

The Environmental and Social Norms of the Islamic Development Bank

Environmental and Social Norm 8 (ESN8): Cultural Heritage



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 Bank recognizes that cultural heritage is an inherent and essential part of self-identification, and it provides continuity in tangible and intangible forms between the past, present and future. People identify with cultural heritage as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions. Cultural heritage is defined as tangible and intangible resources inherited from the past that people identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge, and traditions. Cultural heritage is part of every culture and found all over the world. In its many manifestations, cultural heritage is an integral part of people's cultural identity, practice, and self-identity, and is important as a source of valuable scientific and historical information, as an economic and social asset for development. Cultural heritage is also deeply connected to the surrounding environmental and natural world. ESN8 sets out measures designed to protect cultural heritage throughout the project life cycle.

2. This ESN sets out general provisions on risks and impacts to cultural heritage from project activities. ESN8 sets out additional requirements for cultural heritage in the context of vulnerable groups and highly vulnerable rural minorities including Indigenous Peoples. ESN6 recognizes the social and cultural values of biodiversity. Provisions on Stakeholder Engagement and Information Disclosure that will apply to highlight concerns about cultural heritage are set out in ESN10.

Objectives

3. The objectives of ESN8 are as follows:

- To protect cultural heritage from the adverse impacts of project activities and support its preservation.
- To address cultural heritage as an integral aspect of sustainable development.
- To promote meaningful consultation with stakeholders regarding cultural heritage as a means to identify and address risks and impacts related to cultural heritage.
- To promote the equitable sharing of benefits from the use of cultural heritage with affected stakeholders.

Scope of Application

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

5. The term 'cultural heritage' encompasses tangible and intangible heritage, which may be recognized and valued at a local, regional, national or global level, as follows:

- Tangible cultural heritage, which includes movable or immovable objects, sites, structures, groups of structures, and natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic, or other cultural significance. Tangible cultural heritage may be located in urban or rural settings, and may be above or below land or under the water.
- Intangible cultural heritage, which includes practices, representations, expressions, knowledge, skills - as well as the instruments, objects, artifacts and cultural spaces associated therewith – that communities and groups recognize as part of their cultural heritage, as transmitted from generation to generation and constantly recreated by them in response to their environment, their interaction with nature and their history.

6. The requirements of this ESN will apply to all projects that are likely to have risks or impacts on cultural heritage. This will include a project which:

- Involves excavations, demolition, movement of earth, flooding or other changes in the physical environment.
- Is located within a legally protected area or a legally defined buffer zone.
- Is located in, or in the vicinity of, a recognized cultural heritage site.
- Is specifically designed to support the conservation, management and use of cultural heritage.
- Is located in an area that a stakeholder community believes contains cultural heritage of significance to their community.

7. The requirements of ESN8 apply to cultural heritage regardless of whether or not it has been legally protected or previously identified or disturbed.

8. The requirements of ESN8 apply to intangible cultural heritage only if a physical component of a project will have a material impact on such cultural heritage or if a project intends to use such cultural heritage for commercial purposes.

Requirements

A. General Requirements

9. The environmental and social assessment, as set out in ESN1, will consider direct, indirect and cumulative project-specific risks and impacts on cultural heritage. Through the environmental and social assessment, the Client, in consultation with stakeholder(s), will identify cultural heritage and determine the potential risks and impacts of the proposed activities of the project on cultural heritage. The Client will be guided by the following general principles in assessing and managing cultural risks and impacts:

- Value-added assessment: in identifying, predicting, evaluating and communicating the probable effects of the project on the cultural life, institutions and resources of communities.
- Integrity, authenticity, protection and management: as an integral part of the impact assessment.
- Preservation: is important irrespective of the level of the impact identified.
- Effective management: is important in the implementation phase since if risks and impacts are not well managed, the project may be delayed or prevented.
- Fit for purpose: cultural heritage management work must be adapted to suit the needs of each individual situation characterized by the cultural heritage context and the nature of the project and its risks and impacts.
- Integration: cultural heritage management needs to be integrated across the project management systems (including associated facilities), procedures and practices at every site.
- Relationship: sound cultural heritage management is integral to relationships with communities. If the Client values what they value, then communities are more likely to support the project. The relationship can also include working with communities to protect and enhance their culture and its practices.
- Managing change: considering that cultural heritage is not static. Just as culture changes over time, management approaches need to be dynamic and adapt accordingly.
- Mutual benefit: considering that effective cultural heritage management can have wider economic, social and environmental benefits.
- Meaningful Consultation: which is a good-faith effort to identify and engage with relevant stakeholders for cultural heritage, including not only current local communities but other communities with historic and cultural ties.

