



The Environmental and Social Norms of the Islamic Development Bank

Environmental and Social Norm 7 (ESN7): Vulnerable Groups



Acronyms and Abbreviations

AESR	Annual Environmental and Social Report
ACHPR	African Commission on Human and Peoples Rights
AMR	Anti-microbial Resistance
BC	Black Carbon
BMP	Biodiversity Management Plan
CBD	Convention on Biological Diversity
CBO	Community Based Organization
CDD	Community-Driven Development
CHMP	Cultural Heritage Management Plan
CO ₂	Carbon Dioxide
CITES	Convention on the International Trade in Endangered Species
CSO	Civil Society Organization
DLI	Disbursement Linked Indicator
DUC	Dam Under Construction
EHSGs	World Bank Group Environmental, Health and Safety Guidelines
ESDD	Environmental and Social Due Diligence
ESIA	Environmental and Social Impact Assessment
EITI	Extractive Industries Transparency Initiative
EPRP	Emergency Preparedness and Response Plan
ES	Environmental and Social
ESA	Environmental and Social Assessment
ESP	Environmental and Social Plan
ESMP	Environmental and Social Management Plan
ESMS	Environmental and Social Management System
ESNs	Environmental and Social Norms
FAO	Food and Agriculture Organization (of the UN)
FI	Financial Intermediary
FPIC	Free, Prior and Informed Consent
GBV	Gender-Based Violence
GCF	Green Climate Fund
GHG	Greenhouse Gas
GM	Grievance Mechanism
GMO	Genetically Modified Organism
GIIP	Good International Industry Practice
HIA	Health Impact Assessment
HSMP	Health and Safety Management Plan
HVRMs	Highly Vulnerable Rural Minorities
IDEV	Independent Development Evaluation Department
IFC	International Finance Corporation
IFI	International Financial Institution
ILO	International Labour Organization
IPP	Indigenous Peoples Plan
IPM	Integrated Pest Management
IRM	Independent Recourse Mechanism
ISS	Integrated Safeguards System
IUCN	International Union for the Conservation of Nature
IVM	Integrated Vector Management
LIMP	Labour Influx Management Plan
LMPs	Labour Management Procedures
MFI	Multilateral Financial Institution
NGO	Nongovernmental Organization
NSO	Non-Sovereign Operation
O&M	Operation and Maintenance
OHS	Occupational Health and Safety
OP	Operational Policy

OS	Environmental and Social Operational Safeguard
POPs	Persistent Organic Pollutants
PMP	Pest Management Plan
PPP	Public-Private Partnership
RAP	Resettlement Action Plan
RBF	Results-Based Financing
RCIP	Riparian Communities Involvement Plan
RHA	Risk Hazard Assessment
RMC	Regional Member Country
SDGs	Sustainable Development Goals
SEAH	Sexual Exploitation and Harassment
SEP	Stakeholder Engagement Plan
SESA	Strategic Environmental and Social Assessment
SO	Sovereign Operation
SPV	Special Purpose Vehicle
TA	Technical Assistance
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples

