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# INDIGENOUS PEOPLES POLICY FRAMEWORK

**Digital Financial Inclusion of  
Informal Sector**



**SEWA  
AHMEDABAD**

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## List of abbreviation

<i>BPL</i>	<i>Below Poverty Line</i>
<i>CBO</i>	<i>Community Based Organization</i>
<i>CLBRC</i>	<i>Community Learning and Business Resource Centres</i>
<i>CLC</i>	<i>Community Learning Center</i>
<i>EPF</i>	<i>Employees Provident Fund</i>
<i>FGD</i>	<i>Focused Group Discussion</i>
<i>FPIC</i>	<i>Free and Prior Informed Consent</i>
<i>GDP</i>	<i>Gross Domestic Product</i>
<i>GOI</i>	<i>Government of India</i>
<i>GRC</i>	<i>Grievance Redressal Cell</i>
<i>GRM</i>	<i>Grievance Redress Mechanisms</i>
<i>GRO</i>	<i>Grievance Redressal Officer</i>
<i>GRS</i>	<i>Grievance Redressal System</i>
<i>INGO</i>	<i>International Non-Government Organization</i>
<i>IPs</i>	<i>Indigenous People</i>
<i>IPPF</i>	<i>Indigenous People's Policy Framework</i>
<i>IPP</i>	<i>Indigenous People's Plan</i>
<i>JSDF</i>	<i>Japan Social Development Fund</i>
<i>LGI</i>	<i>Local Government Institutions</i>
<i>M&amp;E</i>	<i>Monitoring and Evaluation</i>
<i>NGO</i>	<i>Non-Government Organization</i>
<i>NREGA</i>	<i>National Rural Employment Guarantee Act</i>
<i>PESA</i>	<i>Panchayat Extension to Scheduled Areas</i>
<i>PF</i>	<i>Provident Fund</i>
<i>PMJDY</i>	<i>Pradhan Mantri Jan Dhan Yojana</i>
<i>SEWA</i>	<i>Self Employed Women's Association</i>
<i>TAC</i>	<i>Tribes Advisory Council</i>
<i>TOR</i>	<i>Terms of Reference</i>
<i>TOT</i>	<i>Training of Trainers</i>
<i>WB</i>	<i>World Bank</i>

## Digital Financial Inclusion of Informal Sector INDIGENOUS PEOPLES POLICY FRAMEWORK<sup>1</sup>

### 1 Background

India one of the fastest growing major economy in the world, with a GDP growth rate of 7.1% in 2016-17, has made an impressive reduction in poverty. Between 2004 and 2011, the proportion of population below the international poverty line (\$1.9 PPP/day) declined from 38.9% to 21.2%. despite this, disparities remain, and India still has the highest number of poor in the world, with approximately 270 million Indians - one in every five Indians are still below the poverty line (BPL). Further, an estimated 80% of India's labor force works in the informal sector; majority of them caught in a low productivity trap, lack employment security and the tools and means to invest for their growth. This is exacerbated by low income levels, low asset ownership and indebtedness to informal moneylenders, and excludes them from accessing resources they need to improve their life, thus, leaving them in a poverty trap. This is especially sphere for the rural population, which is approximately 70% of India's population estimated 1.34 billion (2017).

Financial inclusion is a key enabler in reducing poverty and promoting shared prosperity, and India has made significant strides in advancing financial inclusion over the past few years, including rapid increase in bank account ownership. Despite the strides made, **there is still a substantial gender gap** in financial inclusion. As per Global Findex Database, 62% of males over 15 years in India held accounts at a financial institution in 2014 while only 43% of females over 15 years held accounts at a financial institution. This gender gap of 19% is significantly higher than the global gender gap of 7%. A gender divide can also be noted in other aspects of banking services for instance, a 10% gender gap<sup>2</sup> was noted in opening accounts under PMJDY - with 73% of men applying for accounts against 63% of women in 2014; a similar trend can be observed in savings and credit parameters as well.

**Table 1- Gender divide in the Banking services**

Parameter <sup>3</sup>	Men (over 15 yrs)		Women (over 15 years)	
	2014	2017	2014	2017
Saved at a financial institution	18%	22%	10%	17%
Borrowed from financial institution	8%	8%	5%	5%

<sup>1</sup> The IP framework is based on the World Bank's Operational Policy 4.10 on Indigenous Peoples.

<sup>2</sup> A world bank study- <http://documents.worldbank.org/curated/en/504741506452393306/pdf/WPS8205.pdf>

<sup>3</sup> Global Findex Database, 2014 and 2018 data.

Similar gap can be seen in rural-urban account ownership, wherein substantial rural-urban divide persists. One of the major reasons attributes towards this gap is less number of branches per 100,000 of population in rural and semi-urban areas, which is less than half of that in urban and metropolitan areas. Though this penetration varies from region to region, states in the eastern, north-eastern and central regions are less penetrated in terms of number of branches. The penetration of deposit services is high across most of the country, however, the penetration of credit and insurance services are low, as shown in the table below.

**Table 2- Banking facility in the project states**

<b>State</b>	<b>Deposit penetration</b>	<b>Credit penetration</b>	<b>Insurance penetration</b>
Gujarat	High	Below Average	High
Rajasthan	High	Below Average	Below Average
Uttar Pradesh	High	Below Average	Below Average
Bihar	Above Average	Below Average	Below Average
Assam	High	Below Average	Below Average
Meghalaya	Below Average	Low	Low

## **2 The Project**

The development objective of the proposed Digital Financial Inclusion of Informal Sector Project is to empower marginalized households, particularly women, by making them financially literate and proficient in using mobile technology and forging new partnerships with financial institutions and payment service providers, so that they can access formal financial instruments and improve livelihoods, become self-reliance, and lift themselves out of poverty.