10. The Client will avoid impacts on cultural heritage. When avoidance of impacts is not possible, the Client will identify and implement measures to address impacts on cultural heritage

in accordance with the mitigation hierarchy¹. Where appropriate, the Client will develop a Cultural Heritage Management Plan².

11. The Client will implement globally recognized practices for field-based study, documentation and protection of cultural heritage in connection with the project, including by contractors and other third parties. This will include preventive conservation measures and emergency planning.

12. A chance finds procedure is a project-specific procedure that will be followed if previously unknown cultural heritage is encountered during project activities. It will be included in all contracts relating to construction of the project, including excavations, demolition, movement of earth, flooding or other changes in the physical environment. The chance finds procedure will set out how chance finds associated with the project will be managed. The procedure will include a requirement (i) to train project personnel and project workers on applicable heritage laws and chance find procedures; (ii) to stop works and fence-off the area of finds or sites to avoid further disturbance; (iii) to notify relevant authorities of found objects or sites; (iv) to conduct an assessment of found objects or sites by cultural heritage experts and/or stakeholders that may have an association to the object or site; and (v) to identify and implement actions consistent with the requirements of this ESN and national law.

13. To identify and understand the risks and impacts of a project, the environmental and social assessment will involve the participation of cultural heritage experts. If the environmental and social assessment determines that the project may, at any time during the project life cycle, have significant potential risks and impacts on cultural heritage, the Client will engage cultural heritage experts, and consult stakeholders that may have an association with the sites or objects, to assist in the identification, valuation assessment and protection of cultural heritage.

B. Stakeholder Consultation and Identification of Cultural Heritage

14. The Client will identify, in accordance with ESN10, stakeholders that are relevant for the cultural heritage that is known to exist or is likely to be encountered during the project life cycle. Stakeholders will include, as relevant:

- Project affected parties, including individuals and communities within the country who use, have

¹ Mitigation measures include, for example, relocating or modifying the physical footprint of the project; conservation and rehabilitation in situ; relocation of cultural heritage; documentation; strengthening the capacity of national and subnational institutions responsible for managing cultural heritage affected by the project; establishment of a monitoring system to track the progress and efficacy of these activities; establishment of an implementation schedule and required budget for the identified mitigation measures; and cataloguing of finds. Such measures will take into account the provisions in Section D for specific types of cultural heritage.

² The Cultural Heritage Management Plan will include an implementation timeline and an estimate of resource needs for each mitigation measure. This may be developed as a stand-alone document or, depending on the nature and the scale of the risks and impacts of the project, as part of the ESMP.

used or continue to ascribe meaning or significance to the cultural heritage; and

- Other interested parties, which may include national or local regulatory authorities that are entrusted with the protection of cultural heritage and nongovernmental organizations and cultural heritage experts, including national and international cultural heritage organizations.

15. The Client will carry out meaningful consultations³ with stakeholders in accordance with ESN10 in order to identify cultural heritage that may be affected by the proposed project; consider the significance⁴ of the cultural heritage affected by the project; assess the potential risks and impacts; and explore avoidance and mitigation options.

Confidentiality

16. The Client, in consultation with the Bank and cultural heritage experts, and in agreement with project-affected parties (including individuals and communities), will determine whether disclosure of information regarding cultural heritage would compromise or jeopardize the safety or integrity of the cultural heritage or would endanger sources of information. In such cases, sensitive information may be omitted from public disclosure. If the project-affected parties (including individuals and communities) hold the location, characteristics, or traditional use of the cultural heritage in secret⁵, the Client will put in place measures to maintain confidentiality.

Stakeholders' Access

17. Where the Client's project site contains cultural heritage or prevents access to previously accessible cultural heritage sites, the Client will, based on consultations with all stakeholders with a cultural association, allow continued access to the cultural site, or will provide an alternative access route, subject to overriding health, safety and security considerations.

C. Legally Protected Cultural Heritage Areas

18. As part of the environmental and social assessment, the Client will determine the presence of all listed legally protected cultural heritage areas affected by the project⁶. If the proposed project will be located within an area legally protected for cultural reasons or a legally defined buffer zone, the Client will:

³ The Client will support the inclusion and cooperation of the various stakeholders through a dialogue with the appropriate authorities, including the relevant national or local regulatory authorities entrusted with the protection of cultural heritage, to establish the most effective means for addressing the views and concerns of the stakeholders and involving them in the protection and management of the cultural heritage.

