

Gender and SOGIESC Safeguard Policy

Developed for the Asian Development Bank (ADB), April 2022

Key Messages

The latest ADB gender policy, the 2003 “[Policy on Gender and Development](#),” is out of date. The ADB 2019 Operational Plan, which prioritizes gender issues ([Operational Priority 2: Accelerating Progress in Gender Equality 2019-24](#)), is more recent but mostly relies on an outdated and harmful gender binary that excludes those with non-normative SOGIESC¹ – and is thus inadequate to deliver on the normative ideal of inclusive, sustainable and effective development.² Although the ADB has many standards to incorporate and operationalize “intersectionality”, these mostly fail to include those with non-normative SOGIESC due to a lack of institutional enforcement, an absence of staff sensitization on the risks the community faces, and missing analytical tools to address these complex issues. A gender and SOGIESC safeguard policy meeting the following criteria is needed:

- The safeguard must be **standalone**, and must include measures to prevent and respond to discrimination, sexual exploitation, abuse and harassment.
- The safeguard should cover all ADB operations, including indirect lending such as program-based lending, multi-tranche facilities, performance-based loans, private sector loans, and financial intermediaries. **No operations are exempt.**
- The lack of capacity in some developing countries to conduct complex gender and SOGIESC assessments must be recognized and the ADB must take **responsibility** for these assessments, while attempting to build **national capacity**.
- The ADB must make the gender and SOGIESC safeguard subject to their **Accountability Mechanism**. Grievance redress mechanisms and problem-solving functions also need to be strengthened with SOGIESC considerations.
- While recognizing that a comprehensive gender and SOGIESC safeguard will have staffing and institutional structure implications, much greater effort must be devoted to knowledge building and understanding, **compliance and enforcement** of all safeguards, and continuous monitoring and evaluation, preferably by country offices. This should not be regarded as a developing country responsibility alone.

1. This policy predominantly utilizes the “SOGIESC” acronym to refer to sexual orientation, gender identity and expression, and sex characteristics. For those with non-normative SOGIESC, these characteristics and identities are often a target to negative social attitudes, discriminatory laws, and other forms of exclusion, which has historically left them outside of economic development as well as economic gains. “SOGIESC” is inclusive of heterosexual cisgender people as well as lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) people. It also includes other culturally-driven characteristics and identities, like third gender people, gender-nonconforming people and others who exist outside of a sex and gender binary that prioritizes a heterosexual orientation.

2. Gender Action 2020, “Unmet Gender Promises: making IFI projects and policies deliver on gender-equal rights” points out that Priority 2 acknowledges the importance of intersectionality including sexual orientation and gender identity but lacks specific protection for LGBTQI people. : https://genderaction.org/docs/Unmet_Gender_Promises_Report.pdf. See Table 2.

Introduction

1. Purpose.

This policy contributes to the [ADB's mission](#) of achieving a prosperous, inclusive, resilient, and sustainable Asia and the Pacific, while sustaining its efforts to eradicate extreme poverty by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of all individuals, regardless of their gender in addition to their sexual orientation, gender identity & expression, and sex characteristics (SOGIESC). For all operations with the potential for particular risks and impacts on the basis of gender and/or SOGIESC, the Bank requires [a social and poverty assessment](#) that is gender- and SOGIESC-inclusive and which assesses risks of discrimination, gender based violence (GBV), and sexual exploitation, abuse, and harassment (SEA/H). Such Bank-financed operations will then have a management plan developed to (a) avoid potentially adverse effects on individuals who are particularly vulnerable based on gender and/or SOGIESC; or (b) when avoidance is not feasible, to minimize, mitigate, or compensate for such effects.

