

# Diagnosis of the Human Rights Management, Human Rights Risk Analysis, and Action Plan

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## Contents

PRESENTATION .....	4
I. THE COMPANY'S STATE-OF-THE-ART-REPORT AND HUMAN RIGHTS.....	5
1. HUMAN RIGHTS CONCEPT .....	5
2. OBLIGATIONS OF THE STATE REGARDING HUMAN RIGHTS .....	5
3. THE NATURE AND SCOPE OF THE ENTERPRISE RESPONSIBILITIES REGARDING HUMAN RIGHTS .....	6
3.1. Companies' responsibilities in the light of the international legal framework of human rights	6
3.2. Enterprise responsibilities on human rights in the light of the new global standards of behavior .....	7
3.3. Business responsibilities in the light of the United Nations Guiding Principles on Human Rights and Business. ....	9
3.4. The companies' responsibilities within the Colombian legal framework.....	10
II. DIAGNOSIS OF THE HUMAN RIGHTS MANAGEMENT .....	12
4. OVERVIEW.....	13
5. TGI'S POLITICAL COMMITMENT TO HUMAN RIGHTS .....	16
5.1. Adopting an explicit human rights commitment by the Senior Management.....	16
6. INTEGRATION .....	20
6.1. Organizational and functional structure of human rights management .....	20
6.2. Due diligence on human rights .....	21
7. SUPPLY CHAIN ASSURANCE.....	28
7.1. Management status .....	28
7.2. Opportunities for improvement.....	29
8. COMMUNICATION AND REPORT.....	30
8.1. Current management status .....	31
8.2. Opportunities for improvement.....	32
9. CLAIM MECHANISMS .....	32
9.1. Current management status .....	34
9.2. Opportunities for improvement .....	36
9.3. Management of the COVID-19 pandemic .....	37
10. DUE DILIGENCE IN HUMAN RIGHTS FROM A DIFFERENTIAL APPROACH .....	39
10.1. Gender.....	39

10.2. Children .....	43
10.3. Ethnic communities .....	45
III. HUMAN RIGHTS RISK ANALYSIS .....	48
1. CONCEPTS .....	48
2. METHODOLOGIC PLANNING .....	49
3. RESULTS OF THE RISK ANALYSIS .....	52
3.1. Context Analysis .....	52
3.2. Identification and assessment of human rights risks .....	63
IV. ACTION PLAN .....	74
1. Strengthening Human Rights Management .....	74
2. Lines of Action for strengthening Human rights Management in Specific Subjects .....	75
3. Value-added actions .....	77

## **PRESENTATION**

This document is the first report prepared within the Technical Assistance consultancy framework for implementing a Human Rights Management System for TGI, part of the second deliverable consultancy.

It is divided into four sections: The first one presents the Company's state-of-the-art report on Human Rights and the supporting aspects of adopting and implementing a business management framework. In the second one, the diagnosis results of the human rights management are presented. The third one contains the Human rights risk analysis, and the fourth and last section offers the corresponding Action Plan's strategic lines. In addition, this document includes five annexes:

- Annex 1. Matrix of referents for the Human Rights Management.
- Annex 2. List of business documents and interviews conducted.
- Annex 3. Human Rights Due Diligence Diagnosis Matrix.
- Annex 4. Critical national factors regarding Human Rights
- Annex 5. Action Plan

## I. THE COMPANY'S STATE-OF-THE-ART-REPORT AND HUMAN RIGHTS

In order to contextualize the diagnosis of the management and the human rights risk analysis object of this consultancy, some conceptual elements about Human rights and the Companies are presented below. The aim is to establish the Human rights state-of-the-art on the nature and the scope of corporate responsibilities and the evolution signals on this matter.

Firstly, the essential conceptual elements on human rights are presented along with a synthesis of the State's obligations. Subsequently, it introduces the global conceptual and political development of Human rights and companies and its implications in the national scope.

### 1. HUMAN RIGHTS CONCEPT

Human rights are defined as "a set of faculties that, at every historical moment, specify the demands of human dignity, freedom, and equality, which the legal system must positively recognize at the national and international level."<sup>1</sup> Based on this definition, four basic dimensions of human rights are identified:

- **Ethical dimension:** Human rights are faculties that arise from the individual's dignity by virtue of being human. Therefore, they must be respected without discrimination, regardless of the human being's physical, moral, or social characteristics or actions.
- **Historical dimension:** Although human rights emanate from the dignity of human beings, their recognition and protection have evolved along with the political, social, and economic processes. Throughout history to the present, human rights, their contents, and guarantees have been progressively expanded. Likewise, the transformations in production models, the development of capital markets, the appearance of new communication technologies, the empowerment of the civil society network, among others, have reshaped the systems for the protection of human rights.
- **Political dimension:** Human rights are conceived as limits to the exercise of the State's power over people. Its authority is legitimate as long as these rights are safeguarded while maintaining the order. Nowadays, it is recognized that there are non-state actors who exercise power over the people affecting their human rights, which leads to new behavior demands and expectations from these actors, the companies, investors, and other market actors.
- **Legal dimension:** The recognition of human rights in the national and international legal regulations implies the establishment of legal and judicial guarantees for their protection along with enforceable obligations to specific actors. Human rights protection systems are based on the established state duties in legally binding instruments at the international level. However, there is a paradigm shift with the recognition of corporate responsibilities regarding human rights. Even when no binding treaty sets them, respect for human rights is consolidated as an international principle of expected business behavior.

### 2. OBLIGATIONS OF THE STATE REGARDING HUMAN RIGHTS

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<sup>1</sup> PEREZ LUÑO, A. (1979). Delimitación conceptual de los Derechos Humanos en la obra colectiva: The Human Rights. Meaning, legal statute, and system. Sevilla: Ediciones de la Universidad de Sevilla.

Under the International Human Rights Law, the State has the following duties:

**Respect:** The duty to respect human rights has a negative character since it supposes the State's abstention in the commission of conducts that interfere arbitrarily with the entire exercise of human rights by action or omission.

**Warranty:** The fulfillment of this obligation implies adopting the necessary measures that ensure the full and effective enjoyment of human rights by all people. The State must organize all the governmental systems along with all the structures through which the public power is manifested in such a way that they can ensure the free and whole exercise of human rights. The State must take the budgetary, legislative, public policy as well as the **protection** measures, among others, necessary to prevent human rights violations, not only from its agents but individuals and companies, too. It also must establish the **reparation** mechanisms, including the conditions to access them by people whose rights have been violated.

**Non-discrimination:** The State must respect and guarantee the human rights of all its inhabitants, regardless of race, sex, language, religion, social status, ideological beliefs, or political opinions, or of any other nature. Distinctions of treatment that go against human dignity or pursue arbitrary or despotic aims are prohibited. In addition, the State must adopt special protection measures for population groups in particular circumstances—measures called positive discrimination—to close the protection gaps and guarantee the human rights of populations in a vulnerable or historical discrimination situation.

In general terms, there will be international responsibility by the State (i) due to human rights violations committed by its agents or individuals holding public power, and (ii) when the State does not exercise due diligence for preventing these violations from these conducts. It acts in collusion, tolerance, or acquiescence when it does not comply with its duty to investigate and punish such conduct nor provides the necessary mechanisms for reparation.

According to international law, an “organ” of the State includes any person or entity that has that status under the State's national law. According to Colombian law, state companies, in their different categories, are part of the State structure in the decentralized sector by services. Companies' acts are ruled under private law due to their nature and the way they are constituted. However, based on the international law, they are considered organs of the State, and thus, a human rights violation on their behalf could directly jeopardize the State's global responsibility. An enterprise with significant participation in the State does not constitute a state organ because the faculty of exercising public power has not been given. It is the State's responsibility to regulate, monitor, and surveil their performance. This responsibility increases because *“when the States own or control the companies, they have greater means at their disposal to enforce policies, laws, and regulations in regard to the human rights respect.”*

### **3. THE NATURE AND SCOPE OF THE ENTERPRISE RESPONSIBILITIES REGARDING HUMAN RIGHTS**

#### **3.1. Companies' responsibilities in the light of the international legal framework of human rights**

International Human Rights Law only imposes obligations to the States and is legally responsible in the event of non-compliance. Nevertheless, the international human rights instruments indirectly establish the companies' duties since it is the States' international duty to prevent the abuses by “people, groups, or organizations.”<sup>2</sup> In

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<sup>2</sup> Instruments such as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of

this sense, a human rights violation committed by an individual will not be judged at the international level. Still, it may be at the domestic level per national laws.<sup>3</sup> On the other hand, in agreement with the international court's jurisprudence of human rights, an obligation of human rights respect among individuals has been recognized.<sup>4</sup>

### 3.2. Enterprise responsibilities on human rights in the light of the new global standards of behavior

Although there is no mandatory legally binding framework about the enterprises' obligations on human rights at the international level, these are fundamental for sustaining global governance. Thus, its respect, protection, and accomplishment are priorities that have been incorporated into the political and development international agendas that, at present, involve the performance and call for action, not only of the States but of all actors, including the market actors. It has been the product of a global consensus by recognizing that supported sustainable development aims to protect and give a sense of accomplishment to the human person.

- **Respect to human rights is a new benchmark for business legitimacy and valuation**

The human being gravitates at the center of sustainable development priorities. Therefore, human rights respect and compliance constitute a foundation for the development priorities, an end for their execution, and a criterion for assessing "how" the goals are to be achieved individually of the different actors from the surroundings. Today, there is consensus on recognizing the influence of business organizations on human rights. Therefore, their respect is a fundamental factor in assessing business behavior and its legitimacy. Current demands are centered on how wealth is produced, considering that it is no longer enough to generate economic value for shareholders. Still, the resulting negative impacts on human rights must be managed. Therefore, human rights respect is currently the basic expectation of business behavior and constitutes an enabling vector for markets' permanence and competitiveness. Today, the incorporation of a preventive approach to the risks of damage in business management is demanded—due diligence—and, beyond the "do not harm" approach, companies are expected to contribute to the conditions for the human rights accomplishment through the effective generation of economic, social, and environmental value.

- **Effective contribution to sustainability as an investment criterion**

The Company's contribution to the achievement of sustainable development priorities, including the human rights respect, constitutes a market expectation of progressive and fast consolidation that is compensated or punished financially by equipping or reducing the value of tangible and intangible assets of a company. Incorporating environmental, social, and government criteria (ESG) in assessing property, business performance, and investment decisions reflects this. Moreover, as an investment criterion, it seeks to minimize risks and maximize opportunities to generate value to protect the returns and yields. Consequently, their consideration begins to be part of the administrators' fiduciary duties with the shareholders and several

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Persons with Disabilities, refer to the State's obligation to take all appropriate measures to prevent and eliminate abuses committed by companies.

<sup>3</sup> In this sense, the United Nations thinks that "the term 'responsibility' to respect instead of "duty" indicates that the human rights respect is not an obligation directly imposed to the companies in general by the current human rights international norms, even though some elements can be reflected in the internal legislation." Human Rights Council 14th session. Report of the Secretary-General's Special Representative on human rights, transnational companies, and other companies, John Ruggie\*. Company and human rights: new measures for implementing the "protect, respect, and remedy" framework A/HRC/14/27. April 9, 2010.

<sup>4</sup> "(...) it must be considered that there is an obligation to respect human rights among individuals. It is, from the positive obligation to ensure the protected human rights effectiveness, which at the head of the States, effects are derived concerning third parties (...), according to which fundamental rights must be respected both by the public powers as well as by individuals with other individuals (...)." Inter-American Court of Human Rights. Advisory opinion *Legal status and rights of undocumented migrants*. 2005, page 112.

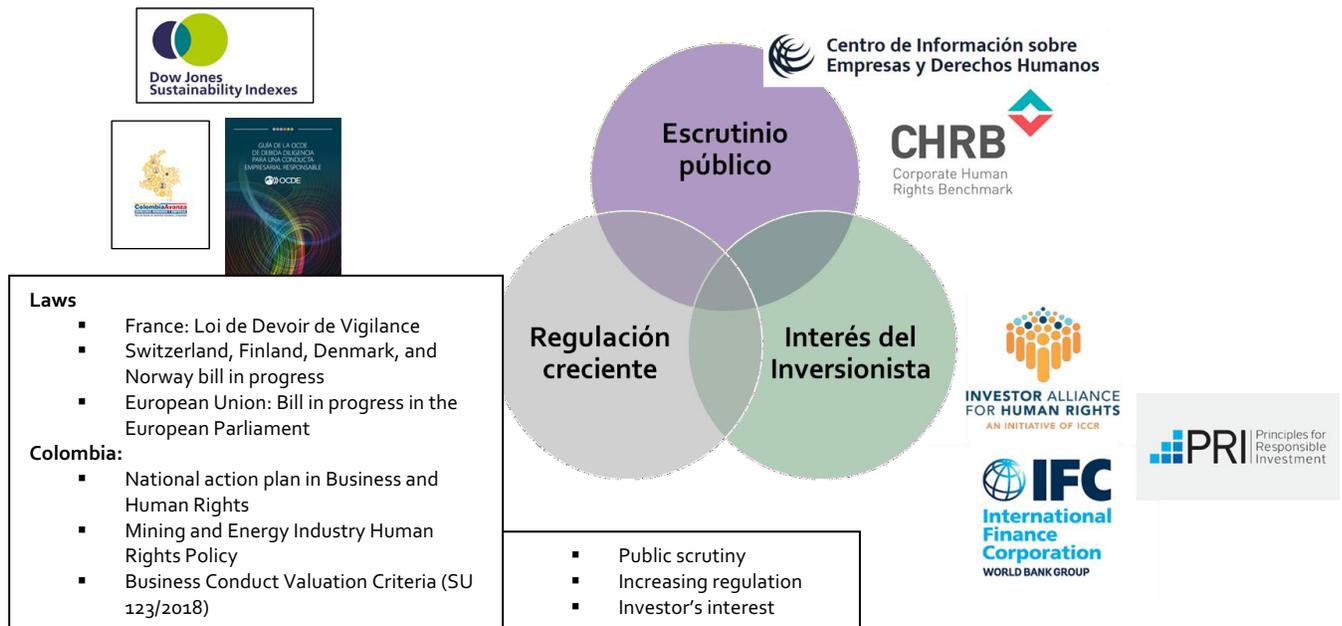
stakeholders.

▪ **New demands of business behavior regarding human rights**

The new demands have been adopted progressively, mainly within the United Nations. They have been incorporated into numerous performance standards organizations, such as the Organization for Economic Cooperation and Development (OECD), the World Bank, the Inter-American Development Bank (IADB), the International Finance Corporation, and stock market development indexes like the Dow Jones Sustainability Index. Even when these standards do not have binding legal force, they include the principles of international norms on human rights. As a result, they have a broad consensus and legitimacy and constitute benchmarks for evaluating business performances incorporated by global networks and movements.

The trend towards regulation is clear. For example, the international treaty on business and human rights is currently discussed; several countries have adopted due diligence laws aimed at business actors. The community norms project has been studied in the European Union, which will be adopted in 2021; several countries such as Colombia have national and sectoral public policies.

On the other hand, the investor's interest in securing the factors related to human rights to protect the return to its investment is growing. It is reflected in creating networks such as the Investor Alliance for Human Rights and incorporating these aspects in the Principles for Responsible Investment alliance.



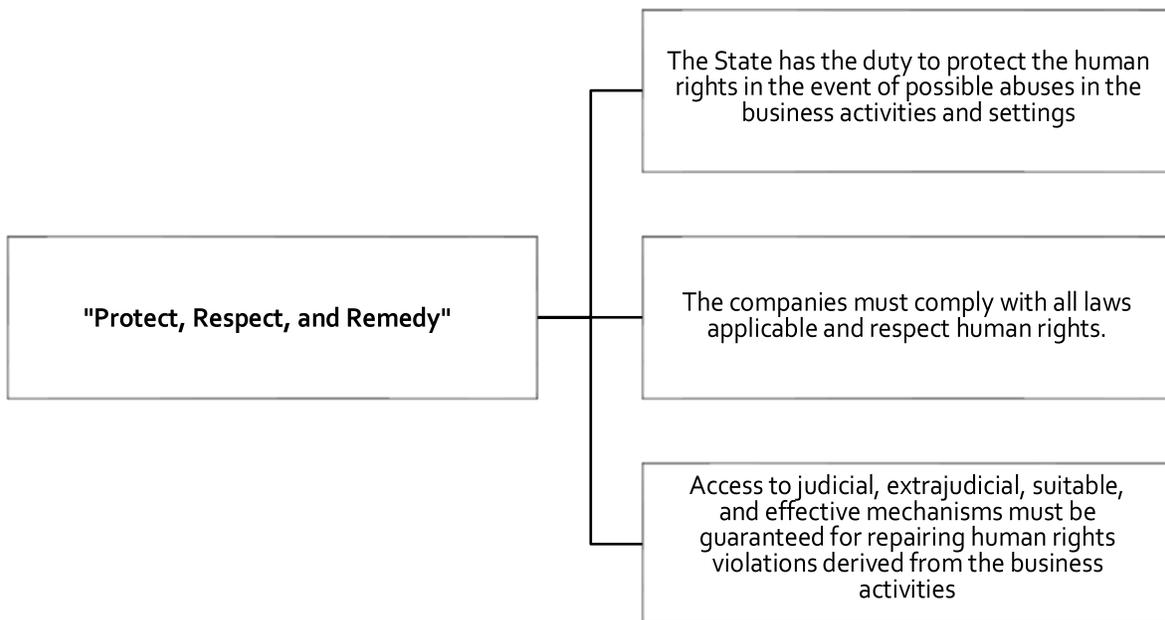
*Image 1. Drivers of change*

### 3.3. Business responsibilities in the light of the United Nations Guiding Principles on Human Rights and Business.

The Guiding Principles (GP) are based on the following premises:

- The State's duty to protect human rights in relationships among individuals is an international obligation derived from international human rights treaties. Therefore, the Guiding Principles do not establish new state obligations but need the state performance criteria for compliance within the company's relationships with people.
- The business nature, purposes, competencies, and faculties are different from those of the State. They are not called to assume the State duties, but they have autonomous and complementary responsibilities regarding human rights, which must be fulfilled regardless of the State's behavior.
- All companies have human rights responsibilities, regardless of their nature, location, or size.

The GP develops the following three fundamental framework pillars: protect, respect, and remedy. They are synthesized in the following figure:



- **State's duty of protection:** States must adopt various nature measures—political, regulatory, supervision and monitoring, budgetary, among others—, aimed at preventing human rights violations that may derive from business activities and guaranteeing the access to reparation and non-repetition of those affected, in the event of a breach.
- **Corporate responsibility to respect human rights:** Companies have the responsibility to respect human rights in the development of their activities, the production of goods, or the provision of services. On the one hand, it implies that they need to abstain from actions or omissions that can give rise to human rights violations, and thus, repair its effects in case of a violation. On the other hand, it

ensures respect to carry out a systematic and continuous **due diligence** process for identifying the risks and impacts against human rights. In this way, they need to adopt measures to mitigate—and if required—repair human rights violations that could occur within their business framework and their activities.

Due diligence is “a wide and active attempt of discovering true potential risks that threaten human rights throughout a project’s vital cycle or business activity. It avoids or diminishes those risks.”<sup>5</sup> It supposes: (i) The adoption of a high-level corporate compromise regarding human rights. (ii) The systematic identification and assessment of the human rights impacts derived from business activities, including the supply chain. (iii) The incorporation of administration measures of the impacts within the company's processes. (iv) The establishment of follow-up and assessment mechanisms to continuously improve the business practices. (v) The establishment of communication and report mechanisms that ensure accountability and transparency.

As far as the material scope, the impacts' identification process must be made based on the internationally established framework for human rights of the International Bill of Human Rights. It comprises the Universal Declaration of Human Rights, the International Pact on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights and, the fundamental agreements of the International Labour Organization (ILO) related to the association right and collective negotiation, the elimination of child labor and the elimination of forced work. However, depending on the context of their operations, companies will have to consider other norms.

- **The duty to remedy:** It refers to the possibility that those who consider themselves affected by the company in exercising their human rights can access complaint mechanisms that guarantee the investigation of the facts and, if necessary, compensation for damages. Without prejudice to the existing legal channels, the duty to remedy supposes establishing an effective complaint and claims mechanism. Having such a mechanism constitutes a fundamental element of due diligence on human rights since they are part of the supervision of compliance with the care standard. It also constitutes an early warning of conflicts, accusations, aggressive campaigns, and possible litigations related to human rights abuses.

### 3.4. The companies' responsibilities within the Colombian legal framework

The human rights treaties adopted by the Colombian State are part of our internal regulations.<sup>6</sup> The Political Constitution establishes a human rights catalog and specifically recognizes the effectiveness of the fundamental human rights among individuals. At the legal level, it creates obligations derived from international human rights treaties. Thus, for example, the Labor Code includes the ILO Agreements, the Penal Code establishes crimes related to Child Rights violations, such as exploitation of children, and other crimes related to labor human rights, such as the violation of the freedom of association.<sup>7</sup> There are also specific human rights laws, such as the Code of Children and Adolescents,<sup>8</sup> Habeas Data Law,<sup>9</sup> Previous Consultation

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<sup>5</sup> Company and Human Rights: Putting the “protect, respect, and remedy” framework into practice. Report of the Secretary-General's Special Representative on human rights, transnational companies, and other commercial companies matter. A/HRC/11/13. April 22, 2009

<sup>6</sup> Under Article 93 of the Political Constitution of Colombia, “The conventions and international treaties ratified by Congress, that recognize human rights and prohibit their limitation in the states of exception, prevail in the internal order. The duties and rights recognized in this Constitution shall be interpreted in conformity with international treaties on human rights ratified by Colombia.”

