

*Asian Development Bank  
Inputs to OHCHR Annual Report on the Right to Development*

**Policies and guidelines of the ADB on human rights, including the right to development**

Human rights considerations are embedded across ADB's corporate as well as environmental and social policies and strategies. All projects implemented by ADB borrowers (including the States) are in line with ADB's corporate and environmental and social policies and strategies (highlighted below), which facilitate the identification and management of relevant human rights issues.

These ADB policies and strategies support human rights principles, particularly the (a) Right of self-determination; (b) Right to life; (c) Right not to be subjected to slavery, servitude or forced labor; (d) Rights to freedom of opinion and expression; (e) Right to freedom of association; (f) Rights of protection for the child; (g) Right to equality before the law, equal protection of the law, and rights of non-discrimination; (h) Rights of minorities; (i) Right to work; (j) Right to enjoy just and favorable conditions of work; (k) Right to form and join trade unions, and the right to strike ; (l) Right to social security, including social insurance; (m) Right to an adequate standard of living; and (n) Right to health. These ADB policies and strategies also emphasize ensuring the rights of vulnerable people and populations.

| ADB Strategies and Policies | Key Elements in Consideration to Human Rights   |
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| ADB Strategy 2030           | <p><b>Operational Priority 1 on Addressing Remaining Poverty and Reducing Inequalities</b> focuses on 3 areas: human capital and social protection enhanced for all; quality jobs generated; and opportunities for the most vulnerable increased. Social protection projects in ADB have supported the expansion of social assistance, social insurance, and active labor market programs. Inequality in opportunity cuts across all sectors and has economic (e.g., unequal access to decent work, financial services, and land ownership); social (e.g., unequal access to health care, education, and nutrition); and environmental (e.g., unequal access to water, sanitation, clean fuel, electricity, and natural resources) dimensions. Social aspects such as gender, social status, residence, education, ethnicity, caste, religion, and sexual orientation often determine people's participation, voice, rights, and access to resources and services.</p> <p><b>Operational Priority 2 on Accelerating Progress in Gender Equality</b> focuses on 5 main areas: (i) women's economic empowerment increased, (ii) gender equality in human development enhanced, (iii) gender equality in decision making and leadership enhanced, (iv) women's time poverty and drudgery reduced, and (v) women's resilience to external shocks strengthened. This builds on good practices and institutional innovations under ADB Policy on Gender and Development (1998) (1998)(see below for more information), and the Operational Plan for Priority 2: Accelerating Progress in Gender Equality (2019–2024).</p> <p><b>Operational Priority 6 on Strengthening governance and institutional capacity.</b> Under this priority area, ADB will support public management reforms to help Developing Member Countries (DMCs) improve governance</p> |