Introduction

1. The IsDB is guided by the Islamic principles of Maqasid Al -Shari'ah (Trust, Well-Being, Justice, Fairness and Equality). As such, the Bank respects the principles and values of human rights as set out in the UN Charter, UN Declarations, relevant International Labour Organization obligations, the African Charter of Human and Peoples' Rights and the Arab Charter on Human Rights. Through the requirements of this ESN the Bank encourages Clients to observe international human rights norms, standards, and best practices and reflect in Bank operations national commitments made under, inter alia, International Human Rights Covenants and Charters.
2. Some individuals or groups may be less resilient to risks and adverse impacts than others. Within the context of IsDB projects, individuals and/or groups who are at a higher risk of being unable to anticipate, cope with, and recover from project-related risks and/or adverse impacts are considered vulnerable.
3. Vulnerability is not an inherent characteristic of people and does not occur in a vacuum. Women for instance are not inherently more vulnerable than men; but discrimination, entrenched social roles and attitudes, poverty and lack of access to decision-making can weaken their resilience and render them vulnerable to adverse project risks and impacts. Vulnerability is thus context-specific and is to be understood through the interplay of three factors: (i) exposure to risk and adverse impacts; (ii) sensitivity to those risks and impacts; and (iii) adaptive capacity.
4. Vulnerable individuals and groups (i) are usually exposed to several risks and adverse impacts at once; (ii) are more sensitive to those risks and impacts, having been subject to pre-existing discrimination, financial, socio-economic, cultural and/or gender inequalities, their geographical location, their dependence on the environment and/or limited access to justice and decision-making; and (iii) have a weaker adaptive capacity for coping with those risks and impacts and recovering from them due to limited access to the necessary support, assets and/or resources. As a result, they risk being disproportionately affected by project-related risks and adverse impacts.
5. Depending on the specific context of the project and its area of influence, vulnerable groups may include, amongst others, female-headed households, the landless, the elderly, youth and children, persons with disabilities, groups who are marginalized on the basis of ethnicity, religion, language , and highly vulnerable rural minorities and remote area dwellers including groups referred to as indigenous peoples in some contexts. Individuals or groups may also be vulnerable for several reasons.

6. In this ESN the term ‘Highly vulnerable rural minorities’¹ applies to distinct social and cultural groups identified in accordance with paragraphs 8 and 9 of this ESN.

7. ESN7 contributes to poverty reduction and sustainable development by ensuring that projects supported by the Bank enhance opportunities for vulnerable groups to participate in, and benefit from, the development process in ways that do not threaten their unique cultural identities and well-being².

8. This ESN recognizes that some cultural groups, because of their lifestyle, culture and strong dependence on the natural environment have identities and aspirations that are distinct from mainstream groups in national societies and are often disadvantaged by traditional models of development. In many instances, they are among the most economically marginalized and vulnerable segments of the population. Their economic, social, and legal status frequently limits their capacity to defend their rights to, and interests in, land, territories and natural and cultural resources, and may restrict their ability to participate in and benefit from development projects. In many cases, they do not receive equitable access to project benefits, or benefits are not devised or delivered in a form that is culturally appropriate, and they may not always be adequately consulted about the design or implementation of projects that would profoundly affect their lives or communities. This ESN further recognizes that the roles of men and women in these cultures are often different from those in the mainstream groups, and that women and children have frequently been marginalized both within their own communities and as a result of external developments and may have specific needs.

9. Traditional communities that live in rural and remote areas (including those that live in wetlands and off the coast, those that practice transhumance and nomadic lifestyles, as well as some other vulnerable groups are inextricably linked to the land on which they live and the natural resources on which they depend, such as forest dwellers. They are therefore particularly vulnerable if their land and resources are transformed, encroached upon, or significantly degraded. Projects, activities and other initiatives may also undermine language use, cultural practices, institutional arrangements, and religious or spiritual beliefs that are viewed as essential to their identity or well-being. However, they may also create important opportunities for such vulnerable groups to improve their quality of life and well-being. A project or set of activities and initiatives may create improved access to markets, schools, clinics and other services that seek to improve living conditions. Projects, activities and initiatives can create opportunities for vulnerable groups to participate in, and benefit from activities that may help them fulfil an aspiration to play an active and meaningful role as citizens and partners in development.

¹ Highly vulnerable rural minorities’ refers to specific socio-cultural minority groups, in remote and rural areas, whose culture and life are highly dependent on natural resources and/or landscapes of their living environments, and whose cultures and quality of life are under threat whenever the features of these resources or landscapes are substantially deteriorated. This includes minorities often termed as Indigenous people, forest dwellers, traditional pastoralists, hunter-gatherers, nomadic groups, etc.

² This ESN recognizes that highly vulnerable rural minorities wellbeing relates to their intrinsic relationship to lands and traditional practices and is reflective of their way of life. This captures their core principles and aspirations of reaching harmony with their surroundings, and achieving solidarity, complementarity and communal living.

Furthermore, this ESN recognizes that vulnerable groups play a vital role in sustainable development such as through forest stewardship.

10. ESN7 recognizes that the situation of vulnerable groups varies from region to region and from country to country. The national and regional contexts and the different historical and cultural backgrounds of vulnerable groups will be considered as part of the environmental and social assessment of the project.

