climate change and environmental sustainability. The Forum will identify practical strategies and share good practices on responsible and inclusive business that can be scaled up and replicated in the region.

4.1 Host peer learning and technical training events involving NHRIs and National Contact Points (NCPs)

4.1.1 Host one (1) learning exchange events between NCPs and NHRIs on business and human rights cases, including those linked to environmental rights abuses

4.1.2 Host two (2) regional capacity building events with NHRIs on UNGPs, sharing lessons learned and stoking South-South cooperation

4.2 Support CSOs and NHRIs to provide access to effective remedy through joint awareness raising efforts

4.2.1 Conduct fifteen (15) awareness raising sessions conducted with partners on business and human rights targeted towards women, migrants, IPs and other vulnerable groups

4.2.2 Develop, produce, distribute one (1) training module to facilitate awareness raising efforts

4.2.3 Support three (3) regional CSOs through small grants to CSOs that provide legal aid to survivors of human rights abuses by businesses

4.3 Develop research products on access to remedy

4.3.1 Conduct two (2) multi-country research studies on the differentiated impact of business operations on women, including sexual harassment and exploitation in the workplace

4.3.2 Conduct two (2) studies on the regional scope and impact of SLAPP legislation

4.4 Conduct 10 (ten) trainings on UNGPs, including environmental and social impact assessments, human rights due diligence and compliance, and grievance mechanism provisions with Private Sector firms and State-owned enterprises (ACN)

4.5 Conduct two (2) trainings on UNGPs with Judiciaries and Ministries of Justice from the region

4.6 Co-host four (4) regional ASEAN Responsible Business Forum with ASEAN-BAC and UNDP to progress the SDGs and Business and Human Rights agenda (ACN)

Output 5: Strengthen policy coherence between regional Trade Agreements, International Investor Agreements, and UN Guiding Principles on Business and Human Rights to enhance the region’s competitive positioning in attracting investment and increasing trade flows

Trade and investment are major drivers of growth in the region, and critical to efforts to eliminate poverty. They can also be factors in enhancing or weakening human rights conditions. In recent years, there has been more appetite and opportunity to leverage trade policy and international investment agreements to ensure respect for human rights and minimize disruption of trade flows.

The activities conceived under this Output are especially important as a growing chorus of activists and consumers are demanding that domestic-based companies stop doing business in foreign jurisdictions with certain firms accused of human rights abuses. UNDP can give coherence to this growing movement, as appropriate, through public events and publications. As another possible pathway, UNDP will link up with efforts made by the UN Working Group urging states to provide trade support only to businesses that respect human rights in their supply chains. With our close relationship to the UN Working Group on Business and Human Rights, we intend to showcase the direct links and pressure points between trade policy, international finance and human rights.

Against a backdrop of contentious trade issues, a panoply of terms and concepts are multiplying, leading to confusion among stakeholders and policy makers, e.g. Responsible Business Conduct, Inclusive Business Practices, CSR, Sustainable Trade, and Business and Human Rights. Clearly, there is a need to simplify the space for deliberation, and ensure policy coherence so that debates around trade, investment, human rights, and sustainable development can lead to work planning and action. UNDP will develop knowledge products to clarify differences and linkages between concepts. Further, UNDP will help clarify through multi-stakeholder round tables the human rights and sustainable development implications of emerging trade agreements including, RCEP, TPP and EU FTAs. UNDP will engage with experts to upskill UN system actors, CSOs and NHRIs on the opportunities that these and other instruments can bring to furthering the Business and Human Rights agenda.

5.1 Develop evidence-based research projects on the relationship between FTAs, IIAs and UNGPs and their impact on human rights and rule of law conditions at national and regional levels

5.1.1 Develop one (1) multi-country research study on the impact of sustainable development clauses, human rights clauses and other social protection provisions of trade and investor agreements

5.1.2 Develop four (4) think pieces on the relationship between B&HR and special economic zones, Belt and Road, and Economic and Social Impact Assessments

5.2 Conduct four (4) sector-specific policy coherence roundtables on trade and investment instruments, and UNGPs roundtables with government, business and civil society stakeholders on human rights due diligence and compliance principles, in the context of Free Trade Agreements, Equator Principles, Responsible Business Conduct, International Investor Agreements, and the UNGPs

5.3 Host 3 (three) policy dialogues involving International Chambers of Commerce and Asia-Pacific business associations leveraging peer pressure, and technical expertise to ensure strong human rights and environmental standards among all businesses, including SMEs, in the context of sustainable development clauses, human rights clauses, and other social protection provisions of trade and investor agreements

5.4 Provide technical expertise and guidance towards greater coherence between trade, investment, human rights policy streams. Raise awareness of the policy connections between these and other policy areas, inputting into national, regional and international policy development processes where possible. Publish technical and policy documents detailing lessons learned from roundtables and policy dialogues.

**Partnerships**

As a standard best practice, UNDP will apply a participatory methodology in its work, seeking advice and inputs from policy makers, CSOs and private sector actors in setting agendas, developing workplans, and validating reports. Partnerships will be strengthened with international organizations that are either active or have expressed strong interest in furthering B&HR work at the regional level.

UNDP will also capitalize on longstanding partnerships with UN system organizations while building new relationships with national and local governments, businesses, regional, national and local civil society organizations, and donor partners. UNDP B+HR Asia has also already consulted and established relationships with AICHR, ESCAP, UN WOMEN, OHCHR, ILO, UNICEF, UN Environment, and NGOs including), AIPP, Asia Pacific Forum and OXFAM. UNDP has also established tentatively links with research and academic institutions such as the Raoul Wallenberg Institute (RWI) and International Commission of Jurists (ICJ). Partnerships with academic institutions and other leading NGOs and Institutions such as the Business and Human Rights Resource Center, Shift, the Danish Institute for Human Rights and BSR will also be leveraged where possible to generate think pieces, background documents, and other research in furtherance of the Business and Human Rights agenda. Research will feed into baseline assessments, inform policy development, and demonstrate which groups are most affected by business operations and the nature of the impact. Research will also help us monitor progress, especially those initiatives that focus on National Human Rights Institutions and their caseloads.

The project will also draw on linkages to other UNDP global and regional initiatives in Asia-Pacific such as *Being LGBTI in Asia, Promoting a Fair Business environment in ASEAN, Strengthening the Governance of Climate Change Finance to Enhance Gender Equality, Business Call to Action,* and our work on gender, civil society and youth.

Working with its colleagues implementing the UNDP *Promoting a Fair Business Environment in ASEAN* project, UNDP B+HR Asia intends to address corruption under the Business and Human Rights agenda through discussions on procurement practices of government. UNDP will also involve UNODC in discussions as progress takes shape on NAPs in Thailand, Indonesia and Malaysia. For example, UNDP will involve UNODC to UN system consultations on the Thailand NAP, currently in development. Further, where opportunities arise in Malaysia to discuss corruption, UNDP intends to bring Business and Human Rights topics and expertise into play.

UNDP will also align itself to larger coalitions aiming to address environmental and human rights issues. For example, the Environmental Rights Initiative is a coalition of state and non-state actors united to promote, protect, and respect environmental rights. UNDP stands behind this initiative and will support civil society organizations and vulnerable populations in their efforts to access information on their environmental rights, to shine a spotlight on environmental rights violations, and engage with businesses to help them to better understand their environmental rights obligations. In all private sector engagement efforts, we will provide guidance on how to move from compliance champions to rights champions.

Given the level of momentum in the region, UNDP will likely need to enlarge participation in its partnership architecture. It may also need to enlarge the group of countries for scoping and programming, for example China. Guided by its Project Board, UNDP will scope new and important opportunities as they arise, whether they emerge in China or the Pacific.

The snapshot of partners and related interventions detailed below is a non-exhaustive list. However, the list is strongly indicative of the existing partnerships, and the potential results stemming from in-kind, co-funding, and knowledge sharing efforts, including participation in public awareness events, peer learning and validation exercises.

1. UN Working Group on the issue of human rights and transnational corporations and other business enterprises (UN Working Group on Business and Human Rights)

Addressing the multi-dimensional challenges of the business and human rights sector requires good counsel and up-to-the-minute feedback and advice from the world’s premier experts. For this reason, UNDP B+HR Asia project team and UNDP Country Offices will make full use of its relationship with theUN Working Group on Business and Human Rights.[[28]](#footnote-29)UNDP’s close relationship with the UN Working Group offers the organization access to world-class expertise on Business and Human Rights from internationally-recognized experts. UNDP’s approaches are thus informed by the latest thinking on human rights, international trade policy, and on advancing gender equality in the workplace, as well as novel regulatory issues impacting on supply chains, the environment and finance. Crucially, the relationship contributes to UNDP’s ability to bring expert advice to the national and regional levels in support of policy convergence between trade agreements, international investor agreements, international human rights obligations, and the 2030 Agenda on Sustainable Development, among other instruments. A member of the UN Working Group will serve in his capacity as University Professor on UNDP’s Advisory Board, as outlined below under Project Governance, and provide advice on a first-hand and immediate basis.

Further, implementation of the UN Guiding Principles through a gendered lens will be led through the application of the guidelines provided by the UN Working Group, informed as they are by CEDAW and by global consultations with government, UN Women and other international organizations, and civil society. The drafting of these Guidelines is also being developed with support from UNDP.

1. UN Entity for Gender Equality and Women’s Empowerment (UN Women)

UN Women will be approached as a key partner to UNDP, to jointly organize events and advocate for changes in business management policies and practices so that they improve on women’s experience in the workplace. UN Women and UNDP will work with their partners and together to identify ways to eliminate workplace discrimination and ensuring businesses do not discriminate against women customers and suppliers. Joined up efforts, including knowledge-sharing, will also address ways to create safe and supportive places for women and eliminate sexual harassment and violence in the workplace, in furtherance of the Women’s Empowerment Principles. Women migrant laborers will also be of significant focus of public awareness raising efforts, with UN Women leading on initiatives.

Evidencing our joint interest in collaboration, UNDP has already worked to identify a researcher with UN Women’s support, to inform a study on women’s rights in the context of business operations in Thailand pursuant to the development of the Thailand’s NAP on B&HR. UN Women has been offered an opportunity to comment on the study and participate on an event alongside the researcher to strengthen recommendations to the government. More research and policy projects are currently being considered for co-funding to extend and deepen the reach of efforts. For example, UNDP and UN Women are considering ways to collaborate on research into the cost of violence against women to business in Viet Nam. As tentatively agreed by UN Women, this project could be scaled up to include other countries or a regional perspective. Research could also explore the roles that businesses play in enabling violence, sexual harassment and other harms directed at women, and make recommendations for any future NAP on B&HR.

Going forward, UNDP will jointly develop a Memorandum of Understanding with UN Women to secure a close working relationship and access to UN Women’s world-class expertise on gender. It will also provide an opportunity to create linkages to UN Women’s work and experience on the B&HR agenda, namely through its project on migrant women workers titled, *Safe and Fair: Realizing women migrant workers’ rights and opportunities in the ASEAN region*, but also through a new project in development on Women’s Economic Empowerment. To ensure sustainability, UNDP will explore co-funding UN Women staff and initiatives.

In recent decades, the social environment for Asia-Pacific LGBTI people has become more favourable. Legislation has moved generally in the right direction, marked by decriminalization of homosexual conduct, judicial decisions improving or protecting the rights of transgender people, greater understand by medical authorities of intersex people in some countries, and the enactment of anti-discrimination laws. However, the legal and policy environment on LGBTI employment discrimination in key countries remains insufficient as demonstrated by a recent study conducted by UNDP and ILO. In China, Philippines and Thailand between 20-30% of respondents felt that they were denied employment opportunities due to their sexual orientation, gender identity, expression and sex characteristics.

UNDP B+HR Asia Project will work closely with colleagues at UN Women and those working on the UNDP *Being LGBTI in Asia Project* on addressing workplace discrimination, ensuring inputs into consultations around NAP processes in Thailand, Malaysia, Indonesia and elsewhere, in coordination with UNDP Country Offices. UNDP B+HR will combine advocacy and expertise to advance adequate legal protection from gender discrimination in the workplace. These efforts will be guided by the “Women’s Empowerment Principles” and the 2017 OHCHR publication, “Tackling Discrimination against Lesbian, Gay, Bi, Trans, & Intersex People: Standards of Conduct for Businesses.”

1. ASEAN Intergovernmental Commission on Human Rights (AICHR)

AICHR is the coordinating body responsible for moving the Association of Southeast Asian Nations (ASEAN) towards a common approach on human rights, through the active application, promotion and protection of human rights. AICHR conducts thematic studies which have included Corporate Social Responsibility (CSR), Migration and Trafficking in Persons particularly women and children, among other studies. UNDP has worked with AICHR on regional workshops on Business and Human Rights over the last three years, jointly setting agendas, co-funding, and ensuring participation of relevant actors. UNDP will again in 2018, co-host and co-fund with AICHR, a Regional Workshop titled, “AICHR Interregional Dialogue: Sharing Good Practices on Business and Human Rights”. Cooperation on research, trainings and workshops will continue over the project period, as AICHR could be helpful in driving coherence between human rights policy streams under the headings of trade, investment and development financing.

4. Office of the UN High Commissioner for Human Rights (OHCHR)

Over the project period, UNDP will maximize its already strong working relationship with OHCHR and seek complementarities with OHCHR’s project on land rights and its work supporting human rights defenders. Sharing lessons and joining forces to support human rights defenders will signal concerted and unified institutional strength while increasing visibility. Based on the global tri-partite agreement between UNDP, GANHRI and OHCHR, UNDP will also work with OHCHR, the Asia Pacific Forum and others who have been active in promoting the role of the NHRIs in seeking remedies for adverse impacts of business activities. UNDP will work with OHCHR in a regional capacity and where possible and relevant in Cambodia, where OHCHR has a country office.

5. International Labour Organization (ILO) and Organization for Economic Co-operation and Development (OECD)

UNDP will develop a loose but important partnership with ILO to strengthen internationally recognized human and labour rights, based on the eight fundamental Conventions. UNDP will avoid overlap, seek guidance, while aligning messages with ILO at both the regional and country level. At the crux of this relationship is mutual recognition of each other’s comparative advantages, and potential for knowledge sharing.

