

National Conservation Policy in Asia



Cave entrance with plank walk and pavillion, green trees outside, in Niah National Park, Niah Cave in Sarawak Malaysia. Image © iStock.com/lillitve

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National Conservation Policy in Asia

Edited by Gamini Wijesuriya

Forum on National Conservation Policy in Asia
6–9 December, 2016, China
National Conservation Policy in Asia Edited by Gamini Wijesuriya
ISBN 978-92-9077-338-2
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www.iccrom.org
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This volume was produced thanks to the generosity of the Cultural Heritage Administration (CHA), Republic of Korea.



Boats waiting to take tourists on cave tours, Ngô Đồng river, Tràng An Landscape Complex, Việt Nam. Image © iStock.com/Parinya Suwanitch

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Foreword

This volume is a collection of papers from the 2016 ICCROM-CHA Forum on National Conservation Policy. It was the fourth in a series of five forums from 2013–2017 and resulted from an ongoing collaborative effort between ICCROM and the Cultural Heritage Administration (CHA) of the Republic of Korea.

The series of Forums on Conservation served as a think-tank for the Asia-Pacific region and beyond, bringing together participants from more than 20 countries to explore contextual issues related to regional cultural heritage management.

The goals of the thematic programme were:

- to explore, research, and debate key themes emerging from the Asian region that have implications for the effective conservation and management of heritage;
- to formulate policy guidance notes and/or principles related to the above themes for improved and effective conservation and management of heritage; and
- to contribute to capacity building efforts in the region.

Previous editions of the forum focused on conserving sacred heritage, questions of authenticity, and using traditional knowledge to conserve and manage heritage. The objective of the 2016 Forum was to explore the different national heritage systems within the Asia-Pacific region to identify gaps to be addressed in the future. The Forum involved participants from the heritage authorities of various countries, as well as several regional institutions and NGOs.

The specificities of the Asia-Pacific context are dynamic. Heritage practices and outcomes are affected by pressures, including rapid transformations, population growth, rural decline, infrastructure needs, mass tourism, environmental pressures, and armed conflict. There are complexities arising

from migrations and movements of peoples and the creation of new local communities. There are new areas of content that national heritage systems need to incorporate – such as disaster risk management – and new linkages that must be established.

This volume provides a glimpse into some of the region's diverse national policies governing heritage conservation, from Pakistan to New Zealand. As Adeni Masni (this volume) states, "The heritage of Malaysia is an embodiment of the history, culture and values representing the Malaysian people", and the national policies which govern its identification, protection, use and conservation demonstrate the importance of heritage to a national psyche.

Many parts of the Asia-Pacific region have long historical traditions of heritage preservation and conservation. These traditional practices continue today, yet the region is exceptionally diverse in its formal systems for heritage. The region includes countries in post-colonial contexts, some of which continue to use colonial frameworks. Independent modern nation-states now choose to see beyond monumental sites and delve into Traditional Knowledge and protect intangible heritage, underwater heritage and practices that often combine natural and cultural environments. As climate change directly affects many of the sites and practices discussed in this volume, heritage professionals and governments are increasingly using holistic methods that consciously include sustainable development and tourism policies vis a vis the Sustainable Development Goals and climate resilience. Alongside other assets, "heritage is also a fragile phenomenon which is a non-renewable resource" (Masni, this volume).

What and how a nation chooses to protect in law creates a platform for the continued diversity of the creative mind and the landscape in which it exists. These policies protect our past and allow for the scientific exploration of how vital cultural traditions shift across time, absorbing new influences and

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recreating themselves while retaining an inherent authenticity specific to place. The policies themselves are also often valuable on a historic level as evidence of shifting political regimes, the confluence of foreign and local interests, and societal changes in our globalized world.

Conservation is often bound up in many-layered bureaucracy but can adapt and take in evolving attitudes towards heritage and its management. Here are people-centred approaches codified in law, often represented by a devolved structure from a central government to district institutions and even local NGOs. These complex, often overlapping, groups of decision-makers sometimes result in inconsistent protections and have to be examined at both a macro and micro level. The ICCROM-CHA Forums fostered intercultural dialogues and knowledge exchange. The papers in this volume continue previous conversations and create a programme for future contributions to expanded ways and laws that serve the communities, practices, landscapes and sites.

Each contribution presents concrete examples of how national policies continue to address the growing appreciation of heritage as an integral component of cultural and economic life. The fostering of education and tourism policies focused on scientific study and dissemination of information can result in increased local participation, skills, and a deepened sense of ownership.

We can see these policies as representing the diversity of history, methods of governance, inclusion (or not) of local communities in the decision-making process, and flexibility in conservation modes relative to people-centred definitions and practices of Traditional Knowledge and authenticity, which enter into national discourse. As these debates continue, it is clear that international and national heritage policies influence each other, become more inclusive and move the cause of identifying



and protecting heritage forward. Now, more than ever, culture is seen as integral to the sustainable economic, environmental, health and happiness of communities and nations. Robust national conservation policies are essential to ensuring projects' well-functioning, long-term success.

This forum series, and its subsequent publications, were made a reality by the collaboration and generous financial support of the Cultural Heritage Administration (CHA) of the Republic of Korea – ICCROM's long-standing partner, with whom we continue to collaborate today. We sincerely thank CHA for working with us for many years to provide capacity building, tools and know-how to those tasked with the management and conservation of places of cultural and natural value.

Webber Ndoro

Director-General, ICCROM



Acknowledgments

Given that this volume contains the collection of papers presented at the Fourth Annual ICCROM-CHA International Forum on Conservation: National Conservation Policy, we would like to acknowledge with gratitude a number of organizations and individuals who have contributed to the success of this publication:

The Cultural Heritage Administration (CHA) of the Republic of Korea, whose generous funding made the entire series of Asian Forums possible;

All the staff of ICCROM and the Cultural Heritage Administration who were involved in the development and implementation of the Forum;

Tsinghua University for hosting the 2016 Forum and Professor Lu Zhou for facilitating the event;

Kristal Buckley, Sangsun Jo, Gyeonggyu Mun, Anila Naeem, Navin Piplani, for editing the guidance notes;

All participants of the Forum;

The ICCROM Partnership and Communication Unit for coordinating and facilitating the publication.

Gamini Wijesuriya

National Conservation Policy in Asia

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Introduction





The 2016 Forum was an opportunity for broad and meaningful discussions on the background and current state of national heritage policies in the Asia-Pacific region. As fully engaged practitioners, the participants reached conclusions which produced specific guiding principles applicable to all national heritage systems. In this context, "national" is understood to encompass

all levels of government involved in heritage conservation and protection. "Heritage system" incorporates a wide array of structures and processes, including legal frameworks, policies, procedures, and guidance delivered through institutional arrangements.

The following are some of the themes addressed by participants of the Forum.

Foundations of National Policies

Many of the nations across the Asia-Pacific were colonized by foreign powers. Colonial era policies were often wide reaching: pertaining only to built heritage and archaeological remains. Colonial governments focused on archaeological and ethnographic collections. However, the top-down decision-making, which compiled lists and prioritized research, rarely included communities. These policies reflected colonial interests and overlooked national sensibilities and existing knowledge. In many cases in the Asia-Pacific region, these policies are the foundations for modern national heritage policies. The legacies of these attitudes frequently resulted in a lacuna of training and scholarship (Arbi, this volume) among local populations from the beginning. In other cases, government scholarships sent students abroad to be educated in "modern" architecture, culture and arts (Zerrudo, this volume).

As foreign powers' influence and presence declined, the door was opened for Indigenous authorities to adapt existing legislation to address their concerns better and to expand their knowledge base through education and exchange. However, this process is exceptionally slow, and many current policies remain top-

down and do not adequately appreciate local participation approaches, in some cases, policies are shifting toward inclusive people-based systems. International projects abound with technical and methodological cooperation, no longer a one-way street. Long sought-after by Indigenous communities, participation in the decision-making process is on the road to becoming the norm (Buckley, this volume).

In other cases, national policies do not adequately recognize locally significant heritage; therefore, vital aspects of a "nation's" heritage issues are not addressed. Complex religious, political and ethnic communities "make it impossible to achieve a unanimous acceptance of a singular heritage identity - unless the diversified mosaic of cultural and historic traditions are duly recognized" (Naeem, this volume). Policies that "evolve in response to world systems, globalizing impacts and even local demands" (Zerrudo, this volume) recognize the importance of locally defined values and support development at this level. Transparency about who heritage policies are for and who holds power and authority is crucial in increasing openness to public processes and shifting bureaucratic systems, which shut out community perspectives.

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What is heritage? How is heritage defined? What are the gaps?

Heritage is mostly defined through the respective legislations of the countries. Assessment of values for identification and defining of heritage is being propagated in some countries, although this is mandatory for World Heritage nominations. The influence of World Heritage discourse in expanding the Heritage is witnessed in some countries. One example is the **cultural landscapes concept**, which "sees a landscape as a palimpsest of material traces from the past... embracing a diversity of the manifestation of the interaction between humankind and the natural environment" (Arbi, this volume) have only recently emerged as a distinct category, moving away from natural/cultural dichotomies. Examples discussed

in this volume are Borobudur Archeological Park, Indonesia (Arbi); Uluru Kata-Tjuta National Park in Central Australia (Buckley); and rice terraces and rural settings in Japan (Nakatani).

Two sites in Pakistan, inscribed on the World Heritage List in 1981, Makli Hills-Thatta and Fort-Shalimar Gardens Lahore, are still inscribed as cultural sites focused on monumental heritage, which neglects the living cultures associated with these places (Naeem, this volume). Notably, the concept of cultural landscapes (along with others, such as living heritage) is not included in the national policies of India, resulting in the "social, cultural, and economic isolation of the iconic historic monuments and sites" (Piplani, this volume).

Whose heritage is recognized and who is included in policy-making processes?

As stated, many policies remain top-down but calls for more localized **participatory processes** have resulted in successful relationships between NGOs, heritage professionals and communities. Public activism often results in increased awareness about destruction through the development of sites (Naeem, Zerrudo, this volume).

Recognition of intangible heritage and social values of place has resulted in a shift from immovable heritage inventories to inclusion of intangible knowledge systems such as language, cultural practices, and foodways. This is not without its own complexities. Indigenous communities may wish to keep places or traditions of significance private (Jackson, this volume). In Nepal, the traditional guthi system ensured the regular maintenance of monuments and the associated rituals, but with the advent of national policies, competing priorities arose. Legislation that turned over the management of properties to local

guthi trusts included control of income earned from the properties and festivals, which would have gone directly to the management of heritage. In some cases, corruption and negligence have led to the "degradation of some properties" (Shrestha, this volume).

Traditional Knowledge systems have only recently begun to be incorporated into some national policies, but in many countries (see for example, Ratnayake, this volume), practices and instructions have been in place for thousands of years. Pre-colonial systems were in place regarding religious and public buildings, incorporating the Buddhist tenets of impermanency and meritorious acts. As colonial authorities established new legislation overlooking traditional maintenance of these "living" sites, they became derelict (Ratnayake, this volume).

See also: Arbi, Buckley, Jackson, Naeem, Nakatani, Nguyễn, Piplani, Ratnayake, Siriphatthanakun, Zerrudo, this volume.



How is heritage structured at different levels of government? What are the roles of NGOs and professional bodies?

Until recently national and international NGOs hardly played a significant role in conservation projects in terms of funding, knowledge exchange, capacity building and public engagement. This volume has three excellent examples of how international NGOs serve the region and provide avenues for heritage conservation, capacity building and knowledge exchange.

Navin Piplani (this volume) discusses INTACH (Indian National Trust for Art and Cultural Heritage) as an alternative approach to India's national policies. Its 207 chapters across India engage in "projects on conservation, creating technical guidance notes and handbooks, education for young people, public awareness, policy, research, and on training and capacity building across the subcontinent and overseas." It is an example of national cooperation and collaboration, which can perhaps respond to needs and changes in social attitudes more quickly than government bodies. The organization and its charter are reflexive and, as such, have developed "an Indigenous Indian perspective on conservation practice that argues with and contradicts the views of the National Policy for Conservation and the international charters for conservation."

Hatthaya Siriphatthanakun (this volume) discusses the intergovernmental SEAMEO SPAFA (Southeast Asian Ministers of Education Organization's Project in Archaeology and Fine Arts). SEAMEO focuses on training, seminars and workshops, research and development,

and personnel exchange regarding cultural, archaeological, performing, and traditional fine arts. The flagship programmes have been at the forefront of heritage discourse and "mainly aim to strengthen the mutual understanding of people in Southeast Asia, who are extremely diverse in terms of ethnicities, religions, beliefs, governing systems, the natural environment and so on." The most recent "development plan to be implemented from July 2017 to June 2022, a series of up-to-date issues in conservation have been added, such as disaster risk management, intangible cultural heritage and culture-nature integrated conservation." Crucially, SPAFA prioritizes youth programmes with a "school-based approach to disaster risk management for heritage."

Jian Zhou (this volume) outlines the role of WHITRAP (World Heritage Institute of Training and Research for the Asia and Pacific Region) based in China. Each of the three offices focuses on different aspects of cultural heritage, including architectural and archaeological sites and the management of natural and cultural landscapes. Their activities pertain to global training with special consideration given to the "needs of the heritage properties in the Asia-Pacific region," including research and innovation, cooperation and exchange, dissemination and promotion, and information and services.

See also: Arbi, Buckley, Jackson, Naeem, this volume.

How are conservation principles, philosophies and practices defined in the national heritage system?

Each paper discusses the nation-specific ideological, political, and social contexts in which influence of international charters and discourse are evident. Across the region, professional dialogues continue to shift policies towards more inclusive, localized

people-centred approaches, which include the integration of intangible and tangible heritage and concepts like cultural landscapes and attempts to redefine Eurocentric terminologies to better work in specific contexts. Engagement

has influenced the creation of international charters, which now better reflect the diversity in terminologies, methods, and ways of thinking about concepts such as authenticity although the European dominant is still noticeable.

How effective is the national heritage system?

Because national policies include many levels of administration and agencies, inconsistencies, disconnections, and complexities in achieving cooperation can occur. Unstable political regimes, political differences and weak institutional infrastructure can cause disruption. Fluctuations in financial and human resources often result

in inadequate implementation. That said, there are case studies throughout this volume which point to successes and failures of policy and practice which serve as invaluable lessons. Robust communications, interagency consultation and mechanisms for public engagement contribute to the regular evaluation and modification of policies.

How do national heritage systems accommodate change and respond to current threats?

Many of the sites discussed in this volume have been subject to damage or destruction by **environmental events** such as typhoons, floods, and earthquakes and have undergone a series of adaptations. See, for example, the Walled City of Intramuros (Zerrudo, this volume), which was rebuilt from stone structures to wood ones in response to destructive earthquakes. These wooden structures were then at risk of fires, resulting in cycles of rebuilding and new policy changes were implemented to deal with each new issue.

See also: Jackson, Nakatani, Nguyễn, Shrestha, Siriphatthanakun, this volume.

Rapid industrial, urban and infrastructure development has resulted in the destruction of heritage across the region. These activities often uncover archaeological and heritage remains, exciting the public mind, thereby serving as vehicles for research and dissemination. Examples are given in nearly every paper presented here.

Gaps in technical knowledge and practices, overreaching bureaucracies, and neglect of trained professionals during project implementation have resulted in "irreversible damage" (Naeem, this volume).

Periods of unstable regimes, often during conflict, have meant that records and scientific study, not to mention the management or conservation of sites, have been disrupted, mishandled, or merely neglected. See Arbi, this volume, for a discussion of the relocation of documents and personnel during the Japanese occupation of Indonesia, for example. See Nguyễn, this volume, for a discussion of military installations with "cannons or guns which once pointed towards the landscape or distant hills, now facing buildings. This is not only disconcerting psychologically but has destroyed the experience of viewing a battlefield scene which no longer represents the landscape as it was."

Through a combination of public engagement with heritage and willingness by bureaucracies to continually revise the systems governing conservation, policies respond to "contemporary social requirements, through the recognition of new categories for protection as well as through the addition of new layers of protection schemes" (Nakatani, this volume). This often results in expanded recognition and ability to address



ongoing threats, such as climate change (Nakatani, Zerrudo, this volume).

Systems incorporating regular monitoring and evaluation result in a healthier state of policies and their implementation. Decision-making within the community, where the main power may not lay with the government but in the communities, is an example of changes made in overarching policies. The Walled City Lahore

Authority (along with provisions in Karachi) is an example of a "progressive development for heritage protection at the city administration level" (Naeem, this volume). Arbi, in this volume, states, "By applying the bottom-up nominations, the public is not merely passive but actively motivated to participate in the preservation of cultural heritage."

How is heritage resourced in terms of human, knowledge, and financial capital?

"Cultural heritage has been acknowledged as an economic driver and a lever for sustainable development" (Nakatani, this volume). All the papers in this volume address limited financial and professional resources and the marketing of culture and tourism as sources for economic growth. Indeed, the charter for INTACH (Piplani, this volume) is significant in that it "not only comments on the inclusion of development as one of the key principles but also aligns conservation objectives with those of development".

Examples of the diversity in funding sources can be found in the following:

- Nepal's traditional guthi system of "trusts owning land from which revenues were used to finance the regular maintenance of all types of monuments as well as their related rituals and festivals" (Shrestha, this volume).
- Grants and subsidies towards specific goals, such as restoring cultural landscapes, are utilized in Japan (Nakatani, this volume).
- "A mixed funding model of government, commercial, and philanthropic monies ensures a level of success and sustainability" (Jackson, this volume).

 A variety of methods to boost investment, such as tax incentives and enshrining capacity building in traditional methods.

The practicalities of education and tourism are closely related to the sustainability of heritage conservation. Public outreach and audience accessibility go hand in hand with place- and people-based values. Over-reliance on tourism often results in the exclusion of local communities, mismanagement, and damage to sites and their environments. Nguyễn (this volume) suggests that enhanced legislation for the protection of heritage could create opportunities for international development incorporating conservation projects. Shreshta highlights the importance of a developed educational system, which "paved a path in producing the professionals for the conservation sector, and the connections between both national and international agencies and guidelines made a dynamic support structure." Ultimately, success lies with "having knowledge and understanding of complexities that need to be addressed for developing economically viable and long-term sustainable solutions for heritage management" (Naeem, this volume).



Are Traditional Knowledge, conservation, and management systems supported and recognized in the national heritage system?

As evidenced in the volume in this series dedicated to Traditional Knowledge (ICCROM, 2015), there are excellent but very limited examples of incorporating Traditional Knowledge systems into national heritage policies. While gaps remain,

and some policies do not formally recognize the value of these systems to the larger way of working, there is potential to improve the situation through engagement with communities, regional cooperation, academic, and professional exchange.



The current state of national conservation policies across the region is deeply complex. Multiplicity in ideologies, ethnicities, national histories, languages, and economic priorities, often within a single committee or agency, makes open communication lines necessary. It is the dynamic heritage of the region and the commonalities in the transmission through history from humanity's deep past through to built heritage, religious and ideological exchange and adaptation that incorporates the living cultures and communities protected under these legislations today. Each professional who participated in this Forum and the articles they presented inform us

about the desire of people to have their specific concerns heard and their definitions of heritage recognized and protected. National policies are constantly being modified to address new threats, new priorities and voices, new technologies and methodologies. They provide a foundation of legislation for research and dissemination of knowledge about a sometimes very local tradition and how it fits into the larger picture of heritage in a community, a landscape, a nation, a region and beyond.

Gamini Wijesuriya

Gyeonggyu Mun



National policies past and present



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The legislation and guideline for heritage conservation in Malaysia: its implementation and management

Masni Adeni



Abstract

The heritage of the Federation of Malaya is an embodiment of the history, culture, and values representing the Malaysian people. It encapsulates the nation's soul and spirit and underpins its identity and sovereignty. It is a source of national pride, and an asset which attracts visitors and generates revenue. Heritage is also a fragile phenomenon which is a non-renewable resource. For that reason, conservation - safeguarding what has been handed down to communities – is an integral part of preserving heritage for posterity. The National Heritage Act 2005 (Act 645) is a comprehensive act covering a wide range of heritage sectors: natural, tangible, and intangible cultural heritage, underwater cultural heritage and living human treasures, treasure troves and others related matters. To ensure the implementation and enforcement of the act was taken seriously, the government of Malaysia formed a department to manage this responsibility. The Department of National Heritage was established in 2006 under the provision of Act 645. To further ensure a more holistic approach towards heritage preservation the department established a network and cooperation with other agencies and institutions at local and international levels.

Masni Adeni



Introduction

Heritage is anything inherited from the past. When talking about heritage, what comes to mind is usually a building or prominent structure which can be seen. However, heritage varies and is transmitted to a certain era and can span millions of years, for example the Langkawi Global Geopark (UNESCO World Heritage Centre, 2017) with its earliest geologic formations stemming from some 550 million years BP and contributing to regional history and trade. The Palaeolithic site at Bukit Bunuh in the Lenggong Valley "bears evidence of early human-made stone tools, dated as early as 1.83 million years BP" (Goh, 2015, p. 145) and contributes to our understanding of the making of Palaeolithic stone tools in Southeast Asia. These sites, and many others throughout Malaysia, hold significant tangible evidence of

civilization but they also embody those elements of humanity closest to our hearts, the value of life in intangible heritage.

It is for these reasons that conservation and protection of historic buildings must be taken seriously. They are not just brick and mortar, but the architectural style, decorative elements, spatial arrangement, and function which are elements of intangible cultural heritage, the soul of the building, made manifest. Thus, conservation is not only for the purpose of extending the life of buildings, but also to preserve the intangible cultural heritage, the story of its people, artistic influences, and craftsmanship as well as the beliefs and taboos relating to the construction and use of the structure.

National Heritage Act 2005 (Act 645), organization, Parts II, III, and IV

To ensure the heritage of Malaysia be protected and handed down from generation to generation, it is essential that the heritage and its conservation be legislated. The National Heritage Act 2005 (Act 645) (Commissioner of Law Revision, 2006, p. 11) was designed to "provide for the conservation and preservation of National Heritage, natural heritage, tangible and intangible cultural heritage, underwater cultural heritage, treasure trove and for related matters". The Act came into effect on 1 March 2006 and repealed the Antiquities Act 1976 (Act 168) and the Treasure Trove Act 1957 (Act 542).

This Act allows for a more coordinated and integrated approach towards the conservation and preservation of "'National Heritage' means any heritage site, heritage object, underwater cultural heritage or any living person declared as National Heritage under section 67" (Commissioner of Law Revision, 2006, p. 16). The Act is a comprehensive act covering a wide range of heritage sectors and

has been the guiding force of Malaysia's heritage policies. It has 17 parts comprising 126 sections on conservation and preservation of heritage.

Part III of the Act provides for the administration of the policies by creating an institutional framework. Act 645 empowers the Minister of the Ministry of Tourism, Arts and Culture to formulate policies on heritage conservation and preservation, appointment of the Commissioner of Heritage, who oversees heritage matters, is a three-year appointment, and is answerable to the Minister, deputy and assistant heritage officers, and the National Heritage Council Section 6 defines some (for a complete list refer to Commissioner of Law Revisions, 2006, p. 18–19) of the functions of the Commissioner as:

 to determine the designation of sites, registration of objects and underwater cultural heritage;

The legislation and guideline for heritage conservation in Malaysia: its implementation and management



- to establish and maintain the Register and to determine and specify the categories of heritage to be listed in the Register; and
- to supervise and oversee the conservation, preservation, restoration, maintenance, promotion, exhibition and accessibility of heritage (Commissioner of Law Revisions, 2006, p. 18).

The National Heritage Council is formed under Part IV of the National Heritage Act 2005 whereby section 9 states the function of the council is to "advise the Minister and the Commissioner on any matters relating to heritage and the due administration and enforcement of laws relating to heritage" (Commissioner of Law Revision, 2006, p. 20). Section 10 outlines the membership to consist of the Secretaries General of the Ministries of Unity, Culture, Arts and Heritage; Tourism, Arts and Culture; the Directors General of the Town and County Planning; and Department of Museums and Antiquity as well as including several public officers with particular

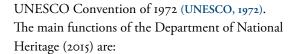
knowledge of management and conservation of sites and objects.

The Department of National Heritage (DNH) is the executive arm in assisting the Commissioner of Heritage for heritage conservation and safeguarding in Malaysia. The department was established on 1 March 2006, based on the government's aspiration to protect and preserve local heritage, as stipulated under the National Heritage Act 2005. Before its designation as a department, it was the Heritage Division of the Ministry of Culture, Arts and Heritage and was upgraded to its own department with the implementation of the Act in 2006. The Department of National Heritage (DNH) is the key department at the national level in safeguarding local cultural and natural heritage. The objective of the Department is to conserve, maintain, and protect the nation's cultural, natural, and archaeological heritage through research, documentation, enforcement, and raising awareness towards heritage. This is in line with initiatives and concepts resulting from the





Declaration of living heritage during the National Heritage Declaration Ceremony with the Honourable Minister of Tourism and Culture Malaysia. Image © Jabatan Warisan Negara Masni Adeni



- To implement and enforce the provisions under National Heritage Act 2005 (Act 645);
- To register and gazette building, landscapes, archaeological sites, underwater archaeological sites, objects, intangible cultural heritage and people of national heritage significance in the National Heritage Register;
- To protect, conserve and maintain items on the National Heritage Register;
- To conduct research and development relating to heritage;
- To document and publish research findings and reference materials relating to heritage;
- To plan, implement and coordinate heritage related activities;
- To coordinate the nomination and recognition of national heritage to the international level; and
- To monitor World Heritage Sites in Malaysia.

Section 30 of the Act stipulates that "where the site is situated in a State, the Commissioner shall obtain the consent of the State Authority of that State before any designation is made" (Commissioner of Law Revision, 2006, p. 27).

Finally, the Local Authority has the control over planning of development and the use of land and buildings within its area. It is conferred with the power to regulate conservation of heritage sites. Heritage conservation is integrated into urban planning in Malaysia and it is understandable to find mutuality between the DNH and related authorities. The local or state authority might prioritize urban development while the DNH may consider urban conservation more important. However, the Act stipulates collaboration between DNH and the local planning authorities. Part VII of the Act outlines the procedures and relationships between the site itself, inspections, the owner of the site, consent of the State and Local Authorities and protection orders.

Definitions of Heritage in the National Heritage Act 2005, Part I

As mentioned above, the Act defines heritage as "natural heritage, tangible and intangible cultural heritage, underwater cultural heritage, treasure trove and for related matters" (Commissioner of Law Revision, 2006, p. 11). Part I, section 2 on interpretation includes a definition of "antiquity" which stipulates "any moveable object with is or is reasonably believed to be at least fifty years old...[and] any human, plant or animal remains which is or is reasonably believed to be at least one hundred years old" (Commissioner of Law Revision, 2006, p. 12). The inclusion of specific definitions (as outlined ahead) is significant because of increasing archaeotourism. More research is needed in this area of heritage studies in Malaysia.

As defined by Act 645, "cultural heritage" includes tangible or intangible form of cultural

property, structure or artefact and may include a heritage matter, object, item, artefact, formation structure, performance, dance, song, music that is pertinent to the historical or contemporary way of life of Malaysians, on or in land or underwater cultural heritage of tangible form but excluding natural heritage" (Commissioner of Law Revision, 2006, p. 16).

Furthermore, "'cultural heritage significance' means cultural heritage having aesthetic, archaeological, architectural, cultural, historical, scientific, social, spiritual, linguistic or technological value" (Commissioner of Law Revision, 2006, p. 16).

I also wish to include the Act's definition of "treasure trove" as "any money, coin, gold, silver, plate, bullion, jewellery, precious stone or any object or article of value found hidden





in, or in anything affixed to, the soil or the bed of a river or lake or of the sea, the owner of which is unknown or cannot be found, but does not include any tangible cultural heritage" (Commissioner of Law Revision, 2006, p. 12).

The Act defines intangible cultural heritage as including "any form of expressions, languages, lingual utterances, sayings, musically produced tunes, notes, audible lyrics, songs, folksongs, oral traditions, poetry, music, dances as produced by the performing arts, theatrical plays, audible compositions of sounds and music, martial arts, that may have existed or exist in relation to the heritage of Malaysia or any part of Malaysia or in relation to the heritage of a Malaysian community" (Commissioner of Law Revision, 2006, p. 16). A living Malaysian with remarkable and extensive knowledge, skill, and commitment to preserving, safeguarding and transmitting any element of intangible cultural heritage can also be declared National Heritage, according to Part X, section 67.

Part I, section 2 also includes the following definitions:

- "object" includes any moveable antiquity, tangible cultural heritage, intangible cultural heritage and historical object but excluding treasure trove;
- "site" includes any area, place, zone, natural heritage, monument or building attached to land, archaeological reserve and any land with building, garden, tree or archaeological reserve;
- "underwater cultural heritage" means all traces
 of human existence having a cultural, historical
 or archaeological character which have been
 partially or totally under water, periodically
 or continuously, for at least one hundred
 years such as:
 - a) sites, structures, buildings, artefacts and human remain, together with their archaeological and natural context;
 - a) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and
 - a) objects of prehistoric character.

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Declaration of the Heritage, Part X

Within the Act (Part VII, section 24) provision is made for the designation of a site as a "heritage site" by the Commissioner (Commissioner of Law Revision, 2006, p. 25). Then, according to Part X, section 67, the "Minister may... declare any heritage site...as a National Heritage" (Commissioner of Law Revision, 2006, p. 46). Act 645 allows the nomination and inscriptions of certain heritage as Heritage and National Heritage based criterion which include elements of natural and cultural heritage, thus creating flexibility for both types of heritage to be inscribed and fully protected under the Act on the following criteria outlined in section 67, article 2:

- the historical importance, association with or relationship to Malaysian history;
- the good design or aesthetic characteristics;
- the scientific or technical innovation or achievements;
- the social or cultural associations;
- the potential to educate, illustrate or provide further scientific investigation in relation to Malaysia cultural heritage;
- the importance in exhibiting a richness, diversity or unusual integration of features;
- the rarity or uniqueness of the natural heritage, tangible or intangible cultural heritage or underwater cultural heritage;
- the representative nature of site or object as part of a class or type of a site or object; and
- any other matter which is relevant to determination of cultural heritage significance. (Commissioner of Law Revision, 2006, p. 47).

Once heritage items, especially heritage sites, are listed, statutory protection will come into force to conserve the significance and under Act 645 affirmative actions are as follows:

Offenses

In Act 645, under section 112, offenses in respect to a heritage site, no person shall without the approval in writing of the Commissioner:

- dig, construct, excavate, build, plant trees, quarry, irrigate, burn lime or deposit earth or refuse, on or in the heritage site or conservation area;
- demolish, disturb, obstruct, modify, mark, pull down or remove any monument in any heritage site;
- erect any building or structure abutting upon a monument in any heritage site;
- destroy the relationship of a building and its environment that is incompatible with the character of the neighbourhoods in any heritage site;
- clear any area or interfere with, destroy or remove any tree, plant undergrowth, weed, grass or vegetation in any heritage site; or
- do any activities or actions that would likely cause damage to the adjacent and surrounding land which have been registered as heritage site (Commissioner of Law Revision, 2006, p. 68).

To ensure the implementation of this legislation, sections 112 and 114 dictate that any form of non-compliance with any provisions of Act 645 is an offense which is punishable by a fine and/or imprisonment.



The function and roles of the DNH in preservation and conservation

The role of the DNH is to ensure heritage in Malaysia is well protected. According to the Act, the department conducts research, archaeology, conservation of buildings and monuments, gazetting and enforcement for intangible heritage and natural heritage. In this situation all the divisions in the department are aiding in managing the heritage of Malaysia as per the requirements of the Act.

The Heritage Register Division plays a key role under the provisions of Act 645. It is the body responsible for "the establishment and registration [of] sites, objects and underwater cultural heritage" (Department of National Heritage, 2015). The division is further divided into two groups: responsible for proclamation or enforcement.

These divisions must publicize, in the form of a gazette any heritage item and living persons which have been declared by the Minister as National Heritage. The registration of all heritage items is a crucial goal to be established and legally protected in order to maintain the existence of the National Heritage record. These divisions also manage the evaluation in terms of defining the significance and authenticity of any selected item. This is required to ensure the integrity of the item as it is to be officially declared as heritage. Any item with outstanding heritage value could be suggested to the Minister. Moreover, so that the designation and registration process goes smoothly "research and evaluation is to determine whether any items in an inventory list/nomination have significance and authenticity of the heritage for the consideration by the Committee of Experts" (Department of National Heritage, 2015).

The Enforcement Branch is responsible for inspection and monitoring "to ensure that heritage sites are always in good condition and heritage objects stored in good condition in a safe place" (Jabatan Warisan Negara, 2018a). This branch is also responsible for seeing that the applications and sites comply with the Act as well as investigating and prosecuting offenses (Jabatan Warisan Negara, 2018a). The DNH also takes the conservation and

preservation of sites seriously. To these ends, the role of the Conservation Division is to ascertain the principles of conservation which include "preservation, restoration, reconstruction, rehabilitation, use of adapters and other conservation approaches practiced by methods recognized at international level such as [UNESCO and the ICOMOS charters]" (Department of National Heritage, 2015). The division is further divided into three branches, responsible for research, building conservation, and building conservation management. These bodies evaluate and make recommendations as well as supervise conservation and management measures. They also publicize said measure through public forums.

The Archaeology Division has their own "role in ensuring the country's archaeological heritage either in the form of archaeological sites and relics protected through research, conservation and preservation" (Department of National Heritage, 2015). This division is divided into the Mainland Archaeology Branch, the Branch for Underwater Archaeology, and the Repository and Development branch. This last branch not only provides expertise but supports the maintenance and conservation of sites through its protection efforts and developing sites as resource centres (Department of National Heritage, 2015).

Another important division is the Intangible Heritage Division, which "is responsible... for the conservation and preservation...[and] management of intangible heritage...[according to the Act which] specifies measures to be taken to develop, identify, send, cause to be performed and facilitate research on intangible heritage by considering:

- The importance of history/relationship with human history;
- Maintaining the aesthetic features;
- Social relations culture:
- Showing the richness, diversity or unusual integration of features; and

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 The uniqueness of the natural heritage (Department of National Heritage, 2015).

Finally, the World Heritage Division "was created to highlight the national heritage at the international level [and is] responsible for managing and coordinating matters relating to the common heritage of international" agencies such as UNESCO, ASEAN and so on. To these ends this division seeks to "create and strengthen networks of cooperation and bilateral relations" (Department of National Heritage, 2015).

The various local zone offices coordinate with the DNH and other stakeholders, which includes local communities. They assist in the "maintenance, monitoring and development of heritage sites" as well as "conduct research, study and dissemination of information concerning tangible or intangible heritage" (Jabatan Warisan Negara, 2018e). As part of their local duties, they also assist in the conservation and management of World Heritage Sites at the local level through fostering "the development of heritage awareness" (Department of National Heritage, 2015).

Conclusion

The relationship between the DNH and the National Heritage Act 2005 (Act 465) is integral to the continued management and development of heritage in Malaysia. While many actions take place at the national level, the work of the local agencies in promoting and increasing awareness of the value of heritage is crucial to the

safeguarding of both heritage relevant to a very small community and to that of humanity.

Further awareness could occur through the promotion of Act 645. Awareness leads to the thirst for knowledge, specifically among the youth, thus nurturing a generation willing and able to continue work already begun.

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Cultural conservation policy for tangible cultural heritage in the Republic of Indonesia

Yunus Arbi



Abstract

The Republic of Indonesia's national cultural conservation policy should aim at enhancing development. It should also aim to preserve, through dynamic action, the national culture with respect to each localized cultural identity while being able to withstand negative external influences and any physical threats. It should also promote cooperation between the multi-layered interests of numerous internal institutions and communities as a result of addressing the specific needs of heritage management and development. The timeline of Indonesia's national cultural policy is part of a complex global trajectory with regional and national paradigms. This paper aims to review Indonesia's course of conservation policy for tangible cultural heritage, some of which has its roots in the Dutch colonial era. How the social, cultural, and economic aspects from each era have shifted and thereby effected the paradigm of conservation policy and its implementation.

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Glimpse of Indonesia's tangible cultural heritage

As an archipelago, Indonesia is made up of more than 17 000 islands and more than 300 ethnic groups, each of which having a distinct culture and speaking some 742 languages and dialects (McDivitt et al., 2018). All this cultural diversity is manifested as tangible heritage, currently 50 350 (identified), I 361 (recommended as cultural properties), I 333 (cultural properties) (Directorate of Cultural Properties, 2015), and four inscribed on World Heritage List (UNESCO World Heritage Centre, 2018a); intangible heritage, currently 6 280 (identified), 444 (listed as Indonesia intangible heritage), and nine elements on the UNESCO Lists of Intangible Cultural Heritage (UNESCO Intangible Cultural Heritage, 2018).

The earliest signs of habitation in Indonesia have been located in the fertile volcanic area, specifically at Sangiran, near the city of Solo. In the 1930s, the Dutch paleoanthropologist Gustav von Koenigswald started a systematic geological survey of Java. His exploration led to the discovery of over 50 fossils of *Meganthropus paleojavanicus* and *Pithecanthropus erectus* (reclassified as part of *Homo erectus*). The outstanding hominid fossils and artefacts

illustrate the development of the early Lower Pleistocene. Major Indonesian prehistoric sites, represent a baseline of the prehistoric narrative of Homo erectus of the Pleistocene era to Austronesian dispersal in the Southeast Asian Archipelago. Semi-sedentary/sedentary life is marked by megalithic structures, pottery, sophisticated stone tools (hand adze), and settlements (cave and house post hole).

The historic era in Indonesia is seen in the stone inscriptions on pillars (yupa) in Kutai, dated to the fourth century CE; several stone inscriptions (Tugu, Ciaruteun, Kebon Kopi, Jambu, etc.) during the Tarumanagara reign, dating from the fourth to the seventh centuries CE. The arrival of Islamic influence is marked by the Fatimah binti Maimun tombstone (1082 CE), though historical records from Chinese and Arab inscriptions indicate early trading interaction from the seventh century CE. Later, a wave of European (Dutch, Portuguese, British, and French) colonial expansion had strong influence on architecture as well as multidisciplinary approaches to historical remains identification, and antiquarianism.

Conservation policy dynamics

The development of cultural resource management in Indonesia was disseminated in a colonial milieu. Indonesian archaeology began with the private interest in antiques and ancient monuments. Therefore, their interest was in artefacts, buildings, and sites. In the early days of the Dutch East India Company, cultural policy was not a Dutch Government matter. All cultural affairs were left very much to private persons and organizations, until gradually the government took an interest in the late nineteenth century. It was a scholarly interest in the life and manners of people in the colonies, the so-called Oriental Studies, which led to exploration and probing through this whole new branch of study.

These interested parties led to the establishment of the Royal Batavian Society of Arts and Sciences (Bataviaasche Genootschap van Kunsten en Wetenschappen) in 1778 initiated by Dutch scholars, which had for its motto "for the good of general public" (ten nutte van het Gemeen). The society started a museum, which later became the National Museum of Indonesia. "The new museum opened to the public in 1868. The museum is well-known among the Indonesian people, especially among the inhabitants of Jakarta. They call it 'the Elephant Building/Museum' (Museum Gajah) because of the large bronze statue of an elephant standing in the front yard, which was presented by King Chulalongkorn



of Siam ([present-day] Thailand) when he paid a state visit to the museum in 1871" (ASEMUS, 2018).

In 1925, it became the Royal Batavian Society and was reorganized as the centre of "all cultural science", such as linguistics, philology, historiography, customary law, ethnography, social anthropology, archaeology, the study of Islam, jurisprudence, economics, and sociology in Indonesia. Despite its large scope, the society contributed much to the study of Indonesian life and culture as well as providing meticulous and precious baseline data.

"During the British Administration in Java (1811–1816), the Lieutenant Governor, Sir Thomas Stamford Raffles...was interested in all branches of the sciences, but especially in cultural anthropology...[and consequently] ordered the construction of a new building to be used as a museum and meeting hall for the 'Literary Society' (afterwards called Socièteit de Harmonie)" (ASEMUS, 2018). His seminal work, a two-volume *History of Java*, written in 1817, is a monumental standard for its time and is still worth reading due its vivid documentary descriptions.

The government's interest in integrated (rather than the independent research of the

previous era) Indonesian cultural studies began at the beginning of the

twentieth century. Primarily it commenced with the preservation of historical remains. In 1901 a commission was established for archaeological research (commissie in Nederlandsch-Indië voor Oudheidkundig Onderzoek van Java en Madoera) which was mainly concentrated in Java and Madura. Dr J.L.A. Brandes was commissioned as its first head. On 14 June 1913, the commission shifted to a broader and more effective service, called Archaeological Service (Oudheidkundige Dienst). N.J. Krom then proposed to widen the scope of work, and to strengthen this position within the government. Since then, efforts to collect, register, research, and preserve cultural properties have been under the control of the government.

The colonial government of the Dutch East Indies established a regulation to protect cultural properties (heritage) by publishing the Monumenten Ordonnantie (MO) Stbl No. 238 in 1931 and updated in 1934. This gave the government authorization to access cultural properties in their territory. It is stated that cultural property or the term "heritage" referred to man-made as well as natural remains and sites. This embryonic law become the foundation of future Indonesian cultural properties policy.

During the Japanese occupation (1942–1945), the Archaeological Service was disbanded. Modern





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research and exploration were at the lowest point. Only several restorations were conducted under the supervision and endeavours of Indonesia's highly skilled staff at Borobudur, Prambanan and several temples. Despite these conditions, the Japanese created a cultural centre, Keimin Bunka Shidoso, to promote Indonesian art and culture, provide opportunities for exhibitions, performances, and related activities.

After Indonesian independence in 1945, the Indonesian Government established the Ministry of Education and Culture (currently, Ministry of Education and Culture). The foundation of ministry activities was mandated by the 1945 Constitution of the Republic of Indonesia, Article 32: "The state shall advance Indonesia's national culture" (UNESCO, 2018a). A new era of Indonesian sovereignty was a major step for Indonesian people in taking over all archaeological works and administration independently, though still assisted by Dutch scholars. At that moment, within the Ministry, the Cultural Department had three divisions: Archaeology, Art, and Language. The archaeology division was the successor of the Dutch East Indies Archaeological Service.

Ir. V.R. van Romondt and Amir Soendoro reinvigorated the Archaeological Service to ensure archaeological activities and used Yogyakarta as temporary headquarters Figure 2 due to unstable conditions in Jakarta (Dutch Military **Prambanan**Temple Aggression II (1948-1949)). compound. Image Early activities involved the © Yunus Arbi collection of myriad documents and archives in order to establish the new office. However, many archives were either neglected or lost during the Japanese occupation and sloppy handling. Some restoration and research continued and took place at several areas (Plaosan Lor Temple, Kalumpang, Prasada Temple, etc.), despite a lack of Indonesian scholarship, technicians,

or administrative manpower.

After 1950, a new solid autonomous institution was established under the name Dinas Purbakala (the Archaeological Heritage Conservation Center), while the Museum Section became autonomous as the National Museum. Dutch scholars still served as superintendents for the administration, restoration and research, which later strived to prepare bright Indonesian people to be future scholars and leaders, namely Suhamir and R. Soekmono (Classical Archaeology), S. Satyawati Suleiman (Classical Archaeology), R.P. Soejono (Prehistoric), Uka Tjandrasasmita (Islamic Archaeology), Boechari (Epigraphy).



Afterwards, Indonesian archaeological practitioners began to place attention and recognize the necessity of preparing more regeneration for the archaeological works through educational institutions (Universitas Indonesia and Universitas Gadjah Mada). Dutch scholars gradually returned to their country. With more technical aspects, Indonesian experts began to modernize instrumentation and methodologies of restoration and archaeological research (aerial survey/photography, carbon dating, excavation methods, etc.) and established many joint projects with other institutions both local and international, such as UNESCO, Central de Musees de Belgique, Universitas

Gadjah Mada, Directorate of Geologi Bandung, and others.

Now, a big leap to 1992 when the Indonesian government issued new legislation:
Law No. 5 of 1992 on Cultural Properties.
It amended the Monumenten Ordonnatie
No. 21 of 1934. This law regulates authorization, ownership, discovery, finding, exploration, protection, preservation, management, utilization, and monitoring of cultural property.
The detail of those technical implementations is complemented by relevant provisions.
However, the sole provision was Government Regulation No. 19 of 1995 on Preservation and Utilization of Cultural Properties at Museum.