Objectives

11. The objectives of ESN7 are as follows:

- Ensure that vulnerable groups and individuals are identified as early as possible in Bank projects and that they are engaged with in a meaningful way, taking into account their specific attributes such as means of communication and culture.
- Affirm, respect, and protect the rights and interests of vulnerable individuals and groups throughout the lifecycle of the project or investment.
- Recognize, respect and preserve the culture, knowledge, and practices of highly vulnerable cultural groups and minorities including indigenous peoples, and to provide them with an opportunity to adapt to changing conditions that could arise due to project activities in a manner and in a timeframe acceptable to them.
- Adopt a gender-responsive approach to the management of environmental and social impacts, that taking into account the rights and interests of women and girls, men and boys, including specific attention to the differentiated burden of impacts that women and girls might face.
- Identify and avoid adverse impacts of Bank projects on the lives and livelihoods of vulnerable individuals and groups, including women and girls, highly vulnerable rural minorities including indigenous peoples. Where avoidance is not feasible, to reduce, minimize, mitigate, compensate or effectively remedy impacts.
- To obtain the Free, Prior, and Informed Consent (FPIC)³ of affected Highly Vulnerable Rural Minorities (NVRMs) in the three circumstances described in paragraph 36 of this ESN.
- To promote development benefits and opportunities for vulnerable groups, including women and girls, minorities and HVRMs in a manner that is accessible, culturally appropriate and inclusive.
- To improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultation with the vulnerable groups affected by a project, set of activities or initiatives throughout the project life cycle.

³ For the purposes of this ESN, FPIC is defined in the Glossary.

Scope of Application

12. The applicability of this ESN is established during the environmental and social assessment described in ESN1.

13. This ESN applies to vulnerable groups regardless of whether they are affected positively or negatively, and regardless of the significance of any such impacts⁴. This ESN also applies irrespective of the presence or absence of discernible economic, political or social vulnerabilities, although the nature and extent of vulnerability will be a key variable in designing plans to promote equitable access to benefits or to mitigate adverse impacts.

14. In this ESN, the term Highly vulnerable rural minorities refers exclusively to a distinct social and cultural group possessing all the following characteristics in varying degrees:

- Self-identification as members of a distinct specific social and cultural group and recognition of this identity by others; and
- Collective attachment⁵ to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas; and
- Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and
- A distinct language, often different from the languages of the majorities or languages of the country or region in which they reside.

15. This ESN also applies to communities who, during the lifetime of members of the community or group, have lost collective attachment to distinct habitats or ancestral territories in the project area, because of forced severance, conflict, government resettlement programs, dispossession of their land, natural disasters, or incorporation of such territories into an urban area⁶.

16. The Bank may follow national processes during project screening for the identification, in accordance with paragraphs 8 and 9, of HVRM where these processes meet the requirements of

⁴ The scope and scale of consultation, as well as subsequent project planning and documentation processes, will be proportionate to the scope and scale of potential project risks and impacts as they may affect vulnerable groups.

⁵ "Collective attachment" means that for generations there has been a physical presence in and economic ties to land and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites.

⁶ Generally, this ESN does not apply to individuals or small groups of HVRM migrating to urban areas in search of economic opportunity. It may apply, however, where HVRM have established distinct communities in or near urban areas but still possess the characteristics stated in paragraph 14. When their physical displacement is unavoidable, resettled HVRM will be granted legal title on a collective or community basis, in a manner recognized by relevant national law, not an individual basis; the Client will not pursue projects that entail individual titling in HVRM territories.

this ESN⁷.

Requirements

A. General Requirements

17. The Client will take the necessary measures to appropriately manage the risks and adverse impacts of the project on vulnerable individuals and groups, including on women and girls, minorities and HVRM. In so doing, the Client will avoid, minimize, or otherwise mitigate or remedy the exposure of vulnerable populations to project-related risks and adverse impacts. As a means to foster those project outcomes, the Client will properly address discriminatory practices, inequalities and other factors that contribute to vulnerability and will, as appropriate, strengthen the adaptive capacity of vulnerable individuals or groups by promoting inclusive development and benefit-sharing⁸.