This project is being implemented through SEWA, with funding from a JSDF grant. Intended project beneficiaries are therefore, SEWA members who are women and work in the informal sector and do not have fixed incomes. These women belong to marginalized households and to communities living in remote, rural areas. They have little or no access to institutional credit, technology and markets. SEWA, a community-based organization of poor, self-employed women workers with a membership of over 2 million women across 14 states in India, was established in 1972 as a trade union, and has since working to improve the livelihoods (bringing full employment) of its members through various initiatives in training, microfinance, market linkages, natural resource management and other areas. For the proposed project, SEWA, seeks to use this collective to improve women's bargaining power, and enhance opportunities for income generation and

markets. Full employment, as per SEWA, means that in addition to income, members obtain food, social security, health care, childcare, and shelter.

This project will target SEWA members<sup>4</sup> in the states of Bihar, Uttar Pradesh, Rajasthan, Meghalaya, Assam and Gujarat with added focus on the indigenous groups. Within its membership in these states, the project will identify and include women who lack access and capacity to access digital/mobile technologies for financial transactions. On principle, SEWA does not discriminate groups by caste / creed, rather, it ensures 100% coverage of beneficiaries in the target areas. However, as the project is facilitated through World Bank, and the safeguard policy on 4.10 (Indigenous People) has been triggered, targeted interventions will be taken to ensure inclusion of vulnerable, including indigenous. The project aims at enhancing digital financial literacy of these members.

The project has the following components:

- Needs assessment and technology mapping - This component will conduct a detailed assessment of target beneficiaries to understand their socioeconomic status, access to digital devices such as smartphones, livelihood activities, financial needs, level of digital literacy, level of financial literacy, the gaps, concerns and issues with adopting technology, and other related aspects. The assessment will study the lifecycle needs of the livelihood activities undertaken by marginalized women and vulnerable communities to identify points/areas where adoption of Fintech can increase productivity, sustainability and incomes.

Based on the assessment, the component will identify technology products most suitable for the needs and aspirations of target beneficiaries and their livelihood activities. This may include applications/digital products for banking, mobile wallets, utility payments, money transfer/remittances, applying for small loans, micro-savings, mutual fund investments and others. Technology mapping will be undertaken for multiple digital mediums including smartphones, feature phones and computers.

- Strengthening SEWA's delivery system for improving financial and technology awareness – This component will focus on strengthening SEWA's institutional capacity to generate digital and financial awareness at the grassroots, train grassroots members in digital finance applications and effect large scale Fintech transformation in the target states. Activities will focus on:
  - Strengthening SMS by developing modules
  - Building grassroots training capacity

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<sup>4</sup> Total membership in the states of Assam, UP, Gujarat, Rajasthan, and Meghalaya are 819700 women from the informal sector, which might increase during project implementation.

- Expanding SEWA touch points
- Catalyzing Fintech adoption at the grassroots – This component will promote digital technologies/products through a mix of classroom sessions, events, village meetings, community radio broadcasts, narrowcasts, videos, street plays, radio advertisements, WhatsApp broadcasts and other channels available to SEWA. Partnerships with technology/telecom firms will be leveraged to change the mindset of the rural customer towards adoption and address their key concerns regarding the technology providers. Advocacy programs arranged in partnership with technology firms will boost the trust building process and speed up adoption. The component will also explore using small mobile rechargers and shops as touch points for the advocacy programs. Digital opportunities will be designed for young members to drive the process.
- Monitoring and Evaluation, Impact Assessment, Capacity Building and Project Management and Administration – In order to help ensure good project management, and governance and accountability including financial management for within the project implementing agency and the associated partners, this component would support a small administration unit dedicated to implementing the project and will support the incremental administrative and operational costs of the project at SEWA. The unit will be responsible for implementing the grant, including hiring and supervising of implementing partners, facilitating contacts with key partners, organization of training, preparation of TORs for consultants. The project will hire a full time Project Manager, Project Accountant and representatives from within the community as well as some support staff. This component will also include training and capacity building of SEWA staff to execute the project, through workshops, exposure visits, ToTs and internal training programs.

**Table 3: SEWA Membership in identified project state as of August 2018**

State	Membership 2017	Membership 2018
Gujarat	749139	667000
Uttar Pradesh	110080	140000
Assam	440	1000
Meghalaya	500	700
Rajasthan	-	11000
<b>Total</b>	<b>860159</b>	<b>819700</b>

### 3 Benefits to Communities and Indigenous Peoples

The Project is expected to affect indigenous people positively, as they will be included in its activities to increase citizen’s usage of digital services. Project’s component on *needs assessment and technology mapping* will identify technology products such as: applications/digital products

for banking, mobile wallets, utility payments, money transfer/remittances, mutual fund investments, etc. to promote livelihood activities of the target groups. The project will also establish partnerships with various technology providers including telecom companies such as Vodafone, Airtel, Reliance Jio, Idea; financial institutions such as State Bank of India (SBI), ICICI Bank, Axis Bank, HDFC Bank, Bank of India and Bank of Baroda; credit card services such as Mastercard; payments/remittance service providers such as Paytm, Mobikwik, Eko, etc. All these activities will reduce regional gaps, rural-urban gaps and gender gaps. Indigenous people will benefit significantly as digital information and services will be made available to them through their mobile phones or via third party intermediaries' assistance, such as Amazon and Airbnb.

The Project is not expected to affect indigenous people negatively. It has no major construction work due to its digital/virtual nature. All equipment will be set up within the existing premises. Further, a Project Management/Administrative Unit will be established and headed by a representative of SEWA and composed of Project Manager, Finance Manager, Procurement Specialist, Digital Lead and an M&E Specialist. In addition, a full-time Safeguards Officer will be hired. The implementation and coordination of the sub-projects will be done through SEWA. Typical sub-projects will include forging new partnerships with financial institutions and payment service providers, demystifying digital financial products and services to enhance adoption and utilization by women entrepreneurs in the informal sector and the more marginalized among them, all of which have minimal environmental impact and a significant amount of social and economic benefits.

