

**COALITION** FOR  
**HUMAN RIGHTS** IN  
**DEVELOPMENT**



**FUNDEPS**

FUNDACIÓN PARA EL DESARROLLO  
DE POLÍTICAS SUSTENTABLES

# Human Rights Due Diligence for Development Banks

March, 2016

# AGENDA

1. The HRDD Project
2. The Draft Methodology
  - Key Design Concepts
  - Key Elements
3. Social Risk and Opportunities Analysis
4. The Consultation and Discussion

# The HRDD Project

**What:** - Incorporate human rights standards and process principles within S&E assessment and mgmt frameworks

**Why:** - Major impacts on human rights  
- A lot of gaps in social assessment and mgmt

**How:** - Develop draft methodology  
- Solicit feedback  
- Revise  
- Pilot  
- Advocate for implementation

# The Methodology

## **Approach:**

Incorporation w/i existing frameworks

## **Scope:**

Social risks, impacts, & opportunities

Project level

# Key Design Concepts

- Transparent and participatory
- Integrated system
- Analysis and assessment as a design and decisionmaking tool
- Risks and impacts measured against standards
- Significance determined by scale and irremediability

All World Bank  
Projects and  
Programs

## SOCIAL RISK AND OPPORTUNITIES ANALYSIS

By Bank Task Team Leader, in consultation with Social Specialists and Borrower. Evaluates alternatives, examines potential impacts, identifies key issues for SIA.

## MITIGATION HIERARCHY

- 1) **Prevent** human rights violations;
- 2) **Avoid** adverse impacts;
- 3) where adverse impact cannot be avoided, **Minimize** impact;
- 4) where residual impact remains, **Restore/Provide Restitution**;
- 5) where not possible, **Remedy**.

### Unacceptable Risk

Project/Program fits within the Exclusion List.

### CATEGORIZATION

Performed by the Task Team Leader, in consultation with Social Specialists, and based on the Social Risk and Opportunities Analysis.

### Low Risk

Project/Program poses little or no risk of adverse social impacts or adverse impacts on the realization of human rights.

Project  
/Program  
does not  
proceed

### High Risk

- Project/program likely to have adverse social impacts significant in terms of scale or irremediable character, or
- Certain social groups are likely to be disproportionately affected, or
- Project/program fits within Presumptive High/Substantial Risk List.

### Substantial Risk

- Project/program may have adverse social impacts significant in terms of scale or irremediable character, or
- Certain social groups may be disproportionately affected, or
- Project/program fits within Presumptive High/Substantial Risk List.

### Moderate Risk

- Project/program does not pose risk of adverse social impacts significant in terms of scale or irremediable character,
- Project/program may have adverse social impacts, but feasible, appropriate and sufficient avoidance and minimization measures can readily be designed and implemented to prevent these, and
- The impacts which cannot be avoided through design alternatives would be readily remediable if they were to occur.

## DUE DILIGENCE Requirements for All Projects and Programs

- Borrower conducts Social Impact Assessment during each stage of the project cycle. Depth and scope is commensurate and proportional to the potential risks and impacts of the project and the project classification assigned by the Bank.
- Appropriate level of review within Bank.
- Appropriate level and expertise of staffing, including experts on key issues identified in scoping.
- Appropriate provisions for monitoring and supervision.

### Add'l Due Diligence for High Risk:

- Publish SIA in draft form for consultation before finalizing.
- SIA review by Panel of Social Experts, including human rights experts where appropriate.
- Independent monitoring w/ reporting to Board
- Site visits by Social Specialists and review of categorization every 6 months during construction, 12 months during implementation.
- Encourage community-led assessment, and provide independent funding.

### Add'l Due Diligence for Substantial Risk:

- SIA review by Panel of Social Experts, including human rights experts where appropriate.
- Independent monitoring w/ reporting to Board
- Site visits by Social Specialists and review of categorization every 6 months during construction, 12 months during implementation.
- Encourage community-led assessment.

SOCIAL IMPACT ASSESSMENT




## COMMITMENT PLAN

- Project/program design, implementation measures, and timeline
- Mitigation measures and timeline
- Impact indicators
- Budget
- Supervision and participatory monitoring plan
- Citizen engagement and benefit-sharing plans
- Remedies and compliance measures



## SOCIAL ELIGIBILITY REQUIREMENTS reviewed by Bank quality control bodies:

- Project has FPIC of Indigenous Peoples or Broad Community Support of other affected communities
- SIA meets Bank quality and process requirements, and has been confirmed by affected community
- Project/program does not pose Unacceptable Risk
- Adverse social impacts would be addressed by foreseen avoidance/mitigation measures
- Project/program has shown it will contribute to poverty reduction and shared prosperity



If **YES**, Project/  
program goes  
forward.  
If **NO**, Project/  
program does  
not go forward.