<sup>7</sup> Article 200 Criminal Code.

<sup>8</sup> **Article 38. Obligations of the family, society, and the State.** “In addition to what is stated in the Political Constitution and other legal provisions, there will be obligations of the family, society [ including the companies and enterprise organizations] and the State in their national, departmental, district, and municipal levels the set of provisions contemplated to this code.” (Underlines outside the text).

Law,<sup>10</sup> and Work Harassment Law,<sup>11</sup> among others.

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<sup>9</sup> Statutory Law 1266 of 2008

<sup>10</sup> Law 21 of 1991.

<sup>11</sup> Ley 1010 de 2006.

## II. DIAGNOSIS OF THE HUMAN RIGHTS MANAGEMENT

This chapter contains the results of the diagnosis of TGI's human rights management. It is made primarily on the United Nations Guiding Principles on Human Rights and Business (UNGP). It also considers other standards incorporated in their guidelines, such as the OECD's Due Diligence Guidance for Responsible Business Conduct (RBC) in its human rights chapter. (See Annex 1. Matrix of referents for the Human Rights Management).

The diagnosis presents the current state of the management and the opportunities for improvement to ensure the alignment with good practice requirements to ensure compliance with its responsibility to respect human rights. It is the result of a qualitative analysis from the revision of business documents and direct sources information obtained through semi-structured interviews with the company's areas. (See Annex 2. List of business documents and interviews conducted).

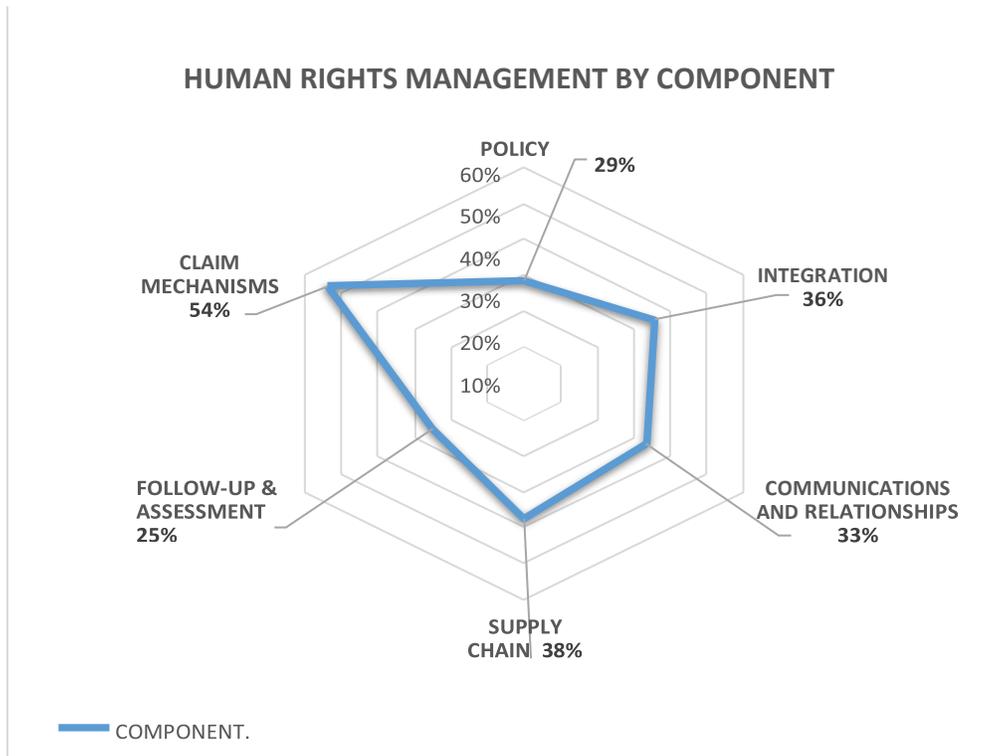
It has been structured in the following components defined from the PRUNS guidelines, incorporated in the TRUST Diagnosis matrix instrument, with qualitative indicators for these components. The matrix includes fifty-one (51) indicators, divided into six (6) components. (See Annex 3. Human Rights Due Diligence Diagnosis Matrix).

The diagnosis has been made considering the relevance of the differential approach in human rights management—contemplated in the TGI's different standards, the operation surroundings, and corporate policies. The diagnosis has been complemented with an assessment with the following three aspects:

- Gender
- Children
- Ethnic communities.

4. OVERVIEW

Figure 1. Diagnosis of the Human Rights Management—By component



Source: Created by Trust - Methodology: Trust Consultants

HUMAN RIGHTS MANAGEMENT BY COMPONENT							
MANAGEMENT COMPONENTS	POLICY	INTEGRATION	COMMUNICATIONS AND RELATIONSHIPS	SUPPLY CHAIN	FOLLOW-UP AND ASSESSMENT	CLAIM MECHANISMS	STATUS OF MANAGEMENT COMPLIANCE
STATUS OF MANAGEMENT COMPLIANCE	29%	36%	33%	38%	25%	54%	36%

Table 1. Human Rights Management by component

The compliance status of human rights management at TGI is 36%.<sup>12</sup> It is important to note that policies, processes, mechanisms, and practices responding to this approach to some extent have been identified. However, there is no structured management that allows it to be systematized and traced. In general terms, it is observed that the Company has gaps in the alignment and traceability of its management with human rights standards in each of the components.

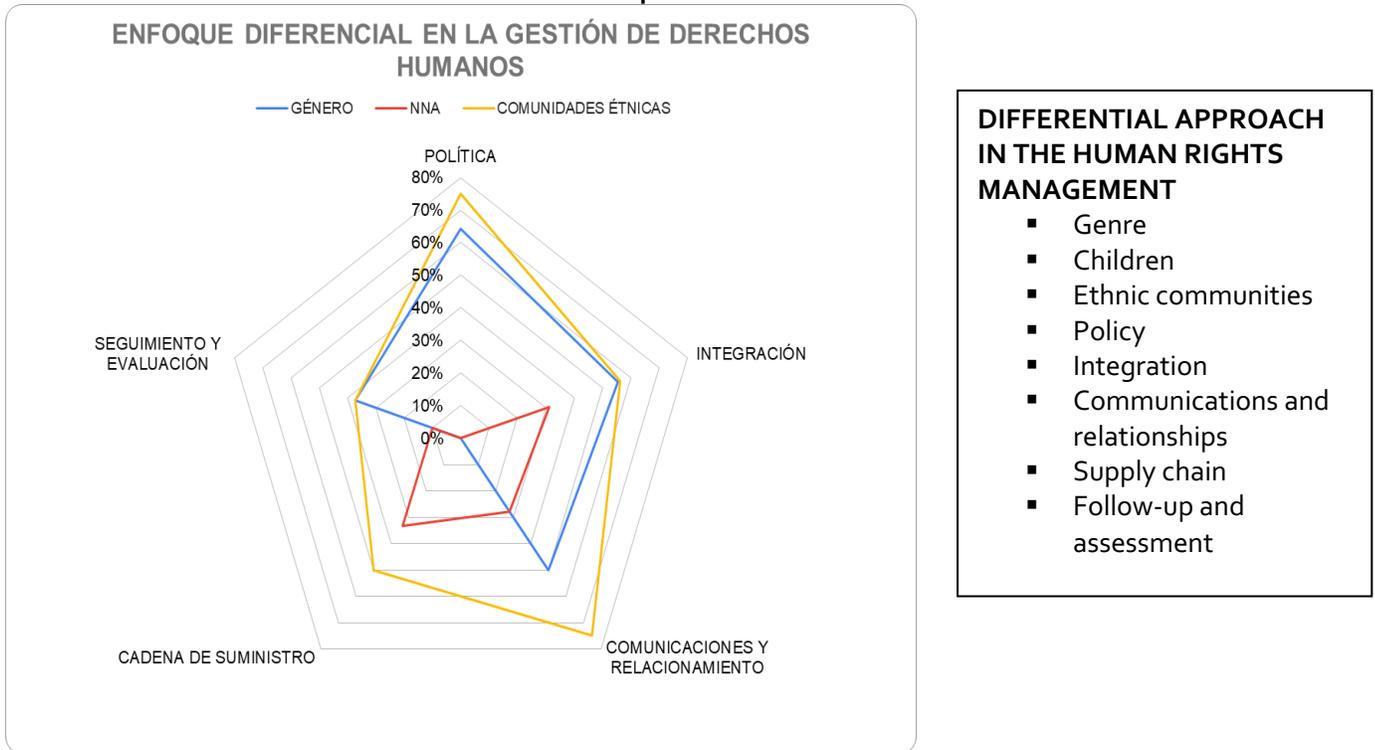
More significant gaps were identified in the follow-up, assessment, and political commitment components. Components of Communication and Relationship, Integration, and supply chain management followed the gap identification in descending order, not surpassing the 38% compliance with respect to the standard. It should be noted that the claims mechanism component has a smaller gap with a 54% compliance of the human rights management standard criteria.

In regard to the diagnosis of human rights management with a differential approach, it is observed that TGI has room for improvement by including it into the three perspectives addressed: Gender, Children, and ethnic communities (figure 2).

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<sup>12</sup> This percentage is calculated from the resulting compliance ratio by each established management component, each equally important for the general management qualification.

**Figure 2. Diagnosis of the Human Rights Management—Differential approach by the management component**



DIFFERENTIAL APPROACH IN THE HUMAN RIGHTS MANAGEMENT						
COMPONENTS	POLICY	INTEGRATION	COMMUNICATIONS AND RELATIONSHIPS	SUPPLY CHAIN	FOLLOW-UP AND ASSESSMENT	STATUS OF MANAGEMENT COMPLIANCE
ASPECTS	COMPLIANCE STATUS BY COMPONENT					STATUS OF MANAGEMENT COMPLIANCE
GENDER	64%	56%	50%	0%	38%	41%
CHILDREN	0%	31%	28%	33%	10%	20%
ETHNIC COMMUNITIES	75%	56%	75%	50%	38%	59%

**Table 2. Differential approach in the Human Rights Management**

Source: Created by Trust - Methodology: Trust Consultants

The most significant alignment can be seen in the ethnic community's aspect in the policy or business guidelines, communications, and relationship components. The biggest opportunities for improvement refer to supply chain management, follow-up and assessment management components.

Regarding the Gender aspect, the most significant opportunities for improvement are also in the assurance component of the supply chain and the application of this perspective in the relationship with external stakeholders.

The most significant gap is observed in the inclusion of the Children's approach since no express commitment has been addressed or added in due diligence mechanisms on this matter.

Next, the human rights management diagnosis results are presented in detail by each of the indicated components, identifying their current state and opportunities for improvement.

## 5. TGI'S POLITICAL COMMITMENT TO HUMAN RIGHTS

### **GUIDING PRINCIPLES IN BUSINESS AND HUMAN RIGHTS - UNGP**

**Principle 16.** In order to assume their responsibility to respect human rights, companies must express their commitment to it by means of a political statement that: a) It is approved by the company's highest management level; b) It is based on an internal and/or external expert advice; c) It establishes what the company expects regarding human rights, from its staff, its partners, and other parties tied directly to its operations, products, or services; d) It becomes public and spreads internally and externally to all staff, partners, and other interested parties; e) It reflects the policies and operational procedures necessary to instill the enterprise-wide commitment.

### **OECD—DUE DILIGENCE GUIDANCE FOR RESPONSIBLE BUSINESS CONDUCT**

**1.1** Design, adopt, and disclose a policy mix within RBC scopes that articulates the company's commitments to the principles and norms contained in the OECD Guidelines for Multinational Companies (MNC), as well as its plans for due diligence implementation. This will be important for the company's own activities, its supply chain, and other business relationships.

### 5.1. Adopting an explicit human rights commitment by the Senior Management

#### 5.1.1. Current management

- a) *TGI expresses its human rights commitments in its Code of Conduct which has been developed in greater detail in some of its corporate policies*

TGI does not have a human rights policy yet. However, several corporate policies have established elements that guide its management with a human rights approach. Its Code of Ethics establishes the commitment to implement the Ten Principles of the United Nations Global Pact in its strategies and operations. Principles 1 and 2 refer to the protection of the fundamental rights and non-complicity of Human rights violations. Principles 3, 4, 5, and 6 refer to labor rights of collective negotiation, elimination of forced labor, elimination of child labor, and the abolition of work discriminatory practices. In addition, principles 7, 8, and 9 establish the environmental commitments related to the precautionary principle, the respect for the environment, and the ecological responsibility. Finally, principle 10 refers to anti-corruption practices. Within TGI's ethical commitments related to human rights, its commitment to the physical integrity of its workers and communities is incorporated, as

well as the non-discrimination principle against any person on the grounds of sex, race, national or familiar origin, language, religion, and political or philosophical opinion. The Code of Ethics establishes that these ethical standards are mandatory for its employees and senior management, including suppliers and contractors, to develop their functions by virtue of the link with the Company.

On the other hand, the Company expresses its human rights commitments thru some of its corporate policies adopted by the Company's senior management:

### **Human Management, Diversity and Inclusion, and Compensation Policies**

The Human Management Policy establishes the guidelines for human resources management based on equity, justice, and integral human development, which are the foundations of an administration with a rights-based approach. On the other hand, the Diversity and Inclusion Policy establishes a broad diversity approach based on the rights approach. It promotes its collaborators' human rights and defense commitments, equal pay based on objective criteria, valuation of the diversity, inclusion, fight, and punishment against discrimination. It also promotes the prevention, attention, and punishment against work and sexual harassment, creating a work environment free of violence, among other commitments under responsible human rights management. On the other hand, the Compensation Policy is based on the internal equity principles and establishes repayment guidelines for the collaborators according to their effort and outstanding performances. Likewise, the policy sets a non-monetary benefit portfolio that obeys guidelines of raising the collaborators' standard of living and well-being.

### **Sustainability policy**

TGI's Sustainability Policy articulates the respect for human rights in its sustainability statements by handling its business operations with excellence while generating value within the Human Rights and Sustainable Development Objectives framework, along with the confidence of its interest groups. The expressed commitments address aspects relevant to human rights management, such as the health protection, security of direct collaborators and contractors, and risk management. Additionally, these commitments address the impacts and opportunities that can be generated environmentally and socially, including those derived from its operations, such as occupational safety and health (OSH). They also address the respect for diversity, multiculturalism, environment, alliances for promoting public values, peacebuilding, and the fight against corruption.

### **Personal Data Processing Policy**

Under the Colombian legal regulations, the Personal Data Processing Policy establishes the corporate guidelines for protecting the habeas data right. However, the principle of access and restricted circulation shows that data processing is subject to the limits of the provisions of this right. In this perspective, data processing can only be done with the owner's authorization or the people in charge under current regulations. Therefore, except for public information, personal data may not be available on the Internet or other mass communication means unless its access is technically controllable in providing limited knowledge only to the owners or third parties authorized by the law.

### **Occupational Safety and Health and Environment Policy**

It establishes the TGI's guidelines for its contractors' commitments, actions, and conducts for the proper management of Occupational Safety and Health and Environment. It refers to the human rights to life, integrity, and a healthy environment, which must be applied in all work centers and activities. The statement of commitments establishes the responsibility, leadership, and obligation to comply with the policy, the current regulations applicable to Labor Risks and Environmental matters. It also articulates the Company's goals and objectives on Industrial Security, Occupational Health, and the Environment.

## Communications Policy

It establishes the guidelines for the general actions related to the internal and external communication processes. It aims to guarantee truthful, precise, sufficient, timely, and genuine information with all Company's interest groups and public opinion. The policy is related to the right to information.

Guidelines on human rights management matters are also found in some plans and guides. For example, the Social Management Plan (SMP) case incorporates due diligence in the relationship with ethnic groups and the coordination with Ministry of Justice organizations for this purpose. On the other hand, the Resettlement Guide establishes the procedure to be followed for its planning and development—Social and Environmental Management, Occupational Safety and Health, Involuntary Resettlement and Relocations, 2019.

## Supply Policy

The Supply Policy indicates the framework of action regulating the contracting of goods and services of the Grupo Energía de Bogotá's Companies. It aims to foster best practices and compliance with the supply chain norms, including the human rights due diligence based on the essential suppliers and contractors for the business, among other aspects. Likewise, in numeral 7 of the Declaration of Commitment, the company is committed to ensuring that suppliers fulfill the global, social, environmental responsibility, anti-fraud, and anti-corruption policies; and ensure the occupational safety and health, environment, and security of the information management.

- b) Human rights commitments adopted in the different corporate guidelines have been communicated internally among its suppliers and contractors

Human rights guidelines should be disseminated to know about their existence and thus, facilitate their comprehension. Therefore, "it must clarify the channels and accountability systems available, and go along with any necessary training for employees holding relevant job positions in the company."<sup>43</sup>

The Code of Ethics has been disseminated and communicated among its employees, contractors, and suppliers. Annually, the Management of Fulfillment makes campaigns of socialization and internal awareness and between its contractors. Additionally, the Code is published on its webpage to be known publicly. On the other hand, the corporate policies have been disseminated internally.

### 5.1.2. Opportunities for improvement

- a) Articulation of the human rights commitments and guidelines

As mentioned above, TGI's Code of Ethics expresses its adherence to the Ten Principles of the UN Global Pact and several other corporate policies; it explicitly references its human rights commitment. Therefore, it is convenient to establish its corporate responsibility through these guidelines in a comprehensive and articulated way. Furthermore, its purpose is to better guide its cross-sectional application in the Company's different areas and strengthen the traceability both internally and externally to the public.

Indeed, it is advisable to strengthen the following aspects:

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<sup>43</sup> United Nations Organization. *Guiding Principles on the Companies and the Human rights: Guiding Principle 16*. Page 20.

- The public commitment to respect human rights is recognized by national and international applicable behavior regulations (international treaties), emphasizing those not limited to labor rights and population groups relevant to TGI's nature and characteristics of its operations. The clarity and focus of commitments are essential for its effectiveness in its development and traceability.
- Although TGI has expressed its compliance expectations with suppliers and contractors, it has not mentioned anything regarding partners or business associates such as clients.
- It is convenient to know both the corporate's position regarding human rights and the basic ruling structure of these matters. It is also essential to know its management guidelines regarding due diligence, the communication channels for helping with concerns or disagreements to internal and external people.

b) Limitations in understanding the meaning and implications of human rights commitments

Although the company has carried out socialization and awareness campaigns on the Code of Ethics, it has not delved into the management's human rights guidelines concerning its scope, meaning, and implications.

From the interviews and workshops conducted, it is possible to conclude that understanding human rights management at the corporate level is not unified. With some exceptions, most of the collaborators interviewed identified the human rights matters as being specific to the scope of the workplace and the intercultural relations with ethnic communities. There is a trend to enclose them within TGI's contribution to the social responsibility framework without considering their relationship with the potential impacts that can be generated.

Based on the survey results conducted to its collaborators, knowledge about human rights can be reflected in general terms. 71.01% said they know TGI's human rights commitments, while 28.99% said they do not know them yet. Most collaborators relate human rights compromises with respect, highlighting the Life First cultural aspect and others, such as equity, health, and the environment. However, there is a minimal reference to the human rights guidelines in the Code of Ethics. Indeed, only five collaborators mentioned adherence to the Ten Principles of the Global Pact, while only four specifically mentioned the Diversity and Inclusion Policy. It is striking that 54.88% of them perceive that the Company's activities do not have or cannot have negative consequences on human rights. Most of them have a correct notion of the human rights definition, claim to know the commitments, and do not require guidance on whether their actions or decisions affect human rights. However, it could indicate that their Thus, it deserves to have their training and communication reinforced to clarify this knowledge.

c) Partial alignment of corporate policies with human rights commitments

TGI has several corporate policies and guidelines whose practical purpose is to manage diverse aspects related to human rights, except for the following policies: Diversity, Occupational Safety and Health, Environment, Data Protection, and the Social Management Plan. However, its direct relationship with human rights and due diligence would need reinforcement in different policies to make them visible within the scopes of the human rights framework by facilitating the understanding of their cross-functional relations.

The lack of operational guidelines to ensure human rights due diligence in regard to physical security is

identified, as discussed below.

## 6. INTEGRATION

### ***GUIDING PRINCIPLES IN BUSINESS AND HUMAN RIGHTS—UNGP***

**Principle 17.** In order to identify, prevent, mitigate, and account for how they address their adverse human rights impacts, businesses must carry out human rights due diligence. This process must include (...) the integration of the conclusions, actions in this regard, monitoring answers, and communicating how negative consequences are addressed.

**Principle 19.** In order to prevent and mitigate negative consequences on human rights, businesses must include the conclusions of their impact assessments within the framework of its functions and pertinent internal processes to take timely measures. a) For such integration to be effective, it is necessary that: i) The responsibility to prevent those consequences is assigned to the company's appropriate levels and functions; II) Internal decision-making, budget allocations, and monitoring processes offer effective responses to those impacts.