Project activities will ensure that Indigenous Peoples (IP), when present, are part of the beneficiaries in the overall project and that they actively participate in the social assessment, community planning and sub-project identification and management processes. To support the strategy development process, a baseline social survey and assessment of the project communities will be conducted to identify the key beneficiary groups, their skills, social challenges and other relevant information. The assessment will identify the critical constraints to adoption of digital financial products and services by the IPs and other vulnerable women entrepreneurs and the marginalized. The program will enhance financial literacy and enhance proficiency of IPs and other marginalized women in using mobile technology to improve access to formal financial instruments. These activities will enhance the productive activities of the beneficiaries, improve livelihoods and increase incomes.

While the Project does not anticipate negative impacts on IPs, this IP Framework is prepared as a safeguard for IPs and to provide further guidance to project staff when working on developmental aspects with IPs. Being demand-driven in character, the exact location and nature of the community sub-projects are still undetermined. The Project will, therefore, prepare IPP in subprojects, when appropriate. See Annex-1 on IP subproject format and elements of the plan.

## 4 Framework Objectives

The IP Policy Framework seek to ensure that if IPs are affected by a subproject they are adequately and fully consulted; receive benefits and compensation equal to that of the mainstream population; are provided with special assistance as per laws and policies because of their vulnerabilities vis-à-vis the mainstream population; and receive adequate protection against project adverse impacts on their culture identities. IPPF strive to ensure that Indigenous Peoples are informed, meaningfully consulted and mobilized to participate in the identification, planning, implementation, monitoring and evaluation of sub-projects to be supported by the project. Their participation can provide them benefits with more certainty and/or protect them from any potential adverse impacts of sub-projects to be financed by the Project.

The Indigenous People Policy Framework is based on the World Bank's Operational Policy 4.10 and contributes to the Bank's mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous (tribal) Peoples. For all the Bank's assisted projects that affect IPs, an Indigenous People's Policy Framework is prepared through a process of free, prior, and informed consultation with the primary stakeholders, to ensure measures for (a) avoiding potentially adverse effects on the Indigenous Peoples' communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. The main objectives of the Framework are to:

- Ensure the Project activities and interventions uphold the social and cultural norms and practices of the ethnic community/IPs or other vulnerable communities;
- Ensure that the Project engages with the ethnic communities in a free, prior, and informed consultation through processes that are appropriate to the local institutional context, ensuring that their participation is meaningful in the entire process of preparation, implementation and monitoring of the sub projects and related activities;
- Ascertain that the Project does not inadvertently lead to or induce disempowerment, or increase disparities between the ethnic community/other vulnerable and 'mainstream' communities;
- Ensure information dissemination is done through local language on leaflets and other appropriate medium, adequate communication with the local headmen and local leaders;
- Ensure capacity building of service providers by sensitizing them about the vulnerabilities of the indigenous people;
- Avoid, minimize, and/or mitigate any kind of adverse impacts on ethnic community households, including on their livelihoods;

- Establish appropriate strategies for information sharing, communication, training, and decision-making with the different ethnic communities (women and men, where applicable) at all stages of the Project; and
- Ensure that the Project benefits and investments are equally accessible to the ethnic groups and other vulnerable communities inhabiting the Project area.

Most of the indigenous peoples in the project locations are fully mainstreamed into the local social, cultural, and economic institutions due to their livelihood requirements. However, given that they are present in project locations, the Indigenous People Policy Framework will be incorporated within the overall Project design. The need for an Indigenous People Policy Framework will be established during the Project's preparation, based on screening using the following criteria:

- Presence of ethnic community/indigenous and other vulnerable communities in the target areas;
- Adverse impacts on customary rights of use and access to land and natural resources, including common area and grazing lands;
- Negative impacts on socio-economic or cultural identity of ethnic community or other sub-groups;
- Impacts that may undermine indigenous knowledge and customary institutions; and
- Focused consultations (FGDs) with small ethnic community and other vulnerable communities on interventions.

## **5 Definitions**

No single definition can capture the diversity of the indigenous peoples, as they are found in varied and changing contexts. As such, the Project will use the World Bank and other development partner guidelines to identify Indigenous people geographic areas by examining the following characteristics:

- self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;
- customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
- an indigenous language, often different from the official language of the country or region.

Table below shows the distribution of indigenous communities living in the project areas.

**Table 4: Distribution of IPs in the project areas**

<b>S.NO</b>	<b>Location</b>	<b>Indigenous People Community</b>
<b>1.</b>	Gujarat	Bhil, Dhodia, Gond, Siddi, Bordia Rathva, Vasava, Nayka
<b>2.</b>	Rajasthan	Bhil, Damor, Garasia, Meena, Sahariya
<b>3.</b>	Uttar Pradesh	Bhoti, Buxa, Jaunsari, Tharu, and Raji
<b>4.</b>	Assam	Boro, Kachari, Mikir (Karbi), Lalung, Hajong
<b>5.</b>	Meghalaya	Khasi, Garo and Jaintiya
<b>6.</b>	Bihar	Asur, Banjara, Birhor, Korwa, Oraon, Santhal

Source: <https://pdfs.semanticscholar.org>

## **6 Legal Framework**

In order to safeguard IPs and to empower them, there are also important legal provisions to safeguard their interests like: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Scheduled Castes and Scheduled Tribes: (Prevention of Atrocities) Rules, 1995, provision of Scheduled Areas under 5th Schedule of the Constitution and Panchayat Extension to Scheduled Areas (PESA) Act to safeguard their rights and development. In compliance with these constitutional provisions, and in accordance with the World Bank's Operational Policy 4.10 on Indigenous People, an Indigenous People's Policy Framework is prepared.

