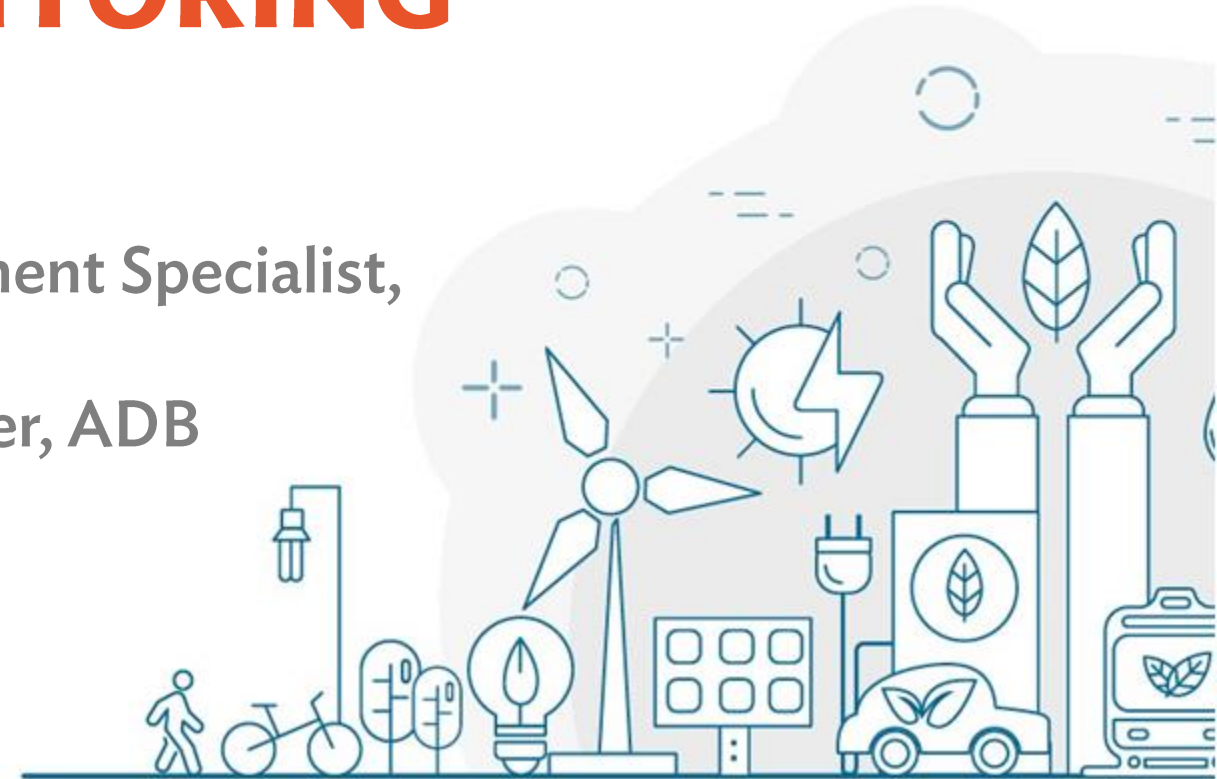


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# **SOCIAL SAFEGUARDS: STRENGTHENING PROJECT READINESS AND MONITORING**

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# OUTLINE

## Legal and regulatory frameworks in Southeast Asian countries and ADB SPS requirements

- The ADB SPS 2009
- Legal and regulatory framework related to social safeguards in SEA DMCs
- Policy gaps and approaches to successful gap filling strategies
- Indonesia legal and regulatory framework and gap filling measures

## ADB social safeguards considerations and project readiness

- Example of project readiness and potential solution for accelerated land acquisition

## ADB E-Ops: social safeguards performance indicators and portfolio performance

- Social Safeguards indicators
- Major non-compliances that lead to “At risk” rating



# OUTLINE

## Typical challenges in delivering social safeguards, solutions, and opportunities for improvement

- Example of challenges during project preparation and implementation
- Opportunities for improvement