B. Early Identification of Vulnerable Groups

18. As early as possible⁹, the Client will identify the individuals and groups who might be vulnerable and at risk of suffering adverse, compounded or disproportionate impacts, be discriminated against, marginalized, under-served or excluded from intended benefits in the given operation/project context. The Client will ascertain the presence of any groups of peoples with particular rights that will need to be respected, for example women, HVRMs including indigenous peoples, tribal and ethnic minority groups, or children. A high-level analysis of the nature and degree of discrimination and vulnerability already experienced by individuals, communities and/or groups in the context of the project will be performed. If vulnerable individuals or groups are identified, the screening will proceed to determine at minimum:

- The main characteristics of the individuals and groups, and the nature of discrimination they suffer and of their vulnerability (including any existing inequalities and exclusion practices).
- The country's institutional and legal framework determining the identification of indigenous peoples, minorities and other vulnerable groups, as per this ESN.
- The current legal status regarding gender relations and the rights and status of women and girls, highly vulnerable minorities including indigenous peoples and associated parameters, such as

⁷ In conducting this screening, the Bank may seek the technical advice of specialists with expertise on the social and cultural groups in the project area. The Bank will also consult the HVRM concerned and the Client.

⁸ The need for such measures is particularly critical in situations where discrimination is systemic and entrenched, governance is poor or protection of the rights of vulnerable groups is weak, such as in potential conflict or post-conflict zones and areas experiencing natural disasters, epidemics and pandemics.

⁹ As early as possible means during project conception, planning or design and prior to any preparatory works or decisions being made that could affect people..

land tenure indicating basis for recognition, customary use of the land, any potential claims/actions, as relevant within the operation's area of influence.

- The type, scope and extent of project-related risks and impacts, whether adverse or otherwise, on such individuals and groups, against the backdrop of the country's institutional and legal framework and existing or anticipated discriminatory norms and practices against them including customary practices which may be discriminatory against women, girls, boys and men.
- Whether and which special measures and specific actions need to be taken to avoid, minimize, or otherwise mitigate or remedy negative impacts on vulnerable individuals and groups, and to reinforce positive effects as appropriate.
- The potential shortcomings of the institutional framework to achieve the objectives of this Standard, in particular regarding engagement and implementation.
- The need for technical assistance or capacity building for the Client or others facilitating the effective management of risks and impacts falling under this ESN.

C. Social Assessment

19. Where the screening process determines that: (i) potential adverse impacts on vulnerable groups are present or (ii) relevant additional information is required, a more in-depth social assessment should be undertaken. The assessment should specifically probe into the following elements, including through careful analysis of the legal framework and through collection of baseline data¹⁰, disaggregated by factors such as gender, disability, ethnicity and age:

- Vulnerability profile of affected population, with special attention to highly vulnerable rural minorities.
- Assessment of the specific context, including legal and institutional parameters.
- Analysis and assessment of the historical frequency and severity of discrimination, social, economic or political exclusion and marginalization suffered by the identified population.
- The scope and nature of adverse impacts and their effect on the identified population when compounded with their pre-existing vulnerability, and their access to resources and cultural heritage.
- Specific actions, past or future, to avoid, minimize, or otherwise mitigate or remedy negative impacts and, as appropriate, to reinforce positive effects, including identifying opportunities and actions to promote benefit-sharing modalities for the communities.
- In accordance with ESN10, an appropriate engagement, consultation and participation plan, describing relevant consultation mechanisms.

¹⁰ Data collected in the context of E&S assessment and project implementation shall not be with the intention or used to cause undue harm or any sort of discrimination against people and especially the vulnerable. Further, Data collection and use must be in compliance with existing legislations and ethical practices. including respect of data privacy. Data will be disaggregated, as much as possible, based on sex, gender, vulnerability, etc.

Mitigation and Development Benefits

20. The Client and affected vulnerable groups will identify mitigation measures in alignment with the mitigation hierarchy described in ESN1 as well as opportunities for culturally appropriate and sustainable development benefits. The scope of assessment and mitigation will include cultural impacts¹¹ as well as physical impacts. The Client will ensure the timely delivery of agreed measures to affected vulnerable groups.