## IMPLEMENTATION/MONITORING

- SIA updated by Borrower, reviewed by Bank
- Participatory monitoring w/ communities
- 3<sup>rd</sup>-party monitoring for High/Subst Risk projects
- Evaluation and disbursement tied to Commitment Plan and impact indicators

## TRANSPARENCY

- Social Risk Analysis, Categorization, Impact Assessment, and Commitment Plan disclosed to public and affected communities prior to project approval.
- Monitoring, Midterm and Completion reports disclosed to public and affected communities.



# Social Risk and Opportunities Analysis

## Purpose

- Identify human rights risks and opportunities,
- Identify potential impacts
- Evaluate alternatives and project design modifications,
- Determine categorization,
- Scope SIA,
- Provide input into stakeholder engagement, and
- Inform project appraisal
  
- Create public record
- Allow interface between Bank, Borrower and community, and between risk analysis, impact assessment and monitoring

# Categorization

## **Based primarily on**

- Significance of impacts  
(scale & irremediability)
- Distribution of impacts

## **Exclusion list**

## **Presumptive High/Substantial Risk List**

# Due Diligence Reqs

## All projects

- Meaningful and continuous participation
- SIA during project preparation. Depth and scope commensurate to risks and impacts
- SIA records input of project affected communities and how or why not incorporated
- SIA confirmed by community
- SIA revisited/updated by Borrower at each stage of project and upon any major changes
- SIA Reviewed by Bank experts on key issues identified in scoping
- BB&C agree on appropriate provisions for monitoring and supervision, including participatory

## Substantial Risk

- SIA TOR is consulted on
- SIA conducted with increased involvement of Bank experts and input from independent panel of experts, including human rights experts
- Community-led assessment encouraged
- Complete SIA released 120 days prior to project approval

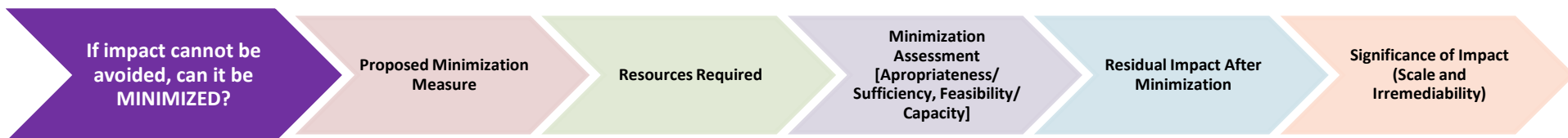
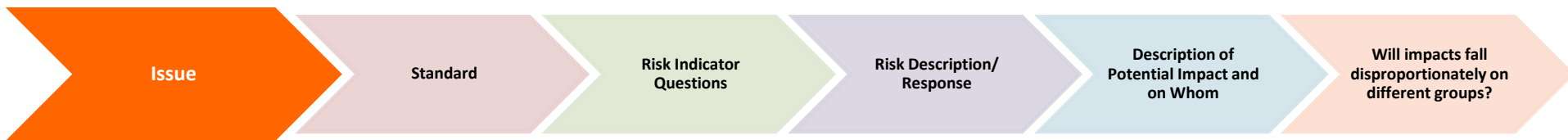
## High Risk

- SIA published in draft form for consultation before finalizing
- Independent funding provided for community-led assessment
- 3<sup>rd</sup> party monitoring

# SIA

Purpose =

To **design and implement** successful sustainable development projects, in concert with potentially affected communities, which prevent human rights violations, avoid and minimize negative impacts, and maximize positive impacts and their fair distribution.



