

Draft for Consultation

# Summary of the Analytical Study for the Safeguard Policy Review and Update: Sexual Orientation, Gender Identity, Gender Expression, and Sex Characteristics (SOGIESC)

May 2022

## I. INTRODUCTION

1. The Asian Development Bank (ADB) is undertaking a comprehensive review and update of its Safeguard Policy Statement, 2009 (SPS).<sup>1</sup> The update process has been initiated by ADB Management following a Corporate Evaluation of the SPS by ADB's Independent Evaluation Department (IED), completed in May 2020 (IED Report).<sup>2</sup> The update will build off the findings and recommendations of the report, which ADB Management endorsed. The update will seek to modernize the policy, considering the changing development context and evolving developing member country (DMC) and client needs and capacities; as well as opportunities for greater harmonization with the policy principles and standards of other multilateral development banks (MDBs). The update will consider the diversity of ADB lending modalities and operations, including the private sector, as well as requirements for different contexts such as fragile and conflict affected situations (FCAS), small island developing states (SIDS), and emergency assistance. Overall, the policy update will seek to strengthen safeguard implementation effectiveness and efficiency in ways that will enhance beneficial safeguards outcomes for the environment and affected people.
2. The revised safeguard policy is expected to be submitted for ADB Board consideration in March 2023, following a process of further review, policy development, and meaningful stakeholder engagement. To inform this process, ADB is undertaking a series of analytical studies.<sup>3</sup> The studies will benchmark ADB's current SPS against the policies of selected MFIs. The studies will inform the development of the new safeguard policy and will be provided for stakeholder review and consultations. Initial summaries will be disclosed first to gather initial stakeholder views. The analytical studies themselves will then be updated and disclosed in full. Stakeholder engagement and consultation will have three main phases: (i) preliminary information and outreach on the overall approach for the policy update and stakeholder engagement plan; (ii) consultation on the analytical studies; and (iii) consultation on the draft policy paper. There will be multiple opportunities for stakeholder engagement, including regional consultations; "deep dive" sessions with ADB developing member countries (DMCs) and civil society organizations (CSOs); focus groups on specific topics; and consultations with people affected by ADB projects.<sup>4</sup> This document provides a summary of the additional analytical study on Sexual Orientation, Gender Identity, Gender Expression, and Sex Characteristics (SOGIESC)<sup>5</sup>.
3. Currently, ADB and the World Bank is jointly managing "The Equality of Opportunities for Sexual and Gender Minorities research project (EQOSOGI)", which investigates the legal barriers to sexual and gender minorities. Legal barriers are the focus of

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<sup>1</sup> ADB. 2009. Safeguard Policy Statement. Manila. <https://www.adb.org/documents/safeguard-policy-statement>

<sup>2</sup> Independent Evaluation Department. 2020. Evaluation Document: Effectiveness of the 2009 Safeguard Policy Statement. Manila. <https://www.adb.org/documents/effectiveness-2009-safeguard-policy-statement>

<sup>3</sup> The planned analytical studies are: 1. Overall Policy Architecture; 2. Indigenous Peoples; 3. Resource Efficiency and Pollution Prevention; 4. Labor and Working Conditions; 5. Community and Occupational Health & Safety; 6. Land Acquisition, Restriction of Access and Involuntary Resettlement; 7. Biodiversity and Natural Resource Management; 8. Cultural Heritage; 9. Stakeholder Engagement, Information, and Grievance Redress Mechanisms; 10. Lessons from Accountability Mechanisms; 11. Environmental and Social Impacts and Risk Assessment; 12. Safeguards in Fragile and Conflict Affected Situations and Small Island Developing States ; 13. Country Safeguard Systems; 14. Climate Change; 15. Gender and Safeguards; 16. Sexual Abuse and Sexual Harassment (SEAH); 17. Sexual Orientation, Gender Identity, Gender Expression, and Sex Characteristics (SOGIESC); 18. Safeguards in Different Financing Modalities; 19. Safeguards in Private Sector Operations. Additional studies may also be added where needed.

<sup>4</sup> Please refer to the ADB website and Stakeholder Engagement Plan for further details. <https://www.adb.org/who-we-are/safeguards/safeguard-policy-review>

<sup>5</sup> Please see definitions of the key terms and acronyms related to SOGIESC in appendix 1.

EQOSOGI as they are a prominent binding constraint for the inclusion of sexual and gender minorities considering historic criminalization and denial of legal rights. However, legal barriers are not only about criminalization as the law can be used both positively and negatively to provide or deny rights that enable equitable access to public services and economic prosperity. The legal barriers study is organized into six thematic domains, all of which have operational relevance to ADB. Three of these domains are relevant to accessing development benefits in all sectors and they are foundational to playing an active role in society and the economy. These are: (i) criminalization; (ii) civil and political rights; and (iii) protection from hate crimes. The other three domains are more sector-based and have specific operational-entry points. These are: (i) education; (ii) access to public services and social protection and (iii) access to the labor market. The findings of this study will inform the evolution of ADB's SOGIESC work in relation to both safeguards and positive development impact.