### ***OECD—DUE DILIGENCE GUIDANCE FOR RESPONSIBLE BUSINESS CONDUCT***

**1.2.** Seek to incorporate the company's responsible business conduct policies into its monitoring organs. Incorporate the company's responsible business conduct policies to the management systems so that they are implemented as part of the usual processes, considering the possible independence, autonomy, and legal structure of these organisms according to the national laws and norms.

### **6.1. Organizational and functional structure of human rights management**

#### **6.1.1. Current management status**

Based on the interviews conducted, it is evident that TGI has a strong and solid organizational structure that facilitates the roles and responsibilities assignment in human rights management.

TGI has an Operative and Sustainability Committee in the Board of Directors in charge of guiding matters on Occupational Safety and Health, Environment, social management, among others. Sustainable Development Management—where social, Occupational Safety and Health, and Environment Management articulates—is in charge of unfolding the sustainable development strategy and the alignment of the good practice standards, including those related to human rights management. On the one hand, Planning and Performance Management has an incidence on the orientation of human rights due diligence due to its functions in risk management. On the other hand, the human rights tactic and operative management must be cross-functional. TGI's areas such as Human Resources and Security have an incidence in human rights management in the relationship with internal and external interest groups. The Legal Vice-presidency and Audit office has an incidence on performance guidance, assurance, and compliance with processes. Finally, technical areas associated with the Vice Presidencies of Business Development, Construction, and Operations are essential in ensuring due diligence in human rights at the operative level throughout the companies' technical processes.

#### **6.1.2. Opportunities for improvement**

- a) *Need to assign specific human rights functions and count on technical abilities*

Under the Operative and Sustainability Committee regulations, its purpose is to plan, monitor, and analyze all TGI's operative and sustainability issues. Among them are occupational safety and health, environment, social management, regulation, energy policy, commercial affairs, the management of new infrastructure construction projects, and operation and maintenance activities of the existing infrastructure. In addition, some of its functions include giving specialized recommendations to the Board of Directors on such issues while supporting it through its decision-making functions related to the Committee's competitions. Therefore, it is convenient that human rights affairs are expressly incorporated into the Committee's goals as a vital sustainability matter.

Sustainable Development Management's functions are planning, guiding, giving advice, and coordinating the different areas of human rights management. These areas have functional assignments at the practical execution levels. It is recommended to assign these responsibilities expressly in agreement with the established human rights management model.

It is necessary to assign a role to coordinate and execute the management plans on these issues at the district level. These responsibilities require strengthening the technical abilities of the areas in charge.

## 6.2. Due diligence on human rights

### ***GUIDING PRINCIPLES IN BUSINESS AND HUMAN RIGHTS—UNGP***

**Principle 17.** In order to identify, prevent, mitigate, and account for how they address their adverse human rights impacts, businesses must carry out human rights' due diligence. This process must include assessing actual and potential activities' impacts on human rights, integrating and acting upon the findings, tracking responses, and communicating how negative consequences are addressed.

**Principle 18.** In order to fix human rights risks, companies must identify and assess actual or potential, negative consequences on human rights, resulting from its own activities or its business relations.

### ***OECD—DUE DILIGENCE GUIDANCE FOR RESPONSIBLE BUSINESS CONDUCT***

**2.1** A comprehensive scoping exercise should be conducting to identify all those areas of the company throughout its operations and relationships, including its supply chains, where significant risks associated responsible business conduct are most likely to exist. Relevant items include, among others, information on industry, geographic, product and business risk factors, including known risks that the company has faced or is likely to face. (...)

**2.2** Once these risk areas are identified, it is recommended to carry out frequent and increasingly in-depth assessments about commercial activities, suppliers and other relations that have been prioritized, aiming to identify and assess actual and potential, negative impacts regarding responsible business conduct.

Due diligence on human rights is intended to identify, prevent, mitigate, and respond to negative consequences that affect human rights caused by the company's activities, products, or services.<sup>14</sup> It must: i) consider the adverse effects on human rights caused directly or indirectly by the company's operations, products, or services as part of its business relations framework; ii) be carried out according to the complexity, size, and context where its operations, activities or services take place; and iii) be a continuous process that must be executed periodically since human rights risks are also dynamic and vary based on the complexity of the operations and

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<sup>14</sup> Guiding Principle 17.

the context where they take place.

### **6.2.1. Current management status**

TGI has a comprehensive risk management model. Its Risk Management Policy sets the commitments and the general framework of action for the complete management of strategic, operative risks and the Company's projects. In addition, the Comprehensive Risk Management System Guide outlines the methodological guidelines in agreement with the Corporate Risk Policy, the best practices established by Project Management Institute (PMI), and International Organization for Standardization (ISO) 31000: 2009.

TGI counts on a risk governance structure that starts from the GEB's Board of Directors in charge to approve general guidelines for implementing its risks management. TGI's president is responsible for adopting the risks management policy and Company's management guidelines. Internal Audit Management oversees assessing the implementation and effectiveness of the controls. TGI's leading area on comprehensive risk management implements the strategies and guidelines set by corporate. Risk managers—within their functions—coordinate the identification, valuation, and monitoring of risks and controls while supporting their collaborators who oversee these tasks, too. Planning and Performance Management reports the strategic risks to the Presidency committee. Risk agents communicate the risks and answers associated with their processes to their collaborators; they are supported by the area coordinating risks. In addition, Management Risks results are published in the means available for this purpose for consultation by all TGI collaborators.

Methodologies applied to account for the good practices in this matter. Enterprise Risk Assessor (ERA) is the software used to identify, manage, and monitor risks. TGI set the following categories: strategic risks, compliance risks, operative risks, and financial risks. Strategic risks are categorized in social, reputation, confidentiality, and human management. Compliance risks are categorized in environmental, legal, and regulatory management, among others. These matters are associated with the risks affecting human rights, although this category is not included per se.

## Due Diligence in social management

TGI counts on a Social Management Plan (SMP)<sup>15</sup>. It is framed on the sustainability concept of the Corporate Strategic Plan as “the ability to know and manage the surroundings. It implements innovative actions that allow adapting businesses to territory dynamics by generating profitability and sharing our benefits with the territories where we operate. It has a long-term vision and is transitioning towards a sustainable future.” It is based on the principles of **Genuine Relationships** with interest groups, **Social Awareness**, and the “awareness to understand and perceive the territory realities to manage them.” Its commitments are framed within the Global Pact Principles and the Sustainable Development Objectives compliance. The commitments are to carry out its operations by balancing the generation of value among its shareholders, the well-being of the communities, the minimization of environmental impact, and the generation of shared value.

Some of its purposes are to set its relationship guidelines focusing on managing opportunities, impacts, and risks, creating value for its stakeholders,<sup>16</sup> and promoting the positive transformation in the territories it operates. Its performance is based on the following pillars: proper knowledge and comprehensive understanding of the environmental, social, economic, and political environment where its activities take place—maps of actors and outlining appropriate regional strategies, updating the baseline, political configuration map, monitoring the local and regional economy, activities of Oil & Gas and other industries, and growth and contribution to the regional economy—; maximization of scope, coverage, and benefits of social projects with third party leverage; implementation of inclusive dialogue strategies and structured agendas with specific topics, and multidisciplinary initiatives; and strengthening of two-way communication channels with external interest groups.

The following are the cross-sectional lines of action established by SMP: compliance of the obligations derived from EMP and other associated administrative acts, mitigation of social risks that interfere with the development of processes or projects, generation of shared value, impact monitoring, and measurement from the social intervention and strategic relationship, and the establishment of communication strategies for the promotion and knowledge of social programs and projects taking place in the Company's territories. SMP includes six programs: secure networks, learning networks, empowering networks, competitiveness networks, progress networks, and ancestral networks, aimed respectively at:

- Manage and mitigate the potential risks associated with the gas pipeline operation, and strengthen the responsiveness of the neighboring communities to the infrastructure in the event of an emergency.
- Improve the quality and relevance of education in institutions and communities within TGI's areas of influence.
- Strengthen and promote participation, leadership, and management practices in the community for the collective transformation of the territories.
- Contribute to the strengthening and leveraging of rural micro, small, and medium businesses within the areas of influence, promoting the local business and economic network.
- Contribute to the rural economic infrastructure development with the road, community, recreational infrastructure projects, and public services.
- Ensure the genuine, permanent, and transparent relationship with ethnic groups in the areas of

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<sup>15</sup> SOCIAL AND ENVIRONMENTAL MANAGEMENT, OCCUPATIONAL SAFETY, AND HEALTH. Social Management Plan Code: PL-ASI-029·Revision: Final 2.

<sup>16</sup> Communities, environmental, civil, and military authorities, regional and local suppliers, controlling entities, multilateral organizations, NGOs, research centers and universities, civil society organizations, and third parties with projects that require coexistence with TGI's infrastructure.

influence and the due diligence in identifying actual or potential adverse impacts and their handling measures.

These SMP elements constitute the foundations of human rights management that emphasize the strategic convenience of linking the human rights management from a due diligence approach with the sustainability management from a value-added approach. Likewise, it highlights the importance of knowledge and understanding of territorial dynamics.

### **Due Diligence in social management**

TGI has implemented actions and programs that prevent and manage labor risks. For example, life First and Social Awareness cultural attributes of the Well-being Plan promote protection, a balance between the working and personal life, equity, and diversity. In addition, the module "recognition" of the "TGI on your side" platform recognizes its collaborators based on their compliance with the cultural attributes, leaders' empowerment actions, and the campaigns that promote a good work environment. Likewise, the company monitors issues of sexual and workplace harassment.

Occupational safety and health and Environment policy establishes commitments and addresses occupational risks management. In numeral 6 of the Company's declaration of commitments, it is committed to identifying the hazards and risks associated with the activities, developed in all its Workplace Centers, and assessing and acting in a timely and continuous manner through effective action plans. This numeral establishes the assessment and risk management for safety, health, and environment for all changes. Numeral 9 designates the best practices implementation of the industry in the design, construction, operation, and maintenance of the transport infrastructure guaranteeing its safe operation without Occupational safety and health and Environment risks. The Company has implemented risk management mechanisms for the unfolding and traceability of these commitments, including the internal level and value chain.

On the other hand, the objective of the Diversity and Inclusion Policy is to promote and maintain a corporate culture and work environment discrimination-free, committed to equal rights, responsibilities, and opportunities among women and men. Accordingly, it engages to prevent, handle, sanction, and eliminate conducts that may violate the equity objectives outlined, such as managing work and sexual harassment cases in the workplace and active intervention of the Committee of Coexistence. In the Sello Equipares framework, a detailed management diagnosis has been carried out in the gender dimension, and an action plan has been implemented to obtain the Silver Seal. These aspects are presented in greater detail in the chapter corresponding to management diagnosis with a differential approach.

### **Due diligence against fraud and corruption**

The Internal Control and Prevention of Fraud and Corruption Policy establishes the guidelines to identify, detect, assess, mitigate, monitor, investigate, prevent, and correct fraud and corruption risks. Risk management is based on the promotion of a culture of transparency from the integration of different risk management systems aimed at the identification, detection, assessment, mitigation, monitoring, investigation, prevention, and correction of fraud-related behaviors, money laundering, and financing of terrorism and corruption, as well as the strengthening of the Internal Control System.

The Planning and Performance Management and the Compliance Management are responsible for establishing the fraud and corruption risk map and the prevention and control mechanisms with the assistance of the areas in key processes of financial management, Supply, Land, Administrative Services, infrastructure maintenance,

among others.

### **Due diligence in the protection of personal data**

TGI has a risk matrix associated with personal data management. Although all management's purpose is to respect the habeas data right, the risk analysis approach is mainly legal, emphasizing the Company's impacts or consequences.

### **Due Diligence in physical security**

The benchmark used to assess HR due diligence in physical security matters is the Voluntary Principles on Security and Human Rights.

#### ***VOLUNTARY PRINCIPLES ON SECURITY AND HUMAN RIGHTS—VPSHR***

**Module 2.** Risks assessment Carrying out a two-way risk assessment about human rights to identify security risks for the company and impacts to the communities' human rights. Background assessment of antecedents of Police Force and private security. Integration of the assessment to all Company's protection services.

**Module 3.** Construction of a relationship with Police Force and private security to establish and socialize the company's human rights expectations. Implementation of dialogue and participation mechanisms with police force and private security members for preventing and mitigating risks and impacts where HRSVPs are integrated.

**Module 4.** Establishment of the private security scheme based on the risk assessment to determine its functions, size, configuration, type of weapons, cultural factors, experience, supervision and convergence with the police force. Exercise due diligence on human rights, confirming its records and compliance of human rights respect.

TGI's security area makes an in-depth analysis of the security and protection risks and establishes its management and control plans. These analyzes are shared with internal areas, such as social, construction, and maintenance management. In addition, it handles rigorous security schemes when needed in coordination with the public security force—Police and Army. Based on the interviews conducted, TGI has not adhered formally to the Voluntary Principles. However, its relationship with FFPP has been guided by them under the cooperation agreements with the security. On the other hand, the security area and Social Management participate in the relationships with communities in a preventive way, and when required, in the solution to critical situations of crisis that can give rise to security concerns.

### **Risks in investment projects**

TGI has an investment project policy that defines the principles and guidelines for identifying, analyzing, assessing, deciding, and monitoring them. Ethics and transparency are part of the general criteria for TGI's actions in the identification, evaluation, decision, execution, and monitoring of investments. Although the investment policy does not incorporate human rights due diligence for mergers and acquisitions, based on the interviews conducted, actually aspects associated with the accomplishment of such processes are taken into account.

## **6.2.2. Opportunities for improvement**

### *a) Need to incorporate human rights approach explicitly in risks management*

It is noteworthy that due diligence in human rights varies concerning business risk management. It focuses on establishing the possibilities of human rights affected by third parties, not business objectives. Even though its materialization may generate consequences for the Company and its compliance with its goals, due diligence's purpose focuses on the adverse impacts to third parties, not the corporate assets impacts.

TGI does not have a due diligence process or model for human rights with guidelines, methodologies, and instruments for their identification, valuation, and own management of human rights risks in agreement with good practices recommended by Nations United Guiding Principles for Business and Human Rights. In general terms, they indicate the convenience of establishing a straightforward approach that could be independent or integrated into the available model but correlated with the business risks. This approach must be incorporated into the risk analysis by the owners of the different processes, emphasizing those associated with functions, such as physical security, social management, land management, involuntary resettlement, and human resources.

This Model must incorporate the supply chain and establish the guidelines to carry out due diligence in investment decisions, mainly through mergers or acquisitions.

### *b) Limitations in the articulation between the areas that identify and manage human rights risks*

Human rights risk management requires comprehensive cross-sectional participation—technical, social, legal—for knowledge and understanding of the operation surroundings, its vulnerability in human rights, identification of risks and impacts, and determination of the measures for its management. Therefore, it is necessary to strengthen this cross-sectional interaction—technical, corporate, and field support—to align human rights management according to its intention, with clear roles and responsibilities for each of these areas from the early stages of projects and operations.

### *c) Explicit incorporation of human rights due diligence in the SMP*

SMP establishes the foundations to manage human rights, which must account for basic behavioral expectations in relationships with the communities and other agents. The following opportunities for improvement are identified to strengthen them:

- Include in the SMP's commitment the assurance of due diligence in human rights. The specific objective is to establish the due diligence contribution in identifying and managing potential or actual adverse impacts on human rights derived from operations and projects.
- Regarding the relationship with stakeholders, incorporate the explicit guidance for implementing inclusive dialogue strategies with a differential approach, considering diversity and possible inclusion barriers of the different audiences with whom they interact. Considering the importance of relationships with due diligence in human rights, part of the objective of relationships with interest groups is to establish, consider, and understand their views on the impacts of the operations and projects and the management measures. Likewise, strengthening the petition, complaint, claim, and suggestion (PCCS) channel aligns it with the effectiveness criteria indicated by the Guiding Principles in terms of accessibility, reliability, and timely attention. They must be compatible with human rights and

the concerns or complaints of the people who consider themselves affected by our operations. Its use should be viewed as a tool of constant improvement for managing all types of relations.

- Once the Human Rights Policy is adopted, it must be included as a corporate guiding document for SMP.
- Regarding the analysis and impacts of the social risk on the communities, the objective of PGS is to incorporate the human rights approach with pertinent regulations explicitly. It must be considered since the terms of reference established by the environmental authority do not incorporate this approach clearly, and thus they may be insufficient.
- Strengthen the indicators of the social voluntary investment measures by incorporating the ones reporting the results or impacts in the transformation of conditions to accomplish human rights.
- Finally, the explicit incorporation of the differential approach as an SMP's guideline or principle is identified as an opportunity for improvement. In this sense, part of the commitments is to have special consideration to identify and understand the situation of groups or sectors in condition of vulnerability due to factors, such as age, gender, or ethnic origin.

d) Strengthening due diligence on human rights in physical security

Due diligence practices in human rights in the physical security scope must be strengthened to ensure the dissemination of knowledge in its internal traceability and with external audiences.

Security risks analysis is not complemented with the identification and risk valuation of human rights that may arise from the surveillance and private security schemes done by the Public Forces in a documented way. These schemes are developed within the cooperation agreements execution framework in compliance with their constitutional obligations. Based on this, it needs to be emphasized that even when TGI is not responsible for Public Forces' actions, it is essential to establish the risks since it can be questioned.

The incorporation of the Voluntary Principles within the Ministry of Defense framework agreements is restricted by the limitations of influencing their adoption by the Public Force. Specifically, in terms of risk analysis, the adoption of a two-way approach has not been possible. The strategic relationship with the Ministry of Defense may be more effective through bodies such as the Mining and Energy Committee.

e) Limitations in internal knowledge regarding human rights

It is necessary to ensure greater knowledge of general and specific human rights issues to identify risks with this approach adequately. Thus, knowledge of specific formal aspects of human rights in areas such as human resources, social relations, among others, is necessary, as well as constant monitoring of social perceptions and advances in the legal framework, particularly jurisprudential, on various issues. It is particularly important for risk analysis and management measures since it is necessary to establish clearly and rigorously when a human rights risk is formed.

## 7. SUPPLY CHAIN ASSURANCE

### ***GUIDING PRINCIPLES IN BUSINESS AND HUMAN RIGHTS—UNGP***

**Principle 13.** The responsibility to respect human rights requires that companies: (... 9 b) Try to prevent or mitigate negative consequences on human rights directly related to operations, products, or services provided by their business relationships, even when they have not contributed to generate them.

**Principle 18.** In order to fix human rights risks, companies must identify and assess actual or potential, negative consequences on human rights, resulting from their own activities or their business relations.

### ***OECD—DUE DILIGENCE GUIDANCE FOR RESPONSIBLE BUSINESS CONDUCT***

**1.3.** Incorporate RBC's expectations and policies into relationships with suppliers and other business relationships.

**3.2.** Based on the prioritization carried out by the company (see section 2.4), develop and implement plans to prevent or mitigate real or potential negative impacts within RBC's scopes directly linked with the activities, products or services of the company through their commercial relations.

### 7.1. Management status

Supply Policy's objective is to foster best practices in managing competitiveness, quality, compliance with industrial safety, Occupational Safety and Health, environmental and social of the supply chain. It is noteworthy that within its objectives, it promotes human rights due diligence based on the suppliers and contractors who are essential for the business. Likewise, it counts on the Occupational Safety and Health and Environment Policy, HSEQ, and Social Manual for Contractors and Suppliers that establish the guidelines to be considered from the planning stage of contractual processes. They comprise the eligibility criteria of selecting, hiring, and assessing performance.

Under the HSEQ and the Social Manual for Contractors and Suppliers,<sup>17</sup> commitments are framed for the Human rights respect, Sustainable Development Objectives, and the trust of stakeholders. In addition, this manual establishes the specific and detailed requirements regarding Occupational Safety and Health, Environment, energy, social and quality management, and the mechanisms for monitoring compliance and sanctions—in case of non-compliance—in accordance with TGI's legal framework corporate policies.

In the suppliers and contractor's registry, information is collected about sustainability practices, such as gender equity respect, community relationships, supplier analyses with social, HR, work rights, and Occupational Safety and Health criteria.

Regarding contractual requirements on human rights related to work management, labor management, Occupational Safety and Health, and environmental, guidelines and mechanisms of due diligence are identified. They are aimed at ensuring decent work conditions on behalf of contractors, suppliers, and environmental regulations compliance. In a cross-sectional way, it is identified that all the management

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<sup>17</sup> HSEQ Manual for Contractors and Suppliers. M-ASI-002. Final. 2020

required from the contractors is structured systematically, extensively, well-documented, and traceable of the risks and impacts in each one of these two aspects.

In the requirements related to Social Management, the Manual indicates that it is applied in case of works in territory lasting more than one week, requiring hiring labor, goods, or services. The contractor's general obligations are to act under TGI's policies, disseminate them among its employees under contract, and extend them to their subcontractors. Regarding specific obligations, contractors must know and respect the territories and areas of influence, social and cultural values, keep genuine relations with the communities adopting the intercultural relationship protocol, respect and guarantee human rights, gender equality, pay equity, and decent work. These actions must be part of the induction plan and training of the staff linked to the project, works, and activities by generating the corresponding support and evidence. Other obligations are preventing and handling possible social conflicts with the local population due to impacts caused by the project's development, work, or activity. Contractors are responsible for resetting the conditions in case of impacts. Thus, they need to have an effective and documented system to handle Petitions, Complaints, Claims, and Suggestions (PCCS).

