

COALICIÓN PARA LOS
DERECHOS HUMANOS EN EL
DESARROLLO



FUNDEPS

FUNDACIÓN PARA EL DESARROLLO
DE POLÍTICAS SUSTENTABLES

Proyecto de Debida Diligencia de los Derechos Humanos

Workshop, Lima Peru
October, 2015

AGENDA

1. El proyecto DDDH

2. La metodología

Conceptos clave del diseño

Elementos claves

3. Análisis de Riesgos y Oportunidades Sociales

4. Discusión

El proyecto DDDH

Qué busca: - Incorporar las normas y principios de derechos humanos dentro de los marcos de gestión social y ambiental utilizados para evaluación y management de proyectos de desarrollo.

Por qué: - Mayor impacto de los Derechos Humanos
- Brechas en evaluación social y management

Cómo: - Desarrollar una metodología en borrador
- Solicitar comentarios
- Revisar
- Piloto
- Advocacy para su implementación

La Metodología

Enfoque:

Incorporación dentro de marcos pre-existentes

Alcance:

Riesgos sociales, impactos y oportunidades

Nivel de Proyecto

Conceptos claves en el diseño

- Transparente y participativo
- Sistema integrado
- Evaluación y Análisis como una herramienta para la toma de decisiones
- Riesgos e impactos medidos mediante estándares
- Significancia determinada por la escala y su posible remediación

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
- 3rd-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.

Análisis de Riesgos Sociales y Oportunidades

- **Objetivos**
- Identificar riesgos y oportunidades relacionadas con Derechos Humanos,
- Identificar impactos potenciales
- Evaluar alternativas y modificaciones al diseño del proyecto,
- Determinar categorías de proyectos,
- Evaluar el alcance del SIA,
- Proveer inputs al proceso de vinculación con actores, e
- Informar la valoración del proyecto

- Crear registros públicos
- Permitir el intercambio entre el Banco, el Prestamista y la comunidad, así como entre el análisis de riesgo, la evaluación de impacto y el monitoreo.

REDUCCIÓN DE LA POBREZA Y SOSTENIBILIDAD SOCIAL

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

TIERRA, ADQUISICIÓN DE TIERRAS Y DESPLAZAMIENTO

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

PUEBLOS INDÍGENAS

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

SEGURIDAD COMUNITARIA

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

AMBIENTE Y SALUD PÚBLICA

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

MUJER E IDENTIDAD DE GÉNERO, ORIENTACION SEXUAL Y EXPRESIÓN CORPORAL (SOGIE)

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

TRABAJO, EMPLEO Y CONDICIONES LABORALES

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

DISCAPACIDAD

- Participation & Non-Discrimination
- Comprehensive Accessibility

CULTURA

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

SERVICIOS SOCIALES

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

PARTICIPACIÓN

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

SEGURIDAD

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

Lógicas de SROA & SIA

Estándares

Conformes a Derechos Humanos

Notas y Materiales de Referencia

Proveen información adicional

Preguntas de Indicadores de Riesgos

Junto a fuentes de información

Impactos Esperados

Ejemplo provisto- puede ser ajustado

Mira hacia quienes sufren los riesgos / el impacto

A	B	C	D	E	F	G	H	I	J
Standard	Risk Indicator Questions and Resources	Risk Description/ Response	Description of Potential Impact and on Whom	Will impacts be disproportionat.?	Flag Consult.	Flag ESIA	Significance scale & irremed.	Can adverse impact be avoided?	Proposed alternative(s)

Education

<p>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</p>	<p>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?</p>		<p>Individuals or groups of people in the project or program area do not have education services which are accessible, acceptable, adaptable, or</p>	<p>Women?</p>					<p>No project:</p>
	<p>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?</p>		<p>available without discrimination, or the accessibility, availability, adaptability, or acceptability of such services is decreased.</p>	<p>Children?</p>					<p>Alternative A:</p>
	<p>Could the project/program impact education budgets, programs, institutions, facilities or policy?</p>			<p>Persons with disabilities?</p>					<p>Alternative B:</p>
	<p>Could the project/program change students' physical access to schools?</p>			<p>Migrants?</p>					
	<p>Could the project/program involve changes in local</p>			<p>Ethnic minority?</p>					

