

RESEARCH ARTICLE

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Built heritage and planning laws in Africa: the Nigerian Experience

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Abstract

Built heritage has been and is being threatened by natural and man-made factors such as urbanisation, climate change, civil unrest, and activities of extractive industries among others. These factors have led to the destruction of built heritage culminating in a gap in the cultural history and identity of the people. Over the years, in every country, there have been different regimes that have regulated the preservation and sustainability of built heritage sites, ranging from the traditional pre-colonial era, the colonial era and the post-colonial era. This article from the perspective of law and history, examines the trajectory of the heritage management systems over the years in Nigeria to identify necessary areas of improvements that are needed to adequately manage and protect built heritage against the identified endangering factor of urban development. From its comprehensive analysis, this paper argues that in-order to adequately manage built heritage, it is important to adopt a holistic approach that will require the harmonisation of the various heritage management systems while taking steps to document indigenous conservation methods. On the other hand, harmonisation of all heritage laws with town planning laws is essential for sustainability.

Keywords: Immovable heritage, Nigeria, Conservation, Heritage laws, Harmonisation

1 Introduction

All over the world, natural and man-made risks facing built heritage are myriad, forming a trend towards the ultimate destruction of heritage if not arrested on time (Adewumi 2016). These risks have been referred to as entropies (Shyllon 2013) ranging from natural causes such as climate change to man-made causes such as development in form of economic pressure, uncontrolled tourism, urban development, gaps in conservation policies (Adewumi 2018a), ethnic conflicts (Adewumi 2018b) and wars (Adewumi 2013). These risks are not peculiar to heritage in a particular territory or continent but are general to heritage.

Built heritage forms a very important part of the economic future of nations and the sense of place attributed to a people in the worldview. Economic, socio-cultural, political, geospatial, technological, and environmental factors

go a long way in influencing the layout of cities (Flores de León et al., 2020). Built heritage cannot be categorised in a homogenous way as the categories in each State will flow with the history of the area where the heritage is situated. Built heritage can be categorised heterogeneously in terms of origin, past ownership, styles, nature, robusticity and geographical locations (Ichumbaki 2016, 50). Built heritage is a part of immovable heritage¹ such as archaeological sites, traditional architecture, historic structures/ buildings, groups of buildings i.e. museums, libraries and archives, (Adewumi 2019, 153) graves (Adewumi 2018c), shrines, groves, sacred places, monuments, and they are known to have cultural and spiritual significance for those who live around them (Ormsby 2013). The management of built heritage of cities not on the world heritage site is not given priority and this is reflected in the government policies, lack of inventories and lack of awareness of the people about its significance. (Adewumi and Akintayo 2021).

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¹ Examples of immovable heritage can be found in 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Article 1.

Built Heritage enjoys community protection for reasons ranging from cultural and social identity (Shyllon 2000a, b), scientific interests (Adewumi 2015, 33), provide source of knowledge and access to the cultural past and traditions of a people (Prott and O'Keefe 1989), historic interest, nationalistic and economic interests, (Chamberlain 2004, 6) among others. The care that built heritage receives from who and how the care is carried out is hinged on the values and beliefs in the relationship of the past to the present.

Despite these interests that distinguish built heritage from other structures, coupled with the fact that monuments cannot be stolen or illegally exported, built heritage has continued to be exposed to vulnerabilities. These vulnerabilities are in the forms of natural and man-made risks that predispose them to disasters (Adewumi 2018a) thereby leading to partial or total loss of the heritage and ultimately to a loss of valuable information on mankind in the form of a death of all the knowledge rooted in the totality of that heritage (*Quatremère de Quincy* 1796, 19).

Preserving heritage is very fundamental as it fosters the past ways of life which are germane to the present and a window to the future. Sustainable development (Nasser 2003) and increased economic investment (Ruijgrok 2006) can only be achieved when heritage is well protected through proper conservation. Who determines the value to place on a monument and how the value is showcased through the way the heritage is used, presented to the public, conserved, and its ownership has become one of the major issues affecting built heritage.

In traditional African societies, built heritage were conserved through the indigenous technology that created them and was attainable through skilled labour and materials that are presently either costly or scarce because they are no longer in high demand and involve the use of traditional knowledge which is undocumented. Colonialism brought about written laws that protect built heritage. Colonialism also brought about planning laws (Watson 2011). Town Planning is closely linked with economic development and land use. A feasible plan in any area puts into consideration the ownership and use of land. The rights of private landowners to develop their land and the right of the public bodies to compulsorily acquire private land must be considered under planning. With the individual being at the centre of planning, the interplay of the social, economic, and political forces in the environment affects planning. (Kanyehimba, 1974, 4). The management of cultural heritage especially the immovable one has a direct bearing with the activities of physical planning.