As an example of its approach, UNDP has sought inputs and advice on its scoping missions in South Asia, while also inviting ILO to better explain its mandate to the UN system during a regional partnership-building workshop titled, “B+HR Lab.” UNDP is also building its partnership with ILO and OECD to seek alignment and complementarity between the Business and Human Rights agenda and their work on promoting Responsible Business Conduct.

Through their *Responsible supply chains in Asia project*, ILO and OECD will, among other things, seek to strengthen National Contact Points, and provide trainings to private sector actors on human rights due diligence practices and grievance mechanisms in China, Myanmar, Philippines, Thailand, Viet Nam and Japan. UNDP will encourage learning between NCPs and NHRIs, among other efforts. Furthermore, UNDP will work to ensure that efforts avoid redundancy especially where there is overlap with these efforts in Thailand and Viet Nam. UNDP will strongly encourage more participation from ILO in discussions on Business and Human Rights at the regional and country level.

7. UN Children’s Fund (UNICEF)

Applying approaches refined over years of in-country experience, UNICEF’s efforts to eliminate child labour in Asian supply chains through the implementation of the Children’s rights and Business Principles has been met with considerable success in many countries in the region. UNDP will also work with UNICEF on child labour issues (and relevant CSOs through UNICEF’s networks) but also on the impact of business practices on children.

UNDP will strengthen its partnership with UNICEF recognizing the organization’s mandate and history and include UNICEF in discussions on National Action Plans in Indonesia, Malaysia, Thailand and other countries where these strategic planning efforts take shape. In Sri Lanka and Viet Nam, UNDP has already shared expertise and sought complementarities in programming, pointing to fruitful collaborations in the future. In Thailand, UNDP B+HR Asia has included UNICEF on panels hosted by the NHRC Thailand, for example on 1 June 2018, involving more than 400 leaders from business and government. UNDP has acted as a bridge between UNICEF and Thailand entities working on the country’s NAP on Business and Human Rights, facilitating the exchange of guidance material and child rights expertise.

8. UN Environment Programme (UN Environment)

As a leading global voice on the environment, UN Environment is focusing, inter alia, on strengthening awareness of environmental rights and access to information to people at the frontline of environmental protection, while developing practical tools and resources. For example, UN Environment is enhancing legal support, and producing legal and policy guidance on environmental rights so that all actors can understand and implement environmental rights obligations.

UNDP has tentatively proposed joined-up activities with UN Environment on their Environmental Rights Initiative[[29]](#footnote-30) to work with Human Rights Defenders (HRDs) and other community advocates in order to advance environmental rights. UNDP small grants support to CSOs working on legal aid provision to HRDs can be guided and strengthened by UN Environment experience with environmentally-focused CSOs. Further, UNDP can help ensure that NAPs and other strategic plans lead to efforts that strengthen institutional capacities and enforcement of environmental laws, eliminate the use of strategic litigation against public policy (SLAPP), and strengthen the utility of Environmental and Social Impact Assessments. UNDP’s growing list of private sector partners can also complement UN Environment’s efforts to work with businesses so that they might better understand what their environmental rights obligations are, and ultimately move them from merely complying with existing laws, to actually championing environmental rights.

UNDP B+HR commitment to the environmental rights agenda is defined by its approach towards its stakeholders. UNDP leverages its trusted relationships with government to build institutional capacity while actively reaching out to businesses to address transparency and accountability deficiencies in supply chains. UNDP’s proposed capacity building on due diligence and environmental impact assessments will give actors the tools they need to make corrective action and/or enforce laws.

UNDP is also activating its close relationships with the CSO community, to develop strategies that build bottom-up demand for action from government and business. UNDP support to legal aid institutions will provide the leverage – through access to information and access to justice – to move institutions and businesses to remedy environmental harms and environmental rights abuses.

**Simplified Environmental Assessment**:

The proposed project offers opportunities for positive contributions to environmentally sustainable development practices. Discussions around the supply chain and the impacts on the community will by necessity raise issues on environmental externalities including water pollution, air pollution, plastic and other material waste disposal. The impact of climate change on communities will also be taken up in assessments with a particular focus on vulnerable groups. Industry bodies will be taken on as partners where possible to address both pollution and climate change.

We intend to follow the guidance and standards of our main partner, UN Environment, on environmental issues. Through our small grants facility, we also intend to partner with Earth Rights International, Environmental Justice Foundation, Asia-Pacific Forum on Women, Law and Development (APWLD), and Conservation International. Based on prior briefings with these groups and others, we believe that priority areas include land concessions related to Special Economic Zones, agricultural development, and hydropower construction. Palm oil harvesting linked to deforestation is a high priority but also highly contentious. Again, we will be guided by the experts here in Asia on where to focus and what steps are required to make progress. Together with UN Environment and the CSO community we will engage in advocacy, capacity building, and rights awareness, among other activities.

9. ASEAN CSR Network (ACN)

An advocate for Corporate Social Responsibility (CSR) and Responsible Business, ACN engages participants in information, education and communications campaigns that promote the practice of CSR, leveraging also on the standards set in the UN Guiding Principles. UNDP has worked with ACN on a variety of public events in the past, including the regional workshops on business and human rights. ACN has been key to securing private sector attendance in some workshops in the past. For this project ACN will serve as UNDP’s main implementing partner on activities as they relate to SE Asia and the private sector in ASEAN.

UNDP is bringing ACN on board as a more formalized partner and encouraging the organization to embrace to the full extent possible a human rights-based approach to responsible business conduct through the UN Guiding Principles. Continuous partnership on future regional dialogues with AICHR will also be critical. Through engagement on these and other discrete projects, UNDP and ACN will bring their respective constituencies from the private sector, CSOs, academia and government together in support of human rights in business operations.

10. Civil Society Organizations

To help address national and transboundary cases on business and human rights, UNDP will utilize its existing connections with regional networks. Engagement with Manushya Foundation, Asia Indigenous Peoples Pact and Oxfam, will be critical to efforts to mobilize and reach communities. The regional scope of the project will allow for regional exchanges of best practices in combatting environmental challenges and violence and discrimination against women, among other topics. International Commission of Jurists, Stockholm Environment Institute, and RWI, will also be contracted to assist on large research projects and think pieces. UNDP’s emerging partnership architecture on B&HR, which includes the above organizations, will strengthen regional advocacy networks and enhance the ability of organizations and institutions to tackle issues at the national level. CSOs like Forum Asia and Environmental Justice Foundation, will guide UNDP in identifying priority actions under the transboundary heading. UNDP will unlock the organization’s convening and normative power in service of CSO efforts to address specific subject-area priorities, which are likely to involve land confiscation, displacement incidents, forced labour, and environmental rights abuses.

**Risks and Assumptions**

UNDP has sought to minimize risks in project design by ensuring that the objectives and proposed activities are fully consistent with the current strategic priorities of UNDP and fully supported by its constituents. The Business and Human Rights agenda is gaining significant attention from the international community, as evidenced by increasing profile in human rights, migration and sustainable and equitable development debates. Governments, businesses and CSOs are becoming more sensitized to the human rights risks that business operations pose, and their implications for trade, growth, and sustainable development.

Notwithstanding this strengthening enabling environment, UNDP has anticipated several risks to the project. UNDP will seek to mitigate these risks with coherent actions, as in the risk matrix below. These risks generally fall into 3 large categories: 1) Political will in support of the project wavers over the project period due to unforeseen external shocks, domestic disruptions or changes in government, or simply due to competing prioritizes: 2) Business refuse to follow government guidance, or that uptake by the business sector is rhetorical in nature only, and; 3) risk of overlapping and competing initiatives at country and/or regional levels creates duplicative efforts, exhausting constituents and diminishing interest in working with UNDP and others.

**Risk Log**

|  |  |  |  |
| --- | --- | --- | --- |
| **Type**  | **Description** | **Rating:****H/M/L**  | **Mitigating Actions** |
| Political | Shifting levels of political will leads to delays in the implementation of the UN Guiding Principles or related action  | M | UNDP B+HR Asia project will work closely with B&HR national champions and trusted, but independent advisors to government with strong connections to policy makers. UNDP will link national champions to ongoing programming efforts at UNDP Country Offices to maximize advocacy and technical support efforts;UNDP Country Offices will guarantee close coordination with government counterparts to ensure ownership of the B&HR agenda;UNDP will invest in advocacy and awareness raising on the UN Guiding Principles in different national contexts, and to stoke positive competition between states to outdo the other in terms of progress;UNDP will bring together regional actors to discuss opportunities and challenges and facilitate peer learning to help states clarify what investments and what returns on investments they can expect. International dialogue events will also help increase interest among states by providing visibility on progress. |
| Political | Election cycles in target countries might delay implementation | M | UNDP B+HR Asia project will implement activities through the UN Country team and seek advice from the UN Resident Coordinators and their Peace and Development Advisers to calibrate UNDP’s approach to the government and any new ministers or other senior government officials.The Project Advisory Committee will support the Project Board by providing high-level advice and recommendations. This committee will also help provide advice and assistance when project deliverables are delayed due to unforeseen political circumstances. We will mitigate the risk of activity implementation delay during election cycles by planning for delays in annual work plans in countries that have an election planned for that year. |
| Operational | Engaging with private sector actors can prove difficult if a ‘business case’ is not fully developed. Moreover, certain reputational risks exist with regards to “blue-washing”. | M | UNDP B+HR Asia project will cultivate and work with credible business associations such as the Global Compact Networks, ACN, national and international Chambers of Commerce, and industry-specific bodies to create interest in sustained actions and investments;UNDP will host events or invite private sector champions to help showcase the progress of private sector actors to reward and validate their efforts, but also to encourage their peers and policy makers to support and normalize these sustainable practices;UNDP will host knowledge-sharing labs and other events, made up of NHRIs, CSOs, UN-system actors and business champions which will encourage heightened business participation and ownership in support of behavioral change in the business sector; UNDP will keep its base of business partners as broad as possible and yet explore the need to develop a sustainable-business partner program to qualify engagement |
| Political | Countries could perceive NAP processes as simply public relations exercises, develop ineffective NAPs, or fail to follow-up on implementation after its drafting | M | Among other efforts, UNDP will take strong measures, including the possibility of disengagement or support, to help ensure that government commitments under the B&HR agenda are not merely for public relations purposes, and that processes, content and implementation meet international standards;UNDP will ensure the quality of National Action Plans through advocacy missions and dialogue, training events and roundtables that include policy makers at regional meetings;UNDP will also deploy its own technical capacities and CSO partner expertise where necessary. It will convene stakeholder consultations and validation exercises. Importantly, it will bring human rights defenders to the table to voice their challenges in a safe space;To the extent possible UNDP will leverage its relationship with the UNWG to ensure adequate levels of pressure to produce a quality NAP.UNDP will also leverage the UPR process, and international forums such as the UN Forum on Business and Human Rights, to facilitate review of NAPs by recognized authorities and peers. UNDP will also encourage at the early stage of development, that countries request the UN Working Group plan an official country visit. UNDP will facilitate CSO participation in all review events. |
| Political | An NHRI may be downgraded in status by the Sub-Committee on Accreditation aat GANHRI amounting to a set-back for the Business and Human Rights agenda on the country in several respects, including limiting access to effective remedies for victims of business-related human rights violations.  | L | UNDP will actively deploy technical assistance and advice to help relevant NHRIs monitor, report, and investigate human rights abuses more effectively and in a timely manner, to reduce the risk of downgrading; UNDP will strengthen support to national and regional CSOs working with human rights defenders to provide legal assistance in furtherance of adequate remedies; |
| Political/operational | Human rights defenders and victims of violations may be placed in danger by the project’s support to CSOs and community-based organizations leading to an increase in conflicts or security risks  | M  | The project will support inclusive decision-making processes and aim to build consensus around interventions on the ground. The project will continuously assess security risks and revise project activities accordingly.  |
| Operational  | Delay in signing partnerships and MoUs with UN Women, UN Environment or others  | L | The project team will work closely with the BRH operations and the relevant bureaus in HQ to identify and address delays; Focus on forward planning will mitigate risks of delays  |
| Operational  | Delay in establishing appropriate platforms for discussions and knowledge sharing internally and externally, due to events outside project control | L  | The activities are designed to be flexible and should be revised based on achievements in years prior;Focus on forward planning will mitigate risks of delays  |

**Assumptions**

The project is based on the assumption that regional and national authorities are committed to better the human rights and environmental conditions of their country and are receptive to adopting any recommendations advanced, and to engaging in dialogue with other stakeholders (trade unions, civil society, and community-based organizations). The project also assumes that stakeholders are willing to engage in dialogues, networking, organizing, capacity building, attitudinal and behavioural change, and advocacy, and that there will be effective collaboration among a diverse set of stakeholders.

**Stakeholder Engagement**

Among UNDP’s most important target groups for engagement include NHRIs and CSOs. Created through laws or constitutions, NHRIs are autonomous bodies that have a mandate to advise the Government on Human Rights Policy investigate human rights violations and mediate disputes. Similar to OECD National Contact Points (NCPs), though with a much broader mandate, NHRIs play an important role in highlighting human rights grievances, taking complaints, sharing information and making recommendations. unlike NCPs, NHRIs are present in emerging economies in Asia where human rights abuses are more commonplace.

In recent years, NHRIs such as the National Human Rights Commission of Thailand, SUHAKAM in Malaysia and Komnas HAM in Indonesia, have championed an increasing number of high profile cases linked to abuses by the private sector. UNDP is leveraging a global Memorandum of Understanding with the Global Alliance for National Human Rights Institutions (GANHRI),[[30]](#footnote-31) to further enhance the significant capacities of NHRIs in Asia to manage B&HR related cases. There are NHRIs in all countries in focus, but one, Viet Nam.

Among CSOs operating on a regional level, the Asian Forum for Human Rights and Development, Forum-Asia, the Asia Indigenous Peoples Pact (AIPP), ALTSEAN Burma, and Oxfam International are active in information exchange, capacity building and otherwise bringing visibility to B&HR issues. NHRIs, regional CSOs, and national level CSOs have indicated an interest in joining UNDP to better harness lessons learned and to advocate jointly before regional institutions such as ASEAN.