Categorización

Basada principalmente en

- Importancia de los impactos (escala & irremediabilidad)
- Distribución de los impactos

Lista de Exclusión

Lista de riesgos presuntos altos / sustanciales

Requisitos de Diligencia Debida

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

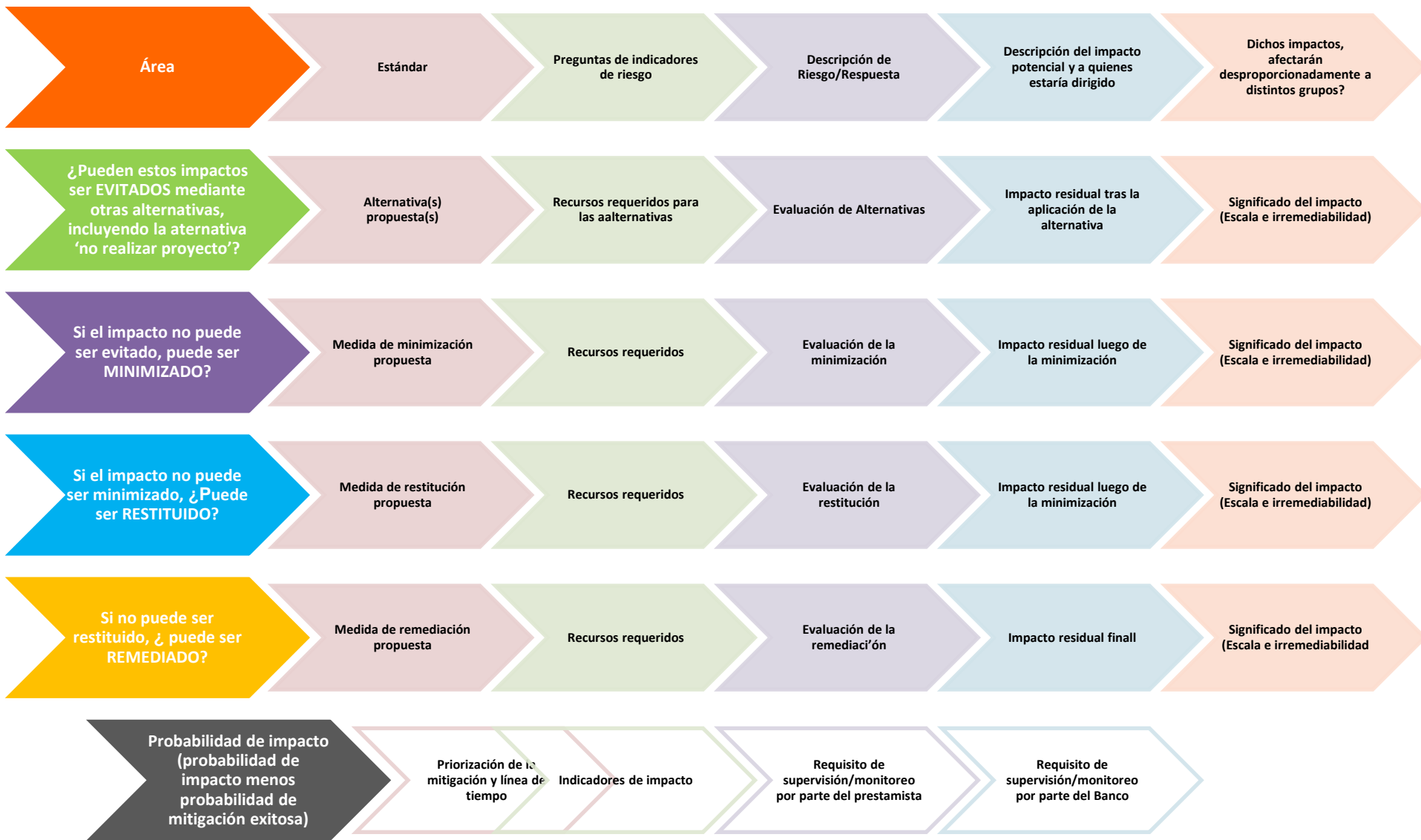
High Risk

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

SIA

Propósito

Diseñar e implementar proyectos de desarrollo sostenible exitosos, concertados con las comunidades potencialmente afectadas que prevengan violaciones de derechos humanos, eviten o minimicen los impactos negativos y maximicen los impactos positivos y su distribución equitativa.