## Indigenous Peoples safeguards: mitigation measures and benefits

- Indigenous Peoples impact assessment at project processing and implementation
- Example of mitigation measures and project benefits to Indigenous Peoples

## Monitoring and evaluation of social safeguards

- Social safeguards monitoring reports
- Implementation compliance: opportunities for improvement

## Capacity building and innovative solutions to strengthen social safeguard management

- Ongoing and future capacity building
- Innovative solutions to safeguards planning and implementation

Q&A



# ADB's Safeguard Policy Statement (SPS 2009)



- Aims to promote sustainability of project outcomes by protecting the environment and people from projects' potential adverse impacts.
- Projects are required to comply with ADB's SPS and host-country requirements.
- In case of differences between SPS and host-country requirements, the more stringent applies.
- **Covers three safeguard areas:**
  - Environment
  - Involuntary Resettlement
  - Indigenous Peoples
- **ADB's SPS applies to all projects supported by ADB.**



# Involuntary Resettlement Safeguards

## Objectives

- To avoid IR whenever possible; to minimize IR by exploring project and design alternatives;
- To enhance, or at least restore, the livelihoods in real terms relative to pre-project levels;
- To improve the standards of living of the displaced poor and vulnerable.

## Scope and triggers

- Physical displacement and economic displacement as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
- Covers full or partial, permanent or temporary losses and restrictions



# Indigenous Peoples Safeguards

## Objectives

To design and implement projects 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.

## Scope and triggers

The Indigenous Peoples safeguards are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of Indigenous Peoples or affects the territories or natural or cultural resources that Indigenous Peoples own, use, occupy, or claim as an ancestral domain or asset.



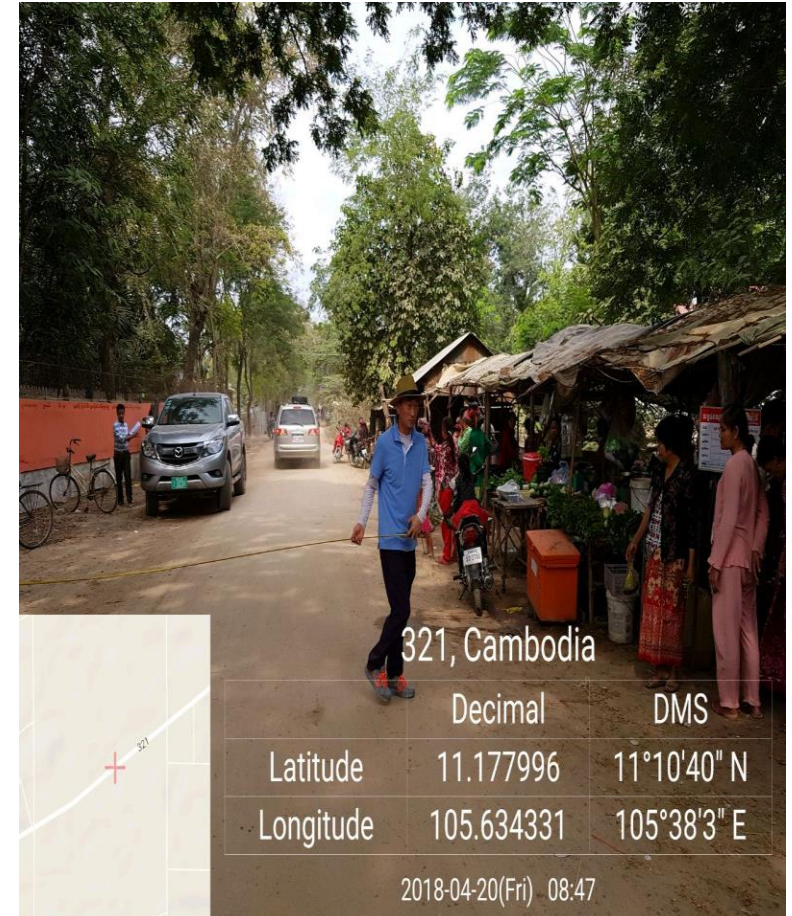
# Typical Legal and Regulatory Gaps

**Typical gaps:** non-title holder APs; landless; severity of impact; relocation and transitional allowances

- CAM: Social land concession possible under Land Law; no specific provisions for severity of impact
- VIE: Land law permits in some cases; Severity threshold at 30%.
- INO: Severity addressed through gap filling measures;
- PHI: Severity addressed through gap filling measures; APs classified ineligible addressed through gap filling measures.