## II. METHODOLOGY

4. Purpose and scope of the SOGIESC study: This study is a desk review of how SOGIESC issues are addressed in ADB's SPS 2009 and other ADB non-safeguard policies and strategies, and benchmarks against the safeguard frameworks of selected peer MFIs. The MFIs covered by this benchmarking study include: Asian Infrastructure Investment Bank (AIIB), European Bank for Reconstruction and Development (EBRD), the Inter-American Development Bank (IDB), International Finance Corporation (IFC) and the World Bank (WB).

## III. SOGIESC ISSUES IN ASIA AND THE PACIFIC

5. Across ADB's regional member countries, certain population groups confront barriers that make them vulnerable and prevents them from fully participating in their nation's political, economic, and social life. Sexual and gender minorities constitute a vulnerable population as they continue to face widespread stigma, discrimination, and violence in many of ADB's regional member countries.
6. Although sexual and gender minorities have always existed in Asia and the Pacific, it is only in the past few decades that sexual orientation has emerged as a distinct identity looking for recognition and protection in the region. Historical examples of diverse SOGIESC include the transgender *babaylan* shamans of pre-colonial Philippines, and the third-gender *hijra* communities found throughout South Asia. Due to colonial influence, between the seventeenth and nineteenth centuries, the gender plurality found in Asia and the Pacific clashed with Western notions of piety. Certain applicable cultural institutions were undermined, and sodomy was criminalized in many countries, which sometimes included death sentences. Even nations that were never physically colonized by Europeans, lenient views on sexuality turned highly regulative, conforming to the strong gender binaries found in the West. Thus, while many of the major cultures and religions of the Asia Pacific region initially remained silent on sexuality, by the early twentieth century, much of Asia adopted strict positions on gender, conforming to a binary distinction, arguably influenced from outside the region.
7. Although restrictive laws remain in some countries, some have more recently made or considered legal reforms to support more inclusive approaches to sexual and gender minorities. Notably, in September 2018, India's Supreme Court struck down the colonial law criminalizing sexual activities that were deemed "against the order of nature". Viet Nam and Taipei, China have both legalized same-sex marriage, although in Viet Nam such marriages are largely symbolic at the moment without the same rights as a heterosexual union. In the Philippines, a SOGIE Equality Bill has been proposed

in Congress, although it has not been passed into law. Lastly, even though Singaporean rights groups tried and failed in 2013 to strike down the law criminalizing gay male sex, they have recently renewed their challenge. However, some nations have also maintained restrictions, and in some cases enacted severe penalties for single sex relations including long prison terms and death sentences.

8. In the Asia Pacific region, there are a complex array of laws and regulations that influence inclusion based on SOGIESC, both positively and negatively (see Appendix 2 on criminalization of same sex activity). Civil Society Organizations (CSOs) operating at both national and regional levels have in recent years been campaigning for liberalization of laws that criminalize sexual and gender minorities, as well as supporting reforms in areas such as marriage equality, SOGIESC-supportive educational environments and curricula, and access to the labor market and public services.

#### IV. CHALLENGES FACED BY PEOPLE WITH DIVERSE SOGIESC

9. Sexual and gender minorities, by virtue of their SOGIESC, may be more likely to be adversely affected by project impacts and/or more constrained than others in their ability to take advantage of projects benefits. This is because of cross-cutting and cross-sectoral risk factors that could particularly affect them including discrimination as well as Sexual and Gender Based Violence (SGBV). Discrimination on the basis of SOGIESC whether it be direct or indirect, means creating a distinction, exclusion, or restriction which has the purpose or effect of impairing or excluding a person based on their real or perceived SOGIESC, from being on an equal basis with others, thereby potentially (i) enhancing the negative impacts of the project, (ii) limiting project benefits, and/or (iii) limiting their ability to voice comments or concerns during stakeholder engagement and in grievance redress mechanisms.<sup>6</sup> Additionally, sexual and gender minorities are at risk of sexual and gender based violence and often lack the necessary mechanisms to seek justice<sup>7</sup> due to legal and social contexts that could further subject them to violence and not offer due process. These risks are caused and magnified by both social stigma and lack of legal rights in many contexts.
10. In Malaysia, Singapore, Thailand, and Viet Nam, a study by UNDP, Curtin University, and the Asia Pacific Transgender Network, found evidence of employment discrimination on the basis of gender identity.<sup>8</sup> The study found that cisgender individuals were 54.5 percent more likely to be invited to an interview when compared to transgender individuals having equivalent employment profiles.<sup>9</sup> Similarly, a study by the International Labour Organization (ILO) and UNDP found that sexual and gender minorities in China, Philippines, and Thailand: (i) have limited legal protections from discrimination in the workplace; (ii) experience negative treatment in the workplace; and (iii) have little recourse to remedy mistreatment and discrimination.<sup>10</sup>

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<sup>6</sup> The World Bank. (2019). Good Practice Note – Non-Discrimination: SOGI.