Plan de Compromiso

- Medidas de implementación, de mitigación y calendario propuesto
- Indicadores de Impacto
- Plan de Supervisión y Monitoreo
- Planes de involucramiento ciudadano y de distribución de beneficios
- Medidas de remediación y cumplimiento
- Plan de distribución de fondos vinculado al cumplimiento del plan de compromiso

Requisitos de Elegibilidad Social

- Tiene FPIC, BCS o General Welfare
- SIA cumple con los requisitos y procesos de calidad confirmados por las comunidades afectadas
- No presenta un riesgo inaceptable
- Impactos sociales negativos poseen medidas que los eviten o mitiguen
- El proyecto demuestra que contribuye a la reducción de la pobreza y la prosperidad compartida

Proceso de Consulta sobre Estándares e Indicadores

- Documentos en borrador: Es posible acceder al Registro de Estándares e Indicadores organizados por área temática.
- Encuesta online: Hemos desarrollado un cuestionario online que se puede completar en <http://goo.gl/forms/Z2m74dxc2u>
- Comentarios en documentos: Es posible enviar comentarios usando directamente los archivos de las tablas, con control de cambios, a esta dirección: hr_consultation@fundeps.org
- Entrevistas personales: Hemos dispuesto un equipo de trabajo para organizar reuniones virtuales para recibir comentarios y observaciones. Para hacerlo, comunicarse con el correo hr_consultation@fundeps.org.

Fecha límite: 15 de Noviembre.

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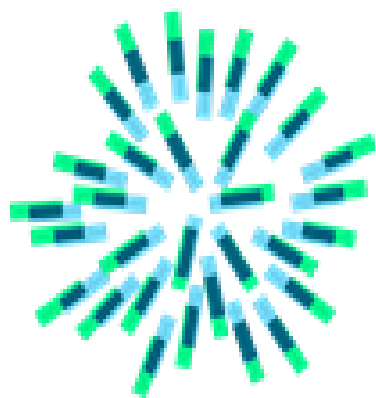
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- Use of Force/Detention
- Reprisals
- Private Security Forces
- Freedom of Movement
- Informal Armed Groups

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>Availability: Free and compulsory primary education should be available to all children. Educational institutions and facilities should be available in sufficient quantity.</p> <p>Accessibility: Educational institutions should be accessible by all on the basis of equality and nondiscrimination.</p> <p>Acceptability: 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>Adaptability: 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"> • UN Special Rapporteur on the Right to Education • HRBA Portal - Education • UNESCO Education page • 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 	<ul style="list-style-type: none"> • Convention on the Rights of the Child Arts 29, 32, 19, 23(3)(4), 24(2)(e)(f), 28 • ILO C182 Worst Forms of Convention (1999) Arts 7(2), 8 • Convention on the Elimination of All Forms of Discrimination Against Women Arts 5(e)(v), 7 • International Convention on the Elimination of All Forms of Racial Discrimination Arts 5(e)(v), 7 • Convention on the Rights of Persons with Disabilities Arts 24, 8(b), 16(1), 26(1) • UNESCO World Declaration on Education for All (Jomtien 1990) and Framework for Action • UNESCO Convention against Discrimination in Education (1960) • 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
Risk Indicator Questions		Impact Assessment Indicator Questions	Data Sources to Answer Indicator Questions
1. Project/Program Area and Contextual Risks.			
Trigger: 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 accessible, adaptable, available and acceptable ?		How will this risk impact the project/program? How can the project/program contribute to this need?	UNESCO reports, Government reports, Worldwide Inequality Report
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

POR FAVOR COMPARTAN SUS SUGERENCIAS!

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