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|   | and create an enabling environment for sustainable growth. It will help countries build resilience and respond to economic shocks, strengthen service delivery, and improve capacity and standards. ADB will uphold environmental and social safeguards, adhere to fiduciary standards, and implement anticorruption measures in all its projects and programs.  |
| <a href="#">Operations Manual Section C1: Poverty Reduction</a><br>(July 2004)  | ADB's overarching goal is to help its developing member countries (DMCs) reduce poverty and improve living conditions, recognizing poverty as a multidimensional phenomenon—both income (or consumption) and non-income dimensions—representing a deprivation of essential assets and opportunities to which every human is entitled. The scope and content of ADB's support for poverty reduction is determined based on (i) thorough, and participatory, analyses of constraints to and opportunities for poverty reduction within its DMCs; (ii) ADB's own capacity; and (iii) assistance programs of development partners. ADB collaborates closely with all development partners in areas such as undertaking poverty assessments and other analytical work, identifying priority areas for its support to the DMCs, and implementing its assistance program in the DMCs.   |
| <a href="#">Operations Manual Section C2: Gender and Development in ADB Operations</a><br>(December 2010)               | <p>This Operations Manual sets out the bank policy and procedures for operationalizing the ADB Gender and Development Policy (1998) by integrating gender into ADB operations at all levels including country partnership strategies and programs, project preparation, implementation, and monitoring and evaluation.</p> <p>This has been supplemented by specific information and references for staff and those working with ADB. The most current documents are the updated Guidelines for <a href="#">Gender Mainstreaming Categories of ADB Projects</a> (2021) and the new <a href="#">Guidelines for the At-Exit Assessment of Gender Equality Results of ADB Projects</a> (2022).</p>  |
| <a href="#">Operations Manual Section C3: Incorporation of Social Dimensions into ADB Operations</a><br>(December 2010) | All ADB operations have social dimensions that need to be taken into account from the country strategy formulation, programming, and project processing phases onward. ADB operations incorporate social dimensions to ensure the following social development outcomes, especially for the poor, vulnerable, and excluded groups: (i) policies and institutions that recognize and promote greater inclusiveness and equity in access to services, resources, and opportunities; (ii) greater empowerment to participate in social, economic, and political life; and (iii) a greater sense of security and ability to manage risks. The key social dimensions, supported by specific ADB policies or strategies, include (i) participation; (ii) gender and development; (iii) social safeguards; and (iv) management of social risks, especially among vulnerable groups. Documentation of this process and actions is included in the Summary Poverty Reduction and Social Strategy which is a mandatory document of all projects. |
| Safeguard Policy Statement (SPS) (2019)   | SPS aims to avoid adverse impacts on environment and affected people; minimize, mitigate, and/or compensate adverse project impacts when avoidance is not possible; and help client to strengthen safeguard system and develop the capacity of to manage environmental and social risks. Though not explicitly stated, human rights dimensions are incorporated in   |

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|   | meeting these objectives. SPS highlights the importance of ascertaining and providing measure to address project impacts to affected people especially, poor and vulnerable including women.  |
| ADB SPS Safeguard Requirement 1: Environment              | <p>If projects are likely to have significant or potential to have adverse environmental impacts, an environmental impact assessment is required to conduct environmental assessment. This is to identify potential direct, indirect, cumulative, and induced impacts and risks to physical, biological, socioeconomic (including impacts on livelihood through environmental media, health and safety, vulnerable groups, and gender issues), and physical cultural resources in the context of the project's area of influence.</p> <p>Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates, and performance indicators. Key considerations for EMP preparation include mitigation of potential adverse impacts to the level of no significant harm to third parties, and the polluter pays principle.</p> <p>Policy principles includes commitment to (i) avoid pollution and apply pollution prevention and control technologies and practices consistent with international good practices; (ii) avoid use of hazardous materials subject to international bans and phaseouts; (iii) conserve physical cultural resources and avoid destroying them; and (iv) Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease.</p> <p>Carry out meaningful consultation with affected people and facilitate their informed participation. Ensure women's participation in consultation.</p> <p>Establish a grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the project's environmental performance.</p> |
| ADB SPS Safeguard Requirement 2: Involuntary Resettlement | <p>If avoidance of involuntary resettlement is not possible, minimize impacts by exploring project and design alternatives.</p> <p>Resettlement plan should be prepared to address involuntary resettlement impacts. The plan should elaborate on the displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.</p> <p>Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels. Compensation for land acquisition should be based on the principle of replacement cost.</p> <p>Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. If land acquisition is through negotiated settlement, develop procedures in a transparent, consistent, and equitable manner to ensure that those people</p>   |

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|   | <p>who enter negotiated settlements will maintain the same or better income and livelihood status.</p> <p>Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets.</p> <p>Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations.</p> <p>Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns.</p>   |
| <p>ADB SPS Safeguards Requirements 3 Indigenous Peoples</p> | <p>The policy objective of this safeguard area requires ADB clients to design and implement projects in a way that fosters full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the Indigenous Peoples themselves so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.</p> <p>Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples.</p> <p>Ascertain the consent of affected Indigenous Peoples communities, through Broad Community Support, to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples.</p> <p>Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected Indigenous Peoples communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared.</p> <p>Prepare an Indigenous Peoples plan (IPP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected Indigenous Peoples communities.</p> <p>Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that</p> |