# Commitment Plan

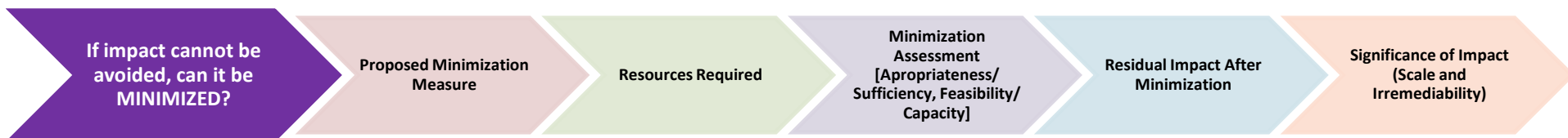
- Implementation measures and mitigation measures and timeline
- Impact indicators
- Supervision and monitoring plan
- Citizen engagement and benefit-sharing plans
- Remedies and compliance measures
- Funding disbursements pegged to fulfillment of commitment plan

# Social Eligibility Requirements

- Has FPIC or BCS or General Welfare
- SIA meets quality and process requirements and confirmed by affected communities
- Does not pose unacceptable risk
- Adverse social impacts addressed by foreseen avoidance/mitigation measures
- Project has shown it will contribute to poverty reduction and shared prosperity

# **Risk and Opportunities Assessment Tool**





	A	B	C	D	E	F	G	H	I	J	K	L
		Standard	Risk Indicator Questions and Resources	Risk Description/ Response	Description of Potential Impact and on Whom	Will impacts be disparate for different groups?	Flag Consult.	Flag ESIA	Significance scale & irremed.	Can adverse impact be avoided?	Proposed alternative(s)	Resource requirements
1												
75	<b>Education</b>	<b>Bank-financed activities will avoid infringing on the right to education. Project or programs in the area of education shall advance the right to education. Key aspects of the right to education include the following: availability, physical accessibility, economic accessibility, non-discrimination, acceptability, and adaptability.</b>	1)What is the current level of enjoyment of the right to education in the project/program area? To what extent are educational programs and facilities within the project/program area accessible, adaptable, available and acceptable?		Individuals or groups of people in the project or program area do not have education services which are accessible, acceptable, adaptable, or available without discrimination, or the accessibility, availability, adaptability, or acceptability of such services is decreased.	Women?				No project:		
76			Are there any reported instances of child labor in the project/program area? Is there a large population of school-aged children not in school/not accessing education?			Children?				Alternative A:		
77			Could the project/program impact education budgets, programs, institutions, facilities or policy?			Persons with disabilities?				Alternative B:		
78			Could the project/program impact the availability of educational institutions or facilities, either in terms of quantity or provision of free and compulsory primary education or availability of secondary or tertiary education?			Migrants?						
79			Could the project/program impact the acceptability of education to parents and to children, including acceptability for cultural or linguistic groups?			Ethnic minority?						
		<b>Where the project or program affects housing, it should advance access to</b>	Will the activity involve housing, housing policy, land tenure, informal		Persons in the project or program area	Persons without formal land title?					No project:	

# Consultation on Standards and Indicator Questions

## **POVERTY REDUCTION & SOCIAL SUSTAINABILITY**

- Poverty Reduction
- Borrower Governance
- Debt Sustainability
- Inclusion & Substantive Equality
- Non-Discrimination

## **LAND, LAND ACQUISITION & DISPLACEMENT**

- Land Rights
- Security of Tenure
- Access to Land
- Physical & Economic Displacement/Evictions
- Housing

## **INDIGENOUS PEOPLES**

- Self-Determination & Right to Development
- Voluntary Isolation
- Lands, Territories, and Resources
- Cultural Rights

## **COMMUNITY SAFETY**

- General
- Infrastructure
- Hazardous Materials
- Emergency Preparedness  
Disease Prevention

## **ENVIRONMENT & PUBLIC HEALTH**

- Health
- Food
- Water & Sanitation
- Pollution
- Biodiversity
- Climate Change
- Livelihoods

## **WOMEN & SOGIE**

- Gender Equality & Non-Discrimination
- Violence Against Women
- Human Trafficking
- Sexual/Reproductive & Maternal Health
- SOGIE

## **LABOR, EMPLOYMENT & WORKING CONDITIONS**

- Employment Generation &
- Decent Work
- Freedom of Association
- Forced Labor
- Child Labor
- Non-Discrimination
- Wages & Hours & Leave
- Occupational Safety & Health

## **DISABILITY**

- Participation & Non-Discrimination
- Comprehensive Accessibility

## **CULTURE**

- Cultural Practices
- Physical Cultural Heritage
- Intellectual Property & Traditional Knowledge

## **SOCIAL SERVICES**

- Education
- Housing
- Social Security
- Health
- Water & Sanitation

## **PARTICIPATION**

- Engagement
- Access to Information
- Freedom of Expression  
Freedom of Assembly  
Grievance/Redress

