

Indigenous Peoples Planning Framework

May 2014

Sri Lanka: Integrated Roads Investment Program

Prepared by Road Development Authority, Ministry of Highways, Ports and Shipping for the Asian Development Bank

CURRENCY EQUIVALENTS

(as of 14 May 2014)

| | | |
|---------------|---|-----------------------------|
| Currency unit | – | Sri Lanka rupee (SLRe/SLRs) |
| SLRe 1.00 | = | \$ 0.007669 |
| \$1.00 | = | SLR 130.400 |

ABBREVIATIONS

| | | |
|-------|---|---|
| ADB | – | Asian Development Bank |
| CBO | – | community-based organization |
| ESDD | – | Environmental and Social Development Division |
| GRC | – | Grievance Redress Committee |
| GRM | – | Grievance Redress Mechanism |
| IPPF | – | Indigenous People Planning Framework |
| MFF | | Multitrance financing facility |
| MOHPS | – | Ministry of Highways, Ports and Highways |
| NGO | – | nongovernmental Organization |
| PIC | – | Project implementation consultant |
| PIU | – | Project Implementation Unit |
| RDA | – | Road Development Authority |
| SAPE | – | Survey and preliminary design consultant |
| SPS | – | Safeguard Policy Statement |
| SIA | – | Social Impact Assessment |

NOTE

In this report, “\$” refers to US dollars.

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I. INTRODUCTION

1. In Sri Lanka, about 85% of the population is living in the rural and peri-urban areas and out of that 84.7% are identified as poor. Poverty is concentrated in areas where connectivity to towns and markets, access to electricity and average educational attainment are relatively low and agricultural labor is an important source of employment. Remote areas with lack of all-weather access to the socioeconomic centers have rendered a large portion of the rural population with poor agricultural productivity, limited employment opportunities and slow economic growth.

2. In order to address this problem and improve transport connectivity between rural communities and socioeconomic centers, the Road Development Authority (RDA) under Ministry of Highways, Ports and Shipping (MOHPS) has proposed an Integrated Road Investment Program (iRoad). The Government would like to select about 1,000 Grama Niladari Divisions¹ (GNDs) throughout the country as rural hubs according to the population, development potential and distance to trunk road network. As a first step for developing the rural hubs the government will enhance the connectivity by (i) improving rural access roads linking the rural hubs to trunk road network to all weather standards, and (ii) operating a sustainable trunk road network of at least fair condition. The overall impact of the investment program is expected to be positive. Development of the roads to all weather standard status will improve rural access and link rural hubs to the national road network. The program will serve as a tool for poverty alleviation, allowing poor people in the area to directly access other areas of the country to engage in a number of social and economic activities. Additionally it will improve and strengthen the National Highways Network efficiency in Sri Lanka thereby establishing smooth traffic flow, reduced costs and travel time and increased lifetime of the roads through appropriate, periodic maintenance using the OPRC strategy.

3. This program will be financed by the Asian Development Bank (ADB) under a Multi tranche Financing Facility (MFF). The first tranche will focus on improving roads in the Southern Province comprising of three districts, Galle, Matara and Hambantota and a total of 2,123 GNDs. Access roads connecting 150 GND's have been selected for financing under tranche I based on consultations with MOHPS, local authorities and parliamentarians and a screening criteria on existing road conditions and development needs. Of the 150 GNDs, 65 GNDs are in Galle, 45 in Matara and 40 in Hambantota. In all 186 rural roads totaling 586 km will be included in tranche I. In addition 14 national roads totaling approximately 113.8 km will also be included in tranche I. Table 1, shows a summary of the rural and national roads on a district wise basis.

¹ A Grama Niladhari Division (GND) is the smallest administrative unit in Sri Lanka

Table 1: Summary of Roads under Tranche I

| District | Rural Roads | | National Roads (OPRC Package) | | | |
|---|----------------------|--------------|-------------------------------------|-------------|----------------------------------|--------------|
| | | | Reconstruction | | Routine and periodic maintenance | |
| | No. of road sections | Length (km) | Road Name | Length (km) | Road Name | Length (km) |
| Galle | 67 | 197.6 | B248 | 11.7 | B454 | 10.2 |
| | | | B249 | 11.0 | B129 | 2.8 |
| | | | B303 | 4.0 | B156 | 6.6 |
| | | | B139 | 4.4 | | |
| | | | B411 | 9.7 | | |
| | | | Sub Total | 40.8 | Sub Total | 19.6 |
| Matara | 67 | 217.5 | B607 | 9.3 | B415 | 7.8 |
| | | | Sub Total | 9.3 | Sub Total | 7.8 |
| Hambantota | 52 | 172 | Kirama - Warapitiya - Heegoda | 14.4 | B485 | 7.3 |
| | | | | | B450 | 7.8 |
| | | | | | B623 | 7.0 |
| | | | Sub Total | 14.4 | Sub Total | 22.1 |
| Total | 186 | 586.0 | | 64.5 | | 49.5 |
| Grand Total (Rural roads + OPRC roads) | | | | | | 700.0 |

4. For the rural roads there will be three contract packages per district. The contractor will be responsible for construction of the road over 2 years and performance based maintenance for another 3 years. For the national roads there will be two contract packages within the three districts. The national roads will follow Output and Performance based Road Contracts (OPRC) where the contractor will be responsible for ensuring that the road is in good riding condition for a period of 7 years including reconstruction and maintenance. The scope of works for the national roads will include reconstruction of 64.5km.

5. The proposed work under the investment program will involve rehabilitation and upgrading of existing rural roads under Pradeshiya Sabhas (PS) and national roads under RDA (B class road) to all weather standard status. Rehabilitation works will include improving pavements/road surface, construction of side drains and embankments, widening or replacement of culverts, cause ways and bridges. For the rural roads the improvements will be undertaken completely within the existing right of way (ROW) which is between 2.5m to 5.5m. For the rehabilitation of national road, the carriageway width will be from 5.5m to 6.5m and rehabilitation will be completely within the existing ROW.