The role of communities in the preservation of cultural property

Fitri (2014, p.73) discusses comments made by Tanudirjo (2003): "The role of the community in Indonesia for the preservation and protection of heritage should be improved by providing a higher role to them to participate in determining the significance of cultural heritage, as well as decision-making for its utilization. Thus, the government is no longer the main actor in the process of preservation of cultural heritage." Fitri (2014, p. 73) also refers to the statement by Davidoff (1965 quoted in Dian & Abdullah, 2013), "communities as local people, either individuals or organizations, who have an interest in or likely to be affected, either positively or negative, with a decision to be made on any particular issues by the authorities." Thus, the nomination process for cultural resources in the public domain to become recognized cultural heritage should involve the community. The nomination process, up to this point, was conducted solely by the government. By applying bottom-up nominations, the public is not merely passive but actively motivated to participate in the preservation of cultural heritage.

"The role of communities in Indonesia began to increase since it was encouraged by cultural activists who work in NGOs in the field of heritage conservation" (Fitri, 2014, p. 73). Such as an active role of Bandung Heritage Society:

established in Bandung in 1987, to protect and manage heritage in Bandung city, which has gained the respect of architects, planners, cultural activists, and historians.... Similar NGOs in many cities in Indonesia, including Medan city with establishing an NGO...named Sumatra Heritage Trust (Badan Warisan Sumatra) in 1998. The efforts of BWS in enhancing public awareness of heritage protection are considered successful. It is evidently seen by the increasing number of similar organizations in Medan.... Nevertheless, a dramatic improvement of community involvement in the protection and preservation is not followed by the increasing of roles and responsibilities of local government; consequently, [there] often emerges a gap and finally leads to a conflict with local communities.... As a result, widespread protests from [the] public occur against the demolition of historic buildings in some Indonesian cities (Fitri, 2014, p. 73).



In 2003, the Badan Pelestarian Pusaka Indonesia (BPPI) or the Indonesian Heritage Trust, an umbrella organization of heritage organizations, published the Indonesia Charter for Heritage Conservation. "Not only great architecture or monuments, but also the heritage of the community or 'folk heritage' is a legacy that needs to be conserved. Local practices should expect to be appreciated as much as the authenticity of fabric and form of built heritage" (Wijayanto, 2016, p. 2).

Issues on cultural landscape

It was not until a few decades ago that archaeologists realized that artefacts and architectural remains are inextricable from the natural setting or site and are therefore integral to cultural remains. Such understanding has promoted a perspective which sees a landscape as palimpsest of material traces from the past reflected as "an assemblage of real-world features – natural, semi natural, and wholly artificial" (Roberts, 1987, p. 79) which are available to us in the present. The term cultural landscape also refers to embracing a diversity of manifestation of the interaction between humankind and the natural environment.

Indeed, this new perspective led to the fundamental decision in cultural policy that the aim of cultural landscape preservation is to recover "the history of things that have been done to the land." "Cultural landscapes often reflect specific techniques of sustainable landuse, considering the characteristics and limits of the natural environment they are established in, and specific activities or spiritual relationships to nature" (UNESCO, 2021). The imperative

notion underlined in cultural landscape understanding is to promote protection of cultural resources that can contribute to appropriate modern techniques of sustainable land-use and can maintain or enhance natural values in the landscape. Furthermore, the protection of cultural landscapes is therefore helpful in maintaining biological diversity.

Though in those two legislations it is stated that the surrounding area of a site should be protected, awareness does not explicitly link to the cultural relationship between the artefact or site and its environment. It is rather for the sake of the safety of the cultural remains. This demonstrates that Indonesia still sticks out and has adopted oldfashioned thinking in putting landscape together with the heritage management. It is rather for the sake of the safety of the cultural remains. However, in 2003, in response to criticism of previous legislations and resulting urge for revision was initiated through the declaration of the Indonesian Charter on Heritage Conservation. The charter was first coined and clearly stated cultural landscapes are significant heritage in Indonesia.

Decentralizing culture

In 1980 the Suharto era establish a culture model for cultural management under the Central Government. A challenged rise began to break down in the aftermath of the Asian Financial Crisis and the resignation of Suharto in 1998. During his reign two shifts in particular were important:

- cultural policy was realigned from an affiliation with education (Ministry of Education and Culture) to an affiliation with tourism (Ministry of Culture and Tourism);
- cultural policy was one of a number of policy areas decentralized in 2002, devolving control of the cultural bureaucracy from the national



to the provincial and district levels. While thousands of staff shifted from the national bureaucracy to the provincial and district bureaucracies. Only archaeological offices (Balai Pelestarian Cagar Budaya and the Balai Konservasi Borobudur) that remain centrally controlled from the Directorate of Culture and continue to manage archaeological sites.

From an educational function, culture was "pushed" to achieve the economic goals of tourism and regional development. District and provincial governments became more important to heritage planning and management but have differing levels of commitment and capabilities. Furthermore, heritage legislation reform began.

Approximately 30 years after the completion of the Borobudur Archeological Park, the legislative measures in heritage discourse in Indonesia evolved from the monument-centric approach to spatial management, including scenery control for the protection of the wider area of Borobudur. ...shift in Indonesia's heritage management discourse at Borobudur, which shifted from an authority-driven and monument-centric approach in the 1980s and 1990s to a community-based approach for wider landscape preservation in the early twenty first century. ...[And a] refinement of the national legislative policy and framework since the late twentieth century. By doing so, this [discussion] attempts to classify the influences of the JICA Master Plan on the current management of Borobudur while

attempting to identify similarities and differences between the JICA Master Plan and the newly adopted Borobudur Presidential Regulation of 2014 and other Indonesian heritage related laws (Nagaoka, 2016).

Law No. 11/2010 Concerning Cultural Conservation replaced No. 5/1992 and states that heritage shall mean the tangible cultural heritage in the forms of objects, buildings, structures, sites, and areas "on land and/or water that their existence should be preserved since they have significant value for the history, science, education, religion, and/or culture through the stipulation process" (UNESCO, 2018b, Article 1). In this new legislation, the classification of tangible cultural heritage is more specific, and also regulates its area through zoning with the objective for recreation, education, appreciation, and religious activities. Zoning arrangements are determined by appropriate studies considering priority for the people's welfare.

The National Committee for Salvage and Utilization of Valuable Objects from Sunken Ship (VOS), known as PANNAS-BMKT (NCSU-VOS) was established by Presidential Decree No. 43/1989 then replaced several times by new presidential decrees, i.e. No. 107/2000, then No. 19/2007, and finally no. 12/2009. The NCSU-VOS is chaired by the Minister of Marine Affairs and Fisheries a legal instrument to commercialization of underwater cultural heritage.

Spatial Planning Regulation

Though Law No. 5/1992 Concerning Cultural Properties was considered inadequate to accommodate new cultural landscape management paradigms at that time, there was another legislation to support its vision: Law No. 24/1992 concerning Spatial Arrangement and its implementation through Government Regulation No. 47/1997. These legislations allow the government to proclaim an area with significant heritage as a protected area.

After a decade,

Law No. 26/2007 [amended] Law No. 24/1992 (Spatial Planning Act) in the context of decentralization, urbanization and other factors. It grants authority over spatial planning to provincial governments... and district governments.... Provision of this authority is not stipulated within previous spatial planning laws. It also provides some new ways for enhancing development control including zoning,

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planning permits, implementation of incentives and disincentives, including administration and criminal sanction. Law No. 26/2007 also acknowledges the importance of public participation in spatial planning, including rights, obligations and the forms of public participation in spatial planning (REDD, 2018).

Providing detailed spatial planning for heritage management on the map is a key tool to ensuring every land parcel is appropriately used, thence, the government enacted the new Law No. 4/2011 concerning Geospatial Information. The law's purpose is to achieve one map policy that encourages and produces geospatial information in an ordered, integrated, effective, and efficient way which ensures accuracy, up to date, and legal assurance, are effective planning tools for cultural heritage management, superimposed to any spatial planning and identifies any threat to cultural properties area. But the map is not static and will have the tendency to perpetually rise when the need to develop a cultural property area and its protection due to social, economic, and cultural dynamic trends. Other issues are the law encourages community

participation, through planning, utilization, and control. Though, it is not clear exactly how community involvement and action at any level is ensured.

Geographic Information System (GIS) and its support instruments (satellite imagery, drones, 3D Modelling) have now become effective tools for cultural heritage management as well as monitoring. However, coordinating with related institutions is still unclear for integrated planning as well as data interoperability. However, case studies in the Cultural Landscape of Bali Province (UNESCO World Heritage Centre, 2018b) during the nomination process already involved the community as a key stakeholder making contributions to creating the World Heritage map, they participated in identifying, clarifying, and justifying the subak system in composing the boundaries and its buffer zone based on natural, cultural, social and economic features. Through these activities communities will understand any positive and negative impacts within the World Heritage property and buffer zone.

National Strategic Area: Borobudur Temple Compounds case

Based on Law Np. 26/2007 on Spatial Planning, Cultural Properties which have National Cultural Property Status or are inscribed on the World Heritage List, are deemed classified as National Strategic Area (NSA). Any utilizations which may potentially cause harm within the National Strategic Area are highly restricted. Furthermore, consideration of the past cultural landscape also plays a major role for the NSA planning, in order to encourage habitation and visitation appreciation and respect of place.

Major works of implementation regarding cultural landscapes in Indonesia's heritage management discourse was implemented at Borobudur, which shifted from an "authority-

driven and monument-centric approach in the 1980s and 1990s to a community-based approach for wider landscape preservation in the early twenty-first century" (Nagaoka, 2016). The new convincing evidence of an ancient lake in the vicinity of Borobudur strongly supports this notion (Murwanto et al., 2004). Although it might not exactly be as Nieuwenkamp imagined Borobudur as the lotus in the centre of a pond. It is obvious, Borobudur was intentionally built in a lake environment surrounded by a mountainous landscape and near a volcanic area.

Professor Dr R. Soekmono, a renowned Indonesian archaeologist and in charge of the Borobudur restoration in 1983, suggested that





Borobudur should remain in its authentic setting. He was afraid that Borobudur was a potential magnet that would attract many activities, especially economic aspects which would potentially transform its unique rural landscape setting into a massive urban environment. Therefore, it was necessary to establish a longterm proper plan for the Borobudur landscape. The idea was then partly accommodated in the Japan International Cooperation Agency (JICA) masterplan, which divided the Borobudur area into five specific utilization and conservation zones. However, the masterplan has never been properly followed up and enforcement of the law is weak. The result has been prolonged conflict between authorities, private sectors, local communities, and even within the local communities. For example, in 2003 the local community heavily protested against a provincial government plan to build a three-story art mall, known as "Java

World," near Borobudur, this would affect their scarce economic benefit. The value of tourism for economic development, preservation of Indonesia's World Heritage icon and social justice for hundreds of local hawkers.

Despite Indonesia having four World Heritage Sites, only Borobudur has the spatial legal protection under Presidential Decree No. 50 of 2014 on Borobudur Spatial Planning and its surrounding area. The drafting process is still ongoing for the other three World Heritage Sites. The main purpose of this Decree is to protect the characteristic of the rural area from any negative impact of urban spatial utilizations that can degrade the Spatial Quality of Borobudur area as National Cultural Property and World Heritage Site; and to strengthen coordination, integrity, and synchronization among stakeholders in order to implement spatial utilizations and control of the Borobudur Area.

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 $Natural\ view\ clear\ water\ flow\ of\ farm\ irrigation\ in\ agricultural\ area,\ Ringdikit,\ North\ Bali,\ Indonesia.$ $Image\ \textcircled{o}\ iStock.com/Ketut\ Agus\ Suardika$



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National conservation policy in Australia

Kristal Buckley

Abstract

The Commonwealth of Australia's Constitution (1901) created a federation of States, with nine legal systems (i.e. the Federal government, six states and two territories). To understand the national constructions of heritage policy and legal frameworks, it is therefore necessary to examine the interplay between the national and subnational spheres of activity.

In this context, this paper outlines the historical development of heritage policy and legislation in Australia, particularly from the late 1960s and early 1970s when laws which make explicit provision for the protection for heritage places were adopted. Drawing initially on British and American experiences, Australian heritage practice is strongly anchored to the concept of place, and is less well developed for intangible cultural heritage that is not place-based. National policy needs to be examined across the system as a whole, which is multi-jurisdictional; and there is little that can be explicitly understood as "national heritage policy" in Australia. However, there are many ways in which a de facto national policy can be derived – through legislation, intergovernmental agreements, the National Strategy and practitioner codes such as the Burra Charter.

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Introduction

Australia's cultural heritage is derived from more than 50 000 years of human history, including the continuing dynamic cultures of more than 200 Indigenous peoples, and the more recent periods of exploration and invasion of the continent by European colonial interests, forced migration of convicts from the British Empire, the creation of cities, towns and industries, and the multicultural heritages of many people who chose to become Australian. Despite geopolitical and economic shifts from the 1990s and significant migrations from Asia, the continent nation of Australia cannot be portrayed as "Asian", and along with New Zealand, provides a counterexample within the ICCROM-CHA Forum on National Conservation Policy in the wider region.

Australia's Constitution of 1901 created a federation of states, with nine legal systems. These are the national (Federal or Commonwealth) government, six states and two territories. Like other federated states, the understanding of "national" constructions of heritage policy and legal frameworks requires consideration of both national and "state" spheres of activity. Australia was once described by environmental lawyer and activist Phillip Toyne as "the reluctant nation" (Toyne, 1994) because of the challenges of working across jurisdictional differences and parochial priorities to achieve needed environmental goals. The same could be said for the context of national heritage policy. Since the Constitutional powers for many aspects of heritage protection lie with the states, rather than the national (Commonwealth) government, there are many inconsistencies and gaps across the country, and thus there is considerable difficulty in monitoring outcomes

on a national level (Mackay, 2017). This means that national policy cannot be understood by looking only at activities and documents at the national level of government.

At the national level, heritage has mostly been located within the environment portfolio of the government and is strongly place – (or property) oriented. The Australian national heritage system includes both natural and cultural heritage, although the study of policy for natural heritage is outside the scope of this paper. Similarly, the aspects of cultural heritage generally positioned within the "arts" portfolio of the government such as the GLAM sectors (galleries, libraries, archives and museums) are not examined here. This is a well-entrenched, but unhelpful and artificial divide: in 2013, a national "Cultural Policy" was launched which, though claiming to cover "all aspects of arts, cultural heritage and the creative industries" (Commonwealth of Australia, 2013, p. 6), was not applied to heritage places; and, conversely, the 2015 National Heritage Strategy excluded GLAM institutions and collections (Commonwealth of Australia, 2015).

Strictly speaking, it could be argued that there is an absence of national heritage policy for Australia. This paper therefore outlines the ways in which the evolving legal systems, and standards and modes of practice essentially constitute the policy settings for the designation and management of cultural heritage. It is a particular feature of Australian heritage practice that its conceptual framework and approach is strongly influenced by guidance provided by a non-government entity – the Australia ICOMOS Charter for Places of Cultural Significance (henceforth cited as the Burra Charter) (Australia ICOMOS, 2013).



Historical development

Heritage policy and legislation in Australia officially began in the late 1960s and early 1970s. Prior to this time, civil society organizations such as the National Trust of Australia provided inventorying and advocacy for heritage conservation without established frameworks for legal protection. The National Trust movement was established in Australia in New South Wales in 1945 by citizens concerned about the loss of built and natural heritage in Sydney (Australian Council of National Trusts, 2016). The National Trust was established separately in each state and territory in Australia and the eight separate Trusts support the Australian Council of National Trusts (ACNT), particularly for the purposes of national advocacy and communications. Collectively, the National Trusts in Australia own and manage over 300 heritage properties, employ 350 people and manage a volunteer workforce of 7 000 people (Australian Council of National Trusts, 2016).

State governments established legal protection for Aboriginal cultural heritage places and objects ("sites" and "relics") from the late 1960s. However, the milestone in national terms was the passing of Australian Heritage Commission Act 1975. The Whitlam Labor government came to power in 1972, following a long period of conservative government at the national level, with the slogan "Its Time!" and an ambitious agenda of social reforms. One component was the Hope Inquiry into the National Estate, which reported in 1974 (Commonwealth of Australia, 1974; Walker, 2014; Australia ICOMOS, 2016). Australia's participation in the implementation of the World Heritage Convention, ICCROM, and ICOMOS were also outcomes of the recommendations of the Hope Report; and the Australian national committee of ICOMOS (Australia ICOMOS) was established in the following year.

The Hope Inquiry defined the National Estate as comprised of places "of such aesthetic, historical, scientific, social, cultural, ecological or other special value to the nation or any part of it, including a region or locality, that they should be conserved, managed and presented for the benefit of the community

as a whole" (Commonwealth of Australia, 1974, p. 334). This focus on "place" was the genesis and continuing orientation of heritage systems in Australia.

The Australian Heritage Commission Act 1975 established the Register of the National Estate and the Australian Heritage Commission. While the Register of the National Estate was effectively frozen in the early 2000s, officially closed in 2007, and deleted from Commonwealth laws in 2012, it is remembered powerfully (see for example, Truscott, 2004; Hanna, 2015). With the catchphrase of "the places we want to keep," and an annual grants program that funded countless studies, inventories and community-based conservation projects, it established Commonwealth Government leadership in heritage, despite the lack of strong protection mechanisms in the legislation.

The Register of the National Estate included natural, historic, and Aboriginal and Torres Strait Islander heritage places that met one or more of eight criteria set by the Act. A framework of historic themes was established to assist evaluations (Australian Heritage Commission, 2001). The threshold required for listing on the Register of the National Estate was not set at the level of "national significance" (as is now the case), allowing many places of local significance to be recognized. At its closure, there were more than 13 000 entries in the Register of the National Estate – consisting of places that could meet a wide range of significance thresholds (local, regional, state/territory, national, international).

Entry in the Register of the National Estate implied a relatively weak level of protection. Commonwealth Government agencies were required to take National Estate values into account when making decisions and to "avoid taking actions that would adversely affect places on the Register of the National Estate, unless there was no feasible and prudent alternative" (Department of the Environment and Energy, 2016). However, "feasible and prudent" were contentious tests to apply, and other levels of government and private developers were not required to take notice of the provisions of the national Register (although a degree of

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moral suasion could sometimes be applied). Many issues escalated to high levels of social and political conflict.

Australia's national heritage is administered and conceptualized according to three "environments" – natural, Indigenous and "historic" (or "post-contact"). This three environments approach allows multiple values to be recognized and complex landscapes to be listed, but it does not entirely avoid the accentuation of the divides between them.

While the national heritage system was a conscious adaptation of British and American models (Veale and Freestone, 2012), its evolution since the 1970s has resulted in a present-day portrait which could be described as distinctively Australian. Conceptual framing for each of the three environments has at times been influential on the other environments. An example is the legal recognition of (Indigenous) Native Title in the decision by the Australian High Court in the Mabo Case in 1992, which reversed the presumption of *terra nullius* – i.e. that the continent was not owned before it was claimed by the British crown in 1788 (National Native Title Tribunal, 2006; Lilley, 2017).

In 1997, the Council of Australian Governments (consisting of the Prime Minister of Australia and

the Premiers and Chief Ministers of the states and territories) agreed to changes in the national regime for heritage, with a focus on reducing duplication and application of the "subsidiarity principle" – that national affairs should be dealt with by the national agencies; state affairs by state agencies; and so on (Productivity Commission, 2006). Because of the significant overlaps between the Register of the National Estate and State Heritage Registers (in the case of the historic environment at least), it was agreed that legislative change at the national level was needed.

In 2003, the Australian Parliament passed the "heritage amendments" to the 1999 Environment Protection and Biodiversity Act, and in 2004, the present national heritage system came into effect. The Australian Heritage Council replaced the former Australian Heritage Commission, with narrowed public responsibilities compared to the previous champion for heritage. The new National Heritage List was opened with a required threshold of "outstanding value to the nation" which could be applied to natural and cultural heritage places. Adoption of this terminology reveals the influence of World Heritage ideas, and the idea that World, national, state, and local heritage places should be considered according to similar but distinct and nested systems.

The current national heritage system

The current national heritage system began in 2004, and several properties were entered in the National Heritage List by the government when launching the new system (under the public banner of "Distinctively Australian"). These were: The Dinosaur Footprints fossil site (Queensland); the Royal Exhibition Building and Carlton Gardens (Victoria); and Budj Bim Cultural Landscape (Victoria). The Environment Protection and Biodiversity Conservation Act 1999 (or EPBC) defines a number of categories as matters of "national environmental significance," including: World Heritage properties, National Heritage places, wetlands of international importance, "nationally threatened species and ecological

communities, migratory species, Commonwealth marine areas, the Great Barrier Reef Marine Park, nuclear actions (including uranium mining) and water resources in relation to coal seam gas development and large coal mining" developments (Department of Environment, 2018a). These matters trigger approvals processes by the Commonwealth Minister.

To assist its work, the Council has conducted a number of thematic studies. These include: urban planning, democracy, inspirational landscapes, karsts, rivers, islands, migration, spiritual life, government institutions, communications facilities, geoheritage, rock art, benevolent/care institutions, mining sites, migrant





heritage, urban heritage, Chinese Australian heritage, Australian homes, women's employment, maritime discovery, and pastoralism (Department of Environment, 2018b). Places can be added to the National Heritage List by the Minister after assessment by the Australian Heritage Council. In 2019, there were 116 places on the National Heritage List. However, despite the short time that this List has been available, the number of new places added to the National Heritage

List each year has sharply declined since 2008 (Mackay, 2017, Figure HER4).

The EPBC Act also established the Commonwealth Heritage List, which requires the heritage values of places in Commonwealth government ownership to be recognized and protected. Commonwealth government agencies are required to develop heritage policies and inventories. In the past five years, additions to this List have also been minimal (Mackay, 2017, Figure HER5).

International conventions

By 2019, Australia had ratified four of the six UNESCO Conventions for culture. The two that had not yet been ratified were the 2003 Convention on the Safeguarding of the Intangible Cultural Heritage (which is discussed further below) and the 2001 Convention for Underwater Cultural Heritage. There are long-standing commitments to ratify the 2001 Convention and the relevant Commonwealth laws were amended in 2019 to align with the Convention, but this has yet to happen due to the complexities of intergovernmental coordination.

Australia has been an active participant in the World Heritage Convention, with 20 World Heritage properties inscribed (as of 2019). Australia is notable for its high proportion of natural World Heritage properties and relatively large number of mixed World Heritage properties, which have been recognized for both their natural and Indigenous cultural heritage values. Together with other countries, Australia was active in the development of the cultural landscape category for the World Heritage List, and Uluru Kata-Tjuta National Park in Central Australia was re-inscribed in 1984 as the world's second associative cultural landscape (closely following the re-inscription of Tongariro in New Zealand one year earlier). While not uniformly applied, many of Australia's World Heritage properties have formal mechanisms for involvement of Traditional Owners (Indigenous communities that have cultural rights in relation to particular areas of land and water) in

decision-making processes, and several have formal systems of joint management.

There are four World Heritage properties inscribed for their cultural values alone. These include:

- Australian Convict Sites, a serial property
 of II sites that illustrate the processes of
 British colonization through the forced
 migration of convicts in the late eighteenth
 and nineteenth centuries;
- Royal Exhibition Building and Carlton Gardens, a surviving hall of industry from the international exhibition movement of the late nineteenth century;
- Sydney Opera House, Jørn Utzon's twentieth century architectural icon; and
- Budj Bim Cultural Landscape, one of the world's most extensive and oldest aquaculture systems.

Australia has at times played an active role in the implementation of the 1972 World Heritage Convention, and is currently a member of the World Heritage Committee. It has been elected to four previous terms on the World Heritage Committee and has contributed to a number of important strategic processes throughout the history of the Convention (Commonwealth of Australia, 2012). At the same time, there have been periods of controversy surrounding Australian World Heritage properties, such as the conflicts

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over proposals to open a new uranium mine near the World Heritage property of Kakadu in the 1990s (Logan, 2013). More recent issues have arisen around the proposals to change the boundaries of the Tasmanian Wilderness World Heritage Area; a proposed dam extension potentially affecting the Greater Blue Mountains; and the serious difficulties arising from various human-induced threats to the Great Barrier Reef.

Because of conflicts between Commonwealth and State Governments about World Heritage nominations in the 1980s, the Council of Australian Governments adopted Intergovernmental Agreements on the Environment and on World Heritage that specify the need for agreement by both levels of government. The Commonwealth government has established the Australian World Heritage Advisory Committee (AWHAC), comprised of representatives from each World Heritage property and the Australian World Heritage Indigenous Network (AWHIN) (see Department of Environment, 2018c), although these mechanisms currently seem dormant at best. There is an overarching coordination mechanism for the Australian Convict Sites due to the occurrence of its components in five different jurisdictional settings.

Heritage legislation

In Australia, laws for heritage protection were introduced from the 1960s. Today, there are national legal mechanisms for the protection of heritage places, movable cultural heritage, Indigenous cultural heritage and historic shipwrecks. These are mirrored by state/territory laws which vary in their age and provisions (see Appendix 1). Where there is an overlap, Commonwealth law prevails, but much of the day-to-day administration of heritage protection occurs at the state and local government levels.

For the most part, listing is the primary means of selecting places for protection as heritage. Entering such places into the various statutory registers at national, state or local levels of government triggers specific protection mechanisms, and requirements for making changes.

In 2006, the Australian Productivity
Commission prepared a national snapshot
showing how many places were included in lists
at each level of government in 2005 (Productivity
Commission, 2006, p. xxiii). In brief, the national
picture was comprised of the following "pyramid"
of heritage protection:

 16 World Heritage properties, protected by a combination of Commonwealth and state laws;

- 292 heritage places on Commonwealth lands and protected by Commonwealth law;
- 20 508 heritage places on state and territory laws (included places in public and private ownership);
- > 147 000 heritage places on local government registers and schedules and protected by local government schemes.

While this picture is now more than fifteen years old, and pre-dates the establishment of the National Heritage List, it gives a good picture of the relative numbers of places protected at each level of government and demonstrates the huge proportion of places on the heritage lists managed and administered by local governments.

Changes to frameworks of legal protection over the past decade are best illustrated by shifts in the mechanisms for Aboriginal and Torres Strait Islander heritage. In most of the systems that were established in the 1960s and 1970s, protection was applied to "relics" and "sites," demonstrating a focus on archaeological materials, and preference for the long past over recent/contemporary periods. Recent amendments and laws for Indigenous cultural heritage, such as the Victorian Aboriginal Heritage Act 2006, acknowledge a wide array of tangible and intangible expressions of culture, including social practices, cultural knowledge and





language alongside place and object protections (without defined time limits).

Local governments in Australia are established and operate according to state/territory laws. Lists or schedules of heritage places that are significant at the local level are generally subject to state laws for planning and urban development that are administered by Australia's 560 local councils

(municipal governments). Many local governments have (or are required to have) local heritage policies that guide their decision making, and the many disputes concerning local heritage planning decisions are resolved by State/Territory courts or administrative tribunals (within the wider mechanisms available for planning decisions).

Key terminology on heritage

The wide application of the following terms provide the structure for national heritage practices in Australia. The examples provided are drawn

from the 2013 version of the Burra Charter, although similar language can be found in most heritage laws, and in local policies.



Term/Comment	Burra Charter text [italics are as per the original]
Place "Place" is the basis of formal heritage listing processes. It is used instead of "monuments" or "cultural property", and is broadly defined.	"Place means a geographically defined area. It may include elements, objects, spaces and views. Place may have tangible and intangible dimensions". (Article 1.1) "Places may have a range of values for different individuals or groups". (Article 1.2)
Cultural Significance Retaining cultural significance is the goal of heritage conservation.	"Cultural significance means aesthetic, historic, scientific, social or spiritual value for past, present or future generations". "Cultural significance is embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects". (Article 1.2)
Conservation Conservation is defined as an outcome (the purpose of heritage protection); and is also a set of processes, including: use, maintenance, preservation, restoration, reconstruction, adaptation and interpretation. Note that interpretation is part of the conservation process, rather than applied afterwards.	"Conservation means all the processes of looking after a place so as to retain its cultural significance". (Article 1.4) "The aim of conservation is to retain the cultural significance of a place". (Article 2.2) "Conservation is based on a respect for the existing fabric, use, associations and meanings. It requires a cautious approach of changing as much as necessary but as little as possible". (Article 3.1) "Conservation may include the processes of: retention or reintroduction of a use; retention of associations and meanings; maintenance, preservation, restoration, reconstruction, adaptation and interpretation; and will commonly include a combination of more than one of these. Conservation may also include retention of the contribution that related places and related objects make to the



Term/Comment	Burra Charter text [italics are as per the original]				
Maintenance	"Maintenance means the continuous protective care of a place, and its setting. Maintenance is to be distinguished from repair which involves restoration or reconstruction". (Article 1.5) "Maintenance should be undertaken where fabric is of cultural significance and its				
Preservation	"Preservation means maintaining a place in its existing state and retarding deterioration". (Article 1.6) "Preservation is appropriate where the existing fabric or its condition constitutes evidence of cultural significance, or where insufficient evidence is available to allow other conservation processes to be carried out". (Article 17)				
Restoration	"Restoration means returning a place to a known earlier state by removing accretions or by reassembling existing elements without the introduction of new material". (Article 1.7) "Restoration is appropriate only if there is sufficient evidence of an earlier state of the fabric". (Article 19)				
Reconstruction	"Reconstruction means returning a place to a known earlier state and is distinguished from restoration by the introduction of new material". (Article 1.8) "Reconstruction is appropriate only where a place is incomplete through damage or alteration, and only where there is sufficient evidence to reproduce an earlier state of the fabric. In some cases, reconstruction may also be appropriate as part of a use or practice that retains the cultural significance of the place". (Article 20.1) "Reconstruction should be identifiable on close inspection or through additional interpretation". (Article 20.2)				
Adaptation	"Adaptation means changing a place to suit the existing use or a proposed use". (Article 1.9) "Adaptation is acceptable only where the adaptation has minimal impact on the cultural significance of the place". (Article 21.1) "Adaptation should involve minimal change to significant fabric, achieved only after considering alternatives". (Article 21.2)				

The Burra Charter

The establishment of Australia ICOMOS in 1975 coincided generally with the beginning of formal heritage identification and protection through the recommendations of the Hope Report. The Burra Charter was adopted in 1979 in the small historic mining town of Burra in South Australia. It was based on the Venice Charter, adapted to Australian practices. While the Venice Charter

had anticipated regional adaptations, and there are now a number of such national documents, the Burra Charter was perceived as a strong break (Logan, 2004).

The drafting and development of the Burra Charter coincided with a professionalization of heritage conservation and management, and the establishment of national legislation. Its early





Figure 1

The Port Arthur Historic
Site (Tasmania) has
been an important
testing ground for the
application of the concepts
and mechanisms of the
Burra Charter. In 2010,
it was one of eleven
sites included in the
World Heritage List as
the "Australian Convict
Sites". Image © Port
Arthur Historic Site
Management Authority

use, testing and revision were therefore informed by applications to publicly funded conservation programs, such as at the convict settlements of Port Arthur in Tasmania (see Figure 1) and Kingston on Norfolk Island (Egloff, 2002; Ireland, 2004; Australia ICOMOS, 2016).

It is also worth noting the influential text *Conservation Plan* by James Semple Kerr. Kerr produced seven editions of this book between 1982 and 2013; and it has also been translated into a number of languages for

use in other countries. Conservation planning (or the preparation of conservation management plans) has become commonplace as a mechanism for decision-making.

The Burra Charter has been widely disseminated within Australia. Unlike the Venice Charter, the Burra Charter is regularly reviewed and has been revised several times (see Lennon, 2004; Walker, 2014; Australia ICOMOS, 2016). Significant changes were made in 1999, and the current version is dated 2013. As of 2019, nine "Practice Notes" have been adopted to assist with the

implementation of the Burra Charter (Australia ICOMOS, 2019):

- Understanding and Assessing Cultural Significance
- Developing Policy
- Archaeological Practice
- Indigenous Cultural Heritage
- Interpretation
- New Work
- Preparing Reports and Studies: Contractual and Ethical Issues.
- Understanding Cultural Routes
- Intangible Cultural Heritage and Place

While the Burra Charter did not invent values-based management, it has contributed to its global application (Burke, 2004; de la Torre, 2005). The flowchart called the Burra Charter Process explicitly places the understanding of significance as the basis for policies and actions (see Figure 2). The Burra Charter focuses on processes rather than technical expertise. The 1999 changes to the Charter aimed to lighten the primacy of the physical fabric, adding articles about the importance of use and meaning, and the need for participation of associated communities in all conservation processes. Thechanges adopted in 1999 were challenging for the organization and there are some published accounts of these processes (cf. Mackay, 2004; Truscott, 2004).

The influential flow chart known as the "Burra Charter Process" (Australia ICOMOS, 2013a, p. 10). Chart © Australia ICOMOS

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The Burra Charter Process

Steps in planning for and managing a place of cultural significance

The Burra Charter should be read as a whole. Key articles relevant to each step are shown in the boxes. Article 6 summarises the Burra Charter Process

UNDERSTAND

DEVELOP POLICY

UNDERSTAND THE PLACE

Define the place and its extent Investigate the place: its history, use, associations, fabric Articles 5-7, 12, 26

ASSESS CULTURAL SIGNIFICANCE 2 Assess all values using relevant criteria Develop a statement of significance

Article 26

IDENTIFY ALL FACTORS AND ISSUES 3

Identify obligations arising from significance Identify future needs, resources, opportunities

DEVELOP POLICY

PREPARE A MANAGEMENT PLAN

ACCORDANCE WITH POLICY MANAGE IN

IMPLEMENT THE MANAGEMENT PLAN 6

Articles 26–34

MONITOR THE RESULTS & REVIEW THE PLAN

Article 26



There are good sources of information on the history of the Burra Charter. An entire issue of the Australia ICOMOS journal *Historic Environment* was devoted to reflections on the history of the Charter in 2004 to mark its 25th anniversary and are available from the Australia ICOMOS website. Oral history interviews have been recorded with key participants by Dr Bronwyn Hanna and are available online from the Oral History collection of the National Library of Australia (Hanna, 2015; National Library of Australia, 2018).

Although it was never intended for use outside of Australia, the Burra Charter has been translated into several languages, and has been used in part or full in other countries (Burke, 2004). It is included in the compendium of international charters by ICOMOS. It has attracted commentaries about its general usefulness (e.g. De Marco, 2009), and has been subjected to a critical discourse analysis (Waterton et al., 2006). Some commentaries question the breadth of the idea of "place" (Silberman, 2016) and the ability of values-based management to appropriately care for "living heritage" (Poulios, 2010).

Safeguarding intangible cultural heritage

Intangible cultural heritage poses a mixed picture. The ability to recognize, protect and manage heritage places on the basis of their intangible heritage expressions is relatively well established. From the beginning, national and state legal frameworks, and the Burra Charter promoted the consideration of "social value" alongside those more well-established ones in global practice such

as historic, aesthetic and scientific values (Johnston, 1992, 2014; Byrne *et al.*, 2003).

There are many entries in heritage registers and lists at all levels of government that have been assessed as having heritage significance primarily for their social value. However, the ability to recognize and safeguard intangible cultural heritage that is not specifically tied to heritage places is far less well established in Australia. Australia abstained from the vote that adopted the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage in 2003 (Leader-Elliott and Trimboli, 2012). Australian government officials had concerns about the workability of the mechanisms established by the Convention; and about the costs and sensitivities of establishing the required national inventory. In 2007, the incoming Rudd Labor Government opened some stakeholder consultations, but the consultative process did not lead to any further government action. Today Australia stands outside the Convention, along with other "settler" nations, such as Canada, the United States of America, and New Zealand.

However, in August 2016 the State of Victoria introduced amendments to the state's Aboriginal Heritage Act that provide for the registration and protection of intangible cultural heritage (Aboriginal Victoria, 2016). These include provisions to establish a register and to support legal agreements for the uses of traditional knowledge. This is an example of how innovation can occur at different points in the national system, rather than always being introduced top-down.

National Heritage Strategy planning

A long-awaited national heritage strategy was released in 2015 (Commonwealth of Australia, 2015). This is probably the only recent government output that could be seen as approximating a "national policy" for heritage. The Strategy was developed over several years, with opportunities for public submissions. The Australian Heritage Council was instrumental

in urging the Strategy to completion, and the findings of the 2011 State of the Environment Report were also influential. The strategy covers all three "environments"; and its vision and eleven objectives are oriented around three major outcomes: national leadership, strong partnerships and engaged communities.

The Strategy's release was relatively low key, and there have been limited funding commitments to ensure its implementation, since it is largely predicated on achieving its goals through partnerships. As the State of the Environment Reports for more than a decade have shown, funding by the Commonwealth government for cultural heritage in general has steadily declined, including staffing and programs of the national government, grants programs and conservation

projects. Changes in ministerial responsibilities since 2015 have meant that there is now little mention of the Strategy, and its longevity and effectiveness are questionable. It is due for review in 2020–2021. However, for communities, state agencies and non-government organizations, it continues to provide a useful framing for continuing dialogue about national initiatives and needs.

National Heritage Strategy monitoring

Two important processes of monitoring and review are worthy of brief mention. They are the public inquiry into conservation of historic heritage conducted by the Productivity Commission in 2004–2006; and the 5-yearly independent reporting to the Australian Parliament within the Australian State of the Environment Report.

Productivity Commission inquiry

In 2006, the Australian Productivity Commission completed an inquiry into the conservation of Australia's historic heritage. Its purpose was to report on policy frameworks and incentives for conservation. The terms of reference included consideration of the economic and social costs and benefits of heritage conservation, the relative contributions of governments, community groups and private owners, and the impacts on regulations, taxation and institutional arrangements. The recommendations were controversial. They were received critically by many practitioners and heritage organizations and have not been fully adopted by governments. Nevertheless, the analysis and the dialogue opened by the Inquiry have been influential in discussions about the future of heritage policies at all levels of government, and the relationship between heritage conservation activities and the public good.

The Productivity Commission was particularly critical of the impacts of the institutional and regulatory arrangements on historic heritage places that are privately owned, concluding:

For privately-owned places, the existing arrangements are often ineffective, inefficient and unfair. The system is not well structured to ensure that interventions only occur where there is likely to be a net community benefit (Productivity Commission, 2006, p. xviii).

There were also strongly worded findings about the failure of heritage agencies to consider the costs of conservation (and who would bear them) at the time of entering heritage places in statutory registers. The problems were considered to be greatest in relation to the statutory listing activities of local governments (which as noted above, is where the vast majority of historic heritage places are given some legal protection).

State of the Environment Reporting

As noted above, heritage has been a component of the environment portfolio of the national government. One useful consequence is that natural and cultural heritage is part of State of Environment Reporting at the national level. This takes place every five years, and an independent report is submitted to the Parliament. The most recent report was released in early 2017 (dated 2016), and the next report will be released in 2021. The method of reporting could be useful elsewhere.

The Heritage Chapter discusses the following (Mackay 2017):

 Pressures Affecting Heritage, including: climate change, population growth, economic growth,

- and pressures on historic heritage, Indigenous heritage and natural heritage;
- State and Trends of Heritage, including: identification of heritage and the condition and integrity of heritage;
- Effectiveness of Heritage Management, including: understanding values and threats, planning (leadership, jurisdictional arrangements, statutory protection); inputs (financial and human resources); processes (statutory responses and adaptive management); and outcomes;
- Resilience of Heritage, including: approaches to resilience, preparedness for future pressures, factors affecting resilience capacity;
- Risks to Heritage; and
- Outlook for Heritage.

Charts are produced for each measure that indicate the current state and trend, as well as the degree of confidence in these assessments (based on the adequacy of data). The data for heritage generally is chronically poor – because it is not easily collected on a consistent national scale. The chart for the state of historic heritage is shown in Figure 3, together with the "key" to understanding the colours and codes used.

The key findings for heritage show several strong trends and a mixed "report card". They also provide a basis for policy making and advocacy (Mackay 2017; ASEC 2017).

- Australia's extraordinary and diverse natural and cultural heritage generally remains in good condition, despite some deterioration and emerging challenges;
- Australia's heritage remains vulnerable to both natural and anthropogenic threats;
- Australia's heritage is also at risk from the loss of knowledge;
- Australia has well-resolved processes for identification, protection, conservation, management and celebration of heritage, but requires more consistent approaches, standards and guidelines. Thorough and comprehensive assessments are needed to secure adequate areas of protected land and comprehensive heritage inventories;
- Public-sector resourcing at all levels does not reflect the value of heritage to the Australian community;
- Conservation of Australia's heritage is a shared responsibility that requires collaborative, innovative partnerships between government, corporations and the community.

Concluding Remarks

There is little that can be explicitly understood as "national heritage policy" in Australia. While it is not entirely clear that this is detrimental to the ability of Governments to act to identify and protect cultural heritage, national policy needs to be considered across the system as a whole, which is multi-jurisdictional. Australian heritage practice is strongly anchored to "place," and less well developed for intangible cultural heritage that is not place-based.

There are many ways in which a de facto national "policy" can be derived – through legislation, intergovernmental agreements, the national strategy and practitioner codes.

The influence of the Burra Charter is obvious, but also debatable, since it outlines processes rather than policies, and is the property of a non-government entity.

While the 2016 Australian State of the Environment Report has found that the nation's cultural heritage is generally in good condition, it has also identified some trends that are sources of concern for practitioners, Traditional Owners, communities and heritage advocates. For example, in the past five years, there have been notable declines in heritage listing activities, national funding for heritage projects and programs, and a significant drop in the staffing levels in the



Australian State of the Environment Report 2016, Assessment Summary 2 Historic Heritage (Mackay 2017, p. 73).

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Component	Summary	Assessment grade				Confidence		Comparability
		Very poor	Poor	Good	Very good	In grade	In trend	To 2011 assessment
Historic heritage –	Progress continues to be made in the							
process of listing,	collection of data relating to statutory							
area and distribution	listing processes for historic heritage							
of identified historic	at the national and state level							
heritage places	The number of listed places continues							
	to increase, and there have been more							
	systematic, thematic historic heritage							
	assessment projects, and projects			?				\wedge
	to improve the quality of listing data							
	However, gaps remain in statutory							
	registers and heritage lists, and the							
	resources allocated to survey and							
	assessment have declined. At the local							
	level, processes for heritage listing							
	are inconsistent, sometimes perceived							
	as costly and often under-resourced							
Historic	No nationally coordinated data exist							
heritage – physical	about the condition and integrity							
condition and	of historic heritage places, but those							
integrity of historic	on national, state and territory lists		?				\bigcirc	\Diamond
heritage places	appear to be in good condition and retain							*
	integrity of their identified values. Idle,							
	unused historic places remain at risk							

Recent trends Grades Confidence Comparability Improving Very good: Places with heritage values have been Adequate: Adequate Comparable: Grade and systematically and comprehensively identified high-quality evidence and trend are comparable to the ✓ Deterioriating and included in relevant inventories or reserves. high level of consensus previous assessment Heritage places are in very good condition - Stable Somewhat adequate: Somewhat comparable: with identified values retaining a high degree Grade and trend are Adequate high-quality ? Unclear of integrity somewhat comparable evidence or high level Good: Places with heritage values have been of consensus to the prevoius assessment systematically identified and included in relevant Limited: Limited evidence Not comparable: Grade and inventories or reserves. Heritage places are in or limited consensus trend are not comparable good condition, with identified values generally to the previous assessment retaining their integrity **Very limited**: Limited evidence and limited X Not previously assessed **Poor**: Places with heritage values have not been consensus systematically identified. Heritage places are in poor condition, and/or their values lack integrity O Low: Evidence and consensus too low Very poor: Places with heritage values have not to make an assessment been identified. Heritage placees are in degraded condition, and their values lack integrity



relevant Commonwealth agency (Mackay, 2017, p. 91, 104, and Figures HER18 and HER19). Given the identification of intensified pressures, a greater

emphasis on national policy might therefore be worthy of future attention.

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Appendix



Appendix 1

Commonwealth and State legal protection for heritage places in Australia (as of 2019).

	National (Commonwealth) Laws	State/Territory Laws
Protection of	Environment Protection and Biodiversity	Some individual World Heritage properties
World Heritage	Conservation Act 1999	are protected and operate through their own
	Replaced the World Heritage Properties	legislation at national and/or State levels.
	Conservation Act 1983, one of the first	
	national laws for World Heritage.	
	Also establishes the List of Overseas Places	
	of Historic Significance to Australia	
	(LOPHSA).	