## 6.1 LEGAL AND INSTITUTIONAL FRAMEWOR

National level applicable Policies, Acts, Rules and Standards: As an expanding organization, the following laws are relevant for the given project

S.NO	Provisions	Applicable/Project relevant provisions	Implications
<i>National level</i>			
<b>A. Constitution of India</b>			
1.	Article 39 (A)	<ul style="list-style-type: none"> <li>• Equal rights to men and women to adequate means of livelihood;</li> <li>• Equal pay for men and women;</li> <li>• To protect health and strength of workers and tender age of children</li> </ul>	<ul style="list-style-type: none"> <li>• Social impact assessment and action plan deals with creation of employment, extending micro credits, capacity building, and skill development to ensure livelihood.</li> </ul>
2.	Article 47	<ul style="list-style-type: none"> <li>• Raising standard of living and improvement of public health. Public health also includes protection and improvement of environment</li> </ul>	<ul style="list-style-type: none"> <li>• The standard of living and improvement of public health for all citizens of the proposed project areas</li> </ul>
<b>B. Acts</b>			
1.	Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013	<ul style="list-style-type: none"> <li>• In consultation with Local Governments and Gram sabhas established under the constitution a humane and participative informed and transparent process for land acquisition for industrialization, development of infrastructure facility and urbanization with least disturbance to the owners of the land and other affected families and provide just and fair</li> </ul>	Land Acquisition as per LA R & R Act 2013; not applicable in this project, as no land will be acquired

S.NO	Provisions	Applicable/Project relevant provisions	Implications
		compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition an make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post-acquisition social and economic status.	

### Labour Laws

1.	Workman Compensation Act 1923:	The Act provides for compensation in case of injury by accident arising out of and during the course of employment	The Act will be applicable in case of an injury or accident to workmen for providing compensation as per statute.
2.	Payment of Gratuity Act 1972	Gratuity is payable to an employee under the Act on satisfaction of certain conditions on separation if an employee has completed 5 years' service or more or on death the rate of 15 days wages for every completed year of service. The Act is applicable to all establishments employing 10 or more employees.	Many of the project activities involve very large contracts employing more than 10 employees and the Gratuity Act as well as employees EPF Act are applicable. Suitable conditions will be laid out in the tender documents to ensure compliance to these Acts.
3.	Employees P.F. and Miscellaneous Provision Act 1952 (since amended):	The act Provides for monthly contribution by the employer plus workers @ 10% or	

S.NO	Provisions	Applicable/Project relevant provisions	Implications
		<p>8.33%. The benefits payable under the Act are:</p> <ul style="list-style-type: none"> <li>- Pension or family pension on retirement or death, as the case may be.</li> <li>- Deposit linked insurance on the death in harness of the worker.</li> <li>- Payment of P.F. accumulation on retirement/death etc.</li> </ul>	
4.	Maternity Benefit Act 1961	The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.	This will be enacted through the contractor where applicable
5.	Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013:	This Act defines sexual harassment in the workplace, provides for an enquiry procedure in case of complaints and mandates the setting up of an Internal Complaints Committee.	This will be part of the checklist for evaluation of the tenders for sub-project implementation the compliance of which will be monitored through SEWA and third-party agency / NGO.
6.	Contract Labor (Regulation & Abolition) Act 1970	The Act provides for welfare measures to be provided by the Contractor to contract labor and in case the Contractor fails to provide, the same are required to be provided, by the Principal Employer by Law. The Principal Employer is required to take Certificate of Registration and the Contractor is required to take license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if they employ 20 or more contract labour.	If the project activities involve large contracts employing more than 20 employees, this Act will be applicable. Suitable conditions will be laid out in the tender documents to ensure compliance to this Act.

<b>S.NO</b>	<b>Provisions</b>	<b>Applicable/Project relevant provisions</b>	<b>Implications</b>
7.	Minimum Wage Act 1948:	The Employer is supposed to pay not less than Minimum Wages fixed by appropriate Government as per provisions of the Act if the employment is a schedule employment. Construction of Buildings, Roads, and Runways are schedule employments.	Minimum wages Act will be applicable, and the contractor is to be mandated to provide compliance as per guidelines stipulated by SEWA.
8.	Payment of Wages Act 1936:	It lays down as to by what date the wages are to be paid, when it will be paid and what deductions can be made from the wages of the workers.	These Acts if applicable the contractor will be mandated to provide compliance as per agreed terms of payment of Wages and bonuses.
9.	Equal Remuneration Act 1976:	The Act provides for payment of equal wages for work of equal nature to Male and Female workers and for not making discrimination against Female employees in the matters of transfers, training and promotions etc.	
10.	Trade Unions Act 1926:	The Act lays down the procedure for registration of trade unions of workmen and employers. The Trade Unions registered under the Act have been given certain immunities from civil and criminal liabilities.	The implementation of the Act will be monitored through the contractor by SEWA and or / third party monitoring agency.
11.	Child Labour (Prohibition & Regulation) Act 1986:	The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulation of employment of children in all other occupations and processes. Employment of	This Act is applicable in the sub-project and 100% compliance is enforced. As such the World Bank prohibits child labour and it is a criminal offence to encourage child labour in the Bank funded projects.

S.NO	Provisions	Applicable/Project relevant provisions	Implications
		Child Labour is prohibited in Building and Construction Industry.	
12.	The Personal Injuries (Compensation Insurance) Act, 1963:	This Act provides for the employer's liability and responsibility to pay compensation to employees where workmen sustain personal injuries in the course of employment.	This is an important Act applicable to the workmen in the sub-projects. The coverage, liability and responsibility documented by the contractor will be scrutinized as part of bid evaluation and continuously monitored by SEWA during the project period.

## 6.2 National policies applicable to Indigenous Communities

GoI has been sensitive to the needs of the Indigenous population of India. The Supreme Court has aptly summed up the Indigenous situation in India, "...*Indigenous areas have their own problems. Indigenous s are historically weaker sections of the society. They need the protection of the laws as they are gullible and fall prey to the tactics of unscrupulous people and are susceptible to exploitation on account of their innocence, poverty and backwardness extending over centuries.*" Many safeguards are provided under the constitution to safeguard the interests of Indigenous s. This section reviews such safeguards and the associated laws and regulations governing Indigenous development and water and sanitation activities in the state.

