RESPONSIBLE MANAGEMENT OF SOCIO ENVIRONMENTAL RISKS FOR SUSTAINABLE BUSINESS DEVELOPMENT

Construction sector

Cartagena de Indias
The Regional Center for Responsible Business and Entrepreneurship (CREER) investigates, evaluates and promotes respect for human rights and sustainable development within the framework of business activities.

En consonancia con el Institute for Human Rights and Business (IHRB), CREER has proposed to promote a comprehensive agenda that connects governments, communities, companies and civil society organizations through:

- Collective construction of knowledge
- Trust based dialogue spaces
- Strengthening local capacities

All rights reserved. 2024
Introduction

During 2021 and early 2022, the Institute for Human Rights and Business (IHRB) and the Regional Center for Responsible Business and Entrepreneurship (CREER) developed their first phase of research and participation in the city of Cartagena de Indias, Colombia.

- Its purpose was to identify the local context, challenges and opportunities to promote joint agendas on Human Rights and fair transitions in their relationship with the built environments, which have to do with the planning, design and construction processes of the city, using as a reference the life cycle Framework for Dignity from Design in the Built Environment (DxD Framework), based on international Human Rights standards and the Sustainable Development Goals (SDGs).

In the second phase (2022), interviews were carried out with local leaders, collaborators from the sectors that promote economic activities in the city -tourism and construction-, as well as a workshop with various collaborators who are part of the construction sector in Cartagena.

- Its objective was to identify recommendations on human rights due diligence for the construction sector in the city of Cartagena based on the Dignity from Design framework.

This last phase allowed a limited approach to the generation of recommendations for the management of socio environmental risks.

- Based on the joint task between Camacol Bolivar and CREER, as well as the participation of companies in the construction sector in two workshops aimed at understanding the phases of a housing project and the identification of promoting situations of socio environmental risks.

The path taken and the one we intend to continue going through within the framework of this alliance between Camacol and CREER, aims to strengthen the capacities of the construction sector for the implementation of due diligence on human rights within the framework of business operations.
Who is Reino Unido?

About us?
- Thought and action Center

What we do?
- Investigation
- Multi-collaborator perspective
- Human Rights and Business
- Strengthening institutional, community and private sector capacities

What topics we work on?
- Just Transition
- Built environment
- Transitional Justice
- Oceans and Human Rights
- Security for participation
- Human rights due diligence
- Conflict transformation

What sectors we have worked with to promote these agendas?
- Mining
- Tourism
- Energetic
- Port
- Agroindustry
- Construction
- Hydrocarbons
- Governments at the three levels of the State
- Public Force
- Public ministry
- Environmental authorities
- State Agencies
- Communities
- Civil society organizations
- Academy
Why it is important to talk about socio environmental risk management?

- **Reputational, legal, financial, operational effects, among others**

- **Greater environmental and social awareness of different business sectors**

- **Greater pressure from buyers and end users**

- **Infrastructure is one of the sectors prioritized by the Public Advocate’s Office in its legislative initiative on due diligence in human rights**

A complaint was filed about the operation of a land robbery cartel in the north of Cartagena.

This cartel uses armed men and vehicles to gain ownership of land using force.

Hotel confirms they are legal and supports the community. Natives state the opposite.

Ipanema residents in Cartagena go on strike. Residents of the condominium file a complaint against the construction company for possible irregularities.

Infrastructure is one of the sectors prioritized by the Public Advocate’s Office in its legislative initiative on due diligence in human rights.

Ipanema residents in Cartagena go on strike.

Residents of the condominium file a complaint against the construction company for possible irregularities.
The process involved in the construction of a housing project has six phases:

The process is not linear; On the contrary, there is feedback expressed in the dotted arrows.