<sup>7</sup> World Bank. 2020. Sexual Orientation and Gender Identity in Contexts Affected by Fragility, Conflict, and Violence. World Bank, Washington, DC. © World Bank.  
<https://openknowledge.worldbank.org/handle/10986/33722> License: CC BY 3.0 IGO

<sup>8</sup> Winter, S., Davis-McCabe, C., Russell, C., Wilde, D., Chu, T.H., Suparak, P. and Wong, J. (2018). Denied Work: An audit of employment discrimination on the basis of gender identity in Asia. Bangkok: Asia Pacific Transgender Network and United Nations Development Programme.

<sup>9</sup> Winter, S., Davis-McCabe, C., Russell, C., Wilde, D., Chu, T.H., Suparak, P. and Wong, J. (2018). Denied Work: An audit of employment discrimination on the basis of gender identity in Asia. Bangkok: Asia Pacific Transgender Network and United Nations Development Programme.

<sup>10</sup> UNDP, ILO (2018). LGBTI People and Employment: Discrimination Based on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics in China, the Philippines and Thailand.

Experiences of stigma, discrimination, violence, and exclusion persist even in countries with relatively favorable SOGIESC legal environment and societal perceptions. Two recent UNDP studies in Thailand highlight lingering negative beliefs and attitudes towards sexual and gender minorities across multiple sectors (including health, education, and employment).<sup>11,12</sup> As a result of the stigma and discrimination, sexual and gender minorities are likely overrepresented in the bottom 40% of the population in terms of real per capita income.<sup>13,14</sup>

11. SOGIESC-based exclusion can have adverse impacts on both the lives of sexual and gender minorities as well as on the communities and economies in which they live.<sup>15</sup> For example, a study around the economic cost of stigma and exclusion based on SOGIESC in India links the exclusion of sexual and gender minorities with poorer economic development outcomes. The study argues that SOGIESC-based exclusion is a driver of: (i) lower productivity and lower output because of employment discrimination and constraints on labor supply; (ii) inefficient investment in human capital because of lower returns to education and discrimination in educational settings; (iii) lost output because of health disparities that are linked to exclusion; and (iv) increased social and health services required to address the effects of exclusion that might be better spent elsewhere.<sup>16</sup>
12. The estimated population size of sexual and gender minorities in ADB regions is unknown because of scarce data. However, recent global evidence has shown that sexual and gender minorities typically constitute between 5 and 20 percent of the total population.<sup>17,18</sup> The evidence base of exclusion, stigma and discrimination faced by sexual and gender minorities is limited. There are several data gaps which include: (i) limited studies conducted in Central West Asia and the Pacific; (ii) minimal data on access to public services outside of education and HIV-related health services, and only anecdotal data on access to social assistance, which was mostly collected during the COVID-19 pandemic; (iii) insufficient evidence from pilots, demonstrations, and action research on effective interventions; and (iv) very limited country-wide data on sexual and gender minorities.
13. Striving for the inclusion and protection of sexual and gender minorities in development financing and programming is therefore critical to achieving inclusive development. Likewise, it is important to mitigate the adverse environmental and social impacts of development projects, that may disproportionately affect sexual and gender minorities due to risks set out above. Recently updated MFI safeguard frameworks recognized these challenges and included safeguard provisions related to non-discrimination that target vulnerable and disadvantaged groups, including sexual and gender minorities.

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<sup>11</sup> UNDP (2019). *Tolerance but not Inclusion: A national survey on experiences of discrimination and social attitudes towards LGBT people in Thailand*. Bangkok: UNDP.

<sup>12</sup> UNDP (2020). *Stories of Stigma: Exploring stigma and discrimination against Thai transgender people while accessing health care and in other settings*. Bangkok, UNDP

<sup>13</sup> The World Bank. (2015). *LGBTI people are (likely) over represented in the bottom 40%*.

<sup>14</sup> Per capita income is a measure of the amount of money earned per person in a nation

<sup>15</sup> Badgett, M.V. Lee. (2020). *The economic case for LGBT equality: why fair and equal treatment benefits us all*. Boston, Massachusetts: Beacon Press, [2020]

<sup>16</sup> Badgett, M.V. Lee. (2014). *The Economic Cost of Stigma and the Exclusion of LGBT People: A Case Study of India*. World Bank, Washington, DC. © World Bank. <https://openknowledge.worldbank.org/handle/10986/21515> License: CC BY 3.0 IGO.

<sup>17</sup> GALLUP. (2021). [LGBT Identification Rises to 5.6% in Latest U.S. Estimate](#).

<sup>18</sup> Gates, GJ; The Williams Institute. (2011). [How Many People are Lesbian, Gay, Bisexual, and Transgender?](#).