### Constitutional Safeguards

**Table 5: The constitutional safeguards related to Indigenous:**

2.3.1	<b>Article 14, related to equal rights and opportunities</b>
2.3.2	Article 15, prohibits discrimination on grounds of sex, religion, race, caste etc.
2.3.3	Article 15 (4), enjoins upon the state to make special provisions for the STs
2.3.4	Article 16 (3), empowers states to make special provisions for reservation in appointments or posts in favour of STs
2.3.5	Article 46, enjoins upon states to promote with special care educational and economic interests of STs, protection from social injustice and exploitation
2.3.6	Article 275 (I), grant-in-aid for promoting the welfare of STs
2.3.7	Article 330, 332, 335, related to the reservation of seats for STs in Lok Sabha and State Assemblies; and
2.3.8	Article 339, 340, related to Control of the Union over the Welfare of STs and powers to investigations thereof. One of the important Acts which ensures Social Safeguards of the STs is "Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

## 6.3 Important legal provisions to safeguard Indigenous interests

### **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

This Act recognizes and vests forest rights and occupation on forest land in forest dwellings to scheduled tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded. The Act provides for a framework for

recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

### **The Scheduled Castes and Scheduled Tribes: (Prevention of Atrocities) Rules, 1995**

This Act provides for specific provisions to prevent atrocities on the Scheduled Castes and the Scheduled Tribes and suggests State Governments to frame rules for the same. These include identification of areas where atrocity may take place or there is an apprehension of re-occurrence of an offence under the Act. The State Government is required to set up a “**Scheduled Castes and the Scheduled Tribes Protection Cell**” at the state headquarters headed by the Director of Police, Inspector-General of Police. This Cell is responsible for, conducting survey of the identified area; maintaining public order and tranquility in the identified area; recommending deployment of special police or establishment of special police post in the identified area; and restoring the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes. It can be summed up that the protective provisions safeguard Indigenous people from social injustices and all forms of exploitation, while the developmental provisions promote special care for the educational and economic interests of the weaker sections like the Indigenous s and SCs. Further, administrative provisions under the Fifth and Sixth Schedules give special powers to the state for the protection and governance of Indigenous areas and the reservation provisions ensure due representation in legislative bodies and government jobs.

### **Provision of Scheduled Areas under 5th Schedule of the Constitution**

In order to protect the interests of the Scheduled tribes, the provision of “Fifth Schedule” is enshrined in the Constitution under article 244 (2). The Fifth Schedule under article 244 (2) of the Constitution defines "Scheduled Areas" as such areas as the President may by Order declare to be Scheduled Areas after consultation with the governor of that State. The criteria for declaring any area as a "Scheduled Area "under the Fifth Schedule are:

- Preponderance of Indigenous population,
- Compactness and reasonable size of the area,
- Available administrative entity such as district, block or taluk, and
- Economic backwardness of the area as compared to neighboring areas.

### **Purpose and Advantage of Scheduled Areas:**

Scheduled Areas have certain distinct provisions meant to protect and benefit Indigenous people in a State:

The Governor of a State which has Scheduled Areas is empowered to make regulations in respect of (1) prohibit or restrict transfer of land from Indigenous s; (2) regulate the business of money

lending to the members of STs. In making any such regulation, the Governor may repeal or amend any Act of Parliament or of the Legislature of the State, which is applicable to the area in question.

- The Governor may by public notification direct that any particular Act of Parliament or Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to such area subject to such expectations and modifications as may be specified.
- The Governor of a State having Scheduled Areas therein, shall annually, or whenever so required by the President of India, make a report to the President regarding the administration of the Scheduled Areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said area.
- Tribes Advisory Council [TAC] shall be established in States having Scheduled Areas. The TAC may also be established in any State having Scheduled Tribes but not Scheduled Areas on the direction of the President of India. The TAC consists of more than twenty members of whom, as nearly as may be, three fourth are from the representatives of Scheduled Tribes in the Legislative Assembly of the State. The role of TAC is to advise the State Government on matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to it by the Governor.
- The Panchayats (Extension to Scheduled Areas), Act 1996, which the provisions of Panchayats, contained in Part IX of the Constitution, were extended to Schedule Areas, also contains special provisions for the benefit of Scheduled Tribes.

#### **6.4 Panchayat Extension to Scheduled Areas (PESA) Act**

The 73rd and 74th Constitutional (Amendments of 1992), accommodate special powers to PRIs, were later extended, with separate provisions to the Scheduled Areas as well through the Panchayat (Extension to the Scheduled Areas) Act of 1996. With the strength and support of PESA Act, 1996 the PRI bodies at the district and village level have been vested special functional powers and responsibilities to ensure effective participation of the Indigenous people in their own development. This also helps preserve and conserve traditional rights over natural resources.

A summary of powers given to PRIs under PESA Act is given below:

**Table 6: Powers given to Gram Sabhas under PESA Act**

Gram Sabha Gram	Gram Panchayat	Block Panchayat	Zilla Parishad
<ul style="list-style-type: none"> <li>▪ Listing of development projects for execution through Gram Panchayats.</li> <li>▪ Identification and recommendation of beneficiaries under poverty alleviation programs.</li> <li>▪ Any proposal/ plan presented by the Gram Panchayats needs prior consultation and approval with the Gram Sabha.</li> <li>▪ Prior approval for collection of taxes.</li> <li>▪ Wherever necessary asking for information from gram panchayats.</li> <li>▪ Intervene in conflict resolution through traditional and customary traditional methods if required.</li> <li>▪ Gram Sabha has power to safeguard the cultural identity, community resources and dispute resolution per traditional customs and regulations.</li> <li>▪ Control and supervision of functions and powers of Gram Panchayats.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Enforcement of prohibition of regulation or restriction of the sale and consumption of any intoxicant.</li> <li>▪ The ownership of Minor Forest Produce.</li> <li>▪ Prevention of alienation of land and restoration of any unlawful land of a Scheduled Tribe.</li> <li>▪ Control over the money lending to the Scheduled Tribe.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The powers of control and supervision of activities of various organizations and individuals and their office bearers engaged in social work</li> <li>▪ Consulting the Gram Sabha wherever necessary.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Approval to obtain concession for raising minor minerals, lease and licenses for mining activities or auctioning of minor mineral products.</li> <li>▪ Prior approval of Zilla Parishad, for land acquisition or rehabilitation of affected people with or without consultation with the Gram Sabha.</li> <li>▪ Planning and management of minor water bodies.</li> </ul>

## **Fifth and Sixth Schedule Areas:**

The Indian Constitution protects Indigenous interests through the Fifth and Sixth Schedules. Sixth Schedule is applicable in Assam, Meghalaya, Tripura and Mizoram. Fifth Schedule, applicable in all the other identified Indigenous regions, guarantees Indigenous autonomy and Tribal rights over land through a Tribal Advisory Council in each State.