*Colors point out the phases that can occur in parallel.*
Phases of a construction project

Project idea
- Lot or land framed in a Master Plan and land requirements
  - Urban
  - Urban sprawl
  - Suburban
  - Rural
  - Protection
- Project concept (VIP, VIS and Non VIS decisions)
- Project design, corporate purpose and certifications
- Previous studies (outsourced)
- Auditors
- Tax benefits and financial decision
- Insurance
- Regulatory compliance Conservatorship Permits
  - Guardianship permits
  - Mayor's Permits
  - Analysis of availability of public services (relationship with authorities)
  - Prior consultation or community participation
  - Macro regulatory compliance: environmental, land, waste management, water, etc.

Sales
- Sales room
  - Allies for marketing and advertising
- Buyer
  - Presale
  - Sales
    - Subsidies
      - Credits (mortgages)
      - Savings
- Compliance with banking requirements
  - Review of legal requirements
  - Review of financial requirements.
  - Sales monitoring
  - Additional standards (certifications and additions)

Financing
- Alliances for marketing and advertising
- Sales
  - Financing
  - Breakeven
  - Relationship with allies
    - Suppliers, Camacol, compensation fund, banks, entities in charge of subsidies, other companies that may benefit from the project, among others
- Construcción
  - Relationship with allies
    - Suppliers, Camacol, compensation fund, banks, entities in charge of subsidies, other companies that may benefit from the project, among others
  - Relationship with public
    - Curatorship
      - Environmental authorities
      - Labor inspection
      - Local authorities
      - Police
  - Relationship with suppliers of public services
  - Relationship with suppliers of public services
- Delivery of property and common areas
  - Delivery in accordance
- Compliance of guarantees
  - Compliance of guarantees

After sales
- Relationship with allies
  - Camacol, compensation fund, entities in charge of subsidies, other companies that may benefit from the project, among others
- Keep going
Catalysts of socio environmental risks for the construction sector

1. Environmental permits depend on different environmental authorities, linked to the exact location of the project

2. Inconsistency of regulations regarding procedures related to the delivery of public space, as well as low institutional capacity to manage public space by the State*

3. Law 70 regarding the availability of trained labor and interest in training

4. Understanding and integration of socio environmental risks within development and construction companies, with the involvement of suppliers and contractors

5. Idiosyncrasy in the face of economic viability criteria and compliance with the schedule (unskilled labor)

6. Low financial capacity of some contractors who have several parallel construction projects
How to read this information

Below you will find the following format:

The catalyst
What does each catalyst mean?

Recommendations
You will find recommendations to start managing catalyst risks within the framework of the development of a housing project.

The purple background phases are the ones that present the most exacerbation, followed by the green phases and, finally, the gray phases.
In Cartagena de Indias there are two environmental authorities: EPA and CARIDIQUE, the first is the authority for the district of Cartagena and the second is the Corporación Autónoma Regional de Bolívar, with regional scope. These are responsible for the issuance of environmental permits such as environmental licenses, forestry permits, among others.

Under this scenario, there are problems in determining which authority is competent to grant these permits in each project, the different procedures that are carried out for the issuance of permits by each entity, as well as the time in which each entity takes to issue them.

This happens in cases in which a construction project is developed on the border between rural and urban areas, because both authorities claim to have jurisdiction.
Phases of housing projects where catalyst is exacerbated

- Identify the environmental authority that by mission has jurisdiction over the project.
- If the two authorities have jurisdiction, create a relationship with both to be clear from the idea phase of the project, what the conditions, processes and times are, as well as the roles and responsibilities of each of them regarding the development of the project.
- Generate initiatives or spaces for sectoral dialogue that allows the construction sector to extract learned lessons from projects where this situation has arisen.
- Share systematized information with the relevant authorities, seeking to generate approaches and reach agreements.
- An example could be the establishment of a system that promotes harmonious integration between government entities, particularly the EPA and CARDIQUE, as well as with stakeholder groups, through a channel that allows builders and neighboring communities to projects to clarify doubts or ask questions.
- Promote processes that affect and overcome the gray areas of regulations regarding environmental management and the overlap of competencies of the entities within the sector.
- Have clear and understandable information that is relevant to the collaborators of the project, explaining this catalyst, with the aim of improving the communities’ understanding of environmental processes and facilitating the relationship between construction companies and other relevant collaborators (communities, local and environmental authorities, among others).
- Generate processes for internal information management, to establish the traceability of these actions.