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|  | <p>are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.</p> <p>Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation.</p> <p>Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.</p>  |
| ADB SPS Safeguards Requirements 5 Prohibited Investment Activities List      | <p>ADB's Prohibited Investment Activities List includes prohibition of financing of certain activities, which include:</p> <ul style="list-style-type: none"> <li>• Production or activities involving harmful or exploitative forms of forced labor or child labor</li> <li>• Production of or trade in any product or activity deemed illegal under host country laws and regulations or international conventions and agreements, or subject to international phaseouts or bans.</li> </ul>  |
| Social Protection Strategy (2001) [emphasis on labor and working conditions] | <p>This strategy seeks to promote efficient labor markets, diminish people's exposure to risks and enhance workers' capacity to protect themselves against hazards and loss of income, addresses rights and freedoms relevant to work and fair conditions of employment. The Strategy refers to the core labor standards: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) elimination of all forms of forced or compulsory labor; (c) effective abolition of child labor; and (d) elimination of discrimination in respect of employment and occupation.</p> <p>This strategy reflects ADB's commitment to develop priority interventions in supporting social protection (i.e., social assistance and welfare service programs including child protection and micro- and area- based schemes to address poverty, and vulnerability; social insurance programs to cushion risks associated with unemployment, ill-health, disability, work-related injury and old age; and labor market policies and programs designed to generate employment, improve working conditions).</p> <p>The Strategy requires ADB projects to (i) design and formulate interventions ensuring compliance with the core labor standards; and take necessary and appropriate steps to ensure and monitor that ADB-financed procurement of goods and, services, contractors, subcontractors, and consultants will comply with the country's labor legislation (e.g., minimum wages, safe working conditions, and social security contributions etc.) as well as with the core labor standards. ADB also has a Core Labor Standards Handbook (2006) to provide guidance for its operations.</p> <p>For infrastructure projects where ADB finances procurement of civil works, core labor standards related covenants are included in loan agreements. These covenants are enforced through the bidding documents and contracts financed by ADB under the projects.</p> |

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| ADB Gender and Development Policy (1998) | <p>The policy asserts to adopt mainstreaming as a key strategy in promoting gender equity. The key elements of ADB's policy will include gender sensitivity, gender analysis, gender planning, mainstreaming, and agenda setting.</p> <p>The policy places increased attention to addressing directly gender disparities, by designing a larger number of projects with gender and development, either as a primary or secondary objective in health, education, agriculture, natural resource management, and financial services, especially microcredit, while also ensuring that gender concerns are addressed in other ADB projects, including those in the infrastructure sector. It requires ADB to facilitate gender analysis of proposed projects, including program and sector loans, and ensure that gender issues are considered at all appropriate stages of the project cycle, including identification, preparation, appraisal, implementation, and evaluation.</p> <p>This policy is supported by and operationalized through operational plans and operations manual to guide ADB in promoting gender equality through its operations and knowledge work. The main operational plan currently implemented is the Strategy 2030, Operational Plan for Priority 2 (see second item in first row).</p> |
| ADB Access to Information Policy (2018)  | <p>This policy supports the achievement of human rights in ADB supported projects through a commitment to transparency, accountability, and participation by stakeholders. The policy has an overarching principle of clear, timely, and appropriate disclosure, and includes a presumption in favor of proactive disclosure and information sharing that is timely enough to allow stakeholders to provide meaningful inputs and feedback. There are also limited exceptions to full disclosure of information, considering the need to protect personnel's right to privacy and certain client information. In addition, it sets a principle for providing information to project-affected people and other stakeholders, within a reasonable time frame, and using relevant languages, and in a way that allows project-affected people and other stakeholders to provide meaningful inputs into project design and implementation. These provisions support basic human rights by providing project affected people with timely access to information about projects and activities that may affected them.</p>   |
| Accountability Mechanism Policy (2012)   | <p>Provides two functions of the Accountability Mechanism – through ADB's Special Project Facilitator – for problem solving and conflict resolution – or through the Compliance Review Panel – for complaints regarding non-compliance of ADB with its own policies. Complainants can include workers who are directly, materially, and adversely affected by an ADB-assisted project during formulation, processing, or implementation to investigate noncompliance with ADB's operational policies and procedures. Accountability Mechanism Policy is currently under review.</p>   |