### **6.5 Application of WB social safeguard policies**

<b>Safeguard Policies</b>	<b>Triggered</b>	<b>Explanation</b>
OP 4.10 - Indigenous Peoples	Yes	The world bank recognizes Indigenous / tribal people as “group of community members with collective attachment” to distinct habitats or territories and the natural resources therein; the presence of “customary cultural, social, economic or political institutions” separate from those of the dominant society; and, an Indigenous language, often different from the national language." As the project area, include areas notified as distinguished Indigenous area consisting of Indigenous people with separate institution, it is important that their participation is ensured, and their voices are heard. The policy on Indigenous people will ensures that project activities do not adversely affect Indigenous community.
OP 4.12 Involuntary Resettlement	No	The sub-projects will be implemented in existing settlement areas and are not envisaged to acquiring land (government or private). However, to avoid acquiring land, the borrower will be advised to implement project in the existing land. However, in case, the borrower thinks if any case, land is to be acquired, SEWA is recommended prepare a Resettlement Action Plan complying with OP 4.12 to define inclusion principles.

## **7 Framework Guiding Principles**

The Digital Financial Inclusion Project shall ensure that poor communities of Indigenous Peoples are given priority in the consultation and decision-making processes, especially when sub-projects pose potential adverse impacts to them as a community. The Project must, with absolute certainty,

assure that IPs do not suffer adverse effects during and after the project implementation as well as receive culturally compatible social and economic benefits. Implementing partners ensure at all times that development processes implemented by the Project will foster full respect for the Indigenous Peoples' dignity, human rights and cultural uniqueness.

Consensus of all IP members affected must be determined in accordance with their respective laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the sub-project activity, in a language and process understandable to the community. The process of obtaining the Free and Prior Informed Consent (FPIC) shall take into consideration the primary and customary practices of consensus-building.

Subproject designs must at all times be consistent with the traditional and cultural practices of the IP group in the area.

## **8 Framework Operational Strategies**

- *Technical Assistance for IP Communities.* The IPs in project sites shall participate in the identification and planning for sub-projects that will impact them. In informal sector where IPs are not dominant, the Project shall ensure that technical assistance is provided to enable the IPs to participate meaningfully in the planning process. This may mean deployment of competent and committed Project partners who can work with IP groups and ensure that IP prioritized plans and projects are integrated and supported by project partners, as reflected in their projects, and into investment plans.
- *Use of Appropriate Communication Media, Strategies and Tactics for Mobilization.* Presentation meetings must be conducted in the local or native language. In addition, facilitators must use simple and uncomplicated process flows during these sessions.
- *Proper Documentation of Interactions with IP Communities and Compliance to Agreements Made.* Project implementers adhere to the requirements for documentation of meetings and consultations conducted with IP communities.

The administrative unit shall not proceed with sub-project endorsements or appraisal processes, unless the corresponding documentation of meetings and consultations with the IP communities are attached to the sub-project proposals submitted for review/approval.

## **9 Gender analysis**

At the household level, women are largely responsible for financial management and therefore, access to improved financial products has a specific gender dimension. The financial freedom is still elusive to large number of women in India; according to the Findex database around 77% of

Indian women now own a bank account against respective 43% and 26% in 2014 and 2011. On this basic measure of financial inclusion, females are more financially included than before, however, almost half of the account remained inactive in the past year (World Bank reports). Further, the numbers are very disappointing in case of Indigenous (2011 census, 44.98% of ST households have bank accounts, and the numbers for indigenous women are not known, though given their socio-economic status, and considering the small number of total indigenous peoples with bank account, it can be easily said that the numbers are very small).

A number of factors contribute to accentuate gender inequalities in finance in India: gender gaps are large and persistent in unemployment, low wages, unpaid care work, low female labour force participation rate, safety concerns, socio-cultural restrictions prevent their empowerment, poor bargaining and decision-taking strength, lack of collateral (title or formal ownership of material assets) makes many of them high-risk borrowers, etc. All these inherent disadvantages discourage many women from approaching banks, who in turn, do not often inspire their confidence. An overall lack of empowerment therefore reflects in low awareness and demand for financial inclusion.

A considerable gender gap exists in mobile phone ownership and usage patterns, as high as 23 percent in the case of India. Furthermore, the gender gap in mobile ownership and usage widens in rural areas. The gender gap in ownership is 27 percent in rural India as against 14 percent in urban India. The gender gap in use of mobile internet is 72 percent in rural India as against 63 percent in urban India.

Considering that about 10% of India's total entrepreneurs are women, and that 98% of women are concentrated in micro-enterprises and informal (99%) segments, the virtual lack of access to formal credit is a huge constraint. Indian women are less financially included than men by other metrics as well. They are half as likely to own debit cards (22% versus 43% of men), comparing poorly with 63% of Chinese women who do with lower gender gap (7 points) and the 35% in developing countries and 43% globally who too face lower gender gaps (10 and 11). Account usage for remittances, including digitally, by women is low (22%) while credit-card ownership (2%) and use (6%) abysmal. The project would strive to improve these numbers, especially among indigenous community.