21. The determination, delivery, and distribution of compensation and shared benefits to affected vulnerable groups will take account of their institutions, rules and customs as well as their level of interaction with mainstream society. Eligibility for compensation can either be individually or collectively based or be a combination of both¹². Where compensation occurs on a collective basis, as far as practicable, mechanisms that promote the effective distribution of compensation to all eligible members, or collective use of compensation in a manner that benefits all members of the group, will be defined and implemented.

22. Various factors including, but not limited to, the nature of the project, the project context and the specific vulnerability of affected groups and HVRM will determine how they will benefit from the project. Identified opportunities will aim to address the goals and preferences of the affected groups, including improving their standard of living and livelihoods in a culturally appropriate manner, and to foster the long-term sustainability of the natural resources on which they depend.

D. Special Considerations relating to HVRM

23. Where projects are designed to provide benefits only to HVRM, the Client will proactively engage with the relevant HVRM to ensure their ownership and participation in project design, implementation, monitoring and evaluation. The Client will also consult with them as to the cultural appropriateness of proposed activities, services or facilities, and will identify and address any economic or social constraints (including those relating to gender) that may limit opportunities to benefit from, or participate in, the project.

24. When HVRM are the sole, or the overwhelming majority of, project beneficiaries, the outcomes of such engagement may be incorporated in the overall project design, and preparation of a stand-alone HVRM Plan is not necessary.

25. When HVRM are not the only beneficiaries of the project, the Client will design and implement the project in a manner that provides affected HVRM and other vulnerable groups with equitable access to project benefits. The concerns or preferences of HVRM will be addressed through meaningful consultation and project design, and documentation will summarize the

¹¹ Considerations relating to cultural impacts may include, for example, the language of instruction and curriculum content in education projects, or culturally sensitive or gender-responsive procedures in projects such as health projects, and others.

¹² Where control of resources, assets and decision-making are predominantly collective in nature, where possible, benefits and compensation will be collective and take account of intergenerational differences and needs.

consultation results and describe how HVRM issues, as well as those for other vulnerable groups, have been addressed in project design. Arrangements for ongoing consultations with vulnerable groups during implementation and monitoring will also be described.

26. The Client should incorporate the outcomes of this engagement into the overall project design. The Bank may request that a broader integrated community development plan¹³ be prepared, addressing all beneficiaries of the project and incorporating necessary information relating to the affected HVRM.

27. In some circumstances, the Bank may request that a stand-alone HVRM Plan¹⁴ be developed. This time-bound plan will set out the measures or actions proposed to address risks, impacts, potential benefits and rights of HVRM. The plan should have the following components:

- A summary of social assessment carried out on the HVRM, including the applicable legal and institutional framework and baseline data.
- A summary of the results of the meaningful consultation tailored to HVRM, and if the project involves the three circumstances specified in paragraph 34 of ESN7, then the outcome of the process of FPIC carried out with the affected peoples during project preparation.
- A framework for meaningful consultation tailored to HVRM during project implementation.
- Measures for ensuring HVRM receive social and economic benefits that are culturally appropriate and gender-responsive, along with steps for implementing them. If necessary, this may call for measures to enhance the capacity of the project and governmental agencies.
- Measures to avoid, minimize, mitigate, or compensate HVRM for any potential adverse impacts that were identified in social assessment, and steps for implementing them.
- The cost estimates, financing plan, schedule, and roles and responsibilities for implementing the Plan.
- Accessible procedures appropriate to the project to address grievances by the affected HVRM arising from project implementation, as described in paragraph 44 and in ESN10.
- Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the Plan, including ways to consider input from project-affected HVRM in such mechanisms.

Impacts on Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use or Occupation

28. HVRMs are often closely tied to their land and related natural resources¹⁵. Frequently, land is traditionally owned or under customary use or occupation. While HVRM may not possess legal title to land as defined by national law, their use of the land, including seasonal or cyclical use, for

¹³ A community development plan may be appropriate in circumstances where other people, in addition to the HVRM, will be affected by the risks and impacts of the project; where more than one HVRM is to be included; or where the regional or national scope of a programmatic project incorporates other population groups.