## V. CURRENT ADB POLICY AND STRATEGY FOR ADDRESSING SOGIESC

14. ADB's Strategy 2030, Operational priority 1 on Addressing Remaining Poverty and Reducing Inequalities<sup>19</sup> recognizes sexual orientation as one of the social aspects that often determine people's participation, voice, rights, and access to resources and services. Similarly, Operational Priority 2: Accelerating Progress in Gender Equality<sup>20</sup> requires DMCs to address discrimination against and disadvantages for women, including those related to class, ethnicity, indigenous status, sexual orientation and gender identity, disability, religion, age, and migration (amongst others). As SOGIESC is an emerging topic in the development field, ADB's policy on Gender and Development (1998) has no explicit reference or provisions. ADB's Operation Manual Section C3/BP on Incorporation of Social Dimensions in ADB Operations (2010) also makes no explicit reference to SOGIESC issues, but lists social elements including gender, ethnicity, race, caste, age, and others that influence people's decision making, access to services, resources, opportunities, and ability to cope with risks.
15. ADB's Safeguard Policy Statement (2009), aims to avoid, minimize, or mitigate adverse environmental and social impacts, including protecting the rights of those likely to be affected or marginalized by the development process. Although, the SPS does not explicitly mention the risks to sexual and gender minorities, it does not exclude them either. It mentions that as part of social impact assessment it will identify individuals and groups who may be differently or disproportionately affected by the project because of their disadvantaged or vulnerable status. Where such individuals and groups are identified, targeted measures will be developed so that adverse impacts do not fall disproportionately on them, and they are not disadvantaged in relation to sharing the benefits and opportunities resulting from development. The SPS under "meaningful consultation" also requires the process to be gender inclusive and responsive and tailored to the needs of the disadvantaged and vulnerable groups. As part of the SPS policy review and update process, ADB recognizes the need to strengthen social impact assessment, and provide improved provisions and guidance for addressing adverse environmental and social safeguard risks to vulnerable and disadvantaged groups, while being mindful to make a distinction between compliance and aspirational goals.

## VI. SUMMARY OF KEY FINDINGS OF MFI BENCHMARKING ON ADDRESSING SOGIESC IN MFIs OPERATIONS

16. The benchmarking analysis compares SOGIESC-related policies, standards, and resources present in the comparator MFIs.<sup>21</sup> The recently updated MFI safeguard frameworks use different approaches to address SOGIESC related issues. Some MFIs have incorporated explicit provisions in their safeguards standards and others have developed tools, procedures, and good practice notes that can be used during project design and implementation by staff and borrowers. The benchmarking analysis is conducted based on three key criteria: (i) the inclusion of SOGIESC provisions in the MFI's policies and standards; (ii) the presence of operational SOGIESC-related guidance material for staff and clients, and (iii) the presence of full-time staff focused on providing SOGIESC-related support.

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<sup>19</sup> ADB Strategy 2030 Operational Priority 1; paragraph 23

<sup>20</sup> ADB's Strategy 2030: Achieving a Prosperous, Inclusive, Resilient and Sustainable Asia and the Pacific; Operational priority 2, paragraph 43.

<sup>21</sup> See Appendix 3 for more details.

**(i) Inclusion of SOGIESC provisions in the MFI safeguard policies and standards**

17. The ADB's SPS 2009 does not have explicit reference to SOGIESC. There are no specific SOGIESC-related safeguard standards or policies in place that mandate the protection of sexual and gender minorities in ADB projects.
18. Among the comparator MFIs, AIIB's revised Environmental and Social Framework (ESF) specifies its enhanced commitment to gender equality without explicit reference to sexual and gender minorities. Similarly, World Bank did not make explicit reference to SOGIESC issues in its Environmental and Social Framework (ESF) but provided coverage of sexual and gender minorities as a category of "vulnerable and disadvantaged group" under its directive on "Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups".<sup>22</sup>
19. MFIs like IFC, EBRD and IDB explicitly mention the inclusion of SOGIESC issues, but its coverage varies in scope. Both IDB and EBRD explicitly refer to sexual orientation and gender identity under the definition of vulnerable group. IFC, EBRD and IDB include SOGIESC as potential discriminatory grounds in employment under the requirements for labor and working conditions. Furthermore, IDB's Environmental and Social Policy (ESP) also stresses the need for the client to identify and address risks, impacts and access to opportunities that may disproportionately affect people because of their disadvantaged or vulnerable status including sexual and gender minorities. It also requires the Borrower to provide special measures of protection and assistance to address the vulnerabilities of project workers including people of diverse SOGIESC; address measures to prevent and address violence, harassment, intimidation, and/or exploitation; provide a safe and healthy work environment; take into account their concerns through the stakeholder engagement process in determining priority ecosystem services and engage throughout the project life cycle through meaningful consultations. Notably, IDB's ESP has more explicit and specific coverage of SOGIESC issues.