## **10 Baseline condition**

Project planning processes will include preparation of a baseline on the socioeconomic profile and resource dependence of the ethnic groups/indigenous in the Project area, along with other relevant information, such as their participation in community decision-making, participation within local institutions and customs, and language and cultural markers, etc. Based on the consultations, key issues of the ethnic community/IPs and other marginalized groups with respect to Project interventions will be summarized and will form part of the baseline. Every plan will contain a

separate section on the baseline small ethnic group situation, if present. This baseline will be used in the preparation of the Indigenous People Plan.

For the preparation of this IPPF, discussions with the representatives of SEWA, and field visits to the project states of Gujarat, Rajasthan, Assam and Meghalaya were held. It was observed that overall, the key interventions of the program are expected to result in substantial social and environmental benefits to the project beneficiaries; IPs and especially, those belonging to the poor and vulnerable sections. Hence, any adverse impacts that are sensitive, diverse and unprecedented on the environment and/or people are not foreseen. However, planned efforts are needed to ensure that project interventions do result in sustainable social and environmental benefits, as project beneficiaries are very diverse, so are their socio-economic conditions.

1. Nearly 90% of the project beneficiaries (indigenous and other marginalized groups) are small and marginal farmers. Within these, nearly 50% are landless and engaged as daily wage earners under NREGA. Nearly 10% members are making their livelihood through dairy, (cows, buffalos and goats), though the production is very low; all the cattle are indigenous.
  - a. Potential to expand dairying as alternate source of livelihood- adequate training on clean milk production, and balanced ration to cattle will be helpful, especially in the states of *Gujarat and Rajasthan, UP, and Bihar*.
2. Significant number of women have bank accounts in their name opened under the *Jan Dhan Yojana*, however, due to lack of transaction, more than 80% of those accounts have been frozen. This is also attributed to (i) poor knowledge and awareness about bank accounts; (ii) less or no bank branches in the vicinity; (iii) poor penetration of ATMs; and (iv) preference for cash transaction (especially for daily chores and business purposes); and (v) concerns like hacking of accounts, loss of money while transacting online, etc.
3. Considerable gap exists in mobile phone ownership and usage patterns- though mobile connections are common (every family has one phone), ownership among women still lags; internet connection and awareness about net and its usage straggles.
  - a. Beneficiaries of the **NE (Assam, Meghalaya)** are better off as far as awareness on internet and mobile banking is concerned.
4. Poor network and internet connectivity is another hurdle and adversely affecting them from owning phones/ opting internet/ data services.
  - a. Number of women expressed desire to buy phones; affordability is an issue- poor financial condition
  - b. No woman in Paanibar village which is predominantly comprised of members from **Rathwa and Naika tribes** has a mobile phone. Each family, however, owns a phone. Women have never aspired to possess one.

5. Beneficiaries of Rajasthan (Dungarpur) are more aware; significant number of women have bank accounts; regularly banking, (deposit and withdrawal of money), and all the bank accounts are linked with aadhar cards. About 80% of women have mobile phones, though, awareness about internet and mobile banking / online transaction is poor.
6. Despite this, support for the project is very high as women see the value of digital and mobile connectivity.

## **11 Consultation with community members**

Free, prior, and informed consultations will be held with small ethnic and other vulnerable communities, CBOs, NGOs, and small ethnic community institutions (if any) where ethnic community/ indigenous populations are found to be in the sub-Project areas. These free, prior, and informed consultations will take place during resource development planning process, and their broad community support will be documented. The following mechanisms will be followed:

- Separate consultations with indigenous and other vulnerable communities will be organized for every such group identified during the sub-Project preparation stage;
- Where indigenous community populations are in the minority, exclusive consultations with them, their leaders, NGOS, and any relevant stakeholders will be conducted to identify the priorities and strategies for ensuring indigenous people's inclusion in Project institutions, interventions, and benefits;
- Regular meetings with IPs for information sharing and consultation during the planning stages;
- Monthly meetings during the implementation stages of the Project; and
- The Project will enhance awareness of its interventions among local IPs through timely and routine publication and dissemination of information on the sub-Project interventions in communication strategies that are locally acceptable and understandable.

## **12 Capacity Building**

- The Project will provide an action plan to address the capacity enhancement needs of vulnerable groups including indigenous communities and ensure that they will be made aware of the benefits of digital services through the awareness campaigns and are able to utilize the digital services introduced and/or to reach out to third party intermediaries who can assist them in the online transaction.
- The administrative unit, SEWA, through its implementation partners in different project locations will be involved in mobilizing vulnerable groups, including indigenous people

for group formation and strengthening through awareness campaign and digital service usage training. Likewise, capable members of local ethnic groups, including men will be engaged by the concerned agencies to undertake information dissemination works, preparing the beneficiary groups for Project activities and contributory works.

- Development of beneficiary groups during the subcomponent implementation will include social mobilization and information campaign, and skills upgrading.
- Representation of the vulnerable groups and their active involvement in Project activities during and post implementation phases will increase their access to the services to be provided.
- Involvement of local media will uplift the advocacy organization at local level to promote Project benefit on more sustainable manner.
- The administrative unit and its implementation partners will be actively involved in disseminating information on to the target groups beneficiaries about the key components, subcomponents, activities, eligibility and selection criteria, stakeholder involvement, contribution of the Project and its implementation process.

### **13 Complaints and Grievances**

During the course of subproject implementation, complaints or grievances from stakeholders are inevitable. Wherever relevant and wherever traditional mechanisms are prevalent, grievance redressal mechanisms (GRM) will be customized to the needs of IPs and other vulnerable community people and to address the needs of IPs and vulnerable community communities.

All such complaints will be discussed in the specific IP community or locality where the subproject is implemented using the existing practiced traditional conflict resolution procedures. In addition, wherever IPs, primitive indigenous groups and vulnerable community people are in large numbers, there will be a small ethnic and vulnerable community representative in the grievance committees. SEWA has an informal system for addressing grievances at various levels. At the village level, village leader acts as the GRO; at the block level representatives of the trade committee attempts to redress the complaints. In addition, there are executive committee meetings and state-wise meetings, which are held monthly, provides platform to the affected people to register complaints.