¹⁴ This includes an Indigenous People Plan (IPP), Pastoralism Management Plan (PMP), Forest-dwellers Plan (FDP), Nomadic groups Plan (NGP), etc.

¹⁵ Examples include marine and aquatic resources, timber and non-timber forest products, medicinal plants, hunting and gathering grounds, and grazing and cropping areas.

their livelihoods, or for cultural, ceremonial, and spiritual purposes that define their identity and community, can often be substantiated and documented. Where projects involve (a) activities that are contingent on establishing legally recognized rights to lands and territories that HVRM have traditionally owned or customarily used or occupied¹⁶, or (b) the acquisition of such lands, the Client will prepare a plan for the legal recognition of such ownership, occupation, or usage, with due respect to the customs, traditions and land tenure systems of the HVRM concerned. The objective of such plans will be the following: (a) full legal recognition of existing customary land tenure systems of HVRM; or (b) conversion of customary usage rights to communal and/or individual ownership rights¹⁷. If neither option is possible under national law, the plan includes measures for the legal recognition of HVRM's perpetual or long-term renewable custodial or use rights.

29. If the Client proposes to locate a project or activities, or commercially develop natural resources, on land traditionally owned by, or under the customary use or occupation of HVRM, and adverse impacts¹⁸ can be expected, the Client will take the following steps and obtain their FPIC:

- Document efforts to avoid and otherwise minimize the area of land proposed for the project. This may include identification and consideration of feasible alternative project designs that could protect HVRM customary occupation and interest on the land.
- Document efforts to avoid and otherwise minimize impacts on natural resources subject to traditional ownership or customary use or occupation.
- Identify and review all property interests, tenure arrangements, and traditional resource usage prior to purchasing, leasing or, as a last resort, undertaking land acquisition.
- Assess and document HVRMs' resource use without prejudicing any HVRMs' land claim. The assessment of land and natural resource use will be gender inclusive and specifically consider women's role in the management and use of these resources.
- Ensure that affected HVRM are informed of: (i) their land rights under national law, including any national law recognizing customary use rights; (ii) the scope and nature of the project; and (iii) the potential impacts of the project; and
- Where a project promotes commercial development of their land or natural resources, afford due process, and offer compensation together with culturally appropriate sustainable development opportunities to HVRM, at least equivalent to that to which any landowner with full legal title to the land would be entitled, including:
 - Providing fair lease arrangements or, where land acquisition is necessary, providing land- based compensation or compensation in kind in lieu of cash compensation where feasible¹⁹.

¹⁶ For example, extractive industries, creation of conservation areas, agro-development schemes, greenfield infrastructure development, land management or titling programs.

¹⁷ Conversion of customary usage rights to individual ownership rights will only be an objective following consultation with the HVRM concerned and assessment of the impacts of such conversion on the communities and their livelihoods.

¹⁸ Such adverse impacts may include impacts from loss of access to assets or resources or restrictions on land use resulting from project activities.

¹⁹ If circumstances prevent the Client from offering suitable replacement land, the Client must provide verification that such is the case. Under such circumstances, the Client will provide non-land-based income-earning opportunities over and above cash compensation to affected HVRM.

- Ensuring continued access to natural resources, identifying the equivalent replacement resources, or, as a last option, providing compensation and identifying alternative livelihoods if project development results in the loss of access to and the loss of natural resources independent of project land acquisition.
- Enabling HVRM to share equitably in the benefits to be derived from the commercial development of the land or natural resources where the Client intends to utilize land or natural resources that are central to the identity and livelihood of HVRM and the usage thereof exacerbates livelihood risk; and
- Providing affected HVRM peoples with access, usage, and transit on land the Client is developing subject to overriding health, safety, and security considerations.