## **SECURITY**

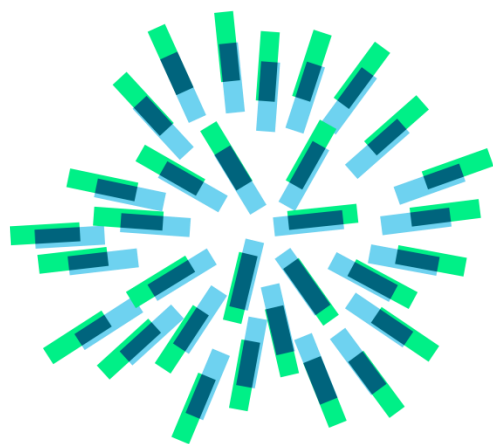
- Conflict
- Use of Force/Detention
- Reprisals
- Private Security Forces
- Freedom of Movement
- Informal Armed Groups

ISSUE: SOCIAL SERVICES SUB-ISSUE: EDUCATION			
Standard, Version 1	Standard, Version 2	Reference Note and Materials explaining content of standard/right	Source of Law or Practice from which standard is derived
Bank and borrower will avoid activities that negatively impact the right to education, and where possible will advance the right to education. Key aspects of the right to education include the following: availability, physical accessibility, economic accessibility, non-discrimination, acceptability, and adaptability.	Bank-financed activities will avoid infringing on the right to education. Project or programs in the area of education shall advance the right to education. Key aspects of the right to education include the following: availability, physical accessibility, economic accessibility, non-discrimination, acceptability, and adaptability.	<p><b>Availability:</b> Free and compulsory primary education should be available to all children. Educational institutions and facilities should be available in sufficient quantity.</p> <p><b>Accessibility:</b> Educational institutions should be accessible by all on the basis of equality and nondiscrimination.</p> <p><b>Acceptability:</b> The form and substance of education should be acceptable to both students and parents: relevant, culturally appropriate, and of good quality, meeting minimum standards.</p> <p><b>Adaptability:</b> Adaptable and flexible to the needs of changing societies and responding to the needs of students within their diverse social and cultural settings.</p> <ul style="list-style-type: none"> <li>• <a href="#">UN Special Rapporteur on the Right to Education</a></li> <li>• <a href="#">HRBA Portal - Education</a></li> <li>• <a href="#">UNESCO Education page</a></li> <li>• <a href="#">UNESCO: Implementing the right to education - A compendium of practical examples based on the seventh consultation of Member States on the application of the Convention and Recommendation against Discrimination in Education</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Convention on the Rights of the Child Arts 29, 32, 19, 23(3)(4), 24(2)(e)(f), 28</a></li> <li>• <a href="#">ILO C182 Worst Forms of Convention (1999) Arts 7(2), 8</a></li> <li>• <a href="#">Convention on the Elimination of All Forms of Discrimination Against Women Arts 2, 11</a></li> <li>• <a href="#">International Convention on the Elimination of All Forms of Racial Discrimination Arts 5(e)(v), 7</a></li> <li>• <a href="#">Convention on the Rights of Persons with Disabilities Arts 24, 8(b), 16(1), 26(1)</a></li> <li>• <a href="#">UNESCO World Declaration on Education for All (Jomtien 1990) and Framework for Action</a></li> <li>• <a href="#">UNESCO Convention against Discrimination in Education (1960)</a></li> <li>• <a href="#">Vienna Declaration and Programme of Action part I para 33, 34, 36, 38, part II C paras 47, 63, part II C paras 68, 69, 78-82</a></li> </ul>
<b>Risk Indicator Questions</b>		<b>Impact Assessment Indicator Questions</b>	<b>Data Sources to Answer Indicator Questions</b>
<b>1. Project/Program Area and Contextual Risks.</b> <b>Trigger:</b> All projects/programs to answer these questions.			
1.1 What is the current level of enjoyment of the right to education in the project/program area? To what extent are educational programs and facilities within the project/program area <b>accessible, adaptable, available and acceptable?</b>		How will this risk impact the project/program? How can the project/program contribute to this need?	UNESCO reports, Government reports, <a href="#">Worldwide Inequality Report</a>
1.2 Are there any reported instances of child labor in the project/program area?		How will this risk impact the project/program?	NGO reports, ILO reports, Government reports

# Feedback is always welcome!

[www.RightsinDevelopment.org/HRDD](http://www.RightsinDevelopment.org/HRDD)

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