Additionally, the contractor must attend the initial induction for all the personnel involved in the contract as a requirement to start any activities. Furthermore, he must demonstrate the suitability of the social management staff, draft a Social Management Plan, guarantee resources for their execution, and incorporate participation mechanisms for promoting equal opportunities for men and women. In addition, he must demonstrate his responsibility to commitments, due management of authorizations to enter private properties, and compliance with resettlement plans.

TGI has a guide that helps to assess contractors. Monitoring mechanisms are in charge of the Supply Management, which assesses suppliers and contractors' performance. Also, it is responsible for the inspector of the contract, who is in charge of evaluating and monitoring the plans of improvement when the result is "poor" or "deficient." Assessment is made periodically according to the duration of the contract, and the corresponding functional areas support the contract's supervisor. The evaluation is the input used for decision-making to extend a contract, future invitations to bid, and tie-breaks in competitive processes.

Predefined assessing criteria are technical and administrative compliance, industrial safety, occupational health and risk prevention, environmental management, corporate social responsibility (CSR), and quality compliance. The CSR sub-criteria refers to the non-creation of negative impact events in the social surroundings that affect the contract execution, evidence of hiring people from the region, and compliance with the obligations contracted with their subcontractors. Other criteria include compliance with labor-related obligations—wages, benefits, social security—health, safety, and environmental. The importance of these aspects varies according to the type of contract.

## 7.2. Opportunities for improvement

### a) Insufficient contractual requirements needed in the recruitment process on human rights

TGI has incorporated the contractors and suppliers' obligation to respect human rights and the specific commitment "to strive for human rights respect and guarantees, gender equality, pay equity and decent work." Therefore, it is necessary to establish due diligence requirements specifically to ensure their effectiveness, facilitate their supervision, improvement plans, and the possible application of contractual sanctions for non-compliance. Requirements to categorize contractors and suppliers are based on criteria, such as the impact risk exposure levels, contractual object, nature of their activities, magnitude of labor force used, duration of their

relationship with TGI, and if they provide their services in TGI facilities or the field.

Contractual requirements should categorize aspects, such as the adoption of human rights policy, the assignment of a person in charge of the management, the accomplishment of risks analysis on human rights, and obligations to ensure their supply chain. In addition, it is advisable to incorporate the obligations explicitly to comply with the national and international legislation regarding the prohibition of child labor, forced labor, and discrimination acts, compliance of the freedom of association, and collective negotiation as relevant due diligence matters.

b) *Strengthening of communication, induction, and training on human rights*

The induction for TGI's contractors must incorporate the theme of human rights. According to information gathered from interviews and focus groups, there is not enough training for suppliers and contractors regarding Company's expectations. Therefore, communication, induction, and reinduction spaces must be periodic and aimed at clarifying guidelines and educating in the supply chain.

c) *Limitations in instances and supervision mechanisms*

The contract administration scheme and follow-up mechanisms should be strengthened through the training and support of the area in charge of human rights management. Additionally, it would be advisable to design basic guidelines for monitoring human rights requirements and assessing contractors and suppliers' performance.

d) *Lack of cooperation strategies and setting incentives for the due diligence*

Contractual requirements should be complemented by cooperative strategies from the contractors' views as TGI allies, aimed at aligning interests, shared knowledge, and incentives that lead to the implementation of human rights due diligence processes in their supply chains in order to identify risks and manage them beyond the third party. In that sense, initiatives of training and strengthening contractors, allies and accreditation networks, and recognitions must incorporate human rights issues.

## 8. COMMUNICATION AND REPORT

### ***GUIDING PRINCIPLES IN BUSINESS AND HUMAN RIGHTS—UNGP***

**Principle 21.** In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised on behalf of affected people or stakeholders. Companies whose operations or operating contexts pose serious risks of impact on human rights should report officially how they address them. In all instances, communications should follow the conditions below:

- a) A way and frequency that reflect the company's human rights impacts and that are accessible to its intended audiences;
- b) Provide enough information to assess whether a company's response to particular consequences on human rights are proper;
- c) In turn, they should not put the affected people and staff at risk, and infringe legitimate commercial confidentiality requirements.

***OECD—DUE DILIGENCE GUIDANCE FOR RESPONSIBLE BUSINESS CONDUCT***

**5.1.** Communicate externally relevant information about the policies, processes, and due diligence activities carried out to identify and agree on actual or potential negative impacts, including the conclusions and results of those activities.

### **8.1. Current management status**

Before carrying out the analysis following the standard, it is essential to mention that TGI does not have a human rights' due diligence process in place even when it carries out actions against the management of social impacts under the Social Management Plan<sup>18</sup> and the Environmental Management Plan (EMP) of environmental licenses. Nevertheless, it will demonstrate TGI's good practices in communication and relationships that can be projected to the risks and impacts management on human rights once it is consolidated.

The Social Management Plan is the management instrument that consolidates the programs, projects, and activities—among other objectives—aimed at preventing, reducing, controlling, and mitigating in a timely and efficient manner the social impacts generated by the operation and maintenance of the Company's infrastructure gas pipeline system. One of the objectives of this plan is to open communication channels with the community, with public and permanent information during the different phases of the project's development, and the consolidation of flexible and inclusive processes with the opinion and stakeholder participation. One of the most important pillars of TGI's communications and relationships is the main communication channel with management professionals. It creates a very close contact by bonding with the communities with confidence

In this sense, it is observed that constant and open communication with its interest groups is crucial for the operation's potential risks and social impacts. Therefore, it demonstrates a company's communication culture, which is highly valuable when managing risks and impacts on human rights.

On the other hand, according to legal requirements, TGI analyzes impacts associated with its projects within the framework of environmental licenses, which must be socialized with the communities by following a participatory and feedback logic. In this sense, the Company makes proper communication management of these impacts within the established regulations. Thus, a culture of communication and relationship around the impacts that the operation can cause is evident. As mentioned above, it can eventually be projected to manage risks and impacts on human rights.

Finally, the Sustainability Report is a mechanism where the Company reports and communicates its contributions in different areas. In the 2019 Report, for example, TGI presented its results in terms of corporate government, ethics, transparency, sustainable development, the social strategy for the transformation of territories, human resources management, and the environment. Although these subjects do not respond directly to the management of risks and impacts on human rights, they are related to human rights, especially from the positive contributions they can offer for the enjoyment and guarantee of their interest groups' rights. However, its relevance lies in the Company's robust mechanism to communicate and report its activities to all its stakeholders compared to the standard.

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<sup>18</sup> By the time this document was being prepared, the Social Management Plan was being updated.

## 8.2. Opportunities for improvement

### a) Gap in relationships and communication regarding impacts beyond law requirements

Currently, the relationship and communication are limited to the requirements established in the environmental license. However, by incorporating a human rights approach in due diligence, this relationship should be extended to the risks and impacts on human rights under the criteria established by the standard.

## 9. CLAIM MECHANISMS

### ***GUIDING PRINCIPLES IN BUSINESS AND HUMAN RIGHTS—UNGP***

**Principle 22.** If the companies determine that they have caused or contributed adverse impacts, they must repair them or contribute to their repair by legitimate processes.

**Principle 29.** In order to handle grievances quickly and repair them directly, companies must establish or participate in effective operational-level claim mechanisms at communities and people's disposal who may be adversely impacted.

**Principle 31.** In order to guarantee their effectiveness, the claim mechanisms must be: (a) legitimate, (b) accessible, (c) predictable, (d) equitable, (e) transparent, (f) compatible with the rights, (g) a source of continuous learning, (h) based on participation and dialogue.

### ***OECD—DUE DILIGENCE GUIDANCE FOR RESPONSIBLE BUSINESS CONDUCT***

**6.1.** When the company identifies that it has caused or contributed to cause some real negative impact, it is necessary to address it by repairing or collaborating on it.

**6.2.** When the need to repair or collaboration with legitimate repair mechanisms where stakeholders and holders of affected rights can file claims and get them addressed by the Company.

According to the Guiding Principles—page 25—claim mechanisms must meet the following criteria:

<b>EFFICACY CRITERIA</b>	
<b>Legitimate and reliable</b>	The mechanism must build confidence among stakeholders, who are assigned to account for the correct development of the process. Provide credibility by ensuring objectivity and impartiality and seek communication and collaboration between businesses and affected communities. The mechanism should ensure that the target groups can freely share their concerns. Therefore, it should consider the potential risks to users and take measures to ensure confidentiality.
<b>Accessible</b>	The mechanism should be known to all potential users and facilitate different channels according to the context. It must provide the necessary means and support so that vulnerable population groups can have access to the mechanism and be culturally relevant.
<b>Predictable and transparent</b>	The mechanism should have a straightforward and well-known procedure, with deadlines at each stage, clarify the processes and alternative solutions, and the means to monitor the implementation. Users must be informed of the development of their claim
<b>Equitable</b>	It must ensure that users have reasonable access to the sources of information, counseling, and specialized knowledge necessary to file a claim process under equality conditions along with complete information and respect.
<b>Compatible with Human Rights</b>	It must ensure that the process applied, results, and repairs conform with internationally recognized human rights.
<b>Input for continuous improvement</b>	It must adopt appropriate measures to identify experiences for improving the mechanism and preventing future grievances and damages.
<b>Participatory and dialogue-based</b>	It must ask the interested groups for which they are intended about its design and operation, with particular attention to the dialogue as a means of addressing and resolving grievances. Participation of third parties—independent mediators and facilitators—in the resolution process should be sought following the severity or complexity of the petition or claim.

**Table 3. Efficacy criteria**

## 9.1. Current management status

TGI has the mechanism for Petition, Complaints, Claims, and Suggestions PCCS aimed at external audiences, and the Ethical Channel aimed at both external and internal audiences. On the other hand, it counts on the committees of labor coexistence established internally under national regulations.

### 9.1.1. Petitions, Complaints, and Claims Mechanism

According to Law 142 of 1994, TGI counts on an office of petitions, complaints, and claims to receive, handle, process, and reply to them thoroughly. Furthermore, TGI deals with PCCS under Law 1755 of 2015, "through which the Fundamental Right to Petition is regulated." According to the regulatory framework, the right to petition is fundamental, whose essential core is to obtain a prompt, timely, precise, and adequately notified answer. However, it does not imply that the response will always be favorable to the petitioner. Otherwise, there is a violation of that fundamental right.

The PCCS mechanism counts on a procedure to call the Company's attention. It establishes the channels, types of petitions, processes, terms, people handling them, and the associated document management. In addition, this procedure counts on control points, such as registration, the completion of formats and documentation, and control of terms, which makes it **predictable and transparent** for users.<sup>19</sup>

One of the obstacles pointed out by those responsible for this mechanism is the difficulty that arises for the PCCS to be appropriately managed. Although this has improved, there are still cases in which the required terms are not met. It could be explained by the lack of performance indicators for the employees in charge of handling PCCSs and the obvious priority given to other specific functions they must take, which in some cases exceeds their capabilities for timely care. However, failure to comply constitutes a violation of the right to petition.

Based on the procedure, the PCCS is reviewed to check if it is up to the Company to solve it. If it is not, it is sent to the appropriate instance by letting the petitioner know. First, the PCCS is classified as a petition for information and documents, general petition, or consultation. Then, it is internally assigned, analyzed, and answered in agreement with the criterion of functional competence.

No other classification and treatment criteria were identified according to the severity or complexity of a PCCS based on the risks to human rights, either because of the events causing it, the quality of the person presenting it, or because it could lead to a significant impact on human rights. Employees in charge of receiving and processing PCCSs do not have the analysis elements to identify them. There is no pre-established channel of internal consultation, nor have they been trained in this matter, nor are the internal areas responsible for the answer.

Regarding its **accessibility**<sup>20</sup>, all petitions must be received only through the channels provided by TGI for this purpose. The company has virtual channels, such as email and the website. Also, it counts on the offices located

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<sup>19</sup> The mechanism should have a straightforward and well-known procedure, with deadlines at each stage, clarify the processes and alternate solutions, as well as the means to monitor its implementation Users must be informed of the development of their claim

<sup>20</sup> The mechanism should be known by all potential users and facilitate different channels according to the context. In addition, it must provide the necessary means and support so that vulnerable population groups can have access to the mechanism and be culturally relevant.

in the county seats (five offices). They can be delivered directly to the collaborators of the Sustainable Development Management, who can receive rights to petition outside TGI facilities and will be responsible for answering them through the channels provided. It helps overcome access barriers due to geographical reasons or the difficulty of arriving at the TGI facilities. Petitions can be submitted verbally, which also facilitates overcoming educational obstacles.

However, it is necessary to consider that access refers not only to the possibility of presentation but also facilitates users' understanding of the procedure to be followed and about all the requirements necessary for its filing and solution in accordance with the complexity of the PCCS. This situation makes it advisable to have assistance measures necessary for people to present their PCCSs, ensure their analysis efficiently, a timely and accurate decision, and understand the answer. Assistance is provided at attention centers. However, operative guidelines are not available for collaborators in charge of receiving PCCSs. Thus, there is no framework of action to guide them. It creates the risk of getting an answer at the collaborators' discretion based solely on their abilities and personal experiences.

According to the interviews conducted, Social Management collaborators have overseen letting the community know the existence of this mechanism, and thus, the possibility of filing PCCS. For this reason, meetings with communities are also used. Nevertheless, a communication plan has not been made yet to inform the community of its existence. Therefore, it is necessary to let the community know about this mechanism, its procedure, criteria, ways to solve it, what they can expect from it, among other things.

The company has different channels, including the reception by Social Management. Accordingly, no access barriers have been identified to adopt measures regarding the geographical context, culture, and educational levels. Furthermore, no research has been made related to the community perceptions about PCCS accessibility and attention. Neither has cost-related barriers associated with cases of greater complexity been analyzed, for example, those related to land and environmental claims, particularly of the population in a condition of vulnerability. In addition, this type of barrier may not comply with the equity criterion that must govern the mechanism.<sup>21</sup>

By the procedure, anonymous requests will be processed if there is a physical address or email to send the answer. The procedure does not contemplate the possibility of filing a PCCS confidentially—at users' request or for any other reason needed. However, based on the interviews conducted, it has been identified that this possibility has been processed, ensuring that only the person asked to solve a request can access it. Additionally, handling management associated or linked to specific people must be done under Personal Data Protection Law. However, not all collaborators clearly understand the steps and instructions to handle them, which creates a lack of assurance of the user's confidentiality and the provided information.

The procedure requires issuing a receipt once the PCCS is received, given to the user as support to facilitate follow-up. Also, when filing it, a code is issued that allows to trace it in an organized way. If the PCCS requires additional time due to its nature, it must let the user know the reasons. Users can follow up on their process either at the office or by phone. Likewise, if the PCCS requires additional attention while under review, they will constantly keep in touch with the user.

Regarding the responsible area in charge of answering PCCSs, the procedure explains the answer's criteria. However, from the interviews conducted, it was not possible to clearly identify the criteria that establish

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<sup>21</sup> The mechanism must ensure that users have reasonable access to information sources, counseling, and the specialized knowledge necessary to file a claim in conditions of equality, with complete information and respect.

whether a PCCS can be resolved or not, particularly in cases needing impact recognition, corrective measures, and compensations. In addition, neither the criteria to escalate PCCS to higher instances are clear. The procedure states that quarterly reports must be presented regarding the overall management and PCCS status.

### **9.1.2. Ethics Channel**

The Ethics Channel is the mechanism used for detecting and investigating alleged acts of fraud and corruption or actions contrary to ethics, legality, and TGI and Grupo de Energía of Bogotá's regulations. Likewise, the Channel seeks to resolve queries regarding ethical dilemmas that arise and implement preventive measures following the risks detected concerning fraud and corruption. Therefore, it is essential to highlight that within the Ethics Channel's framework is the commitment throughout the organization starting from senior management, protection to the complainant against retaliation, and confidentiality. All this gives to the Channel lineaments that shield it and align it to the standards. In addition, the Channel is aligned with a complainant's protection rights approach by ensuring confidentiality and protection against reprisals and even accompanying him if they occur. Finally, it is worth highlighting the commitment of senior management and Grupo de Energía of Bogotá's alignment to this channel because it grants great support and importance to the process within the organization.

This mechanism is public and accessible to any employee, manager, collaborator, client, supplier, contractor, and TGI's interest groups, through the hotlines, the webpage, and email. The reported information is managed by an expert third party called PWC. It is in charge of receiving complaints, obtaining preliminary data, categorizing them based on the subject and nature, and determining their severity. The Committee makes the investigation of Ethics, which may be accompanied by an independent third party or whoever is assigned from the company if deemed pertinent. It is important to emphasize that the participation of an independent third party guarantees a certain degree of transparency and legitimacy to the process because it shields it against potential conflicts of interest. Likewise, the process is predictable and has clear guidelines regarding the facts and actions that constitute misconduct or acts of corruption.

One of the Ethics Channel manual guidelines is to continue communicating and training its staff about the Channel's process, operation, advantages, and importance. Therefore, it seeks that his collaborators keep on learning about ethical misconduct, acts of corruption, and fraud. Based on this, the company internally expresses the importance of these matters on each collaborator's daily job. Finally, the mechanism has a vital evaluation component for the Channel for its continuous improvement and updating if necessary. Therefore, it guarantees a constant improvement approach within this complaint mechanism.

## **9.2. Opportunities for improvement**

In general, TGI's complaint mechanisms are robust, which guarantees their predictability and transparency. Nevertheless, some opportunities for improvement are identified to allow a greater alignment with the standard and incorporate a rights-based approach for the claim mechanisms management.

### **9.2.1. PCCS Mechanism**

#### *a) Flaws in the opportunity to answer rights to petition*

The Company assures in an exhaustive way that the response process to a right to petition must be carried out correctly. However, even when the Judicial Processes Management and PCCS Office have continuously carried

out actions to improve this process, not all cases are answered on time. (compliance with deadlines).

b) Lack of criteria to identify and process PCCSs related to HR

Currently, the Company has not categorized particular criteria or guidelines to handle PCCSs with greater relevance in human rights, either because they revolve around protecting a fundamental right or because this implies human rights.<sup>22</sup> As a result, it limits the possibility of identifying serious topics or subjects—from a rights approach—needing qualified due diligence to handle impact risks to HR and prevent conflicts or impacts on the business reputation.

c) Need to strengthen a human rights approach in management and resolution

- Although the Company has different means and channels, it does not have an evaluation about access barriers currently. Neither has it made studies on perceptions among its users nor has indicators to measure the degree of compliance of the effectiveness criteria as recommended by the United Nations and the IFC. It is particularly important given the contingency of COVID-19.
- On the other hand, it is necessary to strengthen the cultural adjustment to the procedure in those places that, due to population characteristics, require complementary guidelines of analysis for complaints, relationships, language, solution forms, among others.
- The procedure is regulated, and thus, the regulations establish the criteria to give an answer. These have been disseminated widely among the people in charge. However, no specific documented guidelines have been set for their compliance. For example, how it should be handled if the object of the request is confidential. Neither are there criteria that determine the incidence a petition has on human rights by the petitioner or third parties, nor participation schemes for the community's petitioners with ways to solve them. It requires a clear articulation of the procedure with the Social Management Plan guidelines, the contractors' relationship with the communities, or supply guidelines for contractors contracting local goods and services. In agreement with the interviews made, there was informality in handling businesses in some cases. In many cases, local suppliers of goods or services do not have support to prove contractors' breaches. Therefore, it becomes difficult to satisfy any claim.

d) Greater use of the mechanism for continuous management improvement

The area of documentary management creates reports regarding the status of petitions. Therefore, the head of the responsible area must review its compliance and set action plans. Nevertheless, it was identified that these reports could be strengthened by creating plans of improvement of the procedure and the performances of the areas. It must be done by identifying trends, recurrent issues, lessons learned, and applying good practices.

### 9.3. Management of the COVID-19 pandemic

#### 9.3.1. Current management status

In March 2020, a crisis plan and an organizational business chart of the Enterprise Group were adopted. It was

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<sup>22</sup> This classification should be established for internal use as a prioritization criterion for processing, investigating, answering, tracing, analyzing the management, and setting improvement plans. In addition, it should be done to avoid the exacerbation of expectations or claims related to these matters.

done under the Presidency management for developing the strategy to handle the COVID-19 pandemic. It comprises a Management, a team with the subsidiaries managements, a counseling expert team (GRESA), and a support team. The latter comprises the following critical functional areas: sustainability, supply, finance, regulation, OSH, human resources, and planning.

The strategy has three focuses: collaborators' health and safety, business continuity, financial stability, and humanitarian aid. It has been developed in three main stages: (i) attention (March), (II) reactivation (end of April), and (III) stabilization, scheduled for December but under consideration according to the dynamics of the pandemic and its handling by the authorities.

TGI made an initial review of its risk matrices and control measures, such as work at home, report protocols, scheme and indicators case management, preventive biosafety, epidemiological maps, and scenario analysis. Biosafety protocols for the reactivation of activities have been audited internally and externally by Occupational risk management (ORM) and Safeward. Likewise, it has established ongoing relationships with national and local authorities and alliances with institutions such as the National Institute of Health to strengthen local capabilities.

