



## **SPECIAL ANNEX TO THE TDB ESMS:**

# **GUIDANCE NOTE FOR PROTECTION OF HUMAN RIGHTS IN TDB-FUNDED PROJECTS**

**MAY 2023**

<b>TABLE OF CONTENTS</b> .....	<b>2</b>
<b>ACRONYMS</b> .....	<b>2</b>
<b>1 BACKGROUND</b> .....	<b>5</b>
<b>2 UNDERSTANDING HUMAN RIGHTS RISK INBANK - FINANCED ACTIVITIES</b> .....	<b>7</b>
2.1 DEFINITIONS .....	7
2.2 HOW CAN TDB-FINANCED PROJECTS BE INVOLVED WITH HUMAN RIGHTS IMPACT.....	8
2.3 THE HUMAN RIGHTS FRAMEWORK .....	9
<b>3 TDB'S MANAGEMENT COMMITMENT TO PREVENTING AND RESPONDING TO HUMAN RIGHTS ADVESRE IMPACTS IN TDB-FUNDED PROJECTS</b> .....	<b>9</b>
<b>4 RESPONSIBILITIES OF TDB-FINANCED PROJECTS TO RESPECT HUMAN RIGHTS</b> .....	<b>12</b>
<b>5 PROCESS FLOW AND PROCEDURES</b> .....	<b>14</b>
5.1 STEP ONE: FATAL FLAW ANALYSIS AND DEAL ORIGINATION .....	16
5.2 STEP TWO: PROJECT APPRAISAL AND ASSESSMENT .....	16
5.3 STEP THREE: LEGAL DOCUMENTATION AND E&S COVENANTS.....	45
5.4 STEP FOUR: PROJECT MONITORING.....	45
<b>6 CAPACITY BUILDING AND AWARENESS</b> .....	<b>46</b>
<b>7 STAKEHOLDER ENGAGEMENT AND ACCESS TO REMEDY</b> .....	<b>47</b>
7.1 STAKEHOLDER ENGAGEMENT PLAN .....	47
7.2 ACCESS REMEDY .....	50
7.3 OPERATION GRIEVANCE MECHANISM (OGM) .....	55

## ACRONYMS

<b>C-ESMP</b>	Contractor's Environmental and Social Management Plan
<b>CoC</b>	Code of Conduct
<b>CSR</b>	Corporate Social Responsibility
<b>E&amp;S</b>	Environmental and Social
<b>ESA</b>	Environmental and Social Assessment
<b>ESCP</b>	Environmental and Social Commitment Plan
<b>ESF</b>	Environmental and Social Framework
<b>ESHS</b>	Environmental, Social, Health and Safety
<b>ESG</b>	Environmental Social and Governance
<b>ESIRT</b>	Environment and Social Incident Response Toolkit
<b>ESMP</b>	Environmental and Social Management Plan
<b>ESMS</b>	Environmental and Social Management System
<b>ESS</b>	Environmental and Social Standard
<b>GBV</b>	Gender-based Violence
<b>GCLS</b>	Grievance Complaint Logging System
<b>GPN</b>	Good Practice Note
<b>GRM</b>	Grievance Redress Mechanism
<b>HIV/AIDS</b>	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
<b>HRDD</b>	Human Rights Due Diligence
<b>HRIA</b>	Human Rights Impact Assessment
<b>HRRA</b>	Human Rights Risk Assessment
<b>NGO</b>	Non-Governmental Organization
<b>ICB</b>	International Competitive Bidding
<b>IPF</b>	Investment Project Financing
<b>ISR</b>	Implementation Status Report
<b>IVA</b>	Independent Verification Agent
<b>M&amp;E</b>	Monitoring and Evaluation
<b>NCB</b>	National Competitive Bidding
<b>NGO</b>	Nongovernmental Organization
<b>OGRM</b>	Operation Grievance Redress Mechanism

<b>PCN</b>	Project Concept Note
<b>QER</b>	Quality Enhancement Review
<b>SBD</b>	Standard Bidding Document
<b>SEA</b>	Sexual Exploitation and Abuse
<b>SH</b>	Sexual Harassment
<b>SEP</b>	Stakeholder Engagement Plan
<b>SPD</b>	Standard Procurement Document
<b>TDB</b>	Eastern and Southern Trade Development Bank
<b>TOR</b>	Terms of Reference
<b>TPM</b>	Third-Party Monitoring organization
<b>UN</b>	United Nations
<b>UNGC</b>	Guiding Principles for Business and Human Rights
<b>VAC</b>	Violence Against Children
<b>VAWG</b>	Violence Against Women and Girls
<b>WHO</b>	World Health Organization

# 1 BACKGROUND

TDB is a treaty-based, multilateral, African development finance institution (DFI) with unique public-private hybrid ownership structure currently comprising 25 African Member States, 2 non-African member countries and 18 institutional investors. TDB mobilizes capital from public and private partners and provides a variety of financial solutions to support trade, regional integration and sustainable development.

TDB's diversified loan portfolio is spread across 14 economic sectors, in its Member States. This includes Banking and Financial Services, Manufacturing and Heavy Industries, Agribusiness, Infrastructure, Energy, Petrochemical, ICT, Transport & Logistics, Hospitality, Real Estate, Mining & Quarrying, Education, Health Services and Other.

TDB is committed to Sustainable Financing and a triple-bottom-line approach through all its interventions in a manner that pro-actively supports sustainable, inclusive and resilient development, including investing in clean energy, green growth and a just transition – in line with its commitment to the 2015 Paris Climate Agreement and the Sustainable Development Goals (SDGs).

The nature and complexity of the financed geographies, imply that while there is a great development impact, there are human rights violation risks and impacts that can be severe. Accordingly, TDB holds Human Rights in high regard and conducts its business with respect for, and a view to promote international recognized Human Rights.

This Guidance Note (to be annexed to the TDB's ESMS) builds on TDB's ESMS to provide specific guidance that actively supports risk analysis, avoidance and mitigation measures related to potential and actual adverse human rights impacts related to its transactions and take actions to address them using the UN Guiding Principles for Business and Human Rights (UNGPs) as a practical framework.

This Annex provides guidelines on how to assess prospective investments to identify potential or existing impacts on human rights both prior to investment decision and on an ongoing basis. The scope and depth of TDB's assessment of adverse impacts on human rights will be determined on a case-by-case basis depending on the results of the first screening, the context and magnitude of any envisaged human rights impacts and case specific risks of the activity to be financed.

- Pay specific attention to local and country contexts before investment and during the lifetime of the financed activity particularly in geographies where there are specific human rights challenges.
- Understand the nature of TDB's connection to the potential adverse human right impact and the level of proximity to it.

- Evaluate the likelihood and severity of harm to people from potential adverse human rights impacts – based on the criteria of scale, scope, vulnerability of the rightsholders, and remediability – and prioritize the management of the most severe human rights impacts.
- Pay specific attention to indigenous peoples and other vulnerable and marginalized groups, depending on the operating context and situation, as TDB recognises that vulnerable groups, such as women, persons with disabilities, children, indigenous peoples as well as human rights defenders – may be more affected by adverse human rights impacts and therefore need to be given particular consideration.
- Incorporate the findings of human right assessments into TDB's decision making, investment agreements and continuous monitoring and management of our investments, using external experts as needed.
- Seek to use and build leverage and ability to positively influence our investees and our business partners to take steps to assess the human rights impact of their activities; prevent, mitigate or take corrective actions; and provide remedies to those whose human rights have been adversely impacted. TDB endeavour to develop and increase its ability to influence the actions of its investees. However, TDB recognises that its leverage varies and depends among other factors on the nature of the financing provided and the share of the total financing. Leverage will often be determined on a case-by-case basis, and building leverage is particularly important in geographies where there are human rights challenges.
- Where actual adverse impacts on human rights have occurred, take steps and use TDB's leverage to have them addressed, and promote effective access to remedy for those who have been harmed, bearing in mind TDB's degree of connection to the impact and its possibilities to exercise and increase its leverage on the companies financed. Remedies can take different form depending on the situation and be escalated.
- Companies financed by TDB are required, as appropriate, to have an effective operational level grievance mechanism to facilitate non-judicial access to remedy.
- Promote meaningful rightsholder and stakeholder engagement and take steps to ensure that the rightsholders' and stakeholders' perspectives are considered in the human rights due diligence process. In practice, this often translates into TDB's stressing the importance of a meaningful engagement to the companies it finances, assessing the quality and adequacy of the rightsholders' and stakeholders' engagement performed by its investees – and using its leverage to improve it where necessary. A special attention is put to circumstances where FPIC (Free Prior and Informed Consent) applies. TDB can

also consult and engage with potentially affected rightsholders and stakeholders at different stages of the project cycle.

- Regularly assess and manage adverse human right impacts and risks at portfolio level and for existing individual investments on an on-going basis.
- Gradually develop, maintain and improve indicators, criteria and processes to measure the effectiveness and implementation of TDB's human rights due diligence approach and engage with various stakeholders in this work.

This annex covers the broad areas of the TDB ESMS, including 1) understanding potential and actual adverse human rights impacts in Bank-financed activities; 2) Bank management commitment and organizational responsibility; 3) Human Rights adverse impact risk assessment procedures; 4) Remediation Approaches; 5) Stakeholder engagement and grievance mechanisms. 6) Capacity-building and awareness.

## **2 UNDERSTANDING HUMAN RIGHTS RISK IN BANK - FINANCED ACTIVITIES**

### **2.1 Definitions**

#### **Associated Facilities**

Associated facilities (for the purpose of this document), means TDB Group subsidiaries, equity investments and CSR.

#### **Human Rights Impact**

Human rights impact occurs when an action removes or reduces the ability of an individual to enjoy his or her human rights.

#### **Gross Human Rights Violation**

There is no single definition of gross human rights violations in international law, but is generally understood to include: torture, genocide, slavery and slavery-like practices, summary or arbitrary executions, enforced disappearances, arbitrary and prolonged detention, and systematic discrimination. Other kinds of human rights violations, including of economic, social and cultural rights, can also count as gross violations if they are grave and systematic, for example violations taking place on a large scale or targeted at particular population groups.

#### **Human Rights Due Diligence**

The process of building internal awareness and understanding of where the company's activities may have the potential to intersect with human rights or infringe upon the enjoyment of human rights by others, as well as how to prevent or mitigate such potential human rights impacts and remediate actual impacts that have occurred.

#### **Human Rights Baseline Studies**

A baseline refers to measurements of key human rights conditions (indicators) before or during a project, from which change and progress can be assessed. Sometimes baseline data is available, other times a baseline study is needed to determine baseline conditions. There are a variety of different scenarios for and ways to conduct baseline studies. The specific methodology will depend on a variety of project-specific factors, ranging from specific indicators to time and budget.

### **Leverage**

Leverage is a form of advantage that gives power to act effectively. In the context of the UN Guiding Principles, it refers to the ability of a business enterprise to effect change in the wrongful practices of another party that is causing or contributing to an adverse human rights impact.

### **Mitigation**

The mitigation of human rights impacts refers to actions taken to reduce the extent of an impact, with any residual impact then requiring remediation. The mitigation of human rights risks refers to actions taken to reduce the likelihood of a certain adverse impact occurring.

### **Potential Human Rights Impacts**

Potential human rights impacts are adverse impacts that may occur but have not yet materialized.

### **Remediation/Remedy**

Remediation and remedy refer to both the processes of providing remedy for an adverse human rights impact and to the substantive outcomes that can counteract, or make good, the adverse impact. These outcomes may take a range of forms, including 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.

## **2.2 How can TDB-financed Projects be involved with Human Rights Impact**

As described in the UN Guiding Principles, there are three distinct ways in which a business enterprise, including an investor, may be involved with adverse human rights impacts:

- **Causing** an adverse human rights impact through its own actions or omissions;
- **Contributing** to an adverse human rights impact through its own activities, either alongside other entities or through external entities, such as clients or customers;
- Being **directly linked** to an adverse human rights impact through its operations, products, or services via a business relationship, such as a portfolio company.

## 2.3 The Human Rights Framework

- 2.3.1 Institutional investors, as business actors, have a responsibility to respect human rights in line with the UN Guiding Principles on Business and Human Rights. Unanimously endorsed by the United Nations (UN) Human Rights Council in 2011, the UN Guiding Principles represent the authoritative global framework for addressing business impacts on human rights. The framework clarifies the respective duties and responsibilities of governments and businesses in tackling human rights risks related to business activities. The responsibility to respect means that business enterprises are expected to formally commit to respect human rights, have in place human rights due diligence processes, and, where appropriate, ensure that victims of human rights abuses have access to remedy.
- 2.3.2 This responsibility exists independently of whether or not governments fulfil their human rights obligations. Businesses should comply with national laws while at the same time seeking to honor the principles of internationally recognized human rights when faced with conflicting requirements. The scope of this business responsibility extends to all internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the core conventions set out by the International Labor Organization (ILO).
- 2.3.3 International human rights law outlines the duties of governments in protecting, respecting, and fulfilling human rights, including in the context of business activities. Universal human rights are outlined in: the International Bill of Human Rights, which includes the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR); the International Labor Organization (ILO) core conventions; other international human rights instruments, such as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and regional human rights instruments, such as the African Charter on Human and Peoples' Rights, the American Declaration of the Rights and Duties of Man, the ASEAN Human Rights Declaration, and the European Convention for the Protection of Human Rights and Fundamental Freedoms; and national human rights laws that codify international and regional human rights instruments.

## 3 TDB'S MANAGEMENT COMMITMENT TO PREVENTING AND RESPONDING TO HUMAN RIGHTS ADVERSE IMPACTS IN TDB-FUNDED PROJECTS

TDB Group is committed to developing, implementing and continuously improving management of ESG risks and opportunities to sustainable financing, including risks

related to Human Rights Abuse. TDB Group acknowledges that Adverse Impacts on Human Rights are likely to exist in a high proportion of projects it finances and understands that lack of evidence about incidents cannot be translated to mean that incidents are not occurring. TDB also recognizes that effective action requires undertaking a range of preventive measures and response activities that are based on global best practices, but that also reflect contextual adaptation according to local knowledge and practice. Accordingly, the organizational responsibility for implementing actions necessary to prevent and response to Human Rights Abuses within the Bank financed projects, including for the associated facilities, exists at all levels of the Bank, as illustrated in the table below.