The ASEAN Intergovernmental Commission on Human Rights (AICHR), comprised of representatives of all ASEAN member states, is also a significant partner to UNDP. AICHR and UNDP have coordinated workplans and co-hosted regional workshops and will continue doing so in the future.

Multi-stakeholder initiatives, such as the Ethical Trading Initiative and the Roundtable on Sustainable Palm Oil, bring together corporations, CSOs and other stakeholders to develop and jointly implement programs aimed at improving business practices. Though UNDP has yet to engage with these initiatives, deepening work in Indonesia and Malaysia may lead to important partnerships.

Other target groups include the private sector. National business networks (including management clubs, chambers of commerce, industry groups and Global Compact Networks, various branches of the International Organization of Employers) actively encourage their members to commit to corporate social responsibility (CSR) principles. UNDP is drawing the attention of these groups to the B&HR agenda and encouraging participation.

Outside of pre-existing associations, UNDP B+HR Asia intends to engage and widen its business network through the promotion of specific initiatives. These initiatives, currently in various degrees of progress include: 1) development of a human rights academy to train SME suppliers to CP Group in Thailand; 2) work on a block chain initiative to enhance transparency alongside KPMG’s food providence project and; 3) implementation of a baseline assessment of women’s worker rights on tea plantations with Unilever with an eye to programming with the UNDP Bangladesh Country Office.

UNDP B+HR Asia will also participate in the organization and design of UNDP’s Responsible Business Forum, a yearly event taking place in Singapore which intends to unlock partnerships with the private sector in pursuit of sustainable development. In 2018, UNDP B+HR Asia worked diligently to ensure that “human rights” was included as one of five themes that will be discussed and treated in detail in a lab-format during the 2-day forum. It is hoped that participating business leaders will feel inspired to collaborate with UNDP B+HR Asia on other special initiatives and develop innovative solutions to human rights abuses in supply chains.

UNDP will reach SMEs through large corporations leveraging their purchasing power over their suppliers. For those SMEs that are not part of the supply chain we will conduct targeted awareness campaigns and work towards strong governmental policy. Translating the UNGPs into language that SMEs can understand and implement will also be important.

**Beneficiary engagement**

1. Women

As noted above, violations of human rights by businesses have a disproportionate impact on women due largely to discrimination. Women frequently work in more precarious jobs than men and receive a lower level of social protection. They are paid less for equal work and are offered less protection by the law in cases involving land disputes. Occupying lower status and lower pay jobs, women may also suffer more significantly from exposure to pollutants. Aggravating these circumstances are the socio-cultural barriers women face in accessing remedies. Given these circumstances, the proposed project will focus on empowering women in the workforce and eliminating sexual harassment and violence in the workplace, led by emerging guidelines from the UN Working Group. UNDP will engage vulnerable women through its partnerships with Women CSOs and CSO networks and through its relationship with UN Women.

1. Indigenous Peoples

The rights of indigenous peoples are among the most impacted by business interests. UNDP has developed a policy of engagement with indigenous peoples and a resource guide and toolkit, both of which are informed by the principles found in the UN Declaration on the Rights of Indigenous Peoples, and the Framework Principles on Human Rights and the Environment. Building on these, the proposed project will aim to strengthen indigenous peoples’ engagement with business and governments and to increase their voice in decision-making and development planning. Indigenous peoples will be engaged through UNDP’s growing relationship with AIPP.

1. Migrants

Despite many efforts to ensure the protection of migrant workers in the region, they remain vulnerable to human rights violations. Migrants and their families, especially those who migrate irregularly, are often subjected to abuse and exploitation due to their precarious legal status. They are underpaid or paid irregularly and subjected to dangerous working conditions. They have no recourse when their rights are violated. Recognizing their circumstances, UNDP will ensure that NAPs and other regulatory issues related to the B&HR agenda adequately address migration issues in partnerships with IOM, ILO and UN Women and other that are working with migrant workers.

**Knowledge**

UNDP is a global knowledge leader that uses its convening role to bring together different perspectives and voices together to influence global development discourse. Leverage this role, UNDP will add to the discourse on business and human rights by producing a number of research and policy products on the human rights implications of special economic zones, the Belt and Road Initiative, and emerging trade negotiations. UNDP will also develop tools for training purposes and awareness raising on B&HR. UNDP will seek advice, inputs and feedback on its policy products from UNDP global policy centres in Copenhagen, Oslo, Rio, Istanbul and Seoul.

# Project Management

UNDP will bring the totality of its various assets—including its global reputation as a trusted development partner, its longstanding relationships with CSOs and CSO networks, NHRIs and the private sector, and its financial resources and expertise to bear—to convene, advocate, and support efforts to realize B&HR objectives in Asia.

This Project will be managed as part of the UNDP Regional Programme for Asia and the Pacific 2018-2021. The team in UNDP Bangkok Regional Hub (BRH) will provide technical advice and oversight from its regional centre the Bangkok Regional Hub. BRH will ensure the coordination and linkages between different UNDP Country Offices and responsible parties, as well as other partners and UNDP policy centres, promoting alignment between the project’s activities and the work of these stakeholders. Overall guidance on the project will come from the UNDP BRH Chief of Regional Policy and Programmes.

UNDP will be responsible of the overall management of the project. The staff structure will include:

1. **Business and Human Rights Advisor (P5)** that provides strategic guidance, high-level policy advice, overall management of the project, management of specialists and consultants, quality assurance, and is in charge of managing the project partnerships.
2. **Regional** **Project Coordinator (UNV)** that serves as the main focal point for workshop preparation, communication, quality assurance, operations and resource management, M&E and knowledge management. The Project Coordinator will also liaise with UNDP Country Offices to ensure smooth implementation of activities carried out at country level.
3. **Regional** **Procurement and Administrative Assistant (SC SB3)** (charged to the project only for 50% of its salary since the position will be shared with another Project) that provides support to administrative, financial and logistical project operations.

Given the ambition of the Project to provide technical assistance to 7 countries in two sub-regions, a great deal of expertise will have to be available and promptly deployed to frequent missions (to support the drafting of NAPs, to train stakeholders, to build capacity of Institutions). To address this need, the project estimates significant savings in transaction costs from the hiring of two **Technical Specialists (one responsible for South East Asia and one for South Asia)**, as opposed to the semi-regular hiring of multiple international consultants. Procuring separate consultants will pose administrative challenges and slow project delivery. (Procurement rules will not allow for the longer term hiring of international consultants.) Long term technical specialists will also reduce the costs and time required to bring new consultants up to speed. Further productivity will be enhanced through the quality control function of the technical specialists. To reduce overall costs of technical expertise only one of the specialists will hold a P4 Fixed Term Appointment contract while the second will hold a more flexible and less expensive IC contract. The Technical Specialist for Southeast Asia will be based in Bangkok while the one responsible for South Asia will be based initially in Bangkok, but eventually, in the duty station that the Project Board will consider most convenient given progress in India, Bangladesh and Sri Lanka. Technical assistance is fully aligned to programmatic outputs and thus charged accordingly, in the project budget under programmatic outputs (2.3, 4.7 and 5.4). The cost of P5 and P4 positions in the UN System is determined by a Salary Scale that is the same for all UN agencies. The cost indicated in the Budget refers to a standard Proforma cost again determined centrally by HQ that includes the salary (around 50% of the full amount) and other costs.

The **Technical Specialists (P4 for Southeast Asia and IC for South Asia)** will lead advocacy missions in their respective sub-regions, deliver trainings and facilitate workshops, provide technical expertise and advice on the drafting of NAPs, provide quality assurance of the work at country level and report on progress in their AoR. They will also coordinate presence of stakeholders from their countries of responsibility at Regional and Global events.

The Project will also be strengthened by the assets of Country Offices in the target countries. In this regard the project will have in-kind access to interventions made by various Senior Officials based at Country level such as UNDP Country Directors, Deputy Country Directors and Team Leaders. For specific country activities in the target countries that require coordination and facilitation on the ground it is estimated that 15% of the allocated funds will be provided to UNDP Country Offices to compensate for technical staff time. Staff time will be managed through corporate human rights practices at the country levels. Staff performance is measured at regular intervals through established processes. Problems that may arise in performance will be addressed through Country Office Directors and senior management.

Programme resources necessary for interventions in each country (estimation provided in Annex D: Country Allocation) will be approved every two years and reviewed annually by the Project Board. The funding for staff costs to support implementation of country activities will be determined based on a 15% ratio of the activity funds at the country office level.

Once staff costs are determined, the project will negotiate with the Country Office a cost sharing modality for an existing staff member or the shared hiring, jointly with other projects of a new national officer or UNV.

The focal point at Country Level will be responsible for the day to day liaising with stakeholders at country level (CSOs, NHRIs, Private Sector, Governement Officials) for the organization of events. He/she will also be in charge of coordination with other UN Agencies. To this purpose he/she will organize with support from the Senior Management of the Country Office a yearly coordination meeting of the UN country Team on Business and Human Rights inviting focal points of agencies such as ILO, IOM, UNICEF, UNWOMEN, etc.

As another cost saving measure, expertise from specialists working at UNDP BRH on climate change, anti-corruption efforts, gender seals, urbanization and innovation will be consulted as necessary and without charge, reducing the need for advisory support from external sources in these areas. UNDP will collaborate and share lessons learned with UNDP anti-corruption experts working on the Promoting a Fair Business Environment in ASEAN project.

UNDP will be responsible of the overall management of the project, including transferring of funds to responsible parties for specific outputs, and therefore all the amounts are subject to UNDP standard administrative charges. Having UNDP as the overall umbrella organisation managing the project will reduce the transactional costs for donor partners, as UNDP will share some monitoring and reporting responsibilities with other parties. UNDP BRH has done this successfully in a variety of programs in the past.

# Governance and Management Arrangements

This Project will be managed as part of the Regional Programme for Asia and the Pacific 2018-2021. UNDP Bangkok Regional Hub, as the Implementing Partner, will be responsible of the overall management, through a dedicated team. A Project Senior Advisor will provide strategic guidance and overall coordination with Responsible Parties and other stakeholders and will: 1) supervise two technical specialists (one FTA and one IC) ; 2) a project coordinator for event coordination, M&E and communication; 4) an administrative assistant for administrative, financial and logistical project operations. UNDP BRH will coordinate with relevant centres of expertise within UNDP at global, regional and country level.

Though this is a regional project with regional objectives, the project will leverage the in-country presence of UNDP Country Offices as a part of its strategy, as described above. Thus, UNDP Country Offices in the seven (7) target countries will also be engaged to facilitate the implementation of the national and local level activities and provide advice and guidance as political circumstances require. Country Offices are also best qualified and positioned to analyse risk pursuant to the country-specific workplans they submit. Thus, each Country Office, upon submitting proposals for funding from the proposed project, will submit a risk assessment. Risk analysis will be elaborated within the first 6 months of the project life of Country Office interventions.

A Project Board will be set up with the overall responsibility for providing strategic guidance and oversight for the implementation of the Project. The Board will be responsible for making consensual management decisions concerning project issues and risks and will provide advice and guidance as required to the Project Senior Advisor in UNDP Bangkok Regional Hub.

Approval of any significant project revisions and approval of Annual Work plan (AWP) is also a key role of the Project Board. The Board will also be used as a mechanism for leveraging partnerships and mobilization of resources for the implementation of the Project. Project reviews by the Board will be made at designated decision points during the running of the project. The Senior Advisor will consult the Board for decisions if/when tolerances have been exceeded. Project quality assurance is the responsibility of each Board member. Board memberships will also include a representative of the Government of Sweden to hold an observatory seat, and other donors as may arise, to participate as these partners see fit. Gender balance shall be taken into consideration in the formation of the Project Board. The composition of the core of the Project Board will be as follows:

a) The Executive Chair role will be represented by UNDP’s Chief, Policy and Programme Section, UNDP Bangkok Regional Hub;

b) The Senior Supplier role will be represented by UNDP’s Responsible Parties

c) The Senior Beneficiaries on the Board will be represented by: 1 senior representative from government or NHRI, 1 senior representative from the CSO community, and 1 senior representative from a UNDP Country Office in one of the target countries of the Project, and 1 senior representative from a chamber of commerce.

The Project Advisory Committee, composed by High level experts and researchers in the field of Business and Human Rights will support the Project Board by providing high-level advice and recommendations. This committee will also help ensure that project management milestones are reached by facilitating opportunities or provide advice and assistance when project deliverables are delayed due to unforeseen and non-technical or managerial circumstances. It is envisioned that a researcher from either RWI or ICJ will also occupy one seat on the Advisory Committee. One member of the UN Working Group on Business and Human rights, in his capacity as University Professor has already accepted to be sitting in the Project Advisory Board.

The Project Board and the Advisory Committee will meet regularly on a yearly basis every last week of June and be called for ad-hoc sessions on a need basis.

As needed to ensure integrity of CSO small grants facility, an ad hoc steering committee will be called to oversee and score applicants in any selection process. This is also true of any selection process involving seed funding for social impact projects. UNDP will take advice on the composition of the ad hoc steering committees from both the Project Advisory Committee and Project Board. See Annex: C

**UNDP Regional programme for Asia and the Pacific 2018-2021**

**Project Board**

**Project Board**

**Senior Beneficiaries**

Senior representatives from governments, private sector, UNDP Country Offices and CSOs

**Senior Suppliers**

Representatives from Project’s Responsible Parties

**Executive Chair**

UNDP’s Chief, Policy and Programme Section, UNDP Bangkok Regional Hub

**Project Advisory Board:**

*Member of UNWG, GANHRI (APF), RWI, NHRI Commissioner*

**B&HR Advisor**

**P5**

**Administrative Assistant**

**NOB**

**Project Coordinator**

**UNV**

**Technical Specialist, South Asia,**

**Intl Consultant**

**Technical Specialist,**

**SE Asia, P4**

1. **Legal Context and Risk Management**

**Legal Context Standard Clauses**

**Option c. For Global and Regional Projects**

This project forms part of an overall programmatic framework under which several separate associated country level activities will be implemented. When assistance and support services are provided from this Project to the associated country level activities, this document shall be the “Project Document” instrument referred to in: (i) the respective signed SBAAs for the specific countries; or (ii) in the [Supplemental Provisions](https://intranet.undp.org/global/documents/ppm/Supplemental.pdf) attached to the Project Document in cases where the recipient country has not signed an SBAA with UNDP, attached hereto and forming an integral part hereof.  All references in the SBAA to “Executing Agency” shall be deemed to refer to “Implementing Partner.”