2. Justification.

The Bank recognizes that differences in gender and SOGIESC expose individuals to different types of risks and levels of impacts from development projects and policies, especially in areas of health, education, labor and employment, and other key areas of life, including housing, credit, public spaces and services, government-funded programs, access to justice and access to resources. As social groups with identities that are often distinct from the dominant groups in their national societies, women, girls, and people with non-normative SOGIESC are frequently among the most marginalized and vulnerable segments of the population. As a result, their economic, social, and legal status often limits their ability to participate in and benefit from development. At the same time, the Bank recognizes that these groups play a vital role in sustainable and inclusive development.³ A tremendous amount of research by economic development institutions shows that the focus on gender and SOGIESC is crucial to macroeconomic development. Inversely, when gender and SOGIESC are excluded, this not only limits macroeconomic growth but also contributes to higher poverty rates.

3. The ongoing Review and Update of the ADB Safeguards Policy Statement explicitly sets out to consider policy gaps relating to gender diversity and inclusion, including SOGIESC specifically: <https://www.adb.org/sites/default/files/institutional-document/650626/background-info-paper-review-update-adb-safeguards-policy.pdf>

3. **Definitions.**⁴ For the purposes of this policy, “gender” refers to the socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for individuals based on the sex they were assigned at birth. This includes societal norms dictating what types of behaviors are generally considered acceptable, appropriate or desirable for a person based on their actual or perceived sex, including gender identity and sexual orientation. Gender varies from society to society and can change over time. Gender norms are frequently hierarchical and produce inequalities that intersect with other social and economic inequalities. “Sex” can refer to the classification of a person, assigned at birth, as having female, male and/or intersex biological and physiological characteristics, such as chromosomes, hormones and reproductive organs. While infants are usually assigned the sex of male or female at birth based on the appearance of their external anatomy alone, a person’s sex is a combination of a range of bodily sex characteristics. For purposes of discrimination, sex also includes sex stereotypes, pregnancy and related medical conditions, sexual orientation, gender identity, and sex characteristics. “Sexual orientation” refers to a person’s enduring capacity for profound romantic, emotional and/or physical feelings for, or attraction to, other people. In some cultural contexts, this includes people who identify as lesbian, gay, bisexual, or heterosexual; in other contexts, these terms might be different and based on cultural identities and characteristics. “Gender identity” refers to a person’s deeply felt internal and individual experience of gender, which may or may not correspond with their sex assigned at birth or the gender attributed to them by society. In some cultural contexts, an individual might identify their gender identity as transgender, gender non-conforming, nonbinary, third gender, or cisgender; in other contexts, these terms might be different and based on cultural identities and characteristics.

“Sexual exploitation” refers to any actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. “Sexual abuse” refers to actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

4. **Use of Country Systems.** The Bank may decide to use a country’s systems to address environmental and social safeguard issues in a Bank-financed operation that affects individuals and communities on the basis of gender and/or SOGIESC. This decision is only made in cases where the country’s policies and laws on gender and SOGIESC are non-discriminatory and in accordance with the requirements of the applicable [Bank policy on country systems](#).

4. These definitions align with the definitions of OHCHR, the United Nations Human Rights Office: <https://www.unhcr.org/definitions/>; the UN International Organization for Migration (IOM): <https://www.iom.int/sites/g/files/tmzbd1486/files/documents/IOM-SOGIESC-Glossary-of-Terms.pdf>; the World Health Organization: https://www.who.int/health-topics/gender#tab=tab_1; and the United Nations Glossary on Sexual Exploitation and Abuse:

Project and Policy Preparation

5. A project or policy proposed for Bank financing that has the potential for particular risks and impacts on the basis of gender and/or SOGIESC requires:
 - a. Formulation of baseline gender and SOGIESC disaggregated indicators to permit tracking progress and outcomes throughout the project or policy cycle;
 - b. A social and poverty assessment by the borrower that considers the unique impacts based upon gender and SOGIESC, as well as risks of discrimination, GBV, and SEA/H. To reiterate, current analytical tools developed by the ADB (e.g. gender and social inclusion assessments) operate on an outdated and harmful gender binary that excludes those with non-normative SOGIESC;
 - c. Meaningful consultation with the affected groups and local, regional and international civil society organizations (CSOs) specializing in women's rights and the rights and inclusion of SOGIESC issues, about the project's or policy's potential risks and impacts at each stage, in an environment that ensures confidentiality and security of participants;
 - d. The preparation of a Gender and SOGIESC Plan or a Gender and SOGIESC Planning Framework that includes measures designed to prevent and respond to discrimination, GBV, and SEA/H;
 - e. Disclosure of the draft Gender and SOGIESC Plan or draft Gender and SOGIESC Framework.
6. The necessity to meet requirements specified in paragraph 5 is triggered by any operation that has the potential for particular impacts and/or risks on the basis of gender and/or SOGIESC. While all projects that receive Category A and Category B⁵ categorization require a gender- and SOGIESC-inclusive social and poverty assessment as part of the Environmental Assessment (EA) process, projects that are categorized as Category C under the EA process also require a gender- and SOGIESC-inclusive social and poverty assessment if there exists the potential for particular impacts and/or risks on the basis of gender and/or SOGIESC.

Baseline Indicators

7. If, based on the EA screening, the Bank concludes that a project is deserving of Category A or Category B categorization, or is determined to have the potential for particular impacts and/or risks on the basis of gender and/or SOGIESC, the Bank creates a set of baseline gender and SOGIESC disaggregated indicators to permit tracking progress and outcomes during implementation and after completion. Indicators should be context-specific to reflect the details of particular projects, yet should at least incorporate baseline indicators as created by the World Bank and UNDP.⁶

Social and Poverty Assessment

8. If, based on the EA screening, the Bank concludes that a project is deserving of Category A or Category B categorization, or is determined to have significant potential for risks and impacts on the basis of gender and/or SOGIESC, the borrower undertakes a gender- and SOGIESC-inclusive social and poverty assessment to evaluate the project's potential positive and adverse effects and to examine alternatives where adverse effects may be significant. To carry out the social and poverty assessment, the borrower may be required to engage social scientists and other experts whose qualifications, experience, and terms of reference are acceptable to the Bank and include gender, SOGIESC, and SEA/H expertise.
9. A gender- and SOGIESC-inclusive social and poverty assessment will specifically assess how the policy or project is likely to have differing impacts based on gender, as well as uniquely impact people with non-normative SOGIESC. The assessment will examine the potential for the operation to have negative impacts on individuals and communities who are particularly vulnerable based on their gender and SOGIESC, as well as their potential to be excluded from the full positive benefits of the project or policy. A gender- and SOGIESC-inclusive assessment will examine areas of risk including, but not limited to, the possibility of economic discrimination or exploitation, increased risk of negative impacts on health due to lack of access to services, decreased access to education, and higher rates of sexual exploitation.

5. <https://www.adb.org/site/safeguards/safeguard-categories>.

6. See the World Bank "Good Practice Note – Non-Discrimination: SOGI" (<https://thedocs.worldbank.org/en/doc/590671570796800429-0290022020/original/GoodPracticeNoteSOGI.pdf>) and the World Bank and United Nations Development Program (UNDP) "Set of Proposed Indicators for the LGBTI Inclusion Index" (<https://openknowledge.worldbank.org/handle/10986/30994>).

10. This analysis should be disaggregated to determine whether a project or policy is likely to have differing impacts on persons based upon their gender or SOGIESC. Special attention must be paid to persons who may have multiple vulnerabilities and/or intersectional identities by virtue of compounding factors, including but not limited to status as an indigenous person, racial, ethnic or religious minority, age, or persons living with a disability, in addition to factors related to gender and SOGIESC.
11. When it is determined that an operation is likely to have adverse impacts on the basis of gender or SOGIESC, the borrower identifies appropriate measures for avoiding or mitigating these impacts as part of the social and poverty assessment process.