**(ii) Presence of operational SOGIESC-related guidance material for staff and clients**

20. Among the MFIs, ADB, AIIB, IFC, EBRD and IDB have not published SOGIESC-specific guidance material for the implementation of the respective safeguard frameworks. The World Bank has developed a good practice note on non-discrimination based on sexual orientation and gender identity (SOGI) to support ESF implementation. The good practice notes guides thinking around SOGIESC issues in development projects and structures implementation support to the Borrower in addressing the risks of discrimination. In the good practice note, guidance is provided on non-discrimination in scoping, assessment, implementation, monitoring and evaluation and meaningful stakeholder engagement. Other MFIs such as the IDB have worked and contributed to SOGIESC-specific research, IFC has published an "Emerging Practice" report that elaborates on good practice for advancing the economic inclusion of sexual and gender minorities.<sup>23</sup>

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<sup>22</sup> The World Bank directive establishes directions for Bank staff in respect of disadvantaged or vulnerable individuals or groups as required under the Environmental and Social Framework

<sup>23</sup> See: IFC. (2022). [Inclusive Banking: Emerging Practices to Advance the Economic Inclusion of LGBTI People](#).

### (iii) Presence of full-time staff focused on providing SOGIESC-related support

21. AIIB, EBRD and IDB do not have full time staff exclusively working on SOGIESC but hire consultants on an ad-hoc basis for support on SOGIESC-specific tasks. While there are no full-time staff solely focused on SOGIESC issues at the ADB, staff at the institution have supported SOGIESC-related tasks at the request of certain Clients. The ADB has also hired consultants to support on SOGIESC-specific issues. The Gender and Economic Inclusion Group (GEIG) at the IFC leads on support for SOGIESC matters in the institutions without having staff who solely work on this topic. Staff at the GEIG typically focus on a set of topics including gender, SOGIESC, and disability.
22. The World Bank has a Global Adviser on SOGI supported by a full-time social development analyst and a small team of consultants. Their work supports World Bank teams in the proactive agenda on SOGIESC inclusion in projects and supports project teams in design, implementation, and monitoring of projects in accordance with the ESF. Some key tasks include: (i) inclusion of SOGIESC issues in country partnership frameworks and undertaking strategic country diagnostics to generate data and analytics related to SOGIESC; (ii) capacity building for World Bank staff in headquarters and in country offices on SOGI and inclusive development; (iii) capacity building of project task team leaders on SOGI and the ESF requirements to better understand roles and requirements; (iv) providing resources and tools to project teams and clients to address SOGIESC issues within safeguards, and (v) guidance and advice to senior management in SOGI-challenging contexts. The World Bank also has a *SOGI task force* composed of experts/specialists in different sectors to advise on the integration of SOGIESC issues in operations. The eleven-person Task Force, initially established in 2015, consists of senior-level staff from various global practice groups to play an internal and external advocacy role on the impact of exclusion on the basis of SOGI. The SOGI Task Force also provides technical sector-specific advice on the inclusion of SOGI in operations.

## VII. CONCLUSIONS AND KEY ISSUES FOR FURTHER CONSIDERATION

23. Based on the benchmarking with comparator MFIs and considering that SOGIESC is a relatively new theme in development, its integration within MFI policies, processes, and mechanisms varies significantly. Some MFIs have no references to SOGIESC in their institutional documents whilst others integrate SOGIESC into their frameworks as a cross cutting issue in development. The IDB and the World Bank stand out as the two MFIs with the most robust integration of SOGIESC within their frameworks. The incorporation of SOGIESC within the IDB's Environmental and Social Policy Framework (ESPF) sets a good example of how safeguards measures can be explicit at a policy level. By contrast, the World Bank establishes how the proactive agenda of SOGIESC inclusion and safeguards compliance can be integrated at the institutional level supported by guidance, staff, and resources. Based on the study analysis some issues for further consideration in the SPS review and update include:
  - (i) Inclusion of sexual and gender minority as a category under the definition of vulnerable and disadvantaged groups
  - (ii) Incorporation of SOGIESC specific provisions in the revised policy and borrowers' requirements
  - (iii) Preparation of tools, guidance notes for screening, scoping, implementation, and monitoring of SOGIESC measures
  - (iv) Ensuring adequate SOGIESC-specific resources and staffing at the ADB for the implementation and monitoring of SOGIESC

- (v) Providing capacity building on non-discrimination based on SOGIESC, to ADB staff and implementing agencies
- (vi) Engaging in regional SOGIESC-specific knowledge generation through partnerships with other international organizations and civil society organizations which operate at regional and country levels

## **VIII. NEXT STEPS**

24. This background material is prepared for the ongoing stakeholder consultations. It provides stakeholders with concise information on MFI benchmarking on safeguarding SOGIESC risks in projects. External stakeholders can use the information provided here to comment and provide meaningful recommendations to make the updated policy substantive and implementable.