## Implications:

- Agreement on entitlements takes time and leads to lengthy/delayed project preparation;
- Implementation may be delayed due to lack of clarity at EA/IA level on range of provisions



# Typical Legal and Regulatory Gaps

**Typical gaps:** legal recognition and/or enforcement of laws and regulations related to ancestral domains in the Southeast Asia DMCs

- CAM, INO, MYA recognizes IPs and/or collective attachment to land/territories.
- VIE situation varies per province; Overlap of state land registration with the IP territories/ancestral domains.

## **Implications:**

- Weak and inadequate SIA and meaningful consultation do not allow to make informed decision on SR3 trigger;
- “Soft components” cause adverse impact on IP





# Indonesia: Legal and Regulatory Framework and Gap Filling

Law No.2/2012  
PP No. 19/2021

ADB SPS 2009

LAND ACQUISITION				
	PLANNING	PREPARATION	IMPLEMENTATION	HANDOVER
<b>AGENCY</b>	Institution needing the land	Central/Provincial/District/City Government	KATR/BPN/Land Agency	KATR/BPN/Land Agency
<b>OUTPUTS</b>	Land Acquisition Plan (LAP) based on feasibility study	Project location determination by governor/regent/mayor	Land acquired. Release of entitled parties land rights: resettlements if any	Handover of land for construction. Land certificate
<b>OUTPUTS</b>	<ul style="list-style-type: none"> <li>Draft Resettlement Plan (RP)</li> <li>Disclosure of draft RP</li> </ul>		<ul style="list-style-type: none"> <li>Updated RP (URP)</li> <li>Disclosed URP</li> <li>Compensation</li> <li>Monitoring</li> </ul>	<ul style="list-style-type: none"> <li>No-objection to construction</li> <li>Livelihood Restoration</li> <li>Relocation Assistance</li> <li>Monitoring</li> </ul>



# Indonesia: Selected Policy Gaps and Solutions

KEY GAPS BETWEEN GOI POLICY AND ADB SPS	SOLUTIONS
<p>Use of government land: Compensation to squatters residing there for less than 10 years</p>	<p>Options:</p> <ul style="list-style-type: none"><li>➤ Use of procedure set forth in Perpres 62/2018; persons using land less than 10 years to be handed by IA and contractors</li><li>➤ EA/IA to strongly collaborate with local government</li></ul>
<p>Land donation: Some small-scale infrastructure projects use land donation as a land acquisition mode</p>	<ul style="list-style-type: none"><li>➤ Optimize the project design to avoid or minimize impacts on land</li><li>➤ Provide comprehensive guidance on voluntary donation with the VD templates. To be developed as part of community development plan</li></ul>
<p>Livelihood restoration program for vulnerable and severely affected persons</p>	<ul style="list-style-type: none"><li>➤ Collaborate with the local government to support the program</li><li>➤ Channel loan funding through soft project component</li></ul>