Regarding health risks, it has periodically applied a measuring instrument for psycho-social and ergonomic risks mainly related to the pandemic. It is aimed at adopting and adjusting to necessary attention strategies and plans.<sup>23</sup> Additionally, it has established psychological guidance mechanisms for the collaborators and, in alliance with the ORM. Furthermore, it has launched courses aimed at preventing and handling domestic violence. Through the Vida Red tool, it has drafted vulnerable population maps and risk levels. This information is protected under Data Protection Policy and strict access control to the Company's medical equipment.

Actions have been developed within the change management framework to strengthen executives' leadership to face the new reality challenges due to the pandemic.

TGI has adopted detailed protocols that establish the guidelines and measures for ensuring the continuity of the operation, protection to its collaborators and their families, and other interest groups with whom TGI has any type of relationship based on different projects, administrative operations, and functions.<sup>24</sup> In this framework, work-at-home staff management guidelines have been established as a measure of prevention and containment for COVID-19, which were "adjusted to the constitutional principles in compliance with GEB's obligations—as the employer—and the cultural characteristics, particularly "Life First." These guidelines are meant to give proper information to the collaborator about the new way of working, information confidentiality protection about their health, respect for their work shift, rest and active breaks, and the option of accessing a flexible schedule.

Finally, in the external relationship, humanitarian aid has been provided with contributions to hospitals through the Secretary of Salud of Bogotá, computer donations through the Secretary of Education of the District, and kits with food in some prioritized territories.

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<sup>23</sup> At the closing date of the compilation information phase, it had access to the survey results since they were in the process of applying the instrument.

<sup>24</sup> Booklet of Compiled Announcements. REACTIVATION OF CONSTRUCTION, OPERATION, AND MAINTENANCE PROJECTS PROTOCOL AND ADMINISTRATIVE PROCESSES FOR THE COVID-19 CONTINGENCY COVID-19 BRANCH OF TRANSMISSION, TGI, AND CORPORATE. Taken from: <file:///C:/Users/CBORDA/OneDrive%20-%20TRUST%20CONSULTORES/Descargas/Protocolo%20reactivaci%C3%B3n%20de%20proyectos%20de%20construcci%C3%B3n,%20operaci%C3%B3n,%20mantenimiento%20y%20procesos%20administrativos%20para%20la%20contingencia%20de%20la%20COVID-19%20.pdf>

### **9.3.2. Opportunities for improvement**

#### *a) Incorporation of the differential approach*

It is advisable to have a differential approach in the management of the pandemic for collaborators. Therefore, it is essential to incorporate criteria to establish the risks and management measures that account for the potential impacts differentiated among collaborators, families, children, and senior citizens. These criteria are derived from the pandemic and the implications associated with the management measures established by the Company, mainly work from house.

#### *b) Recognition of the impacts to the supply chain from the human rights approach*

It is convenient for TGI to map the risks of the management measures in the supply chain and their impacts on workers and local subcontractors to establish guidelines and agreements with the supply chain within the framework of reactivation strategies.

#### *c) Strengthening good practices guidelines for virtual work in the management protocols adopted*

Changes in the way of working and the use of virtual tools came from the necessity to adopt biosafety norms to prevent and protect collaborators in the COVID-19 pandemic. However, they entail impact risks to the collaborators' staff and family well-being due to extended working hours, excessive use of virtual tools, and the perception of constant availability. These have jeopardized their health, the balance between their family and work life, or personal and family privacy. In this context, it is necessary to complement the guidelines adopted for human resources management by setting and implementing them so that leaders and collaborators follow them. These guidelines should be framed on the use of information and communication technologies at work. They should be aimed at preventing their improper use and their effects on the rights and well-being of workers.

## **10. DUE DILIGENCE IN HUMAN RIGHTS FROM A DIFFERENTIAL APPROACH**

Guiding Principles on Business and Human rights set their implementation in a non-discriminatory way paying particular attention to people's rights who belong to high-risk populations or groups due to their vulnerability or marginalization. In this sense, it is essential to identify the due diligence in the management status considering this differential perspective.

For this purpose, three differential perspectives have been selected: gender, children, and ethnic groups. All of it is a product of the importance these topics are gaining, which to a different degree have been already addressed by various standards in compliance with the principles established on international human rights instruments.

### **10.1. Gender<sup>25</sup>**

The right to equality before the law and material equality, and the prohibition of discrimination as the foundations of the human rights protection systems. Several international instruments address the state obligations to no discrimination in general and for specific population groups. There are numerous instruments

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<sup>25</sup> For this analysis, gender issues will be addressed by women. Nevertheless, the concept of gender can be extended to other population groups such as the LGBTI community

specifically directed to protect women's rights.

From a broad perspective, a gender approach is set as the foundation for recognizing human rights, protection, and guarantee. In recent years, governments and international organizations have incorporated this approach into planning policies and development strategies.

Sustainable development summits and World Conferences have incorporated in their agendas goals and plans to ensure equality between men and women in terms of distribution of resources and access to economic and social opportunities. They have reached a consensus about the fundamental bond between gender issues and sustainable development, as shown in the 2030 Sustainable Development Objectives.<sup>26</sup> Sustainable development agendas—without exception—urge governments, the international community, civil society, non-governmental organizations (NGO), and the private sector to solve discrimination and exclusion of benefits of development issues based on gender. For example, the load of poverty on women, unequal access to job and education opportunities, access to public services, violence, disparities in participation, and decision-making.

The United Nations Guiding Principles recognize the differential and gender approach in human rights business management in general on Business and Human Rights.<sup>27</sup> The workgroup of the United Nations on Business and Human Rights has adopted the Gender Guidelines document as the Guiding Principles on Business and Human Rights in response to the mandate received by the United Nations Human Rights Council to incorporate this perspective into the guidelines about business responsibilities on human rights.<sup>28</sup>

On the other hand, the United Nations High Commissioner for Human Rights adopted the Standards of Business Conduct, a code for good practices to address discrimination against lesbian, gay, bisexual, transexual, and intersex people.

It was presented at the Davos Global Forum in 2018. These guidelines develop the Guiding Principles. Gender approach has been adopted in standards such as the Women's Empowerment Principles of the United Nations Global Compact, the International Finance Corporation guide on the risks of violence and harassment for gender reasons, and Guide for Due Diligence and Responsible Business Conduct of the OECD.

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<sup>26</sup> United Nations Conference on Environment and Development held in Rio de Janeiro in 1992—Agenda 21. Platform of the Earth Summit for future actions; World Conference on Human Rights, Vienna, 1993, International Conference on Population and Development, held in Cairo in 1994. At the World Summit for Social Development in Copenhagen in 1995, gender issues were at the center of all strategies to achieve social, economic development, and environmental conservation. Finally, the Fourth World Conference on Women was held in 1995 in Beijing—the Beijing Declaration and Platform for Action.

<sup>27</sup> Commentary on Guiding Principle 3 indicates that States “must explain how to deal effectively with issues of gender, vulnerability and marginalization”, whereas Guiding Principle 7 urges States to aid companies adequately to evaluate and deal with the main risks abuses, rendering special attention to both gender-based violence and sexual violence. Commentary on Guiding Principle 12 states that: “According to the circumstances, a business may need to consider other regulations. For example, companies must respect people's human rights who belong to specific groups or populations and pay special attention when their rights are violated (...).” In addition, commentary on Guiding Principle 20 states that “companies would make a special effort when tracing the effectiveness of their answers to the impacts of the people belonging to groups or populations exposed to greater vulnerability risks or marginalization, with sex-disaggregated data, where appropriate.”

<sup>28</sup> A/HRC/41/43. United Nations General Assembly Human Rights Council, UNHRC, Dimensions of gender of the Guiding Principles on Business and Human Rights. Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises. May 23, 2019.

### ***GENDER GUIDELINES FOR THE UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS***

**PR11. Gender Guideline.** Companies must refrain from infringing on women's human rights and address adverse human rights impacts whenever they are involved. To comply with that responsibility, companies must achieve true gender equality and not exacerbate or replicate the existing discrimination against women in all their activities.

**PR12.** Gender Guideline. To respect the internationally recognized women's rights, companies must comply with the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child—among other instruments—in all circumstances and all their activities,

**PR15.** Gender guideline. Businesses must include the framework and guidelines of gender in all their policies and procedures they establish to comply with all the aspects of their responsibility to respect human rights under the Guiding Principles. They include formulating an institutional statement to human rights adherence, conducting a human rights due diligence process, and repairing the impacts caused on human rights.

**PR17.** Gender Guideline. Companies must specifically integrate a gender perspective in all stages of due diligence processes on human rights, which must be implemented to comply with Guiding Principles. Ongoing human rights due diligence processes must include the negative, actual, or potential consequences for women's human rights caused or contributed from their activities or those linked directly with their operations, products, or services provided by their commercial relations.

**PR20.** Gender guideline. Companies must trace the effectiveness of their answers by using data broken down by sex—which has been collected under a human rights approach—and indicators of results developed in consultation with the affected women, women organizations, and experts on gender issues.

#### ***ADDRESSING GENDER-BASED VIOLENCE AND HARASSMENT—IFC***

5.1. The Board of Directors and senior management must drive cultural changes in the company so that gender violence and harassment are not tolerated, and workers feel comfortable and supported to raise concerns.

5.2. Company policies should publicly state their commitments and codes of conduct to clarify expected and prohibited behaviors.

5.3. Establish claim and investigation mechanisms allowing the presentation of information and their follow-up.

5.4. Establish transparent systems of recruitment and performance assessment for reducing gender-based violence and harassment opportunities.

5.5. Organize training and awareness activities for motivating attitude and behavior changes.

7. Monitor the risks of gender-based violence and harassment.

#### **10.1.1. Current management status**

The diversity and Inclusion Policy recently adopted at TGI settles the “general principles and guidelines to promote and maintain a work environment and corporate culture discrimination-free, committed to equal rights, responsibilities, and opportunities between men and women.” As noted, this Policy understands gender equality as one of the main accomplishments of equality and inclusion. In this sense, these are some of the principles established: promoting pay equity, equal treatment, and opportunities between men and women; taking measures to prevent, sanction, and eliminate work and sexual harassment in the workplace; setting a work environment free of violence; and advertising inclusive and non-sexist internal and external communication. Based on this, it is observed that TGI has set its commitment to gender equity clearly and formally. Furthermore, it should be noted that such commitment is set from the Company's highest level, and a Committee of Gender Equality has confirmed.

TGI was recognized with the Silver Seal from the Equipares of the Ministry of Labor. An organizational diagnosis was made in this process that included relevant processes, such as recruitment, selection, development and planning, remuneration policies, work environment conditions, and communications. As a result, the non-sexist communication manual and the protocol for work and sexual harassment complaints and its procedure were adopted within the defined action plan framework. Additionally, guidelines adjustments were made to selection processes and remuneration policies. Furthermore, training, communication, and awareness plans were defined and carried out, aimed at leaders, collaborators, and work committees of coexistence. Likewise, inclusive selection processes have been carried out, especially for maintenance and operational areas, which have resulted in hiring two women for these positions.

Regarding contractors and suppliers, a workshop was conducted, and a survey was done to identify the level of management where 86 companies participated. Also, the broad diversity and inclusion guideline was included in the Social HSEQ Manual.

It clearly demonstrates important advances in the materialization of the TGI's commitment to gender equity and promotes a work environment free of violence against women. It is identified that TGI has made essential advances considering that this matter has been worked on since 2019.

Finally, regarding the communities and their surroundings, TGI has strengthened its management with women in their areas of influence through the Positive Leadership for Rural Women Program, which has reached 69 women during its first execution phase in 2019. It represents an essential contribution to women's empowerment in leadership, economic independence, decent work, and improved living conditions. It is important to mention that these actions contribute to rights accomplishments. Therefore, they must go along with due diligence on human rights with a differential approach. Notwithstanding this, TGI would be contributing to equality promotion through community initiatives.

#### **10.1.2. Opportunities for improvement**

##### *a) Implementation of the Policy with a broader view on diversity in compliance with its statements*

TGI has developed actions for implementing the Diversity and Inclusion Policy, emphasizing respect and promotion of women's rights. However, under PR Gender Guidelines, efforts can be strengthened by addressing other perspectives of the LGTBI community and the conceptual approach of the TGI's Policy and GEB's human rights commitments.

##### *b) Strengthening the assurance of supply chain Policy and other functional areas*

Diversity and Inclusion Policy is currently applied in the scope of the relationships among its collaborators. As stated in the Gender Guidelines of the Guiding Principles, gender equality should be cross-sectional to all policies, processes, and strategies of all areas involved, rather than human resources matter solely.

Progress and good practices throughout TGI's implementation must extend to the relationships with the supply chain to ensure coherence in all actions and relationships among collaborators, contractors' workers, and between them and the communities. Policies, guidelines, codes of conduct, and other instruments available on gender should be extended to suppliers and contractors for compliance as part of their contractual commitments with TGI, including work harassment prevention and gender-based violence. The recent update of the HSEQ Social Manual for Contractors and Suppliers already incorporates these matters within its general guidelines. For its assurance, it is necessary to include them explicitly as a due diligence approach—

identification and management of human rights risks—on behalf of suppliers and contractors, along with the opportunities for improvement set in the paragraph corresponding to the assurance of due diligence in the supply chain. Likewise, criteria must be outlined to supervise and assess their compliance through existing mechanisms. It is advisable for the contractual safeguards to be complemented with collaborative actions for knowledge generation and promoting diversity in the supply chain.

On the other hand, plans to implement the Gender Diversity Policy must articulate the actions of functional areas of the projects and operations, such as Safety, Land Management, Social Management, aiming at ensuring that this approach extends to the relationship with the communities.

c) *Incorporation of the gender approach in the analysis of risks and impacts, including domestic violence and harassment aspects*

In line with the previous opportunity for improvement, the diagnosis made within the Equipares initiative framework must be complemented with an analysis of risks and impacts on diversity and inclusion matters. It must include domestic violence and harassment in relevant processes that imply the relationship with external interest groups, especially communities, contractors, and suppliers. These analyses and management measures should consider risks women could face in its operations and outsourced activities. Therefore, articulating Social Management Plan guidelines, recruitment of local staff guidelines, physical safety, and land management is vital.

Concerning violence and harassment issues, the jurisprudential agreement excludes work harassment protection in civil and commercial relationships. They derived from service agreements where there is a lack of a hierarchical or subordination relationship. From the legal standpoint, persistence is a condition for its configuration<sup>29</sup> from a human rights approach. GI must strengthen—with the gender approach—formal mechanisms for preventing, detecting, receiving complaints, and giving due treatment to conducts that may be considered violent or shameful within the relationships between its collaborators and contractors.

## 10.2. Children

The Children's approach about Business and Human Rights has been on the loop in official statements by United Nations organs, such as the Committee on the Rights of the Child (Observation 16 of 2013) and special rapporteurs—experts on international human rights protection. They have incorporated due diligence as the expected conduct of companies for the respect and protection of children.

The first use of Guiding Principles with a differential approach was in the standard development of Children's Rights and Business Principles prepared by UNICEF, a UN agency. This guide has been applied in pilot projects in various sectors and countries, including Colombia. Sectors such as mining, Information and Communication Technology (ICT), agro-industry, and oil have been privileged. It denotes the increasing interest of the international agenda in this matter. According to this standard, the main expectation of business conduct to comply with the responsibility to respect children's rights comes from identifying and assessing the risks and impacts on their rights. Due diligence with this perspective is necessary and convenient because the Company can determine and demonstrate objectively and reasonably the scope of its measures. Thus, it establishes more strategic and sustainable value-added work opportunities. It is necessary to consider, for example, that

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<sup>29</sup> Notwithstanding the above, it is highlighted that article 7 of Law 1010 of 2006 established an exception in this regard: Article 7. Conducts that constitute work harassment. (...) Exceptionally, a single hostile act will be enough to prove work harassment. The competent authority will assess such circumstances according to the severity of the denounced conduct and its capacity to offend human dignity by itself, life and physical integrity, sexual freedom, and other fundamental rights. Law 1010 of 2006.

normally working for childhood brings together and serves as a bridge even with detractors.

From the international legal point of view, without prejudice to State duties, there are established principles that affect business responsibilities, such as the best interest of the child. According to this, the State and all people need to prioritize children's protection in their decisions and activities as co-responsibility. Furthermore, it implies the concurrence of agents for their protection, such as family, society, and State. In line with these principles, the Code of Childhood and Adolescence establishes legal obligations for the private sector (Art. 40) based on the principle of co-responsibility and solidarity. These are some of the commitments: know, respect, and promote children's rights, prioritize its protection in situations that demand immediate attention—for example, in disasters and emergencies—warn authorities about an alleged crime or violation or threat. Compliance with these obligations must be done obviously following state obligations through institutional ways. It is not about companies assuming duties that are not theirs. For this reason, it is convenient to incorporate this differential approach in due diligence. Indeed, it will set the scope of the incumbent measures by identifying situations where the company has an incidence in the respect and promotion of children's rights.

By examining the external context, situations in the worksite's surroundings can be considered a business risk factor against children's rights; for example, informal child labor in the supply chain, particularly in the second or third link of such chain; the differentiated impact those business activities may have in children—nearby educational institutions; illegal relationships of workers or FFPP members who take part on business activities; among others. Even though, in general terms, the probability of the risks affecting children's rights may be low, its impact is vital given the quality of the affected and the reputational risks that can be faced.

#### ***CHILD RIGHTS AND BUSINESS PRINCIPLES—UNICEF***

**Principle 1.** Fulfill its responsibility to respect and promote child rights, including:

- a) A document that establishes corporate responsibility to respect rights, including child rights.
- b) Identify and assess any actual or potential negative impact on child rights. To this end, the Company should have expertise in human rights, and the process should include consultations with children and other potentially affected groups. In addition, it should be borne in mind that children may be affected by different risks.
- c) Count on processes to facilitate the implementation of corrective measures that care for children. Such mechanisms should be accessible to children, their families, and those who represent their interests.

**Principle 2.** Contribute to the elimination of child labor in all business activities and relationships.

**Principle 3.** Provide decent employment that supports workers, men, women, and their role as parents and caretakers. Beyond compliance with legislation, the company must pay special attention to working conditions.

**Principle 4.** Address safety and protection risks of child rights set by the company's facilities and staff in the exercise of the business activity.

**Principle 5.** Guarantee that products and services are safe and that they promote child rights.

**Principle 6.** Ensure that neither communications nor marketing harm child rights.

**Principle 7.** Respect and promote child rights concerning the environment and the acquisition and use of land.

**Principle 8.** Respect and promote child rights in safety arrangements.

#### **10.2.1. Current management status**

Formally, TGI does not have an explicit statement regarding child rights (CR). Despite this, actions can be

identified that show commitment to this target population, especially in its zero tolerance to child labor and well-being.

At the internal level, TGI has committed to the well-being of its workers through its policies, programs, and organizational culture. In general terms, in agreement with the standard, the fair wages, the balance between work and family life, maternity and paternity leave, and in general, parents, mothers, and caretakers support positively impact children's well-being and accomplishment of their rights. Thus, TGI has an important robust commitment to its workers' well-being and good practices measures, such as assuring the balance between their work and family life, economic benefits for children, medical insurance with family coverage, and additional time for maternity and paternity leave.

At the contractor's level, the Local Hiring' component of the Social Management Plan requires contractors to adopt "the Global Pact principles on the work scope, such as zero tolerance to child labor, granting job opportunities to women, and guarantee decent work conditions under worker's rights."

### **10.2.2. Opportunities for improvement**

In general terms, it is observed that TGI has essential opportunities for improvement regarding children from a human rights approach. Some of the priorities to strengthen their alignment with the standard are listed below:

- a) Lack of an explicit business commitment with child rights in the scope of human rights in business

Regarding TGI's human rights commitment to its different policies and human rights currently being drafted<sup>30</sup>, it is convenient to explicitly include its business commitment of respect and due diligence with this perspective.

- b) Lack of a children's differential approach in environmental and social impact studies and other studies

The incorporation of a documented and traceable differential perspective regarding this population group in environmental impact studies and other studies, such as those carried out in the framework of involuntary resettlements, or acknowledging direct impacts on ethnic groups and measures management.

### **10.3. Ethnic communities**

Several international human rights instruments have recognized and protected indigenous people's rights progressively within the development projects framework by international judicial bodies.

In agreement with the general observation 24 of the Committee on Economic, Social, and Cultural Rights, States have certain obligations in the business context. Mainly, they need to ensure that the effects of business activities in indigenous towns are incorporated in the impact assessment of human rights, especially on territory rights, resources, cultural heritage, and in general, their culture. Also, the General Observation indicates that companies must have to act according to the "due diligence" standard on human rights. They will have to participate in consultations and cooperate in good faith with the interests of indigenous peoples through representative institutions. The purpose is to establish possible adverse effects of activities and prevention, mitigation, and compensation measures. The Inter-American Court has considered the United Nations Guiding Principles on Business and Human Rights to indicate the duty of business due diligence

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<sup>30</sup> One of the components of the consultancy is the preparation of the TGI's Human Rights Policy.

regarding the rights of indigenous peoples, including the right to prior consultation.