This article on built heritage protection and planning in Africa focusses on Nigeria, the giant of Africa. Nigeria is blessed with numerous cultural and natural heritage

properties. Most of these heritage sites located in the prime areas of cities are of great beauty and distinction, but they are often subjected to the pressure from development activities. Apart from the fact that they are of great historic significance, they also have the potentials to increase the income-earning of the nation. It should, however, be noted that the problems associated with built heritage in relation to planning throughout Africa is related. Built heritage protection started in Africa long before the 19th century which is the period Europeans attribute it to (Said 1999). Justifiably, Ichumbaki (2016) has argued that to understand the history of conservation of heritage sites, one would have to understand the history of the area and the built heritage sites. Nonetheless, this article will consider the sustainable approaches to built heritage protection viz-a-viz the national laws amidst the fast urbanisation processes experienced in Nigeria.

This article is divided into five parts, the first being this introduction. The second part considers built heritage protection in the pre-colonial Nigeria highlighting the trajectory before European incursion into Nigeria. The third part is an exposition on the colonial era and how new architecture/ colonial heritage emerged and fared. The fourth part examines modern legislation and policies in relation to heritage protection and planning in Nigeria and the fifth part makes recommendations on the way forward and concludes.

2 Traditional management systems of pre-colonial built heritage in Nigeria

In Nigeria, the traditional management system is a methodical and peaceful way of managing important societal values. Cultural heritage in pre-colonial Africa including Nigeria was complex as the tangible could not be separated from the intangible. Neither was the cultural separable from the natural heritage. Built heritage before colonialism consisted of shrines and palaces. In southern Nigeria, for instance, the dead were buried in the houses, except the kings, so grave treasures were not common (Adewumi 2018a, b, c). Graveyards, where they existed, were the resting place of ancestors which remained undisturbed as opposed to being monuments needing conservation to maintain its integrity as a tourist attraction yielding economic benefits (Chirikure and Taruvinga, 2016). The indigenous town and country planning tradition was strong (Mabogunje 1968). It was based on subsistence agriculture with limited commercial activity and trade. Under customary land tenure system, land was vested in the family or community. It was easy to designate land meant for residential purposes, farming/ agriculture separately from that earmarked for cultural use like festivities and sacred lands.

In the traditional societies, custom was the source of law and it emanated from what the people have generally accepted as having the effect of law and binding on them. As moral conducts, customs reflect the spirit of the people '*volkgeist*.' (Dias 2013, 378). The traditional built heritage management system has been referred to as comprising 'all mechanisms and actions guided by customs and belief systems, carried out by local communities, aiming for the continuous use of the heritage site including the preservation of its symbolic and cosmological significance (Jopela 2011, 107).'

Customary and value systems offered the protection needed for heritage sites. The intangible heritage found meaning and significance in the tangible which was protected by the intangible. Heritage sites used for religious activities were the center of control and spiritual authority over the communities. The kings, deity priests, clan & village heads, chiefs, aged/older men and women served as the watchmen and keeper of all aspects of heritage (Onyima 2016). The intangible and invisible heritage such as ideas, folklore, kinship, norms, values, world-views, philosophies of life, religious beliefs and practices, music, dance, festivals, traditions, language, and knowledge among others were used in protecting the built heritage (Nnonyelu 2009).

The traditional Nigerian society epitomises the traditional African society which functioned as a system whose tangible and intangible part operated together as community interests, objectives, and standards were unified and immutable. Thus, fitting into Malinowski functional theory.² Arts, festivals and other cultural activities took place at the built heritage sites and were supervised by the traditional rulers and chiefs in council through delegation of powers to talented specialist (Onyima 2016: 278). The deep rooted and time-tested values of the traditional management system coupled with its survival, resilience, and adaptability over the years despite its undocumented nature makes it a reliable system. The system equally brings for cohesion in the community as it goes beyond mere conservation to determine the peaceful existence of the community. The environment is preserved mainly because of the spiritual and physical attachment to it and the people understand the functioning of the ecosystem for sustainability. The foregoing shows that prior to European incursion into Nigeria, built heritage had existed amongst Nigerians and its policy directions were firmly rooted in traditional practices and customs.

3 Colonialism and national legislation

Generally, colonialism in Africa brought about written laws in form of National legislation on Heritage Protection, Land Use Laws, Environmental Laws, Town Planning Laws, Disaster Management Laws, and other laws that bother on issues affecting ownership, use and other protection measures in relation to land and built heritage. These laws formed part of the Received English Law which dates to 1863 when Ordinance No.3 of that year introduced English Law into the colony of Lagos. The reception enactments in the jurisdictions in the country provides that the statutes of general application in force in England on the first day of January 1900 shall be in force in Nigeria.³ The generational pattern of preserving heritage was truncated by colonialism introducing written laws for certainty.⁴ The town planning law was part of the colonial heritage for supervising and controlling land and other resources relating to it. Planning law formed the basis of managing the resources that form the built environment while promoting order, beauty, maximising economy, and convenience (Wekwete 1995).