Public Consultation

12. If a project or policy is determined to have the potential for particular risks and impacts on the basis of gender and/or SOGIESC, the borrower/client is required to undertake public consultation with affected groups and local civil society organizations (CSOs) focusing on gender and SOGIESC issues early in preparation and continuing throughout the project or policy cycle.
13. All public consultation must be gender- and SOGIESC-inclusive, taking into account differential access to consultation mechanisms. Consultation measures must also allow for the safe participation of organizations that work on behalf of SOGIESC issues and others with non-normative SOGIESC, understanding and addressing their limited access to safe public consultation because of the sensitive nature of SOGIESC concerns. They must particularly pay attention to respecting gender self-determination.

Gender and SOGIESC Plan/Planning Framework

14. Gender and SOGIESC Plan. On the basis of the social and poverty assessment and the results of public consultation, the borrower prepares a Gender and SOGIESC Plan that details the measures through which the borrower will ensure that (a) groups vulnerable on the basis of gender and SOGIESC affected by the operation will receive social and economic benefits in a manner equal to the benefits received by other members of the community; and (b) when potential adverse effects on the basis of gender and SOGIESC are identified, those adverse effects are avoided, minimized, mitigated, and/or compensated for. In cases where GBV and/or SEA/H are identified as a risk, targeted prevention and response measures must be put in place, including measures specifically designed to prevent and respond to SEA/H of children. The level of detail required for the Gender and SOGIESC Plan varies depending on the specific operation and the nature of effects to be addressed. The borrower integrates the Plan into the project or policy design.
15. Gender and SOGIESC Planning Framework. For operations involving the preparation and implementation of annual investment programs or multiple subprojects, the borrower prepares a Gender and SOGIESC Planning Framework. The Gender and SOGIESC Planning Framework provides for the screening and review of all programs or subprojects in a manner consistent with this policy and integrated into the project or program design by the borrower.

Disclosure

16. The borrower makes the social and poverty assessment report and the draft Gender and SOGIESC Plan/Planning Framework available to the affected communities in an appropriate form, manner, and language. Before project or policy appraisal, the borrower sends the social and poverty assessment and the draft Gender and SOGIESC Plan/Planning Framework to the Bank for review. Once the Bank accepts the documents as providing an adequate basis for appraisal, the Bank makes them available to the public in accordance with the [Asian Development Bank Access to Information Policy](#), and the borrower makes them available to the affected communities in the same manner as the earlier draft documents.

Special Considerations

Resettlement/Physical Relocation

17. The Bank recognizes the potential for physical relocation to adversely impact individuals on the basis of gender and/or SOGIESC. The Bank will provide full available information to potentially adversely impacted individuals and communities to provide them the opportunity to consent or refuse operations. If they consent, the borrower will prepare a resettlement plan and compensation terms that are sensitive to gender and SOGIESC.
18. A gender- and SOGIESC-inclusive resettlement plan takes into account the differential risks and impacts of resettlement on individuals due to gender and/or SOGIESC. This resettlement plan is designed to ensure that vulnerable groups will not suffer from decreased access to services (especially health and educational services) and/or employment opportunities due to the effects of physical relocation. The resettlement plan also ensures that vulnerable groups will not suffer from new or increased risk of discrimination, GBV, or SEA/H. The plan will provide compensation to displaced and resettled individuals, ensuring new housing, land, and other amenities that are equal to or better than conditions pre-resettlement.
19. Special attention is paid to preserving household structure as well as preventing household and community breakdown before, during, and after the resettlement process. During monitoring visits, the Bank collects data on household structure and composition. These data are disaggregated for male-identifying headed households, female identifying-headed households, and households of people with non-normative SOGIESC in order to demonstrate the impacts of the resettlement plan on each.
20. Compensatory measures for relocation shall focus on livelihood restoration. These restorative measures will be inclusive of participants in the informal economy, of which women, children, and people with non-normative SOGIESC make up a large part.