Colombia is part of ILO's Agreement 169 developed especially through the jurisprudence of high courts, which have even given great relevance to declarations such as the United Nations Declaration on the Rights of Indigenous Peoples. In agreement with the Constitutional Court, under the Colombian regulatory framework, the State holds the essential duty on ethnic communities' rights, including the right to previous consultation. "Individuals, and in particular, companies" have duties regarding these rights that are concurrent with those of the State, "that are not equivalent (...) but which are far from being minor and irrelevant."<sup>31</sup>

Specifically, companies have the responsibility to respect indigenous people's human rights and other ethnic groups. Specifically, they have a concurrent obligation to develop due diligence processes for (i) the recognition of the presence of ethnic groups, (ii) the determination of the susceptibility of impacts to their lands, territories, and natural resources, and (iii) conducting prior consultation and determining the measures for managing these impacts.

Social performance standards, such as the Performance Norms of the International Finance Corporation (IFC), World Bank, the Equator Principles, and the OECD, have established the expected business behavior towards ethnic groups' human rights respect. In addition, they have incorporated the United Nations Guiding Principles for Business and Human Rights.

### **10.3.1. Current management status**

Regarding ethnic communities, TGI establishes a commitment to act under Agreement 169 of 1989 of ILO on indigenous and tribal towns, regulations, and jurisprudence. Furthermore, the ANCESTRAL NETWORKS Program set in the Social Management Plan aims at "ensuring the genuine, permanent, and transparent relationship with ethnic groups in the areas of influence, due diligence in identifying actual or potential adverse impacts, and its management measures. All this was set within the framework of recognition and respect for the cultural identity, values, practices, and the institutionality and governance of each ethnic group, in harmony with TGI's sustainability policy." Consequently, it is identified that TGI adopts a differential approach in its relationship with ethnic groups so that they recognize and respect its culture, customs, independent government, etc.

This commitment materializes through its guidelines. Some of them are the dissemination of enough information about projects, the interculturality principle about ethnic groups relations, the identification of impacts, the construction of specific management measures with ethnic groups, coordination with governmental bodies on rights protection, recognition of the previous consultation under the criteria that allow free and informed participation, and the adoption of a relationship intercultural protocol for projects and operations in surroundings with ethnic groups. All this shows clear and specific guidelines for intercultural relationships that different Company areas control through training and socializations for the social management teams, contractors, and subcontractors.

### **10.3.2. Opportunities for improvement**

#### *a) Strengthening of criteria and mechanisms to ensure due diligence in prior consultation*

Although the Social Management Plan incorporates due diligence, TGI does not have a guideline or

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<sup>31</sup> Constitutional Court. Sentences SU 123 of 2018.

documented operating protocol that guides its development from projects' early stages for identifying and tracing potential impacts that can be generated and avoided. These impacts can create subsequent delays due to additional verification actions ordered by a corresponding authority or community claims. This protocol must incorporate guidelines that characterize places with ethnic communities from a cultural perspective. It should be outlined in the territory definition. It must include the criteria to determine whether in-depth studies are needed, identify if there have been previous conflicts among community representatives or participation barriers, the vulnerability situation of ethnic communities with a differential approach on gender and children, among others. All this must be done taking into account the absence of regulations that still exist, the notion of territory, and the requirements established by the sentence SU 123 of 2018 concerning business due diligence (i) in recognition of the presence of ethnic groups, (ii) the identification of susceptibility of direct impacts on land, territories, and natural resources, in contrast to the criterion of the area of direct influence in environmental impact studies, and (iii) in carrying out the prior consultation. It also considers the Presidential Board No. 8 of 2020 related to the resolution of origin of the prior consultation. It states that it will be made in agreement with the criterion of direct impact and based on legal, cartographic, geographic, or spatial studies required. They are presented by the company interested and are subject to verification by the Ministry of the Interior on its first stage. They are given even through visits to the territory to imply a broader understanding of the area identified by the company executing the POA.

*b) Need to strengthen the assurance of the supply chain in intercultural relationships*

Inductions are needed to strengthen the intercultural relationship between contractors and suppliers and ensure compliance to respect ethnic communities' rights. It includes the requirements on qualified staff for an intercultural relationship, follow-up and supervision of their behaviors articulated between social management and the contract's supervisor, and the adjustment of cultural PCCS mechanisms and contractors in those locations with ethnic communities.

### III. HUMAN RIGHTS RISK ANALYSIS

The results of the human rights risk analysis associated with TGI's activities are presented below. In agreement with the terms of the consultancy, the risk analysis was carried out at the first level of approximation, based on: (i) the analysis of national critical socio-political factors about the human rights situation and (ii) the internal functional aspects of greater predisposition to the generation of human rights risks.

#### 1. CONCEPTS

Guiding Principles of Nations United on Business and Human rights establish (P11 and 12) the responsibility to respect internationally recognized human rights. It means that “they must refrain from infringing third party human rights and facing negative consequences on human rights in which they have some kind of participation.” Furthermore, it demands companies (P13) to avoid that their activities, products, or services and those commercially related to them cause or contribute to causing *adverse impacts* to human rights. If they occur, they must face the consequences, even when they are caused by the commercial partners and have not contributed to generate them.

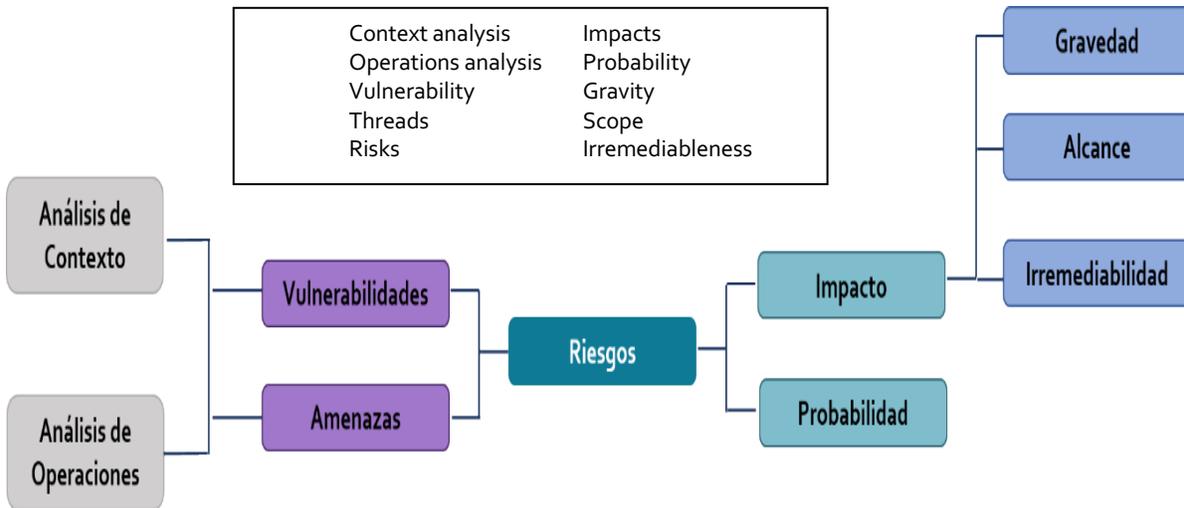
In agreement with Principles 15 and 17, a process of due diligence must be developed to identify, prevent, mitigate, and be accountable for human rights risks. In addition, if applicable, companies must repair the negative consequences caused if the risk comes to materialize itself.

In agreement with the Guiding Principles Interpretation Guide, **human rights risks** are understood as ***“the possible negative consequences from the company's activities on human rights. Therefore, potential impacts must be handled with prevention or mitigation measures, whereas real impacts—those that have already occurred—must be fixed (Principle 22).”***

From this perspective, human rights risks are different from business risks. Human rights risks refer to the possibility of generating negative consequences or adverse impacts on the human rights exercise and enjoyment from the Company's activities, products, or services of its supply chain. That is to say, the object protected is human rights, not the business property, even when the materialization of a human rights risk has corporate consequences to their objectives.

Companies count on several worksites and organizations in their supply chain, given the complexity of addressing each operation and entity. Therefore, in agreement with the Guide, it is advisable to identify general areas presenting more significant risks of negative consequences on human rights, identify the priorities, and deepen their analyses. As stated, this is the approach that has been adopted in this analysis.

## 2. METHODOLOGIC PLANNING



**Image 2. Methodologic planning of Risk Analysis**

**Source:** Created by Trust

Identifying human rights risks starts from the **Context Analysis**, aimed at identifying, on the one hand, the critical factors of the external context that generates a greater exposure of people to the effects of business activities, including those carried out through their contractors, suppliers, or institutionally related parties. On the other hand, identifying the critical factors of the business's internal context makes it more likely to generate adverse impacts on human rights.

These critical factors are called respectively:

- *Vulnerability of the surroundings*: it is understood as institutional, legal, social, cultural, or economic conditions, circumstances, or situations that affect the respect, guarantees, and fulfillment of human rights.
- *Business vulnerability*: it is understood as conditions, circumstances, or situations of the operational or support processes that are likely to generate human rights risks.

Once critical operational and environmental factors are acknowledged, **we proceed to identify the risks affecting human rights and their valuation.**

Assessing risk magnitude is carried out in agreement with the following criteria, which determine its probability and impact in case of materialization. It is noteworthy that, when it comes to human rights risks, emphasis is placed on the effects of their materialization on the exercise and enjoyment of human rights.

## PROBABILITY

Probability is valued from a numerical scale from 1 to 5, where 1 corresponds to **very unlikely** and 5 to **very likely**.

VALUATION		DESCRIPTION
<b>Very High</b> (Very likely)	5	Risk is materializing at this moment, and there is credible and supported evidence that proves it.
<b>High</b> (Highly Probable)	4	Risk is a logical possibility due to the conditions of the context, and there is credible information that supports its occurrence with high probability.
<b>Medium</b> (Likely)	3	Risk is a logical possibility, and there are conditions of context that make it possible to materialize.
<b>Low</b> (Unlikely)	2	Risk is a logical possibility. Risk has been presented in a similar operation in the country or similar regions.
<b>Very low</b> (Very unlikely)	1	There are no documented indications of human rights violations in the industry or the country.

**Table 4. Risk occurrence probability assessment on Human Rights**

## IMPACT

Impact severity is valued in a rank from 1 to 5, where 1 corresponds to a Very Low severity ( **minimum**) and 5 to a Very High severity ( **catastrophic**). Thus, valuation is the average result of the analysis of three criteria: severity, scope, and remediability. Criteria that will be explained below were drafted, considering the proposal of risk and impacts assessment in human rights of the Danish Institute for Human rights and the conceptual elements of the risk analysis methodologies created by TRUST.

- **Severity Assessment**

IMPACT SEVERITY (Severity + Scope + Irremediableness)				
<b>Very high</b> (Catastrophic)	<b>High</b> (High)	<b>Medium</b> (Moderate)	<b>Low</b> (Low)	<b>Very low</b> (Minimum)
<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>

**Table 5. Impact severity**

- **Gravity Assessment**

Gravity is determined from a numerical assessment in three levels, where 1 corresponds to **low** gravity, 3 to

**medium** gravity, and 5 to **high** gravity. Analysis and evaluation consider the nature and type of the affected right.

VALUATION		GRAVITY
High	5	Impact to rights such as the right to life or health that are difficult or impossible to repair due to their nature. The right to cultural survival and the collective right of ethnic populations are also included.
Medium	3	Impact to rights that not necessarily threaten life or health in the long run but tangibly infringes the access to basic needs and privileges, such as education, work, housing, or public services. The degree of violation of the right is partial.
Low	1	Impact to rights that do not threaten life, health in the long run or are against the possibility of accessing basic needs or privileges.

**Table 6. Risk gravity assessment on Human Rights**

- **Scope Assessment**

The scope is determined from a numerical valuation in three levels, where 1 corresponds to a **low** scope, 3 is a **medium** scope, and 5 is a **high** scope. Analysis and assessment include the number of people affected by the risk and the quality of the hit communities determined based on their vulnerability conditions.

VALUATION		SCOPE
High	5	Impact to the communities' rights of all the Area of Influence and even outside it, or to communities considered in a condition of vulnerability (ethnic communities, the elderly, children, etc.), including a group of employees/contractors.
Medium	3	Impact on the rights of specific communities within the Area of Direct Influence or the group of employees/contractors.
Low	1	Impact to the rights of a particular individual from the Area of Direct Influence or an employee/contractor. Violation occurs in isolation.

**Table 7. Risk scope assessment on Human Rights**

- **Irremediableness Assessment**

The scope is determined from a numerical valuation in three levels, where 1 is **low**, 3 is **medium**, and 5 is **high**. Analysis and valuation essentially include the company's difficulty, abilities, time, and existing resources to repair the affected communities.

VALUATION		IRREMIEDIABLENESS
High	5	Impact on the rights in an irreparable or repairable way with an extraordinary destination of resources (financial, temporary, human, etc.) in the long term that can jeopardize the operation's implementation.
Medium	3	Impact on the rights that are repairable in the medium term with an extraordinary destination of resources without jeopardizing the operation's viability.
Low	1	Impact to the rights that are repairable immediately form or in the short term with an ordinary destination of resources

**Table 8. Risk irremediableness assessment on Human Rights**

### 3. RESULTS OF THE RISK ANALYSIS

#### 3.1. Context Analysis

##### 3.1.1. Vulnerability of the surroundings

The data obtained during the investigation process was compiled in critical factors of the surroundings that group the complexity of the territory in different dimensions: geostrategic, historical, socio-environmental, socio-economic, population, institutional, and safety. These surrounding factors are part of the vulnerability, which are understood as "*conditions, situations, or circumstances that grant capacity or interest of an actor to cause harm. That is to say, they make him susceptible to a threat or a greater impact or incapacity to respond in the event of materialization of a risk.*"<sup>32</sup>

In the case of TGI, 6 vulnerabilities of surroundings were identified at the national level. (For more information on vulnerability, see Annex 4. Critical factors of the national surroundings on human rights)

Vulnerability of the surroundings
Lack of relevant development policies, dependency on extractive economies, and paralysis of the agricultural production system
Social and political issues around land possession and use
Gaps in unsatisfied basic needs, social inequality, and asymmetries between the rural and urban areas
Presence of vulnerable populations in territories with low capacity to ensure exercise and enjoyment of the Human Rights
History of armed conflict and violation of Human Rights
Environmental overview around the socio-environmental conflict of the territory, climatic change, and incidence in natural disasters

**Table 9. Vulnerability of the surroundings**

<sup>32</sup> Definition prepared by TRUST.

## **Lack of relevant development policies, dependency on extractive economies, and paralysis of the productive agricultural apparatus**

Since the 1950s, the dynamics of modernization of the Colombian economy have been promoted by development actors such as the National Government, diverse sectors and associations, and even multilateral international organizations. In this context, the country has tried to transform the production model from a purely agricultural one towards one with greater levels of industrialization. However, several historical circumstances have prevented its successful completion of this endeavor, which has resulted in a neglected rural economy, poorly diversified, and lacking enough automation levels to guarantee its productivity. It is an industrial sector without sufficient competitiveness levels to cope with the globalization dynamics and means of production of economies such as the Chinese or American. It is a national development model with very high levels of dependency in the extraction of *commodities* to which no value is added.

Causes of this phenomenon, which could be considered an involution of the Colombian productive model, can be found in factors such as the bad quality of infrastructure networks, which is critical for developing the industry and commerce, such as airports, highways, or railway networks, among others. In addition, there are institutional factors, such as the lack of transparency, high levels of corruption, or the inability to manage resources or successfully enter international markets. Thirdly, lack of access to social services, such as education, hinders the success of industrialization processes since an economy of this type needs a workforce with technical and professional levels. Finally, it is essential to state that, since the beginning of the 21st, the well-known “boom of *commodities*” ended up influencing the turning of the productive apparatus towards dependency on the extractive sector, which, despite the growth for emerging economies, has not to help in consolidating a practical instrument with greater sustainability and diversification.

It is essential to consider that, in the current scenario, the extractive industry has been the target of different concerns. For example, labor practices of hiring qualified and unqualified locals or the salary asymmetries compared to other productive sectors. Likewise, sectors and actors belonging to organized civil society, politics, or academia explained the overlap between the dispute over the appropriation of natural resources and the systemic manifestations of violence in Colombia. In this context, this industry has been the target of accusations, either for taking advantage of territories’ vulnerability left by violence or tolerating the violations committed by actors of the conflict against civil society.

Finally, an agricultural sector analysis—that represents the sector with a tremendous growth capacity for the country—shows that in the last 30 years, it has suffered a growth paralysis. This overview urges us to face four fundamental challenges for reactivating the productive agricultural apparatus, which go through:

- a) overcoming rural poverty and land issues
- b) transforming the agricultural and productive techniques
- c) properly handling the environmental resources
- d) creating institutions and pertinent legislation for agricultural and rural development.

### **Social and political issues around land possession and use**

Historically, Colombia is a country whose economic and social structures are or have been agricultural. Therefore, it allows us to infer that, in national history, there have been historical, economic, social, and political factors that have influenced the forms of relationship with the land established by citizens and the institutions. In this sense, understanding agricultural issues in the nation's evolution also allows us to understand the current configuration of the country's conflicts.

Thus, processes of productive land possession promoted in the 19th century by social classes owning large

estates and the socio-economic processes of colonization of the territory, carried out in the first half of the 20th century, resulted in the opening and deepening of social gaps that persist to this day. Likewise, it is convenient to analyze the main characteristics shaping the agricultural conflicts facing the country.

Firstly, the dynamics that historically have given rise to the occupation and appropriation of the territory have marked the creation of large estates in flatlands and relegated farmers to less productive areas of the region, such as slopes, mountains, and infertile lands. Secondly, problems around political and legal matters that have regulated the property, its social function, and the agricultural reform have proven insufficient for achieving changes on the occupation structure and territorial appropriation. Thirdly, a look must be taken at the different forms of social incidence on the territories and their evolution throughout history. Finally, the fourth and fifth lines of analysis explore the incidence of the violent actors around land possession and property, including the irruption and impacts of drug trafficking in the last 40 years.

It is worth emphasizing some consequences, such as favoring institutional measures for an economic exploitation model based on property and private investment concentration. Another consequence is the lack of legal reform (agricultural reform) that gives rise to overcoming problems, such as the informality of small properties, access to land for rural workers, or the concentration of the property. In terms of social organization, Colombian institutions and its society have lacked legal and political means to process the demands of rural communities of farmers into the progress of the countryside. It has served as a space of tampering for sectors opposed to the powers in turn by political and illegal actors.

In addition, the leading organizations, associations, and federations of producers, in many cases, lack sufficient representation to serve as a communication channel between the agricultural production base and the Government institutions with decision-making capacity. Finally, it is essential to consider that armed conflict and drug trafficking have worsened social and structural issues of the Colombian countryside. It has served as a catalyst to exacerbate endemic evils, such as the countryside's rupture of the social fabric, land dispossession, displacement, the paralysis of the productive agricultural apparatus, or the distortion of land markets.

### **Gaps in unsatisfied basic needs, social inequality, and asymmetries between the rural and urban areas**

In Latin America, significant progress has been made in reducing poverty and hunger, although gaps between rural and urban territories remain deep throughout the region. Colombia is one of the most lagging countries according to FAO and CEPAL, in terms of Unsatisfied Basic Needs (UBN) and good nutritional conditions, mainly in the countryside. On the matter, Colombia has reported 213 municipalities where 85% of the population have unsatisfied basic needs. One of the possible common factors that affect this situation is the State's lack of providing the due conditions to its people. Also, the weak interaction among the different territorial instances for building synergies, closing gaps, and properly managing resources. The State's poor institutional capacity and its little presence in particular rural areas and on the country's periphery exacerbates this problem.

The figures show the significant differences among departments about the population's basic needs, and even more contrast is evident between rural and urban areas. Caribbean region departments show a more significant deficiency in their basic needs and even more asymmetries between county seats and rural areas. For example, La Guajira has people in UBN (2018) at 53.01% that corresponds to more than 3 times the national total (14,13%) and limitations such as poor access to drinking water and housing. It shows the inequality existing between this department and Quindío, which has a UBN of 6.73%. Rural areas have the highest values in their different UBN indicators, and the asymmetry in all the components reveals the inequality between territorial entities.

Indicators of social inequality such as income and multidimensional poverty and the Gini coefficient extend the analysis with respect to the social gaps in Colombia and, in particular, for some territories. At the national level, DANE figures for these indicators show that the percentage of people in a situation of income poverty was 27% for 2018 and in multidimensional poverty was 17.5% in 2019. The Caribbean and Pacific regions continue to be the most lagging territories where almost half of the country's poor population lives. Likewise, the people in the country's border territories continue to be the most vulnerable and critical in terms of opportunities for their well-being and better living conditions. Therefore, although social indicators must be contrasted with another type of qualitative information, it evidences patterns that public policies must use to confront the social equality deficiencies in Colombia present structurally and integrally.

Regarding the provision of public services, which are a citizen's right for their well-being and optimal quality of life, asymmetries are still evident between the rural and urban areas with respect to their availability and quality for the population. The relation is direct between access to public services at home and the guarantee of having decent housing that enhances the necessary conditions for the free development of the people. Moreover, inequity in wealth distribution directly correlates with vulnerable populations with few opportunities for social, economic, and even environmental development.