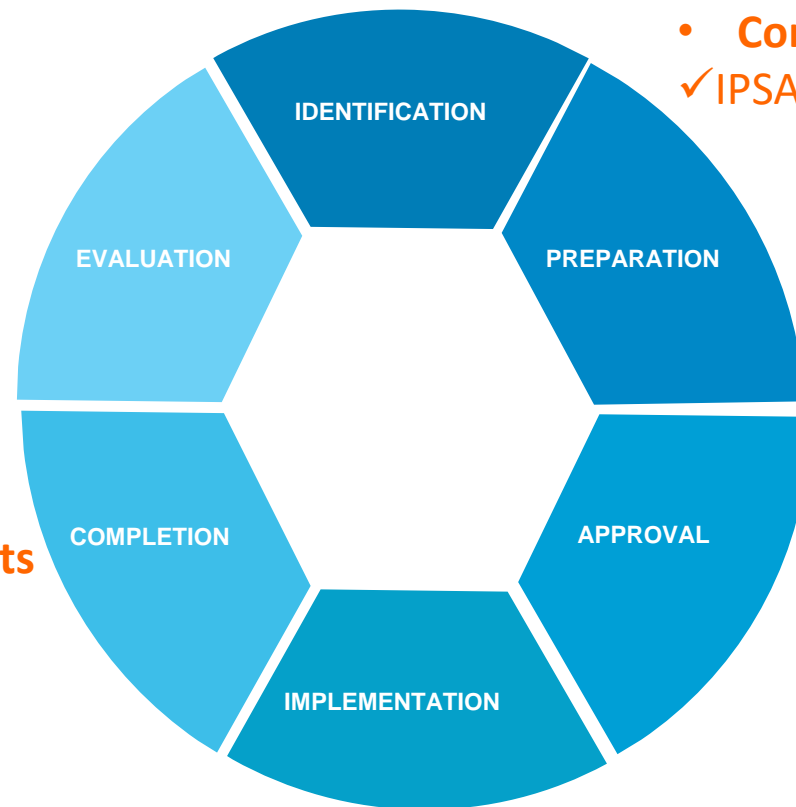


# Social Safeguards Considerations and Project Readiness

- Country Partnership Strategy (CPS)
- Country Operations Business Plan (COBP)

- Concept Paper
  - ✓ IPSA, Screening Checklists, TORs

- Project Validation Report



- IR/IPs Categorization
- RRP and appendixes
  - ✓ Draft IPPF/IPP/RF/RP/DDR
- Project Administration Manual

- Project Completion Report
  - ✓ Include IR/IP section

- Loan/Grant Agreement
  - ✓ IR/IPs Covenants

- Certificate of handover of assets
- Certificates of final payment
- Account closure

- Update Social Safeguard Plans (RP/IPP/DDR)
- Implement Social Safeguard Plans (RP/IPP/DDR)
- Monitor progress and report (Social monitoring reports, implementation/compliance reports, post-evaluation reports, CAP implementation reports)
- Review Mission MOUs/AMs



# ADB e-Ops: Social Safeguards Tracking Indicators

## A. Contract awards

1. ENV: No works contracts are awarded before the **environmental management plan(s) (EMP)**....
2. IR: No civil works **contracts are awarded before RP/DDR** are cleared by ADB
3. IP : No civil works **contracts are awarded before IPP/DDR** are cleared by ADB

## B. Project execution: Instruments

4. ENV: Requisite **national environment, health and safety clearances\*** and ADB ...
5. IR: **No displacement occurs before all compensations** are fully paid as confirmed by corresponding reporting

## C. Project execution: Project grievances

6. The project has a **functioning grievance redress mechanism (GRM)** and has **no high-risk outstanding grievances** related to implementation of safeguards.

## D. Project execution: Project Safeguards Non-compliance

7. There are **no outstanding non-compliances** related to implementation of safeguards
8. Scheduled **monitoring reports are submitted as per agreed schedule**, commencing loan effectiveness



# Social Safeguards Indicators: Major non-compliances

## A. Contract awards

- EPC contract:

- **excludes** requirements for **civil works to be conditional upon clearance** of final RPs.
- **excludes** requirements for **civil works to be conditional upon clearance** of final IPPs

- Prior to Works:

- Works **started without ADB's prior approval** of final RP/DDR.
- Works **started without ADB's prior approval** of final IPP

## B. Project Execution - Instruments

**Access is granted** to contractor(s) and economic and/or physical **displacement occurs before compensation/assistance** fully paid.