6. The investment program is planned to have four tranches ("Projects") that will be implemented over a period of ten years. The scope of improvement works for succeeding tranches for both rural and national roads are expected to be similar to that of tranche I. Other provinces that will be covered in the succeeding tranches are expected to be: Sabaragamuwa Province, Kaluthara District of Western Province, Central Province, North Western Province and North Central Province.

II. OBJECTIVES AND POLICY FRAMEWORK

7. The IPPF will ensure design and implementation of subsequent tranches will foster full respect of IPs' identity, dignity, human rights, livelihood systems, and cultural uniqueness. The IPPF outlines principles and policies so that affected indigenous people will: (i) receive culturally appropriate social and economic benefits; (ii) not suffer from adverse impacts as a result of the Program; and (iii) be able to participate actively in Program components that affect them. This is

consistent with the Asian Development Bank's (ADB) Safeguards Policy Statement, 2009 (SPS) and government laws, policies, and regulations. The IPPF provides a framework for the preparation of Indigenous People Plans (IPPs) if any project roads affect IPs.

8. Sri Lanka does not have a national policy or a legal framework that exclusively safeguards the interests and the rights of Vedda populations. The issues and concerns of the Vedda communities are addressed within the general policies and the legal framework in the country. However, they receive State patronage at times when they raise their grievances with the relevant authorities. For example, any claims on external interference with the territorial boundaries of their traditional homelands are immediately addressed and redress is granted. The Veddas are also allowed to engage in their traditional livelihood practices in a limited way ('limited human activities') such as hunting and gathering forest resources. However, the country's forest and wildlife ordinances prohibit them from encroaching into any State land other than what was demarcated for them. Hence, there is no specific legislative provision available to protect the rights of IPs that can be directly compared to the SPS and applied to subprojects. IPs have maintained a distinct lifestyle and their way of life have brought up a verbal systems from generation to generation which is not being obstructed by contemporary successive governments. For example, even at present, the Constitution of Sri Lanka provides that all citizens are equal before the law, but activities of IPs in their traditional areas such as hunting are not penalized, whereas other citizens are punished through the courts. The Government's approach in safeguarding the rights of indigenous peoples is largely issues based and it adapts resolutions when issues related to IPs arise.

9. Though there is no specific law to safeguard the rights of IPs, various Parliament statements and regulations have been put forward by the government from time to time. Such statements and regulations recognize the culture and rights for access to natural resources by the IPs. In 1990s, Cabinet approval was granted to demarcate an area of approximately 1500 acres as a national park under the flora and fauna ordinance and to set up a 'Wanniya la-aeto Trust' under the Director Wildlife Conservation with representation from the Ministry of Cultural Affairs to preserve the culture of the Vedda community. However, it has been pointed out that the wildlife sanctuary demarcated for Vedda community was hardly adequate to provide a sustainable livelihood for the entire population while the Trust established showed only limited achievements over the years. After 1948, Sri Lanka established "The Backward Communities Welfare Board." This Board facilitated the Government's plan to move and mainstream indigenous people, but naturally, some were reluctant to embrace these changes. Today indigenous peoples are threatened by development programs undertaken in areas that they have traditionally owned utilized, and considered as ancestral domains.

10. ADB's Safeguards Policy Statement (SPS), 2009 ensures equality of opportunity for indigenous peoples. It aims to ensure that any Bank-assisted development interventions which will have any impact on indigenous peoples will be consistent with the needs and aspirations of affected indigenous peoples and compatible in substance and structure with affected IP's culture and social and economic institutions. The IPPF recognizes the vulnerability of indigenous peoples and it specifically ensures that any project intervention, whether positive or adverse will be addressed by the implementing agencies. Moreover, the implementing agencies will ensure that affected IPs will have opportunities to participate in and benefit equally from such project interventions. An overview on ADB's SPS 2009 related to Indigenous Peoples is given in Appendix 1.

11. This IPPF bridges the gap between these existing statements and regulations and the SPS. The IPPF will ensure that subprojects are undertaken consistent with ADB requirements.

The subproject selection criteria incorporates screening for IP impacts prior to selection, and subprojects will not (i) involve commercial development of the cultural resources and knowledge of IPs; (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 IPs. Subprojects will not include components that impact forest rights and occupation in forest land for forest dwelling IPs and other traditional forest dwellers (who have been residing in such forests for generations but whose rights are not recorded). Displacement of IPs will be avoided during subproject design. If unavoidable, land for land provisions and other assistance will be provided consistent with ADB and government policies.

12. The IPPF will ensure that Program tranches are undertaken consistent with ADB requirements. Table 1 shows how the IPPF will be made consistent with ADB's identification of IPs and preparation of IPPs.

13. While preparing subsequent tranches, screening for IP impacts will take place and ensure that Program components will not (i) involve commercial development of the cultural resources and knowledge of IPs; (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 IPs. Program components will not impact forest rights and occupation in forest land for forest dwelling IPs and other traditional forest dwellers (who have been residing in such forests for generations but whose rights are not recorded). Displacement of IPs will be avoided during design. If unavoidable, land for land provisions and other assistance will be provided consistent with ADB and government policies.

Table 1: ADB Requirements and IPPF Actions for the Project

| | ADB Requirement | Actions to be Taken |
|--|---|---|
| Identification of indigenous peoples | Indigenous peoples refer to a distinct, vulnerable, social and cultural group with the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. | For each Project, the PIU will carry out a total census of the Local Authority that are traditionally known/identified by the Ministry of Forestry and Environment and Mahaweli Authority as being occupied by indigenous peoples or locations that they live in as distinct groups. In addition to official national resources, use of non-governmental and scholarly resources will be incorporated to cross-check identification of IPs. Projects that have IPs as beneficiaries or APs will be consulted to ensure their needs and issues will be incorporated during the design stage to avoid or minimize impacts. |
| Assessment, preparation and implementation of Indigenous Peoples Plans (IPP) | The indigenous peoples safeguard are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, culture of indigenous peoples or affect the territories or natural or cultural resources that indigenous peoples own, use, occupy, or claim as an ancestral domain or asset. The Safeguards Policy Statement (SPS) has 9 policy principles for indigenous people that ensure: (i) screening; (ii) social impact assessment; (iii) consultation; (iv) consent for specific activities; (v) avoidance of physical displacement; (vi) preparation of IPP; (vii) disclosure; (viii) legal recognition for specific projects; and (ix) monitoring. | Policy principles of the SPS will be followed during project preparation. No IPPs have been prepared for MFF or Tranche 1 because screening, consultations, and field visits show no indigenous peoples in the project sites. For future tranches under the MFF, an IPP will be prepared if screening and social impact assessment show impacts on indigenous peoples. |