Protection of Cultural Heritage places	Environment Protection and Biodiversity Conservation Act 1999 Establishes the National Heritage List, which includes natural, Indigenous and historic places that are of outstanding	 Heritage Act (Victoria), 2017 Heritage Act (NSW), 1977 Queensland Heritage Act (Qld), 1992 Heritage Places Act (SA), 1993 				
	heritage value to the nation. Australian Heritage Council Act 2003 Establishes the Australian Heritage	 Historic Cultural Heritage Act (Tas), 1995 Heritage Act (ACT), 2004 Heritage Conservation Act (NT), 2011 Heritage Act (WA), 2018 				
	Council, supersedes the Australian Heritage Commission Act.					
Historic Shipwrecks and Underwater Cultural Heritage	Underwater Cultural Heritage Act 2018 Protects shipwrecks, sunken aircraft and associated artefacts through cooperation between the Commonwealth and States/Territories.	Underwater cultural heritage in State waters is protected by State heritage laws.				
Indigenous Cultural Heritage places and objects	Aboriginal and Torres Strait Islander Heritage Act, 2004 Can protect areas and objects that are of particular significance to Aboriginal people, but is currently rarely used. Native Title Act 1993 Following the High Court's ruling in the "Mabo Case" this Act recognizes the existence of Native Title and enables Aboriginal Traditional Owners to establish their Native Title rights.	 Aboriginal Heritage Act (Victoria), 2006 National Parks and Wildlife Act (NSW), 1974 Aboriginal Cultural Heritage Act (Qld), 2003 Torres Strait Islander Cultural Heritage Act (Qld), 2003 Aboriginal Heritage Act (SA), 1988 Aboriginal Relics Act (Tas), 2017 Heritage Act (ACT), 2004 Aboriginal Sacred Sites Act (NT), 1989 Aboriginal Heritage Act (WA), 1972 				
Movable Cultural Heritage	Protection of Movable Cultural Heritage Act 1986 Regulates the export of objects of importance to Australia for ethnological, archaeological, historical, literary, artistic, scientific or technological reasons.	 Heritage Objects Act (ACT), 1991 Heritage Act (Vic), 2017 				
Intangible Cultural Heritage	No specific legal protection	Aboriginal Heritage Act (Victoria), 2006 Amendments in 2016 enable registration of Aboriginal intangible heritage on the Victorian Aboriginal Heritage Register. Aboriginal intangible heritage agreements will allow Traditional Owners to decide on whether and how their traditional knowledge is used and for what purpose.				



Gayageum, Korea. Image © iStock.com/Iseo Yang



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National heritage conservation policy in New Zealand

Nicola Jackson

Abstract

New Zealand's modern cultural and historic heritage conservation policy traces its roots to the Scenery Preservation Act in place around the turn of the nineteenth century. The first heritage conservation legislation sought the protection of specific sites and it was not until the mid-1950s that the first nationwide heritage conservation legislation was passed and the national organization for heritage, the National Historic Places Trust, was established (later becoming the New Zealand Historic Places Trust in 1980 and then Heritage New Zealand Pouhere Taonga in 2014). This legislation was expanded in 1975 to include the blanket protection of archaeological sites dating prior to the year 1900. In the following 65 years the heritage legislation has been continued, updated, and enhanced.

Heritage New Zealand Pouhere Taonga (Heritage New Zealand's lead national heritage agency (HNZPT, 2019a), a Crown entity established through the primary heritage legislation - the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT Act) (NZL, 2019a). The HNZPT Act sets out the main functions of the organization: recognizing heritage (including Māori heritage) through entry on the New Zealand Heritage List/Rārangi Kōrero (formerly the Register of Historic Places) and National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu status, managing heritage properties, regulating the modification of archaeological sites through the archaeological authority process and advocating for heritage by providing conservation advice to heritage owners, central and local governments. The HNZPT Act is supported by five statutory policies covering the core activities of Heritage New Zealand (HNZPT, 2019b). Other significant players in the heritage sector include the Department of Conservation Te Papa Atawhai (DOC, 2019a), local government, and the Ministry for Culture and Heritage Manatū Taonga (MCH, 2019a). DOC manages heritage on conservation lands (which cover about a third of New Zealand), and the World Heritage List nomination process. DOC

is guided by the Conservation Act 1987 (NZL, 2019b) which promotes the conservation of natural and historic resources and administers the National Parks Act 1980 (NZL, 2019c) and the Reserves Act 1977 (NZL, 2019d), the latter which provides for historic reserves.

Protection of heritage is achieved through the land planning legislation the Resource Management Act 1991 (MFE, 2019), which requires local government to identify heritage places in their district plans schedules and to protect them with objectives, policies, and rules. This requires owners to seek resource consent for changes to the heritage place including proposed relocation or demolition. Heritage conservation principles are promoted through the non-statutory ICOMOS NZ Charter (2010) which are widely used by central and local governments and the private sector.

Heritage protection and conservation legislation is supported by government policy including the policy for the management of heritage owned by government departments (MCH, 2019b), earthquake prone buildings policy through local government, and incentives for seismic strengthening (MCH, 2019c), the National Heritage Preservation Incentive Fund (HNZPT, 2019c), and processes for disaster response for heritage in emergency management plans.

Part 1: Historical Development of Modern Conservation Policy in New Zealand

Māori and Moriori, the first peoples of Aotearoa – New Zealand, have their own traditions and practices for the conservation of natural resources and the preservation of sacred and special places. For Māori, the traditions relied on moderating behaviour through concepts such as rahui (a temporary prohibition such as restricting the taking of seafood at certain times), tapu (places deemed to be sacred either temporarily or permanently and certain behaviours observed therein), and noa (to be free from the tapu). Māori and Moriori have a worldview which incorporates the natural environment with the living – imbuing

natural landmarks with cultural values in relation to earlier ancestors and giving a mauri (life force) to inanimate natural objects. The people are one with the land – tangata whenua "the people of the land". This paper focuses on European heritage conservation and does not explore the traditional conservation practices of Māori except where they intersect with European heritage conservation practices.

With the arrival of the first European settlers from 1820, the primary focus was on survival and prospering in a new land and they had little interest in conserving the cultural heritage landscape



(McLean, 2000, p.25). The term "heritage" is used throughout this paper to include sites, places, areas, buildings, structures and land that have cultural heritage value and includes wahi tapu (sacred places) and wahi tupuna (places associated with the ancestors). Indeed, the Treaty of Waitangi, New Zealand's founding constitutional document signed in 1840 by many iwi (tribe) in New Zealand and the British monarchy, focussed on matters of governance and sovereignty, land ownership, and the use of natural resources. The Public Reserves Act 1854 (NZLII, 2019a) allowed for land to be set aside for public utility. The Act was revised in 1877 and in 1881 (and later again as the Public Reserves and Domains Act 1908) and specified a wide range of types of public reserves including cemeteries and museums but not specifically heritage sites other than Native Reserves. Native Reserves were Māori reserves which were often urupa (cemeteries).

With the passing of time and the increasing numbers of settlers, by 1890 towns were celebrating their fiftieth jubilees providing an opportunity for townsfolk to set up organizations to recognize key milestones in their recent history and to conserve important places and green areas. Such organizations included the Dunedin Suburban Reserves Conservation Society (1888) who lobbied for the preservation of the town belt (a natural green strip around the growing towns to provide recreation and scenery benefits); and a decade later the Wellington Scenery Preservation Society who campaigned for the town belt and for the preservation of historic "spots", pa (Māori defended villages) and battlegrounds; and the Otago Early Settlers Association (1898) which soon set up the country's first social history museum (McLean, 2000, p. 27).

Early conservation efforts focussed on the natural environment with the national park system being established in 1887 with the creation of the first national park at Tongariro – incorporating the generous gift from Māori of the sacred peaks of Ruapehu, Ngauruhoe, and Tongariro. This important area also became a World Heritage Site in 1990 (UNESCO World Heritage Centre, 2018) for both cultural and natural values (and is today New Zealand's only World Heritage Site for cultural values).

The first effective site protection legislation arose in 1903 with the Scenery Preservation Act (NZLII, 2019b) which expanded the powers of the 1892 Act to include acquiring land in private ownership. "Lands of historic interest" were now included (McLean, 2000, p. 27).

Interest in historic European buildings and structures took longer to eventuate. While some significant buildings had been protected through site-specific legislation (for example, the Canterbury Provincial Buildings Vesting Act 1928 (NZLII, 2019c)), it was not until 1954 – following public outcry over the loss of and threat to significant heritage buildings - that legislation made it through the House to "preserve and mark" places. The Historic Places Act 1954 (NZLII, 2019d) focused on the preservation, marking, and keeping permanent records about land associated with Māori and early European visitors and settlers, places associated with events of national or local importance, natural objects with cultural associations and chattels, artefacts, and objects (NZLII, 2019d, section 3). The Act set up the National Historic Places Trust (later becoming the New Zealand Historic Places Trust in 1980 and then Heritage New Zealand Pouhere Taonga in 2014) whose powers were to compile records, erect signs or noticeboards on places of historical interest and to manage or own places of national or local historical interest.

Following the growing loss of archaeological sites through urban development and large scale state energy projects, agitation from the National Historic Places Trust and the New Zealand Archaeological Association led to an amendment of the Act in 1975 which provided blanket protection for all archaeological sites (whether recorded or not) and established a Register of Archaeological Sites (McLean, 2000, p. 39; NZLII, 2019e, section 9G). Owners were simply notified when significant archaeological sites were added to the Register and these sites were noted on land titles (this is no longer the case). The Trust could request local authorities to record the sites in their district planning schemes. This was the first true protection of heritage sites seen in New Zealand other than site-specific legislation to protect particular sites (for example, the Canterbury Provincial Buildings Vesting Act 1928).

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In 1980 the Register of Archaeological Sites was expanded to include historic places, historic areas and traditional (Māori) sites. Historic places were defined as including historic sites, buildings, natural objects, archaeological sites and traditional sites (NZLII, 2019f, Section 2). Buildings were classified as, in order of importance: a) preservation essential; b) of great significance; c) meriting preservation; and d) meriting recording. (NZLII, 2019f, Section 35). For the more significant buildings, Groups a and b, the Trust could issue protection notices to prevent demolition and notices to repair (NZLII, 2019f, Sections 36 and 41). Heritage covenants seeking the protection of places could be negotiated with a willing owner of a historic place and binds future owners, making this a very powerful protection mechanism (NZLII, 2019f, Section 39).

The precursor to the current national heritage legislation is the Historic Places Act 1993 (NZL, 2019e). This continued the New Zealand Historic Places Trust and enhanced the Register to include historic places, historic areas, wahi tapu and wāhi tapu areas (places sacred to Māori). However, much of the strong protection measures seen in the preceding legislation were removed. While heritage orders replaced the protection notices and notices to repair, they proved to be ineffectual protection tools due to the requirement of financial compensation in the event an order prevented the "reasonable use of place". Fortunately, the blanket protection for all archaeological sites and the provision for heritage covenants were retained. The Trust's key focus was on issuing consents to modify or destroy archaeological sites

(with requirements for recording), identifying and recognizing heritage through the Register, erecting plaques and noticeboards, advocating the protection of heritage owned by others and managing historic properties throughout New Zealand (NZL, 2019e, Section 14).

The 1993 Act also established the Māori Heritage Council (MHC) which has the authority to enter wāhi tapu/areas onto the Register and provides advice on matters of interest to Māori to the Trust Board.

Much of this focus continues in the current key legislation for the conservation of heritage in New Zealand – the HNZPT Act 2014, which continued the New Zealand Historic Places Trust Pouhere Taonga rebranded as Heritage New Zealand Pouhere Taonga. It is also worth noting that in 2004 the organization moved closer to government becoming an autonomous Crown Entity, but still remains at arm's length from political direction.

Heritage New Zealand is not the only agency which has statutory responsibilities for heritage conservation. Other players in the heritage sector include the government agencies the Department of Conservation Te Papa Atawhai (DOC) and the Ministry for Culture and Heritage Manatū Taonga (MCH), and local government via regional and district councils. Heritage conservation principles are promoted through the International Council on Monuments and Sites New Zealand Charter 2010 (ICOMOS NZ Charter) which are widely used by central and local government and the private sector. These are discussed in Part 2.

Part 2: Current National Heritage Conservation Policy in New Zealand and Recent Reviews

Primary Current Heritage Legislation and Review of the Historic Places Act 1993

The current key legislation for the promotion and conservation of heritage in New Zealand is the HNZPT Act. The Act provides for the identification, protection, preservation, and

conservation of the historical and cultural heritage of New Zealand. The Act continued the New Zealand Historic Places Trust as Heritage New Zealand Pouhere Taonga, still an autonomous Crown entity with all of its existing functions plus some new functions.



The legislative review began in 2008 as an amendment to the Historic Places Act 1993. Space here does not permit an in-depth discussion on the legislative review and what follows are the key highlights with more detail provided on the five statutory policies required by the replacement legislation. The key focus was on the regulatory functions of the organization - the archaeological provisions which regulate the modification of archaeological sites and consultation was carried out with key stakeholders in industry (infrastructure, forestry, telecommunications), local government, iwi, and New Zealand Archaeological Association. Fortunately, the policy direction for the legislative review was not to reduce the protection given to heritage, but conversely no increase in protection was mandated.

The key changes to the archaeology provisions include reducing the timeframes for processing archaeological authorities (consents) from up to 90 days to up to 20, 30, or 40 days (depending on complexity and whether Māori heritage was involved), and an increased focus on considering the interests of landowners. An enhanced role for the Māori Heritage Council was also provided with the Māori Heritage Council involved in all applications that affect Māori heritage. Although in reality, given the number of applications processed annually (around 600), much of this scrutiny is delegated to specialized staff. A new statutory lodgement period of five days to accept applications ensures applications are swiftly considered and the removal of the ability to "stop the clock" for applications, reduces time delays and red tape to enable faster decisions.

A new principle was added to the Act which requires Heritage New Zealand to work collaboratively with owners, iwi and hapū (subtribe), central government agencies, local authorities, heritage organizations, societies, corporations, and individuals.

New functions were added to the repertoire of Heritage New Zealand. A new list of the places in the country with the greatest significance are now recognized by the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu status. The earthquakes and subsequent loss of heritage in Christchurch were the impetus for this new recognition with the

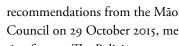
thinking that places which are so important to New Zealand should be protected as far as possible and future proofed to reduce risk to the place from natural disasters and other potentially damaging situations. Such places should be identified and be the priority for any funding. The National Historic Landmarks programme ultimately belongs to the Minister for Arts, Culture and Heritage as the Heritage New Zealand Board makes a recommendation to the Minister who can then enter a place on the National Historic Landmarks List. The Associate Minister for Arts, Culture and Heritage approved Te Pitowhenua/Waitangi Treaty Grounds as New Zealand's first National Historic Landmark on 19 June 2019, following consultation with the Minister of Māori Development. The National Historic Landmark programme was then officially launched at Waitangi on 27 June 2019 (HNZPT, 2019d).

Changes to the governance arrangements saw the removal of the Branch Committees – regional volunteer advocacy groups upon which the New Zealand Historic Places Trust was founded. Indeed, it was the Branch Committees that had been the primary vehicle for the identification of hundreds of historic places when the Register first came into being in 1980. Many of these committees have reformed into new regional or local groups and still provide much needed advocacy and community voice in heritage matters.

The review widened and a supplementary order paper resulted in changes to the Register with a new name for the national list of significant sites – the New Zealand Heritage List/Rārangi Kōrero (the List) – a change to the purpose of the Register that it be a source of information rather than to more directly "assist" in the protection under the Resource Management Act 1991 and a new List type – wahi tupuna being places with Māori ancestral connections. By now a new Act was being proposed rather than an amendment.

This later addition to add a new List type wahi tupuna was a direct request from the Māori Heritage Council to address the reluctance of some iwi and hapū to list places as wahi tapu as this created moral obligations and behaviours on site which may not be desired. The new type of list entry has been in place since 2014 and as of 2019

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Further discussion about the requirements of the HNZPT Act are covered below under each of the statutory Policy areas.

ten places have been entered on the List as wahi

tupuna (HNZPT 2019e).

New Statutory Heritage New Zealand Policies

Section 17 of the HNZPT Act required Heritage New Zealand to produce statements of general policy (the Policies) within eighteen months for the five key functions of the organization in order to demonstrate how the legislation would be implemented. No small feat for a small and resource stretched organization. Links to the Policies can be found here HNZPT, 2019b. These statements of general policy cover the:

- Administration of the archaeological provisions (Archaeology Policy)
- ii Administration of the New Zealand Heritage List/Rārangi Kōrero, and (List Policy)
- iii Administration of the National Historic Landmarks List/Ngā Manawhenua o Aotearoa me ona Korero Tuturu (National Historic Landmarks Policy)
- iv Statutory role of advocacy (Advocacy Policy)
- v Management and use of historic places owned, controlled or vested in HNZPT (Properties Policy).

The policy development process included a series of hui (meetings) across the country for iwi and hapū representatives involved in resource management processes. The key draft policies discussed were the Archaeological Policy, Advocacy Policy and List Policy. While the hui were not overly subscribed, the key people involved in the archaeological consent process attended. Following the hui, the draft policies were publicly notified in accordance with the Act and key stakeholders were notified. The Minister for Culture and Heritage was also provided an opportunity to comment on the notified drafts as well as the final drafts. Over 70 submissions were received which made over 1 300 submission points. A summary of submissions for each policy, point by point, was prepared and made publicly available (HNZPT 2019b). The Policies were approved by the Heritage New Zealand Board following

recommendations from the Māori Heritage Council on 29 October 2015, meeting the statutory timeframes. The Policies are yet to be really tested but staff regularly refer to the policies in their everyday work.

The Policies have similarities – they all have an introduction and legislative context and definition sections. The first section is the high level Purpose and Principles and the next section relates to Māori heritage values. The principles include those set down in legislation and wider principles applicable to the specific policy. The Māori heritage values section recognizes the relationship of Māori with their ancestral lands, water and sites, wahi tapu (sacred places) and wahi taonga (treasured places), and provides for strong relationships with Māori and the involvement of Māori in processes (such as consultation and memorandum of understanding or other formal or informal protocols with Māori). While the policies rely heavily on the HNZPT Act and are consistent with the legislation, they also clarify the provisions and, in some cases, give greater guidance to specific situations and the outcomes sought.

Many of the Policies contain a number of procedural matters that should really be included in accompanying guidelines however, a pragmatic decision was made to have one document that covered both policy and guidelines saving considerable time and effort both in the preparation and in future reviews (the exception to this is the Archaeology Policy where an existing set of guidelines for the public existed which have been updated following the passing of the legislation). The Policies also cross reference some content in the other Policies as appropriate.

i Archaeology Policy

The HNZPT Act recognizes that archaeological sites are often places of historic and cultural heritage value to Māori and other communities, and that they can be an important source of information about the past. It requires that modification or destruction of an archaeological site needs an archaeological authority (consent). Heritage New Zealand therefore regulates activities that may modify or destroy archaeological sites.

The Act is based on the presumption that adverse impacts on sites are avoided in the first



instance. However, it also requires Heritage New Zealand to manage activities affecting sites in such a way as to balance the benefits of land-use and the interests of landowners, with the safeguarding of archaeological heritage.

There are four types of archaeological authority: general, scientific, exploratory, and emergency. The HNZPT Act defines an archaeological site as any place in New Zealand, including any building or structure (or part of a building or structure), that (i) was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and (ii) provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and (iii) includes a site for which a declaration is made (NZL, 2019a, Section 2). With regard to buildings, an archaeological authority is required when a building constructed prior to 1900, which meets the definition of an archaeological site, will be demolished at one time or in stages over a period of time. Structures which meet the definition of an archaeological site require an archaeological authority before being modified or destroyed.

Heritage New Zealand weighs up all matters including the historical and cultural heritage value of the site, the landowner's interests and the interests of those directly affected in deciding whether to grant an archaeological authority to modify any part of an archaeological site.

Archaeological sites have a special heritage character as they represent our history written in the land. The Archaeology Policy "acknowledges that archaeological sites are non-renewable and HNZPT will seek the recovery of information [where protection and avoidance is not possible] and will work to ensure there are appropriate systems in place for anything recovered as part of this process" (HNZPT, 2015a, p. 9–10).

There are certain objectives Heritage New Zealand adheres to when administering the archaeological authority process. These, as stated in the Archaeology Policy, are to ensure that:

 Archaeological sites are identified, protected, preserved and conserved;

- Māori heritage values are respected and taken into account;
- The interests of landowners, applicants and affected parties are considered when making a determination;
- The protection of archaeological sites is based upon thorough knowledge through publicly available information;
- Historical and cultural heritage knowledge is gained through archaeological research;
- Koiwi tangata (human skeletal remains of all races) are treated in a sensitive and culturally respectful manner;
- Information relating to the historical and cultural heritage of New Zealand is recovered where protection of archaeological sites cannot be achieved;
- Processes under the RMA and HNZPT Act are aligned wherever possible;
- The authority process achieves avoidance and protection of archaeological sites where possible, and minimum impact on archaeological sites where avoidance is not possible;
- Decisions on authority applications are consistent with Heritage New Zealand's responsibilities to provide justifiable outcomes;
- Archaeological work meets accepted archaeological practice standards; and
- Administration of the statutory provisions achieves maximum compliance.

The Archaeology Policy covers the importance and value of archaeological sites, processing archaeological authorities (consents), access to information gained from sites and archaeological research, the recovery of human remains and archaeological material, relationship with the key land planning legislation – the Resource Management Act 1991, to reduce duplication of requirements and to seek enhanced alignment between the legislation, approval of the archaeologist who will undertake the archaeological work, and compliance. In addition to the Policy, there is also an existing guideline series which provides further guidance to the public in relation to the archaeological consenting process (HNZPT, 2019c).

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ii List Policy

The New Zealand Heritage List/Rārangi Kōrero (the List) is New Zealand's only national information about the range of significant heritage places across the whole country. The List provides information for heritage owners, local authorities and the general public and assists managing changes to a place and historical research. The purpose of the List is:

- to inform members of the public about historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas;
- to notify owners of historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas, as needed, for the purposes of the Act; and
- to be a **source of information** about historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas for the purposes of the Resource Management Act 1991 (HNZPT, 2015b, p. 4).

The List separately identifies five parts (HNZPT Act, Section 54):

- Historic places
- Historic areas
- Wāhi tupuna
- Wāhi tapu, and
- Wāhi tapu areas.

Historic places are further recognized as Category 1 or Category 2, with Category 1 denoting "places of special or outstanding historical or cultural heritage significance" and Category 2 "places of historical or cultural heritage significance or value" (HNZPT, 2015b, p. 4).

Historic places may also include any chattel or object (or class of chattels or objects) in or on the place which are considered to contribute to its significance.

All historic places and historic areas proposed for entry on the List "are assessed according to the following criteria: aesthetic, archaeological, architectural, cultural, historical, scientific, social, spiritual, technological or traditional" (HNZPT, 2015b, p. 16) significance or value. While a place or area only must meet one of the criteria to be eligible for entry on the List, according

to Section 66(I) of the Act, it is usual for a place or area to satisfy multiple criteria.

Further significance criteria are used to determine whether an historic place should be assigned Category 1 or Category 2 in relation to 1 or more of the following criteria (HNZPT Act Section 66(3)):

- the extent to which the place reflects important or representative aspects of New Zealand history;
- the association of the place with events, persons, or ideas of importance in New Zealand history;
- the potential of the place to provide knowledge of New Zealand history;
- the importance of the place to tangata whenua;
- the community association with, or public esteem for, the place;
- the potential of the place for public education;
- the technical accomplishment, value, or design of the place;
- the symbolic or commemorative value of the place;
- the importance of identifying historic places known to date from an early period of New Zealand settlement;
- the importance of identifying rare types of historic places; and
- the extent to which the place forms part of a wider historical and cultural area.

For detailed interpretation of the HNZPT Act criteria for assessing value of historic places and historic areas, refer to the Heritage New Zealand's *Significance Assessment Guidelines* (O'Brien, 2019).

According to the HNZPT Act, Section 2, wāhi tupuna are interpreted as places of Māori ancestral significance and associated cultural and traditional value (NZL, 2019a, Section 2). They are significant to iwi or hapū because of the important events or exploits related to ancestors that occurred or the esteem that the ancestors themselves recognized at these places. A wāhi tupuna will have strong traditional associations with one or more ancestors significant to an iwi or hapū, be integral to the identity or cultural wellbeing of the iwi or hapū and be a distinct and cohesive place or area (HNZPT, 2017, p.12–16).

Wāhi tapu are defined in the Act as "a place sacred to Māori in the traditional, spiritual, religious ritual or mythological sense" and a wāhi tapu area comprises any areas containing one or more wāhi tapu. These sacred places may be related to burials, rock art, places associated with sacred rituals and battlegrounds where blood was shed.

In addition, Historic Areas and Historic Places may also be of significance to Māori.

As of 24 July 2019 the List contains 5 747 entries which represent some 7 060 individual heritage places or features (HNZPT Pataka Database, 2019). Historic Areas for example contain more than one place, and in some cases may comprise an entire suburb or the majority of a town. The breakdown by List type is shown in Figure 1 with historic places being the most numerous List type.

Entry on the List does not equal automatic protection, directly create regulatory consequences or legal obligations on property owners or create specific rights or control over property. It can, however, provide heritage funding opportunities and lead to properties being considered for inclusion in district plan heritage schedules. If included on a district plan heritage schedule, consent may be required to make modifications to the place. Local authorities are required to notify Heritage New Zealand if a building consent application

Figure 1
Entries by Type on the
NZ Heritage List/Rārangi
Kōrero as of 1 April 2019.

is received regarding a property on the List. Heritage New Zealand is often considered by local authorities as an affected party for resource consents

NZ Heritage List Type	Number of Entries	
Historic Area	127	
Historic Place Category 1	1 006	
Historic Place Category 2	4 408	
Wahi Tapu	104	
Wahi Tapu Area	65	
Wahi Tupuna/Tipuna	4	
Total	5 714	

enabling Heritage New Zealand to provide heritage advice on modifications to heritage properties.

The Objectives (HZNPT, 2015b, p. 7–24) in the List Policy are to ensure:

- The List is inclusive in its identification of significant historical and cultural heritage;
- Significant Māori heritage sites are included in the List;
- The List is an easily accessible source of information;
- The List is authoritative, respected and a comprehensive source of information for the purposes of the Resource Management Act 1991 (RMA);
- Historical and cultural heritage entered on the List is conserved for the future;
- The List includes a variety of the themes, activities, cultures and traditions that contribute to our historical and cultural heritage;
- The application process is inclusive, open and administered efficiently and fairly;
- Historical and cultural heritage is entered on the relevant part of the List appropriate to its significance or value and the definitions and criteria provided in the Act;
- Heritage New Zealand ensures appropriate notification and undertakes effective and meaningful consultation in its administration;
- Consultation with iwi and hapū is inclusive and meaningful;
- Information supporting decisions is sufficient and appropriate to the circumstances of the proposed entry;
- Entry decisions are robust and can withstand review;
- Heritage New Zealand maintains and develops the List to the highest standards achievable;
- Heritage New Zealand ensures the reliability and accuracy of the List as a source of information through the review process.

iii National Historic Landmarks Policy

Heritage New Zealand, in collaboration with the Ministry for Culture and Heritage and the Department of Conservation, has developed the framework for the National Historic Landmarks List (HNZPT, 2015c) which

will recognize places that are of outstanding national heritage value.

The aims of the National Historic Landmarks List can be broadly summarized as to:

- Identify and celebrate places that showcase what it means to be a New Zealander;
- Promote an appreciation of the importance of these landmarks, be they in private or public ownership;
- Ensure these landmarks are protected, conserved and are accessible so they can be enjoyed by present and future generations.

The Minister for Arts, Culture and Heritage decides which places receive National Historic Landmark status in consultation with the Minister of Māori Development. The Minister also decides whether to remove or review Landmark status.

The status of National Historic Landmark is given as a mark of distinction to those places with the greatest heritage value. These places will have outstanding historical, physical and/or cultural heritage significance.

The Landmarks Policy seeks to ensure the following key objectives (HNZPT, 2015c, p. 6–17) are met:

- The places of greatest heritage value are identified, protected, conserved and promoted;
- National Historic Landmarks are identified, conserved and promoted using appropriate consultation methods;
- National Historic Landmarks are identified, conserved and promoted using collaborative methods;
- Celebrate and promote an appreciation of the places of greatest heritage value;
- New Zealanders and visitors engage with National Historic Landmarks;
- Māori heritage values inform the identification, conservation and promotion of National Historic Landmarks;
- Potential Landmarks are supported by information that confirms their eligibility;
- Landmarks are a collection of places of outstanding national heritage value and represent a variety and range of themes, activities, cultures and traditions;

- Assessment is consultative and transparent;
- Landmarks proposed for entry are adequately researched, documented and recorded;
- Landmarks recommended for entry have strong evidence of broad national and community support for their inclusion;
- Landmarks provide information about New Zealand's most significant heritage places;
- Landmarks are conserved to the greatest extent practicable, including their protection from natural disasters;
- Reviews are open and transparent.

iv Advocacy Policy

Heritage New Zealand's statutory role of advocacy refers to supporting and promoting the conservation of historical and cultural heritage, as set out in the HNZPT Act, Sections 13, 14, 27. The primary advocacy role is providing heritage conservation advice to owners of heritage properties and local authorities.

As discussed under the List Policy section, entry on the New Zealand Heritage List does not convey automatic protection. Places entered in a district or city plan heritage schedule accompanied with objectives, policies and rules seeking the protection of heritage is the primary mechanism for conserving heritage in New Zealand. Heritage New Zealand is an active participant in planning processes which often involves the need for owners to obtain resource consent before being able to modify or demolish a scheduled place (for more discussion refer to the Protection/Conservation section later in this paper).

Heritage New Zealand advocates (HNZPT, 2015d, p. 5) for heritage in a variety of ways including:

- Engaging with owners and their advisors on the conservation and protection of heritage, including Māori built heritage;
- Engaging with local authorities and input to the development of resource management policy statements and plans, and other planning documents;
- Advising applicants and local authorities on resource consent and building consent applications that may affect heritage, and where necessary becoming involved in the formal consent process;

- Planning for, and advising on, heritage values in a civil defence emergency;
- Promoting non-regulatory methods such as financial incentives for increasing the resilience of heritage;
- Informing and training people about conservation principles and practices;
- Providing incentive funding and supporting applicants applying to other schemes for heritage conservation work;
- Input to the development of government policy that has implications for heritage;
- Owning and/or directly managing a portfolio of heritage properties.

About two-thirds of New Zealand's significant historical and cultural heritage is in private ownership (HNZPT, 2015d, p.7). In recognition of the benefits to the public from conserving heritage, owners have access to funding sources that are not available to non-heritage property owner. For more on incentives refer to the 'Incentives' section later in this paper.

While Heritage New Zealand's advice to owners and councils is generally well-regarded, there are times where owners perceive the heritage requirements to be an unwanted and potentially costly burden. Staff work hard to achieve mutually beneficial outcomes with owners but there are occasions when they are unable to support an owner's proposal (HNZPT, 2015d, p. 7). The Policy recognizes that the best outcomes for heritage places are achieved by early engagement and advice, before plans are finalized. This enables heritage conservation practice to be incorporated into any proposals that affect the heritage values of a place.

Heritage New Zealand focuses its advocacy work on the most significant places and this priority-setting recognizes that the organization is unable to participate in every policy or consent issue. The Advocacy Policy states the following key principles (HNZPT 2015d, p. 10–11) for advocating and conserving heritage:

- Valuing historical and cultural heritage now and in the future;
- Safeguarding historical and cultural heritage for present and future generations;

- Enhancing resilience (including maintenance and adaption for the on-going use of buildings and sites, minimising risks and enhancing public safety);
- Addressing the most important issues;
- Providing advice on a sound information base;
- Recognizing the relationship of Māori with their heritage;
- Recognizing the interests of owners;
- Working collaboratively with heritage owners, professionals, central government and local authorities, iwi and hapū, businesses, sector interest groups, community groups and individuals;
- Engaging the public with heritage places and their associated stories.

v Properties Policy

Heritage New Zealand manages a portfolio of 44 (formerly 48) historic places for the purpose of protecting, conserving and interpreting places of historical and cultural importance to New Zealand (HNZPT 2015e, p. 1). The majority of these properties are of outstanding significance and are in very authentic condition which makes them rare survivors worthy of government care and investment. Each place contributes to a sense of national identity, deepens an understanding of heritage and contributes to a national network of cultural tourism sites providing quality visitor experiences.

A mixed funding model of government, commercial, and philanthropic monies, ensures a level of success and sustainability. However, there continues to be an imbalance between the property management responsibilities of Heritage New Zealand and the resources available to carry them out. Heritage New Zealand continues to seek management arrangements and commercial opportunities that are conservation-led, protect heritage values and allow opportunities for the public to appreciate and engage with significant historic places.

The key objectives in the Properties Policy (HNZPT, 2015e, p. 8–28) to guide the organization in its management and use of these properties are to ensure Heritage New Zealand will:

- Manage historic places of significant heritage value and provide for their protection, conservation and appreciation;
- Ensure the management and use of its places and heritage collections of interest to Māori are conserved, protected, and interpreted appropriately;
- In its management and use of its places act in accordance with applicable statutory requirements, functions and powers;
- Prepare and be guided by plans in the management and use of its historic places;
- Protect and conserve the heritage values of historic places it owns and manages;
- Adapt places for a compatible use, develop or involve new constructions that will contribute to the conservation and protection of heritage values of the place;
- Make places owned and managed accessible to the public;
- Develop effective relationships and partnerships with communities and agencies to enhance its management and interpretation of places;
- Ensure interpretation of its places reveal their values, inspires a sense of national identity and enhances visitor experience;
- Ensure research supports their conservation and interpretation;
- Ensure information and records relating to its places supports their conservation and interpretation;
- Ensure relevant heritage collections and collection items support the interpretation of places managed by Heritage New Zealand and are cared for in an appropriate manner;
- Ensure decisions on the acquisition and management of places are robustly reached;
- Ensure decisions on the disposal of places owned or managed or the implementation of alternative management arrangements are informed by robust assessments;
- Ensure any agreement to transferring real property rights of a place it owns or manages is consistent with its conservation and interpretation.

Protection/Conservation

The HNZPT Act does not protect heritage directly, except by way of heritage covenants and in the

regulation of the modification of archaeological sites. The key method of protecting heritage places comes through the land planning legislation the Resource Management Act 1991 (MFE, 2019), which requires local government to identify heritage places in their district plans schedules and to protect them with objectives, policies, and rules. This requires owners to seek resource consent for changes to the heritage place (including for proposed relocation or demolition). While district plans have recognized the importance of places on the New Zealand Heritage List/Rārangi Korero scheduling eighty-eight percent of places entered in the List on their district plans (HNZPT, 2018, p.6), Māori heritage, which is under-represented on the List, has not been so readily picked up. This is in part due to the reluctance of Māori to identify the locations of their special and important sites and also due to a disproportionate focus on buildings rather than sites and landforms (of which most sites of significance to Māori are).

Archaeological sites are primarily regulated through the HNZPT Act (as described earlier in this paper). However, this regime can only control the effects on the physical site. District Plans must consider archaeological values as a subset of historic heritage and can control visual and other sensory effects on significant archaeological sites scheduled in their plans. Care is taken to avoid duplication of controls and the Archaeology Policy addresses this directly.

ICOMOS NZ Charter

The International Council on Monuments and Sites (ICOMOS) is an international non-governmental organization of heritage professionals founded in 1965. The New Zealand Committee was established in 1987 and in 2010 revised the two earlier versions of the NZ Charter (1993 and 1995).

The ICOMOS NZ Charter covers purpose, principles, practice and processes of conservation (ICOMOS NZ, 2010). It provides clear definitions of commonly used conservation terms. It is perhaps best known for its high-level heritage conservation principles especially those related to the level of intervention deemed appropriate for conservation best practice. The Charter is the main policy document referred to for

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general heritage principles and it is used by many heritage professionals in the preparation of conservation management plans, district councils in their heritage strategies (for those that have them), by expert witnesses in resource consent hearings and Environment Court appeals, and by government agencies to guide best practice heritage management (such as: DOC and Heritage New Zealand).

Identification

The two main national inventories of heritage places are the New Zealand Heritage List/Rārangi Kōrero managed by Heritage New Zealand and the New Zealand Archaeological Association (NZAA) Archaeological Site Recording Scheme which records known archaeological sites. The latter is managed by a tripartite agreement between NZAA, DOC, and Heritage New Zealand and is also identified by Heritage New Zealand as the national inventory of archaeological sites referred to in the HNZPT Act. Both inventories are available online (HNZPT, 2019e) and (NZAA, 2019) and although the latter requires a subscription to access the site records.

Archaeological sites are routinely added to the Archaeological Site Recording Scheme through the archaeological authority consenting process under the HNZPT Act and via research projects. Heritage New Zealand has added, on average, 30 new entries on the New Zealand Heritage List/Rārangi Kōrero annually over the past eight years. However, over the past couple of years this figure has dropped as staff have been diverted onto National Historic Landmark work.

Department of Conservation

The Department of Conservation (DOC) has a legislative mandate for the "preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations" (DOC, 2019b). DOC manages heritage properties on conservation lands throughout New Zealand (conservation land makes up a third of the country) and administers the National Parks Act 1980, Conservation Act 1987, Reserves Act

1977 and the World Heritage List nomination process. There is currently only one New Zealand site inscribed on the World Heritage List for its heritage values – Tongariro National Park. This site is recognized for its cultural landscape, geological, and ecological values (UNESCO World Heritage Centre, 2018).

DOC is guided by the Conservation Act 1987 (NZL, 2019b) which promotes in its very purpose the conservation of natural and historic resources. The National Parks Act has a strong protection focus including for historic resources within park boundaries (NZL, 2019c). The Reserves Act 1977 (NZL, 2019d) has specific provision for the creation of historic reserves which has some of the strongest protection available in the nation – but like the National Parks Act, is seldom used to full extent.

Despite these three pieces of legislation having provisions for the conservation of heritage, the key focus for the cash strapped organization is on natural heritage – species protection, pest control, biodiversity, and recreation. Indeed, the Conservation General Policy 2007 required by the Conservation Act has only a short heritage section containing five high level policies dedicated to heritage conservation (DOC, 2019c).

Other Government Policy

The Ministry for Culture and Heritage is responsible for the oversight of heritage policy (MCH, 2019a). Heritage protection and conservation legislation is supported by government policy including the Policy for the Management of Heritage owned by government departments, earthquake prone buildings policy and incentives for seismic strengthening, the National Heritage Preservation Incentive Fund, and processes for disaster response for heritage in emergency management plans. These are covered below:

a Government Policy for the Management of Government Owned Heritage

Government departments collectively manage a large and significant portfolio of heritage places. These properties illustrate aspects of past and continuing government activities, and New Zealand's social and economic development, culture and identity and are often not managed for their heritage values but as building assets.

In 2004, the Government showed its commitment to the promotion and protection of New Zealand's heritage by approving the Policy for the Management of Government Owned Heritage (MCH, 2019b). The Policy includes key principles designed to inform a best practice approach to heritage management in New Zealand by government departments and reflect international and national charters and guidelines and national legislation (the policy is available on the MCH website: MCH, 2019b). The Key Principles are:

- Historic heritage has lasting value in its own right and provides evidence of the origins and development of New Zealand's distinct peoples and society;
- The diverse cultures of New Zealand and its diverse social and physical environments are important considerations in historic heritage identification and management;
- Places of historic heritage value are finite and comprise non-renewable resources that need to be safeguarded for present and future generations;
- The government has a significant role in the management, with Māori, of places of significance to iwi and hapū throughout New Zealand;
- The conservation of historic heritage requires that the resource be fully identified, researched and documented;
- Historic heritage practice involves the least possible alteration or loss of material of historic heritage value.

The Policy contains specific polices relating to identification of heritage, recognizing heritage through entering on the New Zealand Heritage List/Rārangi Kōrero, conservation and disaster planning for heritage, alteration, monitoring and repair, use, acquisition and disposal. However, as well meaning as the Policy is, the Policy has had little effect in convincing government agencies to retain and maintain their heritage places. Consequently, the Policy, in 2019 is under review.

b Incentives

There are several grant funders available in New Zealand for heritage conservation work.

The largest fund – the Lottery Grants Board's Environment and Heritage Committee distributes substantial grants to places where the owners have charitable status (such as many church organizations). There are two national funds available specifically for heritage conservation work – the National Heritage Preservation Incentive Fund (HNZPT, 2019c) and the newer Heritage EQUIP fund (MCH, 2019c) which focusses on seismic strengthening of Heritage Buildings.

The National Heritage Preservation Incentive Fund is administered by Heritage New Zealand and supports private owners of Category 1 and Category 2 historic places and wāhi tapu and wāhi tupuna List entries. The Fund policy is owned by the Ministry for Culture and Heritage. A total of half a million dollars (NZD) is available annually to be allocated to conservation projects where the grant amount is no more than 50 percent of the total cost. A maximum grant of NZD100 000 may be applied for. The fund was established to recognize the public value of heritage in private ownership and to incentivize the conservation of these significant places. There is little other funding available to private owners – some district councils do have funds: a few large councils are able to provide substantial grants whereas the majority of councils can only contribute small grants if at all.

The Government, through the Ministry for Culture and Heritage, recently announced a new NZD12 million funding package – the Heritage Earthquake Upgrade Incentive Programme or Heritage EQUIP (MCH, 2019c) to assist private owners of heritage buildings to strengthen their earthquake-prone heritage buildings to meet the requirements under the Building (Earthquake-prone Buildings) Amendment Act 2016 (NZL, 2019f). There has been a sharp focus in New Zealand of seismicity issues and a push to shorten timeframes for getting all buildings strengthened.

Heritage EQUIP is designed to incentivize the strengthening to life-safety standard of heritage



buildings that are entered on the New Zealand Heritage List/Rārangi Kōrero. The programme is a support package with two parts:

- Funding available for seismic strengthening work;
- A web-based information package about the process for strengthening earthquake-prone heritage buildings.

c Emergency Management of Heritage

The role of Heritage New Zealand in emergency management in times of local and national declared emergencies has been formalized through provision in the 2014 Act (Section 13 (g)) and this has been reciprocated in the National Civil Defence Emergency Management (CDEM) Plan (DPMC, 2015) and is being picked up in regional CDEM Group Plans.

The role of Heritage New Zealand and the Ministry for Culture and Heritage in the case of a declared civil defence emergency is specified in the National CDEM Plan under Section 15, Building Management (DPMC, p. 6):

- (4) Heritage New Zealand Pouhere Taonga may
 - a. assist CDEM Groups and territorial authorities in identifying and managing risks to heritage

- buildings and sites from hazards that may result in an emergency; and
- Provide advice and support to [a Controller] and the appropriate territorial authority on matters relating to heritage during response and recovery operations.
- (5) The Ministry for Culture and Heritage, in consultation with the Ministry of Business, Innovation and Employment, is to provide cultural and heritage policy advice to the Government as requested.

This is timely given the higher incidence of significant earthquakes and extreme weather events in recent times.

In addition, policy work has resulted in a new process (yet to be formalized by the government) for managing the approval process for demolition of heritage buildings during a state of national or local emergency. This policy sees a hierarchy of approvals required depending on the significance of the heritage place (generally buildings) involved. The Minister for Culture and Heritage jointly with the Minister of Building and Construction has the final say on the demolition of heritage places deemed to be of national significance (including National Historic Landmarks) during a state of national or local emergency.

Conclusion

The policy environment for heritage in New Zealand has changed over the past decade, mostly to improve heritage conservation and protection. In part, the improved protection and recognition has resulted in response to the Canterbury earthquakes of 2010 and 2011. The legislation review concluding in 2014, which received cross party support like the earlier 1993 Act enjoyed, can be argued as strengthening the government's commitment to heritage while balancing the interests of owners. However, the protection of heritage regime has a number of players – local and central government and private individuals,

companies, and organizations, who are yet to work collaboratively or to be aligned on heritage outcomes. A move towards this saw Heritage New Zealand Pouhere Taonga in 2016 and 2017 working collaboratively with the Department of Conservation and the Ministry of Culture and Heritage, on two Minister-led projects related to heritage visitor sites namely – Tohu Whenua: Landmarks that tell our stories and heritage property rationalization between the three agencies: HNZPT, DOC and MCH. Perhaps this engagement will lead to greater collaboration on heritage outcomes in the future.

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Postscript: In 2019, the MCH launched a Minister initiative to review the Heritage Protection regime

with a view to strengthening heritage protection in New Zealand. This work is underway.