⁴ The significance of cultural heritage is considered according to the value systems and interests of project affected parties (including individuals and communities) and other interested parties, who are concerned with the protection and appropriate use of the cultural heritage.

⁵ Often communities prefer to keep secret the significance of their cultural heritage. It may be known only to a specific segment of the local population and associated with ritual activities or events. The sacred character of such heritage may pose a challenge in determining how to avoid or mitigate damage.

⁶ Examples include World Heritage Sites and nationally and sub-nationally protected areas.

- Comply with local, national, regional or international cultural heritage regulations⁷ and the protected area management plans.
- Consult the protected area sponsors and managers, project-affected parties (including individuals and communities) and other interested parties on the proposed project; and
- Implement additional programs, as appropriate, to promote and enhance the conservation aims of the protected area.

D. Provisions for Specific Types of Cultural Heritage

Archaeological Sites and Material

19. Archaeological sites comprise any combination of structural remains, artifacts, human or ecological elements and may be located entirely beneath, partially above, or entirely above the land or water surface. Archaeological material may be found anywhere on the earth's surface⁸, singly or scattered over large areas. Such material also includes burial areas⁹, human remains and fossils. Archaeological sites and features may be located outside of legally protected and gazetted cultural heritage areas.

20. Where there is evidence or high probability of past human activity in the area of the project, the Client will conduct desk-based research and field surveys to document, map and investigate archaeological materials. The Client will document the location and characteristics of archaeological sites and materials identified during the project life cycle and provide such documentation to the national or subnational cultural heritage authorities.

21. The Client will determine, in consultation with cultural heritage experts, stakeholders, and communities to whom the sites are significant, whether archaeological material identified during the project life cycle requires: (a) documentation only; (b) excavation and documentation; (c) conservation in place, and will manage the archaeological material accordingly; or (d) relocation. The Client will determine ownership and custodial responsibility for archaeological material in accordance with national and subnational law, and until such time as custody has been transferred, will arrange for identification, conservation, labelling, secure storage and accessibility to enable future study and analysis¹⁰.

⁷ The applicability of regional or international cultural heritage regulations to the project will be determined through the environmental and social assessment.

⁸ Most archaeological sites are hidden from view. Only rarely is there no archaeological material in any given area, even if such material is not known to or recognized by local people or recorded by national or international archaeological agencies or organizations.

⁹ The burial areas referred to in paragraph 19 are those unrelated to current populations living in the project area. For more recent burial places connected directly to project-affected parties, appropriate mitigation measures will be identified pursuant to paragraphs 9 and 10 through consultations with such parties.

¹⁰ Future study and analysis may not be allowed if objected to by affected parties.

Built Heritage

22. Built Heritage refers to single or groups of architectural works in their urban or rural setting as evidence of a particular civilization, a significant development or a historic event. Built Heritage includes groups of buildings, structures and open spaces constituting past or contemporary human settlements that are recognized as cohesive and valuable from an architectural, aesthetic, spiritual or socio-cultural perspective.

23. The Client will consult relevant interested and affected parties (including individuals and communities) on the presence of built heritage of cultural significance and will identify appropriate mitigation measures to address the impacts on Built Heritage, which may include (a) documentation; (b) conservation or rehabilitation in situ; (c) relocation and conservation or rehabilitation. During any rehabilitation or restoration of cultural heritage structures, the Client will maintain the authenticity of form, construction materials and techniques of the structure(s) ¹¹.

24. The Client will preserve the auditory, physical, and visual context of individual or groups of historic structures by considering the appropriateness and effect of project infrastructure proposed for location within the range of sight and sound.

Natural Features with Cultural Significance

25. Natural features may be imbued with cultural heritage significance. Communities play an active role in the natural environment by engineering landscapes¹² and undertaking activities such as protecting and cultivating plants for medicinal, ceremonial use, and daily use. The significance of such heritage may be localized in small community groups or minority populations.

26. The Client will identify, through research and consultation with affected parties (including individuals and communities), natural features with cultural heritage significance affected by the project, the people that value such features, and the individuals or groups with authority to represent and negotiate regarding the location, protection and use of the heritage place(s).