III. IDENTIFICATION OF AFFECTED INDIGENOUS PEOPLES

14. Consistent with ADB's definition of indigenous peoples, the Program identifies indigenous peoples as those having a distinct, vulnerable, social and cultural group (with characteristics as enumerated in Table 1). In Sri Lanka, *Veddas* retain social and cultural traditions, and distinct economic activities such as group hunting, food gathering, and fishing. Cultural assimilation of *Veddas* has been occurring for a long time. Since the Government does not have specific policies to assist *Veddas* preserve traditional identities as indigenous peoples, it is difficult to obtain information regarding their population, location, livelihood, and other socio-economic characteristics. According to historic data, *Veddas* inhabited Sri Lanka long before other ethnic groups in the country. They were later confined to certain areas from Hunnasgiriya hills and lowlands spreading through Mahiyanganaya, Alutnuwara, Vellassa, Bintenne, Digamadulla, Vagamuwa, Dimbilagala, Manampitiya, Nilagala, Toppigala, Panama, Dambana (Uva, Eastern, and some parts of the Central Province). Analysis during project preparation shows that their current number are declining and only around 2,000 *Veddas* reside in Mahiyaganane, Bibile, and Damabana in the Eastern and Uva Provinces.

15. Because of the locations of investment program, impacts on indigenous peoples as a result of implementation are not anticipated. The IPPF will guide the preparation of subsequent tranches so that if there are indigenous persons affected, they will have opportunities to participate and benefit equally from the investment program through the preparation of an IPP.

IV. SOCIAL IMPACT ASSESSMENT AND IPP FOR SUBSEQUENT TRANCHES

16. The Survey and Preliminary Engineering Consultant (SAPE) under the guidance of Social Development Division (ESDD) of the Roads Development Authority (RDA) will screen for IPs as part of the field visit to the project area and complete an indigenous peoples checklist (Appendix 2). During the field visit and completion of the checklist, SAPE will conduct public meetings in communities and villages to provide information on the proposed subproject and determine the presence of indigenous peoples. Information will be gathered from separate group meetings within the tribal community, including tribal leaders; group of tribal men and women, especially those who live in the zone of influence of the proposed subproject under the Project. Discussions will focus on the positive and negative impacts of the subproject as well as recommendations on the design of the subproject. The information to be gathered for the SIA should include (i) a baseline socioeconomic profile of the indigenous groups in the project area and project impact zone; (ii) assessment on their access to and opportunities they can avail of the basic and socio economic services; (iii) assessment of the short and long term, direct and indirect, positive and negative impacts of the project on each group's social, cultural and economic status; (iv) assessing and validating which indigenous groups will trigger the Indigenous peoples policy principles; and (v) assessing the subsequent approaches and resource requirements for addressing the various concerns and issues of projects that affect them.

17. The EA will be responsible for analysing the SIA and based on it developing an action plan with the tribal community leaders. If the SIA indicates that the potential impact of the proposed Project will be significantly adverse threatening the cultural practices and their source of livelihood, the EA will consider other design options to minimize such adverse impacts and will prepare an IPP.

A. Screening and Classification

1. Screening

18. If potential project sites will be near any possible IP communities, the PIU will proactively consult with relevant stakeholders, including the Ministry of Cultural Affairs, Cultural Survival Trust of Sri Lanka, academics, and other sources. The PIU will then visit all IP communities and villages near subproject sites or areas being affected and influenced by sites. The PIU will arrange public meetings in selected communities to provide information on the Project and the additional project. During the visits, community leaders and other participants will present their views with regard to the Project and additional project.

19. At this visit, the PIU will the support from project implementation consultant (PIC) will undertake a screening for IP populations with the help of IP community leaders, expert public officials, local leaders, scholars at national or international level and NGOs. The screening will check for the following:

- (i) Name(s) of IP community group(s) in the area;
- (ii) Total number of IP community groups in the area;

- (iii) Percentage of IP community population to that of area population; and
- (iv) Number and percentage of IP households to be affected by the additional project site.

20. The IP safeguards are triggered if a project affects positively or negatively and either directly or indirectly (i) the dignity, human rights, livelihood systems, or culture of IPs or the territories or (ii) natural or cultural resources that IPs own, use, occupy, or claim as an ancestral domain or asset.

2. IP Categorization of Project

21. The PIU will prepare an IP screening based on feasibility assessment of the additional subproject, as well as consultations with local communities and leaders, national agencies and scholarly and non-governmental resources. Screening will confirm presence or absence of IPs in the project zone of influence. If IPs have been identified, an assessment of likely impacts on IPs will be conducted and submitted to ADB, which will confirm the categorization of the project according to the following categories:

- Category A: Likely to have significant impacts on IPs. An IPP, including an Assessment of Social Impacts (ASI) is required.
- Category B: Likely to have limited impacts on IPs. An IPP, including ASI is required.
- Category C: Expected to have no impacts on IPs. No further action is required.

22. All projects should avoid physical displacement of IP communities from customary or traditional lands, whether these are held by title or through customary use. Should this be unavoidable, broad community support (BCS)² from the IPs will be a requirement as part of project preparation activities before moving forward. Broad community support (BCS) refers to a collective expression of BCS for project activities by the affected IP communities through recognized representatives. BCS is deemed to exist if the following conditions are met³:

- the majority of recognized representatives of the affected IP communities formally express their support;
- a considerable majority of affected IP communities' members provides their support through formal agreement or other informal means.
- any significant opposition or major disagreement has been resolved through good faith negotiations.