Indirect rule was introduced to maintain the traditional structure and colonial laws ushered in the new rules of planning through the private capitalist economic system. (Mabogunje 1992). With the influx of colonial masters and other foreigners, came the erection of structures fashioned after the architecture found in the foreign countries. The layout of townships, how houses were to be constructed, and the standards to be maintained in the 'European Reservation' and the 'Native Quarters' in Nigeria were based on Lugard's 'Instructions to Political and other Officers on Subjects Chiefly Political and Administrative'. The use of burnt bricks for walls as opposed to grass mats, and iron sheets and tiles for roofs was introduced (Mabogunje 1992).

However, as much as colonialism brought about written and clear laws on built heritage, the colonial masters discountenanced the roles, ideas, attitudes, and perceptions of the local communities in relation to the heritage and termed the value system in form of taboos, rituals, etc. as fetish and superstitious. Also, the legislation developed by colonial masters defined heritage from a stance that denied the communities of access and official control over their heritage sites (Ndoro, Mumma, and Abungu 2008). For instance, The Treaty of Cession of Lagos 1861 which annexed Lagos as a British colony ceded all the lands in Lagos to the Crown. The ownership

² Functionalism and structural functionalism. Accessed 4 May 2021 from 202004120825283934tara_bhatt_anthro_structural_functionalism.pdf (lkouniv.ac.in).

³ E.g. Sect. 2 of the Law (Miscellaneous Provisions) Law, Lagos Laws 1973, Cap. 65; Sect. 15 of the High Court Law, Eastern Nigeria Laws 1963, Cap. 61; Sect. 28 of the High Court Law, Northern Nigeria Laws 1963, Cap. 49.

⁴ Fasuyi *op.cit.*

of all lands including the built heritage became vested in the crown—with natives being divested of their ownership rights. The heritage authorities controlled built heritage in a manner contrary to the needs of the actual custodians (Deisser and Wahome 2016, 18). Thus, diminishing the role of traditional rulers as managers of the heritage sites. The traditional religions were jettisoned after being referred to as idol worshipping and replaced with foreign religion of the colonial masters (Eluyemi 2002, 6). Inability to access these sites therefore led to the risk of the intangible aspects of the heritage becoming extinct and the heritage site becoming abandoned and falling into disrepair as the right of access, interpretation of values and use of heritage by the original owners were infringed upon.

With the absence of conservation plans and listing procedures for most of the heritage sites in the states of the nation, these historic cores, face physical disruption by insensitive modern development. For example, the land use laws that came into existence under the colonial government allowed for individual ownership of land and opened the sacred lands to land speculators.⁵ The Osun Osogbo Grove was affected by colonialism in the 1950s, road construction and other developmental projects threatened the grove. Land speculators encroached leading to felling of some sacred trees and the cracking of stones before the arrival of Late Susanne Wenger who took charge of the rehabilitation of the derelict shrines eaten by termites,⁶ erected new sculptures where trees had been felled and physically confronted poachers and land speculators to restore sacredness to the area which has now become a world heritage site.⁷

Aside the adverse effects of colonialism on indigenous heritage sites, colonialism led to the creation of built heritage sites. In Nigeria and other West African countries, after the abolition of slave trade, some Afro-Brazilian returnee slaves came back to the West African region and their architectural designs became evident there. In Lagos State Nigeria, we have an area known as Popo Aguda where evidence of Brazilian Quarters existed before the last architecture known as Ilojo Bar, located near Tinubu Square was demolished by a private developer in 2016.⁸ Religious places of worship of the colonial masters and other national symbolic structures were

erected adding to the built heritage. Structures that later qualified as oppressive structures because they evoke negative emotions in the populace considering their use in colonial times were pulled down. For example, Her Majesty's Broad Street Prison built by the colonial government from imported bricks was demolished in 1979 and the site became a dumping ground.