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Historical tower in Karachi, Pakistan. Image © iStock.com/Milad Sheikh



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Quest for a national paradigm of heritage recognition and management in Pakistan: conflicts, concerns and capacities

Anila Naeem



Abstract

The Islamic Republic of Pakistan as a nation takes great pride in its rich and diverse cultural heritage spanning over five thousand years and proclaimed far beyond its national borders. Managing this multifaceted heritage has remained a challenge, both at national and provincial levels. Diversity of representations in cultural property within religious, cultural, political and ethnic spheres has given rise to issues of proprietorship, sometimes creating rifts when restrained by the limitations of a politico-religious ideology not unanimously endorsed nationally. This resonating variety is also not reflected through national and international listings for heritage designation - thus disregarding recognition where due. This paper attempts to review and analyse the policies, legislation, and organizational frameworks presently in practice within Pakistan, to deal with the management, maintenance and protection of its historic sites and cultural properties. In the light of international tools and guidelines the heritage listings officially recognized at national, provincial, and international level, are evaluated.

The Islamic Republic of Pakistan came into existence on 14 August 1947 based on a national ideology framed through the two-nation theory dividing the subcontinent into separate states having Hindu and Muslim majority areas, respectively. The early decades of Pakistan's national evolution focused on a balanced society based on constitutional lines. However, the 1980s saw a shift towards a state-driven Islamising of beliefs and practices. Achieving a unified front across the border on religious grounds remained a far-fetched desire. The arising conflicts have been reflected in the heritage sector, where a diverse range of deep-rooted sociocultural traditions, complexity of ethnicities, and variations in religious practices make it impossible to achieve a unanimous acceptance of a singular heritage identity – unless the diversified mosaic of cultural and historic traditions are duly

recognized. Complicating the task of defining cultural heritage even further is the undeniable existence of strong influences from religious practices which have historically dominated the region for centuries (Buddhism, Hinduism particularly the rich Gandhara culture), leaving behind a magnificent legacy of built heritage that cannot be ignored as significant historic assets. In this paradox of what should be acknowledged and what would be politically incorrect to be given its due recognition, the policymakers and implementers are faced with a challenging task. Decades of struggle have been fruitless in achieving this unattainable goal. Unless political forces begin to give due recognition to sub-regional ethnicities and cultures forming the rich mosaic of Pakistan's heritage, its true reflection will not be fully represented.

Management and monitoring responsibility

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The responsibility of management and maintenance of heritage properties in Pakistan belongs primarily to the Department of Archaeology and Museums (DOAM) - its Federal unit based in Islamabad functioned under the Ministry of Culture, Government of Pakistan (GoP), until 2011. Subdivisions of DOAM - the Southern Circle covered Sindh and Baluchistan, and the Northern Circle covered Punjab, Khyber Paktunkhwa and the Northern Areas of Pakistan. Government devolution resulting from the Eighteenth Amendment Act 2010 (Ali, 2019) and practically implemented in 2011, led to the abolition of the Ministry of Culture, reducing the scale and jurisdiction of DOAM's federal unit within the limits of Islamabad; its surplus staff transferred to provincial subdivisions. Since 2011, all the monuments and sites given protection under federal law have been handed over to their respective provinces. World Heritage Sites in Punjab were handed over to the provincial department in 2004-2005, whereas the Government of Sindh (GoS) struggled to get its two sites transferred to provincial

control (DAWN, 2008) for several years; before this finally materialized in 2013. The provincial departments of culture were to be empowered with resources and trained staff from DOAM, to work under the Department of Culture in each province. This however, did not happen equitably for all provinces. Presently the situation of existing professional capacity to handle the huge responsibility in each province differs substantially. The worst situation is faced in Baluchistan, where pulling out federal resources, including DOAM's trained staff, created a crisis situation (DAWN, 2012). The Department of Antiquities in Sindh was created in 2009, with a defined objective of looking after the "archaeological, historical and physical heritage of the province". Its head office was in Karachi and sub-offices scheduled to start functioning in Thatta, Shikarpur, Jamshoro, Hyderabad and Sukkur (GoS, 2009). Many activities initiated through this department overlapped with responsibilities of DOAM hence creating a conflict in jurisdiction. Many sites across Sindh underwent extensive restorations (often not based on scientifically tested methods) through projects



launched by the Department of Antiquities, often supervised by staff not having any formal training in heritage conservation. Consequently, the turf of heritage management is most contested in Sindh where, within the government sector, between 2009 and 2011, DOAM, the Department of Antiquities and the Department of Culture functioned parallel to each other having constant rifts of jurisdiction on heritage sites. A recent restructuring attempt has brought both the Antiquities and Archaeology departments under one umbrella – the Department of Culture, GoS. Other conflicts of jurisdiction exist in all provinces due to the existence of Auqaf (religious affairs) departments controlling religious properties coming under waqf (endowment) trusts, having their own autonomous status in managing their funds and resources, and maintaining their sites with little or no regard to accepted standards/ principles of conservation.

Professional capacities of departments responsible for heritage management (with the exception of archaeology) are overshadowed

by bureaucrats in the decision-making process, lacking technical knowledge to device systems based on professional expertise. The existing heritage preservation laws have not made a significant impact, primarily due to insufficient administrative and management instruments to ensure their strict implementation. An objective evaluation of conservation projects indicates an acceptance/insistence on supporting inappropriate practices, particularly in government sponsored projects, where inputs from trained conservation professionals are ignored, resulting in irreversible damage to even the most important heritage sites across the country. A policy subscribing to an approach of over-restoration and extensive replacement of original materials prevails in conservation practice. Restoration works are tendered out to contractors having no background or knowledge of historic materials; producing "new" looking sites that in no way comply with the accepted principles of conservation/restoration.

In perspective: heritage legislation and policies

The definition for heritage worthy of protection has been framed in Pakistan through legislative tools such as the national and provincial acts covering both movable objects and immovable antiquities and monuments having significance in terms of archaeological, architectural, historical or cultural values – even including within its scope the recognition for aspects of urban settings. The common perception of heritage, however, has largely remained limited to monumental landmarks, archaeological sites, and artefacts of antiquity. Policies which acknowledge and create awareness and recognition for layers of inherent cultural representations that have historically contributed to the evolution of present-day society are largely overlooked. The policy frameworks derived at federal level and incorporated in subsequent Five-Year Plans (a series of documents prepared for defining goals for economic development initiatives in the country). The first Five-Year Plan 1955–1960 in practice could not

be implemented due to prevailing political instability. But in 1958 the Planning Commission of Pakistan was established which is now responsible for preparing the Five-Year Plans and related reports and reviews on the achievements and implementation and Perspective Development Plans, to support and direct progress in the domain of cultural heritage, reflect on a conscious attempt to emphasize more on Islamic cultural representations, especially since the 1980s; influencing the official listings representing national heritage at varying levels (Naeem, 2013a).

The formulation of a national level policy to deal with heritage assets does indicate a widening of perception over decades – apparent from definition statements in the consecutive Five-Year Plans. The Sixth Five-Year Plan (1983–1988) is probably the first time in the history of planning when priority was given to cultural heritage; identifying a need to improve coordination between federal and provincial

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agencies dealing with the country's heritage assets. However, the focus remained purely on building (i.e. physical infrastructure). Following this lead, the Seventh Five-Year Plan (1988–1993) claimed adopting an integrated approach towards cultural development incorporating a range of activities including physical preservation, historical research, and promotion of arts and crafts: further expanding the vision to formulation of policy framework and identification of priority areas for action. While identifying the major elements of a national culture policy, foremost mention was given to "consolidating the foundations of faith and re-vitalising Islamic values" followed by a need for "preserving and consolidating the nation's heritage in general and its Islamic heritage in particular"; furthermore, including the promotion of Indigenous subcultures, cultural integration, and socio-economic wellbeing of the people through support of cultural activities (GoP, 1988).

In response to the directions framed in the Seventh Five-Year Plan a National Conservation Strategy (NCS) was formulated and adopted by the Cabinet of the Government of Pakistan (GoP) in March 1992; addressing issues of conservation and sustainable use of natural resources for economic development (IUCN, 2007). The NCS "defines three explicit objectives: conservation of natural resources, promotion of sustainable development, and improvement of efficiency in the use and management of resources" (GoP, 1992). Announcing a "call for action" the NCS invited central and provincial governments, businesses, NGOs, local communities, and individuals to seek a change in attitudes and practices through two key values: "the restoration of conservation ethic derived from Islamic moral values called qanat (being content with what one has), and the revival of community spirit and responsibility haquq-ul-abad (rights of fellow human beings). The NCS recommended fourteen programme areas for priority implementation, incorporated in the Eighth Five-Year Plan (1993-98), among which "preservation of cultural heritage" was listed at number fourteen, the bottom of the list; and defined to include within its scope the following (GoP-IUCN, 1991; p. XXV, p. 351):

- Area conservation of large urban centres of historical and cultural significance;
- Area conservation of small historic towns;
- Conservation of historical monuments and buildings;
- Conservation of archaeological sites, monuments and forts;
- Restoration of buildings of architectural merit; and
- Identification and documentation of traditional resource-conserving cultural practices.

Midterm review of the Eighth Five-Year Plan refers to activities on restoration of a few monuments and new construction projects for archives and an art gallery in Islamabad. There is however, no mention of activities undertaken to address other aspects defined in the scope for preservation of cultural heritage.

The Ten-Year Perspective Development
Plan 2001–2011 and Three-Year Development
Program 2001–2004 indicate an increased
consciousness towards relating cultural heritage
assets with economic wellbeing, identifying
a need to invest in activities generating income
through historic monuments and sites, attempting
to connect with the tourism industry.

A draft document for Cultural Policy of Pakistan proposed by the Ministry of Culture, GoP, in 2005 was another (failed) attempt to frame a national policy. This was a very generalized document dealing with a wide range of areas including visual and performing arts, architecture, history of science and technology, and tangible and intangible cultural assets; all mentioned in a cursory manner. It briefly identified a need for documentation, the creation of a centralized database and the creation of institutions to deal with different aspects of cultural heritage; however, with no concrete directions for specified areas or vision to practically address issues of historic built environments and cultural heritage.

In spite of this series of consecutive plans and policy documents on cultural heritage management and promotion the government institutions responsible for implementation lack the capacity to address the identified targets and have failed to deliver beyond brick and mortar. There have been no conscious efforts to engage





institutions or departments having a potential of broadened perceptions. A progressive growth of cultural heritage sector, beyond archaeology and monumental architecture, has never materialized in popular practice.

Chronological development of heritage legislation

At the time of independence, the inherited law for heritage protection in Pakistan was the Ancient Monuments Preservation Act 1904 (AMP Act 1904) (ASI, 2019) introduced by the British government of India. Immediately after independence the Antiquities Export Control Act 1947 (IL, 2019) was enacted to control and regulate illicit trafficking of movable artefacts. These two acts were repealed through the Antiquities Act 1968, which in actuality retained most clauses of AMP Act 1904 with only a few modifications. Some inconsistencies identified in its text, with the Constitution of Pakistan, led to a revision of the Antiquities Act in 1975 including redefinition of ancient monuments on the basis of age, (the revision gave recognition to ancient monuments "dating prior to 1857"); this eligibility was further changed through an amendment in 1992 (section 2b) restricting the age requirement to be "not less than seventy-five years" and since then it has remained the primary federal law giving protection to cultural property in Pakistan. Further amendments in 1978 and 1992 brought minor changes to the text, but largely the 1975 version remains intact and is "considered quite effective, provided it is administered" (IUCN, 2004, p. 259). The definition of cultural property provided in the Antiquities Act 1975 (DOAM, 2002) covers a wide spectrum of both "movable" and "immovable" antiquities, including their urban aspects, however, these have never been fully recognized in practice, limiting the scope only to archaeological sites and monumental historic buildings.

Another national level legislation relevant to cultural property is the Auqaf (Federal Control) Act 1976 (GoP, 1976) and its provincial level extensions, including the respective Sindh,

Punjab, Baluchistan, and the North West Frontier Province (NWFP) which is now known as Khyber Pakhtunkhwa (KP) Waqf Properties Ordinance 1979 and Azad Jammu and Kashmir Waqf Properties Act 1960. These deal with properties permanently dedicated for any purpose "recognized by Islam as religious, pious or charitable" excluding any property through which profits for family or descendants of the person who created that waqf are being drawn. Many buildings including mosques, shrines, khankha, dargah, or takia, come under the waqf property trusts.

Prior to 2010, legislative support to cultural property in Pakistan extended beyond just providing for physical protection through legal binding on owners and users, but also provided for financial support. In this regard the National Fund for Cultural Heritage Ordinance 1994 (NFCH) became instrumental in creating a non-lapsable federal fund (in 1993-94 Rs.50million were provided to establish the fund; increased in 1995–96 to Rs.100 million). This fund however, remained eclipsed by problems of management and dispersal, primarily due to irregularity of board meetings and delays in decision-making regarding awarding of funds to projects. Although the fund had a website, updated information was not made available for public scrutiny; hence lacking the ethos of transparency. The repeated amendments in this ordinance in 1996, 1997, and 2002, dealing only with changes in composition of the board of members reflect a tug-of-war for gaining power in decision-making of funds dispersal. Since the 2010 devolution made effective through the Eighteenth Amendment, the Federal Ministry of Culture has been abolished and the administration of NFCH transferred to the Minister of Information and Broadcasting. In spite Anila Naeem

of a long period of nineteen years having passed, the equitable distribution of this fund to provinces still remains unresolved.

In addition to federal laws, the provinces (except Baluchistan) have their own legislative framework for protection of cultural heritage. Punjab's earliest heritage legislation is Punjab Special Premises (Preservation) Ordinance 1985 which applies to premises of "historical, cultural and architectural value" within the province, and the Punjab Heritage Foundation Act 2005 formulated to create a "heritage foundation" and a "heritage fund" with the objective of initiating projects or schemes for protecting or maintaining historic places. Similarly, Khyber Pakhtunkhwa (KP) had the North-West Frontier Province Antiquities Ordinance 1997. The text of this document is an exact copy of Antiquities Act 1975 with only a few minor differences in penalties; substantially reduced in terms of fines but proposing increased duration of imprisonment punishment. In addition, this act also restricted the age of eligible properties as prior to 1922. This has been recently repealed through the Khyber Pakhtunkhwa Antiquities Act 2016; having its base as similar to the Antiquities Act 1975, however, developed as a more comprehensive piece of legislation minutely covering not only the aspect of providing legal cover to movable and immovable heritage properties but also covering issues of training, licensing, economic viability of sites and proposing penalties for a range of contraventions to provisions given in the act. Sindh has the Sindh Cultural Heritage Preservation Act 1997 (SCHP Act 1994); having close similarities to the text of Antiquities Act 1975 but lacking the range of diversity in defining cultural property, particularly for urban areas or historic districts.

Issues of management and maintenance of cultural property protected under these national and provincial laws are addressed only through a range of penalties for unauthorized alterations, demolitions or damage; ranging in amount from as low as PKR 5 000 (EUR 20 approx.) to as much as PKR four million (EUR 15 875 approx.) or the possibility of imprisonment from three months up to ten years depending on the nature

of the offence (Tables 1 and 2). The Antiquities Act 1975 mentions penalties covering offences of damage, illegal dealings, unauthorized alterations or excavations, etc. with imprisonment from three months up to three years and fine of up to PKR 500 000 (EUR I 984 approx.), or both. Among provincial laws the SCHP Act 1994 defines the penalty for causing any damage to a protected heritage at PKR 100 000 (EUR 396 approx.) or three years imprisonment or both. The Punjab Special Premises (Preservation) Ordinance 1985 mentions one year as the maximum, or fine or both. The KP Antiquities Act 2016 surpasses all other acts, defining specific violations with respective amounts of penalty; the highest being ten years of imprisonment or fine going as high as PKR four and a half million (EUR 17 858) or both.

Contrary to penalties for violation the existing legislation or management policies hardly offer any incentives to compensate for possible economic losses suffered by property owners due to their heritage designation. Only a half-hearted attempt was made in Sindh where all properties, other than commercial ones, given legislative protection under SCHP Act 1994 or Antiquities Act 1975 were proposed to be exempted of "property taxes" under section 4(h) of the Sindh Urban Immovable Property Tax Act 1958; through a clause added by the Sindh Finance Ordinance 2001. However, this clause was never incorporated into any of the Sindh Finance Acts of following years, hence perhaps lapsed after the six-month legal validity of the ordinance expired.

Two cities, Karachi (Sindh) and Lahore (Punjab), exceptionally have additional regulations and monitoring set-ups giving extra protection to the city's listed heritage. In Karachi, Building Control Authority's Karachi Building and Town Planning Regulations (2002) a separate chapter dealt with historic areas of the city. Since 14 February 2011 the Karachi Building Control Authority (KBCA) has become the Sindh Building Control Authority (SBCA) extending its jurisdiction over the entirety of Sindh; with regional offices opened in Larkana, Sukkur, Hyderabad, and Mirpurkhas. Having its origin in the 1979 regulations under which





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Table 1

Summary of federal level heritage legislation in Pakistan.

Federal laws	Definition	Penalties	Comments
Antiquities Act 1975	 includes both "movable" and "immovable" antiquities with elaborate details; the scope of the latter being extended to "urban site, street, group of buildings, or public squares" (Section 2.g.iii.6) as identifiable for preservation 2b belonging to any period prior to 1857 (amended in 1992 to "not less than 75 yrs") 	Inprisonment of 3 months or fine, or both 19(ii) (destruction/damage) imprisonment up to 3 yrs or fine or both 20(ii) (repairs/renovations) imprisonment up to 1 yr or fine or both 23(ii) (neon/advertisements) imprisonment up to 1 yr or fine 10,000/- 24(i) (counterfeit/forgery) up to 1 yr or fine or both 25(v) (dealing in antiquity) up to 3 yrs or fine or both 27(ii) (traffic in movable antiquities) up to 3 yrs or fine or both 28(iii) (quarrying/ excavation) up to 1 yr or fine or both 29(iv) (excavation/ exploration) up to 3 yrs or fine or both 29(iv) (excavation/ exploration) up to 3 yrs or fine or both	 Gives protection to over 350 sites across Pakistan No development plan or scheme or new constructio on, or within a distance of 60 m of a protected immovable antiquity is permissible without approval from director of archaeology
Auqaf (Federal Control) Act 1976			West Pakistan Waqf Properties Ordinance 1964 was repealed by this act
National Fund for Cultural Heritage 1994			Since 2011 devolution the distribution of this national fund to provinces remains ambiguous

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Summary of provincial level heritage legislation in Pakistan.

Provincial laws	Definition	Penalties	Comments
Punjab Special Premises Ordinance 1985	Premises of historical, cultural and architectural value	Imprisonment of maximum 1 yr or fine or both	Around 237 properties across Punjab are protected under this law
Sindh Cultural Heritage (Preservation) Act 1994	"protected heritage" means premises or object of archaeological, architectural, historical cultural or national value	17(ii) (right of access) punishable with fine up to 25 000/- 18 (destroy, remove, alter, deface) fine up to 100 000/- or imprisonment up to 3 yrs or both	Over 3 000 heritage sites in Sindh are given legal protection under this act
Khyber Pakhtunkhwa Antiquities Act 2016	 In existence for a period not less than 100 yrs Movable, immovable, building or site, groups of historic or traditional buildings and cultural landscapes Tangible cultural products 	10(iv) (concealing discovery of movable antiquity) imprisonment up to five years or fine 15 000/- or both 16(ii) (repair/renovation) up to 3 yrs or fine 1 million or both 18(ii) (destroy/damage/ deface) up to 5 yrs or fine 2 million or both 34(iv) (place of worship or shrine) imprisonment of 1 yr or fine, or both. 44(iv) (willfully destroys or damages) imprisonment not exceeding 2yrs or fine not exceeding 500 000/-, or both. 45(iv) (alterations or additions) imprisonment not exceeding 2yrs or fine not exceeding 500 000/-, or both 56(vi) (mega project) up to 5 yrs or fine up to 500 000/- or both 60(iv) (excavation/exploration) up to 5yrs or fine up to 1 million or both 62(iv) (excavation/exploration) up to 10 yrs or fine up to 64(ii) (unlicensed copy/film) up to 2 yrs or fine up to 1 million/- or both 67(ii) (traffic in movable property) up to 5 yrs or fine up to 2 million/- or both 68(i) counterfeit/forgery up to 5 yrs or fine up to 10 million/- or both 69(ii) (dealing in antiquity) up to 10 yrs or fine not exceeding 4.5 million/- or both 4.5 millio/- or both 70(iii) (quarrying/mining) up to 5yrs or fine up to 2.5 million/- or both 73 (no other penalty defined) up to 2 yrs or fine up to 1 million/-	No development plan or scheme or new construction on, or within a distance of 60 m of a protected immovable antiquity without approval from director of archaeology



a list of 44 monumental/landmark buildings were given legislative protection, the revised version of 2002 elaborately covered aspects of alterations and changes (Naeem, 2004). The regulations have undergone several amendments however, one clause has remained intact and holds substantial weight in terms of penalty, stating that:

In case of unauthorized or illegal demolition of declared protected heritage building no fresh approval of building plan on the said plot shall ever be permitted and a fine as permitted by the Ordinance as amended from time to time, shall be imposed by the Authority in addition to any other fine that may be imposed by the Department under the provision of the Sindh Cultural Heritage Preservation Act 1994 or the Antiquities Act 1975 (KBTPR, 2002, section 15-4-3).

Furthermore, the 2002 regulations allowed "transferable development rights" under section 15-3.2; i.e. allowing sale of "unutilized floor area ratio" of any heritage property by its owners to developers in areas where building height restrictions allow extra floors. This clause of 2002 was however, amended in 2005, 2008, 2011 and 2015–2016 revisions (see KBTPR, 2002 second URL),

excluding all details mentioned in four sub-sections of 15-3.2, limiting the option for utilization of unused floor area ratio by allowing construction only on open spaces behind the heritage property. This change was made whimsically without realizing the damage it would cause to the immediate fabric of heritage properties. In spite of these additional laws and added incentives, research data indicates 9 percent of Karachi's listed heritage being already demolished by their owners, and an additional 13 percent plus as either partially demolished or having only their façade/s remaining (DAPNED, 2006–09).

In Lahore the creation of the Walled City Lahore Authority (WCLA) through introduction of the Walled City of Lahore Authority Act 2012 has been another progressive development for heritage protection at city administration level, separating the management of the city's historic core from the larger domain of Lahore Development Authority (LDA). A similar setup is presently being pushed for Karachi's historic quarters in various forums, proposing the establishment of Karachi Heritage District Authority.

Reflections from heritage listings

An important instrument for heritage protection provided through existing legislation is the heritage listing and their notification process. Varying levels of heritage listings in Pakistan give insights to the officially acknowledged representations of cultural assets/or heritage values given recognition at national and provincial level, indicating a conscious emphasis on sites/monuments representing Islamic values and cultures. But at the same time other cultural and religious expressions are also given substantial recognition. The highest degree of importance is held by the six sites included on the World Heritage List (Archaeological Ruins at Mohenjodaro (1980), Taxila (1980), Buddhist Ruins of Takht-i-Bahi and Neighboring City Remains at Sahr-i-Bahlol (1980), Historical Monuments at Makli – Thatta (1981),

Fort and Shalimar Gardens in Lahore (1981) and Rohtas Fort (1997) all available at UNESCO, 2019) indicating a 50–50 percent representation of Islamic and pre-Islamic heritage. Even the seventeen entries on the Tentative List of WHS from Pakistan include one-third entries representing pre-Islamic periods and the remaining two-thirds representing Islamic/Muslim traditions. However, as we move down to federal and provincial listings the percentage of mainstream religious representation has an overbearing dominance.

The classified list of properties notified under Antiquities Act 1975, the principle federal law for heritage protection, includes 355 entries categorized under two major groups – archaeological sites (112 (31.5 percent)) and historical monuments (243 (68.5 percent)) (Khan, 1987). A majority



of these sites are located in Punjab (144) and Sindh (123) with a higher percentage of historical monuments, whereas Baluchistan (27) and Khyber Pakhtunkhwa (61) having a larger number of enlisted archaeological sites. A range of typologies are taken into account to comprise the selection of sites under the category of historical monuments, but the highest percentage remains of funerary architecture (47.7 percent) including shrines and tombs, followed by mosques making II.I percent of the list – reflecting on a pronounced preference for Islamic/Muslim cultural or religious heritage. Representation of Buddhist, Hindu and Sikh cultures is through twenty-six sites located in Punjab, KP and Sindh, forming only 10.7 percent of the historical monument's category. On the other hand, a majority of sites listed under the category of "archaeological sites" represent pre-Islamic periods of the regions' history (Naeem, 2013a).

Under respective provincial law/s also lists of protected monuments and sites are maintained. In this regard Punjab and Sindh have shown more enthusiastic progress. The provincial Department of Culture through its secretary has the authority to notify properties for enlistment under the respective provincial law/s. These may include government or private properties having historical, architectural, or cultural significance. The provincial list of monuments notified and protected under the Punjab Special Premises Ordinance 1985 comprises of 245 (only seven of the sites included in this list are common from the federal list of monuments and sites given protection under the Antiquities Act 1975) entries spread over twenty-two districts of Punjab; in which a major domination is again of funerary buildings including tombs/shrines (128 (52.2 percent)), followed by mosques (46 (18.7 percent)). It also includes a substantial number of landmark public buildings (36 (14.6 percent)) located within Lahore, representing the colonial period urban development.

Sindh, by far, has taken a lead in effective implementation of its provincial law, at least when it comes to heritage notification; acknowledging far more than just monuments and archaeological sites as worthy of preservation. The enlistment process in Sindh under the Sindh Cultural

Heritage Preservation Act 1994 has evolved over more than a decade through proactive public-private cooperation. A list of 581 properties in nineteen historic quarters of Karachi was prepared by Heritage Foundation; and officially notified in 1995, 1996 and 1997 by the Department of Culture, GoS. However, the absence of a methodical system and defined criteria for listing created conflicting and contradicting situations on the ground, making the task of the organizations responsible for their monitoring rather difficult (Naeem, 2004; Naeem, 2011). Further, the Heritage Cell – Department of Architecture and Planning, NED University (HC-DAPNED) initiated a research-based project in 2006, in collaboration with the Department of Culture, GoS – developing a systematic methodological procedure and criteria for listing. The earlier listed nineteen historic quarters of Karachi were resurveyed, identifying almost twice the number of listed properties as having similar characteristics as those listed earlier. As a direct outcome of this research-based approach an addition of over 2 000 properties has been made to the list of protected heritage through enlistment notifications in 2011 and 2013; and their renotification in 2018-19. These two organizations, involved with heritage conservation education and training worked collaboratively with the Department of Culture, Government of Sindh (GoS). Over 3 013 historic properties and sites (including open spaces) have been notified as protected heritage by the GoS since enactment of its provincial law in 1994, and more are in the process of being identified for enlistment. These include 1 743 within Karachi's historic core comprising a large percentage of modest scale buildings contributing to group value characteristics of historic towns and areas; only 5 percent of these make the monumental landmark category, whereas others form more modest and common place architecture graded in three different levels according to their architectural detailing and finesse - the lower degree value buildings comprising the highest percentage (third degree value comprising 42 percent and fourth degree value comprising 38 percent) in listed properties (DAPNED, 2006–09). Another unique initiative in Sindh

was the notification declaring the entire Shikarpur Historic City as protected under its provincial act, in 1998; further supported by property specific notification of 1 203 heritage properties (including 1 175 buildings, 12 opens spaces and 16 urban elements) in March 2012, identified through a systematic mapping and heritage inventory survey of the city (Naeem, 2013b). Besides Karachi and Shikarpur, a list of 67 properties from Hyderabad, prepared through random listing by local government officials, mostly including landmark monumental structures located within the historic core of the city were notified under the provincial act in June 2011.

Recent developments in trends for heritage listing particularly in Sindh, indicate a move away from a monument-centric approach to a broader vision encompassing area-based acknowledgement of historic environments incorporating urban ensembles and living cultures with due recognition to multifaceted historical layers. Furthermore, the Heritage Advisory Committee, GoS, has in recent years made efforts to develop support systems for a more conducive environment for heritage preservation. Facing practical difficulties in defending themselves in litigations, due to the weaknesses of existing law and its implementation the GoS is presently working on revision of its provincial heritage act.

Pakistan's WHS and tentative lists – a need for broadened perceptions

The six WHS of Pakistan internationally recognized for embodying Outstanding Universal Values, and twenty-six others on the Tentative List, may be considered as most representative of Pakistan's heritage assets: showcasing the wealth of cultural and natural resources. Three of these (Mohenjodaro, Taxila, Takh-i-Bahi) are purely archaeological in nature, however, the remaining three (Rohtas Fort, Makli Hills and Fort-Shalimar Gardens Lahore) although primarily examples of different categories of monumental architecture, have associated components of living cultures or cultural landscapes, not highlighted in their Statement of Significance or nomination dossiers. In spite of their unquestionable degree of importance, they fail to provide a just representation of potentials that the country holds, if reviewed in the light of an evolved definition for cultural property presently endorsed by the World Heritage Convention and implemented through its Operational Guidelines (UNESCO World Heritage Centre, 2017) and other associated protocols.

Rohats Fort inscribed in 1997; a fine example of military architecture after having served its original function, remained in disuse, and over the centuries became inhabited by local communities, living in small village clusters that survive to the present day. However, these communities are not recognized in the master plan or development studies undertaken by official authorities, beyond just a passing reference.

Makli Hills-Thatta and Fort-Shalimar Gardens Lahore (both inscribed in 1981) also have strong contextual urban settings, but no initiatives are taken to expand the scope of their present nomination to qualify for the category of historic cities or cultural landscapes. In the present approach only monumental building/s are singled out without any attempt at incorporating a more comprehensive mapping and inventory of places contributing to the larger historic fabric and its associated living cultures.

The Makli Hills necropolis has a strong contextual link with the historic town of Thatta that served as capital of successive native dynasties for over three centuries. Historic narratives describe Thatta as a multi-functional port town of Sindh, having a flourishing trade and an extensive industry of textiles and other crafts, until late seventeenth century when the maritime trade started to decline due to the gradual silting of the river's mouth. Much of what is described in historic accounts is





Figure 1
Lahore Walled City.
Image © A. Naeem, 2010

Figure 2
Lahore Walled City.
Image © A. Naeem, 2010

now lost due to a lack of patronage for traditional arts and crafts, diminishing the economic prospects for the resident community, forcing migration to larger cities. The broader perspective of its urban context, incorporating elements shaping the morphological form of Thatta, including agricultural fields and irrigation canals, are not recognized as part of the WH nomination.

In the case of Lahore Fort and Shalimar Gardens (two sites located 7 km apart), the scope of WH designation again remains constrained; overlooking the contextual character of Lahore Walled City. Uncontrolled new developments and demolition of historic structures within Lahore's walled city have substantially transformed the traditional fabric. Recent establishment of an autonomous body, the Walled City Lahore Authority (WCLA); through Walled City Lahore Authority Act 2012, gives renewed hope for protection and/or conservation of the remaining historic fabric. So far, the fact remains that rampant demolition continues and most historic properties remain without any official designation as protected heritage under provincial or national legislation. For example, the recent uproar from civil society regarding the Lahore Orange Line Metro Train Project has been an eye opener - the court case by way of public interest litigation was filed against the Punjab Government claiming the project to be a threat to 26 heritage sites. Out of

these only five sites (Shalimar Gardens, Gulab Bagh Gate, Buddhu Tomb, Chauburji, Zaibunissa's Tomb) turned out to be protected under Antiquities Act 1975; and five more (Lakshmi



Mansion, GPO, Aiwan-e-Auqaf (Shah Chiragh) Building, Mouj Darya Darbar Mosque, Supreme Court Registry Building) are protected under Punjab Special Premises (Preservation) Ordinance 1985. The fate of all others remains in the hands of market forces.

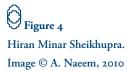
The periodic monitoring reports of these sites have repeatedly indicated a need for visitor management program and identified their existing management plans as insufficient; requiring to be strengthened on scientific approaches/methods based on international standards. Appropriate measures for economic sustenance are ignored in management approaches and opportunities of exposure to varying cultural experiences remains under-explored. The sites lack basic provisions for visitors – such as information centres, tour guides, public toilets, refreshment areas, accessibility and other supportive facilities. Large proportions of financial resources are repeatedly invested in preparation of master plans for these sites,



which are never put to public scrutiny, and the track records indicate that they are not even properly implemented.

These three sites need to be revisited with a broader perspective of urban revival, and historic area conservation, bringing in issues of sustainability, cultural tourism and regeneration of the local communities through economic revival. Landmarks and monumental buildings such as the fort, the great mosques, the Makli Hills Necropolis, should be seen as assets, within a larger framework, that help

Figure 3
Wazir Khan Mosque.
Image © A. Naeem, 2010



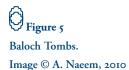
in achieving these goals. This type of approach to policy and management plans can only be achieved by engaging a multidisciplinary team of professionals.

The Tentative List of WHS from Pakistan represented a similarly constrained vision until very recently (prior to April 2016) having seventeen entries; one-third representing pre-Islamic periods – classified under the category





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of archaeological sites) and remaining two-thirds representing Islamic/Muslim traditions – comprising landmark architectural monuments mostly belonging to religious, funerary or military

building type (Naeem, 2013a). All WHS nominations from Pakistan remained within definition given in article 1 of World Heritage Convention for cultural heritage; other groups such as natural heritage, mixed cultural and natural heritage and cultural landscapes were not represented. The 2016 addition of eight new sites to the Tentative List has eventually brought in a vision for recognizing the tremendous potential of cultural landscapes and natural heritage within Pakistan, and these, hopefully, will soon be given WH designation.

The existing WHS and earlier Tentative List nominations also need to be revisited with a similarly broadened vision and multidisciplinary approach, incorporating better understanding of UNESCO's Operational Guidelines for Implementation of the World Heritage Convention. A more holistic approach broadening the existing scope of designation and clustering together groups of monuments and sites could help create a more comprehensive representation of existing cultural or historic contexts (Naeem, 2017), significantly reducing the number of single monument entries. For instance, renomination of Fort and Shalimar Gardens Lahore as Lahore Walled City and Environs under the category of WH Cities would allow inclusion of not only three entries from

the 1993 Tentative List, i.e. Badshahi Mosque, Wazir Khan Mosque, and the Tombs of Jahangir, Asif Khan and Akbari Serai, but also many other properties that form the essence of Lahore's historic fabric.

Similarly, the nomination of Rock Art and Edicts: Sequential Sites along ancient Silk Route/s (Khyber Phakhtunkhawa & Gilgit-Baltistan) could include important rock art sites in Diamer-Bhasha as well as those in Mansehra and Shabazgarhi presently forming two separate entries in the Tentative List. The 1993 Tentative List entry of Hiran Minar and Tank, Sheikhupura can also be expanded to include the surrounding landscape and hunting grounds as a nature reserve and national park; and that of Chaukhandi Tombs, Karachi could be renamed in a manner that allows inclusion of a series of similar sites like the Baloch graveyard, Manghopir, and the Sonda graveyard. Likewise, the 2004 Tentative List entry of Baltit Fort, Hunza should be expanded to include the settlement cluster at its base as well as the Altit Fort and its settlement, as both the forts together have an interconnected history that forms the basis of the Hunza Kingdom.

The above suggestions would not only help achieve a more representative variety in the different identified categories of WH, but also facilitate recognition to a wider variety of cultural representations that today form the rich and



colourful mosaic of Pakistan's heritage; providing a means for survival and sustenance for many of the fast disappearing traditions having a deep-rooted existence through centuries. This will also mean a departure from the existing fossilized archaeology-based practices in the heritage sector, inspiring a move towards addressing issues of living cultural traditions and striving for their sustenance.

Repurcussions of existing practices

The plight of cultural heritage in Pakistan either privately owned, under community custodianship or in government control, is that of extreme neglect, disregard and mismanagement, a direct consequence of lacking effective management and implementation tools. A major cause for this lack of professionalism is the absence of professional training programmes in the heritage sector within educational institutes of Pakistan (Naeem, 2008). The MPhil Programme introduced in 2006 at the National College of Arts, Lahore, initiated with UNESCO's support, discontinued after only two groups of students. Similarly, the Pakistan Institute of Archaeological Training and Research (PIATR) established by DOAM at Lahore Fort in 1986, has remained defunct since the mid-1990s. Other existing programmes deal either with management aspects or training only in archaeology. A rigorous degree programme in building conservation/restoration needs to be launched – focused on providing comprehensive orientation towards conservation philosophies and principles, and a grounded understanding of historic building materials, structural systems and construction techniques.

For conservation training the role of architecture and architectural schools is vital. Sir Bernard Feilden, the renowned pioneer in architectural conservation insisted that "all architectural students should receive an introduction to conservation studies

as well as a proper preparation in history" (ICCROM, 1983, p. 212). The ex-president of ICOMOS, Michel Parent, defining the paramount role of architecture said that "...it is through architecture that the strongest ties develop between culture and territory, and at the same time architecture is par excellence the vessel for, if not the combination of, all other concrete expressions of culture and art" (ICOMOS, 1984, p. 3). And Michael Tomlan, director of preservation program at Cornell says that "by continuing to ignore preservation, architectural educators fail to prepare their students for practice in the most fundamental fashion" (Tomlan, 1984).

Realising this gap in professional training in heritage conservation some groundwork has been undertaken by the Department of Architecture and Planning, NED University, where introductory courses on heritage conservation were introduced in the architecture curriculum in 2002 – both at undergraduate and graduate levels, aiming to give the students an exposure to conservation principles and practices. These have helped in inculcating a substantial level of awareness and interest in conservation issues among architecture graduates; and to some extent helped bridge the gap between research and its actual implementation. The university aspires to launch a full-fledged degree programme; however, this would require more investment and resources.

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The way forward

The persisting backwardness in the field of heritage conservation within Pakistan can only be addressed by opening up towards an approach encouraging interactive participatory exchanges between government institutions, communities or cultural groups identified as primary stakeholders and professionals from interrelated domains; having knowledge and understanding of complexities that need to be addressed for developing economically viable and long-term sustainable solutions for heritage management. Involvement of multidisciplinary teams of professionals alongside Indigenous experts and craftspeople forms the crucial combination for gaining visionary inputs to appropriate conservation approaches. Proposals and master plans, particularly for sites involving Indigenous communities, must have interactive participatory processes and be put to public scrutiny before any advancement towards implementation. Such bottom-up approaches would only be possible if government department/s begin diluting their bureaucratic ways of functioning; and initiate collaborative linkages with public-private sector institutions and community groups having expertise in different branches linked to places with rich heritage values.

A brief analysis of existing management systems, indicates issues of fragmented structure with a rift of power and authority between provincial and federal departments, conflicting interests and priorities enhanced by inconsistent policy decisions, lack of coordination between institutions and departments resulting in wasteful use of resources, non-compliance with concept of working with interdisciplinary teams of professionals, lack of approach for public participation, awareness building and local capacity building and a major handicap of working with understaffed and barely trained professionals. The factors of political instability, growing

religious/ethnic conflicts based on intolerance, and an increasingly impoverished state of society, are among major factors negatively affecting progressive developments in the field of heritage conservation. Undertaken efforts mostly remain fragmented, lacking policies or foresight for long-term sustenance and connect with economic growth and prosperity of communities.

In this perspective international organizations and networks of heritage conservation play an important role. However, complete reliance on foreign experts, particularly experienced when foreign funding is involved has adverse implications. Through international collaborations the initiating boost to develop long-term solutions for future survival of cultural and traditional environments, can be achieved; but such efforts must be focused on creating self-sufficiency and sustainable continuity at a local level so that the process continues even after external support is withdrawn. The onus of responsibility should lie with locally grounded professionals, creating awareness building at different levels of society and encouraging interest in the field as a national resource. Localized initiatives encouraging involvement of local government, local educational institutions and above all the local communities, need to be sought to achieve any progress towards sustained heritage conservation practices. Heritage assets need to be seriously revived as important resources not just for historical reasons, but also for economic and environmental aspects, as they have proven potential to serve as magnets to the growing cultural tourism industry, and also providing environmental quality and enriching experiences with a more humane appeal. The concerned authorities and decision makers dealing with heritage assets need to rethink their policies to bring a real change in attitudes, ensuring survival of invaluable natural and cultural heritage assets into the future.





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Nijo Castle, Kyoto, Japan. Image © iStock.com/coward_lion

© CHAPTER 6

National conservation policies in Japan: historical development and emerging issues

Kazuho Nakatani

Abstract

The development of a modern concept and system of cultural heritage conservation in Japan dates to the Meiji era (1868–1912) and has been revised several times in accordance with social changes. The conservation principles have broadened the scope and concept of cultural heritage and developed a worldwide unique system for heritage conservation being operated under robust legislations at the national level. The national government has given priority to rigorous conservation of cultural heritage since the enactment of the Law for the Protection of Cultural Properties in 1950, which covers not only tangible cultural heritage but also intangible cultural properties. A variety of polices and measures for heritage conservation have been developed in an exceptional effort of, and taken by, in cooperation with the national government, local governments, heritage owners, public citizens and other stakeholders. Furthermore, in the last couple of decades, cultural heritage has been acknowledged as an economic driver and a lever for sustainable development. This paper indicates the historical elaboration of the modern concept and current conservation system for heritage conservation in Japan. It has been developed in conformity with the emergence of new challenges including management of multiple properties, achievement of a balance between protection of a value of heritage and tourism development, and disaster risk management. To address these issues, a comprehensive management approach has been integrated into the national conservation policy as reflected in the scheme of a Regional Plan for the Protection and Utilization of Cultural Properties and Japan Heritage projects.

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Historical development of the modern conservation concept

After the Meiji Restoration in 1868 from the rule of the Tokugawa Shogunate, the new government conducted a nationwide survey and compiled an inventory of historic objects for preservation (Imperial Cabinet Decree for the Preservation of Antiquities 1871, see National Diet Library, 2021).

The first legal protection framework for cultural heritage was established in 1897 in line with the Ancient Shrines and Temples Preservation Law (Ministry of Education, Culture Sports, Science and Technology, 2021), which covered buildings and treasures owned by Shinto shrines and Buddhist temples. The law included a designation system for historic buildings and treasures of high value, and the national government could provide a subsidy for its restoration and maintenance, which was a prototype of current protection structure. The law was revised and renamed to the National Treasure Preservation Law in 1929 (an English version is included as Appendix III in Scott, 2003) and expanded its scope of conservation to include the properties possessed by all types of owners.

In 1919, the Law for the Preservation of Historic Sites, Scenic Spots and Natural History Preserves Law No. 44 (Scott, 2003, Appendix II) came into being, which also enabled financial support and legal protection by a national designation.

The devastation caused during World War II raised increased public concern for rehabilitation and conservation of traditional and cultural heritage, and a more holistic legal system was urgently required. In 1950, the laws which existed before the war were integrated into the Law for the Protection of Cultural Properties (Agency for Cultural Affairs, Government of Japan, 2021; UNESCO World Heritage Centre, 2019a) triggered by the destruction by fire of the mural paintings in the main hall (kondo) of the Horyu-ji Temple in 1949. The law covered not only buildings and monuments but also folklore resources and intangible cultural properties. After the law of 1950, the development of the conservation system has been continually revised in 1954, 1975, 1996, 2004, 2018 and 2021 (Shimada, 2018) corresponding to the contemporary social requirements, through the recognition of new categories for protection as well as through the addition of new layers of protection schemes.

National conservation policy

National agencies

A variety of organizations are involved in the protection of cultural properties, including the following: the Ministry of Land, Infrastructure, Transport and Tourism (MLIT), in charge of urban planning, urban landscape and land design; Japan Tourism Agency (JTA); the Ministry of Agriculture, Forestry and Fisheries (MAFF), in charge of rural planning, rural landscape and cultural landscape; the Ministry of the Environment (MOE), in charge of natural monuments and natural parks; the Ministry of Internal Affairs and Communications (MIAC), in charge of decentralization and community development.