Title	Responsibility (Amended to Include Human Rights)
<b>Group Managing Director &amp; President Emeritus</b>	<ul style="list-style-type: none"> <li>• Overall responsibility for Business Principles and ESMS at the Bank.</li> <li>• ESMS reporting to the Board of Directors, including on Human Rights Issues.</li> </ul>
<b>Deputy MD and Chief Risk Officer (CRO)</b>	<ul style="list-style-type: none"> <li>• Responsible for managing and reporting (to Management and the Board) on Bank-wide risk including the E&amp;S Risk;</li> <li>• Measuring and reporting on aggregated risk exposure across the Bank (including Human Rights Adverse risks);</li> <li>• Coordinating the design, implementation and monitoring of business continuity and other corporate risk management plans;</li> <li>• Monitoring of compliance with internal controls (governance, control and assurance department).</li> <li>• Monitor and report on progress with implementation of Departmental based risk management plans.</li> </ul>
<b>Investment/ Trade Finance Officer</b>	<ul style="list-style-type: none"> <li>• Ensure appropriate consideration of E&amp;S aspects at each stage of the investment process.</li> <li>• Assess ESG risks, including Human Rights Risks, as part risk management during project appraisal and during the holding period.</li> <li>• Liaise with the ESMS Coordinator to ensure the correct E&amp;S requirements are included in the investment documents and adequate resources are committed to allow effective and appropriate implementation of the ESMS policy and procedures.</li> <li>• In consultation with E&amp;S manager, set an appropriate term of reference and budget for the SEDD.</li> </ul>
<b>ESMS Manager</b>	<ul style="list-style-type: none"> <li>• Ensure compliance with the Bank's E&amp;S Policies and overall responsibility for the implementation of the ESMS at the Bank and clients (including Human Rights Risks).</li> <li>• Participate in pipeline meetings and other appropriate forums to contribute to the investment process.</li> <li>• Report E&amp;S issues/infringements (including related to Human Rights) to the lenders and ensure that risks are appropriately remedied.</li> <li>• Supervising and approving all E&amp;S reports.</li> <li>• Answering any queries from lenders of an E&amp;S nature.</li> <li>• Ensuring that E&amp;S training needs of staff are met.</li> <li>• Management of the ESMS document and ensuring that it is reviewed on a periodic basis.</li> </ul>

Title	Responsibility (Amended to Include Human Rights)
<b>ESMS Coordinator</b>	<ul style="list-style-type: none"> <li>• Ensure that resources are committed at the Client Level for E&amp;S and OHS management processes (including resources for prevention of and response to Human Rights Adverse Risks).</li> <li>• Evaluating environmental and social compliance of Clients activities with the applicable ESMS requirements (including Human Rights).</li> <li>• Participate and contribute on all SEDDs whether it is being driven by external consultants or in-house resources.</li> </ul>
<b>E&amp;S Specialists</b>	<ul style="list-style-type: none"> <li>• Review Client submissions to ensure that they comply with the applicable regulations of the host country regulatory regime.</li> <li>• Review E&amp;S monitoring reports on a periodic basis and recommend enhancements related to Human Rights Risk Management where necessary.</li> <li>• Prepare terms of reference for the E&amp;S consultant for completion of the Social and Environmental Due Diligence (SEDD) based on the list of sector specific questions.</li> <li>• Maintain and regularly update a list of potential E&amp;S and OHS risks inherent in TDB's evolving business portfolio (including related to Human Rights).</li> <li>• Maintain on-going liaison and correspondence with the Client ESMS representative.</li> <li>• Develop a program with the Client for the submission of quarterly or semi-annual E&amp;S reports to TDB (that include attention to Human Rights).</li> <li>• Prepare bi-annual reports on local E&amp;S issues/infringements and ensure that all serious incidents are appropriately addressed, and risks remedied where possible.</li> <li>• Prepare a lessons-learned report on each investment on an annual basis.</li> <li>• Review annual E&amp;S reports on Bank projects (with note of SEA and SH integration, as relevant).</li> </ul>
<b>Legal Officer</b>	<ul style="list-style-type: none"> <li>• Prepare loan conditions and covenants.</li> <li>• Ensure that appropriate environmental, social representations, warranties, and covenants are incorporated in each Client agreement (including those related to SEA and SH).</li> <li>• Ensure appropriate E&amp;S clauses and action plan are included in the legal agreements signed with the Bank's clients.</li> <li>• Review any amendments to the loan conditions and covenants.</li> <li>• Liaising with the ESMS manager to maintain a current E&amp;S legal register for all the countries within which TDB operates.</li> </ul>
<b>Client (Borrower)</b>	<ul style="list-style-type: none"> <li>• Comply with TDB's ESMS including guidance related to prevention of and response to Human Rights Adverse Impacts</li> <li>• Provide project information as requested by TDB.</li> <li>• Carry out ESIA (including related to Human Rights Risk Assessment) along with feasibility studies and public consultations including disclosure of the ESIA findings to the authorities and the public.</li> <li>• Secure appropriate E&amp;S permits from the relevant authorities.</li> <li>• Prepare an E&amp;S management plan and compensation schemes.</li> <li>• Prepare appropriate agreements on impacts relating to resettlement, livelihood losses and indigenous people.</li> </ul>

Title	Responsibility (Amended to Include Human Rights)
	<ul style="list-style-type: none"> <li>• Ensure adequate prevention measures related to Human Rights Risks, as well as reporting and investigation capacity and survivor response is laid out in the management plan, including duty to report any cases to TDB within a 24-hour time frame.</li> <li>• Monitor implementation of E&amp;S management plan and action plan to ensure compliance.</li> <li>• Submit regular monitoring reports to TDB.</li> </ul>
<b>Client ESMS representative</b>	<ul style="list-style-type: none"> <li>• Engagement with the contractors and communities to ensure that E&amp;S requirements are met (including requirements related to Human Rights).</li> <li>• The implementation of TDB's E&amp;S policies and ESMS at the Client level, including ensuring prevention measures related to Human Rights risks, as well as reporting pathways and survivor response.</li> <li>• Documenting and reporting local E&amp;S issues/infringements to the Bank's ESMS coordinator.</li> <li>• Ensure the implementation of remedial actions on serious incidents and appropriately address risks.</li> <li>• Monitoring the implementation of Environmental and Social Action Plans at a Client level.</li> <li>• Training client staff on an on-going basis on E&amp;S issues and impacts related to their activities and on the implementation of the ESMS, including for Human Rights.</li> </ul>
<b>External Human Rights Expert as required by project risk level</b>	<ul style="list-style-type: none"> <li>• Ensure appropriate consideration of Human Rights as part of the SEDD or investment monitoring process.</li> <li>• Ensure the correct Human Rights requirements are included in the investment documents and adequate resources are committed to allow effective and appropriate implementation of the Human Rights procedures as outline in TDB ESMS, including in relation to prevention of and response to incidents and adequate care and support to survivors.</li> <li>• Report local Human Rights issues/infringements/incidents to TDB and ensure that all emergency incidents are appropriately addressed, and risks remedied where possible.</li> </ul>

#### 4 RESPONSIBILITIES OF TDB-FINANCED PROJECTS TO RESPECT HUMAN RIGHTS

In order to meet their responsibility to respect human rights, TDB-financed projects should have in place policies and processes appropriate to their size and circumstances, including:

A policy commitment to meet their responsibility to respect human rights;

i) As the basis for embedding their responsibility to respect human rights, projects should express their commitment to meet this responsibility through a statement of policy that:

a) Is approved at the most senior level of the business enterprise;

- b) Is informed by relevant internal and/or external expertise;
  - c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;
  - d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;
  - e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise
- ii) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- a) In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, a project should carry out human rights' due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:
    - b) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
    - c) Will vary in complexity with the size of the project, the risk of severe human rights impacts, and the nature and context of its operations;
    - d) Should be ongoing, recognizing that the human rights risks may change over time as the project's operations and operating context evolve
- iii) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.
- a) Where projects identify that they have caused or contributed to adverse impacts, whether through its human rights' due diligence process or other means, its responsibility to respect human rights requires active engagement in remediation, by itself or in cooperation with other actors. Operational-level grievance mechanisms for those potentially impacted by the project's activities can be one effective means of enabling remediation.
  - b) Where adverse impacts have occurred that the project has not caused or contributed to, but which are directly linked to its operations, products or services by a business relationship, the responsibility to respect human rights does not require that the enterprise itself provide for remediation, though it may take a role in doing so. Some situations, in particular where crimes are alleged, typically will require cooperation with judicial mechanisms.
- iv) In all contexts, business enterprises should:

- a) Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;
- b) Seek ways to honor the principles of internationally recognized human rights when faced with conflicting requirements;
- c) Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.

## **5 PROCESS FLOW AND PROCEDURES**

Section 4 of the TDB ESMS defines the process to be followed for E&S risk management.

The key steps in the process include:

- **Step\_1:** Identifying fatal flaws and initial E&S categorization at deal origination stage;
- **Step\_2:** Completion of Social and Environmental Due Diligence (SEDD) & final categorization at project appraisal and assessment stage;
- **Step\_3:** Legal documentation; and
- **Step\_4:** Project monitoring.

The process flow for implementation of TDB's ESMS is presented in **Diagram 1 below**. Each step of the process will include actions to ensure that Potential Human Rights Abuse Risks are adequately addressed in project planning, implementation, and monitoring.



## 5.1 Step One: Fatal Flaw Analysis and Deal Origination

At the stage of fatal flaw analysis, TDB will seek to determine the borrower's commitment, capacity and willingness to ensure Human Rights adverse risks prevention and response will be adequately integrated into project activities in line with TDB guidance. Exclusion analysis will consider the following basic issues:

- Does the project comply with preventable and remedial measures, including policies, legislation, regulations and adjudications to take appropriate steps to prevent, investigate, punish address Human Rights Abuse? If no, project is excluded.
- Has the borrower ever been a partner in a financing operation in which Human Rights Abuse incidents were recorded and, if so, did the borrower take action to address these incidents? If no action was taken in a situation where a Human Rights Abuse incident was recorded in a previous financing operation, project is excluded.
- Is the borrower committed to preventing and responding to Human Rights Adverse Impacts during the implementation of the project? If yes, project is excluded.

## 5.2 Step Two: Project Appraisal and Assessment

The Bank's human rights due diligence has been developed in accordance with the UN Guiding Principles on Business and Human Rights (UNGPR). The due diligence is an on-going risk management process to identify, assess, prevent, and mitigate human rights risks across the entire value chain of the business. This process applies to the Bank's operation including subsidiaries, where Bank has operational control, associated activities within the value chain, and relevant stakeholders e.g., employees, customers, suppliers, contractors, communities, and vulnerable groups (e.g., indigenous people, children, migrant labour, women).

The project-related Human Rights Adverse Impact risk assessment can be incorporated into the Environmental and Social Due Diligence (ESDD) process. The desktop study, fieldwork and follow up research should all flow together. They are directed toward finding facts and determining rights and rightsholders who may be at risk. This phase is directed toward identifying and classifying the magnitude of human rights risks. It begins with the selection of rights at risk and the definition of rightsholder groups potentially affected. As with conventional risk assessment, it culminates with the establishment of a risk score representing both the likelihood and the extent of a potential impact. These goals accomplished; analysis follows:

### I. Identification of Rights at Risk and Rightsholders Potentially Affected

Findings from the project field assessment are organized according to the human rights risks associated with them. This is the beginning of Human Rights

Risk Assessment (HRA) preparation. A high level of human rights proficiency is essential for the data analysis process. During the analysis phase, the information is sorted and organized by rights -Each relevant human right is used as a section heading. All facts relevant to that right – interview quotes, company data, social data and assessor imagery – are collected in one place to create a holistic depiction of actual conditions and risks. Some facts may be relevant to multiple rights and should be included under each. Rights do not exist without rightsholders, so a final step is matching rightsholder groups with rights. The resulting right-rightsholder match is the basic building block of an HRA.

## II. Rating Human Rights Risks: Impacts and Likelihood as Inputs to Risk

Risk analysis is an evaluation of an operations potential to infringe human rights. Risk is a resultant of two factors, as detailed below:

### 1. The **Likelihood** of a particular adverse human rights outcome

Likelihood is determined by the level (kind, quantity and quality) of evidence that the risk is at or approaching fruition. Likelihood is rated on a five-tiered scale from certain to uncertain, according to the table below:

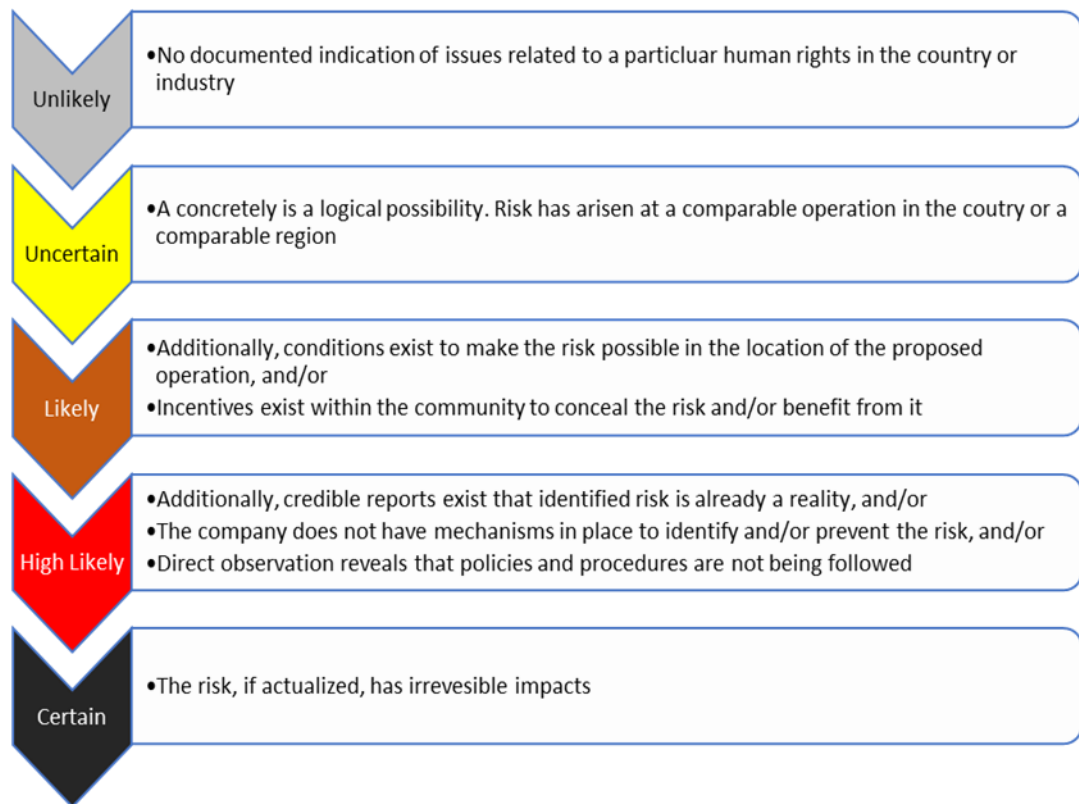


Figure 5-1: Tier of Likelihood

Because risk evaluation is inherently prognostic, most risks fall into a range of likelihood. The exception is risks that have already become impacts, which have a likelihood of "certain," as they have already occurred and generated adverse human rights impacts. There are, of course, risks that are varying levels of "unlikely." The majority of these are generally unhelpful in advancing the goals of HRRAs and so do not end up in the final risk analysis. Impact found to be uncertain after its initial discovery may well turn out to be valid after further investigation. Often, verifying identified risks goes beyond the scope of an HRRAs. However, it is important to include uncertain risks in cases where they would have grave impacts if they became realities. Also, the identification of numerous risks can potentially indicate the presence of systemic shortcomings. Likelihood is not evaluated using classical probability theory, because fundamental parameters are not mathematical or knowable. Although it is not necessarily a linear process, it is generally a chain of reactions that creates the most severe outcomes. As such, there are some step-by-step considerations that can be made, as outlined below:

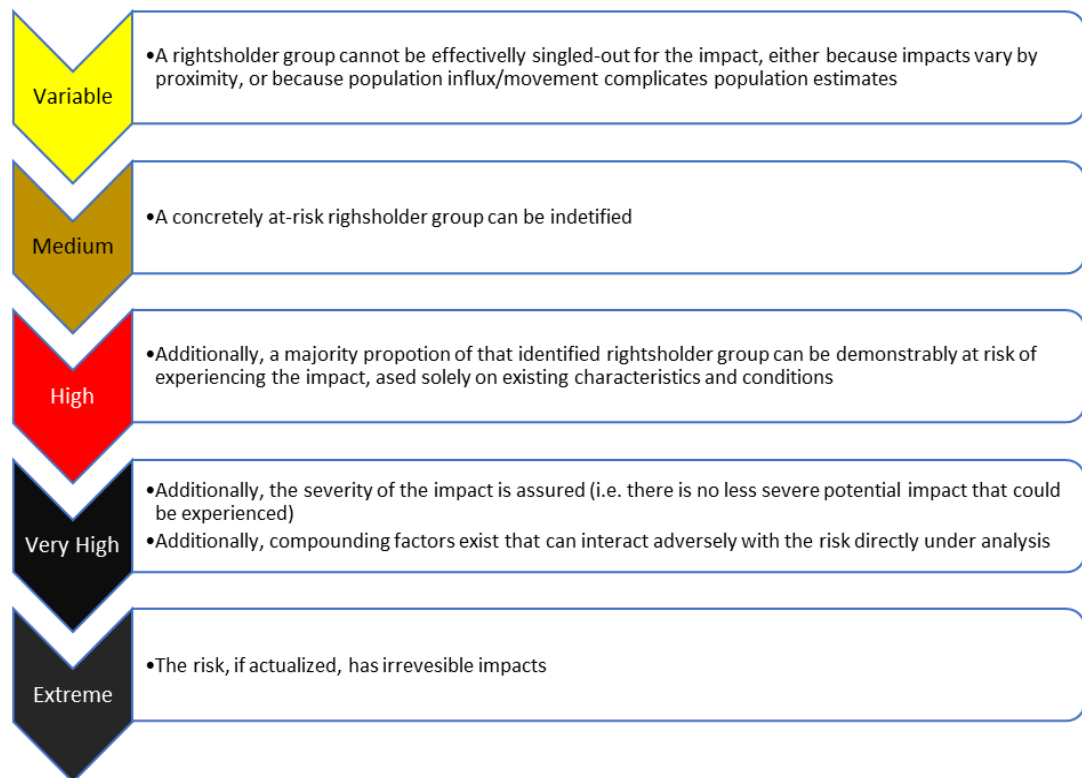
- A risk shifts from unlikely to uncertain if it has become a reality at a comparable operation in a comparable region or country. Comparability of operation includes size (e.g., number of megawatts produced, number of hectares of land occupied), type (e.g. run-of-river hydropower plant), and implementation approach (e.g. build-operate-transfer). Comparability of region includes landscape (e.g., topography and soil quality), economic conditions (e.g., local/national GDP), political structures (e.g., limited democracy), and stability (e.g. recent history of conflict). It may also include proximity, if neighboring countries share similar characteristics. This is the case, for example, in several post-soviet states and several southeast-Asian states.
- It shifts from uncertain to likely if additional conditions exist locally, within the district or neighborhood where the operation is proposed, to make the risk more probable. Local land uses (e.g., presence of agricultural or herding communities), conflict history, environmental management history, and social divisions are among these relevant local conditions. From a labor standpoint, local conditions might be climatic, resulting in, for example, increased risk of heat stroke for agricultural laborers, or risk of repetitive-motion injury for laborers conducting particular tasks. Additionally, incentives within a community to permit the rights violation boost the likelihood of a risk (e.g., education quality is poor and incomes are low, incentivizing parents to use children for field labor).
- It shifts from likely to highly likely if those existing conditions are compounded by credible reports of the risk that cannot be meaningfully refuted by the company. In essence, a company is expected to have detailed management strategies for risks common to particular operation types in particular contexts (e.g., child labor management strategies for cocoa producers, forced labor management strategies for sugar

producers, environmental control strategies for extractive operations, corruption control strategies for operations in opaque or authoritarian contexts). If such management strategies are absent, and conditions for a risk are present, the risk increases in likelihood. In cases where management strategies exist but are not being visibly implemented, the risk remains highly likely (e.g., direct observation of adverse conditions, such as unhygienic living quarters or unsafe chemical storage, regardless of what protocols exist on paper).

- A risk is certain if it is documented as already ongoing, and that documentation cannot be credibly refuted. Certainty is not built of conditions of increasing likelihood, but rather is independently verifiable.

## 2. The Impact

The impact of an outcome is denoted by its intensity (the gravity of impact for each affected rightsholder, including the reversibility of impact) and extent (number of rightsholders and degree of corporate complicity). Impact is rated on a five-point scale, ranging from extreme to variable, and color-coded according to the diagram below:



Intensity of impact hinges on the gravity of harm experienced by rightsholders. While it must be acknowledged that some human rights can be violated to a greater extent than others (i.e. the worst possible outcome associated with violations of the right to holidays with pay is the fairly mundane outcome of underpaid employment), intensity of a potential

impact does not prioritize some rights over others. For example, security of person and the right to a clean environment do not have an established order of prioritization. As such, extrajudicial killings by security forces can be more intense than some forms of environmental degradation, but poisoning a primary drinking water source can be more intense than nonviolent intimidation tactics by security forces.

The United Nations has invested substantial time and resources to define the gradations of impacts on various rights, which are employed by human rights experts conducting HRRAs. For example, violations of the freedom from child labor range from low-severity employment of teens in non-hazardous work for limited hours (e.g., harvesting vegetables after school hours) to young child labor in hazardous conditions that make attending school, getting proper sleep, and staying safe and healthy difficult or impossible (e.g., rock-breaking for road base gravel carried out 14 hours per day). The most extreme forms of child labor involve forced labor in hazardous conditions for excessive work hours. Likewise, violations of the right to public participation exist on a spectrum. Violations can be fairly limited, when, for example, accountability and transparency of public officials are curtailed. They become more substantial when power delegated to elected officials is co-opted by special interests, reducing public participation to tokenism. Violations of public participation are extreme when no voting is permitted, voting processes are manipulated, or violent intimidation prevents opposition from holding meaningful campaigns (UNESCO, 1997; Arnstein, 2006).

Extent of impact, including the number of rightsholders impacted, is not a designated number or percentage, but rather it varies according to how many affected rightsholders exist within a certain subgroup of rightsholders. For example, if only four pregnant women's rights are at risk as a result of workplace exposure to mercury fumes, but there are only five pregnant women in the workforce, the risk has a very high (verging on extreme) intensity on the particular rightsholder group. Likewise, if 100 working-age men are affected by an occupational harm, out of a workforce of 1,000, the extent of impact remains high, even though it is not a majority (Salcito et al, 2013).

Finally, reversibility of impact is taken into account when considering intensity. For example, there is a difference in severity between poisoning one well for one week and poisoning a major river forever, as there is between injury someone's leg and making them lame for life. The calculus of combining intensity and extent considers the geography of those affected for each. For example, air pollution may be concentrated in a particular zone, while other zones experience progressively less affect. The intensity is combined with extent for each zone, distinguishing the most affected rightsholders from the less affected ones.

In defining impact, HRRAs prioritize the correct identification of likelihood over the most extreme level of potential impact. With human rights risks, there is

always the possibility that compounding human rights risks generate catastrophic adverse impacts. The impact identified in HRRAs is the first point of potential risk generation at a given level of likelihood. From that point, the impact extends outward as a ray; the ultimate outcome could be substantially more severe than the initial risk identified. For example, in a workforce camp where hygiene conditions are poor, the risk combines the certain likelihood that conditions are unhygienic and the associated impact of waterborne and fecal-oral illness spread. It does not extend to consider the (potential but intangible) impact of a cholera outbreak, unless a cholera outbreak has already occurred in the area.

The five levels of impact are intended to be general categories. They are not intended to include fine distinctions but are rough general statements. All the levels are relative to the size of the operation and the affected population.

- An impact is registered as **present** (variable) if the assessor cannot identify a legitimate reason to consider the right unaffected. In essence, HRRAs begin with the premise that all human rights listed in core human rights instruments may be impacted. Starting from that assumption, assessors strike rights from the scope of investigation by scanning for issues during literature review and fieldwork. Detailed processes for identifying rights at risk are presented in HRRAs methodologies. In HRRAs, a variable impact simply denotes that the assessment process flagged a right as potentially relevant.
- An impact shifts from variable to moderate when assessors identify a specific rightsholder group that is demonstrably at risk of experiencing the identified human rights impact. For instance, a variable risk of health impacts for residents downstream from a power plant becomes a moderate risk if assessors identify a farming population that lives downgradient from the planned power plant.
- An impact shifts from moderate to high if the effect of that impact is (1) acute, and (2) likely to affect a majority of the identified rightsholder population, based on existing characteristics and conditions. Continuing the example above, the farming population downstream from the power plant grows rice, which both directly irrigates from water downstream from the facility ("conditions") and two is a crop that has high uptake of soil components ("characteristics"). Determining the impact to be acute only necessitates that it would be measurable if the operation were carrying out monitoring. Determinations of acuteness where no monitoring is occurring draws on global data about the conditions present and the outcomes documented elsewhere (e.g., what health outcomes are associated with hydrocarbon affected rice crops in other parts of the world). Determining whether a majority of the rightsholder group is at risk involves careful analysis of rightsholder groupings. If all rice farmers are affected, but no palm oil farmers are

affected, the impact on palm oil farmers is not relevant, and the impact remains acute on rice farmers. In contrast, if only palm oil farmers (and no rice farmers) are irrigating directly downstream from the proposed power plant, the impact is not considered high).

- An impact shifts from high to **very high** if the acute impact affecting a large majority of relevant rightsholders is inherently severe. For example, if there are no low-level chronic health effects to the effluent from the power plant; only immediate and intense health effects, the impact is very high. To use an alternate example, if the equipment used on site is inherently dangerous to respiratory health for workers, or if wage rates are inherently (calculably) unliveable for employees, the impact is very high. An impact may also be rated very high if it will interact with contextual conditions adversely (e.g. poor baseline health conditions will interact with a health risk).
- An impact becomes extreme if it would create irreversible harm to rightsholders its occurrence. Impacts that result in death, permanent incapacitation (e.g. the physical loss of a limb, the permanent damage to an organ, or the psychological damage of violent sexual assault), or severe dislocation (e.g. involuntary forced resettlement) are among these.
- After evaluating likelihood and impact, the two dimensions of risk are combined to present a risk rating. The risk matrix is then folded into a human rights framework to incorporate affected rightsholders. For each affected right, impacted rightsholders are identified by assessors. This is critical for identifying disparities in treatment among affected rightsholders and for helping to pinpoint future human rights due diligence and interventions of the Interested Party

		IMPACT				
		Extreme	Very High	High	Medium	Variable
LIKELIHOOD	Certain					
	Highly Likely					
	Likely					
	Uncertain					

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
<i>LAND: Land &amp; Natural Resources</i>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities do not cause, contribute to or exacerbate a violation of land or property rights under international law or undermine tenure security. This includes customary land rights that may not be recognized under national law. Where a project involves land use, acquisition or administration, it should advance recognition and protection of land rights and security of tenure for poor and marginalized groups. Key aspects are recognition of use, control and transfer rights of land and natural resources; recognition and protection of collective ownership and customary tenure systems; freedom from arbitrary deprivation; protection from illegitimate use and/or expropriation of land and resources; and non-discrimination					
Access	Local Communities	Could the project directly or indirectly, impact individuals' or groups' access to or use, enjoyment, or control of lands or resources? Consider impacts for land or natural resources, changes in land use or natural resource use patterns or demand, movement of populations, changes in environmental quality, changes in individuals' or communities' exposure to infringement by third parties, increasing economic burden on individuals leading to land sales or decreasing land access			??
Tenure security		Could the project impact tenure security, or the certainty that individual or collective land rights will be recognized by others and protected in cases of specific challenges? Consider impacts on land administration systems.			
Collective land rights		Could the project impact collective land rights or customary or traditional tenure for indigenous peoples and other communities, including nomadic groups?			
Women's land rights		Could the project impact women's land rights or tenure security? Could the project face challenges in ensuring respect for and protection of women's equal land rights?			
Deprivation of property rights		Could the project face challenges in ensuring the free, prior and informed consent of indigenous peoples and the free, prior and informed agreement or broad support of other communities?			
<i>LAND: Livelihoods</i>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities shall make a demonstrable contribution to poverty reduction and eradication of extreme poverty. The project should promote an adequate standard of living and advance social protection, especially for the poorest sectors of the population. Bank and Borrower shall take all necessary measures to ensure					