### **How does the ADB identify, prevent and address human rights impacts and risks in its operations and activities?**

Aspects of human rights relevant to ADB's interventions are factored in environmental and social impact assessment during project appraisal (even though we do not explicitly label such assessment as 'human rights due diligence'), which lays the foundation for strengthening project design and implementation.

ADB seek to address environmental and social concerns that may also be characterized as "human rights impacts" through project design and implementation based on the frameworks provided in the environment and social policies and strategies cited above. Due diligence and review processes confirm (a) that all key potential social and environmental impacts and risks of a project are identified; (b) that mitigation hierarchy is applied and that effective measures to avoid, minimize, mitigate, or compensate for the adverse impacts are incorporated into the safeguard plans and project design; (c) that the borrower/client understands ADB's environment and social policy principles and requirements and has the necessary commitment and capacity to manage social and environmental impacts and risks adequately; (d) that the role of third parties is appropriately defined in the safeguard and social plans; and (e) that consultations with affected people comply with ADB's requirements. Project legal documents contain requirements to ensure compliance with ADB environmental and social policies and national law. ADB undertakes monitoring and supervision which reviews the client's performance in meeting the commitments in the legal agreement.

Under the current review and update of its safeguard policy, ADB is considering inclusion of a wider contextual risk analysis as part of safeguard risk classification, which may factor in issues related to human rights, and implementation in fragile and conflict affected situations and small island developing states, among others. If appropriate in the project context, this risk analysis may consider information relevant to the host country's commitments under international laws. Such information may come from official reports and data sources provided to ADB, including from UNOHCHR and other development partners specialized in the topic. ADB's safeguard policy update is also considering other enhancements such as strengthening stakeholder engagement, labor and working conditions, health safety and security issues, risks of sexual exploitation, abuse and sexual harassment, and vulnerable and disadvantaged groups, which are all relevant to human rights and help identify project related risks. A final decision on the new safeguard policy will be considered by ADB's Board of Directors, which is expected in 2024.

### **How does the ADB ensure active, free and meaningful participation of affected communities and stakeholders in the development projects you support and in the fair distribution of benefits resulting therefrom?**

ADB is committed to achieving a prosperous, inclusive, resilient, and sustainable Asia and the Pacific, while sustaining its efforts to eradicate extreme poverty. To achieve this our operations must be inclusive and aim to avoid adverse impacts on the environment and project affected people. Our policies and strategies highlight the importance of identifying and providing measures to address adverse impacts on project affected people, especially the poor and vulnerable. For more details, please see the table above on consultation and benefits sharing.

As discussed above, ADB's safeguard policy update is considering some enhancements. These include adoption of a broad definition of disadvantaged and vulnerable to promote nondiscrimination and equitable sharing of development benefits and opportunities. ADB does not tolerate any form of reprisal and will seek to take all steps within the limits of its ability to

require its borrower/clients to provide protections within the project context. A new standard on stakeholder engagement will provide specific objectives and requirements on these issues.

**What efforts does the ADB undertake to ensure that its operations and activities do not have negative human rights impacts, and what measures has the ADB taken to address any negative impacts that have occurred?**

As noted in the table and responses above, SPS sets out ADB's commitments to early and continuing meaningful consultation with and participation of stakeholders proportionate to the risks and impacts of a project, local grievance redress mechanisms and the accountability mechanism. All projects approved by ADB are required to be compliant with the policy. Project documents are disclosed on <https://www.adb.org/projects>.