## Appendix 1: Key Terms and Acronyms

<b>Term or acronym</b>	<b>Definition</b>
<b>SOGI</b>	Sexual orientation and gender identity
<b>SOGIESC</b>	Sexual orientation, gender identity, gender expression, and sex characteristics
<b>Sexual and Gender Minorities</b>	Persons whose sex, gender, sexual orientation, gender identity and/or gender expression differ from those of the majority of the surrounding society
<b>People with diverse SOGIESC</b>	All people have SOGIESC; diverse SOGIESC refers to SOGIESC that exist outside of heteronormative, cis-normative, gender binary and endosexist assumptions. Diverse SOGIESC includes people whose lives do not fall into the categories of lesbian, bisexual, gay, transgender, intersex or queer, including cultural non-binary people such as hijra, waria, bakla, fa'afafine, people who use non-English terms that convey distinct experiences of gender and sexuality, and people who may view their diversity as practice rather than identity.
<b>Sexual Orientation</b>	Each person's enduring capacity for profound romantic, emotional and/or physical feelings for, or attraction to, person(s) of a particular sex or gender. It encompasses hetero-, homo-, and bi-sexuality and a wide range of other expressions of sexual orientation.
<b>Gender Identity</b>	Each person's deeply felt internal and individual experience of gender (e.g., of being a man, a woman, in-between, neither or something else), which may or may not correspond with the sex they were assigned at birth, or the gender attributed to them by other people. Note that this sense of self is not related to sexual orientation. Gender identity is internal; it is not necessarily visible to others.
<b>Gender Expression:</b>	The way we show our gender to the world around us, through things such as clothing, hairstyles, and mannerisms, to name a few.
<b>Sex Characteristics</b>	Each person's physical features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, hormones, and secondary physical features emerging from puberty.
<b>Lesbian</b>	A woman who predominantly has the capacity for romantic, emotional and/or physical attraction to other women.
<b>Gay</b>	A man who predominantly has the capacity for romantic, emotional and/or physical attraction to other men.
<b>Bisexual</b>	People who have the capacity for romantic, emotional and/or physical attraction to person(s) of the same sex or gender, as well as to person(s) of a different sex or gender.
<b>Transgender</b>	Refers to a person whose sex assigned at birth does not match their gender identity. The term "trans" is often used as shorthand.
<b>Intersex</b>	An umbrella term that refers to people who have one or more of a range of variations in physical sex characteristics that fall outside of traditional conceptions of male or female bodies.
<b>Cisgender</b>	A person whose sense of personal identity and gender corresponds with their birth sex.

## Appendix 2: Criminalization of diverse SOGIESC

The following data is subject to change and is based on media reports so is not fully verified but presents an indicative snapshot of the criminalization of people with diverse SOGIESC throughout the region<sup>24</sup>.

<b>Member country</b>	<b>Criminalization of same-sex sexual acts among adults</b>	<b>Criminalization based on other laws (vagrancy, public nuisance, or public morals)</b>
<b>Afghanistan</b>	Yes	Yes
<b>Armenia</b>	No	No
<b>Azerbaijan</b>	No	No
<b>Bangladesh</b>	Yes	No
<b>Bhutan</b>	No	No
<b>Brunei Darussalam</b>	Yes	No
<b>Cambodia</b>	No	No
<b>Cook Islands</b>	Yes	Yes
<b>Federated States of Micronesia</b>	No	No
<b>Fiji</b>	No	No
<b>Georgia</b>	No	No
<b>Hong Kong, China</b>	No	No
<b>India</b>	No	No
<b>Indonesia</b>	Yes	Yes
<b>Kazakhstan</b>	No	No
<b>Kiribati</b>	Yes	Yes
<b>Kyrgyz Republic</b>	No	No
<b>Lao People's Democratic Republic</b>	No	No
<b>Malaysia</b>	Yes	Yes
<b>Maldives</b>	Yes	Yes
<b>Marshall Islands</b>	No	No
<b>Mongolia</b>	No	No
<b>Myanmar</b>	Yes	No
<b>Nauru</b>	No	No
<b>Nepal</b>	No	No
<b>Niue</b>	No	No
<b>Pakistan</b>	Yes	Yes
<b>Palau</b>	No	No
<b>Papua New Guinea</b>	Yes	Yes
<b>People's Republic of China</b>	No	No
<b>Philippines</b>	No	No

<sup>24</sup> ILGA World: Lucas Ramon Mendos, Kellyn Botha, Rafael Carrano Lelis, Enrique López de la Peña, Iliia Savelev and Daron Tan, *State-Sponsored Homophobia 2020: Global Legislation Overview Update* (Geneva: ILGA, December 2020).