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
that Bank-financed activities will avoid adverse impacts on the livelihoods or means of subsistence of local communities. Where projects or programs involve livelihood activities, they should advance the right to an adequate standard of living. Acknowledging multiple values of ecosystems, key aspects of livelihoods include access to or use of natural resources that local, particularly Indigenous Peoples, depend on for their physical, economic, social, cultural and/or spiritual well-being.					
Poverty/Extreme Poverty		Could the project increase poverty or extreme poverty in the project area? In the country?			
Social protection		Could the project impact social protection programs, especially for the poorest or marginalized?			
Employment and subsistence		Could the project impact availability or demand for employment or impact subsistence activities in the project area, especially for the poorest?			
Standard of living		Could the project impact the standard of living in the project area? For the poorest?			
Project benefits		Could the project face challenges in ensuring that benefits accrue to the poorest communities and preventing elite capture of project benefits?			
Natural resources		Could the project impact natural resources or access to such resources, upon which groups or communities depend for their livelihoods or means of subsistence?			
Livelihood practices		Could the project impact livelihood practices?			
Sustainability of livelihoods		Could the project impact the sustainability of livelihoods?			
LAND: Food					
STANDARD: Bank and Borrower shall take all necessary measures to ensure that Bank-financed activities will avoid negative impacts on the right to food, including access to cultivable land for poor communities or marginalized groups. Key aspects of the standard include the following; availability, accessibility, adequacy, and sustainability. Where a project involves land administration, it should advance access to cultivable land for poor or marginalized communities. Key aspects of access to land include, but are not limited to: availability, accessibility, adequacy, sustainability, non-discrimination, and adequate standard of living.					
Access		Could the project impact access to cultivable land in the area, especially for women, the poor, indigenous peoples, or other marginalized groups?			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
Availability		Could the project impact availability of food supplies, agricultural production, or subsistence activities?			
Marginalized populations		Could the project impact availability of quality cultivable land for women, the poor, ethnic minorities, or other marginalized populations?			
Economic accessibility		Could the project impact economic accessibility of food, or whether individuals can afford food for an adequate diet without compromising on other basic needs?			
Physical accessibility		Could the project impact physical accessibility of food, or whether it is accessible to all, including the physically vulnerable, children, the sick, persons with disabilities or the elderly, people in remote areas, victims of armed conflicts or natural disasters, or prisoners?			
Accessibility of cultivable land		Could the project impact the physical or economic accessibility of cultivable land?			
Adequacy		Could the project impact the adequacy of food systems, including whether available food satisfies dietary needs, is safe for human consumption, and is culturally acceptable?			
Adequacy of cultivable land		Could the project impact the adequacy of cultivable land for affected communities, or its ability to support subsistence and cultural practices and to provide an adequate standard of living?			
Sustainability of food systems		Could the project impact the sustainability of food systems, including through contamination or resource depletion? 10. Sustainability of cultivable land – Could the project impact the sustainability of cultivable land, or whether quality land will be accessible for both present and future generations?			
LAND: Displacement					

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities do not cause, contribute to, directly or indirectly, or exacerbate forced evictions. Bank and Borrower will seek to avoid causing, contributing or exacerbating physical and economic displacement. Involuntary resettlement is only permitted in exceptional circumstances, when, inter alia, the project causing the displacement is undertaken solely for the purpose of promoting the general welfare, consistent with international human rights obligations, and no viable alternatives to meeting those general welfare objectives are available. In such cases, legal protections must be put in place to ensure full respect for human rights before, during and after eviction.					
Physical or economic displacement		Could the project involve economic or physical displacement of people or restriction of access to or use of resources? Consider also changes to land administration or land or resource use. Consider risks to health, safety, or environmental quality that may contribute to displacement or restrictions of or changes to land or resource use or demand for land or natural resources, including exposure to third parties.			
Involuntary		Could the project face challenges in ensuring that any displacement has attained explicit free, prior, and informed agreement under conditions that establish a fair power balance?			
General welfare		Could the project face challenges in ensuring and verifying that it is being undertaken solely for the purpose of promoting the public interest, affirmed through a democratic process, including meaningful consultation with expected beneficiaries and affected persons? Consider whether there are private actors with a substantial stake in the project.			
Reasonable and proportional		Could the project face challenges in ensuring that the magnitude of displacement and the degree of risk of harm to affected persons is reasonable and proportional to the project's public value?			
Adequate legal protections		Could the project face challenges in ensuring that adequate legal protections are provided for any physical or economic displacement?			
ENVIRONMENT & PUBLIC HEALTH: <i>Health</i>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities will avoid adverse impacts on health, including but not limited to potential for community exposure to water-borne, water-based, water-related, vector-borne diseases, and communicable diseases, as well as sexual and reproductive health and rights. If the project or program involves public health,					

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
it should advance the right to the highest attainable standard of health. If the project or program involves women's health in particular, it shall advance maternal health and realization of sexual and reproductive health and rights. Key aspects of this standard include: availability, accessibility, acceptability, good quality, non-discrimination, equity, participation, accountability, underlying determinants, education, and comprehensive family planning information and services.					
Exposure to diseases		Could the project impact community exposure to diseases, including through migration or an influx of labour into the project area?			
Release of substances/radiation		Could the project involve the release of substances, pollutants, waste, nuclear or electronic radiation, or practices that pose a risk to or otherwise impact human health?			
Participation		Could the project impact participation by beneficiaries in design or implementation of health programs or policies?			
Availability		Could the project impact the availability of public health facilities, goods, and services or their proper functioning?			
Acceptability		Could the project impact the acceptability of facilities, goods, or services, including respect for medical ethics, gender-responsiveness or cultural appropriateness?			
Quality		Could the project impact the quality of healthcare facilities, goods, or services, including in the following areas: trained health professionals; scientifically approved and unexpired drugs and hospital equipment.			
Underlying determinants of health		Could the project impact the quality of underlying determinants of health, including adequate sanitation, safe drinking water, safe and nutritious food?			
Non-discrimination -		Could the project impact health services, facilities, or goods with respect to non-discrimination and equitable accessibility to all (i.e., without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, sexual orientation, birth or other status)?			
Effective remedies		Could the project impact the ability of beneficiaries to seek effective remedies for health-related issues, such as denial of treatment?			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
Health of women and other vulnerable groups -		Could the project impact women's maternal or sexual or reproductive health? Could the project adversely affect health of already medically vulnerable groups?			
Mental health and substance abuse -		Could the project affect the mental health or wellbeing of local communities or workers? Could the project result in increased access to addictive substances?			
<b>ENVIRONMENT &amp; PUBLIC HEALTH: <i>Healthy Environment</i></b>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities will adverse impacts on the right to a healthy environment in accordance with the precautionary principle, including but not limited to any adverse impacts of exposure to hazardous materials and substances resulting from their production, transportation, handling, storage or use. If the project involves environmental resources or services, it should advance the right to a healthy environment. Key aspects of this standard include an environment that isn't harmful to one's health and wellbeing and that is protected, through pollution prevention, conservation, and use of sustainable development.					
Pollution		Could the project impact pollution levels or affect water or air quality? Could the project face challenges in ensuring adequate waste management			
Human health		Could he project impact human health and wellbeing?			
Exposure to hazardous materials		Could the project involve exposure to hazardous materials through their production, transportation, handling, storage, or use?			
Natural resource use -		Could the project impact natural resource use, conservation, or degradation?			
Environmental protections -		Could the project impact environmental protections, including licensing or management policies, practices, or institutions?			
<b>ENVIRONMENT &amp; PUBLIC HEALTH: <i>Community Safety</i></b>					
STANDARD: Borrower shall take all necessary measures to ensure Bank-financed activities avoid, and where not possible minimize, any adverse impacts on community health and safety, including through ensuring safety of infrastructure construction, operation, and decommissioning, and implementing emergency preparedness and response planning commensurate with the risks.					
Hazardous materials		Could the project involve production, transportation, handling, storage, or use of hazardous materials?			
Natural disaster or emergency		Is the project located in an area prone to natural disasters or human emergencies, and could project activities exacerbate their effects?			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
Exposure		Could the project directly or indirectly or cumulatively change community exposure to hazards including flooding, landslides, contamination or other natural or humanmade hazards, disease, or the accidental collapse or failure of project structural elements such as dams?			
Infrastructure		Could the project impact infrastructure safety			
<b>ENVIRONMENT &amp; PUBLIC HEALTH: Biodiversity</b>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities will avoid adverse impacts on biodiversity. If the project involves environmental resources or services, it should advance protection for natural habitats and forests. The project or program must respect areas that contain globally, regionally, or nationally significant concentrations of biodiversity values or endemism; are in or contain rare, threatened, or endangered ecosystems; provide essential ecological functions; and are important for meeting the basic needs of local communities or are critical to local communities' cultural identity.					
Environmentally sensitive areas		Could the project impact environmentally sensitive areas or areas of high biodiversity?			
Threatened or endemic species		Could the project impact areas of threatened or endemic species, or those of cultural, religious importance, particularly to Indigenous Peoples or local communities, women or marginalized and/or vulnerable groups?			
Habitat or species loss		Could the project involve habitat or species loss, including through degradation and fragmentation, invasive alien species, hydrological changes, overexploitation, nutrient loading, or pollution?			
<b>ENVIRONMENT &amp; PUBLIC HEALTH: Climate Change</b>					
STANDARD: Borrower shall take all necessary measures to ensure Bank-financed activities will avoid adverse impacts contributing to increased exposure or vulnerability to climate change. Borrower should assess and manage (a) the climate-related risks facing the project or program and its resilience to those risks; (b) the impacts the project or program will have on the climate resilience of local communities and ecosystems; and (c) the effects of the project or program on efforts to mitigate climate change.					
GHG Emissions		Could the project increase greenhouse gas emissions?			
Exposure		Could the project increase exposure to climate change?			
Vulnerability or resilience		Could the project adversely impact climate vulnerability or the resilience of local communities and ecosystems?			
Mitigation		Could the project adversely impact efforts to mitigate climate change?			
<b>INDIGENOUS PEOPLES &amp; CULTURE: Indigenous Peoples' Self Determined Development and FPIC</b>					