# Social Safeguards Indicators: Major Non-compliances

## C. Project Execution – Project grievances

- Project **has** an Accountability Mechanism **eligible complaint(s)** but Corrective Action Plan (**CAP**) **still in development or NOT on track** for full compliance at end of CAP implementation period.

## D. Project Execution – Safeguards non-compliance

- There are **outstanding non-compliances** related to implementation of safeguards and (i) **no time-bound CAP** has been agreed, or; (ii) implementation of time-bound CAP **actions overdue** for more than 3 months.



# Typical Challenges: Project Preparation

CHALLENGES		SOLUTIONS
Unclear project alignment and delays of engineering design	➔	Options: <ul style="list-style-type: none"><li>➤ Collaboration between social safeguards and engineer to optimize design to avoid/minimize impacts on land</li><li>➤ Avoid/minimize infrastructure projects that require donation (e.g. red irrigation canal)</li><li>➤ Harmonize project processing timelines and completion of engineering design</li></ul>
Key policy gaps	➔	<ul style="list-style-type: none"><li>➤ Intensive meetings to agree gap bridging measures</li><li>➤ Secure local government/unit endorsement for social safeguard plans</li><li>➤ Harmonize schedules and milestones for land acquisition, procurement and project processing</li></ul>
Secure commitment for Livelihood restoration program	➔	<ul style="list-style-type: none"><li>➤ EA/A to strongly collaborate with local government and obtain written commitment</li><li>➤ Ensure project's benefit to the local government</li><li>➤ Channel loan funding through soft project component</li></ul>



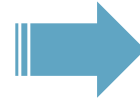
# Typical Challenges: Implementation

## CHALLENGES

## SOLUTIONS

Delays in Land Acquisition Process due to:

- APs reject/oppose project location
- Delayed budget allocation
- Delayed detailed engineering design
- Confirmation of land acquisition procedure



- Early, inclusive and comprehensive stakeholder consultation
- Optimize project design/avoid/minimize impacts
- Harmonize timeline for engineering design completion and procurement/commencement of works
- Factor in budget allocation processes/milestones
- Engage/consult legal departments of key agencies

- Ambiguous legal basis for RP entitlement for informal land users falling under >10yrs use criteria
- Long delays in implementation of Livelihood restoration programs






- Strengthen policy dialogue during project processing
- Secure endorsement for social safeguard plans from local government/unit
- Clear provisions for varying impacts and mitigations in project's contract