The most significant body for the overall protection of cultural properties is the Agency for Cultural Affairs (ACA), which is in charge of the promotion of culture and arts, operating under the Ministry of Education, Culture, Sports, Science and Technology (MEXT). The ACA was established in 1968 as an extraministerial bureau under the former Ministry of Education. It is administered with 253 internal staff and an annual budget of JPY 107.7 billion (approx. EUR 12 billion) in FY2018. The mission of ACA includes the promotion of culture, the improvement of Japanese language, the protection of copyrights and the preservation and utilization





Deputy Commissioner Deputy Commissioner for Cultural Affairs for Cultural Affairs ™ Director-General ™ Director-General [™] Councilor for Cultural Properties Planning and Coordinating Division Policy Division [™] Cultural Economy and International ™ Cultural Resources, Utilization Division Affairs Division № First Cultural Properties Division Japanese Language Division [™] Second Cultural Properties Division Religious Affairs Division Arts and Culture Division [™] Culture and Creativity Division Special organization The Japan Art Academy Advisory councils Council for Cultural Affairs Religious Juridical ™ Cultural Policy Committee Persons Council [™] Subdivision on Compensation System for Work of Art ™ Subdivision on World's Cultural Heritage and Intangible Minister Cultural Heritage of Education, Commissioner [™] Subdivision on National Language Culture, for Cultural [™] Subdivision on Copyright Sports, Science **Affairs** and Technology ™ Subdivision on Cultural Properties ¬ Subdivision on Selection **MEXT** of Cultural Awardees Independent administrative institutions National Museums of Art National Museum of Modern Art, Tokyo National Museum of Modern Art, Kyoto National Museum of Western Art National Museum of Art, Osaka National Art Center, Tokyo National Institutes for Cultural Heritage ™ Tokyo National Museum ™ Kyoto National Museum Nara National Museum Nyushu National Museum ™ National Research Institute For Cultural Properties, Tokyo National Research Institute For Cultural Properties, Nara ™ International Research Centre for Intangible Cultural [™] Heritage in the Asia-Pacific Region Japan Arts Council National Theatre of Japan and National Engei Hall Structure of the Agency National Noh Theatre for Cultural Affairs National Bunraku Theatre National Theatre Okinawa (as of October 2018).

New National Theatre, Tokyo

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of cultural properties. ACA has II divisions as illustrated in Figure I (Agency for Cultural Affairs, 2018). Approximately 45 percent of the ACA total budget has been spent on activities related to the protection of cultural properties.

National legislation

The key law for cultural heritage conservation is the Law for the Protection of Cultural Properties enacted in 1950 and substantially amended in 1954, 1975, 1996, 2004, 2018 and 2021. According to the law, "protection" means not only preservation but also utilization of cultural properties. Furthermore "cultural properties" also include intangible cultural properties and natural monuments. The law assigns clear responsibilities to the owners of the properties, national and local governments and to the general public. While the law provides a subsidy for protection of cultural properties, it puts a restriction for alteration or export of cultural properties without permission from the government. The law also requires the owners to carry out regular repairs and actions for disaster prevention, the costs of which are partly subsidized by the government. Additionally, some taxes on cultural properties such as the fixed asset tax (property tax) are exempted. The owners must report the transfer of ownership, as well as any loss, destruction, or damage, so that the government can be aware of the condition of all designated cultural properties. Any alteration of the existing state of designated cultural properties as well as export requires the permission of the Commissioner for Cultural Affairs. The public is requested to cooperate with all actions for the protection of cultural properties (Kakiuchi, 2014, p. 5).

Definition of cultural properties

According to the aforementioned law of 1950, cultural property consists of six categories including the following (see Figure 2): tangible cultural property such as buildings or fine arts and intangible cultural property such as performing arts and craft techniques; folk cultural property such as traditional festivals, including tangible and intangible heritage; monuments are composed of ancient sites, places of scenic beauty and natural monuments; groups of traditional buildings were integrated into the law in 1975 in response to the

necessity of the protection of historic settlements and townscapes such as post towns, castle towns, and farming or fishery villages, and cultural landscapes such as rice terraces and rural landscapes were later added to the category on the amendment in 2004 to conserve the landscapes formed by people's lives or livelihoods of the place and in the climate condition of the region.

The national government designates and selects the most important cultural properties from those classified according to the aforementioned six categories and provides support to the preservation of the properties. The national government may also designate the property with especially high value as a National Treasure or Special Historic Site, Special Places of Scenic Beauty or a Special Natural Monument.

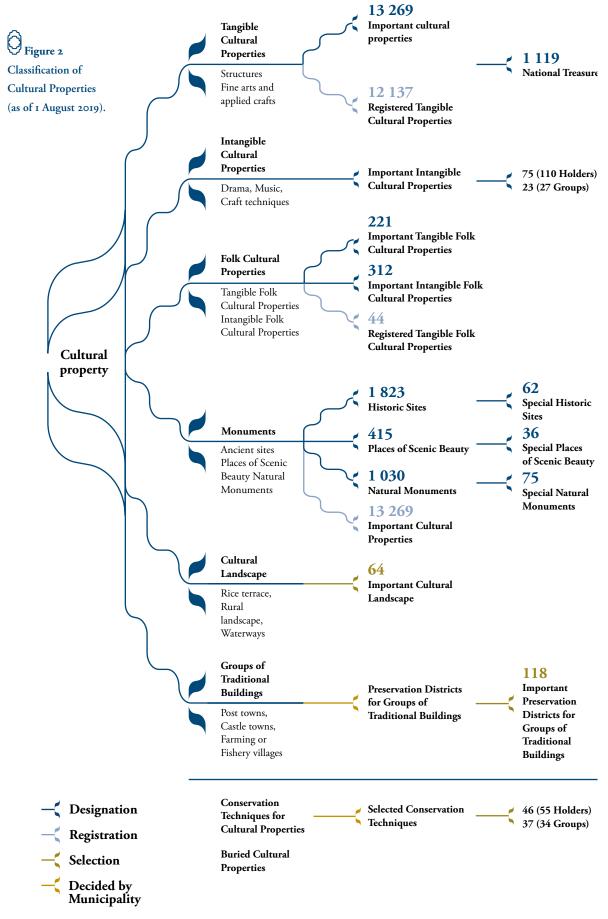
Two more categories were added to cultural properties: conservation techniques are indispensable for preserving cultural properties and buried cultural properties are properties embedded under the ground.

Commitment, responsibility and obligation to preservation

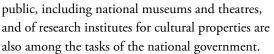
A wide range of stakeholders including governments and owners are engaged in conservation activities. The national government has established a rigid framework in legal and administrative systems and designates important cultural properties that require special preservation and utilization at national level. The national government also provides the owners of designated cultural properties with instructions and recommendations on the management, restoration and public display of designated cultural properties. Regulations on the alteration of the condition of designated cultural properties, export restrictions and injunctions to restore their original form are under the jurisdiction of the national government. The national government also gives assistance to owners and custodial bodies of properties regarding the management, restoration, and utilization as well as assistance to local governments is included for a transfer of properties to public ownership. It can also establish a special tax exemption for the alleviation of financial defrayment of the owners. The establishment and operation of cultural facilities open to the







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Local governments implement the management and conservation of cultural properties on a local level, based on the national and local legal system including regulations, designation, instructions and assistance to cultural properties and their owners. While one of their foremost missions is to give advice to the owners and the custodial bodies on the protection of cultural properties, they are expected to promote local activities for the study, protection, or transmission of cultural properties with the participation of local communities. Local governments offer opportunities to residents to learn more about their regional valuable heritage and encourage them to become involved in the protection of heritage through hosting cultural events, symposiums and workshops. It is quite imperative that local governments manage and control community development keeping in adequate balance with the protection of cultural properties in cooperation with the national government.

The owners and the custodial bodies of cultural properties are required to engage in everyday management and retain a principal responsibility in restoration. They are obliged to notify a transfer of ownership, loss, destruction, damage, or changes in the location of properties designated by the national and local governments. The active presentation of the properties to the public would also be expected to share and perceive the value of national common heritage.

The public is expected to cooperate with the national and the local governments in the reporting on finding remains or excavation for a survey and development at a site containing buried cultural properties.

Regulation, and punishment

According to the Law of 1950 (UNESCO World Heritage Centre, 2019a), the ACA can order or advise an owner, manager, or custodial body of an Important Cultural Property (ICP) on the measures required for its management, provision of fire prevention devices and other facilities for the preservation thereof, where the ACA concludes that "ICP is in danger of destruction, damage

or theft because of their incompetence...or because an inappropriate management method is being utilized" (Article 36).

Moreover, in cases where a National Treasure has been damaged and the ACA "deems it necessary to repair it for the preservation thereof, [it may give] orders or advice on such repairs to the owner or the responsible custodial body" (Article 37). When ICP other than a National Treasure is damaged, and ACA "deems it necessary to repair it for the preservation thereof, it may give necessary advice on such repairs to the owner or the responsible managerial body" (Article 37.2).

Alteration of the status quo of ICP and Monuments or an action to their preservation requires the permission of the ACA, except a measure of maintenance or an emergency measure in the event of a disaster (Article 43).

Export of ICP is strictly prohibited except when ACA has granted permission in recognizing its special necessity for international cooperation of culture (Article 44).

In cases where violation of the provisions occurs, criminal punishment would be imposed. Imprisonment of up to five years or a fine of up to JPY I million (approx. EUR 7 081) might be sentenced for illegally exporting ICP without permission from the ACA (Article 193). Furthermore, imprisonment of up to five years or a fine of up to JPY I million for damage to, disposal or concealment of ICP (Article 195); imprisonment of up to five years or a fine of up to JPY I million for destruction, damage or deterioration of Monuments as a result of the alteration or impact to the preservation of the sites (Article 196); a fine of up to JPY 500 000 (approx. EUR 3 540) for an alteration or impact to the preservation of ICP or Monuments without permission (Article 197); non-penal fine up to JPY 300 000 (approx. EUR 2 124) for destruction, damage or deterioration of ICP, Important Tangible Folk Cultural Property (ITFCP) or Monuments through negligence or serious dereliction of duty (Article 200); a fine of up to JPY 300 000 for disobedience to an order of ACA on the repairs of National Treasure or Special Monuments, or on the management of ICP, ITFCP or Monuments "without justifiable reason" (Article 201); a fine of up to JPY 100 000 (approx. EUR 700) for transfer









Subsidy rate in General Restoration



Subsidy rate in Disaster Recovery





National subsidy rate for protection of designated Cultural Properties.

of ICP or ITFCP to any other party without prioritising an offer to ACA regarding a sale to the State (Article 202). The maximum amount of fines under the Article 193 to 197 were raised on the amendment of the Law in 2018 for more reliable conservation.

Financial aid

In order to protect designated cultural properties, the national government provides a subsidy for preservation, disaster reduction and utilization. It covers the costs of repair, construction of disaster-prevention facilities and interpretation of ICP, Monuments and Groups of Historic Buildings. In addition, succession or performance of Intangible Cultural Property, restoration

of Cultural Landscapes and excavation of Buried Cultural Property are also subjected to national grants.

The subsidy rate is at least 50 percent of the total cost of preservation or utilization works, and an additional payment would be provided up to 35 percent depending on the income status of the owners. Furthermore, in the case of disaster recovery, basic payment will be increased at least 70 percent of the total cost as illustrated in Figure 3.

Another important way of assisting protection is a tax reduction for owners of properties and the general public. Some taxes on cultural properties such as the fixed asset tax (property tax) could be exempted (see Table I).

Emerging issues

Comprehensive and integrated management approach

One challenging issue is the necessity for an integrated approach to the management of properties of multiple cultural components. For example, Nijo Castle which is located at the centre of the historic city of Kyoto (UNESCO World Heritage Centre, 2019b) is composed of multiple types of cultural properties designated in different categories. It includes the Ninomaru

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Table 1

Tax exemption for protection of cultural properties.

Category	Description	
Capital gain from the transfer of Important Cultural Properties, etc.	Transfer of an Important Cultural Property to the national or local government or to a specific IAA (such as the National Museum of Art), or a local IAA	Tax exempt (income tax)
	Transfer of Important Tangible Folk Cultural Properties to agencies same as above	Taxation on 50 percent of capital gains (income tax)
	Transfer of land designated as an Important Cultural Property, Monuments to agencies same as above	Special deduction of up to JPY20 million (income tax); calculated as a loss (corporation tax)
Inheritance and gifting of Important Cultural Properties, etc.	Inheritance or gifting of Important Cultural Property (a house or other building)	A 70 percent deduction of the assessed property value (inheritance tax, gift tax)
	Inheritance or gifting of Registered Tangible Cultural Property, Traditional Building	A 30 percent deduction of the assessed property value (inheritance tax, gift tax)
Inheriting Cultural Properties (Artworks and Handicrafts)	The inheritance of national treasures, important cultural properties and registered tangible cultural properties (artworks and handicrafts) deposited or exhibited at museums or similar institutions following the approval of a preservation and utilization plan	Taxation is deferred for the duration of the preservation and utilization plan and the deposition agreement (inheritance tax). *Exempted in case of death, etc.
Ownership of Important Cultural Properties	Important Cultural Property, Important Tangible Folk Cultural Property, Historical Site, Place of Scenic Beauty, or National Monument (buildings and their plots)	Tax exempt (fixed assets taxes, special property tax, and urban planning tax)
	Registered Tangible Cultural Properties (buildings), Registered Tangible Folk Cultural Property (buildings), Registered Monuments and Sites (buildings and their plots), Buildings and their plots forming part of an Important Cultural Landscape	50 percent taxation (fixed assets taxes and urban planning tax)
	Buildings designated "Traditional Buildings" that form part of a "Preservation Districts for Groups of Historic Buildings" site	Tax exempt (fixed assets taxes and urban planning)
	Plots of buildings designated "Traditional Buildings" that form part of a "Preservation Districts for Groups of Historic Buildings" site	Tax exemption or reduction, according to circumstances (fixed assets taxes and city planning tax)



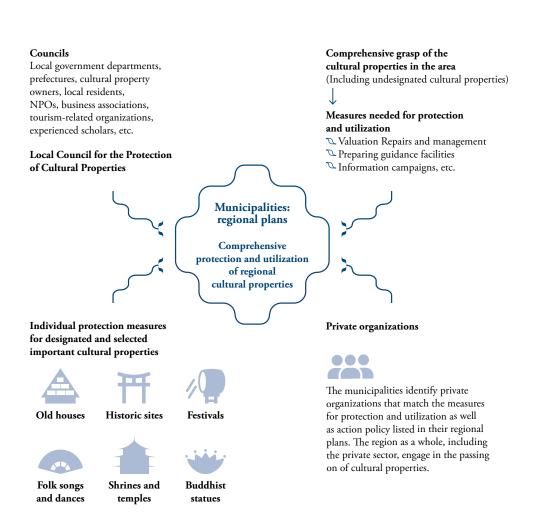
Palace Great Hall (National Treasure of Building) and the wall painting inside the hall (designated Important Cultural Property of Fine Arts) as well as the garden designated as a Special Place of Scenic Beauty, and the whole of the site is also designated as an Historic Site (Figure 2). The cooperation between management and restoration works for each category is essential for the effective preservation and utilization of the property in question.

The other challenge is the necessity for the comprehensive management of cultural properties. The value of cultural properties could be acknowledged in association with its surrounding environment and local human activities. It has uniquely developed in the process of interaction in the local contexts. For example, the groups of properties concerning the mining industry

or properties related to a castle and its surrounding townscape. Moreover, we can find the group of rural lifestyle-related properties such as historic temples or shrines, vegetable or rice fields, and traditional festivals.

It is necessary to preserve and utilize a variety of properties under the specific context including its surrounding environment and not only tangible properties but also intangible heritage. The ACA has been encouraging local governments to establish the framework referred to as Regional Plan for the Protection and Utilization of Cultural Properties which was added to the Law of 1950 on the amendment in 2018 (see Figure 4) (ACA, 2018). In the development of the regional plan, it is important that cooperation is established among the stakeholders. Stakeholders include the department of local government in charge







of cultural properties and the one in charge of community development as well as local residents and local NGOs. The regional plan is expected to serve as a master plan for the protection of cultural properties at local communities. The ACA also promotes the financial and technical assistance to establish the regional plans.

Another holistic approach was initiated in 2015 entitled Japan Heritage project (ACA, 2019). Japan Heritage is composed of a story recounted by intertwining the narratives of individual properties, which covers the tangible and the intangible, nature and culture. One of the concepts of Japan Heritage is characterized by policy advice on heritage resource management, moving from spot conservation to integrated territorial conservation, and supporting the building of local governance within the framework of sustainable development. An additional difference from existing projects is in its very name, which makes it possible to promote the country's heritage abroad. This is a new challenge aimed at combining the rediscovery of local identity and its promotion abroad, supported by the intrinsic values. The visible brand name and logo are achieving a clear recognition of its goals. One-hundred-four stories are selected as of June 2020.

Economic and sustainable development

Addressing the economic and sustainable development of the local communities through the protection of cultural properties is also a significant challenging issue. In 2016, the ACA developed a Strategic Plan for Utilizing and Appreciating Cultural Properties, and a series of projects is being carried out aimed at deriving substantial income from heritage tourism. It includes the improvement of properties' attraction by developing proper interpretation facilities and multilingualization, keeping properties' façade beautiful, promoting cultural events and MICE at heritage sites as a unique venue. Current national tourism target is to attract 40 million foreign visitors to Japan until 2020 (31 million visitors in 2018).

Disaster risk management

Japan has suffered extensive risks from natural disasters, including typhoons, heavy rain, earthquakes, and tsunamis so that disaster risk reduction and rehabilitation from the ravages should be critical subjects. In recent years, a whole series of huge disasters have struck traditional buildings and historic sites. The Great Tohoku Earthquake and Tsunami in 2011 has inflicted considerable damage to cultural properties and the total number of designated properties damaged by the destructive shaking and tidal wave has amounted to 754. Another massive disaster was the Kumamoto Earthquake which occurred in 2016 and caused immense toll to cultural properties. The number of stricken properties has reached 169.

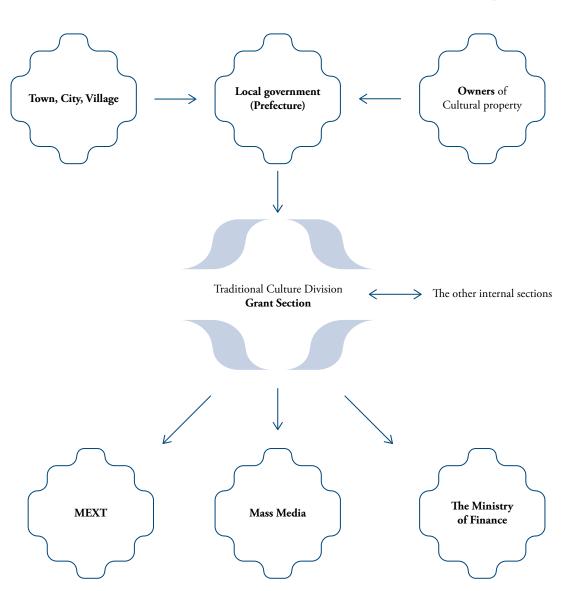
In case of emergency, it is essential to take three steps for the rehabilitation. The first step is to gather information on devastated cultural properties, which is quite significant in order to prepare appropriate recovery measures (see Figure 5).

The second step is to provide first aid treatment. First aid treatment is provided in three ways. One, through investigation by ACA specialists who will check the condition and discuss the process of restoration with the owners and local government. Two, through the Cultural Property Rescue Programme which focuses on movable properties such as fine arts and craftworks, and which began following the Great Hansin Awaji Earthquake in 1995. The purpose of the programme is to take the movable cultural properties to a secondary place, safe place from additional disaster and prevent further damage or loss. In the context of this programme, a volunteer specialist moves cultural property from disaster-stricken sites to another place such as a museum, the transferred objects receive first aid treatment by specialists, and finally the objects are kept in a safe place until they can be returned to their original place. In the case of the earthquake in 2011, more than 4 000 specialists and volunteers participated in the programme. The programme was initiated with the request from local governments to the ACA and the secretariat set up in the National Research Institution









for Cultural Property, Tokyo will send a rescue party to the stricken site. At the same time, the secretariat will register specialists working in the public sector and determine whether to send them if the local emergency response headquarters is in a stricken area. Rescue parties may visit the sites to carry out treatments in a fixed period. The Foundation for Cultural Heritage and Art Research has helped the programme to send specialists to sites through the granting of funds, particularly in the case of the earthquake in 2011. Finally, through the Cultural Properties Doctor

Dispatch Programme. It focuses on immovable built heritage. The objective is to investigate damage to immovable cultural properties and to support the properties' owners in order to make a plan for preservation and restoration as soon as possible after the disaster. Volunteer architects will survey damaged historic buildings and develop a conservation plan for the properties' owners. The team of specialists will be composed of experts on the history of Japanese architecture and will investigate the damage condition of traditional buildings. The secretariat



is part of the Architectural Institute of Japan. Following a request from the local government to the ACA, the request will be forwarded to the secretariat who will send "doctors" to the site. The Foundation for Cultural Heritage and Art Research also helped the programme after the

earthquake of 2011, which was the foundation of the programme and has succeeded in involving many other agencies.

The third step is financial support from the national government, providing at least 50 percent subsidy of the total rehabilitation cost.

Conclusion

The Law for the Protection of Cultural Properties was established in 1950 and merged pre-existing laws into a single conservation framework which has been revised continually to expand its scope of conservation concept. It covers a wide range of categories stretching from tangible to intangible, movable to immovable, cultural to natural heritage. The conservation system is principally composed of imposing strict interdiction to alteration without

permit and providing financial aid to the owners for the preservation of cultural properties. In the most recent revision of the law, the concept of comprehensive protection has also been introduced into the legislative system in addition to the existing regulations to the designated properties at each site. These multiple conservation measures ensure that invaluable cultural properties remain intact and passed on to future generations.

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The national experience of Việt Nam in safeguarding cultural heritage in the context of development projects

Thị Thu Trang Nguyễn

Abstract

This paper provides a chronological account of the legislation on the protection of cultural heritage in the Socialist Republic of Việt Nam and will then focus on the protection of cultural heritage in the context of development projects, using the National Convention Center at 18 Hoàng Diệu (Hà Nội) and Sơn La Hydropower Project as case studies. The obstacles for reconciling heritage conservation and development are presented, along with specific suggestions to overcome these obstacles.



Legislation on the protection of tangible cultural heritage

Article I under General Provisions of the Law on Cultural Heritage issued in 2001 (National Assembly of the Socialist Republic of Việt Nam, 2001), ammended and supplemented in 2009 (National Assembly of the Socialist Republic of Việt Nam, 2010), defines tangible cultural heritage as consist[ing] of "material products with historical, cultural and scientific value that are passed on from generation to generation".

Article 36 states:

- The approval of projects to improve or construct structures lying outside the protected cultural areas regulated in Article 32 of this Law but considered to have the possibility of negative influence on the natural beauty, ecology or environment of the site must include the written comments and evaluation of state authorities responsible for culture, sports and tourism.
- 2. In the case that the principal investor in a project to improve or construct a structure regulated in point 1 of this Article so requests, state authorities responsible for culture, sports and tourism have the obligation to supply relevant materials and the specific requirements for protecting the site, so that the principal investor can select appropriate measures to guarantee the protection and promotion of the site.

2010 Amendment:

3. Investors of projects on the renovation or construction of works in places where relics can be affected shall coordinate with and create conditions for competent state agencies in charge of culture, sports and tourism to supervise the renovation and construction of these works. Article 32 defines the protection zones: a) type I including "cultural sites and zones determined to contain principal elemetrs of a cultural site. These areas should be preserved in their original condition"; b) type II as "zones surrounding protected areas".

Article 37, 2010 amendment states:

- 2. Investors of projects on renovation or construction of works in places under archaeological planning shall coordinate with and create conditions for competent state agencies in charge of culture, sports and tourism to conduct archaeological exploration and excavation before these projects are implemented and supervise the renovation and construction of these works.
- In the course of renovation and construction of works, if realizing that there may be relics, vestiges, antiques or national precious objects or discovering relics, vestiges, antiques or national precious objects, project owners shall suspend construction and promptly notify such to competent state agencies in charge of culture, sports and tourism. Upon receiving notification from project owners, competent state agencies in charge of culture, sports and tourism shall take timely handling measures to ensure construction progress. When finding it necessary to terminate construction of works in those places in order to protect relics, competent state agencies in charge of culture, sports and tourism shall report such to competent superior agencies for decision.



The impact of the development projects on tangible cultural heritage through case studies

In the course of industrial and urbanization projects, heritage authorities have uncovered many heritage artefacts and through archaeological excavations have been able to research, conserve and promote heritage values. While it is true that excavations most often occur in a hurry due to the construction project schedules, in some cases archaeologists have discovered very significant artefacts.

Case study 1: The National Convention Center at 18 Hoàng Diệu (Hà Nội)

The plan was to build the National Convention Center at 18 Hoàng Diệu (Hà Nội) in the centre of Hà Nội. Yet, due to indiscriminate examination in the course of construction, an archaeological area was discovered. Heritage authorities immediately identified and protected the entire conservation area and relocated the National Convention Center. The Central Sector of the Imperial Citadel of Thăng Long – Hà Nội was recognized as a UNESCO World Heritage Site

Figure 1
Kinh Thiên Palace,
The Central Sector
of Imperial Citadel
of Thăng Long,
Hà Nội. Image
© Department of
Cultural Heritage

in 2010 (UNESCO World Heritage Centre, 2019) under criteria (ii) "expresses a set of intercultural exchanges which shaped a unique culture in the lower Red River Valley"; (iii) "bears witness to the long cultural tradition of the Viêt populations...a continuous seat of power from the [seventh] century through to the present day"; and (vi) "with its political



function and symbolic role, is directly associated with numerous and important cultural and historical events, and leading artistic expressions and moral, philosophical, and religious ideas. The succession of these events marks the formative and development process of an independent nation over more than a thousand years, including the colonial period and the two contemporary Wars of Independence and reunification of Viet Nam".

Case study 2: Son La Hydropower Project

During construction of the Sơn La Hydropower Project from 2007 to 2010, in accordance with the provisions of the Law of Cultural Heritage, the Ministry of Culture, Sports and Tourism (MCST, of which the author is a member and contributed to the report (MCST, 2013)) directed the concerned institute to conduct a project which would urgently protect and promote the value of cultural heritage around the Sơn La hydroelectric reservoir (MCST, 2013, p. 2, 3, 7).

The project consists of the following:

- archaeological excavations;
- relocating material traces existing in Son La hydropower reservoir;
- census, inventory, cataloguing and mapping the associated tangible and intangible cultural heritage. This consists of four smaller projects:
 - a) thematic ethnographic film and chorographical film on the floodplain and the resettlement area of Son La hydropower;
 - **a**) census, mapping of the tangible and intangible cultural heritage;
 - a) fieldwork and research on the cultural traditions of the communities residing in the reservoir and the resettlement areas; and
 - **a**) survey, collection and research on the folklore reservoir area and resettlement areas.





After nearly four years of implementation, the project produced the following results:

- Excavating and displacing 31 archaeological sites, including 15 sites in the province of Sơn La, 10 sites in Lai Châu and 6 sites in Điện Biên Province (Nguyễn Khắc Sử, 2009). The relics obtained were taken, in accordance with the provisions of the Law on Cultural Heritage, to the Museum of Sơn La, Lai Châu and Điện Biên for study and preservation.
- Census, inventory, catalogue and mapping of the tangible and intangible cultural heritage; producing thematic ethnographic film and chorographical film on the field even in areas of 3 provinces of Sơn La, Lai Châu, Điện Biên, including: geographic films on 3 provinces and a seminar film on the Kinh, Hoa, Khmu, Black Thai, White Thai, Dao, H'mong, La Ha, Khang, Lu; survey, collection and conservation on folklore: 30 communes and 2 communes reservoir resettlement; completed 58 thematic reports

on the ethnic Thai, Khang, La Ha, Hoa, Lu, Hmong, Mang (Việt Nam National Institute of Culture and Arts Studies, 2010).

other architectural elements. By May 2010, with the resettlement of 18 897 households in the province of Sơn La, Điện Biên and Lai Châu from the reservoir to a new place (Agricultural Planning and Design Institute, 2007); basically the project to protect the cultural heritage around the Sơn La Hydropower plant was completed in the field with protection, relocation and full documention resulting in the complete cultural heritage which exists in hydropower reservoir ensuring the volume of water to be stored in the reservoir as planned.

While building a freeway to reduce traffic congestion in Hà Nội, the heritage authorities did not conduct detailed archaeological excavations, so upon the discovery of archaeological material, the project was forced

Figure 2

An ethnic minority commune in the submergence area of Sơn La hydropower plant. Image

© Thu Trang, 2012



to halt for a period of time in order for the completion of the archaeological excavations, with a severe impact on urban transportation.

As the aforementioned three cases demonstrate, proactive exploration, excavation

and documentation schemes are required for the conservation of cultural heritage prior to any infrastructure construction.

Obstacles in reconciling conservation and development

Heritage landscape affected

The development of industrial parks, factories and urban spaces has resulted in the alteration of ancient villages; many places that had been used as cultivated areas, and others with stable residential areas were cleaved by the opening of roads or the construction of new facilities. Residences and elements in the surroundings of the farms were modified by ponds, perennial gardens and cultivated lands were replaced with brick walls, buildings, roads paved and concrete structures which dramatically altered the landscape, such as the cultural environment of the monuments.

In the planned and developing industrial areas the environment of the monuments may be modified. In the scenic areas with many hills, rivers, composite structures, landscape the environment is affected by the need of exploiting minerals such as coal, earth and stone to make cement, road construction with modern facilities, with increasingly rapid pace, growing volumes, has caused the loss of some mountains and landscapes. In addition, industrialization and modernization has also led to the emergence of a growing number of chimneys, factories, industrial landfills, sewage, the transmission of electric lines passing through or extending into heritage zones.

Reduced areas of heritage

In some cases, the zones encompassing heritage monuments or landscapes are suffering from encroachment: due to airport expansion (for example Mường Thanh airport and Cổ Ống airport) or land grabs for tourism and resort construction (Quảng Bình). The protection zones

for Tràng Kênh relic and Bạch Đằng (Hải Phòng) were adjusted twice to make room for cement and chemical plants and roads. The Tam Điệp district lines (Biện Sơn (Ninh Bình)) as well as other limestone-rich areas have also been affected. Coal mining in Quảng Ninh as well as scientific and technological development resulting in the exploitation of new raw materials has resulted in the wholesale destruction of the scenic area.

While many listed monuments from a few decades ago still retain buffer zones or large protected areas, these too are threatened by the opening of industrial zones and the authorities narrow down the areas around these places in order to serve the new requirements.

Desctruction of monuments from infrastructure

It in no longer rare for monuments to suffer damage from nearby construction projects. Examples include Hàng Kênh Communal House in Hải Phòng city; Đáp Cầu Communal House – Bắc Ninh; Lệ Mật Temple, Kim Liên Communal House in Hà Nôi city. Due to this situation, some of the relics had to be moved further away from the access road. The consequence of shifting positions is that the monument no longer resides on the land carefully chosen by the ancients according to philosophical beliefs associated with feng shui. The placement and construction of buildings and monuments according to these principles ensures the longevity of the building as well as the happiness of the villagers. These important elements of life have been disregarded in the face of development desires, for example, at the Dau Pagoda in Hà Nội where a road now runs directly through the site.



Flooding

When implementing development plans, zoning planners and investors usually only think of planned construction works for their safety surface height and very new projects consider the impact of such projects on the environment and surrounding buildings. The inpouring of soil to fill the infrastructure for new urban areas, industrial zones which raises the road base has resulted in many relics being flooded even in the dry season. In Hà Nội, where the elevations around many monuments and the French quarter are 1 m below the street level has been exempted.

Raising of the roadbed is frequently accompanied by the degradation of drainage works (sewage) and has led to frequent inundation of monuments. Even a light rain can cause the ruins to become muddy. Today, although construction and development of urban infrastructure works in the country are increasingly rapid, they are asynchronous and not in harmony with the existing architecture, so the phenomenon of flooded ruins is no longer a rare event, not only in the centre of Hà Nội but also in many other places. This is a situation that needs to be addressed. Many monuments need to be elevated in order to escape flooding, thereby changing the original nature and integrity of monuments and their environment.

Heritage environment being polluted

The massive scale of industrialization and urbanization which lacks uniformity and is often mismanaged results in water pollution from factories, industrial parks and urban areas discharging untreated waste into the water sources. Development of industrial zones, increasing transport futher creates noise and air pollution, damaging heritage places which need clean quiet atmospheres.

Monuments with walls

In the past, when there was a lower population, small houses and little crime which made walls surrounding important sites unnecessary. People could come and go in temple or pagoda areas freely. At present however, due to urbanization

and increasingly crowded residential areas thefts of antiquities are also on the rise. In places where relics are still in place authorities have been forced to construct walls to protect the places and objects resulting in the changed landscape and sense of place.

Furthermore, monuments are now surrounded by high-rise buildings. Some military grounds which used to be located outside urban areas with wide views are now engulfed by buildings with the cannons or guns which once pointed towards the landscape or distance hills now facing buildings. This is not only disconcerting psychologically but has destroyed the experience of viewing a battlefield scene which no longer represents the landscape as it was.

Monuments being shifted or eliminated

In addition to sites and landscapes being reduced or altered entirely under the pressures of urbanization and industrialization there are cases where monuments or artefacts were permanently relocated such as at Nam Giao, at 62-64 Trần Phú street in Hà Nội. In 2009, when excavating the area at 62-64 Trần Phú street, specialists discovered 140 m of the citadel's foundation dating to the Nguyễn Dynasty (1802–1883), the strip footing of walls in the architecture of the Lê dynasty, the sewer drains of the Trần dynasty (1225–1400), tombs, bones and a large number of relics such as bricks, tiles, bowls, plates, pebbles, rock bullets, decorative materials and coins from the VII-IX centuries to the beginning of the Nguyễn Dynasty.

In order to serve the project of building a working house of the National Assembly and the Office of the National Assembly here, all relics have been relocated to the Preservation Center of the Cổ Loa Area Ancient Citadel, even all the foundation walls. After completion of the revision, the foundation walls and all relics are displayed in Hà Nội Old Citadel to serve visitors. In other cases, archaeological excavations have been conducted under such pressure without adequate time to properly investigate such that the reports are inaccurate and have resulted in the irreversible loss of important historic information.





Conclusion: suggestions for reconciling conservation and development

For countries with emerging markets such as Việt Nam, the pressure on heritage by urbanization and industrialization is very intense since the balance between conservation and development is still to be found. Cultural heritage, both tangible and intangible, is fragile, easy to be distorted and vulnerable to massive development. Moreover, most investment funds for the preservation and restoration of cultural heritage come from the state since businesses do not tend to provide financial or even in-kind support. Furthermore, Việt Nam does not seem to have taken full advantage of the international developments towards reconciling conservation and development.

An effective way to this end would be the enhancement of the legislation on the protection of cultural heritage. While the current law protects both tangible and intangible heritage and provides for buffer zones around monuments continual assessment and amendments to laws are needed to strenghthen protections.

Another effective method would be the development of further collaboration between the Ministry of Culture, Sports and Tourism of Việt Nam and international and regional organizations, for example ICCROM and CHA. This would help Việt Nam in the protection and promotion of its tangible and intangible cultural heritage in parallel with its economic and social development.

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© CHAPTER 8 ©

National conservation policy in Sri Lanka

Prasanna B. Ratnayake

Abstract

This paper examines the national conservation policy in the Democratic Socialist Republic of Sri Lanka, focusing on the roles of a variety of local, national, and international organizations and groups through the case studies of Sri Lanka's World Heritage Sites Anuradhapura, Galle, and Sigiriya. The paper will discuss the traditional systems of maintenance for Buddhist sites. It will also touch on the Department of Archaeology, formed during the colonial period. By examining the overall historical development of the national conservation policy over time we can see how its evolution has resulted in a more increased level of participation with local communities.



Traditional Maintenance Systems

Heritage conservation is a relatively new concept in Sri Lanka, first introduced by the British colonial rulers in the nineteenth century. Previously, the traditional systems for long-term sustainability pertained primarily to religious and public buildings. Within Buddhism - the dominant religious practice in Sri Lanka – non permanency is a key tenet. There is a fundamental awareness and acceptance of the natural decay or destruction of the life of buildings or objects and therefore no plans for restoration of ancient or abandoned buildings was in place. Yet, steps were taken to protect and maintain the existing structures in the most efficient way possible in an attempt to extend the life of the site. Simultaneously, the construction and ongoing maintenance of monasteries or other sacred spaces is considered a meritorious act. Additionally, the Buddha's teachings, come to us in the Vinaya (Code of Discipline), and encourage monks to engage in repair works. This is important as according to the Mayamata (an Indian text dating from the sixth century CE, see Dagens, 1985) contains a chapter on restoration and provides guidelines on how to protect the authenticity and integrity of monastic buildings, including advice that some activities can only be done by specially trained monks. All this meant that usual repairs and maintenance of the sites was carried out voluntarily by members of the community or pilgrims and was a well-organized system which benefited both the sacred spaces and the Buddhist community.

The stupas and other monasteries built between the third century BCE and the tenth century CE in Anuradhapura were also managed through the above-described system, where monks and the community were involved. That system continued for several more centuries until the Dry Zone Civilization, (recorded settlements in Sri Lanka are considered to have started in the north central of the island, identified as a Dry Zone; after the twelfth century, those areas were abandoned and the civilization moved to regions in the north western, central, western and further south identified as Wet Zones, depending on the climatic conditions) where Sri Lankan civilization had begun, collapsed at the beginning of the second millennium. Civilization shifted to the south, due to health threats, such as malaria, and political threats, especially from southern India [resulting in the gradual abandonment of the sites] (Ratnayake and Mathota, 2020).

These ruins were considered by the British colonial authorities to be archaeological remains and per the existing legal frameworks initiatives were taken for their restoration. However, the ruins were no longer considered *living* sites by the local communities. While the sites retained a sacred significance, there was no traditional system for restoring or reusing a derelict place.

In 1868, without consultation or care for local traditions, the Government of Ceylon, under the Secretary of Colonies of the British Crown appointed a committee to obtain information on ancient architectural works. Subsequently, in 1871 the monuments in Anuradhapura, Polonnaruwa and Sigiriya were documented by photographers and works begun in 1884. Studies of the inscriptions were also carried out.

Colonial Period and International Charters

The Department of Archaeology and its postcolonial changes

In 1890, the Department of Archaeology was established and H.C.P. Bell, a judge,

was appointed as the first commissioner, and at the time, the Treasure Trove Ordinance of 1888 (LSL, 2019a) was the only legal framework to carry out the works related to ancient monuments



and objects. There were legal provisions only for the preventing of the concealment of treasure troves; describing that they belong to the crown. No provisions were taken for the protection of the monuments, sites, and objects but the department was engaged in the restoration of ancient monuments.

From 1900 onwards, Chapter 144 of Antiquities Ordinance No 15 was used as the legal framework to protect the antiquities of the country. As per the definitions in the Ordinance, two types of antiquities were protected: (i) objects and creations such as statues, paintings, inscriptions, ceramics, coins, jewellery, arms, ornaments, and other movable objects; and (ii) monuments and buildings such as temples, churches, and tombs. Therefore, this ordinance gave full protection for a range of objects and monuments but, again, there were no provisions for the conservation or restoration apart from the findings of antiquity in excavations. But most importantly, in the ordinance there were instructions on the documentation, export and damage of the antiquities.

Several archaeological monuments in the country were restored and many explorations were carried out during that period. In the 1920s, several Buddhist organizations initiated stupa restoration movements, in an attempt to serve Buddhist religious needs. In 1940, Antiquities Ordinance No. 9 (amended by No. 24 in 1998 and No. 12 in 2005) (LSL, 2019b) was enacted. Its main objective was to protect objects and there were no direct references to specific architectural monuments and sites.

According to the Antiquities Ordinance, the legal responsibilities were dissolved down to the village level, i.e. the primary level government officer, the Grama Niladhari. In the event of finding an archaeologically important object, monument, or site, the Grama Niladhari was to inform the Director General of Archaeology (Article 3). Thereafter, the divisional and district secretaries were given powers to take necessary actions on the object or monument before reporting to the provincial archaeological officer.

Archaeological Impact Assessment

Under the Antiquities Ordinance, special regulations were formulated for conducting

Archaeological Impact Assessments (AIA) on development projects. The Director General of archaeology has the power to conduct Archaeological Impact Assessments for the prescribed projects under the regulations. Archaeological Impact Assessments can make recommendations, objections, conditions to mitigate the negative impacts of the project. The project proponent is liable to pay for the excavation, conservation, documentation, publication, and relocation of the monuments that fall within the project area. Although the broad intention of an Archaeological Impact Assessment is to protect the archaeological context, it often opens a way for protecting the monuments.

Caretakers and workers appointed from the neighbourhood

Throughout the history of the department there has been a constant shortage of qualified experts in the Department of Archaeology. Consequently, two types of laypeople are appointed for the sake of the protection and conservation of monuments.

- Casual workers. When conservation work is carried out, only skilled workers are employed from the permanent staff of the department. The support staff are employed from the local communities, who are unemployed or wish to render service to the particular project. In most of the religious monuments' conservation, the community volunteer their services for merit, but when it is a long-term project, they expect a wage for the work. It is advantageous in many ways. The most important thing is cooperating with the local labour force. In this way, special traditional skills relative to a specific place and site can be accessed. Furthermore, the relationship built between the department and the casual workers during the conservation period, often results in long-term cooperation.
- Caretakers. Many monuments require regular maintenance but employing full-time staff is neither economic nor practical. In these cases, especially where the monument is geographically distant, a caretaker is appointed. This person will look after the site and is paid a nominal fee. They do not work full-time but

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do essential maintenance work. It is common for these positions to hold a high prestige in terms of a local individual being given the great responsibility of looking after a significant site as well as inherently increasing the person's merit. An additional benefit is the long-term relationship the community develops with heritage which might otherwise be neglected.

ICCROM and ICOMOS International

In 1956, ICCROM was established by UNESCO, and in 1958 Sri Lanka became a member; thereby opening up opportunities in research and training for Sri Lankan heritage professionals.

International doctrines, such as the Athens Charter (Congress of Architects, 1931) and the Venice Charter (ICOMOS, 1965), became key documents

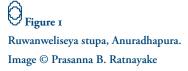
in the conservation of monuments in Sri Lanka. The Venice Charter, though focusing on material conservation and not embracing social and religious elements, was adequately supportive in conservation and restoration works. For example, during the conservation of Embekke Devale (a fourteenth century temple, see Ratnayake, 2018) in 1945, it was found out that some of the carved timber portions were decayed, and the officer handling the work decided to reuse the same timber after chemical treatment. The local people suspected that the officer was trying to embezzle goods and funds from the site and the government and sent petitions to the commissioner. This incident illustrates the difference between the traditional system and a Western-based methodology.

National and Local Governance

Anuradhapura Preservation Board

Beginning with the 1940 Antiquities Ordinance, the 1942 Anuradhapura Preservation Board Ordinance No. 34, under the direction of Oliver Weerasinghe, a well-known architect and town planner, set out to control the development of the historic area. This was to be in symbiosis with providing a more suitable religious environment for the pilgrims and developing a new urban area with long-term opportunities. With few exceptions, the plan could be considered the most successful programme in Sri Lanka, especially as it continues to cater for ever changing and evolving needs. As a whole, the Anuradhapura Preservation Ordinance and associated Scheme could be characterized as a plan with a more sympathetic approach towards the sociocultural and religious needs of the local community (Veranjan, 2005).









Town and Country Planning Department

Parallel to the Anuradhapura Preservation Ordinance, the Town and Country Planning Ordinance No 13 of 1946 (LSL, 2019c) came into power, which regulated the establishment of the Department of Town and Country Planning (DoT&CP). It undertakes several planning projects related to some of the historic areas such as Polonnaruwa, Kataragama, Panduwasnuwara as well as others.

Orders on conservation

In 1947, Senarath Paranavitahna, the archaeological commissioner, prepared instructions on the Protection of Ancient Monuments other than on Crown Lands highlighting the provisions in the Antiquities Ordinance. It was the first ever guideline on the conservation of privately-owned monuments in Sri Lanka, highlighting the importance of protecting common heritage. These were the first detailed guidelines on the excavation and conservation of monuments in Sri Lanka. It covers all the technical, administrative, and financial procedures that must be followed in excavation and conservation projects. All the monuments constructed with brick, stone, mud, and timber are described and the application of mortars, concrete and timber are accounted for. It also includes instructions on purchasing, supplying, storing, and issuing the materials for the works.

In 1967, Roland Silva prepared standing orders for the conservation of monuments in tropical climates. These orders were comprehensive guidelines for the conservation and included all relevant technical instructions, with necessary administrative, financial and management limitations practiced in the government sector. These orders continue to be in practice today with modifications as necessary.

The Central Cultural Fund

In the late 1970s, the UNESCO funded Cultural Triangle Project (Stargardt, 1981) commenced, which connected three major historic sites, Anuradhapura, Polonnaruwa, and Kandy and also included the sites of Dambulla and Sigiriya. As the project was funded by UNESCO, with the contribution of the UN Food and Agriculture Organization (FAO),

it was decided to establish a fairly simple financial management system, and to avoid difficulties in the structured government system. Later, the Central Cultural Fund (MHCCA, 2019) was established by an Act of Parliament (No. 57 of 1980, see SLCA, 2019a).