Recommendations

- Most exacerbation
- Intermediate exacerbation
- Less exacerbation
In Colombia it is normatively stipulated that, when private construction entities are going to carry out a project, they must deliver public space to the local or regional administration, as the case may be. However, it is not clear which entities are in charge of receiving, managing, controlling and supervising the public spaces that must be transferred by private companies.

In Cartagena de Indias, government authorities such as the Mayor’s Office and the IDER* delegate the responsibility and competence to each other to receive the public space that must be transferred by private construction companies in compliance with national regulations.

This may be a product of the officials’ lack of knowledge, the lack of capabilities to manage new spaces due to financial, human or technological issues, among others.

* Applies in the case that the urban equipment contemplates a sports scenario.
• Generate communication strategies with communities, through the social area of the project, with the aim to generate clear, simple and reliable information for communities and interest groups about the roles and missions of the different entities for the reception of public space.
  • This, with the aim that communities become allies when demanding the reception of public spaces by the competent authorities.
• Relationship with different authorities (Mayor’s Office and IDER) to establish, from the idea phase of the project, who should receive, under what conditions and when.
• Generate initiatives or spaces for sectoral dialogue that allows the construction sector to extract learned lessons from projects where situations have arisen.

• Share systematized information with relevant authorities, seeking to generate approaches and reach agreements.
• Promote processes that affect and overcome the gray areas of regulations regarding the delivery and management of public spaces.
• Promote dialogue spaces and coordinate with citizen oversight organizations or neighborhood organizations, which allow building communication with communities in the face of actions of the competent authorities.
• Generate internal management information processes, to establish the traceability of these actions.
Regulatory requirement for training and connection with Afrodescendant communities in the area of influence of the project for labor, compared to the availability to meet this demand by part of communities

Law 70 of 1993 imposes obligations for the protection of Afrodescendant communities, among these, the obligation that falls on private companies that work in rural areas to train and hire labor that is part of these communities.

The company must identify the presence of Community Councils in the project idea phase. The problem lies in the willingness of some of these communities to be trained and hired in the construction project, as well as the difficulties that arise regarding the expectations of working hours and days in the company and those that the communities may face.

This has led to challenges such as the high personnel turnover from afrodescendant communities in the area of influence, causing some contractors to decide to bring personnel from other regions of the country, with the aim of meeting the project schedule and reducing training and rotation costs.
Generate spaces for relations with the communities that are in the area of influence of the project, with the aim of identifying possible communities in the process of constitution as collective territories.
- If communities were identified in this type of process, relate them within the framework of Law 70 of 1993
- Generate clear and understandable information for communities (whether ethnic or not) where the project is explained in terms of schedules, regulations and compliance. This is intended to strengthen the awareness and commitment of the communities regarding the execution of the project schedule.
  - This must be developed both with communities that are in the certification process, and those that are already certified, as well as those that have no intention of establishing themselves as a Community Council. This is a fundamental element for managing socio environmental risks and strengthening due diligence in human rights.
- Generate initiatives or spaces for sectoral dialogue that allow the construction sector to extract learned lessons from projects where this situation has arisen, as well as identify initiatives or actions that can be replicated in other scenarios.
- Identify projects and companies in the construction sector that have a presence near the project area to generate joint strategies for community training and reduce high personnel turnover.
- Generate processes for internal information management, to establish the traceability of these actions.
Idiosyncrasy compared to criteria of economic viability and compliance with the schedule

This catalyst is related to the previous one: when a company begins the process of hiring, difficulties arise with compliance with the requirements by the communities in the area of influence of the project, in relation to the availability of labor, qualified work, which causes companies to resort to hiring personnel from other cities.

