

Strengthening Heritage Impact Assessment Legal Frameworks

CONTEXT

This policy brief explores the development and enhancement of Heritage Impact Assessment (HIA) legal frameworks. It draws on the experiences shared and discussions from the HIA Seminar held in Beijing, China (March 2025) and provides recommendations to strengthen HIA integration into national policies.

The *Regional Framework Action Plan for Asia and the Pacific (2023-2030)* emphasizes the need for robust legal provisions to safeguard World Heritage properties. Member States are encouraged to reinforce legal frameworks to ensure effective heritage conservation in daily management practices.

However, heritage sites face growing pressures from development projects. Currently, 1 in 8 World Heritage sites are required by the World Heritage Committee to conduct impact assessments. To address this, UNESCO, ICCROM, ICOMOS, and IUCN jointly issued the *Guidance and Toolkit for Impact Assessments in a World Heritage Context* (2022). This resource highlights the importance of assessing impacts on Outstanding Universal Values (OUV) and other heritage values before approving development projects, ensuring both protection and sustainable solutions.

PROBLEM STATEMENT

While HIAs are globally recognized as essential tools to mitigate development risks, many countries lack comprehensive legal frameworks aligning national policies with international standards. This gap weakens protections for World Heritage sites and other nationally and sub-nationally significant heritage places.

Rapid urbanization and large-scale infrastructure projects increasingly endanger heritage sites, as seen in recent debates over World Heritage management plans. Despite

broad consensus on the need for stronger HIA frameworks, progress remains uneven due to:

- Weak legislative mandates for HIAs in national laws;
- Inconsistent assessment methodologies and standards across jurisdictions;
- Limited stakeholder engagement, especially with local communities.

At the recent Regional Consultation on World Heritage (held in Beijing in September 2024), East Asian stakeholders stressed the need to enhance HIA legal frameworks that are systematically integrated into national processes. This led to the 2025 HIA Seminar at Minzu University of China, where policymakers, scholars, and practitioners discussed the current status of HIA legal frameworks, exchanged good practices and proposed actionable recommendations to embed HIAs into legal and policy frameworks.

POLICY ANALYSIS

Australia

Under the *Burra Charter* and the *Environment Protection and Biodiversity Conservation Act* (1999), Australia enforces World Heritage Convention obligations through federal oversight, penalties for violations, five-year state-level reviews, public consultation, and Environmental Impact Assessments (EIAs), which are mandatory for projects affecting heritage values, with public input and mitigation measures.

China (mainland)

China mandates Cultural Relics Impact Assessments for construction projects in the protected areas of national- and provincial-level cultural relics. For World Heritage sites, these assessments focus on the impacts on the physical façade, archaeology remains and values. This is somewhat different from the HIA in international standards, which would cover a broader heritage-based impact, such as visual integrity, tourism pressure, and a wider historical context. The revised

Law on the Protection of Cultural Relics (2024) provides a legal basis for HIA. Project plans and HIA reports must be submitted to the National Cultural Heritage Administration (NCHA) for expert reviews, which inform NCHA's decision to approve, conditionally approve, or reject the project. China is currently revising the implementation regulations of the Law to define the assessment system, including the scope, responsible entities, and procedures.

China (Hong Kong SAR)

HIA in Hong Kong operates under the *Environmental Impact Assessment Ordinance* (EIAO), Cap. 499 of Hong Kong Law, which was enacted in 1997 within the framework of Hong Kong's Basic Law. The Ordinance requires all projects listed in Schedules 2 and 3 of the Ordinance to conduct an EIA, which must include a Cultural Heritage Impact Assessment. A baseline study needs to be done to document existing heritage condition, followed by the identification of potential impacts and proposed mitigation measures. This assessment must consider holistic heritage values, including social benefits. The EIA process is transparent, with two public consultation periods and all information published on the website of the Environmental Protection Department. In 2008, Development Bureau implemented an administrative measure for government-funded capital works to undergo an internal HIA mechanism for screening those which will affect heritage sites (but not classified as designated projects under EIAO) to follow the HIA process and complete an HIA report for vetting by the Antiquities and Monuments Office of Development Bureau, followed by submission to the Antiquities Advisory Board, the statutory body established under the *Antiquities and Monuments Ordinance* (Cap. 53 of Hong Kong Law) for endorsement, before support from Legislative Council on the funding of the project could be sought. All HIA reports have to be made publicly accessible.

India

In 2010, India amended its *Ancient Monuments and Archaeological Sites and Remains Act*. This validation and amendment introduce archaeological / heritage impact assessments on heritage properties and its buffer zone (normally 300 meters surrounding the prohibited boundary). This legislation mandates HIAs for large-scale development projects. In 2011, implementation rules of this law were issued, and set up an independent authority under the Ministry of Culture, Government of India. The HIA process

must be led by an independent third party – professionals with no bias toward any stakeholder.