Under the proposed project, a two-tier bottom up Grievance Redressal System (GRS) will be established. First, there will be Grievance Redressal Cell at the village / block level, hereafter called Local GRC (CLBRCs / CLCs); and second, GRC at the Project level (at SEWA) to give room for grievances to be reviewed. The existing system would be integrated in these cells. These GRCs will receive, record and address grievances of the intended beneficiaries and SEWA members at large. A complaint registration window will be opened in designated SEWA centers (CLBRCs / CLCs) in a manner that ensures easy access to beneficiaries across all project states.

This will be supplemented by a toll-free phone number as well as an online complaint submission form on SEWA's website. The Affected Party/People (AP) will be informed through public consultation that they have a right to have their grievances redressed by the local committees and by the Project's management.

The local GRCs (at the village/block level) will hear the grievances first. Only unresolved cases will be forwarded to the next tier – Project level GRC for further review and resolution. Grievances will be redressed within a month from the date of lodging the complaints. GRC decisions will be on a majority basis and will be disclosed and available for review by the stakeholders. If any disputant is unhappy or unsatisfied with the outcome of the Project level GRC, he/she may file cases in the court.

GRCs at the village/block level (community level) will be formed with local elected representatives from the Local Government Institutions (LGI), representatives of the affected persons (including Indigenous women), and implementing partner, if applicable. There will be one GRC at local (village/block) level by the Project to make it accessible to affected people both in terms of distance and time.

The Project-Level GRC will review all unresolved cases forwarded to by Local GRCs. It will be headed by SEWA's head. The Project-level GRC with representation of civil society member will further establish fairness and transparency in the resolution of disputes or grievances. In specific cases, Project-level GRC may seek legal advice from the INGO Legal Advisor or any external legal advisor, if required

## **14 Monitoring and Reporting**

The administrative unit to be set-up at SEWA, will be responsible for monitoring and evaluation of activities related to Indigenous People Framework. The unit will collect ethnicity-disaggregated data. Regular analysis of the Project outputs and impact indicators, including by ethnicity will be conducted. A Gender and safeguards specialist may be appointed who would build the capacity of the implementing agency (SEWA) and relevant personnel to collect ethnicity-disaggregated Project data and ensure that monitoring and evaluation procedures include indicators for monitoring impact on the Project's beneficiaries. The administrative unit will provide World Bank any related information for their review of performance and compliance with the World Bank policies.

## 15 Consultation and Disclosure

Consultations on the draft Indigenous Peoples Policy Framework will be conducted with IP leaders and other project stakeholders. The documents will be disclosed at project locations, SEWA's website, and on the Bank's website once it is finalized and approved.

## 16 Specific Measures

Specific measures for vulnerable groups including indigenous people, primitive tribal groups, women, and powerless communities are outlined in following table:

S.NO	Proposed Strategies	Source of funds	Responsible
<b>A. Inclusion</b>			
1.	<ul style="list-style-type: none"><li>Ensure participants' awareness campaign, Project implementation and monitoring.</li><li>Launch Project information campaign to inform the target groups about its key features and benefits. i.e. digital information and services; and sub components.</li></ul>	Project funds	Administrative Unit, SEWA
<b>B. Project Planning</b>			
2.	<ul style="list-style-type: none"><li>Access and analyze the presence of indigenous people and other vulnerable communities in Project sites.</li><li>Treat and support indigenous people and vulnerable people equally.</li><li>Involve indigenous people during the planning stage.</li></ul>	Project funds	Administrative Unit, SEWA
<b>C. Capacity Building</b>			
3.	<ul style="list-style-type: none"><li>Conduct Project related meetings in indigenous people and vulnerable community areas to encourage their participation. Ensure a quorum which includes</li></ul>	Project funds	Administrative Unit, SEWA

S.NO	Proposed Strategies	Source of funds	Responsible
	<p>representation from indigenous groups.</p> <ul style="list-style-type: none"> <li>▪ Provide targeted assistance/training aimed at vulnerable groups to enhance livelihoods and participation in the subcomponents.</li> <li>▪ Built in awareness campaign about the Project.</li> <li>▪ Build capacity of indigenous peoples and other vulnerable communities promoting necessary knowledge and skills to participate in subcomponent activities.</li> </ul>		

## Annex- 1: Indigenous Peoples Plan for Subprojects

### Approach

1. If IPs are majority in the community selected for project:
  - a. They will use their community plan for the sub-project (instead of preparing a separate IP Plan)
  - b. No special social assessment will be needed.
2. If IPs are a minority in the community:
  - a. The normal community assessment conducted for the sub-project will have a section on the social assessment of IPs included
  - b. The community plan will have a section on the IPs and their participation in the subproject.

### Format for Indigenous Peoples Plan for Subprojects

The IPP will be mainstreamed into the existing implementation procedures, as reflected in the forms, for the Social Inclusion Component as follows:

Activity Screening	Description	Yes (number & No location <sup>5</sup> )	Implementation Measures
1.	Are there Indigenous Peoples targeted as beneficiaries of the project?		
2.	Are there Indigenous Peoples living in the sub-project community?		
3.	What is the percent of IP to the total community population?		
4.	Will the sub-project affect the rights, traditional land and cultural		

<sup>5</sup> In case, project moves to areas where IPs are present, numbers would be captured

- property of the  
IPs?
5. How will IPs  
participate in the  
subproject  
activities?
6. What mitigation  
measures will be  
put in place to  
ensure that IPs  
do not lose  
access to  
resource and  
land rights?

Note: If yes to the above questions # 1-4, refer to the Indigenous Peoples Policy Framework for instructions on how to proceed

**Community  
Social  
assessment**

The Community Assessment undertaken for every project community will include an additional section on IPs if they are present in the community. The IP section will include the following:

- Basic data
- Socio-political profile
- Development needs and intervention
- Culturally appropriate approaches for consultation and implementation of sub-project