The Act covers both tangible and intangible heritage, therefore, the area covered by the Central Cultural Fund is much wider than the Department of Archaeology, although the legal powers pertaining to archaeology must be obtained from the latter. According to the powers given by the Act, the Central Cultural Fund's organizational structure was different from the Department of Archaeology, and therefore only administrative, financial and development divisions were established, and all other academic areas were covered by the contracted professionals. Architectural conservators, chemical conservators, archaeologists, and historians were contracted from the private and education sectors, while skilled and unskilled workers were also contracted on the requirements and only the supervising staff were appointed permanently under the Development division. The system created a good opportunity to get new blood and perspectives into the conservation field as private sector and education sector professionals were able to render their experiences practically in the conservation field.

Galle and Sigiriya Heritage Foundations

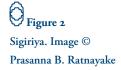
Sigiriya and Galle, as World Heritage Sites, required special attention, especially in terms of managing the activities which are beyond the control of the Antiquities Ordinance and the Central Cultural Fund Act. Therefore, two other legal frameworks were enacted creating separate institutional frameworks to conserve and manage the two sites and control the development activities within those areas. Galle Heritage Foundation Act No. 7 of 1994 (Galle Heritage, 1994) and Sigiriya Heritage Foundation Act No. 62 of 1998 (SLCA, 2019b) were passed by the government.

The Sigiriya Heritage Foundation is still limited to the Act due to financial contradictions with the CCF. The Galle Heritage Foundation was established in the late 1990s. During the last two decades, GHF, is making a fairly good contribution towards the protection of heritage,

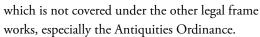












As a member of the Galle Heritage Planning committee, the Galle Heritage Foundation contributes its ground level experiences in decision-making to various development proposals. The Galle Heritage Foundation works as a coordinating body to regularize the activities of the different institutions but lacks any legal powers. Therefore, special development and controlling regulations for the declared area of Galle, concerning for example, the types of roofs, colours of walls and doors and windows, height limits, are all published under the legal



framework of Urban Development Authority (UDA, 2019). These regulations are practiced by the Galle Heritage planning committee when there are proposals for development within the heritage properties at the World Heritage Site of Galle.

The Galle Heritage Planning committee meets once a month, and all the development proposals are examined after a brief site inspection by the committee members. In the committee meeting, recommendations are made for the Municipal Council and it has been agreed with the Municipal Council not to proceed with the final approval without the heritage committee recommendations.



ICOMOS Sri Lanka

ICOMOS Sri Lanka, 2019) and became an effective platform for heritage conservators to make suggestions, proposals, and recommendations on conservation. Because ICOMOS Sri Lanka is a nongovernmental organization attached to ICOMOS different types of conservators have the opportunity to share their experiences and several academic activities have been carried out for the improvement of the conservation sector in the country. As ICOMOS Sri Lanka has a direct connection with its international body, international debates and standards are brought directly to local conservators and professionals.

The most remarkable event was the appointment of the founder president of ICOMOS Sri Lanka Roland Silva as the president of ICOMOS International in 1990. Roland Silva held the post for three consecutive terms until 1999, thereby bringing numerous benefits to Sri Lanka.

ICOMOS Sri Lanka conducts several programmes for the development of the conservation field including, trainings, seminars, lectures, publications and more. Appointed members contribute their experiences and expertise to various international scientific committees the world over.

World Heritage Sites

In 1982 the Ancient City of Polonnaruwa (UNESCO World Heritage Centre, 2019c), the Ancient City of Sigiriya (UNESCO World Heritage Centre, 2019b), and the Sacred City of Anuradhapura (UNESCO World Heritage Centre, 2019d) were inscribed on the World Heritage List, bringing Sri Lanka out onto the world stage. Managing a World Heritage Site is different from a national archaeological site, and thus Sri Lankan heritage authorities had to turn to a new area of heritage management that is focused on protecting the Outstanding Universal Values (OUV) of these sites. Protecting the Outstanding Universal Value of a World Heritage Site is a State Party responsibility, requires a series of aspects which go beyond the Antiquities Ordinance and conservation principles. It became a collaborative effort with several other laws, practiced by different institutions. The manager of the World Heritage Sites had to maintain a good relationship with other institutions and work together. To fulfil the State Party responsibility, management plans were prepared and with the participation

of a series of institutions. The Urban Development Authority, the National Physical Planning Department (formerly the Department of Town and Country Planning) relevant local authorities and several other institutions were brought into one table when taking decisions on World Heritage Sites. UDA and NPPD prepared their development plans considering the World Heritage Convention and sometimes special laws were passed to control the activities. The World Heritage Site managers put into practice those laws for the protection of the site.

A special set of guidelines were prepared for the protection of the World Heritage Site of Galle by UDA and the Master Plan was prepared by the NPPD for Anuradhapura is used in the management of the two sites. The entire World Heritage Site of Sigiriya and its buffer zone has been declared a special protected zone under the legal provisions of UDA and collective decisions are taken on the development proposals for Kandy and Galle.



Conclusion

The national conservation policies of Sri Lanka extend back approximately two thousand years, although the term "conservation" is new to the Sri Lankan context. The ancient treaties and instructions handed down by the Buddha and the Kings formed the basis for the protection, restoration, and maintenance of, especially, religious buildings and sites. In addition, the legal frameworks established through the Western administration systems have also contributed

to the protection of monuments. However, the well-structured and developed education system in Sri Lanka paved a path in producing the professionals for the conservation sector, and the connections between both national and international agencies and guidelines made a dynamic support structure. All this has resulted in the individual responsibility for care of their heritage felt by Sri Lankans.

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© CHAPTER 9 ©

National policy for the conservation of cultural heritage in Nepal

Suresh Suras Shrestha

Abstract

The heritage of the Federal Democratic Republic of Nepal has been protected through the Ancient Monument Preservation Act of 1956 and more recently through the Conservation Guidelines for Post 2015 Earthquake Rehabilitation: Conservation Guidelines of 2015 and the National Culture Policy (2010). These policies are based on the traditional knowledge, methodologies, and technologies as well as community involvement. The inclusion of traditional skills is also consistent with international developments. There fore, while Nepalese conservation policies are in line with current international trends they continue to evolve to the changing needs of the Nepalese situation.



The heritage conservation policies of Nepal have been preserved through the Ancient Monument Preservation Act of 1956 (GoN, 2013), which was developed on the principles, norms, values and practices of Nepalese societies and state legislations in continual existence throughout the history of Nepal. The newest guidelines were implemented in response to the 2015 Gorkha earthquake; Guidelines for the Post Earthquake Conservation, Reconstruction and Rehabilitation,

2016 (GoN, 2016) are based on previous policies but with added specifications relating to damage and reconstruction resulting from earthquakes. These two policies, combined with the National Culture Policy (GoN, 2010) form the three pillars of Nepalese heritage conservation guidance and regulations. Together, they are based on the continuation and use of traditional knowledge, skills, techniques, and technologies as well as community involvement.

Historical background through inscriptions

Inscriptions dating to the Lichchhavi period (c. 400 to 750 CE) of King Manadeva at Changu Narayan (fifth century CE) is one of the first written examples of Nepalese governance. Many inscriptions of this era describe one of the ways to sustain the temples was through community involvement (Tiwari, 2009). The Jaladroni inscription of 508 mentions that King Basantadev provided land for reconstruction while the entire tax revenue of a village provided for the regular maintenance of Pashupatinath, as per inscription of King Narendra Dev of 640 (Bajracharya, 1996). A second inscription of King Narendra Dev of 658 clearly mentions the terms upalepana (regular cleaning of clay with water), samarajya (small maintenance or repairs), and pratisanskara (repairs or reconstruction).

These inscriptions provide evidence for the establishment of a guthi-like system of communal donations of land and labour for the conservation of religiously significant places. While this period provides the first written inscriptions it is assumed that the guthi system was already in place for some time prior. In this system, responsibilities are handed over to the local users or the local communities who were endowed with the rights to use the donated land and income from it for the conservation and management of temples and monuments. This system benefited both the sites in terms of regular funds, labour, and knowledge for maintenance as well as community members who earned merit through their active devotion in prolonging the life of the temple.

Through this guthi system, places of religious significance continue to be looked after (for an extended discussion on the guthi system and heritage management see Chapagain, 2020).

Malla period (c. 1201–1779) inscriptions mention that heritage conservation was managed by the aristocratic state or government. But local trusts (guthi) continued to care for monuments and sites according to their religious beliefs and practices as well as other important places. An inscription of 1149 mentions funds provided for the renovation of a rest house (pati) on the side of a road. Dating from 1634, an inscription refers to legislation for restoration works. It is understood that the state introduced these principles and methods for conservation in a practical and written form at this time. Another inscription of 1654 discusses the replacement of wooden pillars in their original style and design during the renovation of a temple (this could be construed as an early discussion of authenticity in a Nepali context). From these we see a picture of more involvement from the royal families in heritage conservation. It was felt that a responsible government authority or institution had to be established for the conservation and management of the scattered monuments and heritage all over Nepal at that time and in 1741 (1798 in the Nepali Bikhram Sambat calendar) King Rana Bahadur Shah established an office named Chhen Bhadel Adda for the express purpose of managing monuments across the kingdom.



In the modern period, the earthquake of Nepal-Bihar 1934 resulted in the collapse or otherwise destruction of 56 monuments in Kathmandu, 259 in Lalitpur and 177 in Bhaktapur (Shrestha, 2001 (2058 in the Nepali Bikhram Sambat calendar)). A deft report from the time discusses methods for reconstruction of the damaged buildings under a situation where lack of materials, skilled labour and funds was prevalent (Rana, 1934) and these issues relative to the concept of authenticity are discussed by Kai Weise (2018).

The Department of Archaeology established in 1952 (GoN, 2013) and the director general appealed to the Nepalese people to conserve and safeguard archaeological properties. Following this, the Ancient Monument Preservation Act came into being in 1956, adopted by the Government of Nepal. After the execution of AMPA, the Department of Archaeology established itself as the organization responsible for heritage conservation. The DoA continues to be the main body and works on excavation, management and research at sites and monuments.

The Department of Culture was established in 1959, and the National Museum in 1962.

In 1979, Kathmandu Valley was inscribed in the UNESCO World Heritage List (UNESCO World Heritage Centre, 2019a) and included seven monument zones: the Durbar Squares of Hanuman Dhoka; Swayambhu and Bauddhanath stupas; Pashupati Temple and Changu Narayan temples. Master Plans were developed and executed to manage these sites. Lumbini, the birthplace of Lord Buddha, was also inscribed as a World Heritage Site in 1997 (UNESCO World Heritage Centre, 2019b) and a growing Tentative List exists (UNESCO World Heritage Centre, 2019c).

Throughout, there has been a continuation of the traditional systems stemming from the Lichchhavi period and the development of the guthi system into the Malla period which saw the increased official involvement of the royal families. While establishment of the Department of Archaeology as the main government agency responsible for conservation of sites, there are still many cases where local communities work on their own to manage their monuments and there is now a larger trend to reincorporate some of the traditional knowledge systems into modern practice.

A new era of combined international and Nepali legislation and formalization of the guthi system

As discussed above, the guthi system has for centuries been at the basis of cultural continuity. The guthi were created as trusts owning land from which the revenues were used to finance the regular maintenance of all types of monuments as well as of their related rituals and festivals (Shrestha and Sharma, 2007, p. 1). The guthi system was one of the best practices in society for safeguarding monuments. The system has undergone major changes since the 1960s, mainly due to a land reform campaign and to the nationalization of guthi properties. With this nationalization the very basis of the traditional system disappeared (Shrestha and Sharma, 2007, p. 1). National legislations

and governmental organizations replaced the time-honoured sociocultural traditions for conservation and management of heritage. During this time (in 1978), Nepal ratified the UNESCO Convention (UNESCO, 1972), thereby bringing international guidelines into play in the Nepali context. Further to this, *Operational Guidelines* (UNESCO World Heritage Centre, 2017) are also currently in use in Nepal. This has resulted in the existence of multiple practices and guidelines governing management at a single site, Swayambhu for example. Here is a brief discussion of the relevant modern Nepali legislations governing the conservation of heritage.



Roles and responsibilities in Ancient Monument Preservation Act of 1956

The Ancient Monument Preservation Act of 1956 (GoN, 2013) is the major legislation for the conservation and management of cultural heritage and archaeological remains and objects in Nepal. The Act dictates that the Department of Archaeology is the sole government authority responsible for conservation and management, therefore, all heritage is managed on the basis of this Act. According to the Act, the government may declare an area around any monument or site to be a Protected Monument Zone (PMZ) and must publish a notice to that effect in and around the zone (GoN, 2013, p. 3) and includes the following regulations:

Anyone wishing to install or connect a telephone line or electricity, to dig ground for drinking water or sewerage, to construct or repair road, to shoot-out a film, to organize a fair or festival, to perform dancing or signing ceremony, to park vehicles or to paste a poster and painting within the protected monument zone shall have to take permission, as prescribed, from the Department of Archaeology. Permission shall not be needed to be taken from the Department of Archaeology to conduct and perform traditional dancing and singing or to organize a fair or festival (GoN, 2013, p. 3).

Anyone who, on his own land within the Protected Monument Zone, is willing to construct a new house or building or to repair, alter or reconstructed a house or building so as to make changes on its original shape, shall have to construct, repair, alter or reconstruct it as is matching the style of the area and as is in consonance with the standard prescribed by the Department of Archaeology (GoN, 2013, p. 4).

Roles and responsibilities in Local Administration Act of 1971 (2028 in the Nepali Bikhram Sambat calendar)

This act is also very important for the conservation and management of heritage in Nepal and Kathmandu Valley. It includes a provision designating the Chief District Officer (CDO) responsible for conservation and management of heritage. It states that the CDO must keep

records of public water taps, wells, ponds, well-sides, shelters (pati pauwa), guest houses (sattal, dharmashala), temples, caves, bridges situated within the district and if they are damaged or likely to collapse, the CDO must institute repairs to be made by the owner or his/her agent, or by the Municipality or Village Development Committee (VDC) or by the Guthi Trust Corporation (GoN, 1971, p. 22). These entities also maintain other larger public water resources such as ponds and lakes and the buildings associated with them such as rest or pilgrim houses, temples, caves, monasteries, and mosques (GoN, 1971, p. 25). Provisions in the act further dictate that the office of the CDO must prepare and maintain records of these lands and sites identified through cadastral survey maps, royal seals, Khadga Nishana orders, copper or stone inscriptions or other similarly authoritative sources and send a copy to the Land Revenue office in the District Development Committee Office (GoN, 1971, p. 25). These provisions make the Chief District Officer the primary individual responsible for maintaining the cultural heritage in an entire district. However, the CDO must balance competing priorities and sometimes conservation of heritage suffers.

Roles and responsibilities provisioned in the Guthi Corporation Act of 1976 (2033 in the Nepali Bikhram Sambat calendar)

The Guthi Corporation Act (GoN, 1976) was established for the management and conservation of all properties scattered across the various local guthi trusts in Nepal. The preamble of the Guthi Corporation Act removes state trusts (rajguthi) from under the Government of Nepal and places them into the hands of Guthi Corporations who will then operate the trusts. In this way, a more efficient and expedient relationship can be maintained between people of various classes and economic interests. It further states that this Corporation is completely responsible for the conservation and management of all properties therein contained but should coordinate with other state agencies where applicable. The Corporation will manage the rajguthis with an amanat (wage system) (GoN, 1976, p. 8). This consolidates responsibility under a single authority for regular maintenance as well as the carrying out of religious

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festivals and undertaking donations to ensure the viability of religious performances (dharmalop), and to "utilise the movable and immovable property of the rajguthi or the income accruing there from for any existing and additional religious, educational, cultural, social, or philanthropic purpose and to operate the Guthi from the income (aayastha) of the rajguthi, make expenses from the same and establish a reserve (jageda) fund from the surplus amount and make safe investments from that fund" (GoN 1976, pp. 8–9). This control over funds is the real teeth of the Act and allows the Corporation to maintain the relevant properties.

Further to architectural sites and monuments, the Corporation is also responsible for maintaining an inventory and protecting relevant objects (GoN, 1976, p. 9) and the surrounding environment. But due to different factors of interests and priorities of the Corporation, it was found that construction of new buildings in unoccupied lands or lending these lands to corporate business holders has often taken priority of the conservation or proper management of entire properties. It has also been found that guthi lands (communal lands) are sometimes converted into private land (raikar) despite this being expressly illegal. Naturally, this has resulted in the degradation of some properties, including in cases where multiple actors collaborated for the development project over protection of heritage sites.

Roles and responsibilities defined in the Kathmandu Valley Development Authority Act of 1988 (2045 in the Nepali Bikhram Sambat calendar)

As per Article 6.1.3 (GoN, 1988) a function of the KVDA is to "develop and implement projects for the proper development and maintenance of any religious, cultural or historical heritage in planned zones...". This places the KVDA at the heart of managing these sites. Article 8.1.1 prohibits the unauthorized "possess[ion] and use [of] the natural resources, architectural, religious, historical sites, unregistered land and immovable property" without first obtaining permission from the authority, further solidifying the significance of the KVDA.

Roles and responsibilities in Kathmandu Valley World Heritage Site: Integrated Management Framework

The post 1997 Operational Guidelines dictate that inclusion of a management plan is a prerequisite for States Parties during the World Heritage nomination process (UNESCO World Heritage Centre, 2017). But when Kathmandu Valley was inscribed, it was not yet required. Poor management in the valley resulted in the valley being added to the World Heritage in Danger list in 2003 and the World Heritage Committee has repeatedly asked for an integrated and comprehensive management plan for the site (GoN, 2007). Therefore, in order to better manage the sites and to get itself removed from the WH in Danger list, the Framework was developed and implemented.

The Integrated Management Framework (IMF) for the Kathmandu Valley World Heritage Site (KVWHProperty) has clearly defined the specific sites, authorities, site managers as well as their responsibilities in the entire management system based on the national and international legal systems for WH Properties. The State Party is represented by the Department of Archaeology, Ministry of Culture, Tourism and Civil Aviation as provided for by the Ancient Monument Preservation Act, 1956. The seven Monument Zones come under the jurisdiction of the local authorities as defined by the Local Self Governance Act of 1999. There are four Monument Zones within the Kathmandu Metropolitan City: Hanumandhoka Durbar Square, Swayambhu, Baudhanath and Pashupati. The Patan Durbar Square lies within Lalitpur Sub-Metropolitan City, the Bhaktapur Durbar Square within Bhaktapur Municipality and Changu Narayan within the Changu Narayan Village Development Committee. The Pashupati Area Development Trust has the authority to manage the Pashupati Area as per the Pashupati Area Development Trust Act 1996 (GoN, 1987). The Federation of Swayambhu Management and Conservation represents the local NGOs of the Swayambhu area. The Bauddhanath Area Development Committee was established to manage the Bauddha area (GoN, 2007, p. 2). The mentioned institutions are the authorities for the entire Protected Monument



Zones; so the Department of Archaeology, the Government Authority and the Kathmandu Metropolitan City, the Local Government are two authorities responsible for the conservation and management of the KVWHP.

However, the IMF provisions has defined the site managers and their responsibilities, which shows that the sites are well managed in a coordinative way, where all the relevant authorities are also very much active to contribute through their jurisdictional services for the management of the entire site and legislations are also adequate to the sites (including all the authorities, site managers, residents and all relevant stakeholders), which have been amended over time as necessary.

One of the most significant features of the IMF is its provision of Coordinative Working Committee (CWC) for management of KVWHP. This secretariat of this body (chaired by the Department of Archaeology) then is the focal point and is responsible for the conservation and management as well as documentation of the property and related activities.

The Department of Archaeology remains the main authority for the coordination of conservation activities at the World Heritage Sites. However, powers in respect to enforcing bylaws and monitoring are to be handed down to the local authorities, and clearly defined site managers for each of the seven Monument Zones are to be established (GoN, 2007, p. 15).

Similarly, the IMF has defined other relevant authorities and their responsibilities. These include the elected local bodies (municipalities) who fall under the Ministry of Local Development; the Kathmandu Valley Town Development Committee (and the Town Development Committees of Kathmandu, Lalitpur and Bhaktapur), which fall under the Ministry of Physical Planning and Works, are responsible for physical planning, infrastructure development and land use as well as the enforcement of laws pertaining to demolition and building regulations in the private realm. The KVTDC has prepared the building bylaws for the Kathmandu and Lalitpur municipal areas. The Chief District Officers, who come under the Ministry of Home Affairs, are responsible for the local police force and are involved in the

enforcement of the building regulations and dealing with other legal issues (GoN, 2007, p. 20). The Chief District Officer is also responsible for the conservation and management of the entire cultural heritage within the territory of the entire district, and s/he has to prepare and maintain the record on such cultural heritage and inform to DoA (GoN, 2007, p. 7). The IMF recognizes that "The illegal registration of public land and the partition of property, especially with heritage buildings is a major problem, which can only be dealt with in coordination with the Department of Survey and the Department of Land Reform and Management under the Ministry of Land Reform and Management. Ministry of Law, Justice and Parliamentary Affairs is the responsible authority to clarify contradictions and overlapping authority found in the legislation. The ministry also needs to clarify the conflict between conservation laws and the rights of the individual house owners" (GoN, 2007, p. 20).

Tourism is one of the main sources of income for the Monument Zones and is dealt with by the Division of Tourism under the Ministry of Culture, Tourism and Civil Aviation, and the Nepal Tourism Board.

Multiple bodies are responsible for the conservation of the natural environment surrounding the zones, including: the Department of Forests under the Ministry of Forests and Soil Conservation, and the Ministry of Environment, Science and Technology. Various development and infrastructure projects are carried out within the Monument Zone areas by the Ministry of Physical Planning and Works; Department of Roads, the Department of Water Supply and Sewerage and the Department of Urban Development and Building Construction. This department functions to "conserve and develop the areas having religious, cultural and touristic importance" and "carry out works related to conservation of urban environment". Infrastructure and service projects are also carried out by the line agencies. This means in particular, the Nepal Electricity Authority, the Nepal Telecommunication Authority and the Water Supply Corporation.

Religious festivals are managed by the guthis. Most guthis have been nationalized under the Guthi Corporation who retains stewardship



of many of the religious monuments (GoN, 2007, p. 20). As stated above, it is the major organization established for the conservation and management of all guthi properties under the Guthi Corporation Act of 1976. In this way, the IMF for the KVWHP has defined various authorities, institutions, and stakeholders as well as their responsibilities for the conservation and management of KVWHP.

Roles and responsibilities in Local Self-Governance Act of 1999 (2055 in the Nepali Bikhram Sambat calendar) and Regulation of 1999 (2056 in the Nepali Bikhram Sambat calendar)

The Local Self-Governance Act (GoN, 1999a) was formulated for activation of the local government with full access of the local resources for self-development through self-governance. The Act provides for the rights, duties, and responsibilities of local government bodies: District Development Committee, Municipalities and Village Development Committees. In this context, Article 25(c) of the Act states that the ward committee must coordinate and assist the Village Development Committees (VDC) for keeping records and conservation of traditional rest houses for travellers (pati pauwa), pilgrims rest houses (dharmashala), temples, houses, land, mosques, monasteries, madrasas, ponds, lakes, waterspouts (dhara).

A municipality may be declared a Cultural Municipality if its heritage has been included in the World Heritage Conservation List (GoN, 1999b, Article 74) which may be better for the overall conservation of the area. Each municipality must maintain the records of their territorial cultural and religious places as well as those of archaeological artefacts. This Act has made local governments very powerful with regards to the management of cultural heritage, the Village Development Committees and Municipalities in particular.

Further, the function of the District Development Committee is to keep records of culturally and religiously important places located within the district development area and to preserve and promote them by having them repaired and maintained; to promote, and cause to be promoted, various languages, religions and cultures and to preserve, promote and use, and cause to be preserved, promoted and used, the archaeological objects, languages, religion, art and culture within the district development area (GoN, 1999a).

The provisions of the Local Self-Governance Act and Regulation show that all the Ward Committees and Municipalities must maintain and update the records of the heritage in their respective territories which is very helpful in preparing scientific documentation, conducting conservation projects and the general management of the heritage. If local government bodies act as the legislation demands then it could be easier for managing the sites throughout Nepal.

Roles and responsibilities provisioned in Bylaws for the Construction, Renovation, Conservation and Reconstruction of the Private and Public Buildings within the Kathmandu Valley World Heritage Property of 2007(2064 in the Nepali Bikhram Sambat calendar)

The Government of Nepal has declared seven municipal zones within the KVWHP as Protected for the better protection, conservation, and management under its national legislation in different dates and has executed the building bylaws for construction, renovation, conservation, and reconstruction of private owned as well as the public buildings or monuments within the entire PMZs, which further safeguards the entire area.

As per the Ancient Monument Preservation Act (GoN, 1956), the DoA is the sole government authority responsible for managing cultural heritage and under this provision the DoA executes the relevant regulations. According to the AMP, homeowners in the protected zones must apply to the Village Development Committees for approval of their plans for any construction, renovation, reconstruction, or conservation (Article 3.7). Violation of this rule will result in a non-certification or non-recommendation of the site, including restrictions on further selling off the building or property. These strict punishments act as deterrents against individuals circumventing the laws which have been in place for many decades.



Basic Guidelines for the Post Earthquake Conservation and Reconstruction of Damaged Cultural Heritage of 2016 (2072 in the Nepali Bikhram Sambat calendar)

Reconstruction and restoration work of historic monuments or the built heritage is different from modern construction works. The restoration and reconstruction of such monuments and heritage should be carried out as per the established national and international theory, values and philosophy related to historic monument conservation. No provisions for the conservation, reconstruction, and rehabilitation of disaster damaged cultural heritage in Nepal were in place prior to the 2015 Gorkha earthquake. Immediately following recognition of the devastation caused to heritage sties, a series of discussions were held at different government and international levels involving numerous experts and authorities as well as local communities. Based on these consultations, the Department of Archaeology prepared and implemented the Basic Guidelines for the Post Earthquake Conservation and Reconstruction of Damaged Cultural Heritage (GoN, 2016). These guidelines addressed many aspects of the tangible heritage based on existing Nepalese heritage laws, traditions, and customs and international policies. The guidelines define different activities such as conservation, reconstruction, rehabilitation and provide guidelines for three categories: Heritage Sites (including historic settlements); Monuments; and Objects. It also makes provisions with regards to authority and responsibility, resource management, damage assessment, prioritization, documentation, conservation planning, preservation of traditional materials and technologies, involvement of community, clarification of ownership, maintenance and cyclical renewal, disaster management, heritage impact assessment, conservation and continuation of living heritage, reuse of built heritage and many other aspects which were not included in the prevailing laws.

Particular attention was given to the use of non-traditional materials and technologies. While restoring or reconstructing any monument, if it is felt that earthquake risk cannot be

technically mitigated by using only traditional materials and technologies - especially for the reconstruction of totally collapsed monuments – non-traditional materials and technologies can be invisibly introduced in lighter fashion but only with prior approval from the Department of Archaeology. The Department of Archaeology reserves the right to approve or disapprove such interventions considering the nature, condition, form, construct, and importance of the monument. Except in special circumstances, such materials or technologies need to be reversible in nature. A reliable technical report should be prepared clarifying the need for such non-traditional intervention and attached to the project file of the restoration or reconstruction of related monument (GoN, 2016, Article 12). This provision introduced the modern non-traditional materials and technologies into the conservation, reconstruction and rehabilitation of Nepalese cultural heritage while also honouring the provisions of the Venice Charter (ICOMOS, 1965) regarding additional use of new material. But this is not in common use, only in the context of reconstruction of completely collapsed monuments due to earthquake or any other disaster.

This guideline included further provisions with regard to the introduction of modern facilities and services, crafts person availability and trainings, supervision and quality control and research. Similarly, it gives a guideline for historic settlement, monuments, and objects; for which it clearly defines such characters and provisions regarding them. There are also the provisions regarding the conservation, restoration and rehabilitation of graded monuments and some provisions on process and procedures, such as implementation, amendment, formulation of methodology, manual for conservation, restoration and reconstruction, conflict resolution and expert committees.

In this way, the Basic Guidelines has been trying to address many issues the other prevailing legislation had not yet addressed, especially the issues on post earthquake conservation, reconstruction and rehabilitation of cultural heritage and some other practical issues as well.



National Culture Policy, 2067

National Culture Policy of Nepal was implemented.

Conclusion

The history of Nepalese conservation and management systems and legislation has been continuous since the third century when Emperor Ashoka rebuilt and enlarged the Stupa of Kanakmuni Buddha at Niglihawa. The conservation activity was conducted through the local communities in the Lichchhavi period and a series of conservation principles and practices were developed, which continued in the medieval or Malla period when the guthi system was well established within society. The

guthi system has continued to function in some societies in Nepal. When the Ancient Monument Preservation Act of 1956, the Guthi Corporation Act, of 1976 and other acts were developed by the government, the traditional system gradually collapsed and were replaced by modern systems and principles. Multiple laws have been implemented, with provisions for the responsibilities of different stakeholders and with principles founded on the traditional systems but incorporating recent national and international developments.

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Ifugao Rice Terraces, Philippines. Image © iStock.com/pespiero



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Charting the development of national conservation policies in the Philippines

Eric Babar Zerrudo

Abstract

National policies evolve in response to world systems, globalizing impacts and even local needs. The national policies for heritage conservation of the The Republic of the Philippines developed out of its colonial context, international movements and local initiatives that created a heightened consciousness on the value of heritage and continue to pursue a contextualized approach to conservation. This paper examines the national policies of conservation of the Philippines. The paper is composed of two parts. The first part outlines the historical development of conservation policies from 1571 to 2000, based mostly on a review of laws and jurisprudence on built heritage, regulations, commonwealth acts, republic acts and presidential decrees. The second part focuses on the foundation policies that govern the culture, heritage, and history sectors of the country from 2000 to 2016, through a review of the key national and local legislations. In this part, a baseline framework was used to dissect the context and content of each policy. It examines the international and national context, rationale, other references, format, terminologies, principles, actions, and other provisions and themes. The principles probe into concepts of place, significance, authenticity, integrity, and conservation. The paper concludes with the challenges the heritage conservation movement faces on the theoretical, practical, and systemic dimensions, as it redefines relevant national policies and reconfigures best practices.

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The Historical development of conservation policies in the Philippines

Historical contexts composed of government thrusts, regulations, events and even global trends dramatically defined the concepts of heritage and approaches to conservation in the Philippines in the past 500 years. Overarching national situation in every era foregrounded the nature, themes and thrusts of heritage policies that have bureaucratically emanated from government.

Spanish Colonial Period

The Walled City of Intramuros (now the historic walled portion of present-day Manila) established in 1571, was the political, economic, cultural, and religious capital of the Spanish colonial period. It was Spanish conquistador Miguel Lopez de Legaspi who established Manila with a massive stone fortification skirted by a moat at the mouth of the Pasig river. As the inner city grew from an original fortification, streets, government offices, schools, and churches proliferated. The whole district was full of traditions and activities throughout the year (Laya and Gatbonton, 1983).

Fires, typhoons and earthquakes were the perennial hazards of the built heritage of the period. In 1645, a very strong earthquake flattened a large part of the colonial capital and nearby areas. In 1658, another earthquake destroyed many churches, convents, and other structures. As a consequence, many former stone houses in Manila were rebuilt in wood and lighter materials. The light material became another source of risk with the frequency of fires due to the use of tinjoys (oil lamps). Thus, issuance of decrees which forbade the use of oil lamps was enforced. Rebuilding continued again and again from the ruins, structures were resurrected, and new ones were created (Viana, 2001).

In 1794, an order was issued by the Spanish colonial government that all structures within 1 500 varas (I vara is approximately equivalent to 836 mm (Medel, 1994)) radius from the Walled City of Manila should be built using the material tabique pampango to prevent fires. In 1845 an order was passed for the purpose of security decreeing

that all repairs, alterations, or constructions to be made on sites located within 1 500 varas from the Walled City should pass the approval of the government's engineers (Viana, 2001). In 1880, a new directive was issued after a big earthquake which endorsed the use of galvanized iron sheets as a better alternative to roof tiles (Zialcita and Tinio, 1996). In 1884, a code of public hygiene was imposed to observe cleanliness in the households and included the plastering of whitewash lime for all houses to prevent cholera (Viana, 2001).

The series of construction and reconstruction of buildings during the Spanish colonial period was exemplified by the architectural evolution of San Agustin Church. Early on in its formative phase, the first buildings, made of light materials were destroyed in 1574, 1583 and 1583. The construction of the major stone buildings occurred from 1604 to 1606 (Galende, 2005).

American Colonial Period

In the American colonial period, Daniel Burnham's City Beautiful movement which radiated out from the Walled City served as the foundation of development of the capital city of Manila. In the overarching policy of benevolent assimilation, the new colonizers promoted pacification across the islands after the surrender of General Emilio Aguinaldo in 1901. The USS Thomas arrived with 600 Americans, including pioneer teachers who taught in the public school education (Carino and Ner, 2008). Filipino Ilustrados (native-born intellectuals) funded by the pensionado system (expenses for students paid for by the government), travelled to America and brought the experience of modernity in architecture, culture, and the arts back to the country (Fajardo, 1998).

The era witnessed the rise of international architecture, the introduction of new materials and expansion outside the Walled City. In 1907, the Episcopal Cathedral was the country's first reinforced concrete structure (Carino and Ner, 2008). Juan Arellano, a pensionado, designed



the neo classical architecture of the Congress Building and The Manila Post Office, along with the Art Deco Style Manila Metropolitan Theatre punctuating the corridor of the Luneta Park in the Burnham Plan. He also drafted a new city envisioned north of Manila which became Quezon City, named after the Commonwealth President Manuel Luis Quezon.

The 1935 Constitution stated that arts and letters shall be under the patronage of the state. Philippine Commission and Commonwealth legislations related to historical conservation focused on the allocation of land and erection of monuments, including a land grant for the Rizal Monument (Act 243 (1901)) with funding (Act 893 (1903)) (NCCA, 2001), establishment of the Rizal National Park in Dapitan (Proclamation 616, s. 1940), Monument for Bonifacio (1929-Act 3602) (NCCA, 2001), and Monument for Gregorio del Pilar (1930 – Act 3751). Declaration for historical elements included the construction of a National Pantheon of Heroes (Republic Act 289) and Commonwealth Act No. 169 (1936), which set up funds "for the purpose of identifying and appropriately marking the historic antiquities".

In 1901, the establishment of the Insular Museum of Ethnology, Natural History, and Commerce (now the National Museum) was a logical outcome of the surveying activities on the islands' natural environment and artefacts and crafts by American anthropologists. Following this, the museum collection moved from one public building to another and the organizational structure was merged, dissolved, recreated, transferred, divided, adopted, reorganized in one government office or another. By the end of this era, the National Museum was a fledging and confused institution with no permanent location.

Infrastructure development during the American Period followed three trajectories. First, the expansion of the City Beautiful movement which led to the development of Baguio City in Northern Luzon and the adoption of an international style in arts and architecture which paved the way for the establishment of the Art Deco style Manila Metropolitan Theater and the neoclassical Manila Central Post Office. Second, the aftermath of the Philippine-American War

(1899–1902) left many abandoned sites such as those of Guadalupe Church. Third, the unfinished civil works of the Spaniards were continued with new materials and a modified design such as the Capul Island Lighthouse in Northern Samar.

World War II

The Walled City of Intramuros suffered unimaginable damage both to its population and to its infrastructure during the war period, bombing and urban conflict resulted in over 100 000 Filipino dead and only 5 percent of buildings still extant (Gatbonton, 1980). For all intents and purposes, all built heritage inside the walled city was destroyed with only the San Agustin Church left standing. All churches, schools, public offices, and houses were in ruins. Even the Commonwealth institutional buildings were ravaged such as the Senate Building, the Manila Post Office Building and the Manila Metropolitan Theater.

The liberation of Manila destroyed 95 percent of the museum collection. In 1945, the museum was re-established under the Department of Agriculture and Commerce of the Office of the Executive Secretary.

The Republic Period

Immediately after World War II, the Cold War period between the US and USSR began. The Philippines was granted sovereignty in 1946 and national reconstruction and economic development were top priorities. The new Republic figured prominently as a founding member of the United Nations (UN) and allied with the United States through the US Military Bases Agreement (1947, see Library of Congress, 2019) and the Mutual Defence Treaty (1951, see The Avalon Project, 2019).

Even with the US' lingering colonial presence and influence, the Philippines asserted the Filipino identity and advocated Filipino First Policy (1958, see Religious Literacy Project, 2019). Local governments and political units were granted autonomy such as the Central Bank of the Philippines, Retail Trade Nationalization, Social Security System, and even local towns (Carino and Ner, 2008).

The Philippines was an active participant in the international UN effort to such an extent that



a National Commission for the UN Educational, Scientific and Cultural Organization was organized (RA 176 (1947)). To commemorate the war heroes and heroics, the Bataan-Corregidor Shrine Commission was established (Executive Order 58 (s. 1954)) with successive amendments to strengthen the organization. To revive the economic activity of ravaged areas of Manila, Intramuros was declared as commercial, residential, and educational district (RA 1607 (1956)).

As the country entered into strengthening the Republic economically and culturally, many commissions were established to ensure the celebrations of heroes and historic events. Local towns were mandated to protect monuments (RA 841 (1953)). Executive Order No. 52 (1954) established the Jose Rizal Centennial Commission. EO No. 254 (1957) set up the Juan Luna Centennial Commission, and EO No. 263 (1957) created the Pinaglabanan Commemorative Commission.

As a result of the work of these commissions, the declaration of national shrines included Fort Santiago in Manila (RA 1569 (1956)), Datu Bondahara Kalantiaw (EO 234 (1957)), Magallanes, Limasawa Island (RA 2733 (1960)), and Kawit, Province of Cavite (RA 4039 (1964)). All these efforts would be consolidated in the next era to institutionalize heritage protection.

The Marshall Plan (the US post WWII economic recovery plan for western Europe) also included funds for Asia, including the Philippines. This resulted in the reconstruction of iconic buildings, the epitome of which was the rebuilding of the Manila Cathedral in 1952. Intramuros, the glorious Walled City where the cathedral was situated, was flattened after the war. With the haunting ruins of the cathedral and the ghostly war memories, initial thoughts were to transfer the cathedral to Mandaluyong, a site north of Manila. Through the insistence of Cardinal Jose Santos, the cathedral stayed on its original site and was rebuilt with adobe stones from the Guadalupe ruins (Santos, 1997).

Marcos Martial Law Period

In 1965, Ferdinand Marcos became the ninth president of the Philippines. He epitomized the strong men of Asia which included Suharto of Indonesia and Lee Kwan Yu of Singapore, leading the establishment of the Association of Southeast Asian Countries (ASEAN) in 1967 and posturing on the level of influential and powerful world leaders that made and changed history.

After a Republican decade of declarations and commissions that memorialized heroes and events, landmark policies were promulgated which endure to this day. The legislations were rooted in the 1973 Constitution Article XV Sec 9 which states "Filipino culture shall be preserved and developed for national identity". These were the Establishment of the National Historical Commission (RA 4386 (1965)), Protection of Philippine Cultural Properties (RA 4846 (1966)), Declaring of National Shrines (Presidential Decree 1505 (1978)), Declaring of Specific Sites for National Identity (PD 260 (1973)), Creation of the Intramuros Administration (PD 1616 (1979)).

In a pioneering gesture, the administration coordinated the policy implementation of cultural protection for historical sites with other associated programmes of government such as the Revised Forestry Code to Protect Archaeological Sites (PD 705 (1975)) (NCCA, 2001), and the transfer of the defunct National Shrines Commission to the Department of National Defence (PD 1076 (1977)).

Preservation and conservation actions were consciously promulgated. These were expressed in the Prohibition of Modification of Shrines (PD 1505 (1978)) amending PD 260 (1973), which foregrounded the rationale for heritage as a source of national identity, in furtherance of culture (transmission), necessary to understand history (education), of high value nationally and internationally, as an irreplaceable resource, and a springboard of tourism. PD 1505 discussed conservation of historic sites and buildings which included definitions on development, preservation, restoration, reconstruction, careless and unscientific modification.

Declarations of sites accelerated specially for places of historical, cultural, and archaeological significance. The landmark declaration was the enumeration of specific sites in PD 260. This was followed by archaeologically significant sites such as the Tabon cave complex (Proclamation 996 (1972)), Cagayan Valley and Kalinga-Apayao Archaeological Reservation (PD 1109 (1977)), burial



caves at Sitio Alabok, Barangay Cambali, Bagulin, La Union (Proclamation 1683 (1977)), petroglyphs at the Tao't-Bato area, Palawan (PD 1499 (1978)). Historically significant places included the cultural properties in Casa Real in Bulacan (EO 173 (1965)), Fort San Antonio Abad (Proclamation 207 (1967)), Mabini Shrine (Proclamation 324 (1968)), Tirad Pass National Park (Proclamation 433 (1968)), Ricarte Shrine (Proclamation 228 (1993)), Aglipay Shrine (RA 5649 (1969)), Lapu-Lapu shrine (RA 5695 (1969)), Palo Leyte landing site (Proclamation 618 (1969)), Filipino War Memorial (RA 5679 (1969)) and Vigan Mestizo District (PD 756 (1975)).

This was also a period of art patronage and the golden era of Philippine museums. Museums flourished in terms of number, quality and diversity. Cultural efforts of the national government institutions were emulated by local and community organizations which gave rise to the establishment of diverse museums in all corners of the country (Zerrudo, 2008).

The Intramuros Walls restoration under PD 1616 (1979) was the first effort to effect conservation which no longer focused on single structures but on the place. Reconstruction of the Wall was guided by the exemplary work of Ma. Lourdes Diaz-Trechuelo. Architectural plans, original materials and construction techniques were well documented in the work. The National Museum and the National Historical Institute assisted in numerous laboratory analyses and the training of workers for the project. Heavily influenced by the 1972 UNESCO World Heritage Convention and 1964 Venice Charter, national conservation approach was strictly aligned to the dictum of Western international standards. After 1986, the Intramuros project dramatically waned (Gatbonton, 2005).

Post Martial Law Period

The People Power of the Philippines 1986 captured the attention of the world. The reaction of the successive administrations to the Marcos era produced diametrically opposed sentiments and approaches to heritage conservation programmes. Legislations were grounded on the 1987 Constitution Article XIV, Section 16 which stated: "All the country's artistic and historic wealth constitutes the

cultural treasure of the nation and shall be under the protection of the State which may regulate its disposition."

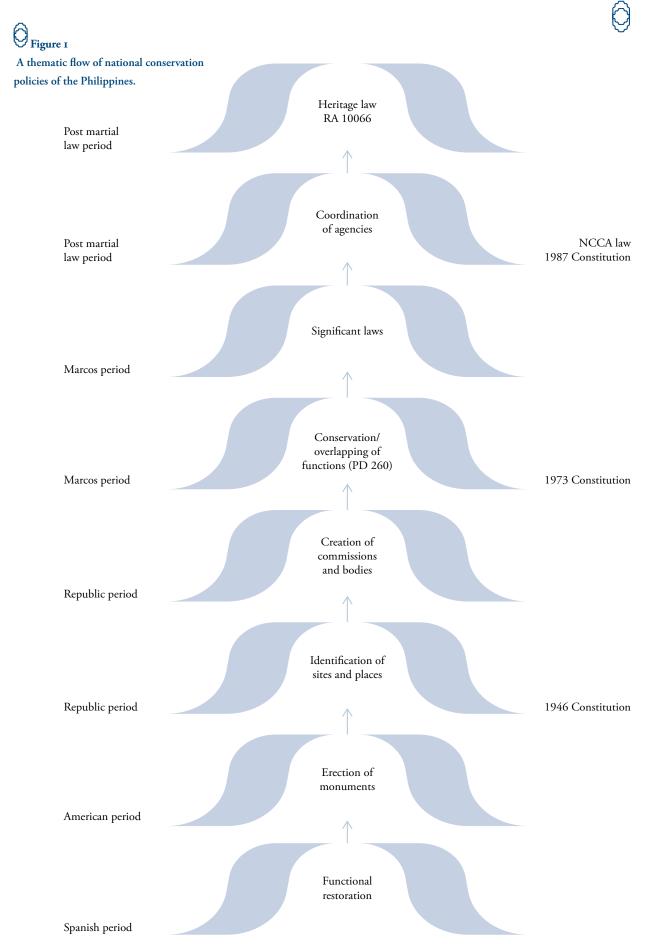
This period witnessed the popularization and democratization of arts, culture and heritage programmes. The National Commission for Culture and the Arts (NCCA) was created in 1992 as RA 7356 to generate policies with voices emanating from local communities which was a reactionary offshoot from the Marcos dictatorship reflective of Authorized Heritage Discourse (AHD). The Commission was composed of public and private representatives with four Sub-Commissions on the Arts, Cultural Heritage, Cultural Communities, and Cultural Dissemination. The National Centennial Commission was established (Administrative Order 223) to prepare for the 1998 centennial celebration which created the centennial freedom trail (Proclamation 1266 (1998)).