During the colonial period, there was no urban development plan or policy geared towards regulations or controls leading to the evolution of the urban form that does not respect culture. The orderly planning and conservation of built heritage is difficult where the directions of development depend on decisions taken by numerous individuals separately, based on immediate needs, without reference to a plan or policy. Urban planners did not appreciate the fact that the form taken by the urban landscape should be connected to the historical grain of the city and fit together to form a 'mosaic'. Lagos, the then capital of Nigeria between 1864 – 1872 under the colonial administration of Captain John Hawley, had great edifices many of which gave way to development projects in subsequent years. In March 1868, there was the Glover settlement in Ebute Metta to shelter the Egba people that fled from the Dahomians. Miller described the settlement as a square grid iron layout built in the Roman town planning tradition (Shyllon 1998). This settlement has since been pulled down to make way for modern buildings. A botanical garden was established in 1889 by Bishop Ajayi Crowther, the first African Bishop of the Anglican church. This garden received seeds from Kew gardens and other gardens from Calcutta, Jamaica, Tasmania, Penang, Singapore, Adelaide and Madras. The garden gave life to many of the cash crops in Nigeria because they were raised and distributed throughout the country from there. This garden with its historic house was demolished in 1896 to give rise to a railway track. The West Indian Quarters that housed the railway staff at the early days of the Nigerian railway system were also pulled down in the 1940s for modern development.

The first Missionary house prebuilt in the United Kingdom and brought into Nigeria in 1852 by Rev. Charles Gollmer as the first two-storey house in Lagos has given way to a modern complex. The Lagos racecourse built in 1859, where the British flag was lowered and the Nigerian flag hoisted at the dawn of independence on October 1, 1960 has given way to a modern structure. This is just to mention a few.

The Lagos Town Planning Ordinance was passed in 1928. The Nigeria Town planning Ordinance was passed in 1946. This 1946 Ordinance made provision for planning authorities and prohibited development processes by owners of land without the consent of the planning authority. There is no gainsaying that during the colonial

⁵ Nigeria had Land and Native Rights Act of 1916 after which The Land Tenure Law of Northern Nigeria of 1962 was promulgated. The Southern part of the country also had Land Tenure Laws.

⁶ Wolfgang D, Susanne Wenger Foundation. Accessed 9 May 2021 from <https://susannewengerfoundation.at/en/susanne-wenger-foundation>

⁷ Osun Osogbo Sacred Grove UNESCO World Heritage Site 2010–2014 Conservation Management Plan p.28.

⁸ Accessed 6 May 2021 from <https://thisisafrica.me/arts-and-culture/kill-monument-demolition-ilojo-bar/>

period until 1928, little or no attention was paid to urban planning and the preservation and legal protection of built heritage in Nigeria. This has led to the attainment of independence with weak or no legislative protection of the built heritage (Shyllon 2000a, b).

4 Post-colonial planning and heritage legislation in Nigeria

4.1 Approach adopted in urban planning to heritage

Town planning is a fundamental factor that affects the preservation of built heritage. Planning has been defined as ‘a dynamic profession that works to improve the welfare of...communities by creating more convenient, equitable, healthful, efficient, and attractive places for present and future generations.... It helps them find the right balance of new development and essential services, environmental protection, and innovative change (Puren and Jordaan 2014).’ The approach adopted in urban planning can either be the modernist understanding of time and use of heritage or the post-modernist understanding of time and present-day use of heritage. The western perception tilts towards the modernist approach that differentiates between the past, present and future and tends to preserve heritage in solitude. While Africans and the eastern world approach to urban planning tilts more towards a unified view of the past, present and future which reestablishes a link with the past.

The dichotomy of this western and African thought persists in societies but with different degrees. In western countries like England, historic buildings and monuments are not protected only by heritage laws but also by the town and country planning laws (Shyllon 1999) but this has not been so for African countries. In South Africa which is a society that has long imbibed the preservationist approach to historic heritage in policies and legislation⁹ for example, the dichotomy seems pronounced as fusing built heritage into urban development is fraught with challenges (Puren and Jordaan 2014). The modern planning system is associated with the isolation of historical urban areas and the destruction of built heritage under the umbrella of reconstruction and development (Mabin and Smit 1997). This isolation of built heritage after being declared as a national monument oftentimes leads to poor maintenance and ultimately its destruction.

In Nigeria, majority of the heritage declared as monuments through executive fiat and isolated have fallen into disrepair and majority of them have long been destroyed.

Obayemi in 1987 had stated that ‘...the overwhelming majority of the national monuments protected by Nigerian laws are in a shocking state of disrepair and maintenance. I mourn inwardly to say that within the space of 30 or fewer years after some of these monuments were declared, quite a number have collapsed totally.’

On the other hand, the Christ Church, Lagos built in 1867 and sections added in 1928, 1935 and 1947 is now the Cathedral Church of Christ, Marina which had its foundation stone laid by His Royal Highness, Edward Price of Wales (later Duke of Windsor) on 21st April 1925. This church is still in use. The tallest building in Lagos in 1928, the African Church, Bethel Cathedral on Broad Street, is still in use. The Holy Cross Catholic Cathedral built in 1878 is also still in use. There is no gainsaying that these monuments are still existing because they never stopped being put to use and probably also because they were not declared as national monuments.