23. For a schematic view of the screening and categorization process, please see Appendix 5.

² Broad community support (BCS) refers to a collective expression of BCS for project activities by the affected IP communities through recognized representatives

³ Source: *ADB: Indigenous Peoples Safeguards: A Planning and Implementation Good Practice Sourcebook, 2013.*

B. Social Impact Assessment

24. The EA will undertake a social impact assessment (SIA). The SIA will gather relevant information on demographic data; social, cultural and economic situation; and social, cultural and economic impacts both positive and negative on the tribal communities in the subproject area.

25. Information will be gathered from separate group meetings within the tribal community, including tribal leaders; group of tribal men and women, especially those who live in the zone of influence of the proposed subproject under the Project. Discussions will focus on the positive and negative impacts of the subproject as well as recommendations on the design of the subproject. The information to be gathered for the SIA should include (i) a baseline socio economic profile of the indigenous groups in the project area and project impact zone, (ii) assessment on their access to and opportunities they can avail of the basic and socio economic services, (iii) assessment of the short and long term, direct and indirect, positive and negative impacts of the project on each group's social, cultural and economic status, (iv) assessing and validating which indigenous groups will trigger the Indigenous peoples policy principles; and (v) assessing the subsequent approaches and resource requirements for addressing the various concerns and issues of projects that affect them.

26. The EA will be responsible for analyzing the SIA and based on it developing an action plan with the tribal community leaders. If the SIA indicates that the potential impact of the proposed Project will be significantly adverse threatening the cultural practices and their source of livelihood, the EA will consider other design options to minimize such adverse impacts and will prepare an IPP. The EA will submit the IPP to ADB for review and approval prior to the selection of specific subprojects.

C. Preparation of an IPP or combined RP/IPP

27. If there are IP population affected by the subproject and the ADB IP safeguards are triggered, then an IPP will be prepared. For an IPP, the action plan will consist of a number of activities and will include mitigation measures of potentially negative impacts, modification of project design, and development assistance. Where there is land acquisition in IP communities, the Project will ensure their rights will not be violated and that they be compensated for the use of any part of their land in a manner that is culturally acceptable to the affected IPs.⁴ Should the project involve physical displacement of IP from traditional and customary lands, broad community support (BCS) from the IPs will be required as part of project preparation activities. See Appendix 5 for an overview of the IPP preparation process.

28. The IPP will include:

- (i) Social impact assessment,
- (ii) Land tenure information,
- (iii) Local participation, information disclosure, meaningful consultation, and when applicable broad community support
- (iv) Beneficial measures or mitigation activities,
- (v) Institutional arrangement and capacity building,
- (vi) Grievance Redress Mechanism,
- (vii) Implementation schedule,

⁴ The compensation will follow the Resettlement Framework of the Project.

- (viii) Monitoring and evaluation, and
- (ix) Cost estimate and financing plan.

29. Where warranted, the IPP will be developed by the relevant IA and the IPP will form part of the final detailed design report for the subproject. The relevant EA will then review and approve the IPP and provide the approved IPP to ADB for review and approval prior to award of civil works contract. The IPP policy and measures must comply with ADB's Safeguard Policy Statement (2009). Appendix 2 provides a detailed outline of the IPP.

30. Per ADB SPS, a combined RP/IPP could be formulated to address both involuntary resettlement and IP issues. Such a combined plan will need to meet all relevant requirements specified under Safeguard Requirements 2 and 3. A special chapter in the combined RP/IPP should be devoted to detailing IP issues and results from the social impact assessment.

V. CONSULTATION AND PARTICIPATION

31. Meaningful consultation and information disclosure will be undertaken to ensure that needs, priorities and preferences of indigenous peoples are adequately reflected. The IPP will promote participation of indigenous peoples in and around the project area, and identify indigenous people needs, priorities, and preferences through participatory approaches. Consultations with and participation of indigenous people groups, their leaders, rights groups,⁵ community-based organizations (CBOs), line agencies, and ESDD/RDA representatives will be an integral part of the IPP.

32. Affected indigenous peoples will be informed and consulted in preparing the IPP. Their participation in planning will enable them to benefit from the project road and protect them from any potential adverse impacts. Information will be communicated in a culturally sensitive manner. The preferred modes of communication and dissemination will be identified by the PIU during project preparation and not limited to text-based documents. Moreover, the consultation process will be conducted in the local language and IPP translated and made available to affected communities. Consultations must be free of coercion or intimidation. RDA will ensure that adequate funds will be made available for consultation and facilitation.

33. Involvement of indigenous people groups in problem identification and design of solutions has to be ensured through the entire cycle of project interventions. Table 2 presents the activities to be undertaken by ESDD/RDA to ensure inclusion of indigenous issues in project roads.

Table 2: Activities and Indicators for Inclusion of Indigenous People Issues

| Project Stages | Procedures | Process and Outcome Indicators |
|----------------|---|--|
| Design Stage | Identify locations of dominant indigenous peoples, in project sites | Indigenous peoples screening checklist |
| | Identification of indigenous community stakeholders in project sites | List of all indigenous communities in the project areas |
| | Sensitization and consultation through focus group discussions with indigenous communities groups | Documentation on number of discussions and minutes of the meetings |

⁵ There are local and international rights groups such as "Cultural Survival," based in the United Kingdom, engaged in advocacy and publishing rights and cultural traditions of *Veddas*.

| Project Stages | Procedures | Process and Outcome Indicators |
|-----------------------|--|---|
| | Identification of environmental and social issues of indigenous peoples and possible impacts as a result of the project | Documentation of issues |
| | Consultations to establish existing concerns related to: 1. Land availability and tenure 2. Current livelihood options 3. Access to infrastructure facilities 4. Participation in local government/service delivery related activities 5. Representation in CBOs 6. Existing government support systems | Justification for preparing IPP List of spatial and non-spatial issues |
| | Discussions on possible intervention measures through the project, their likely impacts, and safeguard measures (mitigation and monitoring) to be incorporated into project activities: 1. Loss of agricultural and homestead land 2. Loss of structure and immovable assets 3. Loss of livelihood 4. Loss of common property resources 5. Loss of hunting, food gathering, fishing areas, etc. | List of safeguard measures List of project impacts |
| | Consultations with indigenous groups for further suggestions | List of safeguards measures into the Draft IPP |
| | Participatory approach to be taken up to involve indigenous peoples in finalizing projects, resettlement plan/IPP etc. | Measures to be taken in complying with the RF and IPPF |
| | Disbursement of entitlements based on the resettlement plan/IPP/safeguard framework | Measures undertaken as identified in resettlement plan/IPP/safeguards frameworks |
| Implementation Stage | Implementation of safeguard measures based on resettlement plan/IPP/safeguards framework | Measures undertaken as identified in resettlement plan/IPP/safeguards framework |
| Post Implementation | Evaluation of the success of safeguards undertaken | Indicators developed for evaluation of project impacts |
| | Follow up activities based on lessons learned | Listing of modified tasks to be implemented for uplifting affected indigenous communities |