Labor

21. The borrower/client will not make employment decisions on the basis of personal characteristics⁷ unrelated to inherent job requirements. The borrower/client bases the employment relationship on the principle of equal opportunity and fair treatment, and does not exclude or discriminate against employees with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (wages and benefits), working conditions, terms of employment, access to training, promotion, termination of employment, retirement, and disciplinary practices.
22. The borrower/client takes special measures to address gender and SOGIESC based discrimination, harassment, intimidation, and/or exploitation. The borrower/client also prevents gender- and SOGIESC-based social exclusion and employment inequalities. To the extent possible, the borrower/client allows employment not to conflict with household responsibilities.

Indigenous Peoples

23. The borrower/client will ensure the participation of women, girls, and others with non-normative SOGIESC in the process of consultation required by Safeguards Requirements 3: Indigenous Peoples. Beyond indigenous peoples, gender- and SOGIESC-inclusive consultation will be extended to all affected individuals, see para. 13.
24. This consultative process will allow for safe, culturally appropriate, and accessible measures to include women, girls, and others with non-normative SOGIESC.

SEA/H prevention and response

25. The Bank recognizes the uniquely heightened risks of SEA/H experienced by women, girls, and people with non-normative SOGIESC and thus environmental and social management plans will include targeted measures to both prevent and respond to cases of SEA/H.
26. These measures will be tailored to the needs of each vulnerable group with specific measures in place to address unique risks to women, specific measures to address unique risks to people with non-normative SOGIESC, and specific measures to address unique risks to children.
27. Project-level Grievance Redress Mechanisms are designed in ways that enable safe reporting of cases of SEA/H and include channels which are accessible to women, men, people with non-normative SOGIESC, and children. Channels that are accessible to children must be designed in a child-friendly manner.
28. For operations identified by social assessments as having a high risk of SEA/H, borrowers/clients are required to contract with dedicated SEA/H service providers in advance of beginning implementation such that, where cases of SEA/H are reported, survivors can be immediately referred for necessary health and support services. Service providers must have the capacity to support women, men, people with non-normative SOGIESC, and children. Where necessary more than one service provider may be contracted to meet the needs of these different groups.
29. The borrower/client must carry out trainings and awareness raising activities related to prevention of SEA/H for all contractors, project workers, and communities. These activities must clearly set the age of consent for workers employed on the project at 18, regardless of any provisions in national law setting an earlier age of consent.

Current list of endorsing organisations

1. APCOM	16. Human Rights Campaign	31. PSGDN (Pacific Sexual & gender Diversity Network)
2. American Federation of Labor-Congress of Industrial Organizations	17. iAm (Fed. States of Micronesia)	32. RPF Rainbow Pride Foundation (Fiji)
3. ASEAN SOGIE Caucus	18. International Center for Research on Women	33. Samoa Fa'afafine Association (Samoa)
4. Bank Information Center	19. ILGA Asia	34. Sierra Club, US
5. BIMBA (Kiribati)	20. ILGA Europe	35. SoFi A Society of Fa'afafine in American Samoa
6. Center for Values in International Development	21. Kaleidoscope Human Rights Foundation, Australia	36. Te Tiare Association (Cook Islands)
7. Council for Global Equality	22. LAIIB. (Palau)	37. Tonga Leitis Association (Tonga)
8. Equal Asia Foundation	23. LGBT Rights Advocacy, China	38. Tuvalu Akanda Alliance (Tuvalu)
9. Equal Ground, Sri Lanka	24. Micro Rainbow, Int	39. Urgewald, Germany
10. Friends of the Earth, US	25. National Queer Asian Pacific Islander Alliance	40. VPride (Vanuatu)
11. Foundation Earth	26. Open For Business	
12. Gay, Lesbian & Straight Education Network (GLSEN)	27. Out Leadership	
13. Gender Action	28. OutRight International	
14. Global Equality Caucus	29. Queerly Legal, New Zealand	
15. Greenpeace, US	30. Pride Cook Islands	