<b>Republic of Korea</b>	No	No
<b>Samoa</b>	Yes	No
<b>Singapore</b>	No	Yes
<b>Solomon Islands</b>	Yes	Yes
<b>Sri Lanka</b>	Yes	No
<b>Taipei, China</b>	No	No
<b>Tajikistan</b>	No	No
<b>Thailand</b>	No	No
<b>Timor-Leste</b>	No	No
<b>Tonga</b>	Yes	No
<b>Turkmenistan</b>	Yes	No
<b>Tuvalu</b>	Yes	Yes
<b>Uzbekistan</b>	Yes	No
<b>Vanuatu</b>	No	No
<b>Vietnam</b>	No	No

### Appendix 3: Benchmarking Analysis ADB Strategies and Policies with other Comparator MFIs

Asian Development Bank (ADB)	Asian Infrastructure Investment Bank (AIIB)	World Bank	International Finance Corporation (IFC)	Inter-American Development Bank (IDB)	European Bank for Reconstruction and Development
<b>Policy and Key Standards</b>					
<a href="#"><u>Safeguard Policy Statement</u></a>	<a href="#"><u>Environmental and Social Framework (2021)</u></a>	<a href="#"><u>Environmental and Social Framework (ESF)</u></a>	<a href="#"><u>Performance Standards</u></a>	<a href="#"><u>Environmental and Social Policy Framework (ESPF)</u></a>	<a href="#"><u>Environmental and Social Policy (ESP)</u></a>
<b>1. Environment</b> <b>2. Involuntary Resettlement</b> <b>3. Indigenous Peoples</b>	1. Environmental & Social Assessment & Management 2. Land Acquisition and Involuntary Resettlement 3. Indigenous Peoples	1. Assessment & Management of E & S Risks and Impacts 2. Labor and Working Conditions 3. Resource Efficiency and Pollution Prevention 4. Community Health and Safety 5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement 6. Biodiversity Conservation and Sustainable Management of Living Natural Resources 7. Indigenous Peoples 8. Cultural Heritage 9. Financial Intermediaries 10. Stakeholder Engagement	1. Assessment & Management of Environmental & Social Risks and Impacts 2. Labor and Working Conditions 3. Resource Efficiency and Pollution Prevention 4. Community Health, Safety, and Security 5. Land Acquisition and Involuntary Resettlement 6. Biodiversity Conservation and Sustainable Management of Living Natural Resources 7. Indigenous Peoples 8. Cultural Heritage	1. Assessment and Management of Environmental and Social Risks and Impacts 2. Labor and Working Conditions 3. Resource Efficiency and Pollution Prevention 4. Community Health, Safety, and Security 5. Land Acquisition and Involuntary Resettlement 6. Biodiversity Conservation and Sustainable Management of Living Natural Resources 7. Indigenous Peoples 8. Cultural Heritage 9. Gender Equality 10. Stakeholder Engagement and Information Disclosure	1. Assessment & Management of Environmental & Social Risks and Impacts 2. Labor and Working Conditions 3. Resource Efficiency and Pollution Prevention and Control 4. Community Health and Safety 5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement 6. Biodiversity Conservation and Sustainable Management of Living Natural Resources 7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities 8. Cultural Heritage 9. Financial Intermediaries 10. Stakeholder Engagement and Information Disclosure