The Old Residency Building, Calabar, Cross River State is kept in good condition today most likely because it houses the National Museum Calabar. Whereas, the Old Consulate Building, Calabar which is similar in style and construction and declared as a national monument on the 14th August 1959, same day as the Old Residency Building, was demolished to give way for the Presidential Lodge built on the site. In the same vein, the Ilojo Bar which served as the last evidence of Brazilian Quarters in Nigeria had fallen into disrepair for years before the private developer that carried out its demolition did so in a bid to give way for urban development. Had it been put to continuous use by the National Commission for Museums and Monuments, such as was done to other monuments acquired through executive fiat from the families that owned them such as Chief Okoroji's House Museum,¹⁰ where vestiges of slavery and the material culture of the slave trade can be observed, it might still be in existence.

The extent to which built heritage is affected by planning laws cannot be overemphasised as it greatly increased after independence. The falling into ruins of cities and the subsequent transformations elicited have taken different forms. As large infrastructures occupy the central place in urban development plans, the local culture and heritage is not considered. In the 1960s, urban regeneration was introduced for the social welfare of deteriorated areas of the cities. The 1970s and 1980s ushered in demolitions and changing the use of deteriorated areas. The 1990s introduced a holistic approach of putting into consideration the economic, social and environmental factors that are hinged on sustainable

⁹ Cultural heritage and the law, ICCROM, Online http://www.iccrom.org/pdf/ICCROM_IJCS08_CulturalHeritageandLaw_en.pdf; H.C Bredekamp The cultural heritage of democratic South Africa: An overview. Online. <http://www.dissanet.com/ifla/pdf/LIASA%2001%20Bredekamp.pdf>

¹⁰ Chief Okoroji's House, Arochuku Abia State. Declared a national monument on 19 March 1963.

development (Flores de León, Babere, and Swai 2020). The mutually advantageous connection between urban regeneration and urban heritage preservation is borne out of improving the quality of life of citizens and the giving recognition to cultural identity. Through private-public partnerships, the Freedom Park, in Lagos, Nigeria was constructed on the land that originally housed Her Majesty's Broad Street prison in the 1990's. The Freedom Park now stands as a monument representing freedom and housing elements of the old colonial prison (Ugobude 2020). Knowledge about the value of heritage for sustainable development in recent times can be said to be responsible for this development.

4.2 Planning and heritage legislation in Nigeria

The Nigerian Constitution provides for national and state ownerships of heritage sites.¹¹ Town and Country planning falls within the matters over which the Federal, State, and local governments have legislative competence.¹² Legislation in Nigeria even after colonialism have been largely influenced by the west. The major concerted efforts of the conservation of heritage properties through government legislation was in the 1950s when various legislations such as the Antiquities Ordinance of 1953, Antiquities [Export Points] Regulation of 1957 and the Historic Preservation Act of 1966 were enacted. The first heritage legislation, The Antiquities Act 1953 empowered the Antiquities Commission to declare as a monument any antiquity which in the public interest needed to be protected.¹³ The first set of sites, buildings and other antiquities were declared as monuments in 1956. (Shyllon 1998). The Antiquities Act made provisions for the owners of monuments to care for the monuments as they cared for it before the declaration as national monument.¹⁴ This provision was not replicated in the present heritage legislation. An Antiquity has been defined by the Act to mean:

- a. Any object of archaeological interest or land in which any such object was discovered or is believed to exist; or
- b. Any relic of early human settlement or colonisation; or
- c. Any work of art or craftwork, including any statue, model, clay figure, figure cast or rust metal, carving, house post, door, ancestral figure, religious

mask, staff, drum, bolt, ornament, utensil, weapon, armour, regalia, manuscript of document if such work of art or craftwork is of indigenous origin and

- i. was made or fashioned before the year 1918; or
- ii. is of historic, artistic, scientific interest and is or has been used at anytime in the performance and for the purposes of any traditional ceremony and in the case any object or relic mentioned in paragraph (a) or (b) of this section includes for the purposes of this Act and land adjacent thereto which in the opinion of the Commission, a State Government or, as the case may require, the President, is reasonably required for the purpose of maintaining the same or the amenities thereof or for providing or facilitating access thereto, or for the exercise of proper control or management with respect thereto;

The definition shows that not everything that qualifies as built heritage is protected under the Nigerian law. The present heritage legislation, National Commission for Museums and Monuments Act, though outdated,¹⁵ empowers the Commission to declare antiquities needing protection in the national interest as monument.¹⁶ The owner of an antiquity declared as national monument is entitled to compensation.¹⁷ The Act describes antiquity to include immovable properties such as archaeological sites, relic of human settlement and colonisation.¹⁸ There are penal provisions for violation of heritage sites ranging from fines to imprisonment in the Act but the provisions are outdated (Adewumi 2014). The National Commission for Museums and Monuments Act states that heritage sites shall only enjoy the protection of the law upon declaration of the National Authority through notice in the Government Gazette.¹⁹