Following the mitigation hierarchy, ADB project will avoid adverse impacts of projects on the environment and affected people, where possible; and minimize, mitigate, and/or compensate for adverse project impacts on the environment and affected people where avoidance is not possible. The mitigation and/or compensation measures will follow the requirements set forth in ADB's safeguard policy. The project level grievance mechanism may receive complaints against an ADB project, but the applicable requirements are set out in ADB's safeguard policy, including compliance with national laws that implements host country obligations under international laws. ADB's accountability mechanism, which provides an independent and effective forum for those affected by ADB-assisted projects to voice their concerns can be reached here: <https://www.adb.org/who-we-are/accountability-mechanism/main>. See above in the table for grievance. Accountability Mechanism will review to investigate alleged non-compliance with ADB's operational policies and procedures.

ADB consistently strives to achieve full compliance by its borrowers/clients on its safeguard policy requirements, including, through exercising legal remedies and agreeing on corrective actions with its borrowers/clients. The remedies under the safeguard policy will seek to reestablish compliance with the safeguard requirements as set out in ADB's safeguard policy.

**Efforts by the ADB to promote and protect human rights through its partnerships and relationships with other financial institutions, governments, and private sector actors.**

ADB makes efforts to collaborate with other financial institutions who co-finance a project, to adopt a single social and environmental assessment and planning process and unified safeguard documentation, consultation and disclosure requirements to satisfy the safeguard principles and requirements of ADB (as set out above) and the cofinanciers. If ADB administers the funds of such financial institutions, ADB applies to the co-financed activities the same set of safeguard requirements that it applies to projects financed from its own sources of funds.

Another example is in the area of sexual harassment, exploitation, and abuse (SEAH); and HIV and sexually transmitted infection and human trafficking risks. This is in response to the principles of the joint statement of the heads of Multilateral Development Banks in 2018. To implement this, ADB has developed a Good Practice Note on Preventing, Mitigating and Responding to SEAH in ADB Sovereign Operations. The guidance note aims to assist ADB staff in establishing an approach to identifying risks of GBV/SEAH that can emerge in projects financed by ADB and to support DMCs in managing such risks. The guidance is being piloted in several DMCs.



**Do States leverage human rights obligations, including the right to development in their engagement and negotiations with the ADB?**

ADB does not finance projects that do not comply with its safeguard policy, nor will it finance projects that do not comply with the host country's social and environmental laws and regulations, including those laws implementing host country obligations under international laws. Therefore, to the extent ADB's DMCs have ratified and translated the international laws into domestic legal obligations, ADB's safeguard policy requires compliance with such obligations. As ADB environmental and social policies are approved by its Board of Directors (shareholders), the same set of safeguard requirements apply to all borrowers/clients of ADB, and there will not be any project level negotiations on the applicability of such requirements at the time of project approval by ADB.

**Please provide examples of how financial assistance and funding by the ADB to States have either supported or hindered the realization of the right to development.**

Regarding accelerating gender equality, ADB supports its DMCs in human capital development in education, health, and social protection to unleash the full talents of women and girls, while continuing to assist DMCs in addressing remaining gender gaps. Examples of activities aligned with human rights dimensions include assessing and addressing potential risks and improving performance in sovereign and non-sovereign operation partners' workplace gender equality standards across sectors; including maternity and paternity leave; prevention and mitigation of risks of sexual exploitation, abuse, and harassment; gender-equal pay for equal work value; promotion opportunities; and the decent work framework. In addition, ADB will scale up support to legal, institutional, and governance reforms for protecting women's rights and changing discriminatory gendered social norms. All ADB financed projects support the human rights principles as set out in the table above, and are expected to be further strengthened through the review and update of its safeguard policy.