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
<p>STANDARD: Borrower shall take all necessary measures to ensure that Bank financed activities do not adversely impact indigenous peoples' human rights, lands, territories or resources, cultures or livelihoods, including the rights of indigenous peoples in voluntary isolation or recent contact to live freely in that condition according to their culture. Where a project affects or involves indigenous peoples or lands or resources to which indigenous peoples have collective attachment, Bank and Borrower will ensure the full, effective, and meaningful participation of the peoples concerned and will advance indigenous peoples' human rights, wellbeing, and self-determined development and self-governance. Bank and Borrower will consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent (FPIC) before implementing activities that may affect them. The Bank will not finance any projects involving or affecting indigenous peoples if their FPIC has not been ascertained and verified.</p>					
Livelihoods and wellbeing		Could the project undermine indigenous people's livelihoods or wellbeing?			
Self-government		Could the project impact indigenous peoples' rights to self-government in their internal affairs and right to determine their own development priorities and means? Consider the organizational strength of indigenous peoples, levels of division or corruption within the community, and whether the project would create alternative structures or decision-making bodies or processes.			
Participation		Could the project face challenge in ensuring the full and effective participation of the affected indigenous peoples in the design, implementation and ongoing monitoring of the project? Consider: Does the development process as defined by the Borrower coincide with ways of knowing of the communities? Have indigenous peoples clarified their representative organization structures that should be consulted? Is it clear how women, youth, and other groups which may not be present in power structures are consulted or engaged? Would indigenous peoples face challenges in accessing information or a power imbalance when negotiating? Has information been communicated to relevant indigenous peoples in a language and manner understandable to them?			
Consent		Could the project face challenge in engaging and respecting indigenous peoples' right to give or withhold their consent for projects? Consider: Could the project			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
		face challenges in identifying a clear governance structure and decision-making process of the affected indigenous peoples? How will the project integrate a planning process into the existing traditions of decision making within the community?			
Equity		Could the project impact equity between indigenous and non-indigenous sectors of society? Could the project impact equity of different groups within the indigenous people, in particular between indigenous men and women or between those who live more modern lifestyles and those who live more traditional lifestyles?			
Voluntary isolation -		Could the project directly or indirectly impact uncontacted indigenous peoples or those in voluntary isolation or recent contact? Consider whether there are known indigenous peoples in voluntary isolation in the country or area of influence, if the project area and environs been reliably surveyed to determine whether there is a presence of indigenous peoples in voluntary isolation or recent contact.			
<b>INDIGENOUS PEOPLES &amp; CULTURE: Indigenous Peoples' Lands, Territories and Resources</b>					
STANDARD: Borrower shall take all necessary measures to ensure respect for indigenous peoples' rights over the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired within the project. Project activities that may adversely affect the existence, value, use or enjoyment of indigenous lands, territories, or resources shall not be conducted unless agreement has been achieved through the FPIC process. Indigenous peoples shall receive equitable benefit sharing from any use or commercialization of their lands or resources.					
Recognition		Could the project impact recognition and protection of indigenous peoples' rights to use, develop, control, or access their lands, territories, or resources? Consider: could the project face challenges in ensuring recognition of indigenous peoples' collective rights to own, use, and develop and control the lands, resources and territories that they have traditionally owned, occupied or otherwise used or acquired, including lands and territories for which they do not yet possess title?			
Boundaries		Could the project face challenge in identifying the nature or boundaries of indigenous peoples' land or resource			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
		rights in the project area? 3. Quality or Availability - Could the project affect the quality or availability of indigenous peoples' lands or resources such as through environmental contamination? Consider: Could the project drive use of resources on which indigenous peoples depend? Could the project change land use patterns or increase land or resource speculation?			
Environmental protection		Could the project impact environmental protection or land administration and management which may impact indigenous peoples' lands, territories, or resources?			
<b>INDIGENOUS PEOPLES &amp; CULTURE: Indigenous Peoples' Cultural Rights</b>					
STANDARD: Borrower will ensure that there are no adverse impacts on indigenous peoples' cultural rights within Bank-financed activities. No cultural heritage, traditional knowledge and traditional cultural expressions shall be taken, used, or appropriated without the free, prior, and informed consent of the peoples concerned. Indigenous peoples shall receive equitable benefit sharing for any use or commercialization of their cultural resources					
Access to sites		Could the project impact indigenous peoples' access to culturally important resources and sacred or other culturally important sites?			
Screening and mapping		Could the project face challenge in screening for resources or sites sacred or culturally important to indigenous peoples? Consider: Is there reliable screening? Are sacred or other culturally important sites documented and mapped?			
Traditional knowledge		Could the project utilize or impact indigenous peoples' traditional knowledge?			
Access to services		Could the project impact indigenous peoples' right to access education, language, healthcare or media?			
<b>INDIGENOUS PEOPLES &amp; CULTURE: Cultural Heritage</b>					
STANDARD: Bank and Borrower shall ensure that all necessary measures are taken to avoid adverse impacts on cultural heritage, tangible or intangible.					
Sacred sites		Could the project impact sacred or other culturally important sites or cultural heritage?			
Consultation on sacred sites		Have local communities been consulted to determine whether cultural heritage or sacred sites are present in the project area?			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
Accessibility		Could the project impact accessibility of cultural resources or sacred sites?			
Traditional knowledge		Could the project involve the sale or use of traditional goods or practices or knowledge?			
Budgets		Could the project impact budgets or programs related to the recognition or protection of cultural heritage or environmental enforcement?			
Biopiracy		Could the project increase biopiracy or other risks to traditional knowledge and genetic resource rights?			
Traditional seed or animal varieties		Could the project impact or displace traditional seed or animal varieties or make it difficult for farmers to save seeds of traditional varieties?			
<b>INDIGENOUS PEOPLES &amp; CULTURE: <i>Cultural Practices</i></b>					
STANDARD: Borrower shall take all measures necessary to ensure that cultural rights are protected within Bank-financed activities.					
Learning and education		Could the project impact the ability of people to learn about their culture and that of others, and to receive quality education with due regard for cultural identity, for example through education, media, or other transmission of culture?			
Participation		Could the project impact the ability of groups in the area to participate in cultural life, to act freely, to choose their identity, to engage in their own cultural and religious practices, or to express themselves in the language of their choice?			
Natural resources		Could the project impact natural resources or livelihoods important for cultural practices?			
BASIC SERVICES: <i>Water and Sanitation</i>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities will avoid adverse impacts on the right to water and sanitation. Key aspects of the right to water and sanitation include availability, quality, acceptability, accessibility, and affordability. If the project or program involves water or sanitation services, it should advance the right to water and sanitation.					
Non-discrimination		Could the project face challenge in ensuring that everyone in the community, including women, has equal			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
		access to water, sanitation services and facilities, and information on water issues?			
Affordability		Could the project impact the affordability or economic accessibility of water or sanitation services, or the ability to procure services without compromising the ability to pay for other essential necessities?			
Water quality		Could the project impact (including due to cumulative impacts) water quality (safety for consumption and personal use) or hygiene or safety of sanitation facilities? Could it impact water used for recreational purposes?			
		Availability of water or services - Could the project impact (including due to cumulative impacts) availability of water or sanitation services, such as sufficient and continuous water for personal and domestic use and sufficient sanitation facilities for all?			
Acceptability		Could the project face challenge in ensuring the cultural acceptability of water or sanitation facilities, including gender-specific sanitation facilities that provide privacy?			
Accessibility		Could the project face challenge in ensuring accessibility of water or sanitation facilities to anyone within, or in the immediate vicinity, of household, health and educational institution, public institutions and places and workplace?			
<b>BASIC SERVICES: <i>Housing</i></b>					
STANDARD: Borrower will avoid adverse impacts on the right to adequate housing. Where the project or program involves housing, it should advance access to adequate housing. Key conditions of the right to adequate housing include: security of tenure; affordability; habitability; availability of services, materials, facilities and infrastructure; accessibility; location; and cultural adequacy.					
Security of tenure		Could the project impact security of tenure?			
Habitability		Could the project impact habitability of housing, including appropriateness of building materials, or exposure to pollution?			
Affordability		Could the project impact affordability of housing?			
Availability		Could the project impact availability of services, material, or infrastructure? These include: safe drinking water, adequate sanitation, energy for cooking, heating and			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
		lighting, washing facilities, means of food storage and refuse disposal.			
Accessibility		Could the project impact housing accessibility for disadvantaged or marginalized groups such as the poor, people facing discrimination, women-headed households, persons with disabilities, or victims of natural disasters?			
Location		Could the project impact housing location, including proximity to employment, health clinics, schools, and various social services? Consider housing construction, displacement or resettlement, or projects or programs that may change residents' access to services, amenities, or natural resources.			
Cultural adequacy		Could the project impact cultural adequacy of housing?			
<b>BASIC SERVICES: Education</b>					
STANDARD: Borrower shall take all necessary measures to ensure Bank-financed activities will avoid adverse impacts 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.					
Availability		Could the project impact the availability of educational institutions or facilities, either in terms of quantity or the provision of free and compulsory primary education or progressively free secondary or tertiary education? Consider projects involving education programs or budgets as well as projects involving resettlement or population flow.			
Accessibility		Could the project impact the accessibility of education, including accessibility for child laborers, girls and marginalized groups or children with disabilities? Consider education programs as well as resettlement, urban or rural planning or infrastructure construction.			
Acceptability		Could the project impact the acceptability of education to parents and to children, including acceptability for cultural or linguistic groups?			
Adaptability		Could the project impact adaptability of education programs to the changing needs of the local community?			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
<b>BASIC SERVICES: Social Security</b>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities will avoid adverse impacts on the right to social security. Where the project or program affects social security, it should promote the right to social security. The right to social security means that everyone, regardless of age or ability to work, is guaranteed the means necessary to procure basic needs and services. Key aspects of the right to social security include: availability, social risks and contingencies, adequacy, and accessibility					
Equitable accessibility		Could the project impact equitable accessibility of social services for all marginalized groups and the general population, poor and rich, men and women, rural and urban informal settlements and formal urban settlements?			
Availability		Could the project impact the sustainability or future availability of social security programs or services?			
Social risks and contingencies		Could the project impact the provision of social services coverage for the following social risks and contingencies: health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, survivors and orphans?			
Adequacy		Could the project impact the adequacy of benefits, including amount and duration?			
Accessibility		Could the project impact accessibility of social services, including whether: all persons are covered; eligibility requirements are reasonable; social security schemes are affordable; beneficiaries can participate in program administration; benefits are physically accessible?			
<b>LABOUR: Decent Work</b>					
STANDARD: Bank and Borrower shall to the greatest extent practicable, employ local workers and provide training with a view to improving skill levels, in co-operation with worker representatives. Employment should represent decent work and comply with core labor standards and other relevant ILO conventions.					
Employment impact		Could the project or its business relationships impact employment quantity, type, or quality?			
Availability and accessibility		Could the project or its business relationships impact the number or type of jobs or employment relationships available for community members? Could community members face barriers in accessing jobs created?			
Living wage		Could the project or its business relationships face challenges to ensuring a living wage that allows			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
		employees to purchase food, water, clothing, and transport, support dependents, and a pension?			
Wage and hour standards		Could the project or its business relationships face challenges in meeting wage and hour standards, including that the work-week is limited to 48 hours, overtime is voluntary, infrequent, and does not exceed 12 hours per week, and that employees are given reasonable breaks while working, and sufficient rest periods between shifts?			
Holidays and leave		Could the project or its business relationships face challenges in meeting standards for holidays, sick time, and parental leave?			
Non-Discrimination		Could the project or its business relationships face challenges in ensuring non-discrimination in the workplace, including that compensation, benefit plans, and employment-related decisions are based on relevant and objective criteria?			
Health and safety		Could the project or its business relationships involve workplace health and safety risks? Could the project face challenges to ensuring that all workers are afforded a safe, suitable and sanitary work environment?			
Worker housing		Will the project or its business relationships involve worker housing?			
Partner safety record		Could the project or its business relationships involve partners with a poor workplace health and safety record?			
<b>LABOUR: Freedom of Association</b>					
STANDARD: Borrower shall take all necessary measures to ensure that freedom of association is respected and protected within the project or program. Workers must be assured the right to bargain collectively for their working conditions and terms of employment, and the right to strike. Employees should not suffer any discrimination or retribution because of their involvement in a union.					
Freedom of Association		Could the project or its business relationships face challenges in ensuring that freedom of association is respected?			
Union organizing		Do employers, including private companies involved in the project respect union organizing and the right to collective bargaining? [last 3 choices]			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
<b>LABOUR: Child and Forced Labour</b>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities do not cause, contribute to or exacerbate forced labor or the use of child labour, including human trafficking. No child younger than 15 years old should be working in the project or program. The minimum working age should not be less than the age of completion of compulsory education. No children under the age of 18 should be working at night or performing dangerous tasks.					
Forced labour		Could the project or its business relationships face challenges in ensuring that it does not cause, contribute to, or exacerbate forced labour? Have there been past reports against relevant employers regarding forced labour or pay being withheld?			
Human trafficking		Could the project or its business relationships face challenges in ensuring it does not cause, contribute to, or exacerbate human trafficking?			
Minimum employment age		Do the employer and contractors have a minimum employment age consistent with national law and international standards?			
Child labour		Could the project face any challenges in ensuring that it does not cause, contribute to or exacerbate child labor? Does the project partner, employer or any contractors have a history of child labor?			
<b>PARTICIPATION, INCLUSION, &amp; ACCOUNTABILITY: Access to Information and Engagement</b>					
STANDARD: Borrower shall take all necessary measures to ensure that individuals and communities have access to project-related information in a form and format that is accessible and readily understandable by them and in a timely manner so as to facilitate their full, informed, effective, and meaningful participation in decisions and processes which may affect them. Participation should be effective and meaningful, informed, free, full, and conducted in a gender sensitive, non-discriminatory (without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status) and culturally appropriate manner.					
Participation of potentially marginalized groups		Could the project face challenge in ensuring full, meaningful and effective participation in project design, implementation and monitoring, including by women, the elderly, persons with disabilities, youth, sexual minorities, other potentially marginalized groups, and especially of affected communities?			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
Effective and meaningful participation		Could the project face challenges in ensuring effective and meaningful participation, meaning that the process is significant and provides reasonable opportunity to influence decision-making, and in turn that decision-making is responsive to inputs, e.g. is the project still open to input?			
Reprisals and retaliation		Could stakeholders, including those supporting or objecting to the project, face coercion, intimidation, or reprisals? Consider whether there is opposition to the project or division in or between communities regarding the project.			
Protection measures		Could the project face challenge in ensuring robust measures to protect individuals or groups from retaliation?			
Availability and accessibility		Could the project face challenges in ensuring that all relevant information is made available in a timely manner, in an accessible place, and in a form and language understandable to affected persons and other stakeholders including the general public, so that they can effectively and meaningfully participate in project and program design and implementation?			
<b>PARTICIPATION, INCLUSION, &amp; ACCOUNTABILITY: Freedom of Expression and Assembly</b>					
Bank and Borrower shall take all necessary measures to ensure that freedom of assembly and freedom of expression is protected in all Bank-financed activities.					
Freedom of expression		Could community members or civil society groups face restrictions on freedom of expression related to the project, either through expressing views, participation in consultations or other aspects of the project, accessing grievance mechanisms, or real or perceived opposition to the project?			
Freedom of assembly		Could community members or civil society groups face restrictions on freedom of assembly such as being restricted from participation in or being able to protest or otherwise raise concerns regarding the project without fear of reprisal?			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
<b>PARTICIPATION, INCLUSION &amp; ACCOUNTABILITY: Non-Discrimination</b>					
STANDARD: Bank and Borrower shall take all necessary measures to avoid discrimination within Bank financed activities. Where possible, Bank-financed activities should promote social inclusion and substantive equality. In all projects or programs, Bank and borrower must take all necessary measures to ensure that poor or marginalized social groups are not excluded from project or program benefits.					
Marginalized groups		Could the project impact vulnerable or marginalized groups? Could the project impact equity of poor or marginalized groups?			
Barriers to development and access to benefits		Could the project impact barriers to development or face challenges in ensuring equal access to benefits for often excluded groups, such as women, children, youth, minorities, and persons with disabilities?			
Engagement		Could the project face challenge in engagement of marginalized groups, given context and social structure?			
Elite capture		Could the project face challenges from elite capture of project-related benefits?			
Disproportionate harms		Could the project face challenges in ensuring that project-related harms do not disproportionately accrue to marginalized groups?			
<b>PARTICIPATION, INCLUSION, &amp; ACCOUNTABILITY: Gender Equality.</b>					
STANDARD: Bank and Borrower shall take all necessary measures to ensure that Bank-financed activities do not cause, contribute to, or exacerbate gender inequality and discrimination. Bank and Borrower will ensure that the development process fosters full respect for women's rights and promotes women's empowerment. Projects and programs will be gender-responsive in their design and implementation. Bank and Borrower will ensure that both men and women are able to participate meaningfully and equitably, have equitable access to project and program resources, and receive comparable social and economic benefits. Bank and Borrower will take all necessary measures to ensure that projects and programs do not discriminate against women or girls or reinforce gender-based discrimination or inequalities. Women and girls should also have access to monitoring and complaints mechanisms and grievance redress.					
Women's rights and empowerment		Could the project impact women's rights or empowerment or face challenges in ensuring women's equal rights?			
Access to grievance redress		Could the project face challenge in ensuring that women and girls have full and meaningful access to complaints mechanisms and grievance redress?			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
Gender responsiveness		Could the project face challenges in ensuring gender responsiveness, or identifying and integrating the different needs, constraints, contributions and priorities of women, men, girls and boys into project design? Or ensuring women have equitable access to project benefits?			
Participation		Could the project face challenges in ensuring full and meaningful participation of women and girls in project design, implementation and monitoring?			
<b>PARTICIPATION, INCLUSION &amp; ACCOUNTABILITY: Persons with Disabilities and Comprehensive Accessibility</b>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed projects ensure that the development process is inclusive and fosters full respect for the human rights of persons with disabilities, including by promoting comprehensive accessibility for persons with disabilities and ensuring reasonable accommodation. Bank and Borrower shall take necessary measures to ensure that persons with disabilities are able to effectively and fully participate in and benefit from Bank-financed activities and to avoid adverse impacts on persons with disabilities or discrimination on the basis of disability within Bank-financed activities. Where a project involves products or the built environment it shall incorporate the principles of universal design.					
Exclusion		Could the project exclude or fail to include persons with disabilities within development processes?			
Participation		Could the project face challenges to ensuring full participation of persons with disabilities, including throughout consultation processes, and equal access to benefits?			
Equality		Could the project reinforce or exacerbate existing inequality for persons with disabilities?			
Accessibility		Could the project impact comprehensive accessibility for persons with disabilities and their communities of support? Consider: Could the project face challenges in ensuring persons with disabilities and their communities of support have comprehensive access to project benefits or services, including challenges related to physical/environmental, communication, policy, or attitudinal barriers?			
Universal design		If the project involves the built environment, could it face challenges in ensuring reasonable accommodation and universal design?			
<b>PARTICIPATION, INCLUSION &amp; ACCOUNTABILITY: Sexual Orientation, Gender Identity and Expression (SOGIE)</b>					