This project will be implemented by the agency (name of agency) (“Implementing Partner”) in accordance with its financial regulations, rules, practices and procedures only to the extent that they do not contravene the principles of the Financial Regulations and Rules of UNDP. Where the financial governance of an Implementing Partner does not provide the required guidance to ensure best value for money, fairness, integrity, transparency, and effective international competition, the financial governance of UNDP shall apply**.**

**Risk Management Standard Clauses**

1. **Option b. UNDP (DIM)**
2. UNDP as the Implementing Partner shall comply with the policies, procedures and practices of the United Nations Security Management System (UNSMS.)
3. UNDP agrees to undertake all reasonable efforts to ensure that none of the [project funds][[31]](#footnote-32) [UNDP funds received pursuant to the Project Document][[32]](#footnote-33) are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via [hthttp://www.un.org/sc/committees/1267/aq\_sanctions\_list.shtml](http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm). This provision must be included in all sub-contracts or sub-agreements entered into under this Project Document.
4. Consistent with UNDP’s Programme and Operations Policies and Procedures, social and environmental sustainability will be enhanced through application of the UNDP Social and Environmental Standards (http://www.undp.org/ses) and related Accountability Mechanism (http://www.undp.org/secu-srm).
5. The Implementing Partner shall: (a) conduct project and programme-related activities in a manner consistent with the UNDP Social and Environmental Standards, (b) implement any management or mitigation plan prepared for the project or programme to comply with such standards, and (c) engage in a constructive and timely manner to address any concerns and complaints raised through the Accountability Mechanism. UNDP will seek to ensure that communities and other project stakeholders are informed of and have access to the Accountability Mechanism.
6. All signatories to the Project Document shall cooperate in good faith with any exercise to evaluate any programme or project-related commitments or compliance with the UNDP Social and Environmental Standards. This includes providing access to project sites, relevant personnel, information, and documentation.
7.
8.

**Option e. Global and Regional Projects (under UNDP implementation/DIM)**

1. The responsibility for the safety and security of the Implementing Partner and its personnel and property, and of UNDP’s property in the Implementing Partner’s custody, rests with the Implementing Partner. The Implementing Partner shall: (a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the project is being carried; (b) assume all risks and liabilities related to the Implementing Partner’s security, and the full implementation of the security plan. UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this agreement.
2. The Implementing Partner agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received pursuant to the Project Document are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via <http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml>. This provision must be included in all sub-contracts or sub-agreements entered into under this Project Document.
3. Consistent with UNDP’s Programme and Operations Policies and Procedures, social and environmental sustainability will be enhanced through application of the UNDP Social and Environmental Standards (http://www.undp.org/ses) and related Accountability Mechanism (http://www.undp.org/secu-srm).
4. The Implementing Partner shall: (a) conduct project and programme-related activities in a manner consistent with the UNDP Social and Environmental Standards, (b) implement any management or mitigation plan prepared for the project or programme to comply with such standards, and (c) engage in a constructive and timely manner to address any concerns and complaints raised through the Accountability Mechanism. UNDP will seek to ensure that communities and other project stakeholders are informed of and have access to the Accountability Mechanism.
5. All signatories to the Project Document shall cooperate in good faith with any exercise to evaluate any programme or project-related commitments or compliance with the UNDP Social and Environmental Standards. This includes providing access to project sites, relevant personnel, information, and documentation.

# Monitoring And Evaluation

**Monitoring Plan**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Monitoring Activity** | **Purpose** | **Frequency** | **Expected Action** | **Partners** **(if joint)** | **Cost** **(if any)** |
| **Track results progress** | Progress data against the results indicators in the RRF will be collected and analysed to assess the progress of the project in achieving the agreed outputs. | Quarterly, or in the frequency required for each indicator. | Slower than expected progress will be addressed by project management. |  |  |
| **Monitor and Manage Risk** | Identify specific risks that may threaten achievement of intended results. Identify and monitor risk management actions using a risk log. This includes monitoring measures and plans that may have been required as per UNDP’s Social and Environmental Standards. Audits will be conducted in accordance with UNDP’s audit policy to manage financial risk. | Quarterly | Risks are identified by project management and actions are taken to manage risk. The risk log is actively maintained to keep track of identified risks and actions taken. |  |  |
| **Learn**  | Knowledge, good practices and lessons will be captured regularly, as well as actively sourced from other projects and partners and integrated back into the project. | At least annually | Relevant lessons are captured by the project team and used to inform management decisions. |  |  |
| **Annual Project Quality Assurance** | The quality of the project will be assessed against UNDP’s quality standards to identify project strengths and weaknesses and to inform management decision making to improve the project. | Annually | Areas of strength and weakness will be reviewed by project management and used to inform decisions to improve project performance. |  |  |
| **Review and Make Course Corrections** | Internal review of data and evidence from all monitoring actions to inform decision making. | At least annually | Performance data, risks, lessons and quality will be discussed by the project board and used to make course corrections. |  |  |
| **Project Report** | A progress report will be presented to the Project Board and key stakeholders, consisting of progress data showing the results achieved against pre-defined annual targets at the output level, the annual project quality rating summary, an updated risk long with mitigation measures, and any evaluation or review reports prepared over the period.  | Annually, and at the end of the project (final report) |  |  |  |
| **Project Review (Project Board)** | The project’s governance mechanism (i.e., project board) will hold regular project reviews to assess the performance of the project and review the Multi-Year Work Plan to ensure realistic budgeting over the life of the project. In the project’s final year, the Project Board shall hold an end-of project review to capture lessons learned and discuss opportunities for scaling up and to socialize project results and lessons learned with relevant audiences. | Specify frequency (i.e., at least annually) | Any quality concerns or slower than expected progress should be discussed by the project board and management actions agreed to address the issues identified.  |  |  |

**Evaluation Plan**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Evaluation Title** | **Justification** | **Planned Completion Date** | **Key Evaluation Stakeholders** | **Cost and Source of Funding** |
| Mid-Term Evaluation | A mid-term review will be conducted by an independent evaluator. This evaluation will help to assess progress towards project deliverables, identify gaps in programming, and any mistakes that require correction for the second half of programming.  | December, 2021 | CSOs, UN system partners, governments, donor partners | 20,000 |
| Final Evaluation | A final evaluation will be conducted to close the project cycle and help assess whether project deliverables were met, the quality of the impact of the project, any lessons learned, including gaps which were left unaddressed or opportunities missed. | March, 2023 | CSOs, UN system partners, governments, donor partners | 20,000 |

1. **Results and Resource Framework**

[Please see excel sheet attached, titled “Results and Resources Log Frame.” The Results and Resource Framework envisioned for this section is based on this log frame and will be inputted here, into word doc format after financial support terms are fully agreed.

The proposed results and resource framework is informed by the best-available information at the time of project proposal. Potential funding support from other donors such as the EU Foreign Policy instrument is ongoing but still not advanced enough to have a clear understanding of the proportion of Sweden’s support to overall UNDP B+HR programme. EU support, should it materialize, will focus on Country Level interventions, in principle in the same countries in focus in the current project. EU funding will also be focused primarily (but not exclusively) around Output 5, Policy Coherence. EU funding will also support a proportion of staffing costs. EU support is contemplated to complement the regional approach and strategy of the B+HR Asia project.]

Annex: A

Regional and Country Profiles

Between June 2017 and March 2018, UNDP Asia-Pacific conducted scoping missions to various South and Southeast Asian countries. These missions were complemented by internal and external stakeholder consultations to help determine the scope and focus of in-country work for UNDP’s Business and Human Rights project.

Out of this process, seven countries—Bangladesh, India, Indonesia, Malaysia, Sri Lanka, Thailand and Viet Nam—were chosen to feature prominently in UNDP’s work. Countries were chosen based on the following criteria: importance to international and intra-regional trade; potential to influence or pressure other states in the region to implement the UN Guiding Principles; strength of the Business and Human Rights enabling environment; capacity of relevant UNDP Country Office; interest and political will among key government actors and; nature of UNDP’s relationships with CSOs and National Human Rights Institutions (NHRIs) in-country. Though these countries are the focus of the regional programme

The following provides a brief situational overview of Southeast Asia and South Asia regions, and an analysis of the favourable or unfavourable trends in support of implementation of the UN Guiding Principles. This is followed by an overview of seven countries with remarks on the unique Business and Human Rights issues of each, opportunities for engagement, and the key actors who can help ensure strong uptake of the Business and Human Rights agenda.

A. Southeast Asia

Southeast Asia’s image as a present and future engine of economic growth has largely deflected attention away from the region’s longstanding rule of law deficits and unsustainable levels of inequality. However, in recent years weak governance and widening wealth gaps have resulted in increasingly grave environmental and social repercussions. Reports of slavery in agricultural supply chains, forced displacement of rural populations, physical mistreatment of migrants, and rapid deforestation and disappearing wildlife are hardening attitudes towards globalization and international trade. These growing trends are giving pause to plans to invest in new production facilities in Southeast Asia and giving life to calls to divest or embargo products that come from particular Southeast Asian companies and countries, with significant implications for the continued economic vibrancy and integration of the region.

Governments in Southeast Asia are now under increasingly intense pressure to take meaningful action. Evidencing this, Thailand, Malaysia and Indonesia are embarking on plans to implement the UN Guiding Principles through national plans seeking both assistance but also visibility for their efforts. ASEAN is taking notice, undertaking studies and hosting regional workshops on business and human rights, while large private sector interests devote new and sizable resources to auditing, consulting and public relation firms to manage risks.

Change may be accelerated if appropriate levels of pressure are applied through trade policy, international investment agreements, international human rights mechanisms, and regional organizations such as ASEAN. AICHR as an entry point has proven to be an effective body by which to ensure wider exposure of the B&HR agenda and can be further leveraged to build momentum, especially in 2019 when Thailand will chair ASEAN. The UN Guiding Principles, as the world’s most authoritative normative framework on business and human rights, provides a unique framework for bringing these different policy channels together and focusing them on pressing environmental and social issues. Despite the relatively strong levels of regionalism in Southeast Asia, interventions must be carefully calibrated to country circumstances to have their intended impact.

i. Indonesia

Deforestation, land grabs and forced labour in fisheries dominate discussions on the Business and Human Rights agenda in Indonesia. Hazardous working conditions remain a significant problem, despite pledges of improvement. Inadequate safety precautions led to an explosion and the deaths of 28 workers at the Mandom factory in West Java. Additionally, union-busting and mass dismissals have also dogged Indonesia’s human rights record. Honda has been accused of illegally suspending and then dismissing union leaders at a facility in Karawang in 2016 while Framas, a crucial domestic supplier to Adidas, is facing calls to reinstate union leaders who were illegally dismissed in the same year.

Illegal land appropriation by businesses and government in Indonesia remains a significant concern. Large mining companies in Papua province have allegedly confiscated and destroyed large tracts of land claimed by Indigenous Peoples. Local suppliers of international Palm Oil companies have been implicated in land-grabbing to facilitate the enormous expansion of palm oil plantations across Indonesia, often with the complicity of local governments. Violations are recurrent in Sulawesi, Borneo, Sumatra and Papua, in defiance of the principles of the 2004 Roundtable on Sustainable Palm Oil (RSPO). From 2014 to 2016, Indonesia’s Human Rights Commission (*Komnas HAM*) investigated dozens of cases across five provinces concerning land rights violations by mining and palm oil companies.

Palm oil now covers a third of the country’s total arable land. This has adversely impacted not only the livelihoods and environmental rights of local communities but has caused irreparable damage to ecosystems and wildlife habitat. The planting and production processes required for palm oil not only cause increases in carbon dioxide but will also impact on access to clean water sources.

However, the most high-profile environmental violations in Indonesia involve Illegal, Unreported, and Unregulated (IUU) fishing. IUU fishing in Indonesia, and across Asia-Pacific, has raised concerns over environmental sustainability and labour conditions. Workers have reported inhumane hours, physical abuse, dangerous working conditions, and disappearances. Furthermore, IUU fishing has the potential to impact on the livelihoods of local coastal communities across national borders, as well as destroy international fish stocks. The government, led by President Joki Widodo and Fisheries Minister Susi Pudjiastuti, has intensified efforts to combat the rise in IUU fishing in recent years. Reportedly, the government’s “Sink Vessels” policy has resulted in a 90% decrease in illegal fishing vessels in Indonesia waters.

Increasingly, the private sector is taking action separately from government. British Petroleum and PT Freeport Indonesia, among other international companies, are beginning to incorporate human rights due diligence processes of human rights compliance units into their business operations.

A government “Roadmap on the Implementation on the Guiding Principles on Business and Human Rights” is now under development and may be included as part of a wider national human rights action plan. The Coordinating Ministry of Economic Affairs has asked UNDP to help coordinate these efforts. This Roadmap may provoke behavioural change among industry actors recently subject to increased scrutiny, for example in fisheries and palm oil production.

The Indonesian government may believe that increased engagement and cooperation on human rights issues in the context of business operations, may create a more positive negotiating environment on the EU-Indonesia Free Trade Agreement (FTA). Focused discussions around a Business and Human Rights agenda might also strengthen efforts to address environmental challenges posed by the palm oil industry in Indonesia, as encouraged by the European Parliament’s Resolution on palm oil and deforestation of rainforests.

UNDP B+HR Asia project team will work closely, with UNDP Country Office in Indonesia, Indonesia’s NHRI, Komnas HAM, and national CSOs. UNDP will be working with the Coordinating Ministry of Economic Affairs on development of the B&HR Roadmap, and with the Ministry of Law and Human Rights on rights awareness campaigns and trainings.

ii. Malaysia

Priority human rights issues in Malaysia involve migrant worker abuses, environmental violations, and questionable expropriation of land through dubioius from indigenous groups.