Cognizant of the impact of other government projects to places of significance, other interagency policies were promulgated. These were the Urban Development and Housing Act of 1992 (RA 7279), an Act creating a National Commission on Indigenous Peoples (RA 8371), and the Mining Act of Department of Natural Resources (DENR Administrative Order 23 (1995)).

Synopsis: Defining Themes and Terms

The study of the historical development of the conservation policies in the Philippines arrived at a series of conclusions. The Spanish period was characterized by functional reconstruction of buildings for safety and sanitation purposes. The American period was dominated by the erection of monuments. The Republic period focused on identification of historic sites and creation of commissions. The Marcos period concentrated on conservation approaches and promulgation of significant laws. With the parallel functions of national cultural agencies after the People Power Revolution, Post Martial Law period worked on the coordination of agencies and promulgated the National Cultural Heritage Act (RA 10066).

Throughout the development of national conservation policies and the layers of legislation, heritage concepts assumed many definitions.





Built heritage referred to monuments, edifices, old buildings, shrines, immovable properties. Significance indicated memory, cultural or historical value, important roles of events and personages. Conservation covered discovery, establishment, promotion, identification, declaration, restoration, reconstruction, preservation, refurbishment, development,

and demolition. Management involved reconstruction, maintenance, protection, care, and jurisdiction. This situation of divergent terminologies in heritage conservation and overlapping responsibilities of national agencies would eventually surface issues and challenges in decision-making and implementation of conservation projects.

An analysis of selected national and local heritage conservation legislations

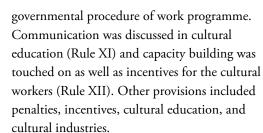
Contemporary national and local heritage conservation legislations emerged as reactions to authorized directives and as a resolve to critical needs. National heritage legislations on administrative agencies with their mandates and functions, heavily followed the UNESCO and ancillary international organizations' standards of conservation. On the other hand, local heritage ordinances were mostly initiated out of community volition without the dictates of the national government. Local governments sensibly formulated participative councils with their corresponding responsibilities in identifying their heritage and evolving their local approach to preservation, conservation, and promotion.

National Conservation Laws

The major policies reviewed and discussed were as follows: National Cultural Heritage Act (RA 10066 (2009)), National Museum Act (RA 8492 (1998)), Strengthening People's Nationalism through Philippe History Act (RA 10086 (2010)), Creation of Intramuros Administration or PD 1616 (1979). These laws covered issues relating to the concepts of place, significance, authenticity, integrity, and conservation.

At the turn of the millennium, heritage conservation became a concern, advocated by different sectors in the Philippines. Enabling and debilitating factors at the international and local levels contributed to this intensified advocacy for heritage conservation: the destruction of heritage sites in the world live streamed by

communication and technology (such as the WH sites in Afghanistan, Palmyra, and Aleppo); the increase of Philippine sites on the World Heritage List namely the Baroque Churches of the Philippines, Heritage City of Vigan, Puerto-Princesa Subterranean River National Park, Tubbataha Reefs Natural Park, Mount Hamiguitan Range Wildlife Sanctuary (see UNESCO World Heritage Centre, 2019) which propelled the tourism industry of local communities; the preponderance of heritage contestations, particularly the crusade to save historic districts (Carcar, Silay, Baclayon), and demolition of heritage structures (Jai Alai Building, Art Deco buildings of Manila); emergence of new conservation concerns such as the visual integrity of sites (Torre de Manila) and the new movement to transfer heritage houses (Santos House of Malabon and the Las Casas Filipinas de Acuzar). Heritage conservation institutions were also established such as: the Heritage Conservation Society in 2000; the University Santo Tomas Gradate School Center for Conservation of Cultural Property and the Environment in the Tropics (UST GS CCCPET) in 2003; integration of conservation specialization courses in the architecture curricula of the University of the Philippines, University of Santo Tomas, University of San Carlos and University of Northern Philippines; memorandum of agreement between the Church and State on church heritage conservation in 2004 and the establishment of Escuela Taller Intramuros, a technical vocational school for restoration in 2009. The catastrophic



The National Museum Act (RA 8492) was legislated in 1998. The rationale behind passing the law was the decades of insecure tenure of the museum and its collection in their building and the very dismal state of conservation and exhibitions because of the chronic transfer from one place to another. Since its inception in 1901, the museum had experienced movements and transfers not only physically as a structure but professionally as an organization. Thus, the law was emphatic on the establishment of a permanent home for the National Museum which included the Senate Building, the Agriculture and the Finance Buildings (AGRIFINA) in Rizal Park. This new sense of stability, expressed in the rationale for independence and autonomy of the museum from Department of Education Culture and Sports (DECS) and NCCA, was rooted on the State policy of cultural development. In 2019, a new National Museum Act was passed (RA 11333), repealing the old law, which physically and organizationally expanded and strengthened the museum. Crucial to the reorganization was the transfer of the National Museum's regulatory function to the National Commission for Culture and the Arts.

Sections 19 and 20 concentrated on the approaches of the museum in protection and conservation. According to an internal presentation titled "Recommended Guidelines for the Conservation and Restoration of Heritage Structure" (Abinion, 2012), the museum's approach was guided by the Venice Charter, Burra Charter, Washington Charters, and ASEAN Standard of Restoration. The approach included Step 1: feasibility study (background, site, situation, damage assessment) and Step 2: technical study (architectural, structural, material studies) and the project planning (documentation, monitoring during execution and reporting).

A year after the promulgation of the Heritage Act of 2009, the National Historical Institute was

destruction of national treasure churches after the magnitude 6.8 earthquake of Bohol and the super typhoon Yolanda in 2013 placed conservation in the spotlight. Pop culture likewise contributed to more culture and heritage awareness among millennials such as the proliferation of travel programmes, heritage cuisine, Throwback Thursday on Facebook, the road show of historic movies. All these factors conditioned the intensification of people's sensibilities and actions towards heritage conservation.

Almost two decades after the passage of the law for the National Commission for Culture and the Arts, the National Cultural Heritage Act of Republic Act 10066 of 2009 was promulgated. A year later, the Implementing Rules and Regulations (IRR for RA 10066) was disseminated. Grounded on Sections 14-17 of Article XIV of the 1987 Constitution and the heightened heritage contestation and issues of the times, the law was much awaited after years of formulation, consultation, and discussion. There were seminal initiatives to guide conservation work for built heritage with the publication of articles (Villalon, 2001) and a user-friendly resource book (NCCA, 2007). The law's rationale was to protect and promote cultural heritage, strengthen cultural institutions, and protect cultural workers. The format developed from terminologies to cultural properties, zones, commissions, roles of agencies, incentives, and other programmes. In the IRR, a glossary of terms laid definitions and fundamental principles for adaptive reuse, built heritage, conservation, cultural heritage zone, important cultural property, intangible heritage, national cultural treasure, and restoration.

For the principles, key concepts such as built heritage, heritage zone and its typology of significance and conservation were mentioned. For actions, the IRR explicitly provided for World Heritage Sites, conservation practice that specifically upheld international standards (Section 10.1), conservation management plan (Section 10.4), and technical assistance (Section 10.5). For declared national property, the IRR emphasized the approval "only of those methods and materials that strictly adhere to the accepted international standards of conservation" (Rule VI, Section 18), followed by a detailed



reorganized with the passage of Strengthening People's Nationalism Through Philippine History Act (RA 10086 (2010)). The guidelines were based on PD 260 and the RA 10066. The Guidelines, Policies and Standards for Conservation and Development of Historic Centers/Heritage Zones (NHCP, 2012) document was multilaterally adopted by the National Historical Commission of the Philippines (NHCP), the National Museum and the local governments (LGUs) in 2012. The context was based on the requirements of PD 260 and Section 12 of 10066 with a strong rationale to ensure the preservation of significant sites, both tangible and intangible for continuity, identity to guide the local government units (LGUs). This guideline relied heavily on the Washington Charter, National Building Code, Vigan Ordinance, RA 10066, RA 10086, UNESCO resolutions on historic towns. In this guideline, conservation was seen as part of development. For actions, this guideline was well defined for built heritage with threats in Article V and the building requirements in Article VI. Rules I-VII lent a clear cut, exacting approach to conservation. Although the guidelines seemed excessively technical for the LGU's, assistance could be provided by the national agencies.

The Standards and Guidelines in Maintaining Historic Sites and Structures, an internal office circular, was adopted by the NHCP dated 2010 (NHCP, 2010). Based on the mandate of RA 10086, owners and technical people were enjoined to understand the maintenance of historic sites and structures on what should be done. The guideline was in question-and-answer format. It primarily focused on maintenance, stating the act to extend the life span and usability of the site or basic housekeeping chores. The sections included maintenance work schedule, standards, and guidelines. This was geared towards homeowners who would have their houses declared as historic houses under the purview of the NHCP.

The Techniques involved in the Restoration of Historic Structures was an internal office circular from the Historic Preservation Division of the NHCP (NHCP, n.d.). Dynamic restoration included definitions of anastylosis, adaptive reuse, substitution, relocation, total protection shed, traces of time and integration. Static restoration

included cleaning, isolation of structure, restructuring, repair, consolidation, and preventive maintenance. Both approaches were illustrated by examples of NHCP projects.

The Walled City of Manila, the premier heritage zone, was protected under Presidential Decree 1616 known as Creating the Intramuros Administration legislated in 1979. Under the Department of Tourism, the decree was founded on the rationale that cultural landmarks should be preserved, especially, the 400-year-old Intramuros, to enhance its historic value. It was very strong in urban administration and governance which explained organization, operations, and functions. This had no clear policy or principle on the approach to conservation. Since its creation, the administration had been guided by various conservation consultants with diverse orientations and proclivities relative to its conservation efforts. Thus, the conservation approach and the development programmes of the Walled City had been heavily criticized.

After almost 40 years, the conservation approach had been substantiated by an unofficial document that has been long overdue, titled Intramuros Identity and Urban Design Guidelines (IIUD), developed in October 2015 (Intramuros Administration, 2015). There had been a number of plans for Intramuros culled from the PROS Plans in the early 1990s and the Ateneo de Manila University Mapping project in 2000s. The IIUD analysed the romanticized context of PD 1616 and PD 1748 (1980), emphasizing its discordance and nonconformity to the modern Intramuros identity. It had three major sections: instruction, guidelines addressing private properties and guidelines addressing public spaces. There were no terminologies, specific principles nor actions. The guidelines grounded the development on legislations and the assets of the whole historic district, such as historical data, colonial city, street grid, religious heritages, public space and other contributing features towards significance and conservation. In 2020, the Intramuros Administration commissioned the formulation of a Conservation Management Plan which consolidated all previous studies and contextualized development threats to the values of the historic site.



The review of the national policies provided an insight into the scope and limitation of the conservation concepts on a national level and the degree of translation within and amongst the national agencies. Many early conservation policies echoed the international approach and standards in broad strokes. The RA 10066 was definitive in the coordinative role of the NCCA in the area of cultural policy, especially the Section 12 workflow regarding the bureaucratic conservation process. This section subjected conservation work to numerous interpretations, a clear absence of nationally agreed set of guidelines and processes. It did not explicitly state the approach to national conservation in terms of principles, practices and ethics. This law fortified the EO 80 (1999) which mandated all cultural agencies to be subordinated by the NCCA in terms of policy and planning. At the same time, the law failed to address the overlapping jurisdictions of the two major cultural heritage agencies, the National Museum

and the National Historical Commission of the Philippines (Table 1). The National Museum law was basically a reorganization law with tenured domicile. All functions had already been spelled in antecedent republic acts and presidential decrees especially PD 260. The set of graduated documents from the National Historical Commission of the Philippines was an impressive interpretation of a national law into internal office orders, from principles down to techniques. The Intramuros Administration Decree PD 1616, having been updated into a very reader and user-friendly Intramuros Identity and Urban Design Guidelines (IIUD) expressed the need for a contemporary significance to everyday stakeholders that emanated from the history, layout, elements and interactions of the urban landscape. Still heavily defined by UNESCO conservation globalizing standards, the latent policies gradually exhibited a more contextualized approach to conservation by harnessing meaningful practical localized models.



	NCCA	NHCP	NM
Declaration	World Heritage Sites with UNACOM (Sec. 8)	 RA 10086 – (Sec. 3) (+ Historic House) (+ Historic Sites) National Historical Landmark (I) National Historical Shrines (II) National Historic Monument (III) (See 8) 	 National Cultural Treasure (I) Important Cultural Property (II) (Sec. 8)
Technical Assistance	(Sec. 10.5)	(Sec. 10.5)	(Sec. 10.5)
Criteria for Declaration			 (See 12.14) (out of the 12 criteria, 10 came from WH Convention)
Licensing			(Sec 14)



	NCCA	NHCP	NM
Heritage Zones		(Sec. 16) Policies/ Guidelines for Heritage Zone	(Sec. 16) (Policies/Guidelines for Heritage Zone
Impact Assessment			(Sec. 18.5)
Conservation Process	(Sec. 20)	(Sec. 20)	(Sec. 20)
Natural History			(Sec. 22)
ICH	ICH Unit (with UNACOM)		(w/ Anthropology Division)
Immovable Heritage	(Sec. 25)	(Sec. 25)	(Sec. 25)
Indigenous People	(Sec. 26)	(Sec. 26)	(Sec. 26)
Renaming of Streets/ Structures		(Sec. 27)	
Export/Repatriation of Cultural Property	(Sec. 32)	(Sec. 32)	(Sec. 32)
Anthropological Excavation/ Exploration (including underwater)		(Sec. 35) (historical matters)	(Sec. 35) (cultural, archaeological, anthropological)
Cultural Education	(Sec. 43) (PCEP)	(Sec. 45)	(Sec. 44)
Cultural Heritage Worker's Incentive Program	(Sec. 46)	(Sec. 46)	(Sec. 46)
Definition of Terms		 RA 10086 (Sec. 3) All definitions from RA 10066 including Documentation & Preservation 	RA 10066 Sec. 7 (IRR) adaptive reuse built heritage conservation heritage zone history intangible heritage national significance restoration Tangible cultural property



Local Conservation Ordinances

The selected local ordinances (can be found at HCS, 2019) and guidelines analysed were composed of two (2) provincial ordinances, seven (7) city ordinances and five (5) municipal ordinances. The declaration of Vigan as a World Heritage City in 1999, which gave rise to Vigan Ordinance No. 4 of 2000 (RA 8988), was pivotal to the community and to the country. Wallowing in the image problem brought by decades of political rivalry, Vigan organized the community in a gradual manner coupled by extensive research and documentation of its heritage houses. Facilitated by a grant that became the Toyota Foundation Inventory of Vigan Houses, the inventory totalled 120 houses in the historic city. After the cultural mapping project with the UST GS CCCPET in 2006, the ordinance was further amended which became the final Vigan Conservation Guidelines as Amended, Ordinance No. 7 of 2006 (Vigan City Council, 2006; HCS, 2019). This robust series of ordinances and amendments led to the Heritage Homeowners' Preservation Manual for the World Heritage Site of Vigan, Philippines published by UNESCO Bangkok (2010) to empower and capacitate all homeowners and residents regarding the conservation of their built heritage.

The ordinance was formatted into principles, scope, house typology, guidelines, organization, and penalty clause. It defined historic fabric, cultural fabric, architectural fabric, town fabric, house fabric, reconstruction and setting. The Manual defined house, fabric, cultural significance, authenticity, and the principle of minimum intervention through maintenance, restoration, adaptation, and reconstruction. The guidelines provided a detailed set of actions for conservation of each house type and parts. It was also geared to capacitate homeowners, architects, planners, contractors, and local government officials. The ordinance and guidelines continue to serve as the bedrock of all City government decisions related to conservation.

The Iloilo City Cultural Heritage Council Ordinance No. 54 of 2000 (HCS, 2019; Iloilo City Cultural Heritage Council, 2003) was promulgated as soon as the *Catalogue of the Iloilo Central Business District* was published in 2001 by the

Iloilo Cultural Heritage Conservation Council (ICCHC). The Catalogue covered 26 buildings in the downtown area. The Iloilo Ordinance No. 54 defined the heritage zone with specific streets, buildings and sites while cultural significance and its criteria were discussed in the IRR. Actions for conservation included preservation, adaptation, restoration, remodelling and reconstruction. In the IRR, specific guidelines were fleshed out for infill, streetscapes and restoration of ornamentation and materials. This architectural approach to conservation provided actions for forms and materials. The document has a weak discussion on the history and the development of Iloilo central business district to provide a better context and convention for the development of the guideline. In 2021, this ordinance has been challenged by the construction of Terranza high rise condominium located in the intersection of radiating streets of the heritage zone, resonating the 2013 debacle of Torre de Manila high rise condominium behind the historic Rizal Park of Manila City.

The Heritage Ordinance of Boac, Marinduque or Municipal Ordinance 2002–077 (Boac Municipal Government, 2002) was a pioneering effort for the capital town of the island province. The ordinance covered general definition of terms with identified places of significance. To ensure the sustained awareness and action on the ordinance, a local history culture and arts council was established to promote conservation with tax incentives.

The Heritage Ordinance of Tayabas was passed on 2004 titled An Ordinance providing Regulations for the Protection and Preservation of Local Cultural Heritage of Tayabas Quezon or Municipal Ordinance No. 04-05 (Tayabas Municipal Government, 2004). An earlier ordinance protecting its historic bridges was passed in 1997 which identified 11 Spanish colonial bridges through Municipal Ordinance 10-97 (Tayabas Municipal Government 1997). The 1997 ordinance was mere identification of the historic bridges devoid of any particular conservation mechanism. From 2010 to 2020, the Department of Public Works and Highways' road widening programmes have irreversibly concretized most stone arched bridges to unrecognizable heritage monuments.



The San Fernando, Pampanga council legislated City Ordinance No. 2004–003 (HCS, 2019) titled An Ordinance Creating the City of San Fernando Heritage District and its Governing Body in 2004. The rationale of the ordinance focused on the historical core of the city and the numerous personages of significance who lived in the district. Subsequently, a support ordinance for tax incentives was passed as City Ordinance No. 2006–016.

The Municipality of San Nicolas in Ilocos Norte legislated Municipal Ordinance No. 05 or An Ordinance Preserving and Restoring all Spanish type Buildings within the Municipality of San Nicolas, province of Ilocos Norte including but not limited to the Municipal Hall, the Roman Catholic Church, school buildings located at the San Nicolas Elementary School, Payas Elementary School, Bingao Elementary School, and the Sta Rosa Academy and the "pag-istacionan" in 2005 (San Nicolas Municipal Government, 2005). This Ordinance was more of a declaration of the sites and the potential for tourism in preserving the San Nicolas cultural heritage. Referring to the town's earthenware pottery tradition called "damili", many associated ordinances in 2005 were promulgated such as the creation of the San Nicolas Center for Arts and Culture, Damili official municipal song, Damili traditional dance and the recent 2016 ordinance was their local declaration of a living treasure for earthenware pottery named "Nana Paul". The ordinance cemented the pioneering role of the local government in advocating heritagedriven development.

An early provincial ordinance on built heritage conservation was promulgated in the province of Ilocos Norte titled An Ordinance Declaring and Directing the Preservation, Conservation and Protection of all places, establishments, buildings, edifices, structures, relics, and the like, which form part of the broad, vast and rich natural, cultural and physical and intangible heritage of the province of Ilocos Norte and the component local government units (LGUs) thereunder or Provincial Ordinance No. 049–2006 (Ilocos Norte Provincial Government, 2006).

The House Bill No. 5577 of 2006 (Senate of the Philippines, 2006) referred to a congressional

act declaring the Municipality of Carcar in Cebu as a Cultural Heritage Zone. A legislative outcome after the controversial issue to widen the road arteries of the municipality and the demolition of the most beautiful bandstand in the country, this Bill protected the houses, town layout and associated structures of historical and architectural significance. In the preamble, there was the need to protect, conserve and promote cultural heritage and ethnicity of the local communities. It defined cultural heritage zone as areas of cultural significance with all structures more than 50 years of age whereby three specific structures and three heritage sites of streets were identified.

The Dapitan City Ordinance 178 of 2006 was titled The Shrine and Historical Zone known as Heritage City of Dapitan (Dapitan City Government, 2006). This was amended by Ordinance No. 283 of 2013. The 2006 ordinance highlighted the historicity of the city while the 2013 amendment recognized the growth of Dapitan City, particularly the purpose of guiding, controlling and regulating the future development of the city. It was mentioned that the amendment was in compliance with RA 10066. The format was declaration, delineation, identification, and the activities.

The Bohol Arts and Cultural Heritage Code or Provincial Ordinance No. 2008-002 (Provincial Government of Bohol, 2008) was passed in 2008 which had been heavily drawn from the early draft of the National Heritage Act (RA 10066). This provincial heritage legislation highlighted institutional functions with an accompanying draft IRR. This effort was a landmark gesture to settle the contested demolition of old houses in the Municipality of Baclayon and the stone bridges in the Municipality of Dimiao, caused by the road widening projects of the Department of Public Works and Highways. The province likewise had a series of cultural heritage mapping activities that engaged schools and the community. Significance was well defined in Sec. 6 (d) by stating the basis for the heritage assessment for the province. Conservation action referred more on the government procedure and not on the actual on-site work. Capacity building focused more on the subsequent work of conservation on cultural education and cultural tourism which included penal provisions and a generous discussion on incentives for the



community. This forward-looking legislation integrated provisions for cultural tourism and environment. A short paragraph highlighted the vulnerability of environment which alluded to climate change. The ordinance also established the strong advocacy of a provincial government and their collaboration with church officials.

The Taal Conservation, Preservation and Restoration Code or Municipal Ordinance No. 3 was promulgated on 2009 (Taal Municipal Government, 2009). Similarly formatted to Vigan Ordinance No. 7 (HCS, 2019) the 21 house typologies, analysis and details were based on extensive built heritage mapping conducted in 2008. The legislation was formatted according to principles, delineation of the core and buffer zones, house typology, definition of terms, detailed house guidelines and penalties. The principles highlighted the necessity to conduct research and documentation before any conservation activity.

The Ordinance Creating the Silay Heritage District or City Ordinance No. 2 was passed in 2014 (HCS, 2019). An IRR was referenced from the Iloilo heritage legislation that Silay overlooked to change their ordinance number from Iloilo's 54 to Silay's 02. The rationale of the ordinance was based on Silay's role in history, preservation of remaining historical structures, increase tourism potential and the future generations. Just like the Iloilo ordinance, it referred to the constitution and national laws. The IRR did not have house illustrations which was the strength of the Iloilo ordinance. This guideline could be further enriched by research, caution, and logic in the development of the city heritage conservation policy.

The Angeles City Heritage Zone Ordinance No. 378 was passed in 2015 (Angeles City Tourism,

2019). This had an accompanying IRR reflective of the fusion of Vigan ordinance, Iloilo ordinance, San Fernando ordinance, Taal ordinance and the Silay ordinance. The preamble stated the rationale which was to conserve, maintain and promote the historical and cultural heritage of Angeles City for future generations. Just like Iloilo and Silay, it referenced the Philippine constitution and national laws and locally impacting ordinances. The format of the IRR included rules, terminologies, zones, powers of the tourism office, and guidelines. From the Heritage Act of 10066, the terms highlighted built heritage, conservation, cultural heritage, heritage zone, intangible cultural heritage, preservation, and restoration. Just like its neighbouring city of San Fernando, Angeles City subsequently passed a support tax incentive ordinance, Ordinance No. 64, Series of 2016. The ordinance impressed the assertive role of the city in transforming its image problem from a stereotyped red-light district into a vibrant cultural heritage centre, in the built, intangible and culinary heritage expressions of the region.

The City Government of Manila (City Government of Manila, 2019) legislated numerous ordinances on heritage. City Ordinance No. 8244 of 2011 identified the Sta. Ana District, punctuated by precolonial archaeological sites and American colonial houses, as a cultural history heritage overlay zone. City Ordinance No. 8275 of 2012 recognized the role of Daniel Burnham in the City Planning of Manila. The City Ordinance No. 9310, regulating construction development to protect views was a reaction to the national controversy raised by the Torre de Manila skyscraper that disrupted the vista of the Rizal Monument in Luneta Park. Dated 2013, it was vetoed, in handwritten form, by the City Mayor.

Conclusion

The historical development of conservation policies of the Philippines evolved out of its colonial, international and local realities. The account on the historical development narrated the transformation of values of conservation and the democratization

of heritage from government to local communities. Heritage conservation thrusts highlighted safety and sanitation values (Spanish period), historical and memorial meanings (American period), search for Filipino identity (Republic period), Filipino



greatness (Marcos period) and the contextual significance and authorized conservation approach (Post Marcos period).

Following the Post World War II Period, declarations of sites of historic and cultural significance intensified until the Marcos Era. The Marcos Era also laid fundamental conservation approaches, which had been heavily adopted in broad strokes from international standards like UNESCO and ICOMOS. Basic terminologies of preservation, restoration, and conservation appeared in national legislations. The NCCA Law of 1992 (RA 7356), as landmark legislation, realized the democratic representation of the masses in the highest cultural policy making body of the country and recognized the network efforts of national cultural agencies like the National Museum and the National Historical Institute. The National Heritage Act 10066 of 2009, an aspirational expression 20 years after the NCCA, provided the coordinative framework for the conservation programmes of national heritage agencies. It defined heritage related terms such as national significance and restoration. In the subsequent NHCP Law (RA 10086), the conservation process included terms such as conservation, preservation, and restoration. A closer scrutiny of the definitions revealed the need to review the terminologies and their respective meanings.

The stronger and older histories of the National Museum and National Historical Commission of the Philippines vis-à-vis the NCCA raised institutional tensions. There had been chronic issues about overlapping functions and bureaucratic competition in the sector. The senior agencies independently declared sites based on their set criteria. In 2020, ICOMOS Philippines conducted an independent study titled "Project Alexandria" which discovered the anorexic content of dossiers of declared sites. The discordant situation of national conservation policies was aggravated by the absence of congruence with other local plans such as the comprehensive land use plans, conservation management plans, and other national and local frameworks of development.

The UNESCO World Heritage inclusion of Philippine sites, particularly the Historic City of Vigan, created a major impact in the heritage sector. The Vigan ordinance became

the model of many national and local conservation ordinances. The approach of Vigan which was cultural mapping and documentation, delineation of zones, identification of built heritage, development of infrastructure and activity guidelines and investment incentives were embraced by many other municipalities. Vigan City ordinance was modelled by Taal municipality. Iloilo City ordinance was modelled by Silay City. San Fernando City ordinance was modelled by Angeles City. The draft Heritage Bill was modelled by Bohol Province. The modelling approach was beneficial to local towns and cities because of the logical process. Conversely, many localities copied in toto that some legislative provisions were not appropriately applicable to their sites.

With heritage-driven governance and local legislations modelled from each another, local municipalities likewise innovated and contextualized provisions based on their needs and realities. Most heritage driven towns were governed by local heritage conservation councils composed of government, private and academe that evolved new programmes in conservation. Vigan City developed separate ordinances for intangible heritage expressions associated to their houses. To ensure sustainability, it developed the Vigan Convention Center and Vigan Conservation Complex to transmit the house building tradition. Iloilo City revived more ancestral houses and the Iloilo river rehabilitation became the main artery of the development. San Nicolas Municipality passed a law mandating all shopping malls in the territory to utilize and integrate the local brick materials in the architectural fabric of the buildings. IIocos Norte Province established museums and interpretation centres all over the province. Bohol Province harnessed all avenues of heritage safeguarding to revive forgotten traditions, conservation of historic structures for tourism and worked out guidelines for multi-hazard vulnerability of heritage structures with international organizations. San Fernando City and Angeles City formulated a very attractive tax incentive programme for home and business owners conserving their historic places. Taal Municipality empowered tour organizations with private investment for heritage awareness.

There have been a number of noteworthy breakthroughs in impressing heritage awareness in Philippine society. With the divergent motivations and suasions of national agencies, the NCCA commissioned the development of the Philippine Charter for Conservation which must undergo a series of litmus tests. In hindsight, the historical

development of national conservation policies,

the contextualization of international standards,

and the laudable efforts of local governments, these consisted of valuable experiences worthy of defining the Philippine approach to conservation principles, practice, and ethics. The contemporary Philippine heritage ecosystem is the organic totality and interconnectivity of our Philippine conservation experiences and aspirations. And our national policies will continue to evolve out of global and local dynamics and discourse.

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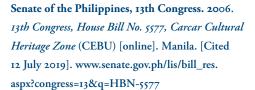
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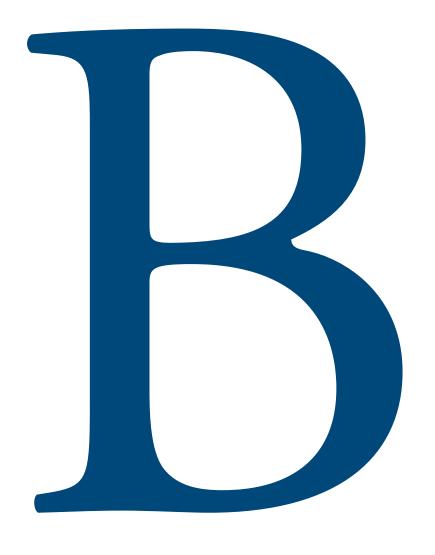
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Weaving a carpet on a manual loom, India. Image © iStock.com/sugaro607



Activities of NGOs/INGOs

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Shaping conservation in India: a perspective from INTACH

Navin Piplani

Abstract

The Indian National Trust for Art and Cultural Heritage (INTACH) is the largest non-governmental organization dedicated to the documentation, conservation, and management of heritage in India. Established in 1984, INTACH has been engaged in a series of projects on conservation, technical guidance notes and handbooks, education for young people, public awareness, policy, and research, and on training and capacity building. In 2004, INTACH developed a Charter for the Conservation of Unprotected Architectural Heritage and Sites in India (INTACH Charter), which outlines principles and practices that recognize the indigenous and traditional approaches to conservation developed in response to cultural diversity and regional specificities. This paper will illustrate key aspects of the Charter, particularly those related to traditional knowledge systems, living heritage, crafts-based conservation, authenticity and integrity, and the perception of time and space in the Indian context. It will argue that the national conservation policy needs to expand its vision and scope to be more effective and relevant, for almost all heritage sites exist within a larger social, cultural, economic, and historical context. The paper will also suggest that, while there is conservation guidance available for protected and unprotected heritage when the limits are clearly defined, there is a need to consider areas where these boundaries are permeable and the influence zones, or even the core zones, overlap or intersect. Should the national conservation policy consider these areas by expanding its vision and scope? Or should the conservation of these areas develop a hybrid approach which respects the national policy and recognizes the local distinctiveness as well.

Navin Piplani I

National conservation policy in India: the Archaeological Survey of India (ASI)

The official national organization in the field of heritage conservation and management is the Archaeological Survey of India (ASI), a department under the Ministry of Culture, Government of India. ASI is the custodian of 3 686 ancient monuments, archaeological sites and remains under the Ancient Monuments and Archaeological Sites and Remains Act (AMASR) (1958; revised in 2010 (see ASI, 2010)). This Act is now called the Ancient Monuments and Archaeological Remains (Amendment and Validation) Act (2010). These sites receive full legal protection and are therefore known as the "protected" sites.

The ASI was founded in 1871 under Alexander Cunningham as its first director general. The primary objective of ASI was to undertake surveys and documentation of ancient monuments and archaeological sites across the country. In 1901, John Marshall took charge of ASI and shaped the organization, more or less as it exists today. The scope of ASI was expanded to include conservation works as well. Under his charge and guidance, a broad policy for the conservation of monuments was framed, followed by a technical manual to facilitate specific items of work; these are adhered to by the ASI even today.

Conservation of monuments in India by the Archaeological Survey of India is drawn from the Indian Archaeological Policy, 1915 which "mandates the safeguarding and protection of monuments as an important activity of the organization. Conservation guidelines and principles were further elaborated in the Conservation Manual: Handbook for the Use of Archaeological Officers and others Entrusted with the Care of Ancient Monuments, 1923, and it is these guidelines that have been adhered to by ASI ever since" (ASI, 2014, p. 3). The ASI and therefore the Central Government of India adopted the National Policy for Conservation of Ancient Monuments, Archaeological Sites and Remains or the National Conservation Policy (NCP) in 2014 (ASI, 2014).

A "protected area" means, as per the AMASR Act 1958, "any archaeological site and remains

which is declared to be of national importance by or under this Act" and were extended in the AMASR (Amendment and Validation) Act 2010 (ASI, 2010, Section 2.i). Section 20A: "Every area, beginning at the limit of the protected area or the protected monument, as the case may be, and extending to a distance of one hundred metres in all directions shall be the prohibited area in respect of such protected area or protected monument". It continues in Section 20B: "Every area, beginning at the limit of the prohibited area in respect of every ancient monument and archaeological site and remains, declared as of national importance under Sections 3 and 4 and extending to a distance of two hundred metres in all directions shall be the regulated area in respect of every ancient monument and archaeological site and remains".

Any development or construction project within the above prescribed areas requires permission from an agency established by the Government of India called the National Monuments Authority, adding another layer of bureaucratic complexity to the already existing situation of multiple agencies, decision-makers, and stakeholders.

The aforementioned policy of ASI has a series of weaknesses, such as:

The policy for the conservation of heritage in India covers only the protected heritage sites but what about the innumerable historic buildings across the subcontinent which are not under the ASI's custodianship? In a country the size and breadth of India, are there only 3 686 historic monuments and heritage sites that are worthy of protection? As a statistical comparison, in the United Kingdom, approximately 500 000 buildings receive legal protection at one level or another. What is the mechanism and guidance for their conservation? Are these also considered heritage in the first place; or is it only those properties whose value is acknowledged as heritage worthy of state protection? Or is it simply the case that



the list of nationally important sites as originally prepared by the British colonial ASI has continued, without much critical review or consideration for additions or amendments? The result is that these thousands of heritage sites, both in rural and urban areas, remain unprotected and at the mercy of their owners, local communities, local government agencies, public trusts and so forth.

The question is: how far can a centralized, overarching policy document for conservation in India, which begins with an acknowledgement of the Indian Archaeological Policy that was adopted in 1915 during the time of British colonial occupation of the subcontinent, go in terms of implementing its own indigenous philosophy, principles, and practice. The NCP did not acknowledge the diversity of ancient cultures or living traditions in India or address the specificity of the post-independent Indian realities. Such an acknowledgment would have set a balanced and contemporary tone for a policy that is expected to be national and inclusive of not only ancient monuments, sites and remains but also places of living heritage. Instead, the state, conceptually based upon and continuing the spirit of John Marshall's Manual for Conservation (Marshall, 1923), lost another

opportunity to define and guide conservation philosophy and practice in India from an indigenous Indian perspective. The existing gap between the protected (and ancient) monuments and sites and the unprotected (and/or living) heritage has only further widened. The state policy cannot absolve itself by stating that the AMASR Act (1958) confines the protection, and therefore the jurisdiction of ASI, to their own monuments and sites that exist as islands within a dense socio-cultural fabric of settlements, towns, and cities. This is primarily because the Amendments and Validation of 2010 (ASI, 2010), which prescribe conditions for development, or rather no development, within the protected area, the prohibited area and the regulated area of an ASI site.

A series of fundamental concepts that underpin the conservation of unprotected architectural heritage and sites are missing from the National Conservation Policy of India, such as: living heritage, traditional knowledge systems, cultural landscape, cultural diversity, social inclusion, economic incentives, societal meanings/significance, and adaptive reuse. This absence results in the social, cultural, and economic isolation of the iconic historic monuments and sites.

An alternative approach to conservation policy in India: INTACH

The Indian National Trust for Art and Cultural Heritage (INTACH, see INTACH, 2019) is the largest non-government membership-based organization dedicated to the documentation, conservation, and management of natural and cultural heritage in India. Established in 1984, INTACH has penetrated the cultural, social, and physical fabric of India with around 207 chapters at state and local levels. Along with these chapters dotted across the subcontinent, technical divisions are located at its headquarters in Delhi and conservation laboratories in the four geographical zones of the country, INTACH has been engaged in projects on conservation, creating

technical guidance notes and handbooks, education for young people, public awareness, policy, and research, and on training and capacity building across the subcontinent and overseas.

A broad vision of INTACH is to be a leading knowledge centre on art, cultural and natural heritage for its conservation and care as a legacy for future generations, with the objective of advancing, sharing, and disseminating this knowledge for a greater consciousness among people. There are ten technical divisions, five conservation laboratories, 207 chapters and thousands of volunteers who work hand-in-hand to help achieve INTACH its rather ambitious

mission and objectives. The technical divisions address the issues and challenges of almost all kinds and aspects of heritage: Architectural Heritage; Art and Material Heritage; Natural Heritage; Intangible Cultural Heritage; Heritage Education and Communication; Crafts, Community and Heritage; Listing; Heritage Tourism, Library, Documentation and Archiving; and Training, Research and Capacity Building. The conservation laboratories are strategically located in Delhi, Lucknow, Bhubhaneshwar, Kolkata, and Bangalore, in order to provide scientific investigation and conservation treatment facility covering a large part of the country and a diverse section of society. This provides a substantial range and quality of expertise and skills required to undertake a conservation project of any complexity or challenge.

INTACH was established to conserve and manage the innumerable unprotected sites. On this basis, the mandate and responsibility of INTACH is much broader than that of ASI, (State Departments of Archaeology), SDAs, and allied government departments. Also, unlike ASI, SDA and allied government departments, the funding, resources, and legal powers of INTACH are far from extensive.

Despite its limited resources, INTACH has developed a wide range of activities. A first major activity is the documentation and listing of material, intangible, and natural heritage. To give an example, INTACH has listed, as of December 2016, about 43 000 and then by July 2019, about 69 000 historic buildings that do not enjoy protection under the legal system of the central, state, or local governments. This list is growing with a projected estimate of about 100 000 listed buildings in the next three years.

A second major activity was the development and adoption, in 2004, of the Charter for the Conservation of Unprotected Architectural Heritage and Sites in India (INTACH, 2004). The charter was authored by Professor AG Krishna Menon, an eminent conservationist, and assisted by the author of this paper, a conservation architect trained at the University of York, UK.

The development of the charter was a result of the following needs:

- I To set out an overarching philosophy and indigenous principles for conservation in India, primarily because there was very limited guidance available for the conservation of heritage that was outside the bounds of any legal protection from the central, state, or local government. The only handbook available to heritage professionals working on the unprotected heritage sites is the Guidelines for Conservation: a Technical Manual, authored by the late Sir Bernard Feilden (1989). This was prepared specifically for INTACH - its members, technical divisions, conservation centres and chapters. The success and influence of this publication was much wider, for many professionals searching for conservation guidance and direction found this manual very effective and applicable in the Indian context.
- To follow the international developments in the field. At the end of the twentieth century and beginning of the twenty-first century, the notion of heritage and the approaches to heritage conservation were no longer restricted to a monument, a building, a site, an object, or culture. Instead, the definition of heritage was now expanded to include groups of monuments, ensembles of buildings or a precinct, conservation areas, historic towns and places and the setting in which a heritage building or object existed. The wider cultural landscape, diversity of cultures and diversity even within one culture and, above all, a debate on the living and intangible aspects of heritage started to gain the attention of the heritage community. These were complex and contentious ideas that needed an urgent focus of conservationists to identify, document and safeguard the intrinsic content and indigenous processes that define this heritage in order to understand and interpret the tangible attributes and manifestations in a more holistic and meaningful way. Though the official policy,

practiced by the ASI, dealt with preservation and conservation of tangible heritage, there was no state policy or guidance on the documentation and safeguarding of intangible heritage. To this end, a summary of the key points upon which the charter is developed are:

- recognition for the unique resource of the living heritage of traditional craftspeople who continue to build and care for buildings following traditions of their ancestors;
- recognition for the concept of jeernodharan, the symbiotic relationship binding the tangible and intangible architectural heritage of India, as one of the traditional philosophies underpinning conservation practice;
- acknowledgement of the growing role
 of a trained cadre of conservation architects
 in India who are re-defining the meaning
 and boundaries of contemporary
 conservation practices; and
- emphasis upon the need to "value and conserve the unprotected architectural heritage and sites in India by formulating appropriate guidelines sympathetic to the contexts in which they are found" (INTACH, 2004).

In addition to this, the charter examines and redefines some key philosophical concepts such as authenticity and integrity. It lays down the essential principles behind what to conserve, why to conserve and conservation ethics. More than the built or tangible aspects, the charter identifies intangible heritage, as well as the links between tangible and intangible heritage elements, to be conserved. This link between tangible and intangible heritage is the living heritage that embraces the meanings of any heritage for the local communities and society at large.

The main reasons why the aforementioned aspects of heritage need to be conserved are:
(i) the unprotected heritage embodies values of enduring relevance to the contemporary Indian society, thus making it worthy of conservation;
(ii) the conservation of the living heritage offers the potential to conserve both traditional buildings

and traditional ways of building; (iii) it will ensure the survival of the country's sense of place and its very character in a globalising environment; (iv) this living heritage also has symbiotic relationships with the natural environments within which it originally evolved, and (v) "understanding this interdependent ecological network and conserving it can make a significant contribution to improving the quality of the environment" (INTACH, 2004, 1.4), as well as the definition of authenticity within the framework of traditional knowledge systems and the cultural landscape within which the heritage exists, and continuity of significance and meanings of heritage for the local communities.

The argument for or against heritage conservation is never complete without mentioning the term "development", for in an emerging economy like India if there is one idea that draws everyone's interest and attention – it is development. The entire political scenario and opportunities revolve around the vision for development, and it has multi-layered meanings for a multi-layered Indian society. Therefore, any serious policy for the conservation of architectural heritage in India will have to address this issue, for heritage properties do form a critical mass that impacts the real estate market.

At the outset, the charter clarifies its position that "the overarching objective for undertaking conservation of unprotected architectural heritage and sites is to establish the efficacy of conservation as a development goal. What to conserve will, therefore, be determined by those strategies of conservation which accommodate the imperatives of development and the welfare of the community while seeking economically to achieve maximum protection of the significant values of the architectural heritage and site" (INTACH, 2004, 2.7). This is perhaps the only conservation charter that not only comments on the inclusion of development as one of the key principles but also aligns conservation objectives with those of development. This is a critical point of view that distinguishes the INTACH charter from other international charters and conventions. A policy on conservation of cultural heritage must include development as one of the key aspects, for this is the only way the aspects

of conservation will find a reciprocal place in development plans.

Any charter or policy for conservation needs to be based upon robust ethics, and in this respect the INTACH charter outlines the following aspects: authenticity, conjecture, integrity, patina, rights of Indigenous community, respect for the contributions of all periods, inseparable bond with setting, minimal intervention, minimal loss of fabric, reversibility, legibility, demolition/ rebuilding, and terms of collaboration between the conservation architect and the community. Each of these ethical issues has been defined and discussed in response to the specificities of an Indian context. In some instances, the ethical consideration for the conservation of architectural heritage and sites puts an alternative, and rather contentious, view from that professed in the international charters or even the National Conservation Policy.

To discuss one example out of the many, a majority of approaches to conservation in the West stress the importance of patina as a witness of the historical age of an object or monument. However, the INTACH charter suggests that "the patination of historic fabric due to age or natural decay should not compel the preservation of a ruin as it exists, frozen in time and space. In conformity with local aesthetic traditions, and for the wellbeing of the heritage building or site, renewal, restoration, repair or rebuilding is acceptable. Patina may, where necessary, be considered as a sacrificial layer" (INTACH, 2004, 3.4.1). This aspect of Indian conservation philosophy may not find easy acceptance when seen from the perspective of internationally acceptable conservation principles. There are several philosophical and practical differences which are evident when one reads the articles on conservation ethics and compares them with international doctrines on conservation.