### **Presence of vulnerable populations in territories with low capacity to ensure Human Rights exercise and enjoyment**

Vulnerable populations live under diverse circumstances, such as poverty, ethnic origin, state of health, age, gender, or disability. As a result, they are in a situation of greater defenselessness to accomplish their fundamental rights and freedoms, satisfy their basic needs, or face the challenges and problems that life raises. Although the lists vary according to context, vulnerable populations are typically children, the elderly, people with disabilities, ethnic populations, people in custody, and migrants. Instruments like the Charter of the United Nations, made up of the Universal Declaration of Human Rights, the International Pact on Civil and Political Rights, or the International Covenant on Economic, Social, and Cultural Rights, lay the foundations for protecting vulnerable people or populations.

In the case of women, structural problems of this population group are defined by a series of diverse phenomena. Firstly, State's action to protect them is characterized by a two-way strengthening process in terms of regulations (thanks to gender problems awareness during the second half of the 20th century) and the institutional inability to guarantee their rights.

In the economic sphere, it is visible how female participation has improved in the main lines of the economy. However, some situations tarnish this trend. For example, in contexts of poverty, it is common for women to have higher dropout rates than men, which reduces their possibilities for accessing formal jobs. Therefore, it is necessary to consider that women face several types of situations that describe their vulnerable condition in the work context: inequality in salary pay for the same labor functions, lack of opportunities to access job positions, greater levels of unemployment, greater impact levels due to lack of affiliation to pension and health systems, and higher levels of exposure to impoverishment.

Regarding stereotypes and prejudices regarding gender roles, the Study on Social and Institutional Tolerance of Gender-based Violence reveals that stereotypes persist in the country. They justify or tolerate phenomena like domestic violence, women's sole responsibility for domestic work and financial family support, or their restriction on education, work pay, productivity, leisure, and rest.

Regarding the mining and energy industry, studies show the propensity of women to receive negative impacts from this type of companies. In agreement with the Ministry of Mines and Energy, direct jobs generated by the sector are highly masculinized, and female participation is below the national average. Other experts point out that the extractive economy is based on patriarchal cultural models that would exacerbate the “masculinization” of territories where extractive projects exist (mining, hydrocarbons, or energy). On the other hand, issues such as the low participation of women in science and technology careers, the guarantee of food security for this group, domestic violence, or exposure to adverse environmental impacts are also problematic.

In the case of the Children, the main problems have to do with the impacts generated by poverty conditions, which restrain children's comprehensive development, hinder the transition between education and work, and end up questioning the capacity of transformation and structural development for the country. Other relevant indicators have to do with forms of violence such as domestic violence, gender violence, or negligence or omission in care, custody, support, and guidance during formative stages. Also, it is relevant to address issues that negatively impact child rights such as social inclusion, health, access to water, education, armed conflict, violence, risks by natural disasters, and gender-based violence.

In the case of farmers' communities, a national and international trend has taken shape in recent years that goes beyond the predominant view of these populations as economic or productive agents and takes them as groups with identity and culture, susceptible to being recognized and protected under a special regime. The legal framework does not recognize farmers and agricultural workers as subjects of special constitutional protection *per se*. However, some criteria have been established at the case-law level that considers them subject to special protection.

Firstly, the level of marginalization and socio-economic vulnerability that has traditionally affected them. Secondly, the status of public exposure that a person, family, or community faces, puts them at a disadvantage in their assets. Thirdly, the Constitutional Court recognizes that, though the territory in the case of farmer communities does not have the fundamental right status as for indigenous and tribal towns, its relationship with the countryside is specially protected.

### **History of armed conflict and violation of Human Rights**

Armed conflict history in Colombia can be traced back to the 1930s when old political conflicts degraded and partisan antagonisms—conflicts related to land property—, or disputes arising from the advance of colonization. However, the cause of everything lies in the weakness of a State that cannot equip itself with sufficient means to exercise its authority in a good part of its territory. Between mid-1940s and the end of the 1950s, the first wave of violence takes place nationally, expanding from Santander, Antioquia, and Boyacá and arrives to territories as Bolívar, Cundinamarca, Chocó, Magdalena, Nariño, and Tolima. In the first years of this period, a precise mixture between motivations related to partisan loyalty with different factors from social discontent can be identified. It resulted in a series of situations, such as strikes, violent manifestations against institutions (with clashes between the Police force and the civil society), attacks against infrastructure, and assaults on political personalities.

By the 60s, the institutional inability to curb the political violence crisis and social discontent the country underwent for 20 years set the grounds for the appearance of the first Colombian guerrillas. This original sequence starts with the Ejército de Liberación Nacional (ELN) in 1962, the Revolutionary Armed Forces of Colombia (FARC) in 1964, and the Ejército Popular de Liberación (EPL) in 1967. These organizations had—from very early on—the acquiescence and support of the Colombian Communist Party under the justification speech of “all forms of fight.” During the 60s and 70s of the 20th century, these guerrillas' actions were marked by slow

and gradual growth. Paradoxically, the 80s and 90s were a period of growth because guerrilla structures were at their peak. This situation would not have been anticipated given the characteristics of the armed conflict in the immediately preceding period. Undoubtedly, it was related to the infiltration of the drug-trafficking business in the armed structures of the country.

In parallel, paramilitary and drug-trafficking structures were consolidated during the 80s, concentrated in mid-Magdalena, Antioquia, Córdoba, Cesar, and Sucre. On the one hand, the expansion strategy from those territories was made to the border axis with Venezuela composed of North of Santander and Arauca departments, heading towards the eastern plains. On the other hand, it followed the line of the Pacific Coast to Buenaventura and Tumaco to venture into the Amazonian departments of Putumayo and Caquetá.

In terms of causes that explain paramilitarism, it is important to bear in mind that the first condition for its flourishing was the State's absence and inability to maintain the rule of law in the territories. However, paramilitarism can also be explained as a counterinsurgency movement. That is to say, a criminal project associated with drug trafficking, a project for land dispossession and control, and a form of armed support to the State's fight against insurgency. They threaten its stability, dimensions in which the dividing lines are diffuse and almost always interconnected.

The above scenario led to two peace talks and the demobilization of guerrilla and paramilitary structures during the present century. The first was known as the "Agreement of Santa Fe de Ralito," undertaken by the government of Alvaro Uribe Vélez and the Autodefensas Unidas of Colombia (AUC) and signed in 2003. Meanwhile, the second would be known as the "Final Agreement for Ending Conflict and the Construction of a Stable and Lasting Peace." It resulted from a negotiation process between FARC and Juan Manuel Santos' Government that was started in 2012 and signed in 2016. Some of the challenges obstructing the construction of peace in Colombia are the effectiveness in the fight against drug trafficking and substitution of crops, the decline of political violence, and the need to strengthen the Special Jurisdiction for Peace (JEP).

Finally, it is essential to consider that the armed conflict resulted in the dispossession of more than 6,000,000 hectares taken from three of the most vulnerable social groups in the country, indigenous, African descendants, and farmers. Along with this situation, Colombian conflict is characterized by high rates of massacres, forced disappearances, displacement of populations, persecutions, silencing, murders, extrajudicial executions, sexual violence, and acts of torture and cruelty. Likewise, the Office of the High Commissioner for Human Rights (OHCHR) made accusations in the first 15 years of the 21st century. They demonstrate the significant hostilities and violations against Human Rights. These include life, freedom, integrity, personal and collective security, judicial guarantees, due process, the independence and impartiality of justice, privacy respect, and fundamental freedoms such as political rights, circulation, residence, expression, and opinion.

### **Environmental overview around the socio-environmental conflict of the territory and its incidence on climatic change**

Environmental conflicts in Colombia are a complex and common phenomenon in different regions of the country. Many of them are motivated by environmental impacts or disagreements and conflicts of interest in the distribution and use of natural resources. Structural factors that influence the exacerbation of environmental conflicts are i) the generalized institutional weakness in environmental management at local and regional level ii) the poor articulation among competent institutions; iii) the limited capacity for planning and administration of natural resources and their responsible use, and iv) the weakness in the formulation of policies that promote strategies of education and citizen participation.

Conflicts associated with strategic ecosystems under highly fragile protection, such as moors and dry forests, tend to worsen by the structural conditions of the surroundings and the actions of actors who increase said fragility. From the cultural dimension, socio-environmental confrontations are related to communities' impact or transformation of their identities and practices. They are manifested through reconfiguring the relationships and bonds established with the territory or significant changes in the community's economic processes. On the other hand, the existing gaps regarding water governance to make it equitable, participatory, and fair are evident. Progressive deterioration of water resources remains one of the consequences of inefficient water management in all territories. In this context, manifestations of social mobilization are continuous, and problems around the inequality of water distribution and contamination will remain.

Currently, the global context of climate change has put different challenges on the table to face its consequences, for instance, environmental management of the territory in other areas.

This climatic phenomenon on the national scale is articulated with management measures taken for handling natural resources. Nevertheless, the shortcomings of competent decisions about responsible and sustainable use of different resources, such as water, forests, and fauna, exacerbate confrontations among social actors and increase the predisposition to the incidence of disasters due to natural events. Furthermore, the context of climate change impacts human rights, from the right to health, food, water, housing to the development of life itself. Its consequences are worse for vulnerable populations, such as ethnic communities, children, migrants, people with disabilities, populations near riversides, poverty, and poor basic sanitary infrastructure.

In this sense, lack of a coordinated institutionality for implementing holistic management of the entire range of natural resources available in the different regions of the country, and the progressive scenario of environmental degradation, are triggers for natural disasters events, which can escalate to situations of highest risk for the population. Management in terms of prevention and response to natural disasters in different territories is not articulated. The installed power capacity for timely humanitarian attention is incipient and limited.

**3.1.2. Operation Vulnerability**

**a) Vulnerability associated with the operation**

Internal vulnerability refers to conditions, situations, or circumstances of the operation that, to a greater or lesser extent, constitute a proclivity factor or exposure to the generation of impacts and risks against human rights. The following table presents the identified vulnerability.

Macro process	Vulnerability
<p><b>Projects</b></p>	<p><b>Environmental impact studies:</b></p> <ul style="list-style-type: none"> <li>▪ Terms of reference of the environmental authority for conducting specific Environmental Impact Assessment (EIA) for linear operations do not exist. In addition, they do not consider necessary aspects for due diligence development on human rights, such as the differential approach (vulnerable groups, gender).</li> <li>▪ Analysis of actors does not delve into armed groups and the illegal dynamics in the territory.</li> <li>▪ Constitution of fundamental rights in private land that implies</li> </ul>

	<p>limitations to rights on properties.</p> <ul style="list-style-type: none"> <li>▪ In private projects (not regulated) and in those that respond to the supply plan of the mining and energy planning authority, there's less governance of negotiation of conditions that affect the project's planning.</li> <li>▪ No criteria are established to ensure access to Information booths.</li> </ul>
<b>Construction</b>	<ul style="list-style-type: none"> <li>▪ Environmental pollution by clearing surfaces, drilling, and excavating the ground and transport of materials.</li> <li>▪ The generation of noise from the use of machinery for excavation and compression.</li> <li>▪ Venting methane gas during testing.</li> <li>▪ There is constant entrance and intervention of direct personnel and contractors in private properties.</li> <li>▪ Increase of circulation of heavy machinery and materials and personnel vehicles of transport.</li> <li>▪ The personnel remains exposed to fugitive emissions with insufficient oxygen levels.</li> <li>▪ Drilling is a major operation in archaeological, cultural heritage settings.</li> <li>▪ Installation of permanent infrastructure is a major intervention for the ground.</li> </ul>
<b>Operation</b>	<p><b>Gas transport operation</b></p> <ul style="list-style-type: none"> <li>▪ Generation of fugitive emissions of methane gas.</li> <li>▪ The constitution of the right of way generates restrictions to the use and enjoyment of the land (doing activities such as planting deep-rooted trees, construction of sewage, electrification, road infrastructure, or avenue and agricultural automation).</li> </ul> <p><b>Compressor stations operation</b></p> <ul style="list-style-type: none"> <li>▪ The generation of permanent noise and light in gas compressor stations.</li> <li>▪ Venting methane gas</li> <li>▪ The visible and permanent infrastructure location (stations) is a significant landscape intervention, particularly in rural settings.</li> <li>▪ Labor force demand is mostly qualified and of small magnitude.</li> </ul> <p><b>Connection to distribution</b></p> <ul style="list-style-type: none"> <li>▪ In the Citygates (connection points with distributors), it is possible to generate a gas smell, leading to damages in the communities.</li> </ul>
<b>Maintenance</b>	<p><b>Repairs</b></p> <ul style="list-style-type: none"> <li>▪ There is constant entrance and intervention of direct personnel and contractors in private properties.</li> <li>▪ Transit of vehicles and machinery on unsuitable roads.</li> </ul>

**Table 10. Vulnerability associated with the operation**

**b) Vulnerability in support processes**

As support processes, it comprises all those activities that are not strictly operational (such as construction, operation, and maintenance) relevant to business development. Next, the vulnerability associated with the support processes and related rights is presented.

Macro process	Vulnerability
<b>Property Management</b>	<ul style="list-style-type: none"> <li>▪ The existence of liabilities in property matters is mainly associated with an old infrastructure received from previous operators.</li> <li>▪ The informality of land possession and issues, such as land restitution to armed conflict victims, make it challenging to manage properties and ensure an adequate process of rights negotiation.</li> <li>▪ The need to carry out involuntary people resettlements and the lack of regulations for planning and execution in contrast to greater international demands with a rights approach.</li> </ul>
<b>Supply chain</b>	<ul style="list-style-type: none"> <li>▪ TGI's operation is highly outsourced. Technical autonomy, administrative, and financial of the contractor, which must be preserved, requires greater assurance of their performances and those of their subcontractors in terms of social relationships and human rights management.</li> <li>▪ Need to balance technical requirements and contract timelines with the planning, execution, and assurance of the performances in social matters, induction to the territory and communities.</li> <li>▪ Tangential incorporation of specific questions on sustainability, human rights, environmental, and social management topics within suppliers and contractors' registration platform. Nevertheless, these questions are optional and they do not represent a relevant criterion to the selection.</li> </ul>
<b>Data protection</b>	<ul style="list-style-type: none"> <li>▪ Attention to the situation of the pandemic implies greater exposure to employees' data protection risks.</li> </ul>
<b>Physical security</b>	<ul style="list-style-type: none"> <li>▪ TGI's physical infrastructure magnitude and security requirements demand integrated and systematic management in different contexts.</li> <li>▪ The provision of the private security and surveillance service is outsourced, which requires high levels of alignment and assurance from contractors.</li> <li>▪ The signing of collaboration agreements with the Police Force extends social responsibility to third parties.</li> <li>▪ Traceability of a human rights approach on security management is not enough (documentation aligning good practices with identifying and managing human rights risks).</li> </ul>

<p><b>Environmental management</b></p>	<ul style="list-style-type: none"> <li>▪ Lack of articulation among construction (who conduct EIA) and environmental areas (monitor, follow-up, and ensure compliance with the provisions).</li> <li>▪ The need to address ecological liabilities concentrates efforts generating a more reactive than proactive action in environmental management.</li> <li>▪ A greater approach to managing environmental liabilities and complying with EIA measures could set aside proactive and value-added management in ecological matters.</li> </ul>
<p><b>Human management</b></p>	<ul style="list-style-type: none"> <li>▪ It is noticeable that, in the selection procedure, there are questions that may constitute a barrier for women to work at the company. Although this is under improvement, it is still an aspect to promote.</li> <li>▪ Determining variable compensation based on outstanding performance, skills, or results can affect collaborators' balance between their work and personal life just as their well-being.</li> </ul>
<p><b>Occupational safety and health (COVID-19)</b></p>	<ul style="list-style-type: none"> <li>▪ COVID-19 contingency, isolation, and new ways of working have generated additional challenges for balancing work, personal life, and other psycho-social and physical health factors.</li> <li>▪ Authority restrictions regarding social isolation affect employees' psycho-social conditions whose families live in other cities.</li> </ul>
<p><b>Social management</b></p>	<ul style="list-style-type: none"> <li>▪ Lack of social management personnel to care for relevant issues of the surroundings and responsibilities under their position.</li> <li>▪ Exposure of social management professionals to the dynamics of the surroundings can generate violations of their rights and psycho-social impacts.</li> </ul>

**Table 11. Vulnerability in support processes**

**c) Vulnerability associated with TGI's identity**

Issues associated with the identity and nature of TGI's operation can also be vulnerability sources. These refer to those conditions, situations, or circumstances related to the company's identity, the magnitude of the operation, and its membership in the oil & gas sector. Next, the vulnerability associated with identity factors and related rights is presented.

Process	Vulnerability
<p><b>Operation's magnitude and nature</b></p>	<ul style="list-style-type: none"> <li>▪ TGI's operation has a significant magnitude that covers almost all the country. It poses challenges for ensuring support and operation processes in the national territory.</li> <li>▪ The diversity of locations where TGI operates makes it difficult to balance its general guidelines and protocols of action since they need to consider the characteristics of each territory for proper management.</li> <li>▪ Being a gas transportation company, TGI is subject to community demands for the provision of this service, even though this is not the nature of its operation.</li> </ul>
<p><b>Assimilation to the hydrocarbon production sector</b></p>	<ul style="list-style-type: none"> <li>▪ TGI is a company whose nature is often confused with the hydrocarbon production sector. It exposes it to greater pressure from communities to satisfy their growing expectations in social matters.</li> <li>▪ The right of way shared with hydrocarbon transport operations increases its assimilation and possible impacts to TGI.</li> </ul>

**Table 12. Vulnerability associated with TGI's identity**

### 3.2. Identification and assessment of human rights risks

		IMPACT				
		1 Very Low	2 Low	3 Average	4 High	5 Very High
PROBABILITY	5 Very High					
	4 High		R7,	R2		
	3 Average		R4	R1, R6	R3, R9, R10	
	2 Low			R5	R8	
	1 Very Low					

**Table 13. Human Rights Risk Matrix**

	RISK
R3	Infringement on ethnic communities' rights
R9	Infringement of the right to work in dignified and safe conditions
R10	Infringement of population's rights due to abuse of authority and excess in the use of force by private security
R2	Infringement of the right to decent housing
R8	Infringement of the right to special protection of children
R1	Infringement of the right to a safe environment
R6	Infringement of the right to gender equality
R5	Impact on applicants or restituted victims
R7	Infringement of the right of petition
R4	Infringement of economic rights

**Table 14. Risks**

### **R3. Infringement on ethnic communities' rights**

Impacts to ethnic communities' rights—indigenous, of African descent, negritudes, ROM—in the development of projects, due to (i) illegal use of natural resources, (ii) relationship practices without considering their values and customs, (iii) entrance to titled territories or places of cultural importance without authorization, (iv) compliance or non-compliance without the corresponding prior consultation process by the Company, contractors, or suppliers.

#### Committed rights

- Right to social and cultural identity.
- Right to the territory and its environmental and landscaping components.
- Right to the preservation of cultural heritage.
- Right to prior consultation.

#### Causes derived from the external context

- Regulatory gaps and dynamic jurisprudential developments based on international guidelines.
- Information failures by competent authorities about the presence of ethnic communities.
- There are coordination and administrative management difficulties between national, departmental, and municipal authorities recognizing ethnic communities, particularly communities of African descent and negritudes.
- Recognition processes (re-ethnicize and self-recognition) after the installation of infrastructure.
- Division of ethnic communities stimulated in obtaining benefits or due to inter-community conflicts.

#### Causes derived from the internal context

- Disregard for guidelines of action and relationship on behalf of contractors and suppliers in territories with ethnic communities.
- Failures or disarticulation in supervising contractors' performance.
- Lack of cultural adaptation to TGI 's PCCS mechanisms and its contractors.
- Insufficiency in the scope or depth in characterizing the surroundings and its dynamics, particularly cultural ones.
- Insufficiency in identifying the susceptibility of the direct impacts to ethnic communities derived from projects (due to the emphasis on applying the concept of area of direct influence).
- The existence of infrastructure that affects ethnic communities directly and that, in agreement with the standards of the time, were not the object of prior consultation at the moment of their construction.

#### Identified measures

- Conducting socio-economic studies (within the EIA framework).
- Implementation and assurance of legal regulations of licensing processes.
- Updating the presence of ethnic communities in projects or operations areas.
- Adoption of corporate intercultural relationship commitments and protocol in the Social Management Plan.
- Inclusion in the HSEQ and Social Manual for contractors and suppliers of the obligation of adopting the intercultural relationship protocol.
- Procedures of archaeological management and protection and compliance supervision (induction talks

about archaeology to workers, mandatory notification to TGI in case of findings, and oversight of compliance with current regulations).

## **R9. Infringement of the right to work in dignified and safe conditions**

Impacts on the conditions of decent and safe work of collaborators associated with (i) breach of work rights by suppliers and contractors and (ii) effects in using information and communication technologies in the work-from-home context.

### Committed rights

- Right to work in dignified and safe conditions
- Right to rest (disconnection from work).
- Right to free time, from a reasonable limitation based on shift duration
- Right to personal and family privacy.

### Causes derived from the external context

- The obligation in adopting extraordinary work measures from home for the management of the COVID-19 pandemic.
- Authority measures that restrict mobility generate isolation of some workers concerning the family environment.
- Existence of individual and family psycho-social risk factors in the context of the pandemic.
- Regulatory gaps in occupational safety and health the emergency context generated by COVID-19 pandemic.