Malaysia is a popular destination for migrants from South and Southeast Asia. Despite precarious working conditions and cases of involuntary servitude to Malaysian employers, little has been done to improve the protection of migrant workers. Migrant workers and NGOs have reported physical and psychological abuse from employers, inhumane working hours, and inadequate pay among a variety of other workers’ rights violations. SMEs are accused of the majority of workers’ rights abuses. Malaysia is yet to ratify both the ILO Convention 143 on migrant workers, and Convention 189 on domestic workers.

There are widespread allegations of illegal logging and deforestation by palm oil and rubber companies. There has been an increased rate of deforestation in Borneo, threatening the local ecosystem and the rights of villagers. Moreover, Indigenous Peoples have been forced to relocate to make way for palm oil plantations or infrastructure projects.

The Sarawak Corridor for Renewable Energy (SCORE) calls for major hydropower plants to be constructed. Local communities have claimed that this would infringe upon the rights of indigenous peoples in the Eastern Malaysian state. Additionally, Tenaga Nasional Berhad allegedly violated the rights of an indigenous group, the *Orang Asli*, by forcibly relocating villages for a planned power plant.

However, it is also true that Malaysia is moving forward to improve its human rights record. The public outcry over migrant worker abuses from 2010-2014 was reportedly a catalyst for the development of **a** Strategic Framework for a National Action Plan on Business and Human Rights, supported by UNDP and drafted by the Malaysian National Human Rights Commission, SUHAKAM. Based on the joint advocacy of UNDP and SUHAKAM Malaysia is currently undertaking a NAP, as formally announced by Senator Datuk Paul Low, the Minister for Integrity in the Prime Minister’s Office, at the UN Global Forum on Business and Human Rights, in November in Geneva.

The NAP process may complement efforts to agree a EU-Malaysian FTA, by demonstrating Malaysia’s resolve to address human rights violations. Previous negotiations stalled amidst a myriad of human rights and sustainable development concerns. In the context of these negotiations, the European Parliament urged the European Commission to ensure that human rights were central to any FTA agreement.

UNDP B+HR Asia project team will work closely with SUHAKAM providing support as requested to develop a strong NAP. UNDP will also partner with SUHAKAM and the CSO community in the development of research projects, roundtable dialogues, and other awareness raising efforts.

iii. Thailand

EU-Thailand FTA negotiations were frozen in 2014 following a military coup. Since then, other human rights concerns have tempered enthusiasm for the resumption of trade talks. Central to these concerns were claims of forced labour and human trafficking in Thai fishing operations. Another key area of international focus has been the country’s seafood industry, where systematic violations of IUU fishing resulted in a ‘yellow card’ from the EU in 2015. Allegations against the fishing industry include dangerous working conditions on fishing boats, a lack of communication with families on shore, inadequate pay, and even disappearances on trips. This has elicited an intensive effort from both the government and private sectors to deal with the issues, with Thai Union, the world’s largest supplier of tuna, rolling out a flagship sustainability programme to improve working conditions for its fishermen. Still, a 2018 Human Rights Watch report claims that conditions have not improved, with forced labour still a fixture in the industry.

There have also been high-profile cases of human rights abuses in the agri-food industry. Famously, 14 migrant workers from Myanmar filed a case against Thammakaset, a supplier to broiler chicken giant Betagro in August of 2016, alleging inhumane hours, degrading accommodation, unlawful salary reductions, and restricted movement. In turn, the company countersued the workers and a prominent workers’ rights activist for defamation.

Given Thailand’s aging population and the labour needs of the ambitious Thailand 4.0 economic development strategy, migrant workers have also become a rising concern within the Business and Human Rights discourse. The government estimates that there may be between two to three million migrant workers in the Kingdom; other sources cite numbers closer to five million. Migrant workers, legal and undocumented, are forced to take pay under the legal minimum wage, work under dangerous and unsafe conditions, and suffer long hours. Worryingly, migrants have often been used as scapegoats by local police to pin blame on thefts or other crimes. In other cases, immigrants have been ignored when crimes have been committed against them.

Lastly, environmental rights violations by companies are increasingly on the rise in Thailand. Plans to construct a coal power plant in Thepa, Songkhla province, was vehemently opposed by the local community. Protests led to the arrest of activists opposing the coal plant in November 2017 and drew attention to the treatment of human rights defenders in the country. The operations of Thai companies abroad have also been in the spotlight for environmental rights violations, with Mitrphol’s conduct in Koh Kong, Cambodia in 2013, and the construction of the Xayaburi Dam by EGAT in Laos in 2012.

The Royal Thai Government is seemingly keen to improve human rights conditions in Thai business operations in a bid to raise its international reputation, avoid disruptions in trade, increase FDI, and ensure the resumption of FTA negotiations with the EU. With strong encouragement from UNDP and AICHR Thailand Representative, the Thai government embarked on developing a NAP on UNGP implementation on 30 May 2017.

The government is currently developing a National Action Plan on Business and Human Rights, with regional consultations taking place in all provinces. The process leading up to the NAP, guided by the Ministry of Justice, has involved a baseline assessment informed by open and frank discussions with civil society organizations and community-based organizations. UNDP is currently supporting the baseline assessment with a study of the gender-differentiated impact of business operations on women in Thailand. The process will also involve consultations with the National Human Rights Commission of Thailand and the National Action Plan will be launched in September 2018 ). There are significant levels of interest in the outcome of the NAP process, given the international scandals mentioned above, but also due to business interests in ensuring a resumption of FTA negotiations with the EU.

From 26 March to 4 April, the UN Working Group on Business and Human Rights conducted an official country visit at the invitation of the government. The findings of this visit will further inform the NAP development process. The Thailand NAP should be completed in September 2018. Overall, there are high expectations that implementation of the UN Guiding Principles will strengthen existing regulations, including the Labour Protection Act of 2008.

UNDP B+HR Asia project team, will work closely with UNDP Country Office Thailand, and the regional offices of ILO, UNW, UN Environment in Bangkok to ensure strong NAP development and implementation. UNDP will also partner with these same organizations and the CSO community in the development of research projects, roundtable dialogues, and awareness raising efforts. UNDP proposes hosting in-country discussions to measure progress on the National Action Plan in October of every year, prior to the Forum on Business and Human Rights in Geneva.

iv. Viet Nam

In the wake of significant political, social, and economic transformation in the last two decades, the Vietnamese economy is growing quickly. Bilateral trade between the EU and Vietnam is currently worth over EUR 42.4 billion annually. After ratification, the EU-Viet Nam FTA may facilitate even greater trade through what some observers describe as the most ambitious trade agreement the EU has ever pursued. Given the government’s emphasis on attracting increased foreign direct investment, and the opening up of Viet Nam’s economy to global value chains, multinational corporations are expected to shift more of their operations to Viet Nam in the coming years. Low wages and a large youth population also make Viet Nam an attractive consumer market for domestic sales. However, several high-profile rights violations involving Vietnamese and multinational companies in Viet Nam have given some investors pause.

Nike faced boycotts and the threat of litigation in August 2017 over its alleged sourcing from factories that violate international labour standards. Workers reported inhumane working conditions, including excessive work hours, elevated temperatures inside the factories, as well as psychological abuse. In the same year, allegations of health and workplace violations against young women in Samsung’s Vietnamese factories have given rise to government concerns over the welfare of its people, while impacting the electronic giant’s reputation.

Businesses have recently been implicated in a spate of environmental rights violations. In 2016, a toxic waste spill from Formosa’s Ha Tinh steel factory contributed to severe water population in three coastal provinces, killing marine life and impacting on the health and livelihoods of Vietnam’s coastal populations. The chemical leak resulted in a government ban on processing or selling seafood caught within 20 nautical miles of Ha Tinh. More recently, local mining companies in Binh Dinh have been accused of illegal deforestation as part of titanium mining operations in 2017, resulting in the loss of livelihoods for local villages and impacting on the health of local people due to pollution.

Given UNDP’s engagement with key officials, including hosting them at the Forum on Business and Human Rights, and conducting awareness raising events through the UNDP Viet Nam Country Office, government interest for the implementation of the UN Guiding Principles in Viet Nam is growing, albeit tentatively. Vietnamese government representatives were present at AICHR’s regional training event in Bangkok in November 2017, as well as the 2017 UN Global Forum on Business and Human Rights in Geneva. In addition, there is rising awareness of the negative consequences of the “growth-at-all-cost approach” to development among the public, civil society and the government. UNDP’s ongoing work on Business and Human Rights in Viet Nam may in time give fuller effect to the ‘Human Rights, Democracy, and Rule of Law’ clause of the EU-Vietnam FTA.

UNDP B+HR Asia project team will work closely with UNDP Country Office Viet Nam, UNICEF and IOM which have substantial projects in the areas of Business and Human Rights in Viet Nam. UNDP will also work with high-level contacts at the Ministry of National Planning and Investment to root the UN Guiding Principles more firmly in government policy making on economic issues. UNDP will partner with the Viet Nam Chambers of Commerce and Industry (VCCI) to conduct outreach and training of the business community. Furthermore, UNDP will work closely with the Vietnamese Human Rights Institute to build awareness, develop research projects, and host roundtable dialogues.

B. South Asia

With a population of approximately, 1.749 billion—one fourth of the world's population—South Asia is both the most populous and the most densely populated region in the world. It is also among the world’s most diverse regions, encompassing large groups of people identifying as Hindu, Muslim, and Buddhist. Tensions between countries run high due to unresolved issues following the overthrow of colonialism and the violent partition of some countries that followed. In this context, regionalism has had a difficult time gestating, and indeed the UN Working Group has advised UNDP B+HR Asia that the South Asian Association for Regional Cooperation (SAARC) needs more time to evolve into a viable regional body. Thus, the UN Working Group has advised UNDP B+HR Asia to convene a regional grouping on Business and Human Rights as a means of generating a race-to-the-top between Bangladesh, India and Sri Lanka, but also in Nepal, Maldives and Pakistan. UNDP will work with UN system actors such as ILO, UN Women, and UN Environment in South Asia, to develop a strong regional workshop in 2019, modelled after the regional workshops hosted in Bangkok and covering Southeast Asia. It is hoped that by 2021, there will be a strong core group of regional actors in South Asia in active dialogue on B&HR.

i. Bangladesh

Labour rights violations are an ongoing issue in Bangladesh, with significant political, economic and trade implications. High-profile abuses involve hazardous working conditions. The Tazreen factory fire of November 2012 and the Rana Plaza building collapse of April 2013 remain potent symbols of regulatory deficits jeopardizing worker health and safety. The deaths of over 1,000 workers at Rana Plaza spotlighted hazardous working conditions in the garments industry as well as rampant rights violations by the hub-and-spoke system of indirect sourcing of apparel companies. Other labour rights violations that have proven endemic in the country include a lack of protection for unions and widespread employer abuse of marginalised groups.

Child labour and migrant trafficking are also problems in Bangladesh underscored by reports of an exponential rise in child workers in several industries. Most prominently, underage workers risk their lives working in the Chittagong shipyards, the world’s de-facto ship-breaking centre. The shipyards and their connected steel re-rolling plants, are responsible for a high rate of death and injury among its workers. Despite attempts from NGOs such as the Shipbreaking Platform to monitor and address rights abuse concerns, child labour, inhumane conditions, and inadequate pay are rampant. The influx of Rohingya refugees to areas such as Cox’s Bazaar has led to the exploitation of refugee children as labourers or domestic workers.

Violations of environmental rights are significant, due in part to rule of law deficits. The Hazaribagh tanneries, located in a residential area on the outskirts of Dhaka, continue to contribute to severe air and soil pollution. Despite a High Court order to move the 154 tanneries to the Savar industrial area, the factories have remained and continue to affect the local environment and nearby communities. It is estimated that 90% of workers in Hazaribagh die before the age of 50, many from health complications caused by air pollution.

The Universal Periodic Review (UPR) process, of the UN Human Rights Council, held in February 2009 resulted in several recommendations to the government of Bangladesh related to Business and Human Rights, ranging from action on child labour and discrimination against women, to provisions on the protection of environmental rights. Since then, strong interest in developing a National Action Plan (NAP) on Business and Human Rights has been expressed by the Ministry of Foreign Affairs, Ministry of Labour and Employment, and the Ministry of Expatriates’ Welfare and Oversees Employment. Bangladesh will undergo another UPR round in January 2019. It is likely that Bangladesh will voluntarily commit to a NAP on UNGP implementation during the next UPR round or accept recommendations from reviewing states to do the same.

Additionally, the Human Rights Commission of Bangladesh has expressed its intention to support the development of a government-led NAP, ensuring engagement with civil society. The government is aware that a NAP on Business and Human Rights may signal to the international community a strong message that it intends to further strengthen enforcement of environmental, health, and safety regulations.

UNDP engagement on Business and Human Rights will complement EU support of the Sustainability Compact for Bangladesh and other efforts to promote human rights, including labour rights and international labour standards, to ensure the Rana Plaza tragedy is not repeated. It will also boost current domestic attempts to ameliorate the situations, with large businesses such as DBL Group seeking to reduce workers’ rights abuses, empower female workers, and increase the sustainability of their operations.

ii. India

The EU is India’s largest trade partner, with exports to India totalling EUR 37.8 billion in 2016. Having formally launched trade negotiations in 2007, India’s 1.25 billion population represents an enticing market for EU exports. However, the Indian market poses high levels of operational, legal, and reputational risks to European companies.

Labour rights violations feature heavily in the Business and Human Rights landscape of the country; exacerbated by poor implementation of national laws and the growing size of the informal business sector. The National Statistical Commission of India estimated in 2012 that “more than 90%” of Indian workers were informally employed, leaving them vulnerable to dangerous working conditions, inadequate pay, long working hours, and employer abuse. Furthermore, most workers comprise bonded labour, often denied the national minimum wage and forced to have their children work alongside them as child labour.

India’s textiles industry is well known for its abuses. In 2018, suppliers to Levi Strauss and Benetton in Bangalore were accused of subjecting workers to conditions akin to modern slavery, including false promises on pay, restricted movement, physical abuse, and verbal intimidation. The 2017 Suffian Chowk factory burned and collapsed due to inadequate safety precautions.