(i) Inclusion of SOGIESC provisions in the MFI safeguard policies and standards

<p>The current ADB safeguard framework does not reference SOGIESC and there are no specific SOGIESC-related standards or policies in place that mandate the protection of sexual and gender minorities in ADB projects.</p> <p>There is not explicit or implicit mention of SOGIESC-related matters in the SPS 2009. There is no explicit or implicit mention of SOGIESC-related matters in ADB's Operation Manual Section C2/BP</p> <p>There is no explicit mention of SOGIESC-related matters in ADB's OM Section C3/BP. OM C3 however mentions "social elements such as gender, ethnicity, race, caste, age, and others". The term "others" is not defined in the OM and could be interpreted to include social elements related to SOGIESC. There is no referenced to SOGIESC-related matters in ADB's Policy</p>	<p>The current AIIB safeguard framework does not reference SOGIESC.</p>	<p>The World Bank includes sexual and gender minorities as a category of vulnerable and disadvantaged people.</p> <p>The World Bank Directive for staff: Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups defines disadvantaged or vulnerable individuals as those individuals who, by virtue of, for example, their age, gender, ethnicity, religion, physical, mental or other disability, social, civic or health status, <b>sexual orientation, gender identity</b>, economic disadvantages or indigenous status, and/or dependence on unique natural resources, may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a projects benefits.</p> <p>See: <a href="#">The World Bank Directive: Addressing Risks and Impacts on Disadvantaged or</a></p>	<p>In its Performance Standard 2 on Labor and Working Conditions, the IFC states that "the client will not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements".</p> <p>Personal characteristics are then defined as <b>gender</b>, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, or <b>sexual orientation</b>.</p>	<p>IDB's ESPF states that disadvantaged or vulnerable status may stem by virtue of disability, state of health, indigenous status, gender identity, sexual orientation, religion, race, color, ethnicity, age, language, political or other opinion, national or social origin, property, birth, economic disadvantage, or social condition.</p> <p>In its ESPS 1, the IDB stresses the need for the client to identify and address risks and impacts that may directly and differentially or disproportionately affect people because of their disadvantaged or vulnerable status including people with diverse SOGIESC.</p> <p>In its ESPS 2 on Labor and Conditions, the IDB includes SOGIESC as potential grounds for discrimination in employment and requires that the Borrower not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. Furthermore, the Borrower is required to provide special measures of protection and assistance to address the vulnerabilities of project workers including people of diverse SOGIESC.</p> <p>ESPS 6 on Biodiversity Conservation and Sustainable Management of Living Natural Resources stresses in a footnote</p>	<p>EBRD's Environmental and Social Policy (ESP) defines vulnerable people as people or groups of people who may be more adversely affected by project impacts than others by virtue of characteristics such as their gender, <b>gender identity, sexual orientation</b>, religion, ethnicity, indigenous status, age (including children, youths, and the elderly), physical or mental disability, literacy, political views, or social status.</p> <p>Furthermore, EBRD includes SOGIESC as potential discriminatory grounds in employment decisions.</p>
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<p>on Gender and Development (GAD).</p> <p>There is no mention of SOGIESC-related matters in ADB's Strategy 2030: Achieving a Prosperous, Inclusive, Resilient, and Sustainable Asia and the Pacific.</p> <p>ADB's Operational Priority 2: Accelerating Progress in Gender Equality (2019) does however explicitly mention "sexual orientation and gender identity" as an intersectional factor with gender that may disadvantage women.</p>		<p><a href="#">Vulnerable Individuals or Groups</a></p>		<p>that "the Borrower must ensure the voices of women, people of diverse sexual orientations and gender identities, African descendants, and Indigenous and other traditional peoples are included" in stakeholder engagement processes related to the determination of priority ecosystem services.</p> <p>ESPS 8 on gender equality "recognizes that diverse sexual orientations and gender identities may have the effect of excluding people making them more vulnerable to negative project impacts, which often bars them from taking advantage of the opportunities available to other members of the community" and recognizes that "SGBV, including sexual exploitation and abuse, disproportionately affect women and people of diverse sexual orientations and gender identities".</p> <p>ESPS 7 also requires the "Borrower to screen the project for potential gender-based risks and impacts that may disproportionately affect women, girls, and sexual and gender minorities" through a gender analysis.</p> <p>ESPS 10 requires the Borrower to engage with stakeholders throughout the project life cycle meaningful consultations. This includes stakeholders who are people with diverse SOGIESC or stakeholders who work with people with diverse SOGIESC.</p>	
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<b>(ii) Presence of operational SOGIESC-related guidance material for staff and clients</b>					
The ADB has not published supplementary SOGIESC-specific guidance for the implementation of its SPS.	The AIIB has not published supplementary SOGIESC-specific guidance for the implementation of its ESF.	The World Bank has developed a good practice note on non-discrimination based on sexual orientation and gender identity (SOGI) to support ESF implementation. <a href="#">Good Practice Note: Non-Discrimination: SOGI</a>  The World Bank also produces SOGIESC-specific research.	There are no IFC guidance material on the implementation of its Performance Standard 2. The IFC has however published an “Emerging Practice” report that elaborate on good practice for advancing the economic inclusion of sexual and gender minorities	The IDB has not published supplementary SOGIESC-specific guidance for the implementation of its ESPF. The IDB has however worked and contributed to SOGIESC-specific research.	While the EBRD has published numerous SOGIESC-related research studies, it has no further published guidance on the implementation of the ESP in relation to SOGIESC non-discrimination under Performance Requirement
<b>(iii) Presence of full-time staff focused on providing SOGIESC-related support</b>					
While there are no full-time staff solely focused on SOGIESC issues at the ADB, staff have supported tasks.  The ADB has also hired consultants to support on SOGIESC-specific issues.	There are no full-time staff focusing on SOGIESC issues at the AIIB.	1. World Bank Global Adviser on SOGI  2. Social development analyst  2. SOGI task force	The Gender and Economic Inclusion Group (GEIG) at the IFC leads on support for SOGIESC matters in the institutions. Staff at the GEIG typically focus on a set of topics including gender, SOGIESC, and disability.	While the IDB does not have full time staff exclusively working on SOGIESC, staff at the institution are expected to address SOGIESC in their operations as part of the ESPF. The IDB also hires consultants on an ad-hoc basis for support on SOGIESC-specific task.	While the EBRD does not have full time staff exclusively working on SOGIESC, staff at the institution are expected to address SOGIESC Performance Requirement 2 of the ESP. The EBRD also hires consultants on an ad-hoc basis for support on SOGIESC-specific task.