Italy

Italy follows the Strategic Environmental Assessment (SEA), mandated by the European Union by Directive 42/2001, which evaluates not only environmental, but also cultural heritage impacts. A preliminary screening determines whether a SEA is needed. The planning authority prepares a report describing the project, assessing impacts on the environment and cultural heritage, risks and effects on the public and private sectors, and mitigation measures. The phase is concluded with a motivated decision rendered by the SEA authority on the necessity or not to undertake the actual assessment. If the SEA is deemed required, then, a full assessment follows which includes also public consultation and it concluded with the SEA authority rendering the final decision on the plan. The authority in charge of planning will modify its plan based on the decision. The impact on cultural heritage is verified also at the concrete project level. Projects are subject to building permit, but for some major projects – whose list is pre-determined by law – requires also a specific EIA. In either case, the territorial office of the Ministry of Culture may come into play, evaluating the compatibility of the project. The EIA is governed by Italian law in conformity with European Directive 92/2011 and it applies to a series of major projects, as plants to produce energy (including photovoltaic or wind power ones), airports, motorways, chemical plants, and many other types of relevant infrastructures.

Japan

Japan's Agency for Cultural Affairs developed the national *Reference Guidance on Heritage Impact Assessment for World Heritage Sites* in 2019 to address the challenges of implementing HIAs due to complexities in its framework design and execution. This guidance, based on research by the Tokyo National Research Institute for Cultural Properties, has been applied in several World Heritage sites in Japan. Currently, local authorities are developing specific HIA guidelines to better integrate HIAs with existing preservation frameworks.

Malaysia

Malaysia's primary legal basis for World Heritage conservation is the *National Heritage Act* 2005 (Act No. 645), which provides for the protection, conservation and preservation of

various heritage types, including national, tangible, intangible, and underwater cultural heritage. Taking Melaka and George Town, Historic Cities of the Straits of Malacca, as an example, the legal basis for conducting HIAs relies on a combination of laws and regulations. These include the *State of Penang Heritage Enactment 2011*, the *Town and Country Planning Act 1976* (Act No. 172), *Environmental Quality Act 1974*, special area plans, local and structure plans. These empower the heritage commissioner and local authorities to regulate and control land use, building use, development, and preservation of trees, which are part of the regulations to protect the registered cultural heritage and cultural landscape within their designated areas.

Republic of Korea

In the Republic of Korea, recent cases involving constructions in the core and buffer zones of World Heritage sites prompted the needs for HIAs. The *Special Act on Conservation, Management and Utilization of World Heritage* (2020) established a national framework for impact assessments in 2023, along with the Korean-language translation and dissemination of the *Guidance and Toolkit of Impact Assessments in a World Heritage Context* (2022). This legislation has an expanded scope beyond World Heritage sites' boundaries, making projects outside of the boundary subjected to HIAs if they potentially affect OUV. Enforcement measures include penalties for non-compliance, although implementation mechanisms are still being developed.

KEY QUESTIONS

1. Who commissions HIAs?

Should HIAs be commissioned by the development project proponents themselves or the government authorities responsible for project approvals?

2. What is the scope of HIAs?

What level and types of heritage require impact assessments? Should HIAs apply exclusively to World Heritage sites and nationally listed properties, or should they extend to regionally/locally significant heritage sites as well?

What types/scale of development activities should mandate HIAs? What geographical proximity threshold should apply?

3. Who conducts HIAs?

Should third-party assessment agencies or governmental-

affiliated institutions perform HIAs?

4. What standards apply?

How can international standards be adapted into locally applicable assessment frameworks? How to handle the qualitative factors that cannot be measured precisely by numbers? Should assessment criteria be differentiated by heritage type? Should intangible cultural values be included?

5. How are stakeholders involved in HIAs?

Which stakeholders should be involved in the assessment process? What mechanisms ensure meaningful public participation?

6. What is the legal status of HIA reports?

Should HIA reports function solely as reference documents for decision-making, or carry legally binding authority? What legal procedures allow project proponents to contest HIA findings? What penalties and enforcement mechanisms should apply when projects violate projection measures outlined in HIA reports?

7. How do HIAs relate to EIAs?

Should HIAs be incorporated within the existing EIA legal frameworks to reduce legislative costs, or should they be established as separate cultural heritage conservation legislation and policies?

RECOMMENDATIONS

Integrate international HIA standards from the Operational Guidelines, and Guidance and Toolkit (2022) into national legal and administrative frameworks. Prior to legislation and policy-making, countries should conduct research, translate international guidelines, study landmark global cases, and develop context-specific resource manuals. The most effective step to integrate HIAs occurs at an early planning stage, enabling HIAs to function as preventive conservation and management tools rather than just post-planning compliance measures. The guidelines should apply not only to World Heritage sites and national-level protected properties, but ideally extend to provincial- and municipal-level heritage sites as well.

Developing professional teams capable of conducting independent HIAs and providing appropriate recommendations

for mitigation measures. Whether operating as independent third-party assessment agencies or as entities affiliated with the HIA approval authority, these teams must understand both heritage values and assessment mechanisms, as well as possess site-specific knowledge for proposed projects. To maintain independence and objectivity, these teams require robust anti-corruption and non-disclosure policies.

Raise awareness among stakeholders and the public about HIAs, emphasizing that they are not in conflict with socio-economic development. Effective implementation of HIA policies can balance heritage conservation and sustainable development of a locale. By engaging communities and consulting multiple stakeholders during the assessment process, future conflicts during construction can be significantly reduced – a benefit to both heritage preservation and project commissioners.

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