### Causes derived from the internal context

- Limitations in insuring measures for the effects of working at home to ensure safe working conditions (health conditions associated with ergonomics, work overload, and psycho-social risks related to specific family conditions, social distancing, such as stress, anxiety, depression, among others).
- Lack of guidelines on the use and management of virtual instruments in work teams.
- Insufficiency in incorporating a differential approach, particularly gender, identifying impacts, and adopting measures for the situation.
- Resistance to change and lack of implementing protection, prevention, and self-care measures in the COVID-19 pandemic on behalf of collaborators, contractors, and service suppliers.

### Regarding contractors

- Limitations for the control and follow-up of work obligations compliance of subcontractors, suppliers of contractors, especially at the local level.
- Impacts on working conditions in the supply chain due to the effects of the pandemic, such as staff reduction and salary reduction, among others.
- Limitations for controlling biosafety protocol compliance and health requirements by suppliers and contractors during the pandemic.

### Identified measures

- Existence of a Well-being Plan developed based on the results of the working environment survey.
- Measurement of the Working Environment from the Best Place to Work methodology. Based on the results, workshops are held to strengthen critical issues.
- Follow-up scheme (supervision, audits) for working obligations compliance by contractors.
- Adoption of a strategy at the Business Group level for handling the pandemic.
- Monitoring instruments (VIDARED) for mapping conditions of health, vulnerability, and health risk.
- Conducting psycho-social surveys.
- Incorporation of contractors to VIDARED to report alarms, answer surveys, and the existence of assessment criteria for suppliers and contractors for working obligations compliance and proper Occupational safety and health conditions for workers.
- Follow-up of care measures (social distancing, use of biosafety equipment).

### **R10. Infringement of population's rights due to abuse of authority and excess in the use of force and other improper behaviors by Police Force or private security.**

Impacts to community rights derived from the excessive use of force by the Police Force within the framework of interventions for controlling social conflicts situations with the Company or improper behaviors or abuse of authority by the surveillance and private security personnel. Concerning Police Force actions, it is noteworthy that, although such conduct does not correspond to TGI, signing cooperation agreements on security matters generates a specific relationship bond that, in accord with the standard, involves the Company indirectly. Police Force accounts for controlling social conflict situations as part of its constitutional and legal duty. However, possible abuses of authority and excess in using force can give rise to accusations against the Company due to the social perception that such violations are committed for its benefit in detriment of their rights.

### Committed rights

- Right to life, integrity, and security (also considering these rights with a differential approach to children and women).
- Right to protest

### Causes derived from the external context

- Increase in social conflicts.
- History of abuse by Police Force in control interventions of citizen security and law enforcement.
- History of abuse and violation of women and children human rights by members of the Police Force.
- Limitations to due diligence actions in human rights regarding the Police Force.
- Breach of constitutional and legal duties by members of the Police Force within the framework of interventions associated with the Company's operations.

### Causes associated with the internal context

- Insufficiently documented business performance guidelines for the surveillance and private security that respond to due diligence measures established by human rights standards (UNGP, VPSHR).
- Lack of inclusion of the human rights approach in security risks analyses (identification, valuation, and definition of management measures)
- Lack of documented protocols for conflict resolution and crises.

- Breach of legal or corporate behavior guidelines by the surveillance and private security contractor.
- Failures in the articulation and provision of information among different areas for preventing or controlling security situations.

#### Identified measures

- Fulfillment, supervision, and verification of compliance of legal requirements to the contractor company.
- Control of the direct relationship with the Police Force through security professionals (positions of trust of the security contractor).
- Subscription and execution of cooperation agreements with the Ministry of Defense under the corresponding regulation.

### **R8 Infringement of the right to special protection of children**

Infringement of children and adolescents' human rights of due to the generation of impacts (i) environmental, such as pollution from emissions (ii) changes derived from involuntary resettlements not handled with this differential approach; (iii) illegal relationships on behalf of employees, contractors, or Police Force members in the operation surroundings; (v) existence of child labor in the chain supply, mainly local. In this risk, TGI's involvement in the potential impacts varies since the source can be an action or direct omission of the Company or can derive from actions or omissions by contractors and Police Force members acting in the Company's operations.

#### Committed rights

- Right to protection
- Right to live in a healthy and safe environment
- Right to participation
- Right to protection against economic exploitation

#### Causes associated with external surroundings

- Institutional weaknesses specific to the surroundings for protecting and promoting child rights.
- Cultural dynamics specific to the surroundings where child labor does not have a negative connotation.

#### Causes associated with internal surroundings

- Insufficiency in identifying and handling the impacts differentiated to this population derived from the Company's activities or contractors due to the absence of a differential approach in guidelines, studies, and analyses.
- Failures in monitoring and verifying contractual requirements of the nonexistence of child labor to contractors in their supply chain of goods and services, mainly local (supply of food, cleaning, and washing of clothes, local mechanical and technical services).
- Conditions arising from working at home that affect workers' work-life balance in detriment of caretaker's work)
- Improper behaviors of contractors or Public Police members within the relationship framework with children in operation surroundings.
- Non-compliance with road safety requirements, improper demarcation of work sites, among others.

### Identified measures

- Socio-economic diagnoses that include some factors associated with children within environmental licensing and involuntary resettlement framework in the population dimension.<sup>33</sup>
- Human resources policies and labor well-being programs for collaborators that benefit family well-being conditions.
- Contribution to the children's well-being through social investment programs (e.g., Energy To learn Program).

### **R2 Infringement of the right to decent housing**

Infringement of decent housing and tranquility of communities surrounding infrastructure, derived from noise, light, and odor emission in the operation of Gas Compressor Stations and CityGates. This risk can be of more significant impact in its rural surroundings.

### Committed rights

- Right to decent housing
- Right to tranquility and privacy in connection with the right to decent housing.<sup>34</sup>
- Right to health.

### Causes derived from the external context

- Incorporation of impact assessment criteria to human rights independent from allowed maximum limit compliance, defined by environmental and health regulation.
- Location of houses surrounding infrastructure and suburbs phenomena.
- Community awareness facing TGI's infrastructure impacts, independent from allowed maximum limit compliance.

### Causes derived from the internal context

- Inevitable operating conditions or challenging to mitigate—gas odor emissions in City Gates, noise emissions by engines during the compression process, light generated by the firelighter to burn gases.
- Generation of permanent noise and its effects on the landscape by compressor stations
- Non-compliance of noise levels, particularly at night in some stations.

### Identified measures

- Adoption of the 2020 Noise Mitigation Plan.

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<sup>33</sup> Its inadequacy has been identified

<sup>34</sup> Right to tranquility, inherent to the human person, allows the individual to develop a dignified and peaceful life. It assumes the character of fundamental due to its narrow relationship with the human dignity that, necessarily, leads to individual peace, necessary to live suitably. The State must protect it in such a way that allows an adequate environment for human coexistence so that individuals can do their activities in a healthy atmosphere and free of any inconvenience that tends to violate peace and tranquility. CONSTITUTIONAL COURT Sentence T-459/98, Judicial protection 672 of 2014

- Analysis and definition of alternative compensation measures
- Setting goals for environmental regulations compliance—2024.
- Measurement and monitoring of maximum permitted limits of noise emissions and environmental noises from other sources.
- Implementation of soundproofing measures and new technology in some stations (e.g., compressor station in Padua).

## **R1 Infringement of the right to a safe environment**

Infringement of the right to a wholesome environment associated with (i) pollution due to particulate matter emissions, gases, and noises and (ii) changes in the landscape due to the presence of Gas Compressor Stations, particularly in rural environments.

### Committed rights

- Right to a healthy environment
- Right to health.

### Causes associated with the external context

- Dealignment between environmental regulation and constitutional requirements based on the right to the environment as a human right.
- External factors of climatic change.
- External factors such as natural phenomena.

### Causes associated with the internal context

- Operating conditions that are difficult to mitigate: methane emissions, gas venting for depressurization due to maintenance and pneumatic devices, venting of gas unburned, gas leaks in equipment and pipes due to natural disasters, and sound pressure emissions from engines that remain on during the compression process.
- Non-compliance of noise levels, particularly at night in some stations.
- Expansion of compressor stations in rural areas with a high scenic value of the landscape.
- Failure to comply with the procedures, policies, standards, and environmental and legal requirements established for TGI's collaborators and contractors.
- Reactive environmental management focused primarily on the solution of environmental liabilities.
- Difficulty in implementing actions planned in the EMP due to weak internal articulation among subdivisions in the EMP definition.

### Identified measures

- Development of technical analyses and definition of measures in the process of maturation of projects.
- Measurement and monitoring of maximum permitted limits of noise emissions and environmental noises from other sources.
- Implementation of soundproofing measures and implementation of new technology in some stations
- Reforestation program and landscape recovery.
- Adoption of the climate strategy for reducing greenhouse gas emissions and compensation impacts, measurement, and fugitive emissions audit and monitoring by senior management.

- Technical certification (Icontec) of Greenhouse Gas (GHG) Protocol compliance and norm NTC-ISO 14064-1.
- Environmental compensations of reforestation through the acquisition of 42,000 carbon bonds of the Carvida Duratex S. A. project from program compensations in Antioquia, Tolima, Caldas, and Santander, with an area of 5,859 hectares in forest plantations and 855 hectares in natural forests.
- Technical and environmental requirements to contractors in accordance with the categorization of contracts, supervision, follow-up, and compliance assessment.
- Formulation of the Plan to implement identification and quantification campaigns of fugitive emissions throughout the infrastructure.
- Installation plan for equipment with low-energy consumption.

## **R6. Impact on women's rights due to gender reasons**

Impacts to women and other people rights because of their gender, through:

(i) measures, omissions, or conducts that constitute direct or indirect discrimination and (ii) unworthy treatment, violence, or harassment in the workplace or the relationship with communities to women or other people because of their gender.<sup>35</sup>

### Committed rights

- Right to equality in employment and occupation.
- Right to equality and non-discrimination
- Right of women to live a life free from violence.<sup>36</sup>
- Right to integrity

Other rights may be compromised depending on the specific risk event, such as the rights to work, participation, decent housing, and privacy.

### Causes associated with external surroundings

- Cultural factors and traditional patriarchal structures, biases, prejudices, and stereotypes on the role of women or other people because of their gender.
- Structural breaches or barriers to equal opportunities for women.
- Institutional weakness in protecting and promoting women's rights at the local level.
- Highly masculinized occupations and configuration of access barriers for the female population in sectors, such as construction, operation, and maintenance.

### Causes associated with the internal context

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<sup>35</sup> Direct discrimination means less favorable treatment to a person because of their gender, regarding the given treatment or likely to be given to another person of a different gender, in an objectively comparable situation.

Indirect discrimination means that apparently neutral dispositions, criteria, or procedures put people at a disadvantage because of their gender compared to others, unless a legit purpose objectively justifies them and the means chosen for accomplishing such purpose are adequate and necessary. In the case of indirect discrimination, it is the measure that does not refer to gender aspects and applies indistinctly to all people, but actually, harms the person to a greater extent because of their gender.

<sup>36</sup> The right to a life free of violence is an all-women's right. It states that no action or omission should harm or cause suffering physically, sexually, psychologically, economically, or death because they are women. In this sense, violence against women manifests in multiple forms, which are not always evident, such as verbal violence.

- Inadequate policies, processes, or practices in selecting personnel by contractors.
- Lack of guidelines and diversity management mechanisms and inclusion for contractors and suppliers.
- Lack of knowledge and understanding on permitted and non-permitted practices that may cause discrimination of collaborators and contractors.
- Lack of monitoring and supervision mechanisms for contractors' performances in terms of diversity and inclusion.
- Personal misconduct or misbehavior of collaborators or contractors.
- The Diversity and Inclusion Policy has poor articulation with other policies, guidelines, or manuals of different functional areas.
- Insufficient aspects incorporated in internal diagnoses studies, characterization of surroundings, and impact studies that help identify vulnerability, impacts differentiated by gender, prevention, and mitigation measures: social management processes, supply chain management, resettlements, physical security, risk analysis of psycho-social factors, reception, and PCCS handling.

### Identified measures

- Adoption of the Diversity and Inclusion Policy
- Obtaining the Silver Seal in gender equity through the Equipares process.
- Profiles review required selection processes and affirmative actions to increase women's presence in highly masculinized tasks of the operation.
- Adoption of the Compensation Policy based on wage scales, defined by job position and responsibility level.
- Review of the internal and external communications criteria to eliminate discriminatory, sexist language, and gender biases.
- Training plans in equity and gender, sexual and work harassment, aimed at collaborators.
- Preparation of the protocol for accusations of alleged work and sexual harassment.
- Strengthening female empowerment of rural women in operation surroundings (Villavicencio, Paratebuena, and La Guajira).
- Incorporation of inclusion mechanisms requirements to contractors for promoting equal opportunities practices for men and women in the Social Management Plan, presentation of hiring reports indicating diversity and inclusion, and training personnel—recently incorporated to HSEQ Manual and Social.

### **R5. Impact on the rights of applicants or restituted victims**

Impacts to the right to reparation of the applicant victims of land restitution associated with (i) the possible direct negotiation of an easement with current titleholders of the land in question, or (ii) improper interventions that affect use and enjoyment of the land already restituted.

### Committed rights

- Fundamental right to reparation
- Right to land restitution

#### Causes associated with the external context

- High population figures of displaced and victims of armed conflict in regions where TGI operates.
- High magnitude of requests of land restitution
- Low administrative capacity of the Unidad de Restitución de Tierras (URT)
- Uncertainties of information requests for restitution in the stage prior to the administrative phase.
- Competence after the verdict of a restitution judge
- Arguments of re-victimization put forward by NGO—due to the impossibility of receiving the property in the same legal and material conditions in case of the constitution of easements during dispossession or prior to the judicial restitution process.

#### Causes associated with the internal context

- Lack of timely knowledge of the existence of applications in previous phases or administrative phase, or a judicial process of land restitution—internal procedural failures or of procedural entailment by the corresponding authority.
- Relationship guidelines breaches of contractors with proprietors.

#### Identified measures

- Incorporation of consultation to the URT in the Land Management Manual.
- Imposition of easements by judicial means in case of land property with registered restitution requests.
- Contractual requirements and mechanisms of supervision and assessment of contractors.

### **R7. Infringement of the right to petition**

Infringement to the right to petition associated with access barriers, lack of opportunity of the response, or lack of a conscious answer to the requests formulated to the Company.

#### Committed rights

- Fundamental right to petition
- In agreement with the object of the petition, it is possible to commit to other rights, such as the right to information.

#### Causes associated with the external context

- Existence of access barriers to the PCCS mechanism—(geographical, cultural, deformation)

#### Causes associated with the internal context

- Failure to comply with the procedure on behalf of collaborators.
- Guidelines are insufficient to ensure a substantive response.

#### Identified measures

- Adoption of the Procedure.

- A technological tool that supports the management of the Adopted Procedure.
- Training plans for collaborators.

#### **R4. Infringement of economic rights**

Impacts to the right of property and the reparation of owners or landholders with easements not regulated (in practice).

##### Causes associated with the external context

- Uncertainties on titles of properties due to high informality of land tenure.
- Easements not constituted by previous operators.

##### Causes associated with the internal context

- Existence of infrastructure built long ago and received by TGI from other operators.
- Gaps in regulating easements.

##### Identified measures

- Track inventory of the legal status of easements and plan to regulate them under execution—around 80% of easements are constituted.
- Adoption of the Land Management Manual.

## IV. ACTION PLAN

The following is the action plan to strengthen human rights management in agreement with good practices benchmarks and risk administration of the identified human rights. The proposed activities, the areas involved, and the proposed timelines for their execution are detailed in Annex 5. Action Plan (Excel document).

### General objective

Contribute to positioning, setting a genuine relationship, and preserving TGI's reputation by adopting international standards of good human rights management practices. Contribute to its traceability for its internal and external groups of interest with a double perspective, aligning its Sustainable Development objectives and strategies:

- a) The consolidation of due diligence in human rights for preventing and controlling risks management of human rights associated with the Company's activities and its value chain.
- b) Value addition for contributing to the conditions of human rights accomplishments in the operation surroundings.

### 1. *Strengthening Human Rights Management*

**Strategic line 1.** Adoption of the political commitment to human rights and articulation of corporate policies.

**Specific objective.** Count on a corporate Human rights Policy that establishes the principles and criteria of internal guidelines and accounts for its commitment of respect for human rights towards its internal and external interest groups.

#### Actions:

- a) Preparation and adoption of TGI's Human rights Policy\*.

**Strategic line 2.** Communication and internal training.

**Specific objective.** Raise awareness and strengthen collaborators' knowledge concerning human rights management in the business field to influence the organizational culture with a rights-based approach.

#### Actions:

- a) Design and implementation of an internal communications plan for TGI's Human Rights Policy.
- b) Design and implementation of a corporate communications strategy for TGI's Human Rights Policy.
- c) Creation and implementation of an internal training plan in human rights.

**Strategic line 3.** Due diligence management on human rights

**Specific objective.** Ensure human rights management in an oriented, systematic, articulated, and traceable way, aiming to improve the company's performances in the matter continuously.

#### Actions:

- a) Design and implementation of a model of due diligence in human rights.
- b) Design and adoption of a risk analysis methodology of human rights.
- c) Conduct a risk and impact analysis of human rights in projects or specific operations.

**Strategic line 4.** Ensuring human rights management in the value chain.

**Specific objective.** Strengthen the internal abilities and mechanisms to ensure the alignment of business partners with Human Rights Policy and risk prevention.

**Actions:**

- a) Incorporation of due diligence in human rights into the contractor's management process.
- b) Preparation of induction and re-induction contents in human rights for contractors and suppliers.
- c) Implementation of a cooperation and incentives plan for due diligence for contractors and suppliers.

**Strategic line 5.** Strengthening of claim mechanisms

**Specific objective.** Align internal claims mechanisms with the established principles of effectiveness set out in the Guiding Principles of the United Nations.

**Actions:**

- a) Review and adjustment of claim mechanisms.
- b) Structuring a knowledge management model for continuous improvement within the claim's mechanism framework.

**2. Lines of Action for strengthening Human rights Management in Specific Subjects**

**Strategic line 1.** Intercultural Relationship

**Specific objective.** Have the internal capabilities for due diligence management within the intercultural relationship framework.

**Actions:**

- a) Definition and adoption of operative guidelines in terms of intercultural relationships.
- b) Training on intercultural relationships.

**Strategic line 2.** Strengthening of due diligence management for preventing work impacts within the pandemic framework.

**Specific objective.** Ensure due diligence in risk management affecting workers derived from COVID-19.

**Actions:**

- a) Incorporation of due diligence measures in the strategy and action plans for handling COVID-19.

**Strategic line 3.** Strengthening of due diligence management with a differential gender approach.

### **Specific objective.**

Strengthening internal capabilities for implementing the Diversity and Inclusion Policy

- a) Adopt a strategy aimed at preventing, detecting, and handling violent situations and harassment against women.
- b) Certification process of the management system in gender equality.
- c) Training of coexistence committees about diversity and inclusion.
- d) Broadening of work approach of the Diversity and Inclusion Policy.
- e) Broadening of the Diversity and Inclusion Policy to the supply chain.

### **Strategic line 4.** Differential approach: Children

**Specific objective.** Incorporate the children's differential approach.

#### **Actions:**

- a) Incorporate the children's differential approach in the different due diligence policies and mechanisms in human rights \*.

### **Strategic line 5.** Security.

**Specific objective.** Ensure traceability and regulate due diligence knowledge in human rights in physical security management.

#### **Actions:**

- a) Design and implementation of due diligence process in human rights in physical security.
- b) Training in security and human rights.
- c) Definition of a human rights contractual clause for physical security contracts.
- d) Relationship with Police Force on human rights and security.
- e) Documentation of the crisis management protocol for incorporating the human rights perspective.

### **Strategic line 6.** Property Management

**Specific objective.** Help adjust the lack of recognition situations of rights to titleholders over properties with easements non-constituted.

#### **Actions:**

- a) Continuity of the property regulation plan.
- b) Ensuring due diligence on land restitution.

### **Strategic line 7.** Environment

**Specific objective.** Strengthen actions of impact mitigation associated with noise, odor emission, and light.

**Actions:**

- a) Strengthening of preventive and mitigation actions regarding noise, odor emission, and light.
- b) Strengthening communication with interested parties about noise.

**Strategic line 8.** Resettlement.

**Specific objective.** Ensure due diligence in human rights in involuntary resettlement processes.

**Actions:**

- a) Analysis of due diligence in human rights in ongoing resettlement processes.
- b) Review and adjustments of the Resettlement Manual.

**Strategic line 9.** Human talent.

**Specific objective.** Contribute to the comprehensive development of collaborators and prevent situations that may affect Human Rights.

**Actions:**

- a) Review of workloads of social management teams in the field.

**3. Value-added actions**

**Strategic Line 1.** Climatic resilience.

**Specific objective.** Contribute along with other actors to the construction of capabilities of community resilience regarding climate change.

**Actions:**

- a) Alliance for resilience to climate change.

**Strategic line 2.** Alignment with the Sustainable Development Strategy

**Specific objective.** Align the sustainable development strategy with human rights

**Actions:**

- a) Incorporation of the rights approach in contribution actions within the framework of Transformation of Territories.
- b) Prevention campaign against noise emissions.