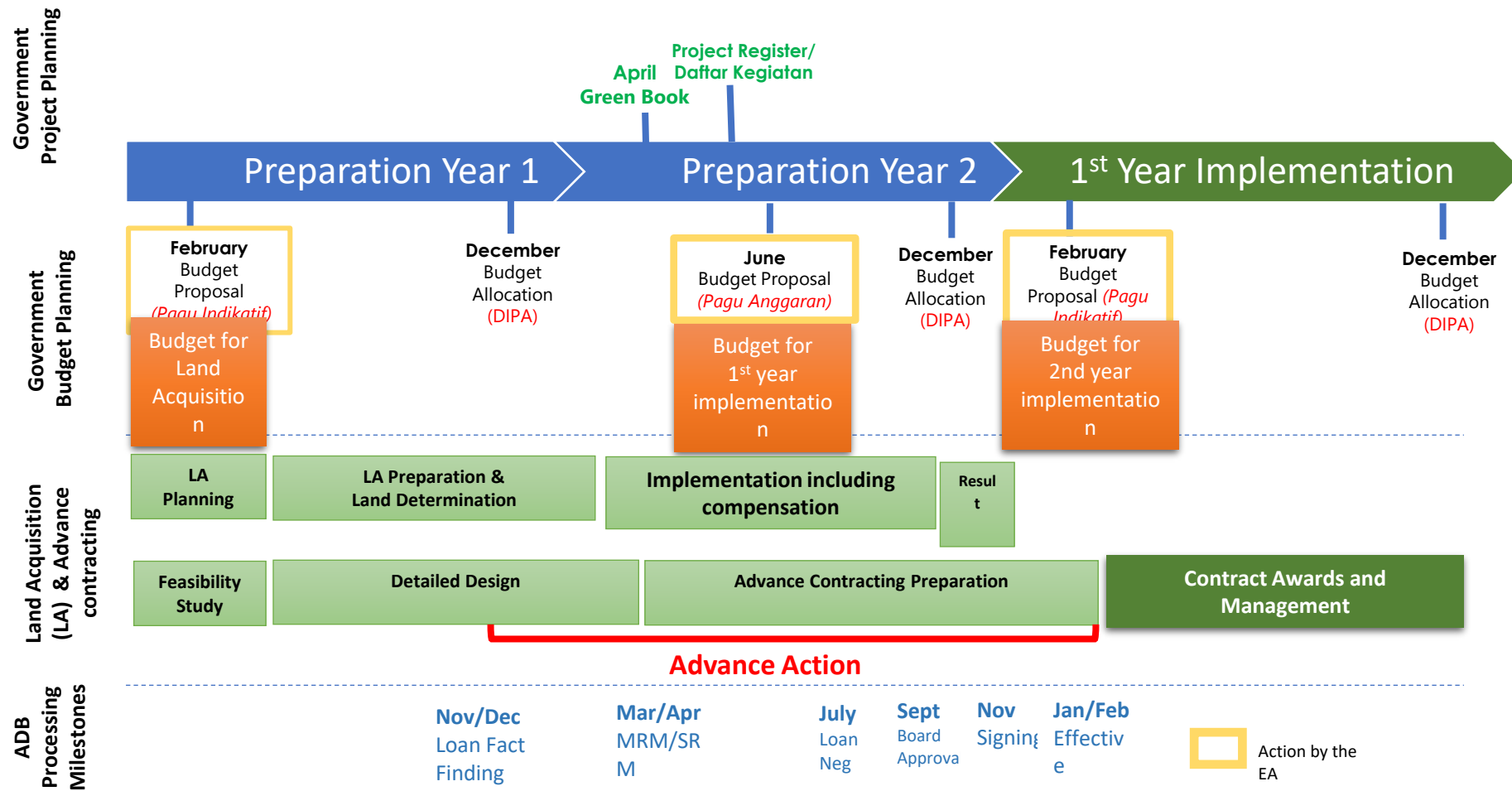


# Typical Challenges: Implementation

CHALLENGES		SOLUTIONS
Substandard Social safeguard documents (plans and monitoring report)		<ul style="list-style-type: none"><li>➤ Develop social safeguard template: Resettlement Plan, monitoring report, temporary impact assessment and mitigations (INO)</li><li>➤ Develop digital based survey tool/IOL &amp; SES (INO)</li><li>➤ Develop digital based monitoring tool (???)</li></ul>
Low capacity of IAs staff and Consultants		<ul style="list-style-type: none"><li>➤ Continuous capacity building</li><li>➤ Ensure qualification and sufficient resource allocation by project implementation consultants</li></ul>
Sensitive cultural and religious sites: when unresolved lead to delays or cancelation of components		<ul style="list-style-type: none"><li>➤ Strengthen project risk assessment</li><li>➤ Maximize engineering design</li><li>➤ Strengthen meaningful consultation;</li><li>➤ Secure written agreement from stakeholders on project location at planning stage</li></ul>



# Project Readiness and Solution for Accelerated Land Acquisition



# Indigenous Peoples: Impact Assessment

## Impact Assessment at Project processing and Implementation

- **Engage** Indigenous Peoples **early**
- Recruit **qualified consultant** for Social Impact Assessment
- Collect adequate **socio-economic baseline data**
- Strengthen **participation of women, youth** in remote communities
- Some approaches:
  - **Participatory mapping** to define affected areas and IP territories
  - **Collaboration** with IPs leaders and councils
  - Select **venues comfortable** for IPs
  - Use **understandable language**