CBO = community based organization, IPP = Indigenous Peoples Plan, PIU = Project Implementation Unit

VI. DISCLOSURE

34. RDA will submit the following documents for disclosure on ADB's website: (i) IPPFs; (ii) IPPs; and (iii) social safeguard monitoring reports.

35. ESDD/RDA will provide information to the all indigenous peoples and other minority groups in project locations on indigenous peoples principles (and will be distributed during consultations such as those undertaken during screening, and during the conduct of the SIA) and features of the IPP. Basic information in the IPPs will be presented in the form of a brochure that will be circulated among affected indigenous peoples/indigenous peoples groups. Posters

designed to present the basic tenets of the IPPs will be displayed at suitable locations such as *Pradeshiya Sabha* offices for generating mass awareness.

VII. GRIEVANCE REDRESS MECHANISM

36. The Investment Program will have a comprehensive Grievance Redress Mechanism (GRM) in place. GRM is necessary to support genuine claimants to resolve their programs through mutual understanding and consensus reaching process with relevant parties. The GRM will be established in consultation with affected IPs and include a representative of their choice as well as impartial member (i.e. from NGO or scholar community). The GRM is in addition to the available legal institutions for resolving unsatisfied appeals from the public against the Investment Program. Details of the GRM are found in Appendix 4.

VIII. INSTITUTIONAL AND IMPLEMENTATION ARRANGEMENTS

37. The MOHPS is the executing agency (EA) of the project, while RDA will be the implementing agency (IA). The PIU headed by a Project Director will be responsible for overall project implementation, monitoring, and supervision. The PIU, staffed by a team of social safeguard officers will support the Project Director in addressing all safeguards issues of the Project. The officers will be supported by ESDD (Environment and Social Development Division) as well as by the Project Implementation Consultant who will include a Social Safeguards Expert. PIU with assistance of ESDD will take care of redressing grievances and mitigating negative impacts caused by project roads on affected people including indigenous peoples. The institutional arrangements build on the previous project where capacity in social safeguards assessment has been built.

38. In the preparation of subproject IPPs, the RDA will have overall coordination related to IPP preparation, implementation and ensuring that adequate funds are allocated by the states. RDA will prepare, implement, and monitor the IPP. Since IP issues are sensitive, RDA will be supported by the ESDD having knowledge of working on IP issues in the planning and implementation of IPPs for the Project. If Category A projects are to be financed under the project, RDA will be required to appoint an indigenous peoples specialist and adequate resources will be dedicated and assigned during project design and implementation.

39. Table 3 defines the institutional roles and responsibilities for the preparation and implementation of IPPs.

IX. MONITORING AND REPORTING

40. PIU will set up an internal monitoring system comprising of a focal point NGO/agency, tribal people/IP and their institutions to monitor the plan implementation. Selective and relevant quantitative and qualitative monitoring indicators measuring process and outcomes will be established. Outcome indicators must measure how benefits accrued are culturally appropriate and any negative impact on IP has been mitigated. EA will submit semi-annual monitoring report to ADB. In addition, an experienced and qualified external monitoring agency/expert will be engaged by the PIU with ADB concurrence to undertake independent external monitoring of the IPP implementation. This is a prudent measure. The external experts engaged by the PIU will advise on compliance issues and if any significant issues indigenous peoples issues are found, prepare a corrective action plan and or update the IPP. The external monitor will submit semi-annual reports to RDA and the EA will be responsible for submitting the reports to ADB.

41. Any IPP prepared under this Project will be endorsed by the EA before sending to ADB for final approval.

X. BUDGET AND FINANCING

42. The EA will ensure that sufficient resources are allocated to formulate IPPs in additional subprojects which will have impacts on IPs. It will implement the IPP through the EA. A detailed budget will be prepared by the EA taking into account all activities associated with the formulation and implementation of IPPs. Each IPP will have its own budget. Such budgets will be an integral part of the project cost, and will be made available during project implementation by the respective states.

Table 3: Institutional Roles and Responsibilities

| | Activities | MOHPS | PIU | NGOs | ADB | IP Community Involvement |
|---|--|---|--|---|------------|--|
| 1 | Finalization of alignments for project roads | Identify and finalize sites/alignments for project roads | PIU with support from PIC will confirm sites/alignments | | | |
| 2 | Preliminary Screening | | | | | |
| a | Collecting and analyzing required information and preparation of PS report | | PIU with support from PIC shall carry out the preliminary screening | | | Cooperation and active participation of indigenous peoples is anticipated in IPP activities |
| b | SIA recommendation | | Based on <i>Pradeshiya Sabha</i> report, and in compliance with ADB policy, PIU will recommend SIA | | | |
| 3 | SIA | | | | | |
| a | Collecting and analyzing required information | Designated staff will monitor SIA activities | | | | Indigenous peoples will be responsible for giving information to and participate with concerned officials |
| b | Preparation of SIA report | | | | | |
| c | Recommendation for IPP preparation | | Based on SIA report, and in compliance with the ADB policy, PIU will recommend IPP preparation | | | |
| 4 | Preparation of IPP | | | | | |
| a | Formulation of mitigation measures and development of action plan | Designated staff will monitor IPP preparation activities and will provide required help to RDA | PIU with ESDD will prepare IPP in consultation with affected indigenous peoples/community leaders | | | Affected indigenous peoples, leaders, CBOs will participate in formulation of mitigation measures and development of action plan |
| b | Disclosure of IPP | Designated staff will participate in information disclosure meetings to finalize IPP at community level | PIU staff will participate in information disclosure meetings to finalize IPP at community level | Local NGOs can be invited to bring transparency in information disclosure | | Affected indigenous peoples, leaders will participate and approve IPP |