Obayemi observed in 1991 that 'thousands of buildings, city walls, fortifications, shrines...and sites within the borders of Nigeria which are veritable monuments, each with its unique personality, special attributes and message... from the creative ancestors' exist without being declared as national monuments (Obayemi 1991, 18). It is however sad to note that these numerous monuments and even those declared as monuments are not enjoying the best of protection they deserve. The National Commission for Museums and Monuments Act did not state who is to give care to the

¹¹ Constitution of the Federal Republic of Nigeria 1999, Schedule II Part II, Item 3.

¹² *Ibid*, Schedule II Part II Item 18 and Schedule IV Item 1(f).

¹³ The Antiquities Act 1953 (repealed), Sect. 14.

¹⁴ *Ibid*; Sect. 18.

¹⁵ National Commission for Museums and Monuments Act No. 77, 1979 CAP N19 LFN 2004.

¹⁶ *Ibid* Sect. 13.

¹⁷ *Ibid*, Sect. 17.

¹⁸ Section 32.

¹⁹ Section 13.

monuments so declared (Adewumi 2014). Management challenges have arisen from the deficiencies in this legislation and also from the peculiar socio-political and economic situation of the country. The focus here is the challenge created by the lack of harmony with town planning laws.

In Nigeria, the Cultural Policy 1988 Category 7.3 makes provision for the state to preserve as monuments, structures of historical significance and protect them from neglect, desecration, or destruction through the instrumentality of legislation. The National Commission for Museums and Monuments 1979 is presently the only heritage legislation in the country.²⁰ Shyllon (1998) had decried what he termed ‘official myopia,’ the little attention given to monuments over the years and mentioned that preservation of monuments has never been given priority by the Nigerian government. Ancient palaces had been demolished to give room for construction of modern architectural style of buildings, Walls and Ramparts representing traditional architecture had been destroyed by environmental decay while monuments had been torched. Developmental projects like road constructions, buildings, and large-scale agriculture destroys built heritage and historical relics. Most times construction engineers do not embark on cultural or environmental impact assessment (EIA) before carrying out any construction and when they do, it is not properly monitored.

The Lagos State Town and Planning Law of 1985²¹ provides that the Directorate of Physical Planning and Development Matters is responsible for execution and administration of all town and country planning authorities within the State. The law permits any development which is backed by a development plan. This provision is contrary to that found in the Nigeria Town and Country Planning Ordinance of 1946²² which was reproduced in the town and country planning laws of other States in the Federation. Section 3 of the Law provides that a planning scheme can be made by the planning authority for ‘...preserving buildings or other objects of architectural, historic or artistic interest and places of natural interest or beauty.’ This provision creates an avenue for preventing the demolition of a heritage building. There is the Lagos State Listed Sites (Preservation) Law No.5 of 2011²³ which makes it

mandatory to obtain the Governor’s consent before any alteration or renovation can be carried out on a listed site. The Law makes provision for the government to provide funds to maintain some of those listed sites that qualify for financial assistance based on their rating under the Law.²⁴ The Law makes documentation compulsory for only the listed sites.²⁵ This development is commendable for Lagos State but more needs to be done on protecting built heritage across the country.

The present National Urban and Regional Planning Act in Nigeria was passed in 1992. The Law considers the conservation of historic buildings and other designated areas as part of urban and regional planning concerns as contained in Sects. 64–69. The Law includes the compilation of list of places of historic interest, consultation with organisations and people with special knowledge, and provides for obtaining the consent of the National Commission for Museums and Monuments before any alteration is made on any historic or protected area. These provisions have not been institutionalised by both the planning and heritage institutions.

The Town Planning bodies in Nigeria have not been adequately strengthened to discharge the extra responsibility placed on it by the Nigerian Urban and Regional Planning Law on the conservation of historical places (Sanusi, 2002). The conservation of cultural and natural heritage in Nigeria has not been given much significant consideration in the physical planning practice. The reason for this ignorance could be linked to the lack and absence of designated unit and officers in the planning bodies (Awonusi 2014). Concerted efforts have not been made to incorporate heritage protection at the local, state, and national levels of physical planning administration. A case in point is the edifice representing the Brazilian style of architecture (otherwise known as Ilojo Bar or Olaiya House) built in 1855 and was declared a national monument in 1956 thereby falling under the protection of the National Commission for Museums and Monuments Act. The monument was demolished sometime in 2016 by a private developer that got a permit from the Town Planning Authority before embarking on the demolition.²⁶ While the demolition was ongoing, the National Commission for Museums and Monuments²⁷ were able to secure a ‘stop work order’ to truncate the exercise. All the same, the damage had been done to the heritage

²⁰ National Commission for Museums and Monuments 1979 (Nigeria).