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
STANDARD: Bank and Borrower shall take all necessary measures to ensure that Bank-financed activities will avoid adverse impacts on sexual and gender minorities, will promote gender and SOGIE equality, and ensure that sexual and gender minorities receive social and economic benefits from the project or program in a manner equal to the benefits received by other members of the community.					
Rights		Could the project impact the human rights of persons with non-conforming sexual orientation or gender identity or expression or bodily diversity? Consider health projects or projects in countries where homosexuality is criminalized or restricted.			
Benefits		Could the project face challenges in ensuring access to project benefits for individuals with non-conforming sexual orientation or gender identity or expression or bodily diversity? Consider health projects or projects in countries where homosexuality is criminalized or restricted.			
Participation		Could the project face challenges in ensuring active participation, confidentiality and security of participants with a non-conforming sexual orientation or gender identity or expression or bodily diversity within the project.			
<b>PARTICIPATION, INCLUSION &amp; ACCOUNTABILITY: <i>Grievance and Redress</i></b>					
STANDARD: Bank and Borrower shall take all necessary measures to ensure that grievances are addressed early and remediated directly. The project should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted. In addition, potentially affected communities must be made aware of and have access to an independent accountability mechanism. Use of a project-level grievance mechanisms or independent accountability mechanism shall not replace access to judicial remedy and vice versa.					
General		Could the project face challenges in ensuring responsiveness and accountability to local communities and the population at large?			
Effective grievance mechanism		Could the project face challenges in establishing and operating a grievance mechanism that is legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on engagement and dialogue? 3			
Cultural adequacy or gender sensitivity		Could the project face challenge in ensuring cultural adequacy or gender sensitivity of redress mechanisms? 4. Reprisal risk - Could complainants face intimidation or risk			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
		of reprisal in utilizing a grievance mechanism, including through use of information and communications technology (ICT)?			
<b>CONFLICT &amp; SECURITY: Governance</b>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities support and strengthen the Borrower's institutional capacity and good governance. Bank and Borrower shall take all necessary measures to ensure Bank-financed activities do not significantly affect public debt commitments. Bank-financed activities must respect human rights and may not contravene Borrowers' obligations under international law. If Bank-financed activities involve assumption of public debt, the Bank and Borrower shall ensure that the project is in the public interest and does not increase the Borrower's external debt stock to an unsustainable level that will make debt repayment difficult and impede the creation of conditions for the realization of human rights.					
Public purpose		Has the project been shown to meet a public purpose?			
Coherence with development plan		Does the project fit within a clear national development plan? If so, was that plan developed in a transparent and participatory manner?			
Project concept		Was the project concept developed in a transparent manner and with public participation?			
Vested interests		Could the project present a serious threat to powerful vested interests, or lead or contribute to political instability or turmoil?			
International law		Is the project consistent with the Borrowers' obligations under international law?			
Compliance		Could the project face challenges in ensuring compliance with either national law or international law, whichever is more protective? 7			
External debt stock		Could the project increase the Borrower's external debt stock to an unsustainable level that may make debt repayment difficult or impede the realization of human rights?			
<b>CONFLICT &amp; SECURITY: Conflict</b>					
STANDARD: Bank and Borrower shall take all necessary measures to ensure that Bank-financed activities do not cause, contribute to, or exacerbate conflict.					
Opposition		Could there be opposition to the project?			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
Local concerns		Have local communities or civil society raised concerns, or expressed opposition towards the project or similar initiatives?			
Informal armed groups		Could the project cause, contribute to or exacerbate exposure to informal armed groups?			
Differential impacts		Could the project entail different groups within or among communities experiencing more or less project harms or benefits?			
<b>CONFLICT &amp; SECURITY: Gender-Based Violence</b>					
STANDARD: Borrower shall take necessary measures to ensure that Bank-financed activities do not cause, contribute to or exacerbate gender-based violence.					
Labour or Stress		Could the project cause, contribute to or exacerbate gender-based violence? Consider: Could the project involve women's labor?			
Migration		Could the project involve labor migration? Could the project increase access to drugs or alcohol or significantly increase the financial or other stress on male populations?			
<b>CONFLICT &amp; SECURITY: Privacy</b>					
STANDARD: Borrower shall take all necessary measures to ensure that Bank-financed activities do not cause, contribute to, or exacerbate violations of privacy rights. Project					
Communications		Could the project face challenges in ensuring the right to privacy in communications, for instance through inappropriate use of telecommunications (ICT), or gathering and holding personal information on computers, data banks, and other devices, including employment data that could be at risk for breach?			
Territorial or bodily privacy		Could the project face challenges in ensuring respect for territorial or bodily privacy, for instance through worker housing or employment practices?			
<b>CONFLICT &amp; SECURITY: Reprisals</b>					
STANDARD: Bank and Borrower shall take all necessary measures to ensure that persons or organizations involved with or in opposition to Bank-financed projects and programs do not face reprisals from the government or other actors for their involvement with, opposition to, or perceived position or role regarding the project or program.					
Project partners		Could there be a risk of dealing with project partners or contractors implicated in human rights abuses?			

ASPECT	RIGHTSHOLDERS	PROJECT RISK QUESTION	LIKELIHOOD	IMPACT	RISK
Third parties		Could there be a risk of reprisals from other communities or third parties? Consider whether the project has winners and losers or interested actors with potential for violence.			
Participation		Could the project face challenges to ensuring that affected communities are able to participate in the project design, implementation, and monitoring, or to express opinions regarding the project, including opposition or protest, without fear of reprisal?			
CONFLICT & SECURITY: Use of Force or Detention Standard					
STANDARD: Borrower shall take all necessary measures to ensure that unlawful or excessive use of force is not utilized against persons in relation to bank-financed activities, including those involved with or opposed to the project, and that persons are not subject to arbitrary arrest or detention in relation to any Bank-financed activity.					
Risk of force or detention		Could the project pose a risk of causing, contributing to or exacerbating excessive use of force or arbitrary detention, such as in the policing of protests, or through armed third parties?			
Security personnel		Could the project face challenges in ensuring that any security personnel involved with the project do not violate human rights or jeopardize the community's safety or security			

### **5.3 Step Three: Legal Documentation and E&S Covenants**

At this stage of the process, the borrower and TDB will agree upon and finalize a series of documents that will constitute E&S covenants as they relate specifically to prevention, risk mitigation and response to Adverse Impacts to Human Rights:

- Covenant for the borrower to comply with the requirements contained in the section 4.
- An Environmental and Social Management Plan – including actions required from the borrower to minimize and/or remedy any actual or potential incident related with violation of Human Rights

### **5.4 Step Four: Project Monitoring**

Effective supervision and oversight of the project's Adverse Impacts on Human Rights prevention efforts are vital and should be carefully considered during project preparation. All entities involved—the borrower, supervising Engineer, any independent oversight entities, as well as other entities such as steering committees and civil society—must have clear roles and responsibilities throughout the implementation of the project, described further below. All those involved in Adverse Impacts on Human Rights.

#### **Results Framework Indicators**

The project's Results Framework should include indicators related to: (i) the prevention of Adverse Impacts on Human Rights on the project; and (ii) the Grievance Redress Mechanism (GRM). Adverse Impacts on Human Rights indicators may include:

- Successful implementation of agreed Human Rights Adverse Impacts Prevention and Response Action Plan (Y/N);
- Number of training courses related to Human Rights delivered;
- Percentage of workers that have signed a CoC; and/or
- Percentage of workers that have attended CoC training.

#### **Reporting During Implementation**

Formal reporting by projects is expected where risks of severe human rights impacts exist, whether this is due to the nature of the business operations or operating contexts. The reporting should cover topics and indicators concerning how project identify and address adverse impacts on human rights. Independent verification of human rights reporting can strengthen its content and credibility.

Projects have a significant role to play in supporting safe spaces for staff to report exposure to Human Rights Abuse, and for community members (and other staff members) to report concerns or incidents related to Human Rights.

It should be noted that an increase in the number of reported cases does not necessarily mean that Human Rights Abuses incidents have increased; it can also reflect improved mechanisms for safe and confidential reporting and increased interest awareness of the value of support services. Such collaborative initiatives should ensure the availability of effective mechanisms through which affected parties, or their legitimate representatives can raise concerns when they believe the commitments in question have not been met. The mechanisms could be at the level of individual members, of the collaborative initiative, or both. These mechanisms should provide for accountability and help enable the remediation of adverse human rights impacts.

## **6 CAPACITY BUILDING AND AWARENESS**

To properly address or minimize the occurrence of adverse impacts on Human Rights, the training and sensitizing of workers is essential. These workers include civil works contractors (including sub-contractors and suppliers), supervision consultants, other consultants who may have a presence in the project adjoining communities - as well as the borrowers.

Projects can seek to embed training modules that incorporate Human Rights topics into the regular Environmental, Health and Safety 'toolbox' meetings with workers, official training and/or standalone training efforts. Linking the curriculum to actors outside the project such as health and education sector professionals may also be beneficial. Training on Human Rights should be thorough. The modality, frequency and content of the training should be detailed in the E&S Action Plan.

Training and awareness raising is a strong step toward behavior change. As projects are implemented, training on Human Rights should be made available to the project-affected communities so they can learn about the roles and responsibilities of actors involved in the project, processes for reporting incidents of project-related Human Rights, and the corresponding accountability structures.

Training of both project-affected communities and project implementers allows all stakeholders to understand the adverse human rights risk, as well as appropriate mitigation and response measures, putting everyone on the same page. At a minimum, training should include:

- Definitions of Human Rights, and how the project can induce or exacerbate it – with examples of Human Rights violations;
- Roles and responsibilities of actors involved in the project (the standards of conduct for project staff should be captured in the CoC);
- Reporting mechanisms for staff and communities, accountability structures for investigation and disciplinary processes, and safe and ethical referral procedures for survivors;

## 7 STAKEHOLDER ENGAGEMENT AND ACCESS TO REMEDY

### 7.1 Stakeholder Engagement Plan

Stakeholder engagement is foundational to effective implementation of the United Nations Guiding Principles on Business and Human Rights. Meaningful stakeholder engagement is particularly essential in a business' efforts to meet its corporate responsibility to respect human rights. In practice, many human rights impacts can be linked back to challenges related to stakeholder engagement.

It appears that more effective stakeholder engagement often could have prevented or mitigated them. The theme of stakeholder engagement runs across the UN Guiding Principles on Business and Human Rights and is critical to a company's efforts to meet the corporate responsibility to respect human rights. Stakeholder engagement is understood to be 'an ongoing process of interaction and dialogue between a company and its potentially affected stakeholders that enables the company to hear, understand and respond to their interests and concerns, including through collaborative approaches'<sup>1</sup>.

The Guiding Principles reference the importance of consulting with affected stakeholders at several key moments: in identifying and assessing actual and potential human rights impacts; in tracking and reporting on company efforts to prevent and manage those impacts; and in designing effective grievance mechanisms and remediation processes. Affected stakeholders may include not only staff (employees and contract workers) and communities directly affected by a company's operations, but also more physically remote stakeholders affected through business operations in a company's supply chain, or customers or end-users of a particular product or service who may be even more dispersed.

External engagement processes are essential to ensure that stakeholder perspectives can appropriately inform company policies and practices. In the Guiding Principles, a stakeholder is understood to be 'any individual who may affect or be affected by an organization's activities,' whereas an affected stakeholder 'refers here specifically to an individual whose human rights have been affected by a company's operations, products or services.

Applying the human rights lens to stakeholder engagement requires that companies address whether and how they have effectively engaged with these stakeholders, including vulnerable stakeholders, in the red upper-left quadrant. Doing so requires shifting the focus from 'risk to business' to 'risk to people'. Almost by definition, potentially vulnerable individuals or groups may be less visible and vocal in society.

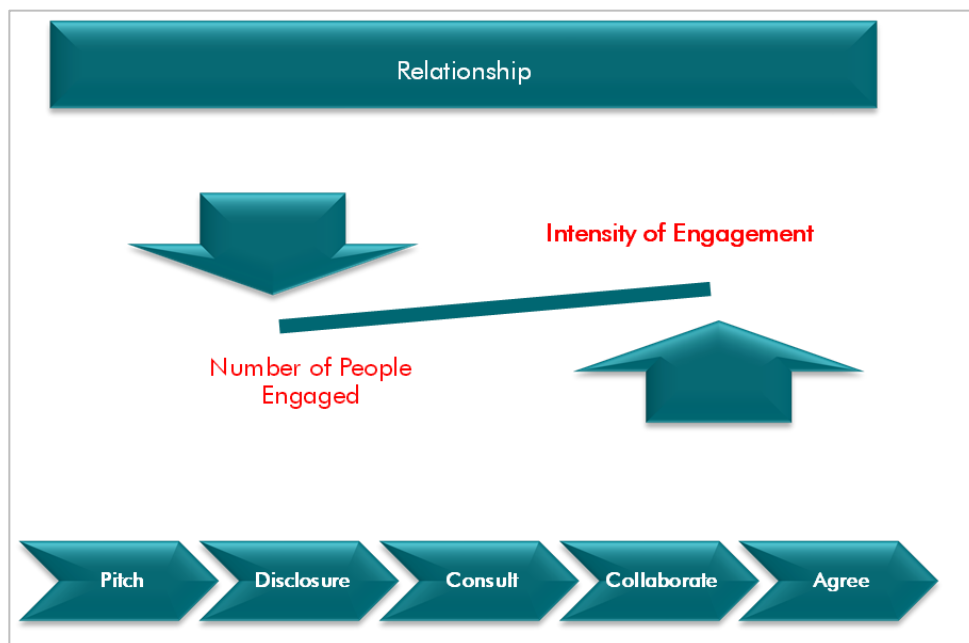
The Guiding Principles recognize that companies may find it necessary to prioritize which impacts to address first, but they make clear that the focus should be on

---

<sup>1</sup> United Nations High Commissioner for Human Rights, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, p. 8

those impacts that are or would be the most severe. Engaging stakeholders in the prioritization process can substantially alleviate the discomfort and improve the quality of the judgments being made. It engages stakeholders in a discussion that recognizes that not everything may be able to be done at once, while giving them real influence over decisions about which issues to address first (and how).