| | Activities | MOHPS | PIU | NGOs | ADB | IP Community Involvement |
|---|--|--|--|-------------|-----------------------------------|---------------------------------|
| c | Preparation of budget and financing plan | Designated staff will provide necessary help to ESDD/RDA | | | | |
| d | IPP approval from ADB | | PIU after scrutinizing IPP for compliance with ADB policy and will submit it to ADB | | ADB staff to review and approve | |
| 5 | IPP implementation | PIU will appoint NGO/CBO for IPP implementation | PIU will monitor IPP implementation and provide ADB with semi-annual monitoring report for disclosure. | | ADB will review monitoring report | |

ADB = Asian Development Bank, CBO = community-based organization, ESDD = Environment and Social Development Division of RDA NGO = nongovernment organization, IPP = Indigenous Peoples Plan, PIU = project implementation unit, SIA = social impact assessment,

Appendix 1: ADB'S Safeguard Policy Statement on Indigenous Peoples Safeguards and Comparison between the Government of Sri Lanka and ADB Policy on Indigenous Peoples

The objectives are 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.

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. The term Indigenous Peoples is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. In considering these characteristics, national legislation, customary law, and any international conventions to which the country is a party will be taken into account. A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.

The Policy Principles are as follows:

- i. Screen early on to determine (i) whether Indigenous Peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts on Indigenous Peoples are likely.
- ii. 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. Give full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures. Identify social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and inter generationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.
- iii. Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. To enhance Indigenous Peoples' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.

- iv. Ascertain the consent of affected Indigenous Peoples communities 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. For the purposes of policy application, the consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities.
- v. 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.
- vi. 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. The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation; specifies measures to ensure that Indigenous Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.
- vii. Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders. The final IPP and its updates will also be disclosed to the affected Indigenous Peoples communities and other stakeholders.
- viii. Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that 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.
- ix. Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.

**Comparison between the Government of Sri Lanka and ADB Policy
on Indigenous Peoples**

| Aspect | Government Policies and Regulations | ADB Policies | Policies of Other Donor Agencies | Measures to Bridge the Gap |
|--|---|--|--|---|
| <ul style="list-style-type: none"> • Recognition to Indigenous People | <ul style="list-style-type: none"> • Doesn't obstruct their traditional way of life. • Recognizes their rights. • Encourages to change. • Signatory to the UN Declaration on the Rights of Indigenous Peoples | <ul style="list-style-type: none"> • Recognize the rights. | <ul style="list-style-type: none"> • United Nations/ World Bank recognize the rights. | <ul style="list-style-type: none"> • There is no such gap. |
| <ul style="list-style-type: none"> • Laws/ Regulations and policies | <ul style="list-style-type: none"> • Laws/ regulations nonexistent. • Only traditional way of life which government does not obstruct. | <ul style="list-style-type: none"> • Safeguards have been introduced by ADB safeguard policy statement of 2009 June. | <ul style="list-style-type: none"> • Indigenous people's rights Act of 1997 – United Nations • United Nations 1st international decade of the world's indigenous people 1995 – 2004 • United Nations 2nd international decade of the world's indigenous people 2006- 2015 | <ul style="list-style-type: none"> • Though laws/ regulations are nonexistent, indigenous people's rights are protected as ancestral domains. |
| <ul style="list-style-type: none"> • Consultation | <ul style="list-style-type: none"> • Government consults indigenous people. | <ul style="list-style-type: none"> • ADB requires under the Social Screening and Social Impact Assessment Process and indigenous peoples' planning. | <ul style="list-style-type: none"> • Similar thinking and policies as ADB. | <ul style="list-style-type: none"> • Consultation should take place closely. • Need further encouragement by offering various facilities. |
| <ul style="list-style-type: none"> • Information Disclosure | <ul style="list-style-type: none"> • NIRP principles espouse participatory methods which should include disclosure of information to | <ul style="list-style-type: none"> • ADB requires under indigenous peoples planning process. | <ul style="list-style-type: none"> • All donor agencies have similar policies. | <ul style="list-style-type: none"> • Government should support disclosure of information. |

| Aspect | Government Policies and Regulations | ADB Policies | Policies of Other Donor Agencies | Measures to Bridge the Gap |
|--|---|---|--|--|
| | all those affected. | | | |
| <ul style="list-style-type: none"> • Grievance Redress | <ul style="list-style-type: none"> • The NIRP principles include: vulnerable groups should be identified and be given appropriate assistance to substantially improve their income and living standards. | <ul style="list-style-type: none"> • ADB requires under indigenous peoples screening and planning process. | <ul style="list-style-type: none"> • Similar policies. | <ul style="list-style-type: none"> • Presently, the Indigenous people can even go to the highest levels of political and executive authorities. • This process should continue. |
| <ul style="list-style-type: none"> • Ancestral Domains/ Lands Related Natural Resources | <ul style="list-style-type: none"> • Government encourages to change in the light of development. | <ul style="list-style-type: none"> • Require borrower/ client to make special requirements. | <ul style="list-style-type: none"> • Other donor agencies have similar policies to protect the rights of the indigenous people. | <ul style="list-style-type: none"> • There is an area which has disparities in the light of development. • It is always the responsibility of the decision makers to balance this and protect the ancestral domains/ lands and related natural resources of indigenous people. |

ADB = Asian Development Bank, NIRP = National Involuntary Resettlement Policy

Appendix 2: Indigenous Peoples Impact Screening Checklist

This list will be prepared by the PIU and crosschecked with relevant government agencies as well as NGO/scholarly resources.

