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
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.

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

All World Bank Projects and Programs

Unacceptable Risk
Project/Program fits within the Exclusion List.

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

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.

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.
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
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 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.

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

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.
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
- 3rd party monitoring
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.
<table>
<thead>
<tr>
<th>Issue</th>
<th>Standard</th>
<th>Risk Indicator Questions</th>
<th>Risk Description/Response</th>
<th>Description of Potential Impact and on Whom</th>
<th>Will impacts fall disproportionately on different groups?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Can adverse impact be AVOIDED with alternatives, including &quot;no project&quot; alternative?</td>
<td>Proposed alternative(s)</td>
<td>Resources required for alternative</td>
<td>Alternatives assessment [Apropriateness/ Sufficiency, Feasibility/ Capacity]</td>
<td>Residual Impact after Avoidance Alternative</td>
<td>Significance of Impact (Scale and Irremediability)</td>
</tr>
<tr>
<td>If impact cannot be avoided, can it be MINIMIZED?</td>
<td>Proposed Minimization Measure</td>
<td>Resources Required</td>
<td>Minimization Assessment [Apropriateness/ Sufficiency, Feasibility/ Capacity]</td>
<td>Residual Impact After Minimization</td>
<td>Significance of Impact (Scale and Irremediability)</td>
</tr>
<tr>
<td>If impact can't be minimized, can rightsholder be RESTORED?</td>
<td>Proposed Restitution measure</td>
<td>Resources required</td>
<td>Restitution assessment [Apropriateness/ Sufficiency, Feasibility/ Capacity]</td>
<td>Residual impact after Restitution</td>
<td>Significance of Residual Impact [Scale and Irremediability]</td>
</tr>
<tr>
<td>If cannot be restored, can rightsholder be REMEDIED?</td>
<td>Proposed Remediation measure</td>
<td>Resources required</td>
<td>Remediation assessment [Apropriateness/ Sufficiency, Feasibility/ Capacity]</td>
<td>Final Residual impact</td>
<td>Significance of Residual Impact (Scale and Irremediability)</td>
</tr>
</tbody>
</table>

**Probability of impact (likelihood of impact minus likelihood of successful mitigation)?**

**Mitigation Prioritization and Timeline**

**Impact Indicators**

**Borrower Supervision/ Monitoring Required**

**Bank Supervision/ Monitoring Required**
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
<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>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.</td>
<td><strong>Standard</strong></td>
<td><strong>Risk Indicator Questions and Resources</strong></td>
<td><strong>Risk Description/Response</strong></td>
<td><strong>Description of Potential Impact and on Whom</strong></td>
<td><strong>Will impacts be disparate for different groups?</strong></td>
<td><strong>Flag Consult.</strong></td>
<td><strong>Flag ESIA</strong></td>
<td><strong>Significance scale &amp; remed.</strong></td>
<td><strong>Can adverse impact be avoided?</strong></td>
<td><strong>Proposed alternative(s)</strong></td>
</tr>
<tr>
<td>2</td>
<td>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?</td>
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<td>3</td>
<td>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?</td>
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<td>4</td>
<td>Could the project/program impact education budgets, programs, institutions, facilities or policy?</td>
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<td>5</td>
<td>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?</td>
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<td>6</td>
<td>Could the project/program impact the acceptability of education to parents and to children, including acceptability for cultural or linguistic groups?</td>
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<td>7</td>
<td>Where the project or program affects housing, it should advance access. Will the activity involve housing, housing policy, land tenure, informal</td>
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**Proposed alternative(s):**

- Alternative A:
- Alternative B:

**Resource required alternative(s):**

- 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 AQUISITION & 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
<table>
<thead>
<tr>
<th>Standard, Version 1</th>
<th>Standard, Version 2</th>
<th>Reference Note and Materials explaining content of standard/right</th>
<th>Source of Law or Practice from which standard is derived</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>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.</td>
<td>Availability: Free and compulsory primary education should be available to all children. Educational institutions and facilities should be available in sufficient quantity. Accessibility: Educational institutions should be accessible by all on the basis of equality and nondiscrimination. 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. Adaptability: Adaptable and flexible to the needs of changing societies and responding to the needs of students within their diverse social and cultural settings.</td>
<td>Convention on the Rights of the Child, Arts 29, 32, 19, 23(3)(4), 24(2)(e)(f), UNESCO Education for All (1990) and Framework Plan, UNESCO Convention against Discrimination in Education (1960)</td>
</tr>
</tbody>
</table>

### Risk Indicator Questions

#### Impact Assessment 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?
Feedback is always welcome!

www.RightsinDevelopment.org/HRDD
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