Land rights abuses, by both government and private sector actors, represent a daunting obstacle in the Business and Human Rights agenda in India. Indigenous and “caste-affected” communities, of which 705 are officially recognised by the central government, are particularly vulnerable to land appropriation and forced relocations. In 2015, one of India’s largest coal-mining companies, in collaboration with central and state government officials, was accused of illegal land acquisition by the local Adivasi community in Chhattisgarh. In the same year in Gujarat, the state government was accused of helping businesses engage in the forced relocation of several communities to make way for new developments. Despite the adoption of new legislation in 2013 to mitigate the problems caused by public and private sector land acquisition, the 2017 UPR process in India highlighted that the number of land rights violations against indigenous communities and “scheduled tribes” continues to rise.

The government, often in collusion with business, has been accused of increased abuse and harassment of environmental rights activists. Government statistics in 2012 showed over 82,000 cases of illegal mining in the country, leading to severe air and soil pollution. In the provinces of Goa and Karnataka, local communities have reported irresponsible toxic waste management and water pollution as part of the business operations of over 2,800 mines. Logging and other resource extraction activities by businesses have allegedly polluted rivers and forests across the country. These violations, alongside the persecution and abuse of environmental rights defenders, represent a continuation of conditions that enabled the Bhopal Gas Tragedy of 1984.

Despite the worrying Business and Human Rights landscape within the country, India’s central government has expressed interest in adopting and implementing the UN Guiding Principles on Business and Human Rights. The National Institution for Transforming India, or “NITI Aayog” the premier policy ‘Think Tank’ of the Government of India created by Prime Minister Modi, has stated that it wishes to develop a NAP on the implementation of the UNGP in India. Based on the success that UNDP has had in Southeast Asia, the UN Working Group Chair asked UNDP to assist India in this process. Besides serving to mitigate the problems caused by violations of labour, land, and environmental rights, NITI Aayog reasons that the implementation of the UN Guiding Principles would also bind together the myriad business and CSR laws and regulations already in existence.

UNDP B+HR Asia project team, in partnership from UNDP Country Office India, will work with ILO and UN Women on NAP development and implementation efforts. UNDP will also partner with these same organizations and the CSO community in the development of research projects, roundtable dialogues, and awareness raising efforts.

iii. Sri Lanka

In 2017, the EU reinstated **GSP Plus** for Sri Lanka, renewing hope for a resumption of robust trade in garments and other goods. The EU is the largest destination for Sri Lankan exports, with 36% of total exports from the country entering the European market. An annual GDP growth rate of 5% is expected to continue until 2020, ensuring that trade and commercial ties will likely strengthen between the EU and Sri Lanka.

However, Sri Lanka still has many human rights issues to address in the context of business operations. Long working hours, hazardous working environments, and sexual exploitation continue to dog its reputation. Discrimination between ethnic groups allegedly impacts on hiring decisions and promotions. Furthermore, modern slavery in Sri Lanka supply chains remains an issue. The 2017 Global Slavery Index estimates that almost 46,000 Sri Lankans are exploited as caste-based slave labour, particularly in the tea and garments industry. Up until recently, underage labour also posed a significant problem for the government.

While there has been an improvement in government protection of environmental rights abuses by companies, the framework provided in national legislation requires strengthening. Coca-Cola was recently accused of leaking pollutants into the Kelani River in 2015, a crucial water source for Colombo. The company’s oil spill contaminated the river and forced the restriction of the water supply to the capital and three other municipal areas. Following an investigation, it was found that sixty other factories, owned by a range of businesses, also leaked pollutants into the river.

Illegal land appropriation is an area of growing concern. The expansion of Hambantota Port facilities has allegedly violated local peoples’ land rights. In addition, the identification of the tourism industry by the previous and current administrations as an economic priority has increased the number of resort developments along coastal areas. This tourist boom has served to only encourage increased land-grabbing by the military and big business, as well as leading to a loss in livelihoods and land-use for local communities.

Regardless of these shortcomings, there is significant interest in the Business and Human Rights agenda in Sri Lanka. Awareness-raising from civil society and UN system actors in the country has heightened government and business interest in the UN Guiding Principles. Private sector firms show an increased appetite for engagement, as they attempt to enhance Sri Lanka as a risk-free partner for FDI and trade in garments. Furthermore, there is significant interest in improving the country’s overall standing among its peers, especially following the civil war. It is expected that furthering the Business and Human Rights agenda in Sri Lanka will increase awareness of human rights issues in the context of business operations and thereby improve overall conditions.

UNDP B+HR Asia Project will work closely with the UNDP Country Office in Sri Lanka, ILO, UNICEF, and the UN Global Compact Network, and other business associations to encourage the government of Sri Lanka to undertake a NAP process for the implementation of the UN Guiding Principles. UNDP will also partner with these same organizations in the development of research projects, roundtable dialogues, and awareness raising efforts. More outreach to Sri Lanka’s NHRI is required.

Annex: B

Concept Note:

Seed funding scheme for social innovation projects and launch in three countries

Thematic Orientations:

* Innovative solutions
* Gender equality, ending violence against women
* Women’s Empowerment Principles

Introduction:

Following the explosive revelations of sexual harassment and exploitation among women in the upper echelons of the American media and entertainment industries, there is increased interest at the global level to examine women’s experience in and around work, and to ensure stronger levels of participation in the workplace by eliminating discrimination against women and related social, cultural and economic barriers. Through a matching funds scheme, UNDP will capitalize on the discourse galvanized by the #MeToo movement to bring solutions forward with CSOs and partners in the private sector. *The Gender Equality is Everyone’s Business* grants scheme will match funds with one or more business leaders promoting women’s empowerment in Asia, partnering with a CSO or social impact firm that designs and delivers on new solutions.

It is increasingly recognized that increased participation and empowerment of women in the workplace leads to significant gains for women, their families, and local businesses. A garment manufacturing company in Bangladesh recently reportedly that after putting women in leadership positions, the company experienced reduced levels of absenteeism, increased staff retention rates, and increased profitability.

Despite these benefits, women’s participation in the workforce remains limited by demands at home, harassment on public transportation, and abusive treatment or sexual exploitation at work. In some cases, legislation protecting the “propriety” or “moral sanctity” of women limit their ability to earn an income outside the home. Addressing discrimination and sexual harassment from home to work and back, through a multidisciplinary approach may increase women’s participation in the workforce, pay significant dividends in furtherance of women’s equality, and strengthen a country’s economy.

UNDP has an important role to play in bringing disparate actors together with specialized knowledge in women’s issues, labour rights, and business administration. UNDP in collaboration with UN Women can leverage its convening and normative power to develop scalable projects for replication in Bangladesh and elsewhere in Asia, using matching funds that build constructive relationships between CSOs and businesses.

Objectives:

The specific objectives of the seed-funding scheme are:

* To generate innovative solutions to gender inequality, including sexual harassment and exploitation
* To facilitate networking among CSOs in order to amplify voices and influence policies on issues related to women’s rights
* To promote constructive dialogue with media and businesses about the issues facing women in the workforce

Areas of intervention:

* Gendered policy formation in labour, social welfare and public transportation
* Leveraging technology or new approaches
* Awareness, knowledge and information sharing

Under the seed-fundingscheme, UNDP will contribute up to 40,000 USD in matching funds towards a project proposed by an established CSO and business. An additional 10,000 USD will accompany each grant to organize consultations, and to provide for any travel, training, monitoring and/or operations costs. A portion will also be used to travel CSO leaders of successful projects to the Responsible Business Forum in Singapore—held every year for the last 3 years—to showcase the project to an audience of international social impact investors, high level government and UN system officials, and the wider public.

The 50,000 USD investment, per project for three projects, will lead to increased attention to challenges that women face at home, going to work and/or in the workplace, including barriers to promotion, while bringing positive visibility to private sector partners. The investment will encourage UNDP Country Office engagement with the private sector and lead to a concrete result—a small impact project of up to 100,000 USD—that will ideally lead to other funding on women’s equality in the future.

Eligibility criteria:

Three (3) grants will be made to three (3) “solutions” in three (3) different countries. Only initiatives where a civil society organization is the main applicant are eligible. Government authorities and for-profit (commercial, private market) actors cannot apply but will participate as cooperation partners in the project or be part of a coalition where a civil society organization is the main applicant.

The selection criteria will involve the following proposed elements:

1. Novelty of proposed solution
2. Scale and capacity of CSO and private sector firm
3. Relevance to the Women’s Empowerment Principles
4. Simplicity and ease of implementation
5. Scalability
6. Timeframe

These and other criteria will be further refined by the ad hoc steering committee. The grants scheme will begin with a call for proposals made in three countries – Bangladesh, Sri Lanka, and Thailand – and will be managed and monitored by the relevant UNDP Country Office or the Regional Bureau. The selection of Bangladesh, Sri Lanka and Thailand for seed funding are based on the opportunities that are immediately present at the time of project ideation and formation. Bangladesh and Sri Lanka appear ripe given the willingness and interest of the UNDP Country Offices and their close partnerships with specific private sector actors in these countries. Thailand is chosen due to the large number of start-up technology companies present in-country and given the interest of key CSOs working on human rights issues and the food-export businesses. Social innovation projects that result will be managed by the Country Offices, with the possible exception of the Thailand Country Office which may choose to have the sub-project managed by UNDP B+HR Asia.

Selection process:

The scope, eligibility criteria, selection process and risks for the seed funding scheme and small grants for human rights defenders will be refined by UNDP B+HR Asia and then approved by the Project Board during its first or second regularly scheduled meeting, and in accordance with existing policy.

Members of the steering committee will meet at the inception of the scheme, during the selection period, and in the follow-up period. An ad hoc steering committee will be made up of one officer each from UNDP Asia-Pacific, UN Women, Oxfam or other regional CSO, one member of an academic institution or research facility, and a representative from the Government of Sweden.

Indicative budget:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Activity | Description | Cost per unit | Units | Cost |
| Travel costs | Flights and accommodation for experts and/or UN staff from Bangkok  | 2,000 | 6(2 flights x 3 countries) | 12,000 USD |
| Trainings  | Event venue, materials, food | 2000 | 3 | 6,000 USD |
| Monitoring and follow up | Event venue, stakeholder consultations, and national launch | 1000 | 6(2 event X 3 countries) | 6,000 USD |
| Launch event | Travel to Responsible Business Forum, Singapore | 1500 | 4  | 6,000 USD |
| Matching Funds | Funds made available to launch small impact project | 40,000 | 3 | 120,000 USD |
| Total over three years | **150,000 USD** |

Risks:

A risk-mitigation plan will be submitted to the ad-hoc steering committee for review and further elaboration. Where a credible private sector partner is unable or unwilling to match funds, the steering committee will decide whether the matching requirement must be met, and if not, what seed-funding amount will be allocated.

Annex: C

Concept Note:

Small Grants for Human Rights Defenders

Thematic Orientations:

* Human Rights Defenders
* Addressing threats to environmental rights
* Extraterritorial Obligations / Transboundary jurisdiction

Introduction:

Rapid economic growth in Asia impacts on the lives of the poor and the health of the environment in multiple ways. Vulnerable groups are impacted by deforestation, water pollution, and land grabs for the development of new infrastructure projects including Special Economic Zones. The foreign status of some businesses further complicates efforts to a host dialogues, conduct mediation, or pursue litigation or criminal prosecution. Displacement and instability often results, leading to violence and instability. Defenders of land and environmental rights are harassed, intimidated, and some cases killed. Immigrants are even more likely to be harmed given language and legal barriers and the threat of deportation. Perpetrators face little if any risk of prosecution.

Attention to the needs and challenges of human rights defenders (HRD), including protection from criminal defamation laws by businesses is required in greater measure. Combining UNDP efforts with expertise and guidance from UN Environment, UNDP will support 3 regional CSOs protecting and advocating for the rights of human rights defenders.

Objectives:

The specific objectives of the small grants scheme are:

* To provide support to organizations working with HRDs
* To facilitate networking among CSOs in order to amplify voices and influence policies on environmental and human rights issues
* To promote constructive dialogue with media and businesses about the issues facing HRDs

Areas of intervention:

* Direct legal support to human rights defenders
* Capacity building to community-based organizations
* Providing legal or other essential services to family members of HRDs
* Policy analysis and advocacy
* Awareness, knowledge and information sharing

Under the small grants scheme, UNDP will contribute up to **50,000 USD** to a regional CSO for 2 years of project programming. This support will be coordinated with UN Environment and any support they may be providing to the same. Reporting requirements will align with UN Environment to mitigate transactions costs for all parties.

Eligibility Criteria:

Only initiatives where a civil society organization is the main applicant are eligible. Government authorities and for-profit (commercial, private market) actors cannot apply but may participate as cooperation partners in the project or be part of a coalition where a civil society organization is the main applicant.

Three grants will be made to three difference CSOs. The selection criteria will involve the following proposed elements:

1. Scale and capacity of CSO
2. Relevance to the Framework Principles on Human Rights and the Environment
3. Simplicity and ease of implementation
4. Effectiveness
5. Scalability
6. Timeframe

Selection process:

These and other criteria will be further refined by the ad hoc steering committee. The grants scheme will begin with a call for proposals to select CSOs and will be managed and monitored by the relevant UNDP Country Office or the Regional Bureau.

Members of the steering committee will meet at the inception of the scheme, during the selection period, and in the closing period. An ad hoc steering committee will be made up of one officer each from UNDP Asia-Pacific, UN Environment, non-candidate regional CSO, one member of an academic institution or research facility, and a representative from the Government of Sweden.

Indicative Budget:

To be provided by CSO in response to call for proposal.

Risks:

A risk-mitigation plan will be submitted to the ad-hoc steering committee for review and further elaboration. Where there are insufficient applications from regional CSOs, the steering committee will seek to modify the criteria, or make other adjustments to the selection process.