| KEY CONCERNS (Please provide elaborations on the Remarks column) | YES | NO | NOT KNOWN | Remarks |
|--|----------|----------|--------------|---------------|
| A. Screening for presence/absence of Indigenous Peoples | | | | |
| 1. Are there socio-cultural groups present in or use the project area who may be considered as "tribes" (hill tribes, schedules tribes, tribal peoples), "minorities" (ethnic or national minorities), or "indigenous communities" in the project area? | | | | |
| 2. Are there national or local laws or policies as well as anthropological researches/studies that consider these groups present in or using the project area as belonging to "ethnic minorities", scheduled tribes, tribal peoples, national minorities, or cultural communities? | | | | |
| 3. Do such groups self-identify as being part of a distinct social and cultural group? | | | | |
| 4. Do such groups maintain collective attachments to distinct habitats or ancestral territories and/or to the natural resources in these habitats and territories? | | | | |
| 5. Do such groups maintain cultural, economic, social, and political institutions distinct from the dominant society and culture? | | | | |
| 6. Do such groups speak a distinct language or dialect? | | | | |
| 7. Has such groups been historically, socially and economically marginalized, disempowered, excluded, and/or discriminated against? | | | | |
| 8. Are such groups represented as "Indigenous Peoples" or as "ethnic minorities" or "scheduled tribes" or "tribal populations" in any formal decision-making bodies at the national or local levels? | | | | |
| Overall assessment: IP present in project area | | | | |
| B. Identification of Potential Impacts | | | | |
| 9. Will the project directly or indirectly benefit or target Indigenous Peoples? | | | | |
| 10. Will the project directly or indirectly affect Indigenous Peoples' traditional socio-cultural and belief practices? (e.g. child-rearing, health, education, arts, and governance) | | | | |
| 11. Will the project affect the livelihood systems of Indigenous Peoples? (e.g., food production system, natural resource management, crafts and trade, employment status) | | | | |
| 12. Will the project be in an area (land or territory) occupied, owned, or used by Indigenous Peoples, and/or claimed as ancestral domain? | | | | |
| Assessment of Impact Categorization | | | | |
| | A | B | C | Remark |
| | | | | |

| KEY CONCERNS (Please provide elaborations on the Remarks column) | YES | NO | NOT KNOWN | Remarks |
|---|-----|----|-----------|---------|
| C. Identification of Special Requirements <i>Will the project activities include:</i> | | | | |
| 13. Commercial development of the cultural resources and knowledge of Indigenous Peoples? | | | | |
| 14. Physical displacement from traditional or customary lands? | | | | |
| 15. Commercial development of natural resources (such as minerals, hydrocarbons, forests, water, hunting or fishing grounds) within customary lands under use that would impact the livelihoods or the cultural, ceremonial, spiritual uses that define the identity and community of Indigenous Peoples? | | | | |
| 16. Establishing legal recognition of rights to lands and territories that are traditionally owned or customarily used, occupied or claimed by indigenous peoples ? | | | | |
| 17. Acquisition of lands that are traditionally owned or customarily used, occupied or claimed by indigenous peoples? | | | | |
| Is Broad Community Consent Required | YES | NO | NOT KNOWN | Remarks |
| | | | | |

Appendix 3: Outline of an Indigenous Peoples Plan

1. This outline is part of the Safeguard Requirements. An Indigenous Peoples Plan (IPP) is required for all projects with impacts on Indigenous Peoples (IP). Its level of detail and comprehensiveness is commensurate with the significance of potential impacts on IP. The substantive aspects of this outline will guide the preparation of IPPs, although not necessarily in the order shown.

A. Executive Summary of the IPP

2. This section concisely describes the critical facts, significant findings, and recommended actions.

B. Description of the Project

3. This section provides a general description of the project; discusses project components and activities that may bring impacts on IP; and identify project area.

C. Social Impact Assessment

4. This section:

- (i) reviews the legal and institutional framework applicable to IP in project context;
- (ii) provides baseline information on the demographic, social, cultural, and political characteristics of the affected IP communities; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend;
- (iii) identifies key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with IP at each stage of project preparation and implementation, taking the review and baseline information into account;
- (iv) assesses based on meaningful consultation with the affected IP communities, the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected IP communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live;
- (v) includes a gender-sensitive assessment of the affected IPs' perceptions about the project and its impact on their social, economic, and cultural status; and
- (vi) identifies and recommends, based on meaningful consultation with the affected IP communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that the IPs receive culturally appropriate benefits under the project.

D. Information Disclosure, Consultation and Participation

5. This section:

- (i) describes the information disclosure, consultation and participation process with the affected IP communities that was carried out during project preparation;
- (ii) summarizes their comments on the results of the social impact assessment and identifies concerns raised during consultation and how these have been addressed in project design;
- (iii) in the case of project activities requiring broad community support, documents the process and outcome of consultations with affected IP communities and any agreement resulting from such consultations for the project activities and safeguard measures addressing the impacts of such activities;
- (iv) describes consultation and participation mechanisms to be used during implementation to ensure IP participation during implementation; and
- (v) confirms disclosure of the draft and final IPP to the affected IP communities.

E. Beneficial Measures

6. This section specifies the measures to ensure that the IPs receive social and economic benefits that are culturally appropriate, and gender responsive.

F. Mitigation Measures

7. This section specifies the measures to avoid adverse impacts on IPs; and where the avoidance is impossible, specifies the measures to minimize mitigate and compensate for identified unavoidable adverse impacts for each affected IP groups.

G. Capacity Building

8. This section provides measures to strengthen the social, legal, and technical capabilities of: (a) government institutions to address IP issues in the project area; and (b) IPOs in the project area to enable them to represent the affected IP more effectively.

H. Grievance Redress Mechanism

9. This section describes the procedures to redress grievances by affected IP communities. It also explains how the procedures are accessible to IP and culturally appropriate and gender sensitive.

I. Monitoring, Reporting and Evaluation

10. This section describes the mechanisms and benchmarks appropriate to the project for monitoring, and evaluating the implementation of the IPP. It also specifies arrangements for participation of affected IP in the preparation and validation of monitoring, and evaluation reports.