Stakeholder engagement encompasses a broad variety of methodologies, from stakeholder mapping, 'pushing' information out to stakeholders ('pitch' or 'disclose' in the figure below), to 'pulling' information in from stakeholders ('consult'), to engaging in a problem-solving dialogue with stakeholders ('collaborate'), to sharing decision-making power in certain instances ('agree').



Implementing the Guiding Principles effectively likely involves employing all of these approaches at various moments in time, with the caveat that 'pitching' will never be sufficient on its own. For example:

- Projects have a responsibility first to **disclose** information to affected stakeholders about potential adverse human rights impacts, during which they may 'pitch' some human rights benefits, in the context of, and in proportion to, potential negative impacts.
- Projects then need to **consult** with affected stakeholders about the identification and assessment of impacts; they may **collaborate** in joint fact-finding processes with local communities or workers; and it will be important for indigenous communities, in particular, to consent (or 'agree' in the schema above) to certain activities, on a free, prior and informed basis.

- Projects will want to **collaborate** with affected stakeholders around effective remediation processes and the design of grievance mechanisms and engage with complainants through legitimate processes to seek to **agree** on appropriate remedies where they have caused or contributed to a negative impact.

Ultimately, across all stages of implementation of their responsibility to respect in line with the Guiding Principles, companies should be seeking to build and strengthen their underlying relationships with stakeholders, which can enable more meaningful engagement at all of the points outlined above. There are many possible modes of engagement, from formal, structured, public meetings to multistakeholder settings, to informal but purposeful private engagement. Multiple modes of engagement may be necessary to ensure that the company has sufficient 'feedback loops' to understand a broad range of perspectives from affected stakeholders.

Companies may not need to establish a specific Stakeholder Engagement Plan (SEP) to focus just on human rights. Rather, they can 'embed' this role in existing project SEP, by ensuring that they are both mandated to address issues related to the company's human rights impacts and have within their membership the necessary technical capacity and expertise on these issues.

The TDB E&S team should carefully monitor that effective and inclusive community consultations are undertaken. The consultations are generally organized by the borrower with the support of the supervising engineer's E&S specialists. If the project's needs are very substantial, then an independent consultant to support the borrower with consultations may be a more effective approach. These consultations are needed throughout the life cycle of the project, not just during preparation.

Key considerations for the consultation process are:

- Identify the communities adjoining the project and plan stakeholder consultations on this basis.
- Community consultations should be conducted so that those affected by the project are properly informed and can provide their feedback on project design and safeguard issues.
- Ensure consultation activities provide opportunities to share information with stakeholders on project-related risks and the proposed reporting and response measures, with a particular focus on women, children and other at-risk groups each of which may require different approaches to enable a safe space for discussion.

It is important that the stakeholders be aware, at a minimum, of:

- The purpose, nature and scale of the project.

- The duration of the proposed project activities.
- Potential risks to and impacts on local communities, including related to Human Rights
- The labor influx implications.
- The environmental, social, health and safety (ESHS) and Adverse Human Rights Impacts that may be associated with the project.
- The employer's (i.e., Government) ESHS policy.
- The CoC standards to be used in the project, with clear communication on what constitutes a violation and how a violation can be reported.
- The proposed stakeholder engagement process and how stakeholders can provide feedback on the project; and
- The channels available to lodge complaints through the Grievance Redress Mechanism (GRM) and how they will be addressed.

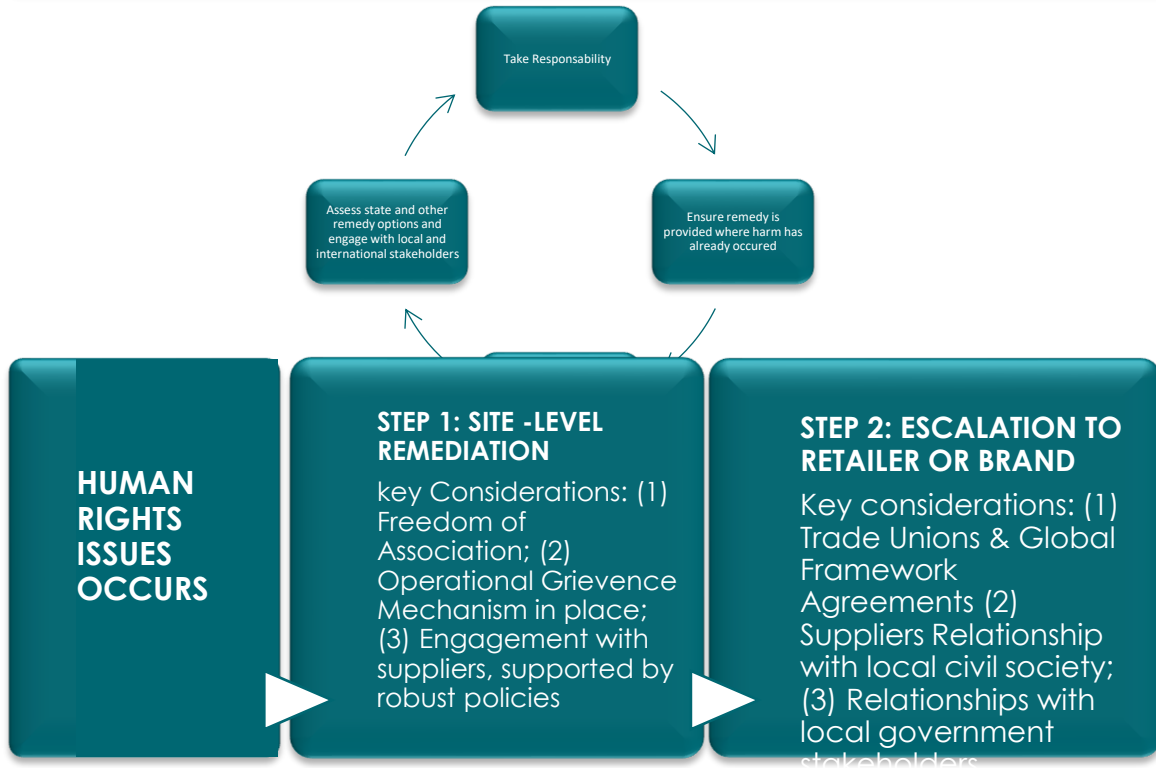
## **7.2 Access Remedy**

Remedy: When operations have caused or contributed to human rights abuses, however unintentionally, the company is responsible for immediately providing or contributing to remedy. Remedy can cover a range of actions including acknowledgement and apology; restitution and rehabilitation; management-level changes; financial compensation; and, the implementation of measures that prevent future occurrences. Remedy can take place either through judicial or non-judicial processes. Additionally, companies should respect state-based justice systems.

Operational grievance redress mechanism (OGRM): An OGRM is a complaint process that workers can use to raise concerns about negative impacts they may have suffered as a result of certain business practices. Workers should be made aware of effective and accessible grievance mechanisms at their disposal. These mechanisms may be administered by businesses, trade unions or multiple stakeholders working collectively, through trusted, independent third parties or the state. According to the UNGPs, OGRMs perform two key functions: they help companies to better identify potential human rights risks and enable companies and their suppliers to address and remediate grievances, while ensuring that workers do not become subject to multiple rights abuses.

The role of the state in OGRMs is primarily to address cases of labour law violations and criminal and civil offences. The role of trade unions is first and foremost as advocates and representatives. When representing workers in their own workplace, unions will likely have the best understanding of what is involved in the grievance and how to resolve the issue at a local level.

UNGP 29: To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities that may be adversely



Many of the issues faced by workers are day-to-day problems, particularly where they are not re-occurring problems (such as timely payment of wages, or quality of food in a staff canteen). These can be handled to the worker's satisfaction through effective human resources (HR) systems. Most labour issues should be resolved at the worksite level, promoting worker wellbeing, while maintaining productivity. More serious issues will test project's remedial strategy and may require the involvement of multiple stakeholders, including local criminal and civil justice systems. It is therefore important to ensure that your suppliers are familiar with, committed to, and trained on your code of conduct and ethical policies or requirements. It is recommended helping to build suppliers' capacity to create effective HR systems capable of handling all levels of grievances — with clear escalation protocols, as appropriate. In particular, with women typically lacking access to remedy mechanisms due to discriminatory policies and behaviours, it is vital that suppliers understand how to remedy women's rights violations. structure and scope of different approaches to effective site-level remedy:

- **Human rights issue occurs:** Should a worker experience an infringement of their rights in the workplace, they should be able to access site-level mechanisms to raise their concern and obtain remedy rapidly, with a process in place to escalate the concern to a corporate level, as appropriate.
- **Site-level remediation:** An effective site-level remedy strategy requires an accessible grievance mechanism for workers as well as robust policies for suppliers. Importantly, freedom of association can result in fewer risks to workers, and agreed mechanisms through which they gain access to remedial processes.

**Corporate Escalation:** Brands should develop an escalation process that allows them to learn of both serious complaints and instances where the issue cannot be resolved at site level. Brands should also establish a process for investigating the complaint, or where independent mediators or arbitration is used, to resolve the issue. For example, corporations can enter into an agreement with a trade union that establishes universal standards for suppliers, as well as relationships with civil society and government stakeholders. Collective bargaining agreements may include a grievance mechanism.

When uncover instances of having unintentionally caused or contributed to an infringement of workers' rights, TDB recommends taking action to ensure that timely and effective remedy is provided to all those affected. Addressing instances of human rights violations in the project's supply chain is both a moral imperative and plays an important role in helping to boost productivity and quality, build supply chain resilience and ensure ongoing security of supply. It is critical to understand the nature and severity of the incident and develop an appropriate response, including by engaging with affected workers and others. The first steps should always include investigating the case, identifying what the affected worker/s needs and wants, and responding pro-actively with the relevant partners. The following process provides a step-by-step guide to responding appropriately:

OCCURRENCE/REPORTING OF HARM			
<b>LOCAL LEVEL ANALYSIS:</b>			
i. Consult affected worker/s ii. What is the severity of harm? iii. Who is responsible? iv. Can incident be resolved at local level?			
Remediation Process at Local Level	Involve relevant stakeholders (union, NGOs, business partners)	Initiate remedial measures following established procedures.	Report incidents to relevant authorities (e.g., law enforcement, human rights)

		Provide restitution or compensation	institutions) where incident is deemed a criminal offence or state-sponsored violation
Monitoring & Actions at Corporate Level	Implement corrective and preventative measures with suppliers, union and others	Evaluate outcome including worker satisfaction, document and report to stakeholder	Provide ongoing support to worker/s where necessary

**Steps To Providing Remedy for Workers in Cases of Forced Labour:**

- Report the matter to the police but ensure that this does not put workers' safety at risk and that workers will not be subjected to further punishment or ramifications if the police are known to be corrupt or in alliance with the perpetrators of the crime.
- Provide or facilitate workers' access to compensation (for lost earnings, unpaid wages as well as for pain and suffering). Support affected workers in finding alternative employment.
- Take necessary steps to prevent forced labour from reoccurring. For further advice, see ETI Base Code on Modern Slavery. <https://ethicaltrade.org/resources/base-code-guidance-modern-slaver>

## **Steps To Providing Effective Remedy to Child Labourers:**

- Ensure affected children are safe, protected from victimization or reprisal
- Consult with the child and his/her family to understand their wishes and needs
- Working with your supplier, agree a process and next steps to support the child/children involved
- Compensate for loss of income and secure supplier's commitment for remediation, including a stipend, accommodation and food while commissioning an investigation
- Offer the child's job to a qualified adult member of the family
- Enable the child to attend school and ensure payment of fees
- Conduct a detailed investigation with appropriate child labour and protection expertise
- Establish a monitoring mechanism and conduct regular reviews of progress.

For further advice, see ETI's Guidance on Child Labour:

- <https://ethicaltrade.org/resources/base-code-guidance-child-labour>

## **Developing a Corporate Remedy Strategy**

An effective remedy strategy helps to prevent incidences that would require remedy, address issues rapidly and constructively, and ensure that the right stakeholders are involved. Importantly, providing remedy in the event of human rights abuses and negative impacts for workers is a distinctive component of human rights due diligence.

It is a critical process that effective due diligence should support and enable. The research project conducts into state capacities and the effectiveness of existing grievance mechanisms should feed directly into the development of your remedy strategy.

However, it should go beyond risk assessment to focus on protecting workers' rights by promoting effective industrial relations. Best practice indicates that OGRMs are generally most effective when designed and administered by companies in partnership with multiple relevant stakeholders:

- Operating at the work-site level through multi-stakeholder initiatives that enable workers to raise a concern or complaint directly with their employer.

Setting corporate standards that extend throughout a supply chain. Standards are set by companies, outlined through Global Framework Agreements with unions and applied locally.

## Key Components of Remedy Strategy

<p>Suggested components: The supplier is expected to have a defined grievance policy for their workers and for community members impacted by business operations that shall include: a defined process for receiving, assessing, investigating and resolving grievances; mechanisms that are objectively legitimate, accessible, predictable, equitable, transparent and rights-compatible; mechanisms that provide information for continuous learning by the company; and, be based on engagement and dialogue with the affected persons / groups. The supplier shall also work with its own suppliers and co-operate in the provision of remedy for workers negatively impacted by operations within the supply chain.</p>	<b>Key Components of Remedy Provision</b>	
	<b>Systematic:</b>	<b>Worker Focused:</b>
	Mature system of industrial relations	Restitution, financial and nonfinancial for any harms done
	Level of responsibility and establishment contact points in the supply chain	Compensation, including unpaid or underpaid wages due
	<b>Code of Conduct that are enforceable and enforced</b>	Rehabilitation
	Valuing workers by involving them or their representatives in the design of remedy system	Satisfaction, those wronged should feel that the wrong was made right
Non-repetition, to ensure systems that prevent further rights violations from occurring		

## Stages of the multi-stakeholder approach

The following steps and corresponding questions will help to guide your approach to



developing your remedy strategy:

### 7.3 Operation Grievance Redress Mechanism (OGRM)

A large project, or one with significant human rights risks, may choose to set up its own grievance redress mechanism. However, most businesses should consider

participating in and supporting a grievance mechanism provided by an external, independent organisation, in order to promote the early identification and remedy of human rights abuses and negative impacts for workers. OGRMs can be implemented by trade unions, multi-stakeholder initiatives or NGOs, in partnership with local communities.