27. Most natural features with cultural heritage significance are best protected by preservation in situ. Where it is not possible to preserve the natural features in their existing location, and the project goes ahead, the option of transferring the natural features to another location will be explored, if it can be done without significant damage to the cultural heritage. The transfer of the cultural heritage to another location will be conducted in consultation with project-affected parties and other stakeholders, including national authorities, in accordance with GIIP. The agreement that is reached regarding the transfer will respect and enable continuation of the traditional practices associated with the cultural heritage that has been transferred. The transfer arrangements will

¹¹ In compliance with applicable national and subnational laws and/or zoning regulations and in accordance with GIIP.

¹² Examples include sacred hills, mountains, landscapes, streams, rivers, waterfalls, caves and rocks; sacred trees or plants, groves and forests; carvings or paintings on exposed rock faces or in caves; and paleontological deposits of early human, animal or fossilized remains.

provide that stakeholder retain rights to, authority over, and can easily access the heritage, through formal institutional arrangements. Additionally, the Client will take steps to preserve and conserve the cultural heritage in perpetuity in accordance with international best practices. Compensation may be required.

Moveable Cultural Heritage

28. Movable cultural heritage includes such objects as: historic or rare books and manuscripts; paintings, drawings, sculptures, statuettes and carvings; modern or historic religious items; historic costumes, jewelry and textiles; fragments of monuments or historic buildings; archaeological material; and natural history collections such as shells, flora, or minerals. Chance-find discoveries and access resulting from a project may increase the vulnerability of cultural objects to theft, trafficking or abuse. The Client will take measures to guard against theft and illegal trafficking of movable cultural heritage items affected by the project and will notify relevant authorities of any such activity.

29. The Client, in consultation with relevant national cultural heritage authorities, will identify movable cultural heritage objects that may be endangered by the project, activities or other initiatives and make provisions for their protection throughout the project life cycle. The Client will inform religious or secular authorities or other custodians with responsibility for overseeing and protecting the movable cultural heritage objects of the schedule for relevant activities and alert them regarding the potential vulnerability of such items.

Burial Sites and Human Remains

30. The Client will prioritize leaving human remains and their burial sites or monuments in place. In meaningful consultation with project-affected persons, including descendant individuals and communities, the Client will develop temporary or permanent marking of burial sites in close consultation with descendant communities, if no clear markers are present, and, where applicable, will use protective measures preferred by project-affected persons to avoid and protect remains that are located on or beneath the ground.

31. In cases where it is deemed necessary to identify, remove, and relocate human remains or related monuments from their original setting, the Client will consult with project-affected persons, including relevant descendant communities and individuals. Where specific conditions require it, experts such as forensic archaeologists and remote sensing experts may be engaged to establish locally appropriate identification and preservation measures. In such cases, the project will develop identification, removal, and relocation measures through meaningful consultation with project-affected persons, including relevant descendant communities and individuals.

Intangible Cultural Heritage

32. Intangible cultural heritage comes in many forms, it includes the practices, representations,

expressions, knowledge¹³, and skills as well as the instruments, objects, artifacts and cultural spaces associated therewith – that communities and groups recognize as part of their cultural heritage, as transmitted from generation to generation and constantly recreated by them in response to their environment, their interaction with nature and their history. Because intangible cultural heritage takes many forms it can be challenging for the Client to ensure sure that all its relevant forms are identified and considered during the environmental and social assessment.

33. The Client, in consultation with community and affected stakeholders, will identify and assess the significance of the types of intangible cultural heritage affected by the project.

E. Commercial Use of Cultural Heritage

34. Where a project, activity or initiative intends to use the tangible and intangible¹⁴ cultural heritage of project affected parties (including individuals and communities) for commercial purposes¹⁵, the Client will inform the project affected parties of: (a) their rights under national law; (b) the scope and nature of the commercial development and the potential impacts; and (c) the potential consequences of such development and impacts.

35. The Client will comply with the applicable property laws and will not proceed with such commercial use unless it: (a) carries out meaningful consultation with stakeholders as described in ESN10; (b) provides for fair and equitable sharing of benefits from commercial use of such cultural heritage, consistent with customs and traditions of the project affected parties; and (c) identifies mitigation measures according to the mitigation hierarchy.

¹³ Intangible cultural heritage may come in digital forms and/or may be preserved digitally. Digital cultural heritage may require digital mitigation and preservation tools. Digital content requires specific forms of protection, which may include Intellectual Property Issues.

¹⁴ See paragraph 8.

¹⁵ This excludes international exchanges or loans of cultural heritage between countries or museums, which usually include the return and continuing use and practice by the owners.