Appendix 4: Grievance Redresses Mechanism

1. Grievances from the affected people on social and environmental issues during project implementation will be addressed mainly through the existing local administrative system. Depending on the nature and significance of the grievances or complaints, grievances will be addressed at two levels. Some grievances will be handled at the grass roots level before the GN level. Simple and easily manageable grievances will be addressed at the Grama Niladhari (GN) level and more complex grievances will be addressed at the Divisional Secretariat (DS) level. There will be a Grievance Redress Committee (GRC) at both levels comprising.

2. At the GN level the GRC members will be:

| | | |
|------|---|-----------|
| i) | Grama Niladhari of the area | Chairman |
| ii) | Representative of PIU | Secretary |
| iii) | Representative of Supervision Consultant | Member |
| iv) | Representative of Contractor | Member |
| v) | Selected representative from the IP community affected by the project | Member |
| vi) | Woman representative from the local community | Member |
| vii) | Representative from local NGO or scholar community | Member |

3. At the DS Level GRC members will be:

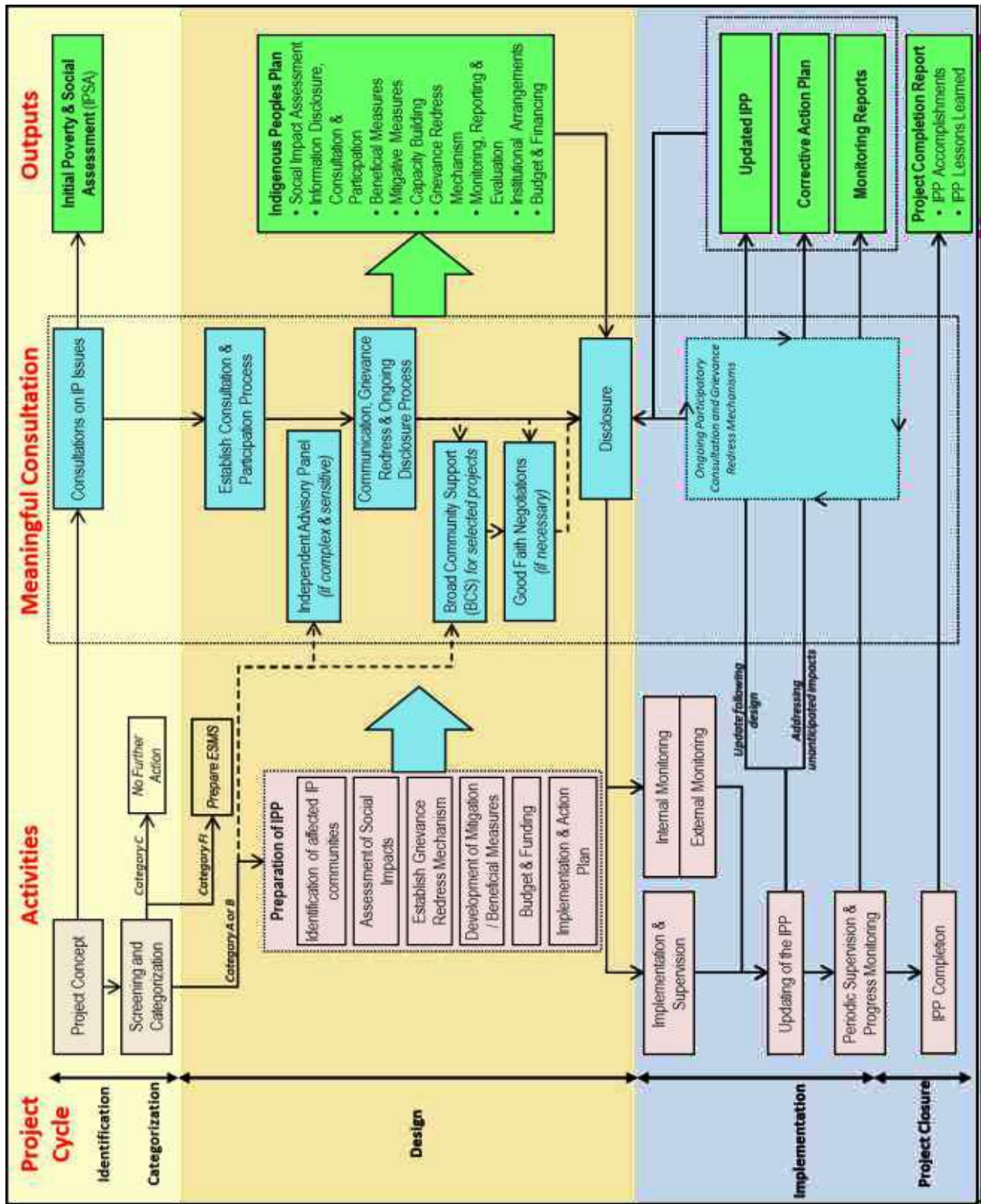
| | | |
|------|---|-----------|
| i) | Divisional Secretary of the area | Chairman |
| ii) | Representative of PMU | Secretary |
| iii) | Grama Niladhari | Member |
| iv) | Representative of Supervision Consultant | Member |
| v) | Representative of Contractor | Member |
| vi) | Representative of a social organization (NGO/CBO) of the area | Member |
| vii) | Selected representative from the IP community affected by the project | Member |
| i) | Woman representative from the local community | Member |
| ii) | Representative from local or scholar community | Member |

4. To make the GRM process gender responsive the GRC will include one woman member to represent the local community women. Further when grievances or complaints are submitted to the GRC, both women and men complainants will be treated equally and necessary measures will be taken to address the grievance in the best way possible.

5. Recommended steps with timeline on the operation of the GRM is provided in figure 1. Adjustments may be made to the GRM during processing of succeeding tranches if necessary and accordingly described in the respective IEE. In addition a complaints contact person will be designated within the PIU to help address all concerns and grievances of the local communities and affected parties. Contact details of this person will be provided in the project information display board that will be placed in the project site.

6. In addition there will be an information center established by the contractor for OPRC roads. Contractor will take complaints grievances and forward them to the PIU and PIC as necessary.

Appendix 5: Implementation Process of IP Safeguards during project cycle



Source: ADB: Indigenous Peoples Safeguards: A Planning and Implementation Good Practice Sourcebook, 2013.