²¹ Lagos State Town and Planning Law of 1985 Cap.188, Laws of Lagos State 1994.

²² Town and Country Planning Ordinance of 1946 Cap. 155 edition of the Laws of Nigeria.

²³ Law to Provide for the Preservation, Protection and Restoration of Historical Properties and Cultural Heritage Sites in Lagos State and for Connected Purposes, No. 5 of 2011.

²⁴ *Ibid*; Sect. 5.

²⁵ *Ibid*; Sect. 6.

²⁶ Asiri, Ilojo Bar: Murdered in Broad Daylight, 1855–2016. Accessed 12 May 2021 from <http://asirimagazine.com/en/ilojo-bar-murdered-broad-daylight-1855-2016/>

²⁷ This is the body set up in Nigeria by the National Commission for Museums and Monuments Act 1979 to administer antiquities, museums and monuments and ensure their preservation.

site. It is, however, baffling to know that the Nigerian Urban and Regional Planning Act 1992 provides for the demolition of a listed building only with the consent of the National Commission for Museums and Monuments before the demolition.²⁸ Whether this consent was had or not is not in the public domain.

The lack of implementation of the provisions of the Nigeria Urban and Regional Planning Law constitutes a big setback to a sustainable management of built heritage in Nigeria. It is also an indication that the designated and undesignated heritage sites are managed in isolation and not as an integral part of their planning neighbourhood hence disconnected from their near and larger spatial settings. Also, the lack of heritage conservation development plan for Nigeria heritage is a big challenge to physical planning role in the protection of heritage properties as there is no instrument that can be used as a guide on development activities in and around heritage site. When plans (national, regional, and local) are prepared properly and according to the provisions of the laws and regulations on heritage property, we can then be sure that our heritage properties will be preserved and protected.

The Nigeria physical planning administrative structure presents great opportunity for town planners to sustain the protection of heritage sites in Nigeria. According to the Nigeria Urban and Regional Planning Law, 1992, it is expected that, apart from the commission and boards that are supposed to be in place at the national and state levels respectively, there should be at least 774 town planning authorities in line with the local government administration. Despite this robust structure, town planners and heritage managers have not effectively exploited this great opportunity in the conservation and management of Nigeria heritage properties.

4.3 Relevance of the precolonial management system

Despite the influence of colonialism and written laws, the traditional management system still has a fundamental role to play in the preservation of indigenous built heritage as that is what makes built heritage sites retain their value and significance (Ndoro 1996; Pwiti 1996; Jopela 2011; Bouchenaki 2003). The major problem, however, is that these conservation means used for protecting indigenous heritage are unwritten and are at risk of becoming extinct. Heritage institutions have been facing challenges in preserving heritage sites because they have failed to pay attention to the accepted and recognised customary way of preserving the sites endowed with local, national and international values. This fact

was noted by the world heritage committee when in one of the versions of its operational guidelines²⁹ it stated that traditional management systems were credible if its components become documented. It is noteworthy that the two Nigerian heritage sites on the World Heritage List: Sukur Cultural Landscape listed in 1999 and Osun Osogbo sacred grove listed in 2005 both enjoy a participatory management system between all the relevant stakeholders (Adewumi 2021).

In a nutshell, (Awonusi 2014) has succinctly set out the conservation challenges facing built heritage in Nigeria as:

1. Lack of defined collaboration between the National Commission for Museums and Monuments and the town planning bodies.
2. Lack of political will to implement the provisions of relevant laws on the conservation and protection heritage properties.
3. Inadequate financial resources to undertake comprehensive conservation projects.
4. Lack of comprehensive Inventory and documentation of heritage sites in the States.
5. The absence of public awareness towards the significance of conservation of heritage properties. Most people evaluate it from an economic point of view. They would prefer to demolish the old buildings and build new ones with new uses without caring about their historical and cultural values.
6. Assessment of impact of developmental activities on heritage properties is not given enough attention in Environmental Impact Assessment. Where mentioned, proper intervention and monitoring are not followed.

5 Way forward

In this era of sustainable use of resources, heritage management poses a serious challenge to the physical planning profession. The challenges facing management and conservation of heritage sites in Nigeria may be difficult but are surmountable. The following suggestions are therefore apt:

1. Postcolonial planning interventions in Nigerian cities ought to take into consideration the built heritage most especially because of the value attached to them. Town planning should assist in heritage management through integrating new development projects in and around heritage sites.