**Risks:** Inadequate information sharing, lack of meaningful consultation, inadequate impact assessment cause costly delays



# Project Impacts on Indigenous Peoples

## Examples of Direct Impacts:

- Loss of land and non-land assets
- Loss of access to forest, natural resources, grazing areas
- Loss of livelihoods
  - Hunting, fishing, gardens, harvest forest product.
- Loss of sacred areas - leads to religious/social issues
- Physical relocation - leads to potential ethnic conflict

## Examples of Indirect Impacts

- Influx of people due to development would potentially marginalize IPs: livelihoods, land grabbing, land tenure conflicts



# Project Benefits to Indigenous Peoples

- Improved welfare and access to public services
  - Improved access to water for irrigation
  - Electricity
  - Better transport
- Employment opportunities

Limited access on the program/projects for IP groups living in the remote areas and protected forests



# Social Safeguards Monitoring and Reporting

## Borrower...

- Establishes and maintain monitoring procedures
- Verifies safeguards compliance
- Documents, discloses monitoring results; identifies corrective and preventive actions in the monitoring reports
- Follows up on these actions to ensure progress toward the desired outcomes
- Retains qualified and experienced external experts/qualified NGOs
- Uses independent advisory panels to monitor project implementation
- Submits periodic monitoring reports on safeguard measures

## ADB ...

- Conducts periodic site visits for projects with adverse environmental or social impacts
- Conducts supervision missions with detailed review
- Reviews borrower's periodic monitoring reports to ensure adverse impacts and risks are mitigated as planned
- Works with borrowers/clients to rectify any failures to comply with safeguard commitments
- Prepares a project completion report that assesses whether the objective and desired outcomes of the safeguard plans have been achieved



# Social Safeguards Monitoring and Reporting

## SPS IR and IP Policy Principles require to...

- Monitor and assess resettlement **outcomes**, their **impacts on** the standards of living of **displaced persons**.
- Monitor implementation of the Indigenous Peoples Plans (IPPs) by:
  - Using **qualified and experienced** experts;
  - Adopting **participatory monitoring** approach;
- Assess whether the IPP's **objective and desired outcome** have been achieved.
- **Disclose** monitoring reports.
- **RP implementation compliance serves a basis for ADB's No-objection to works. May be submitted as separate report or be part of periodic reports**



# Implementation compliance: Opportunities for Improvement

- **Opportunities for improvements:**

- Strengthen and improve baseline data and formats
- Enhance capacity/improve awareness of consultants or EAs/IAs, including on monitoring and budget implications
- Conduct outreach, increase awareness to establish a roster of qualified external organizations/experts to verify monitoring information of category A or other sensitive projects
- Factor in external monitoring in the LARP and IPP budget and ensure timely enforcement/allocation of budget
- Strengthen participation of displaced persons in monitoring
- Improve disclosure of monitoring reports, including on EAs/IAs website and to displaced persons or affected communities





# ADB Capacity Building Support

<p><b>ADB SUPPORT for CAPACITY BUILDING &amp; INNOVATIVE SOLUTIONS</b></p>	<p>Virtual capacity building training on social safeguard for EAs/IAs staff, local governments, and consultants, in collaboration with Government/EAs Education and Learning center</p> <p>Digital based survey tool (INO, Vietnam, Timor Leste), use of digital technologies for resettlement planning in the Philippines</p> <p>Safeguard team o support to project implementation (TRTA, SIAP, JTS)</p>
<p><b>CONTINUED DEVELOPING GUIDANCE ON SOCIAL SAFEGUARDS</b></p>	<ul style="list-style-type: none"> <li>• Improvement of Resettlement Plan Templates</li> <li>▪ Piloting digital base monitoring tool and will be used for another DMC in SERD</li> <li>▪ Guideline on assessment and mitigation measures of impacts during construction</li> <li>▪ Guidance on program based social safeguard activities including meaningful consultation and written agreement, assessment on IPs impacts and benefits</li> </ul>



# Thank you