Annex: D

ASEAN CSR Network - Concept Note:

Small Grants for CSOs promoting ASEAN CSR Vision 2020,

SDGs and Business and Human Rights

**About the Small Grants Fund:**

The ASEAN CSR Vision 2020 Small Grants Fund is offered by the ASEAN CSR Network with the support of the Government of Sweden through its Development Cooperation Section in Bangkok. It is designed to provide access to supplementary funding to local and regional organizations who are engaged in work to promote Corporate Social Responsibility (CSR) towards the achievement of the SDGs and with an interest to link their work to regional objectives.

**Objective:** To provide funding support to local and/or regional partners\* to implement activities related to the ‘ASEAN CSR Vision 2020’ initiative

\*’Partners’ broadly refer to any CSO engaged in the ‘ASEAN CSR Vision 2020’ initiative and with an interest to further its objectives.

**SELECTION CRITERIA:**

1. **Criteria will include:**
2. Relevance to ‘ASEAN CSR Vision 2020’ objectives and desired outcomes
3. Contribution to regional development goals and addressing regional challenges
4. Clarity on the project objectives and results logic
5. Opportunities for regional participation/ outreach
6. Value for Money (incl. co-funding availability)
7. **Activities to be funded must be related to the following work areas:**

|  |  |  |  |
| --- | --- | --- | --- |
| Advocacy | Capacity Building | Collective Action | Research & Publication |
| Communications campaign to increase awareness and understanding of CSR, sustainability and the role of businesses | Training, workshop, consultation, knowledge sharing, study trip, etc., to equip businesses with tools and skills to implement CSR | Stakeholder engagement, regional cooperation and programs to collectively deal with pressing regional challenges | Issues and sector-based studies, (comparative) case studies to understand the status of CSR at local and regional levels and propose sustainable solutions |

1. **Priority topics are limited to:**
2. **Restrictions**
	1. Total proposed funding shall be for a minimum of SGD 3,000 and maximum of SGD 10,000
	2. Funding shall be for a maximum period of 6 months (even if the Project is projected to run longer)
	3. Funding will be for a maximum of 80% of total project cost (including financial and in-kind contributions from the proponent and/or other sources)
	4. Administration costs shall not exceed 20% of the proposed funding
3. **Who can apply:**
4. NGOs and civil society organizations

**SELECTION and IMPLEMENTATION PROCESS**

1. **Initial Screening**
	1. The ACN Secretariat will be responsible for screening proposals to ensure fit to the criteria and other guidelines
	2. All accepted proposals will be included in a “short list” to be submitted to the “Grant Awards Committee”
2. **Final selection**
3. The “Grant Awards Committee” shall be the final decision-maker based on available funding and number of proposals received
4. The “Grant Awards Committee” shall meet either in-person or electronically to deliberate and confirm their decision
5. Approved proposals shall be communicated to the ACN Secretariat for appropriate action, which includes:
	1. Due diligence screening, as deemed necessary
	2. Preparation of final project plan (grant applicant) and grant agreement (ACN)
6. **Fund disbursement**
	1. Before fund disbursement, selected projects will be requested to submit a final project plan which includes:
		1. Project Work Plan and Timeline
		2. Budget breakdown
	2. ACN shall then prepare a grant agreement for the signing of both parties
	3. 80% shall be disbursed within 2 weeks upon signing of the agreement
	4. Final 20% shall be disbursed upon submission of the Final Project Report
7. **Monitoring and Evaluation**
8. A Final Project Report shall be submitted within 1 month upon completion of the Project. This shall include:
	1. Activity Report
	2. Financial Report
9. As required, mid-term updates may be requested by ACN
10. The ACN Secretariat shall prepare a summary report for the “Grant Awards Committee”





Annex F:

**Business and Human Rights in Asia: Promoting Responsible Business Practices through Regional Partnerships (B+HR Asia)**

Set-up Period (August-December 2018)

Scope of work

During the first months of implementation (August 2018 – December 2018), the project will carry out the following tasks to ensure the project is established and operational. An indicative timeline is provided below to clarify order of delivery. Some timings are estimates only, as they are dependent on external factors including degree of partnership engagement and availability of key stakeholders.

Project planning

1. Develop a communication strategy on the objectives of B+HR Asia program and conduct outreach to all stakeholders, counterparts and partners to ensure they are aware of the scope and focus of the project in conjunction with the B+HR Lab. October.
2. Provide revised annual workplan and budget for January-December 2019 including clarity on anticipated funds which would be allocated to each Country Office. In conjunction with this, provide information of the number of staff at each Country Office who would be working on the B+HR programme. November.
3. Provide updated project forecast. November.
4. Provide a country-specific risks analysis. Update on outreach strategy including power analysis for each country. November.
5. Revise baseline and target on the results framework. November.

Human resources

1. Hire technical specialists, including one long-term consultant and one BHR Specialist. Extend existing contracts as necessary. August to October.
2. Determine the availability and deployment period of UNDP to cost share the position of Business and Human Rights Advisor in tandem with UNDP BRH staff restructuring process. December.

Partnerships

1. Develop composition of Steering Boards, including the Steering Board for the Small Grants for Human Rights Defenders and the Seed Funding Scheme for Social Innovation Projects. It is envisioned that UN Environment and UN Women will be approached for participation in each respectively, as well as UNDP Country Office representatives, among others. The Advisory Board membership will also need to be formulated. December.
2. Further negotiate a Responsible Party Agreement with ASEAN CSR Network based on UNDP corporate guidelines. See Annex A.
3. Consolidate partnership plan including the specific organizations, levels and type of collaboration envisioned, and whether formal relationship that have been secured or will be agreed e.g. MOU, Letter of Interest, Agreement, etc. Plan will also detail whether funds will be forwarded to these organizations, and if so, how much. November.
4. Develop a Memorandum of Understanding with UNW on the implementation of research project, and costing of expertise related to gender lens on UNGP. November.

Donor relations

1. Develop document with the EU to detail the scope and focus of their support to the B+HR program. Hold tripartite consultations with the Government of Sweden and EU to ensure coherency and complementarity of the two support packages. July to November.
2. Produce end of inception period report for SIDA. August.

Country Office engagement

1. Negotiate with Country Offices a Work Plan of activities to be implemented at the CO level in the following 12 months based on resources available at this stage for intervention at National Level. Develop a Risk log for each of package of intervention at National level based on specific Country scenarios. August to November.
2. Develop country specific risks and update outreach strategy including power analysis for each country. November.
3. Finalize scoping and piloting phase of India to take a final decision by the end of the year whether the Country will be in focus for the rest of the program. Explore possibility of China engagement. July to December.

|  |
| --- |
| **Indicative project setup workplan – July to December 2018** |
| Type of deliverable | Task | Dates in 2018 |
| Donor relations | Develop document with the EU to detail the scope and focus of their support to the B+HR program. Hold tripartite consultations with the Government of Sweden and EU to ensure coherency and complementarity of the two support packages.  | July to November |
| Country Office engagement | Finalize scoping and piloting phase of India to take a final decision by the end of the year whether the Country will be in focus for the rest of the program. Explore possibility of China engagement.  | July to December |
| Donor relations | Produce end of inception period report for SIDA.  | August |
| Human resources | Hire technical specialists, including one long-term consultant and one BHR Specialist. Extend existing contracts as necessary. | August to October |
| Country Office engagement | Negotiate with Country Offices a Work Plan of activities to be implemented at the CO level in the following 12 months based on resources available at this stage for intervention at National Level. Develop a Risk log for each of package of intervention at National level based on specific Country scenarios.  | August to November |
| Project planning | Develop a communication strategy on the objectives of B+HR Asia program and conduct outreach to all stakeholders, counterparts and partners to ensure they are aware of the scope and focus of the project in conjunction with the B+HR Lab.  | October |
| Partnerships  | Develop a Memorandum of Understanding with UNW on the implementation of research project, and costing of expertise related to gender lens on UNGP.  | October |
| Project planning | Revised detailed annual workplan and budget for January-December 2019 including clarity on anticipated funds which would be allocated to each Country Office. Information of the number of staff at each Country Office who would be working on the B+HR programme should be identified.  | November |
| Project planning | Updated project forecast.  | November |
| Project planning | Country specific risks and update on outreach strategy including power analysis for each country.  | November |
| Project planning | Revised baseline and target on the results framework.  | November |
| Partnerships  | Further negotiate a Responsible Party Agreement with ASEAN CSR Network based on UNDP corporate guidelines. See Annex A.  | November |
| Partnerships | Consolidated partnership plan including the specific organizations, levels and type of collaboration envisioned, and whether formal relationship that have been secured or will be agreed e.g. MOU, Letter of Interest, Agreement, etc. Plan will also detail whether funds will be forwarded to these organizations, and if so, how much.  | November |
| Human Resources | Determine the availability and deployment period of UNDP to cost share the position of Business and Human Rights Advisor in tandem with UNDP BRH staff restructuring process.  | December |
| Partnerships | Conduct outreach for composition of ad hoc Steering Committees, including the Steering Committee for the Small Grants for Human Rights Defenders and the Seed Funding Scheme for Social Innovation Projects. It is envisioned that UN Environment and UN Women will be approached for participation in each respectively, as well as UNDP Country Office representatives, among others.  | December |

**In addition to these setup activities, UNDP plans on accomplishing the following substantive activities over the period August to December. These activities are linked directly to activity lines in the proposed project document.**

* 1.1.2 Develop video and social media communication products.

Various stakeholders at the AICHR Dialogue articulated the need to link the Business and Human Rights agenda to the 2030 Agenda for Sustainable Development. In light of this message, UNDP B+HR will produce communication products that help explain the relationship. This video will be used at future regional dialogues and other events, as well as be posted online on UNDP’s website.

* 1.2.1 Regional Training on Business and Human Rights for CSOs (with AICHR)

Continuing with our work with AICHR, develop in partnership with ASEAN Chain, one regional training on Business and Human Rights for CSOs.

* 1.3.1 Co-host event at the Responsible Business Forum.

UNDP Asia-Pacific is co-hosting the Responsible Business Forum in Singapore in October this year. This conference will provide a platform for businesses and UNDP to create partnerships around potential solutions in pursuit of sustainable development. UNDP B+HR Asia has worked to ensure that Human Rights was included as one of five themes. UNDP B+HR will participate in a Stakeholder Advisory Group meeting in August in the lead up to the main event. At this meeting, UNDP will discuss priority issues while pitching proposals for action to various business leaders in attendance. Potential partnerships will be managed by the Country Office. One proposal in the conceptual phase involves working with women tea workers in Bangladesh.

* 2.1 Scoping, Advocacy and technical assistance Missions

A busy schedule of advocacy missions is foreseen over the next 4-5 months given new political circumstances in Malaysia, increased readiness to undertake B&HR from Vietnam and Indonesia, and nascent but clear signals of interest in India and China.

* 2.3.1 Technical support for drafting of Strategic Policy documents

Over the next five months, UNDP will be providing technical inputs into the design of NAPs in Thailand and Malaysia, a Road Map to Business and Human Rights in Indonesia, and National Guidelines in India.

* 2.3.2 Host consultations and/or validations on finalized NAPs and other strategic materials with stakeholders at national and regional levels

UNDP will organise and convene consultations between governments and relevant stakeholders to critique and validate NAPs or other strategic policy documents at both national and regional levels.

* 2.4 Preliminary work on WRDD Toolkit

Following the recent and well-received release of the OECD Due Diligence Guidance for Responsible Business Conduct, UNDP will quickly move to ensure women’s rights issues are given equal consideration by producing a complementary supplement to this product.

* 2.6 Awareness raising and Capacity Building activities in 6 Countries (one Activity per Country)

UNDP B+HR will provide support in Indonesia, Malaysia, Thailand, Vietnam, Bangladesh, and Sri Lanka to feed momentum and ensure best practices on NAP implementation are considered.

* 3.1 BHR Lab

In line with last year’s event, we will design and host a partnership coordination and knowledge sharing labs to inform and shape regional dialogue on B&HR.

* 4.3.1 Instantiate study to be done with UNW

Working with UN Women, UNDP B+HR will assist in the development of a multi-country study on the impact of business operations on women, and the positive impact on business of ending violence against women.

* 5.1.2 Develop think piece on BRI

UNDP B+HR has been working with students from City University Hong Kong to develop specific think pieces to help frame priorities and issues involving Special Economic Zones and the Belt and Road Initiative. One think piece will be delivered in November.

**Resources Mobilization efforts during Set-up period**

UNDP B+HR Asia will mobilize resources throughout project implementation. At this time, and as described in the project document, UNDP is in the early stages of discussions with the EU on making a contribution towards UNDP’s efforts to enhance Business and Human Rights in Asia. UNDP sees EU contributions as primarily being dedicated to: 1) Country-focused interventions that are 2) designed to enhance discussions on linkages between trade and human rights, 3) under the rubric of the UN Guiding Principles. Any other contributions made by major country donor partners will be pursued to similarly enhance existing country-level contributions, which will be primarily managed on a day-to-day basis at the Country Office. Contributions made by Sweden remain, “earmarked” to drive regional programming and momentum.

Other sources of support, including foundation grants or private sector partnerships, will be sought on an ad hoc basis and in support of specific activities within the framework of the project. For example, Unilever has approached UN Women and UNDP B+HR Asia in Bangkok to develop a project in support of women tea plantation workers in Bangladesh. This opportunity, while facilitated by UNDP B+HR would be managed by UNDP and UN Women Country Offices. Other private sector partnerships may involve co-sponsoring or top-up funding for activities, matching funds for joint activities, or similar. In all such cases, any private sector partnership would have to be greenlighted by a very strict UNDP Human Rights Due Diligence Commission based in NY. The project certainly does not plan to use any part of the funding provided to transfer any resource or pay any cost or services of Private Sector people or contribute to any of their initiatives. Private sector engagement will also be facilitated by involvement in UNDP’s Responsible Business Forum in Singapore, usually held in October.