²⁸ Nigerian Urban and Regional Planning Act 1992, Sect. 69.

²⁹ World Heritage Convention Operational Guidelines (2013 paragraphs 97, 108–111).

2. Technical tools such as Environmental Impact Assessment (EIA) should be paid due attention in development projects.
3. The intangible aspect of traditional management system should be accorded its pride of place despite its unwritten nature and allowed to flourish because of its contribution to the outstanding universal value of heritage sites while prioritising documenting traditional knowledge used in conserving indigenous built heritage to retain their authenticity.
4. Budgetary planning should be made for acquisition of modern technological innovations to aid documentation of information on heritage sites. An adequate database and recording system on all heritage sites located within the territory ultimately aids proper planning and policy implementations. An extensive database system may be created to accommodate prehistoric, historic, and contemporary information on heritage sites in one single accessible format.
5. General public awareness towards conserving old buildings, monuments and historical cores is equally very important to sustainable management of our heritage sites. Hence motivation and raising general awareness on heritage conservation must be vigorously pursued as the philosophy of conservation has to be politically and socially acceptable.
6. Cooperation between the scientific world and the owners and users of precolonial heritage is an absolute prerequisite for the sustainable management of the heritage resources in the wake of mounting developmental pressures and programmes.
7. Funding in furtherance of management and conservation of heritage sites should be made a collaborative effort of both government and private institutions. A heritage conservation fund may be created, and corporate social responsibility (CSRs) are compelled by the government on corporate organisations to donate into the fund. This could go a long way to solve the funding problems pervading the management of heritage sites.
8. Heritage development plans should be put in place which will offer guidance for proper maintenance of heritage sites. There should be a proper linkage of historic centres to surrounding areas to ensure a balanced community. Operationalisation of the provisions of the Urban and Regional Planning law can propel the preparation of an *Action Plan* for heritage site neighborhood thereby ensuring a link between the core and the near settings of such heritage. This planning instrument can also be used to control and monitor development activities in the heritage neighborhood so as to forestall likely impact of development on site.
9. The inventorisatation and documentation of the nation's immovable heritage as well as the classification and categorisation of these heritage properties with requisite legal backings and the subsequent deposit of such documents at the appropriate town planning office will help to give direction to the activities of heritage managers and town planners.
10. For colonial heritage buildings to be relevant in contemporary planning of cities, there needs to be a paradigm shift from preserving them in isolation to putting them to adaptive use.
11. Planning laws should serve as a tool for integrating built heritage conservation and urban development. The heritage sector should be represented on the town planning board. This is to achieve cultural sustainability.

6 Conclusion

A strong coordination between urban planning and heritage preservation authorities is necessary for effective management of built heritage in Nigeria. The lack of harmony within the laws introduced into the African society by the colonial masters has translated to the post-colonial period and is having a negative effect on built heritage. The laws on urban development and heritage conservation are still not harmonised and this has made built heritage not to be treated as part of the urban fabric leading to their being destroyed through demolition.

Institutional weakness and poor understanding of the social and scientific value of built heritage, non-enforcement of the relevant regulatory mechanisms, lack of clear-cut policies have bedeviled the protection of built heritage in Nigeria and by extension, in Africa. There is no gainsaying that there is need to harmonise the heritage laws with the planning laws by incorporating traditional management systems and values that have sustained indigenous heritage sites through the centuries.

While waiting for law reforms in this regard, the government must intensify efforts in ensuring that the populace is sensitised in respect of the value and significance of heritage hence the need to protect heritage by assisting as the opportunity arises, in the documentation of the undocumented traditional management systems. All stakeholders should be involved in the management of built heritage. To secure built heritage sites in Nigeria and by implication in Africa, it is not enough that there

should be laws, but there should be effective laws that are harmonised and will be implemented and enforced by all relevant stakeholders.

Abbreviations

UNESCO: United Nations Educational, Scientific and Cultural Organisation; ICCROM: International Centre for the Study of the Preservation and Restoration of Cultural Property; UNIDROIT: The International Institute for the Unification of Private Law; ICOMOS: International Council on Monuments and Sites; SOAS: Study of Asia, Africa and the Middle East; QUT: Queensland University of Technology; UCL: University College London; NCMM: National Commission for Museums and Monuments.

Acknowledgements

The author would like to thank Professor James Reap and the editors of the journal for the opportunity to be a part of this special edition.

Authors' contributions

The author read and approved the final manuscript.

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Funding

Not Applicable.

Availability of data and materials

Not Applicable.

Declarations

Competing interests

The author declares that she has no competing interests.

Received: 5 November 2021 Accepted: 18 February 2022

Published online: 28 March 2022

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