In some cases, the projects enable training spaces for communities, but people do not complete the training process or after being trained they do not want to be involved in the project. This generates additional costs for the developer and discourages companies from continuing with these training processes.
Phases of housing projects where catalyst is exacerbated

• Generate clear and understandable information for communities (whether ethnic or not) where the project is explained in terms of schedules, regulations and compliance. This is intended to strengthen the awareness and commitment of communities regarding the execution of the project schedule.
  • Explain possible routes the project will take if labor availability criteria are not met.
• Generate initiatives or spaces for sectoral dialogue that allow the construction sector to extract learned lessons from projects where this situation has arisen, as well as identify initiatives or actions that can be replicated in other scenarios.

• Identify the projects and companies in the construction sector that have a presence near the project area to generate joint training strategies for the communities, in order to reduce high personnel turnover and meet the expectations of labor relations of communities.
• Generate processes for internal information management, to establish the traceability of these actions.

Recommendations

Most exacerbation
Intermediate exacerbation
Less exacerbation

Phases of housing projects where catalyst is exacerbated
Low financial capacity of some contractors with several parallel projects

This turns out to be a constant situation identified by different companies that make up the value chain in the construction sector. In certain cases, the contracting companies allocate the money that the project gives them for the development, paying payroll and activities for other projects that they are carrying out in parallel.

This affects workers and their labor rights, as there is a delay or delay in payment for their work and their social security.
• Strengthen compliance strategies and contractual clauses to ensure that contractors comply with labor regulations for the payment of salaries, fees and social security.

• Definition and communication of the project policies, including those related to compliance with labor regulations, ethics, environmental, transparency, relationships and, where applicable, those related to Human Rights.

• Generate processes for internal information management to identify contractors that fall into these problematic situations and thus make decisions about future contracts with these companies.

• Generate communication mechanisms between the project, workers and contractors to identify possible regulatory non-compliance in terms of labor and occupational health and safety, among others.

• Generate processes for internal information management, to establish traceability of possible complaints and response actions.
Understanding and integration of socio environmental risks within development and construction companies, with the involvement of suppliers and contractors

In construction companies there are usually two departments, one focused on the social area and the other on the environmental area, with low levels of articulation between them. This creates challenges for an all inclusive understanding of the context, where the way of addressing environmental situations also responds to social expectations. This turns out to be a challenge for project development.

Some big companies have been trying to overcome this challenge by creating departments that group together the social, environmental and governance areas. However, because the phases of a project involve various collaborators, a comprehensive understanding of social and environmental issues remains a challenge.

*Remember that, when we refer to socio environmental risk management, we want the construction sector to work on strengthening human rights due diligence.*
• The environmental processes of a construction project are generally vigorous, and are accompanied by regulations, control and institutional surveillance, as well as procedures that require authorization from competent authorities. In contrast, actions that fall into the social sphere are not always formalized through clear procedures.

• Therefore, it is suggested to start from the recognition of the environmental effects that a project can generate in a given area, and ask: how can these environmental effects generate adverse repercussions on communities in the area of influence? The social area of the project must answer this question based on the relationship it maintains with these communities.

• Based on the adverse effects identified, it will be possible to guide actions, both from the social and environmental areas, for prevention, mitigation or compensation, with a functional perspective for the project that involves the vision of communities.

• Take into account the document Recommendations for human rights due diligence in the construction sector (2023), which has guiding questions that will facilitate an all-inclusive understanding of the context.

• Generate spaces for socialization, feedback and joint work between the environmental and social areas of a project.

• Generate spaces for relationship and communication with communities to present relevant information that includes, but is not limited to, the other five catalysts.

• Generate processes for internal information management, to establish the traceability of these actions.
For more information visit