Relocation of HVRM from Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use or Occupation

30. The Client will consider feasible alternative project designs to avoid the relocation of HVRM from communally held²⁰ or attached land and natural resources subject to traditional ownership or customary use or occupation. If such relocation is unavoidable the Client will not proceed with the project, set of activities or other initiatives unless FPIC has been obtained as described above; the Client will not resort to forced eviction²¹, and any relocation of HVRM will meet the requirements of ESN5. Where feasible, the relocated HVRM will be able to return to their traditional or customary land, should the cause of their relocation cease to exist.

E. Public Consultation and Participation

31. As set out in ESN10, the rights-based principles of participation, non-discrimination and transparency in engagement and consultation will be addressed by the Client by providing identified vulnerable groups with all the relevant information about the project (including an assessment of potential adverse effects and projected benefits of the project) as early as possible. This is to be done in a culturally appropriate manner. Under-represented groups on account of gender, poverty or other elements of social vulnerability should be given equal opportunity to voice their opinions and concerns, and these should be considered in the project decision-making.

32. Information will be disclosed in appropriate languages²² and in a manner that is timely, accessible and culturally appropriate, taking into account any vulnerable or minority groups and

²⁰ Typically, HVRM claim rights and access to, and use of land and resources through traditional or customary systems, many of which entail communal property rights. These traditional claims to land and resources may not be recognized under national laws. Where HVRM individually hold legal title, or where the relevant national law recognizes customary rights for individuals, the requirements of ESN5 will apply, in addition to the requirements under paragraph 29 of this ESN.

²¹ See paragraph 40 of ESN5.

²² Apart from the former colonial languages that may be commonly used and officially recognized within a country, there may be many local languages used in the areas affected by the project. The Client will need to determine which (if any) of these is to be used for written and verbal communication with people potentially affected people so as to facilitate meaningful consultation.

their right to equitable representation and consideration for their rights, views and interests. It may be appropriate and helpful to include other participants such as relevant agencies/institutions, Civil Society Organizations/Community Based Organizations (CSOs/CBOs), international and local advocacy groups and academic experts, if a better understanding of the context and an identification of suitable solutions is to be facilitated during the consultation process. The Client may provide targeted capacity building or other assistance so as to allow vulnerable individuals or groups impacted by the project to participate fully and effectively in engagement and consultation processes.

Meaningful Consultation Tailored to Vulnerable Groups

33. To promote effective project design, to build local project support or ownership, and to reduce the risk of project-related delays or controversies, the Client will undertake an engagement process with affected vulnerable groups, as required in ESN10. This engagement process will include a comprehensive stakeholder analysis and engagement planning, disclosure of information, and meaningful consultation, in a culturally appropriate and gender and inter-generationally inclusive manner. It will also:

- Involve vulnerable group's representative bodies and organizations²³ (e.g., councils of elders or village councils, chieftains, or women's groups/representatives) and, where appropriate, other community members.
- Provide sufficient time for the groups' decision-making processes²⁴; and
- Allow for vulnerable groups' effective participation in the design of project activities or mitigation measures that could potentially affect them either positively or negatively.

Circumstances Requiring Free, Prior and Informed Consent (FPIC)

34. The principle of free, prior informed consent (FPIC) refers to the process whereby the affected community of highly vulnerable rural minorities arrives at a decision in accordance with their legal provisions, cultural traditions and practices.

35. Highly vulnerable rural minorities may be particularly vulnerable to the loss of, alienation from or exploitation of their land and access to natural and cultural resources. In recognition of this vulnerability, in addition to the general requirements of this OS (Section A) and those set out in ESNs 1 and 10, the Client will obtain the FPIC of the affected HVRM in accordance with paragraphs 35 to 36 in circumstances in which the project will:

- Have adverse impacts on land and natural resources subject to traditional ownership or under

²³ For projects that have a regional or national scope, the meaningful consultation may be carried out with HVRM organizations or representatives at the relevant national or regional levels. These organizations or representatives will be identified in the stakeholder engagement process described in ESN10.

²⁴ Internal decision-making processes are generally but not always collective in nature. There may be internal dissent, and decisions may be challenged by some in the community. The consultation process should be sensitive to such dynamics and allow sufficient time for internal decision-making processes to reach conclusions that are considered legitimate by the majority of the concerned participants..

customary use or occupation.