**Reporting and Deliverables:**

A Report on activities completed and a summary of progress and in the set-up period will be submitted within November 2018. The report will include also the following deliverables:

1. A detailed partnerships plan;
2. A revised detailed annual workplan and budget for the period January-December 2019 which will include clarity on funds which would be allocated to each Country Office;
3. An updated project forecast and
4. A country specific risks and power analyses for each country in which B+HR will intend to be operational.
5. A revised results framework

Release of the second funding installment of the 1st year of B+HR will be triggered by the completion of the above mentioned 5 deliverables

**ANNEX G**

**UNDP Policy 'Engaging CSO/ NGO as a Responsible Party'**

1. The UNDP may extend the reach and effectiveness of its programmes by leveraging the capacity and networks of NGOs/CSOs (including community-based groups, youth associations and others) through collaborative relationships.
2. Senior Management will lead, with input from programme and operations staff, the operationalization of CSO/NGO engagement through the establishment of appropriate contractual relationships and review progress regularly. Accountabilities towards NGOs/CSOs shall be vested in the head of the Business Unit, with final decisions on modalities and formalities resting on the Head of the Officer or his/her designee.

1. UNDP will ensure on-going scoping: "A strategic analysis of the comparative advantages of organizations on the ground and mapping of their strengths and weaknesses that facilitates the identification of appropriate partners" of the NGO/CSO environment.

1. NGOs/CSOs engagement through appropriate contractual relationships, will be guided by the following considerations:

* 1. The overall objectives, strategy, and expected results of the project; the geographical scope and span of its activities; and the types of interactions with beneficiaries envisaged for the project;

* 1. Mapping NGOs/CSOs by programme staff which will allow the Business Unit to have a wide pool of potential collaborations and will allow it to quickly replace a collaborative relationship that may be compromised or need to be scaled up;

* 1. The level of development and maturity of the civil society’s role in the country as may be defined by the availability of NGOs/CSOs, the breadth and depth of their interventions, and the general conduciveness of the political and legislative environment for enabling NGOs/CSOs operations and involvement;

* 1. The institutional capacity of NGOs/CSOs;

* 1. The legitimacy and quality of the contribution and values that NGOs/CSOs can provide for the attainment of development results and maximizing the development impact of a programme/project.

Depending on the combination of these criteria and associated risks, Business Units shall decide whether to engage NGOs/CSOs as Implementing Partners or as Responsible Parties (including Grantees) based on the most appropriate engagement modality. For Responsible Party definition, please refer to [Defining Project page at Programme and Project Management.](https://popp.undp.org/SitePages/POPPSubject.aspx?SBJID=245&Menu=BusinessUnit)

1. All collaborative relationships with NGOs/CSOs involving engagement of NGOs/CSOs as Implementing Partners or as Responsible Parties (including Grantees) are subject to a vetting process, which requires a mapping exercise followed by programmatic engagement or strategic selection.

1. The decision to select NGOs/CSOs as Implementing Partner (IPs) or as a Responsible Party (RPs) shall be based on the result of a capacity assessment and risk management framework.

1. The risk management framework must be based on the premise that the level of institutional capacity, evidenced by a positive verification result, is proportional and directly responsive to the scope of the envisaged nature and scope of the engagement.

1. Collaborative relationships require clear accountability frameworks. COs shall ensure that work plans, activities, inputs, and persons responsible are articulated and identified as required by project needs.

1. A further simplified capacity assessment checklistcan be used when a crisis has been declared by a UN Agency, or the Government of the host country, or if UNDP Senior Management has set up a mechanism to respond to a crisis situation.

1. There are three (3) ways through which UNDP can engage with NGOs/CSOs. The appropriate instrument depends on the particular set of shared goals and planned results:

* 1. Programmatic engagement. As Implementing Partners (IP), whereby the NGO/CSO is responsible for the overall accountability and management, including financial management, of an entire project and delivery of all its results. IPs are transferred resources to assist in carrying out its roles, and take on responsibilities for the delivery of project activities, sharing risks and responsibilities with UNDP. Any NGO/CSO that is engaged to act as IP is subject to and most comply with the HACT policy (i.e., micro-assessment and assurance activities).

When an NGO/CSO has been selected to become an IP of a UNDP project, the agreement between UNDP and the NGO/CSO shall be formalized through the signing of a Project Cooperation Agreement (PCA).

* 1. Strategic Selection. As Responsible Parties (RP), whereby the NGO/CSO is responsible for the implementation of project activities or specific components of a project, including the provision of specific inputs and/or delivery of agreed outputs. RPs receive funding against the achievement of milestones or the provision of goods and services under the specific components of a project, and may receive advanced funds as per the applicable Financial Regulations and Rules governing prepayment. When the amount exceeds $ 30,000, offices follow the applicable HACT policy (e.g. micro-assessment and assurance activities). NGOs/CSOs may be engaged as RP through any of the following modalities:

* + 1. **Based on the assessment of NGOs/CSOs collaborative advantage**

The selection of NGOs/CSOs as RPs based on their collaborative advantage shall be used only for projects that are directly implemented (DIM) by UNDP, or whenever UNDP renders direct CO support to a NIM project, and are subject to existing corporate assurance measures.

Management projects may use the modality when there are well-positioned NGOs, with specific knowledge, which senior management has identified as being beneficial to UNDP as an organization. The decision of senior management must be recorded in a note to file.

* + 1. **Based on a competitive selection process**

his modality is appropriate for engaging NGOs/ CSOs when they are expected to provide specific project inputs and/or undertake well-defined project activities. These are also the situations where competition is most valuable and can optimize results.

Depending on the scope of engagement and availability of NGO/CSO services in a country/location, the selection of NGOs/CSOs as RPs based on competitive selection process can be undertaken through either of the following:

* + - * When a procurement process is limited to NGO/CSOs offerors who will be engaged as a responsible party, the awarding of the contract will be based on a **Quality-Based Fixed Budget Selection** **(QB-FBS).** This means that the budget will be disclosed at the time of the Call for Proposal, and the NGOs/CSOs will submit proposals based on that fixed budget.
			* Standard competitive procurement process. The standard [RFP Selection Process](https://intranet.undp.org/global/popp/cap/Pages/invit-bid-req-prop.aspx) whereby NGOs/CSOs can participate in any UNDP selection of service providers to its projects; or
			* Direct contracting NGOs/CSOs, using the UNDP policy for justifying [Direct Contracting](https://intranet.undp.org/global/popp/cap/Pages/dir-cont.aspx)

* 1. Through Micro-capital grants, the UNDP may support an activity proposed by an NGO/CSO, within a project, by entering into a [Micro-Grant Agreement](https://intranet.undp.org/global/documents/_layouts/WopiFrame.aspx?sourcedoc=/global/documents/ppm/Guidance%20on%20Micro-capital%20Grants.doc&action=default&DefaultItemOpen=1). Grantees will be responsible for the achievement of grant objectives, which shall be monitored by the CO.

1. In the above modalities (10.2), the engagement of an NGO/CSO as RP, regardless of the selection process applied, shall be formalized through the signing of a Responsible Party Agreement (RPA).
2. RPs must be legally constituted and fully registered, taking into account that funds may be channeled to non-legally constituted or non-registered NGOs/CSOs through micro-capital grants.

1. Under exceptional circumstances, when the legal status or registration of a potential RP is under consideration by appropriate authorities and the CO’s Senior Management has determined that the engagement as an RP of an NGO/CSO or its members is critical to delivery and in the best interests of UNDP, the head of the Business Unit may authorize the use of the IC modality with one or more of the principals. The value of each individual contract shall be capped at the established threshold for micro purchasing. (USD 5,000).

1. The UNDP may address capacity gaps identified through the engagement through the provision of technical expertise aimed at unleashing, strengthening, creating, adapting and maintaining the capacity of RPs, IPs and Grantees although the UNDP does not have a specific mandate for capacity building for NGOs/CSOs as part of the contractual relationship established with NGOs/CSOs as Implementing Partners or as Responsible Parties (including Grantees).

1. The Vendor Sanctions policy of UNDP also applies to NGOs/CSOs and their members, regardless of the process undertaken to engage them as RPs. The cumulative thresholds for the submission to Procurement Review Committees shall also apply to NGOs/CSOs engaged as RPs.

1. When selecting NGOs/CSOs, UNDP may conduct the mapping, capacity assessment exercise and risk assessment with the objective of establishing a Business Unit NGO/CSO roster.

1. Where the NGO/CSO RP is expected to receive an amount exceeding USD 100,000, the conduct of the capacity assessment shall be mandatory. Below this amount, the UNDP BU may exercise the option to apply either:
	1. The Simplified Capacity Assessment prescribed for humanitarian situation, or
	2. The full capacity assessment applicable to those receiving USD 100,000 and above.

1. In cases when UNDP seeks an engagement for a specific TOR without existence of a NGO/ CSO roster the overall approach remains the same, although certain steps can be combined and others will be conducted in different order. Below are the main issues to be considered:

* 1. The first step will be the development of the engagement TOR.
	2. Sending RFI & CACHE can be combined in a single step
	3. Steps to conduct the capacity assessment and the risk assessment will remain significantly the same although at this stage it will be conducted from the TOR perspective.
1. The ASEAN Secretariat (2017), ASEAN Economic Integration Brief, No. 01, June 2017, p.5 [↑](#footnote-ref-2)
2. Asia Development Bank, Asia Economic Outlook 2017, September 2017 [↑](#footnote-ref-3)
3. International Monetary Fund, Finance and Development, June 2010, p.6 [↑](#footnote-ref-4)
4. See interview with Margaret Jungk, Managing Director BSR. Accessed at: <https://www.bsr.org/our-insights/blog-view/q-a-the-future-of-business-and-human-rights> [↑](#footnote-ref-5)
5. United Nations Office of the High Commissioner for Human Rights (UNOHCHR), ‘Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework’ (2011) HR/PUB/11/04, principle 1. [↑](#footnote-ref-6)
6. Ibid, principle 11. [↑](#footnote-ref-7)
7. Ibid, principle 25. [↑](#footnote-ref-8)
8. C O’Brien et al ‘National Action Plans: Current Status and Future Prospects for a New Business and Human Rights Governance Tool’ (2016) 1(1) Business and Human Rights 117. [↑](#footnote-ref-9)
9. European Commission, ‘A Renewed EU Strategy 2011–14 for Corporate Social Responsibility’, COM (2011) 681 final (25 October 2011), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:en:PDF, accessed 7 March 2016. [↑](#footnote-ref-10)
10. Human Rights Council, ‘Human Rights and Transnational Corporations and Other Business Enterprises’, A/HRC/RES/ 26/22 (15 July 2014), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/083/82/PDF/G1408382.pdf?OpenElement>, accessed 7 March 2016. [↑](#footnote-ref-11)
11. Office of the High Commissioner for Human Rights, ‘State National Action Plans’, http://www.ohchr.org/EN/ Issues/Business/Pages/NationalActionPlans.aspx, accessed 7 March 2016. [↑](#footnote-ref-12)
12. For more information see: <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/ForumonBusinessandHumanRights.aspx> [↑](#footnote-ref-13)
13. Douglas H. Brooks and Eugenia C. Go, Organization for Economic Cooperation and Development, “Trade, Employment and Inclusive Growth in Asia,” 2012, p. 332 [↑](#footnote-ref-14)
14. See id. [↑](#footnote-ref-15)
15. Asia Development Bank, Key Indicators for Asia and the Pacific 2017, p. 5 [↑](#footnote-ref-16)
16. One example of this is the practice of Sumangali, which involves the abuse of young girls working in cotton mills in southern India. This custom involves girls being hired by cotton mills on three year ‘apprenticeships’ that are supposed to pay them a lump sum at the end that they can use for dowry. According to the NGOs that uncovered this scheme, at the end of the three-year period, however, these girls commonly go unpaid. Sumangali thus amounts to a practice that combines elements of child labour and forced labour. [↑](#footnote-ref-17)
17. International Labour Organization, World Employment Social Outlook 2017, p.8, 2017 [↑](#footnote-ref-18)
18. Asia Development Bank Institute, Asia’s Wicked Environmental Problems, February 2012, p.5 [↑](#footnote-ref-19)
19. Asia Development Bank, A Region at Risk: The Human Dimensions of Climate Change on in Asia and the Pacific, July 2017 [↑](#footnote-ref-20)
20. Human Rights Watch, “At Your Own Risk: Reprisals against Critics of World Bank Group Projects,” June 2015, accessed at: https://www.hrw.org/report/2015/06/22/your-own-risk/reprisals-against-critics-world-bank-group-projects [↑](#footnote-ref-21)
21. Nikkei Asian Review, “Southeast Asia is World's Hotspot for Land Disputes: Report,” October 2017 [↑](#footnote-ref-22)
22. Rights and Resources, “Bad for Business: New Research Shows Deadly, Expensive and Prolonged Land Conflicts Bust Bottom Lines in Forest Nations,” October 2017 [↑](#footnote-ref-23)
23. 2017 Report on the Situation of human rights defenders working in the field of business and human rights, United Nations General Assembly (A/70/217). [↑](#footnote-ref-24)
24. 2016 Report of the Special Rapporteur on Human Rights Defenders, United Nations General Assembly (A/71/281) [↑](#footnote-ref-25)
25. M Robinson, ‘Foreword’ in London School of Economics and Political Science and The Corporate Responsibility (CORE) Coalition, The Reality of Rights (London School of Economics and Political Science 2009). [↑](#footnote-ref-26)
26. United Nations General Assembly, Towards our Common Future: the 2030 Agenda on Sustainable Development, (A/RES/70/1), para. 67, 2015. [↑](#footnote-ref-27)
27. OHCHR, Framework Principles on Human Rights and the Environment, John H. Knox, Special Rapporteur on human rights and the environment, 2018 [↑](#footnote-ref-28)
28. In 2011, the UN HRC mandated that the UN Working Group, comprised of five independent experts, to promote the Guiding Principles and identify and promote best practices in its implementation, as well as conduct formal country visits. For more information on the UN Working Group, please see: <http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx> [↑](#footnote-ref-29)
29. See for more information: <https://www.unenvironment.org/events/un-environment-event/launch-un-environments-rights-initiative> [↑](#footnote-ref-30)
30. For more information please see Global Alliance for Human Rights Institutions, https://nhri.ohchr.org/EN/Pages/default.aspx [↑](#footnote-ref-31)
31. To be used where UNDP is the Implementing Partner [↑](#footnote-ref-32)
32. To be used where the UN, a UN fund/programme or a specialized agency is the Implementing Partner [↑](#footnote-ref-33)