**A. Considering gender equality in designing OGRMs**

Gender is a fundamental consideration when developing OGRMs. Grievance Redress mechanisms designed to address gender equality issues are central to ensuring that women workers are able to raise concerns safely and confidentially. Anonymity and/ or confidentiality are particularly important in relation to sensitive issues such as violence and sexual harassment, and women’s reproductive health. It is important to recognise that building trust, particularly among women workers, may take some time. Mechanisms should allow workers to submit complaints regarding the gender dimensions of their experiences in the workplace. Key aspects to consider:

- Inadequate legal protections can lead to inequalities in the workplace. Issues that may be prevalent include anti-discrimination principles that are not adequately reflected in national legislation; existence of discriminatory laws; entrenched cultural perceptions of gender roles reflected in workplace culture, access to employment, gender pay gaps, underrepresentation of women in decision-making bodies and harassment. Mechanisms must be designed to respond to these realities.
- Businesses should assess the specific barriers faced by women and girls in terms of access to effective remedy through judicial and non-judicial mechanisms. Consider what solutions and approaches have been employed to address these obstacles. Tracking complaints according to gender is important and can help to evaluate the effectiveness of grievance mechanisms.

**B. Guidance from the UN Guiding Principles on Business and Human Rights**

The UNGPs define OGRMs as being “accessible directly to individuals and communities that may be adversely impacted by a business enterprise”. The UNGPs list the following as key principles of any system designed to provide remedy: Legitimacy, accessibility, predictability, rights-compatibility, transparency, based on dialogue and engagement with stakeholders, and one that fosters continuous learning and evaluation.

Principle	UNGP Definition	Process Requirement
1. Legitimate	Enabling trust from stakeholder groups for whose use they are intended and being accountable for the fair conduct of grievance processes.	1.1 Establish a defined process to address grievances with clear lines of accountability
		1.2 Conduct consultations with key stakeholders for the design, revision and monitoring of the mechanism

Principle	UNGP Definition	Process Requirement
2. Accessible	Being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access	2.1 Provide information on the existence and functioning of the mechanism in a way that is adapted to the context and audience for whose use it is intended, e.g. using the audience's native language.
		2.2 Address the barriers workers may have in accessing the mechanism by providing multiple access points that are well adapted to the operational context.
		2.3 Provide support for those who may face particular barriers in accessing the mechanism, such as women
		2.4 Make an explicit commitment to protect the user from reprisals.
3. Predictable	Providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process, potential outcomes, and means of monitoring implementation	3.1 Establish both at headquarter and operational levels a defined process with clear roles, responsibilities, procedures and process steps including monitoring implementation.
		3.2 Establish a clear timeframe for each step or stage of the process
		3.3 Define the types of complaints that fall under the scope of the mechanism as well as the available outcome
4. Equitable	Seeking to ensure that aggrieved parties have access to the requisite sources of information, advice and expertise to engage in a grievance process on fair, informed and respectful terms	Be open to share relevant information in a way that can be easily understood.
		Facilitate the means through which the affected stakeholders can access advice or expertise
5. Transparent	Keeping parties involved in a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness to meet any public interest at stake	Keep users of the mechanism informed throughout the process
		Report internally and externally on the performance of the mechanism.
6. Rights compatible	Ensuring that outcomes and remedies respect internationally	Assess any complaint on its possible human rights impact.

Principle	UNGP Definition	Process Requirement
	recognised human rights	Ensure that outcomes do not infringe on the rights of the complainant.
		Adopt the higher standard in case of conflict between national legislation and international norms on human rights
7. Source of continuous learning	Drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and rights abuses	Keep a centralised record of complaints.
		Keep a centralised record of complaints.
		Integrate key lessons learnt
8. Based on engagement and dialogue	Consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances	Establish a system for feedback collection from users.
		Prioritise engagement and dialogue as the principle means to address and resolve.

#### Key quality guarantees of an OGRM:

- **Awareness:** Ensuring that workers know about and can access the remediation system, particularly women workers who are often unaware of or lack access to such systems. The borrower must run dedicated awareness-raising sessions for women workers, preferably with female facilitators, and providing safe spaces for women to meet and discuss concerns.
- **Trust:** The administration of the system should be perceived as fair and impartial, and not biased towards protecting managers. This is critical to empowering women workers to use these systems.
- **Transparency:** Workers should be made aware of the possible outcomes of going through the process, both positive and negative.
- **Efficiency:** Processes should be thorough and efficient, with remedies for serious rights violations implemented immediately.
- **Supportive:** Even in instances where the company's operations did not directly cause the negative impact, the worker should feel supported in addressing an issue that impacts on their wellbeing and ability to work. It is important to ensure that the response and support provided is proportionate to the incident in question and the level of pain and suffering caused.

- **Complementary:** Remedial actions should support state responsibilities and not undermine public processes.

If a company and those affected cannot reach agreement on the appropriate remedy, it may be necessary to involve a neutral third party as a mediator or turn to adjudication. While many projects have traditionally only considered GRM in the context of resettlement, the Bank's ESMS requires that borrower have a grievance mechanism that will be "proportionate to the potential risks and impacts of the project".

This is meant to apply to all aspects of the project. Any parallel GRMs operated by contractors and consultants should include processes to refer complaints to the project OGRM so as to ensure that an accurate understanding of the project's complaints is always available. To enable community members and staff persons to safely access the OGRM, multiple channels through which complaints can be registered in a safe and confidential manner can be enabled.

For communities reporting Adverse Human Rights Impacts, this may mean having entry points to the OGRM at the community level, so that no communities have to go to project offices to report. Community consultations may be one mechanism to identify effective channels for community members to report grievances (e.g., local community organizations, health providers, etc.) for community reporting, and as noted above, should involve separate and specific consultations with women and older adolescent girls.

The GM should have in place processes to immediately notify both the borrower and TDB of any Human Rights complaints, with the consent of the survivor. For TDB reporting protocol refer to the Environmental and Social Incident Reporting Mechanism.

### **Protecting whistle-blowers**

Employers can use a whistleblowing system to raise concerns about breaches of company codes and ethics that may or may not have harmed those individuals but are of concern to the business or workforce as a whole. Whistleblowing systems may be an important element of a grievance mechanism or may form a separate process. Either way, whistle-blowers can defend human rights, contributing to making companies more accountable.

Companies should consider whether there is a written corporate policy regarding the protection of whistle-blowers, whether the company provides workers with a way to confidentially report suspected misconduct and protects them from retaliation, and whether it has an established process for workers to anonymously report suspected abuses.

## ANNEX 1

### LABOUR AND WORKING CONDITIONS REQUIREMENTS FOR TDB's FINANCED PROJECTS

TDB's financed projects have obligation to respect, to promote and to realize, in good faith and in accordance with the local laws, the principles concerning the fundamental rights. This means projects financed by TDB must avoid harming the human rights of others and should address adverse human rights impacts in which they are involved. Twelve human rights are particularly relevant to the workplace of the projects financed by TDB. These are:

- freedom of association
- right to equal pay for equal work
- right to organize and participate in collective bargaining
- right to equality at work
- right to non-discrimination
- right to just and favourable remuneration
- abolition of slavery and forced labour
- right to a safe work environment
- abolition of child labour
- right to rest and leisure
- right to work
- right to family life

#### **The right to non-discrimination and equality at work**

Equality and non-discrimination are core principles in international human rights law. To respect the right to non-discrimination, a project should not discriminate against its employees or customers, directly or indirectly, on the grounds of their gender, age, religion, marital status, race, social background, disability, pregnancy, ethnic and national origin, nationality, membership of worker organisations (including trade unions), political affiliation, sexual orientation, or any other personal characteristic.

The project must make a clear commitment to equality and human rights and put in place policies that are understood and implemented across your business. These might include training, a complaints procedure and arrangements to deal with any discrimination.

#### **The right to a safe work environment**

Projects demonstrate respect for the right to a safe work environment when they comply with domestic health and safety legislation. For example, projects must demonstrate respect by:

- ensuring that workplaces, machinery, processes, and chemical or biological substances under their control are safe and without risk to health.

- providing adequate protective clothing and protective equipment to prevent risk of accidents or adverse effects on health.
- being prepared for emergencies and accidents
- ensuring their workers receive regular and documented health and safety training
- ensuring access to clean toilet facilities and to drinking water

Where projects provide accommodation to employees, they must ensure it is clean, safe, and meets basic needs.

### **The right to rest and leisure**

The right to rest and leisure covers working hours for adults and younger workers, overtime and holidays. These also enable the project to provide a safe working environment.

Projects should not regularly require workers to work over 48 hours per week and adult workers should have at least one day off for every seven-day period on average. Adult workers may choose to 'opt out' of the 48-hour week restriction but this must be voluntary and in writing. During the workday adult workers should have a break of 20 minutes if their daily working day is more than 6 hours long, and a minimum rest break of 11 hours between finishing their job and starting the next day. Employees only have to work overtime if their contract says so.

Projects must respect all workers' right to public and annual holidays. Most workers who work a 5-day week should have a minimum of 28 days paid leave each year.

### **Abolition of Child Labour**

Children are not allowed to work without an employment permit issued by the local labour department, if there is an exemption provided by the local law. Without this there is a risk that the project won't be insured against accidents involving the child. Until children reach the minimum school leaving age, they can only work a certain number of hours per week and only do certain jobs as defined by local laws (for example delivering newspapers). Young workers, above minimum school leaving age and under 18, are usually entitled to:

- A break of 30 minutes if they work more than 4.5 hours at a stretch.
- A minimum daily rest break of 12 hours
- 48 hours off for every seven-day period

### **The right to just remuneration**

Project workers have the right to fair and favourable remuneration that offers them and their families a dignified life. Projects should comply with the National Minimum. Deductions from project employees' pay are only allowed in limited circumstances. These must not reduce the pay below the National Minimum Wage rate (except a limited amount for accommodation), even if employee has given permission for it. Deductions from wages should not be carried out as a disciplinary measure.

## **The right to freedom of association**

Freedom of association refers to the right of workers to set up and to join organisations to promote and defend their interests. Collective bargaining refers to workers being able to negotiate together with others to reach jointly acceptable agreements about employment conditions. Project should not hinder the right of workers to collective bargaining nor their right to establish and join organisations of their own choosing. Projects can voluntarily recognise a trade union. Alternatively, where projects have 21 or more employees, trade unions may seek statutory recognition (in compliance with local legislation). Projects should not discriminate against workers due to their membership of a trade union, or an association when you recruit, employ or dismiss employees. Neither should the project use agency labour or contractual work to hinder the right to freedom of association and collective bargaining.

## **Protecting against the use of forced labour**

Everyone has the right to be protected from forced or compulsory labour. Project should not use forced labour and should be aware of how your supply chain treats its workers. Forced labour practices include:

- demanding labour as a means of repayment for a loan (also called bonded labour)
- Labour undertaken due to violence or threat of violence against a worker or a worker's family
- Labour undertaken because the employer retains the worker's identity papers or threatens to report workers because of their immigration status; or
- Labour paid less than the agreed or legal minimum wage.

Projects should ensure that workers are free to leave their positions after reasonable notice and respect the right of workers to leave the workplace after their shift. Workers should not be forced to live or remain in 'tied' accommodation linked to their work.

## **Preventing trafficked labour or slavery**

Human trafficking is modern day slavery. It is a growing, organised and lucrative crime and is a gross violation of a person's dignity and human rights. Project should take all possible steps to avoid direct, or indirect, involvement in human trafficking. Project also make sure that your staff, particularly those recruited through third parties, are working voluntarily and have not been trafficked. All projects should make sure that traffickers are not using their company's products, premises and/or services for their trafficking activities. Projects should also make sure that none of your suppliers are involved in trafficking. This implies an obligation on your business to require that subcontractors, recruitment agencies and labour brokers do not engage in human trafficking.

## **The right to privacy**

All projects need to respect the privacy of their workers and their customers. Project must follow data protection rules whenever projects store or use personal information. This might include information from recruiting and managing staff, when project market your

products or services or use CCTV. Data should be processed fairly and with the consent of the person concerned or some other legitimate basis laid down by law. Project should have a data protection policy for customers and staff to ensure the protection of this right.

## ANNEX 2

### HUMAN RIGHTS CONSIDERATIONS FOR SAFE RETURN TO WORKPLACE: POST COVID-19

Human rights balance a person's right to be free from discrimination with the public's right to general health and safety. Thus, how health and safety decisions are made, may impact the following human rights:

- The right to a safe and healthy work environment, due to heightened risk of contracting the residual virus in the workplace.
- The rights to work and to an adequate standard of living, due to layoffs, furloughs, or shutdowns, particularly in projects where medical benefits or coverage or paycheck protection are limited or non-existent.
- The right to privacy, as project and local governments implement preventative measures to test, track, and trace.

The following Human Rights measures are recommended to be applicable to all financed projects:

1. Engage affected employees and communities from the beginning in ALL response measures—to build trust, ensure suitability and effectiveness, and to avoid indirect or unintended harms and ensure the frequent sharing of information.
2. Combat all forms of stigma and discrimination, including those based on race, social contacts, profession, and those directed towards marginalized groups (from the project surrounding communities) that prevent them from accessing care.
3. Ensure access to free or affordable screening, testing and care for all employees.
4. Remove barriers to employees protecting their own health and that of their living communities: fear of unemployment, healthcare costs, presence of fake news/misinformation, lack of sanitation infrastructure and so forth.
5. Restrictions to protect public health must be of limited duration, proportionate, necessary and evidence-based and reviewable by a court. Employees should not be penalized for breaching restrictions.
6. Projects in same region or jurisdiction must work to support each other, sharing information, knowledge, resources and technical expertise.
7. Support and protect health care workers -support efforts that build trust and amplify solidarity – through CRS component, whenever available.