- Cause relocation of HVRM from land and natural resources subject to traditional ownership or under customary use or occupation; or
- Have significant impacts on HVRM's cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected HVRM's lives.

36. In these circumstances, the Client will engage independent specialists to assist in the identification of the project risks and impacts.

37. There is no universally accepted definition of FPIC. For the purposes of this OS, FPIC is established as follows:

- The scope of FPIC applies to project design, implementation arrangements and expected outcomes related to risks and impacts on the affected HVRM.
- FPIC builds on and expands the process of meaningful consultation described in ESN10 and paragraph 34 above and will be established through good faith negotiation between the Client and affected HVRM.
- The Client will document: (i) the mutually accepted process to carry out good faith negotiations that has been agreed by the Client and HVRM; and (ii) the outcome of the good faith negotiations between the Client and HVRM, including all agreements reached as well as dissenting views; and
- FPIC does not require unanimity and may be achieved even when individuals or groups within or among affected HVRM explicitly disagree.

38. For the purposes of this ESN, consent refers to the collective support of affected HVRM communities for the project activities that affect them, reached through a culturally appropriate process. It may exist even if some individuals or groups object to such project activities, as recognized by paragraph 38 (d).

39. When the Bank cannot ascertain the FPIC of the affected HVRM, the aspects of the project, activities or initiatives relevant to those affected HVRM for which FPIC cannot be ascertained, will not be processed further. Where the Bank has made the decision to continue processing the project other than the aspects for which the FPIC of the affected HVRM cannot be ascertained, the Client will ensure that no adverse impacts result on such HVRM during the implementation of the project, activities or other initiatives.

40. Agreements reached between the Client and affected HVRM will be described, and actions necessary to accomplish agreements will be included, in the ESMP. During implementation, the Client will ensure that necessary actions are taken, and agreed benefits or improvements to services are delivered, so as to maintain HVRM's support for the project.

F. Cultural Heritage

41. Where a project may significantly impact cultural heritage²⁵ that is material to the identity and/ or cultural, ceremonial, or spiritual aspects of HVRMs' lives, priority will be given to the avoidance of such impacts. Where significant project impacts are unavoidable, the Client will obtain the FPIC of affected HVRM.

42. Where a project proposes to use the cultural heritage of HVRM for commercial purposes, the Client will inform the affected HVRM of: (a) their rights under national law; (b) the scope and nature of the proposed commercial development; and (c) the potential consequences of such development; and obtain their FPIC. The Client will also enable HVRM to share equitably in the benefits to be derived from commercial development of such cultural heritage, consistent with the customs and traditions of the HVRM.

G. Grievance Mechanism

43. The Client will ensure that a grievance mechanism is established for the project, as described in ESN10, which is culturally appropriate and accessible to affected vulnerable groups, and takes into account the availability of judicial recourse and customary dispute settlement mechanisms among, for example, HVRM.

H. Vulnerable Groups and Broader Development Planning

44. The Client may request Bank technical or financial support, in the context of a specific project or as a separate activity, for preparation of plans, strategies or other activities intended to strengthen consideration and participation of vulnerable groups in the development process. This may include a variety of initiatives designed, for example, to: (a) strengthen local legislation to establish recognition of customary or traditional land tenure arrangements; (b) address the gender and intergenerational issues that exist among HVRM; (c) protect tribal and endogenous knowledge including intellectual property rights; (d) strengthen the capacity of tribal and HVRM to participate in development planning or programs; and (e) strengthen the capacity of government agencies providing services to vulnerable groups.

45. Affected HVRM may themselves seek support for various initiatives and the Client and the Bank should consider these. They include: (a) support for the development priorities of HVRM through programs (such as community-driven development programs and locally managed social funds) developed by governments in cooperation with HVRM; (b) preparation of participatory

²⁵ 'Cultural heritage' is defined in ESN8. It includes natural areas with cultural and/or spiritual value such as sacred groves, sacred bodies of water and waterways, sacred mountains, sacred trees, sacred rocks, burial grounds and sites.

profiles of HVRM to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs, and resource use patterns; (c) facilitating partnerships among the government, HVRM, CSOs, CBOs, and the private sector to promote HVRMs' development programs.