Conclusion

INTACH has played a pivotal and pioneering role in shaping conservation in India while maintaining its focus on the unprotected heritage – tangible, intangible and living. It has achieved this in three ways:

- I The experience of INTACH on conceptualization, design, and delivery of conservation projects of a wide range and complexity across the subcontinent has demonstrated alternative ways of addressing the issues and challenges that arise in the conservation of art, natural and cultural heritage. These projects present various possibilities in which conservation as a discipline and practice may be approached in a responsible and sensitive response to the specificities of a site and its context rather than applying a standardized, onesize-fits-all, approach. Thus, there is perhaps a case study available on a majority, if not all, of the challenges and opportunities that a conservation professional might face and offer
- while working on a heritage building or site in India. This has contributed immensely to developing an indigenous Indian perspective on conservation practice that argues with and contradicts the views of the National Policy for Conservation and the international charters for conservation.
- 2 In order to provide a philosophical basis that draws upon the vast experience of INTACH in conserving the unprotected architectural heritage and sites of India within an institutional framework since 1984, a charter for conservation was developed and adopted by INTACH in 2004. Interestingly, the charter acknowledges the invaluable contributions of the Archaeological Survey of India (ASI) and State Departments of Archaeology (SDA) in preserving the finest monuments of India as well as respects the principles and policies that ASI and SDAs adhere to. The salient feature of this document is that it highlights the essential and clear



distinction between protected and unprotected heritage in India. This condition is unique to the Indian conservation context and the charter recognizes and builds upon this distinction. The understanding of traditional knowledge systems and respect for traditional craftsmanship provide a robust conceptual base for the principles and practices outlined in the charter. Thus, the charter provides an indigenous Indian perspective on conservation philosophy which questions the conventional concepts of authenticity and integrity associated with a heritage building or site.

3 In addition to the theory and practice of conservation in India, the third key area where INTACH is making a significant and visible impact is training and capacity building.

The newly established INTACH Heritage
Academy (INTACH, 2012) engages with a wide

range of interest groups: professionals, practitioners, conservators, craftspeople, builders/contractors, historic property owners, students, academic institutions, government authorities, urban local bodies, non-government organizations, bureaucrats, decision-makers and the general public. The Academy is the first-ofits-kind in the country, running programmes for training and capacity building in *all* aspects of heritage conservation and management. It is envisioned to be a centre of excellence for training, research and capacity building on matters related to natural and cultural heritage and will strive to sustain its unique and pioneering position in India. The Academy, therefore, builds essential linkages between the philosophical approaches to conservation and practical aspects of conservation, and facilitates a meaningful sharing of this knowledge and skills to a wider conservation community.

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Regional cooperation on the development of heritage conservation through capacity building activities in Southeast Asia: the role of SEAMEO SPAFA

Hatthaya Siriphatthanakun

Abstract

Beginning with a regional project which aims to build capacity and strengthen the regional network in the field of archaeology and fine arts, SEAMEO SPAFA has become one of the intergovernmental agencies playing a significant role in advancing heritage practitioners in Southeast Asia. The paper will comprise three parts. It will begin by outlining the evolution of SEAMEO SPAFA from a regional project to an institute based in Bangkok as well as the development of the centre's mandate, structure, and policy. This part will also provide the background of how heritage conservation has become one of the three priorities of the centre besides archaeology and fine arts. The second part will focus on specific projects that have made a major impact in the conservation practice of Southeast Asia, namely Living Heritage and CollAsia 2010. The previous activities responding to particular circumstances and then resulting in the coming future flagship programme of the centre will also be mentioned such as disaster risk management, the conservation of documentary heritage and the conservation of intangible heritage. The third part will explore the Conservation in the Tropics Flagship Programme. The paper will also try to show how the future activities of the centre are expected to have a broader and more influential impact on the conservation practice in Southeast Asia and how their sustainability could be ensured.



Southeast Asian Ministers of Education Organization, widely known as SEAMEO, was established in 1965 as an intergovernmental organization in the Southeast Asian region aiming to enhance the quality of life of the people in Southeast Asia by fostering the understanding and the cooperation among the member countries in the sectors of education, science. and culture. The SEAMEO Charter (SEAMEO, 2019a), signed by the member states, provides the organization's legal status and the framework for its operation. According to the Charter, SEAMEO Council (SEAMEC), the highest policy making body of the organization, consists of ministers of education from eleven member states which, in alphabetical order are: Brunei Darussalam, Cambodia, Lao PDR, Indonesia, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viêt Nam and Timor-Leste. The SEAMEO Secretariat, the hand of SEAMEO, is based in Bangkok, Thailand. In accordance with its mandate in education, science, and culture, SEAMEO has achieved the goals through its 21 specialist institutes being located around the region and hosted by the respective countries, including SEAMEO Regional Centre for Archaeology and Fine Arts (SPAFA).

The Centre was set up in 1975 and called the Applied Research Centre for Archaeology and Fine Arts or ARCAFA. It was based in Phnom Penh, Cambodia (the then Khmer Republic) with a view to revealing the glorious past of Southeast Asian culture. Unfortunately, regional political developments interrupted the work of ARCAFA. Thus in 1982 the SEAMEC decided to continue the centre's activities outside the framework of ARCAFA and assigned the Secretariat to initiate the SEAMEO Project in Archaeology and Fine Arts (SPAFA). As such, the planning and development of projects were the result of the collaboration between the Secretariat and various groups of experts in relevant fields. Following years of its working experience in the area of culture, SPAFA plays a significant role along with other SEAMEO centres/projects in enhancing the quality of life of the people in Southeast Asia. Therefore, in 1985 the Government of Thailand agreed to host the Regional Centre continuing the work first begun by ARCAFA. Consequently, the SEAMEO Regional Centre for Archaeology and Fine Arts was reconstituted although the acronym, SPAFA, has been maintained as it was already regionally recognized.

The SEAMEO Regional Centre for Archaeology and Fine Arts

Since the establishment of the Centre, its objectives have remained the same and cultural heritage has always been its main focus. SEAMEO SPAFA aims to advance the awareness and appreciation of heritage, promote, and enrich archaeology and cultural activities, build professional competence in archaeology and fine arts as well as underpin mutual knowledge and understanding among the member states.

Similar to other SEAMEO Centres, SEAMEO SPAFA operates as an autonomous, non-profit international intergovernmental organization. The centre is regulated by its Enabling Instrument. The organizational structure of SEAMEO SPAFA comprises the Governing Board which is the policy-making body. The Board confers its executive power to the Centre Director with the assistance of a number of the Centre's staff. Regarding the Enabling Instrument, the Centre Director is nominated by the Ministry of Education, Thailand, in consultation with the Chairman of Governing Board, then approved by the Governing Board and finally appointed by the President of SEAMEO Council (SEAMEC). The members of SEAMEO SPAFA Governing Board are representatives from eleven member states. As SEAMEO is under the umbrella of the Southeast Asian Ministry of Education, the representatives are nominated by the Ministries of Education of the respective countries. However,



considering the fields of activity of the Centre, most members of the Governing Board are from governmental cultural agencies or academic institutes running courses in archaeology and/or fine arts. Yet, for some countries in Southeast Asia, for example Indonesia, there are Ministries of Education and Culture. It is also worth noting that in Thailand, the host country of SEAMEO SPAFA, when the Centre was reconstituted, the Ministry of Culture did not exist. The only main governmental agency in charge of cultural heritage was the Fine Arts Department which was one of the departments within the Ministry of Education. That is why the Government of Thailand agreed to host the Centre, and the representative of Thailand to SEAMEO SPAFA is the Director General of the Fine Arts Department even after the Ministry of Culture was established and the Department moved to the Ministry of Culture.

At present, SEAMEO SPAFA has three main divisions of services: Administrative and Financial Service, Academic and Professional Service, and the Library and Document Service. The activities and projects have been implemented in SEAMEO member countries where expertise and resources

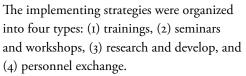
are available. It can be said that the countrybalancing policy of activity implementation provides the centre in achieving its objectives to contribute to the region as well as the regional-visibility.

There are three sources of funding. The main financial support comes from the Government of Thailand through the Ministry of Education. The budget for capital and operating fund is approved within a five-year timeframe, along with the submission of SEAMEO SPAFA Five-year Development Plan. The Government of Thailand also provides a building located in the same compound as the Fine Arts Department, Ministry of Culture to house the Centre. Further funds for project implementation come from the SEAMEO Secretariat which is also subsidized by the Ministry of Education, Thailand. For the latter, funds can come from any sources in different ways such as collaboration with partners, donations, and support as well as income generation. Furthermore, written in the Enabling Instrument and supported by the Ministry of Education, Thailand, the Centre is encouraged to carry out income generating programmes in order to ensure the sustainability of the Centre.

Programmes and activities in the early period

As already discussed, the programmes and activities of SEAMEO SPAFA need to receive approval from its Governing Board through the Five-year Development Plan. According to the First Five-Year Development Plan 1987–1992 (SEAMEO SPAFA, 1988), it seems that SPAFA was still seeking its role in serving the region through its programmes and activities in culture. Regarding the Centre's perspective of culture, culture is understood as the entity of collective beliefs, values, technology and adaptation to the environment. It also includes the complexity of shared values linking people to the past as well as directing them to the future. As such, culture provides the force of integration and motivation in sustaining or hindering development. Therefore, to draw up the cultural policies, programmes and their implementation, consistent attention and effort of national and regional policy makers, specialists and concerned people in Southeast Asia is required. In addition to prepare any proposal for programmes and activities, the Centre is always concerned with the said aspects of culture. Thus, in the earlier period, the projects of SEAMEO SPAFA were divided into the following areas:

- general cultural projects of inter-disciplinal and multi-discipline nature;
- archaeology;
- fine arts including performing arts of music, dance and theatre with focusing on traditional art forms.



However, in view of the limitation of resources and facilities, criteria for implementation of selected activities were set. They should:

- benefit as many as SEAMEO member countries to meet the region-wide objective;
- have long-term impact to improve the capabilities of participants;
- have a wide range of operations;
- take advantage of human and material resources of the region or adapt resources from elsewhere to suit to the requirements of the region; and
- not imitate what other organizations, agencies or institutes can carry on or need SPAFA to initiate.

The priorities of the Centre have evolved over time as follows: from 1987 to 1992, the Centre focused more on training activities. As stated on the importance of policy-makers, the training courses were provided for cultural administrators who worked at high and mid-level. Through these participants the improvement and development of cultural works in the region could be seen since the individuals played a significant role in their agencies or institutes. The reason is that several alumni from various courses and activities became Director-Generals or decision-making officials in governmental agencies/organizations in cultural heritage conservation of Southeast Asia. Some of them even became Ministers of Culture. It is also worth noting that the issues being discussed were already taught in several training courses of the Centre in its early time.

From 1998 to 2010, under the directorship of Pisit Chacheonwong, former senior archaeologist from the Fine Arts Department, Thailand, programmes and activities concerning heritage conservation and management were strengthened and focused. Additionally, collaboration with other national and international organizations such as UNESCO, ICCROM, the Getty Foundation and Japan Foundation were established and

expanded during his period. As a result, along with archaeology and fine arts, cultural heritage has become one of the main fields of the Centre.

Recently, the programmes and activities of SEAMEO SPAFA led by Dr M.R. Rujaya Abhakorn, the present Centre director, are grouped into three main fields as the Centre flagship programmes comprise archaeology, fine arts and cultural heritage. For archaeology, the Advancing Southeast Asian Archaeology Flagship Programme is intended to support consultative meetings, training, workshops, networking, expert meetings, research and project evaluation in specific issues of archaeology in Southeast Asia. Remarkably the achievement of the International Conference on Southeast Asian Archaeology considered from the increasing number of papers submitted and participants, the higher quality of research and wider range of participants between the first and second conferences, should be noted. The Capital Archaeology Lecture Series has been an innovative activity organized at the Siam Society and is open to the public so it benefits a wider group of the public.

For the field of fine arts, the scope of work also consists of photographic arts, religious arts, performing arts and oral traditions of Southeast Asia. So far the Flagship Programme entitled Sacred Universe has various activities such as the Spiritual Dimensions of Rice Culture in Southeast Asia composed of seminars and performances, the Seminar and Workshops on Religious Arts; Buddhist Art (2014), Islamic Art (2015), Christian Art (2016) and Hindu Art (2017). Under this field, collaboration with APCEIU (the Asia-Pacific Centre of Education for International Understanding) has resulted in publications and free educational website (see APCEIU, 2021). The activities under this flagship programme mainly aim to strengthen the mutual understanding of people in Southeast Asia who are extremely diverse in terms of ethnicities, religions, beliefs, governing systems, the natural environment and so on. Last but not least is the Conservation in the Tropics Flagship Programme focusing on the conservation and protection of Southeast Asian Cultural Heritage.







The role of SEAMEO SPAFA in heritage conservation

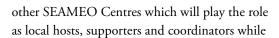
Heritage conservation, which was included later than the other two fields mentioned above, has now become dominant. In fact, early on in the Centre, activities relating to heritage conservation were strongly provided for through the area of general cultural projects of interdisciplinary and multidisciplinary nature and some courses of archaeology. The participants from these activities could make a highly significant impact on development of heritage conservation in the region. The majority of alumni became high level officials involved in policy and decision-making in heritage agencies. There were various training courses, workshops and activities on heritage conservation with the collaboration of other partners across the world. For instance, CollAsia 2010 (ICCROM, 2011) and Living Heritage pilot project were conducted in close collaboration with the International Centre for the Study of Preservation and Restoration of Cultural Property (ICCROM) based in Rome (Wijesuriya, 2015). Other training courses were done in partnership with the Getty Conservation Institute, Fondazione Lerici, Department of Heritage, Lao PDR and Fine Arts Department, Thailand: the workshop entitled Risk Assessment to Conservation: Safeguarding Archaeological Complexes in the Mekong Region held at the World Heritage Site of Vat Phou, Lao PDR in 2008 followed by the second workshop on Conserving Heritage in Southeast Asia Cities: Planning for Continuity and Change held at Chiang Sean, Thailand in 2009.

To intensify the field of heritage conservation for extensive regional impact, the Conservation in the Tropics Flagship Programme was set. This programme adopted a broader and more comprehensive approach towards heritage which would include both cultural heritage, such as ancient towns, historic buildings, vernacular architecture, Mon palm-leaf inscriptions, artefacts and textiles, and natural heritage such as mangrove forests. A variety of strategic tools were used for the implementation of the programme, such as regional consultative meetings, seminars, workshops, trainings as well as networking opportunities. For the next Five-Year Development

plan to be implemented from July 2017 to June 2022, a series of up-to-date issues in conservation have been added, such as disaster risk management, intangible cultural heritage and culture-nature integrated conservation. For example, from 14 to 20 March 2018 the first Training Workshop on Disaster Risk Management for Cultural Heritage in Southeast Asia was conducted under the theme "Post-Disaster Recovery for the Living Archaeological Urban Complex" held in Bagan, Myanmar.

For the development of the Plan, the global and regional agenda relating to the responsibilities of the Centre were taken into account. To meet the international commitment of Sustainable Development Goals (SDGs) and particularly Goal 13: Taking urgent action to combat climate change and its impacts, the Centre considered developing an initiative on disaster risk management for Southeast Asian cultural heritage. This initiative is a new collaboration with ICCROM and the Institute of Disaster Mitigation for Urban Cultural Heritage, Ritsumeikan University, Japan, and is strongly supported and approved by the SEAMEO SPAFA Governing Board. The serial training workshop will be organized for Southeast Asian conservation practitioners who are policy makers or play a major role in cultural policy making, in order to ensure their ability to make an impact in their own countries. It is strongly supported and approved by the SEAMEO SPAFA Governing Board.

In addition, since SPAFA falls under the umbrella of SEAMEO the Centre is requested to contribute towards implementation of the SEAMEO Education Agenda (2015–2030) on seven priority areas. Therefore, in response to this request, SEAMEO SPAFA prioritizes its younger groups of beneficiaries. The research project focused on a school-based approach to disaster risk management for heritage under the Conservation in the Tropic Flagship Programme is initiated to meet Priority 3 of the Education Agenda in Southeast Asia which is "Resilience in the face of emergencies". The Centre is going to carry on this research in collaboration with



the targeting the school community of students, teachers, parents and surrounding communities.



An analysis of selected projects of SEAMEO SPAFA in heritage conservation

To demonstrate the Centre's most significant contribution to the Southeast Asian region, specific activities of SEAMEO SPAFA will be mentioned. One of the best-known region-wide programmes is CollAsia2010 (see ICCROM, 2010), which originally focused on the conservation of movable cultural heritage and museum works. The programme started a few years prior to the official launching in 2003 and was expected to terminate in 2010 but went on into 2011. In collaboration with ICCROM, SEAMEO SPAFA played a main role in regional networking and communication. As the outstanding number of participants trained in nearly a decade, one of the most significant impacts to the present date is regional networking among not only museum individuals and institutes but also heritage practitioners in general, since the later part of the programme expanded to include immovable heritage, making the programme more integrated. The programme also lightened up the holistic conceptualization among heritage practitioners who worked for movable and immovable heritage in the region.

At the same time, the international concept of living heritage was widely introduced to the region for the first time with the pilot project Living Heritage Programme, financially supported by ICCROM (a summary can be read at ICCROM, 2019), was conducted in Phrae province in northern Thailand. The programme was initiated in 2003, at a time when issues of community participation and decentralization for heritage conservation were seriously discussed. Until then, the term heritage was still used narrowly, especially in legal frameworks, usually referring only to ancient monuments and there was a conservation tendency towards moving people out of areas surrounding heritage sites or historic cities. Therefore, the Living Heritage

pilot project was an attempt to explore the role of local communities in conserving their heritage while they still live with it. From 2004 to 2009 a series of activities with the local community of Phrae province in Thailand led by the Active Generation of Phrae Family or Lok Larn Muang Phrae were conducted such as cultural mapping, documentation, meetings. As a result, the local community has become one of the strongest and most well-known groups for heritage conservation applying a grass roots approach. The community was continually used as a model for the following SPAFA regional activities: CollAsia and community archaeology. As a pilot project, the Living Heritage Programme was completed with a concluding international meeting held in Bangkok in 2009.

The Risk Assessment to Conservation: Safeguarding Archaeological Complexes in the Mekong Region had a significant impact on SE Asia and focused on the Sub-Mekong region: Cambodia, Lao PDR, Myanmar, Thailand, and Việt Nam. The workshops were held in 2008 at the World Heritage Site of Vat Phou, Lao PDR with financial support from the Getty Conservation Institute in partnership with Fondazione Lerici and the Department of Heritage, Lao PDR. It was one of the very first training courses relating to disaster risk management for cultural heritage in the region. Five potential participants from five respective countries participated in the two-week training. It was followed by a second workshop on Conserving Heritage in Southeast Asia Cities: Planning for Continuity and Change at Chiang Sean, Thailand in 2009. In principle, the same participants from the five countries were requested to attend in order to provide a follow-up evaluation. Similar to other previous training courses, some participants have become decision



makers in cultural heritage conservation while others have played a major role in their national policy in cultural heritage conservation as well as influential academic scholars.

Challenges for the future

Through the aforementioned capacity-building activities and programmes, SEAMEO SPAFA attempts to make an impact on improving conservation practice and developing conservation principles/policy in Southeast Asia. However, the actual impact as well as the sustainability of the outcomes of these activities should be seen in connection with a series of emerging challenges.

ASEAN Community in collaboration with SEAMEO

The cooperation between SEAMEO and the ASEAN Community has emerged since the latter's establishment at the end of 2015. ASEAN Community comprises three divisions: Political-Security Community; Economic Community; and Sociocultural Community. Education and culture, which are the mandate of SEAMEO SPAFA, are part of the Sociocultural Community. Two different ASEAN sub-committees on culture and on education have been established. In principle it seems that they work separately while SPAFA's work is the integration of these two bodies. It should be noted that the ASEAN Secretariat views the Centre as being under the sub-committee on culture represented by the Ministry of Culture for Thailand delegation. Optimistically the Centre shall take this opportunity to widen its collaboration at both ASEAN sub-committees.

Identifying the changing needs of Southeast Asia

Even though the governing board is comprised of high-level officials relevant to cultural heritage in Southeast Asian governmental organizations the Centre always needs to be aware of the real needs in the region whenever new initiatives are proposed. Therefore, it is necessary to find out how best to understand the needs of the member countries within the continually changing circumstances through the current mechanism of the governing board system. As meeting once a year is probably not enough to fully discuss the complex issues the procedure for preparing the Five-Year Development Plan should be reviewed.

Assessing the impact and ensuring the sustainability of the projects

Recently, as one of the SEAMEO Centres and the Centre itself have realized, there is a real need to quantify the regional impact and the sustainability of projects and outcomes of its projects. This is a challenge for the Centre since demonstrating these concerns also clarifies the necessity of the Centre's existence and role in the Southeast Asian region. Thus, the Centre at present is looking for a monitoring and evaluation methodology which will guarantee its long-term benefit to the region.

Conclusion

Given the present-day circumstances that have been changing from the time SPAFA was established, it is necessary for the Centre to rethink how it should move forward with a limited financial and human resources and how the Centre should balance its role as an intergovernmental organization serving cultural heritage-related practice under the mechanism of Southeast Asian Ministry of Education while the relationship and involvement between



SEAMEO and ASEAN Community still needs to be clarified. Furthermore, since the seventh Five-Year Development Plan (2017/2018 to 2021/2022) SPAFA has implemented an evaluation matrix to measure the success of its projects. Until the end of the plan in 2022, it is too early to conclude whether the projects'

have achieved in their expected outcome and sustainability. However, at this moment it is obvious that the Centre's alumni network provides tremendous impact and reflection to SPAFA's present projects and activities through its strong support wherever in Southeast Asia and whenever the projects and activities are held.

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 ${\it Traditional \ Chinese \ brushes. \ Image @ iStock.com/Qin \ Ningzhen}$

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The Operating Mechanism of WHITRAP

Jian Zhou



Abstract

This paper examines the conservation policy of the World Heritage Institute of Training and Research for the Asia and Pacific Region (WHITRAP). The first part discusses the administrative framework, mission, and strategies as well as priorities. Secondly, it outlines the key activities of WHITRAP with a focus on its regional and international collaborations.

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Administrative framework

The World Heritage Institute of Training and Research for the Asia and Pacific Region (WHITRAP) is a category 2 centre under the auspices of UNESCO. It was established in 2008, the first international institute in the field of world heritage established in a developing country. "The Institute's mission is to strengthen implementation of World Heritage Convention in the Asia and Pacific region, by building the capacity of all those professionals and bodies involved with World Heritage Site inscription, protection, conservation and management... through training, research, the dissemination of information and network building" (WHITRAP, 2019a).

WHITRAP has three branch offices in Beijing, Shanghai, and Suzhou. WHITRAP Shanghai, based at Tongji University focuses on cultural heritage, especially in sustainable development of historic towns, architectural sites and complexes, and cultural landscapes. The branch in Beijing, based at Peking University, works on the conservation of natural heritage, archaeological sites, and the management of cultural landscapes. In Suzhou, the Suzhou Municipal Administrative Bureau of Gardens oversees the research of vernacular architecture and provides technical training for craftsman.

Strategies and priorities

Keeping in mind the World Heritage Committee's Five "Cs" objectives (Credibility, Conservation, Capacity-building, Communication, Communities) (UNESCO World Heritage Centre, 2021), WHITRAP has elaborated four strategic objectives for its Mid-Term Strategy (2014–2019):

- protecting and conserving urban heritage and promoting the sustainable development of cities;
- developing a regional capacity-building strategy and associated programmes for Asia and the Pacific Region (CBSAP-AP);

- improving conservation and management practices to support the implementation of the World Heritage Convention; and
- awareness-raising and education about World Heritage.

In line with the mid-term strategies, four programmes are prioritized:

- Historic Urban Landscape (HUL)
- Heritage Impact Assessments (HIA)
- World Heritage and Sustainable Tourism (WH+ST)
- Management Planning for Cultural Heritage

Activities

Since its establishment, WHITRAP has fostered its role in the following five themes, thereby building up WHITRAP's international reputation and social

influence in the Asia-Pacific region and around the world.



1 Training

WHITRAP applies the global training strategy of the UNESCO World Heritage Centre (UNESCO, 2011) taking into consideration the needs of the heritage properties in the Asia-Pacific region. In order to improve regional capacity building in the conservation of World Heritage, WHITRAP

offers short – and long-term training courses for cultural heritage at different levels, including international workshops, national workshops, Sino-French advanced seminars, academic lectures and general courses for international students. During the period from 2008 to 2019, WHITRAP Shanghai organized the following training courses:



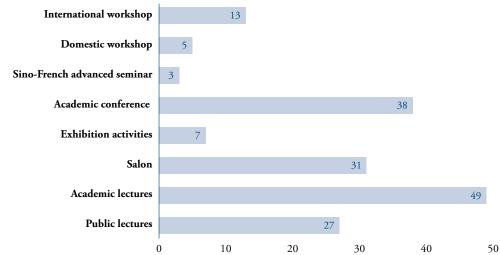
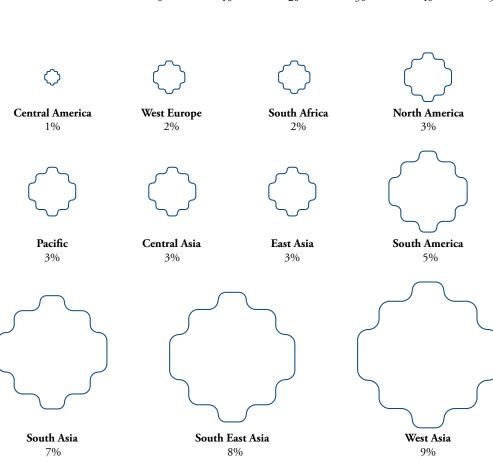
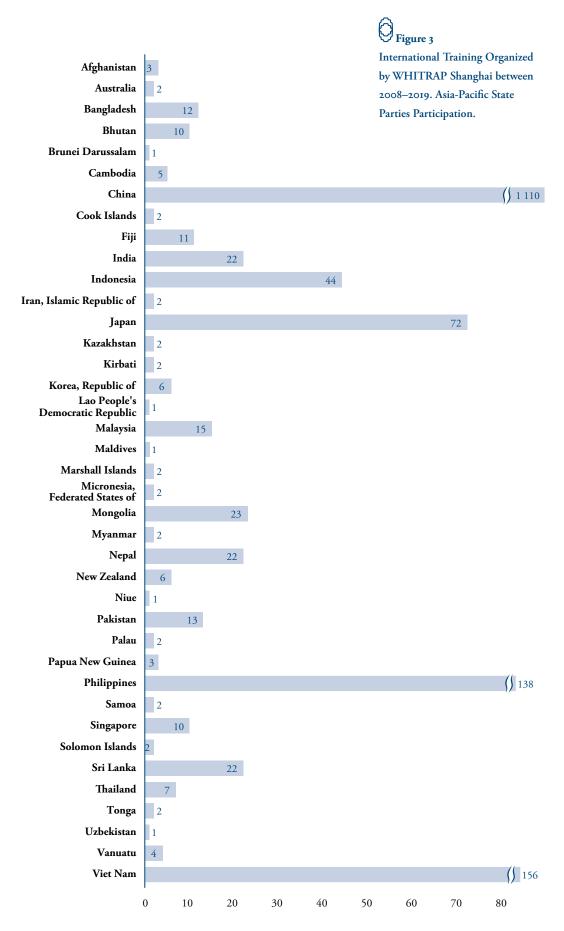


Figure 2
Distribution
of participation
by student
home-country.



Jian Zhou







It is important to note that, although the three centres of WHITRAP are all based in China, the extent of its capacity building endeavours have never been limited by geographic boundaries. According to the statistics, WHITRAP Shanghai has launched over 37 training courses, covering 39 Asia-Pacific States Parties and 39 non-Asia-Pacific States Parties. Moreover, the trainees involved in these activities (1 286 regional and 70 non-regional) were distributed all over the world.

2 Research

Dedicated to the research and practice of advanced theoretical developments in World Heritage conservation, WHITRAP has always strived to innovate, and further develop theories through application in practice as well as use theories to guide practice. The main research subjects and projects during the period from 2008 to 2016 are listed below:



Research Subjects and Projects Initiated by or with participation of WHITRAP.

Subject/Project	Branch in charge	Implementation Period
Theoretical research on the Conservation of Cultural Heritage	WHITRAP Beijing	2008–present
Planning and Construction Guidance of Post-disaster Reconstruction of Tai'an Ancient Town in Dujiangyan, Sichuan Province	WHITRAP Shanghai	2008.8
Post-disaster Appraisal Report on Qingcheng Mountain-Dujiangyan World Heritage Site	WHITRAP Shanghai	2008.12–2009.1
Creative Cities Network	WHITRAP Shanghai	2009–present
Guizhou Cultural and Natural Heritage Protection and Development Project funded by a loan from the World Bank	WHITRAP Shanghai	2010–present
Protection of the Traditional Residence in Pingyao Ancient City Programme	WHITRAP Shanghai	2011–2015
Asia-Pacific Regional Capacity Building Strategy and Other Related Programmes	WHITRAP Shanghai	2012–present
Research on Historic Urban Landscapes	WHITRAP Shanghai	2012–present
Research Report on Thirty Years' Conservation of Suzhou Old City	WHITRAP Suzhou	2013
Open Project on Aquatic Ecology Laboratory of the National Key Lab of the Chinese Academy of Science	WHITRAP Beijing	2013–present
Asia-Pacific Regional Cultural Heritage Database	WHITRAP Shanghai	2014–present
Role of culture for sustainable urban development	WHITRAP Shanghai	2015–2016
UNESCO World Heritage Sustainable Tourism Programme, Chinese Pilot Programme, China (2015–2020)	WHITRAP Shanghai	2015–2020

Jian Zhou



3 Cooperation and exchange

WHITRAP has established cooperation with a series of Chinese and foreign institutions and experts and developed academic exchange. Through integration of resources, the research and training activities of WHITRAP has been effectively implemented and promoted. So far, WHITRAP has worked with 68 institution partners and 63 individual experts.



Domestic and Foreign Cooperation Networks.

Туре	Number	Institutions
International	8	World Heritage Centre (WHC)
organizations		• International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM)
		International Union for Conservation of Nature (IUCN)
		United Nations Environment Programme (UNEP)
		International Research Centre on the Economics of Culture and World Heritage Studies,
		Turin, Italy
		Getty Conservation Institute (GCI)
		Our Place, the World Heritage Collection
		International Association for Science and Technology of Building Maintenance and
		Monuments Preservation (WTA)
Regional	15	The Cultural Heritage Protection Cooperation Office of Asia-Pacific Cultural Centre
organizations		for UNESCO (ACCU, Nara)
		UNESCO Beijing Office
		UNESCO Bangkok Office
		Archaeology Department of UNESCO, Kathmandu Office
		Nordic World Heritage Foundation
		African World Heritage Fund
		Arab Regional Centre for World Heritage
		Mexico Regional Centre for World Heritage
		Brazil Regional Heritage Management Training Centre
		International Centre for Rock Art and the World Heritage Convention, Spain
		Asian Contemporary Architecture Protection Association
		ICOMOS Korea
		ICOMOS Japan
		ICOMOS India
		South Asian Association for Regional Cooperation (SAARC)
At the	3	The Ministry of Culture and Communications of France
national level		Government of Nepal
		China Welfare Institute





Туре	Number	Institutions
At the property level	19	The People's Government of Shexian County, Anhui Province
rry		The People's Government of Pingyao County, Shanxi Province
		The Protection and Management Bureau of the Old Town of Lijiang, Yunnan Province
		The Heritage Monitoring and Management Centre of West Lake, Hangzhou
		The Cultural Heritage Bureau of Qufu, Shandong Province
		The Planning Bureau of Dujiangyan, Sichuan Province
		The Cultural Heritage Administration of Guizhou Province
		The Tourism Administration of Guizhou Province
		The Nomination Office of Grand Canal, Yangzhou
		The Cultural Heritage Bureau of Jinan, Shandong Province
		The authorities of Waterside Villages and Ancient Towns in Southern Yangtze River Region
		and Mount Yutai, Henan Province
		The cultural departments of Hong Kong and Macao Special Administrative Regions
		SMG Press and Publication Bureau of Ninghai County, Zhejiang County
		Ninghai County Office of Cultural Relics Management Committee
		Spiritual Civilization Construction Committee Office of Shanghai
		Shanghai Committee of the Communist Youth League
		Shanghai Municipal Administration of Culture, Radio, Television
		Shanghai Municipal Administration of Culture, Natio, Television
International	6	Ecole de Chaillot, France
universities		University of London, UK
		Tel Aviv University, Israel
		Rikkyo University, Japan
		Seoul City University, South Korea
		Kyung Hee University Confucius Institute, South Korea

WHITRAP has been focusing on regional cooperation. In July 2010, an MoU between WHITRAP Shanghai and the Asia-Pacific Cultural Centre for UNESCO (ACCU Nara) was signed to support UNSECO activities to contribute to the preservation of the cultural heritage of the Asia-Pacific region. Over the following three years, WHITRAP Shanghai and ACCU Nara co-organized three international conferences focusing on Human Resource Development for the Transmission of Traditional Skills. In August 2013, both sides renewed the three-year cooperation agreement. They also held three international conferences themed Revisiting the Philosophy of Preserving Wooden Structures from 2013 and 2015. In April 2014, WHITRAP Shanghai collaborated with the Pacific Heritage

Hub (Fiji) to organize the International Training Course on Heritage Management in Micronesia. In September of the same year, another project between them focused on the Formulation of Conservation Planning. Almost simultaneously the first Regional Meeting for World Heritage Cities was held, discussing the Challenges of World Heritage Cities-Vision and Reality, coorganized by the Organization of World Heritage Cities for Asia Pacific (OWHC-AP) in close cooperation with UNESCO Bangkok Office, WHITRAP Shanghai and the Korean National Commission for UNESCO. In August 2014, the SAARC Capacity Building Workshop on Preparation of Proposals of New Sites for Inclusion in the UNESCO's World Heritage List was held at Lumbini, Nepal.

Jian Zhou 19'



4 Dissemination and promotion

WHITRAP has always placed increasing emphasis on the dissemination of heritage conservation concepts and knowledge among teenagers.

5 Information and service

WHITRAP has always been dedicated to providing professional information services

and communication platforms to institutions and individuals in the Asia and Pacific region. The operational structure combining Newsletter, Website, Archives database has already been put into use and has begun to function as an important platform to serve the public. Currently, the framework of the database has been basically constructed.

Conclusion

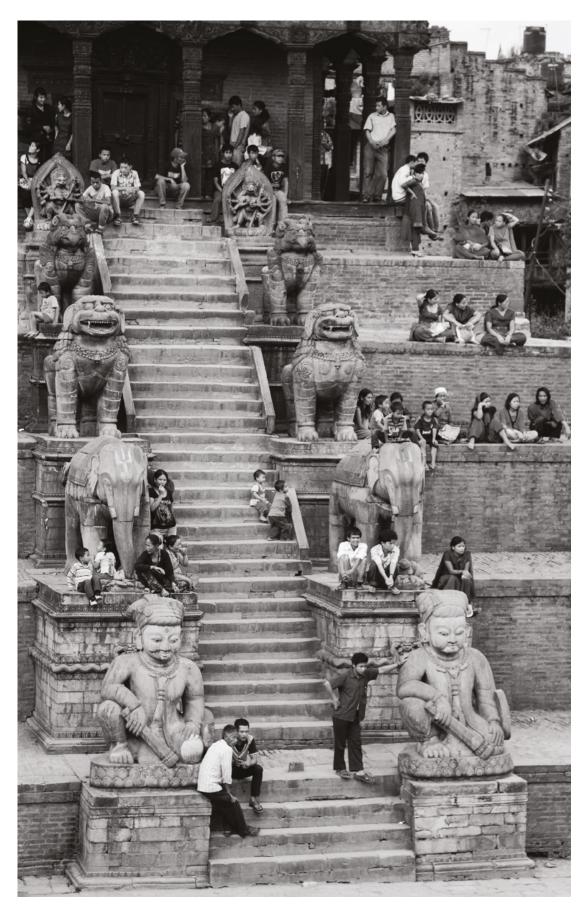
Asia and the Pacific Region has abundant heritage categories, both in cultural and natural realms. WHITRAP, which consists of three branch centres possesses cross-disciplinary strengths. Based on WHITRAP's Mid-Term Strategy, we organize

activities across five sectors, which can contribute to most of the stakeholders in and out of properties. In the following years, WHITRAP will continue to support the heritage practitioners and States Parties in the Region to fulfil our commitments to UNESCO.

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Hindu temple, Nepal. Image © Pixabay/mssrussoo

National Conservation Policy in Asia

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Conclusions



The objective of the 2016 Forum was to explore the different national heritage systems within the Asia-Pacific Region, with a view to identifying gaps that may be addressed in the future. The Forum involved participants from the heritage

authorities of various countries, as well as a number of

regional institutions and non-governmental organizations.

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We gratefully acknowledge the energy and expertise of the participants, particularly the support of ICCROM and the Cultural Heritage Administration (CHA) of the Republic of Korea. Much of the following has been drawn from concluding remarks compiled by Gyeonggyu Mun of CHA.

Among the many topics inherent in the governing policies that serve to identify, protect and disseminate knowledge about heritage, the discussants came together with a forward-looking vision. Here are some of the issues at the forefront of heritage conservation with regards to the role of national policies in the Asia-Pacific:

The forum recognized some common gaps in these frameworks and their application. More work is needed in developing policy around cultural landscapes, industrial, modern and living heritage. While many systems have begun including diverse voices in decision-making, there is room for improvement in localized implementation and public processes, which should listen to community concerns and include their participation. It is vital to acknowledge system gaps, especially between governmental and non-governmental organizations, and create spaces for "bottom-up" approaches that empower local entities. Within these systems, there are often disconnects between various levels of governance, organizations, agencies and heritage authorities. All are subject to political differences which sometimes disrupt cooperation and information sharing between parties.

Forum partipants discussed possible solutions to these concerns. As with the roles of authenticity and Traditional Knowledge, transparency in

the processes of inclusion and communication is becoming more accepted and seen as necessary for the sustainability of any heritage conservation project. The ICCROM-CHA Forum on Revisiting Authenticity in the Asian Context (2014, publication 2018) provided several examples of how international conservation terms often hold different meanings in the languages and traditions of the region's diverse communities. National policies have the ability to explain and clarify these terminologies while ensuring international commitments are met. Policies can also streamline institutional arrangements and provide resources for policy development and implementation, which foster cross-agency consultation and robust channels of dialogue. These measures may mediate consultations between religious and cultural communities, as evidenced at the Forum on Asian Buddhist Heritage: Conserving the Sacred (2013, publication 2017). Establishing statements of significance with built-in monitoring mechanisms can guide management plans.

Resources are often limited or unevenly distributed. However, by examining public-private partnerships, incentivizing corporate or social responsibility, and supporting traditional decision-making systems, it is possible for national policies to ensure that a sense of ownership, capacity building, and knowledge exchange become long-term solutions. Participation of universities and NGOs, through research, teaching and dissemination which encourages professionalization and incorporates codes of practice, ethics, charters and guidance materials will result in best practices.

Gamini Wijesuriya



Hands of a tea picker, Sri Lanka. Image © iStock.com/Ekaterina Parfenova

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Yunus Arbi graduated from the University of Indonesia in the field of archaeology and obtained a master's degree in museum studies from George Washington University in Washington, D.C. He started his career in museums and then became actively involved in the nomination process for cultural sites for World Heritage inscription and engaged in training and capacity building for the management of Indonesian World Heritage for Culture at the Ministry of Education and Culture. He has attended various workshops and UNESCO World Heritage meetings in this field. Currently, he is a member of ICOMOS Indonesia.

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Kristal Buckley is a lecturer in cultural heritage at Deakin University in Melbourne, Australia. She has qualifications in archaeology, anthropology and public policy and has worked in private practice, government and community organizations. Her work focuses on global heritage practices. Ms Buckley served as an international Vice-President of ICOMOS from 2005–2014 and was made an Honorary Member of ICOMOS in 2014. She has worked with the ICOMOS World Heritage programme since 2007. She is a member of the Board of the Port Arthur Historic Site Management Authority, Tasmania, and the Australian Government's Advisory Committee for the World Heritage site of Kingston and Arthur's Vale Historic Area on Norfolk Island. In 2013, she was appointed a Member of the Order of Australia for "significant service to conservation and the environment, particularly in the area of cultural heritage, and to education."

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Nicola Jackson has over 20 years of experience in the public sector working in resource management, heritage conservation and emergency management. As the Deputy Chief Executive-Operations for Heritage New Zealand Pouhere Taonga (HNZPT), she has overall responsibility for regional delivery of heritage advice, managing a portfolio of some 40 heritage properties and opening these to the public, providing regulatory archaeology, listing and identification of heritage, Crown land disposal, planning and legal advice services, as well as heritage engagement and outreach events. She leads a team of 90 permanent staff spread across Aotearoa, New Zealand, in 26 localities. She is involved in managing the HNZPT National Heritage Preservation Incentive Fund and was, until recently, the chair of the Canterbury Earthquakes Heritage Buildings Trust. She was the HNZPT Emergency Response Manager during the Canterbury earthquakes in 2010-11. She has a BSc in biological sciences and planning from Auckland University (NZ), a postgraduate certificate in Antarctic studies from Canterbury University (NZ) and a MSc (hons) in resource management from Lincoln University (NZ). She has worked in heritage since 1998 and held a wide range of positions for HNZPT.

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Anila Naeem is a professor and chairperson of the Department of Architecture and Planning, NED University of Engineering and Technology, Karachi, Pakistan. Dr Naeem is an academic and heritage conservation professional with experience involving research-based initiatives on historic environments and sociocultural traditions.

After graduating as an architect, she pursued an academic career, attaining specialization in heritage conservation and management of traditional environments. Her significant contribution to the field is the development of a systematic method for assessing historic built-form traditions, taking historic towns (Sindh) and historic districts



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From 2001 to 2015, Hatthaya Siriphatthanakun worked as a landscape architect for the Fine Arts Department (FAD), Thailand, the country's primary governmental agency responsible for cultural heritage conservation, carrying out landscape architectural design and cultural heritage conservation. After obtaining her master's in conservation studies from the University of York (UK) and completing the ICCROM Conservation of Built Heritage course in 2007, Hatthaya began to undertake conservation work on World Heritage cultural properties in Thailand, preparing nomination dossiers and providing recommendations for FAD regional offices and local authorities on a wide range of World Heritage issues. In 2015, Hatthaya moved to the Southeast Asian Ministers of Education Organization Regional Centre for Archaeology and Fine Arts (SEAMEO SPAFA) as a specialist in cultural heritage conservation to develop and coordinate initiatives for disaster risk management in relation to cultural heritage. She is also a PhD Candidate at the Faculty of Architecture, Chulalongkorn University, Thailand.

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Serpent, Thailand. Image © Pixabay/TwinBerry_Yuii

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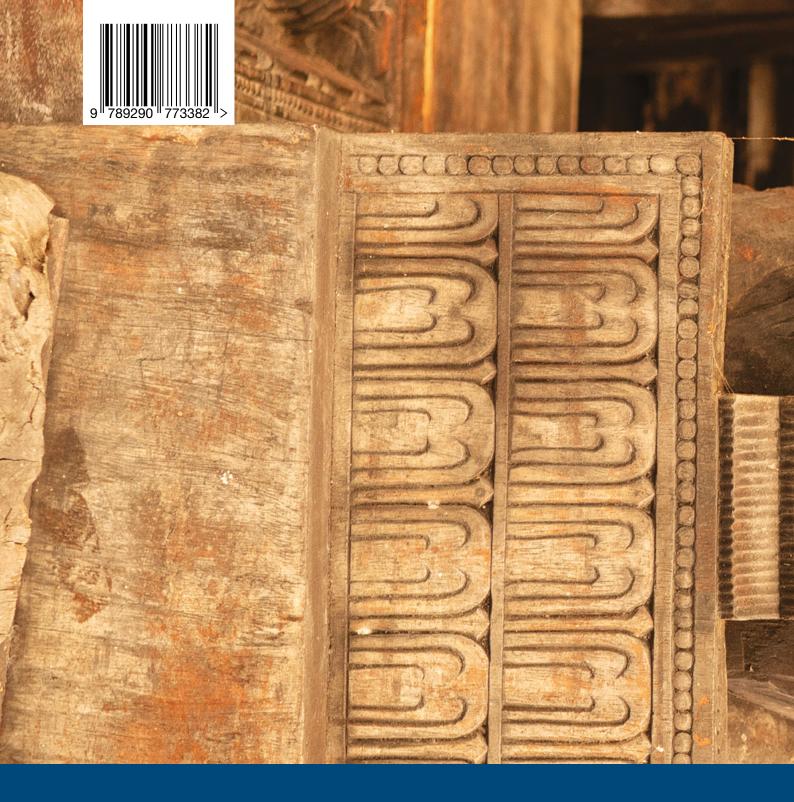
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Street scene, Kathmandu, Nepal. Image © Pixabay/fjwynne



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