

# Legal Impediments to Proper Cultural Heritage Management in Ethiopia: An Assessment on Three Proclamations

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This article examines the legal impediments to proper cultural heritage management in Ethiopia in light of three successive Ethiopian governments' proclamations on cultural heritage conservation. It provides a brief overview of the meaning and types of cultural heritages as well as the evolution of the concept and practice of the protection and preservation of cultural heritages. Having critically analyzed the basic essences of the legal provisions of the cultural heritage conservation proclamations of the Imperial, the Military (Derg), and the reigning governments, the article argues that the decrees issued mainly reflect the political philosophy of the three respective regimes. As a result, the second legal provision is not better than the first one, and within the same logic, the third is more expected to mitigate the problems related to cultural heritage management than the second one. Nevertheless, it is an open secret that the destruction and loss of cultural heritages in Ethiopia are increasing from time to time. Finally, the article provides conclusions consisting of recommendations to address the legal impediments to proper cultural heritage management in Ethiopia.

*Keywords:* Ethiopia, culture, heritage, management, proclamation

## Background

Before we proceed to the evolution and basic essences of the legal provisions and their impediments to proper cultural heritage management, it is necessary to have a glimpse on the meaning and type of cultural heritages and the rationale behind their conservation. Cultural heritage is a blend of two words, i.e., culture and heritage. Culture is a much more complex and a very wide concept than we think. Consequently, it is not uncommon to come across with divergent views and different statements of meanings about culture. Among the many definitions of culture, perhaps more relevant for the purpose of this paper, is a one which was made by the *Mondiacult Declaration* at the UNESCO World Conference on Culture and Related Politics and is cited as follows:

Culture... can be viewed as the totality of the intellectual and material land marks, which may albeit differ in the level of understanding and emotion they represent, but which nevertheless characterize a society or social group. Apart from art and literature it also embraces ways of life, man's fundamental rights, systems of values, traditions and conceptions. Culture enables man to contemplate himself. It is through culture that we first became specifically human beings, that is beings which are endowed with reason and critical faculties and life in accordance with ethical principles. (Herrmann, 1989, p. 33)

According to the *Cambridge International Dictionary of English*, “heritage” is meant “features belonging to the culture of a particular society, such as traditions, languages or buildings, which still exist from the past and which have a historical importance” (*Cambridge International Dictionary of English*, 1996, pp. 664-665).

The two definitions well address themselves to cultural heritage management which this paper is interested in. Clearly, man is the only cultural being. Every society whatever their level of technological, economical, political, spiritual, etc., developments has culture and hence cultural heritage. Heritages are concrete representations of culture. In other words, culture manifests itself in heritages. Culture would have been abstract unless it is described in the form of cultural heritages. Cultural heritages therefore can be epitomized as the ultimate results of man’s interaction with his physical, social, intellectual, spiritual, etc., environments. Hence, they are living testimony of our cultural past. They are existing products of past human experience through which mankind’s development, attitude, etc., at different periods of history can be reflected. Thus, it is important to note that it is with the help of cultural heritages that we can distinguish one historic period from another and one society from the other one.

Cultural heritages are immense and varied in kind. Therefore, it is impossible to have a complete list of them. To mention: buildings, human remains, cave paintings, manuscripts, inscriptions, sculptures, paintings, statues, photographs, sound and video records, archives, churches, mosques, monasteries, ethnographic implements, traditions, ceremonies, folklores, religious beliefs, music, etc. (Henson, 1989, p. 122). In a nutshell, all products of man’s creativity with major artistic, scientific, cultural, or historical value, tangible or intangible, produced either of the pre-historic or historic periods could be considered as cultural heritages.

Cultural heritages encompass all relics of human existence. Obviously, this invites different classification of them. But under this sub-topic the most common types of cultural heritage will be aired. Cultural heritages are crudely divided into two: movable and immovable. The latter refers to cultural heritages that are firmly attached to the surface ground with strong foundation and cannot be easily transported from place to place. For instance, archaeological or historical sites, buildings, monuments, palaces, ancient sites, cave paintings, churches, etc., are grouped under this category. On the other hand, movable cultural heritage are those with no foundation and that can be easily moved from place to place. For example, coins, ornaments, manuscripts, ethnographic implements, etc., may be categorized under it (*Negarit Gazeta*, 2000, p. 1346).

Cultural heritages can be possibly classified into material culture and intellectual culture. The first is tangible that can be felt and seen like monuments and inscriptions, in short all immovable and movable material heritages. Intellectual cultural heritages, on the other hand, are those that cannot be seen and felt, such as oral traditions, folklores, religious beliefs, music, poetry, myth, legend, etc. (Herrmann, 1989, p. 33). These classifications are wittingly used due to their importance in analyzing the legal instruments, pertinent to cultural heritage, of the three Ethiopian governments.

### **The Need for Proper Cultural Heritage Management**

The need for cultural heritage management is directly related to their importance and nature. The importance of cultural heritage to one country is a multifarious one. Chief among them: Cultural heritages have tremendous value in establishing cultural identity in a search for historical root (Hecht, 1985, p. 10). They contribute to developing public awareness of a shared historical identity or sense of cohesion among people with different ethnic, linguistic, and religious backgrounds and conflicting political interests and also resolving conflicts induced by any one of them. That is why some cultural heritages are used as symbols of national pride,

political ideology, etc. Cultural heritages are bases of historical interpretations and judgements. In short, they serve as sources of data for any kind of academic research, such as history, economy, technology, military, etc. They have also educational values as teaching aids. In other words, cultural heritages provided three-dimensional education for school children (Hecht, 1985, p. 6; Cleere, 1990, p. 10). Cultural heritages offer a foundation for sustainable technological, economic, or any sort of human developments. The preservation of the fruits of human mind is very important because each generation produces not only for itself but also for the next generations, too (Chojnacki, 1971, p. 8). This necessitated their conservation and transformation to the next generation. They have also the lion's share in generating income through tourism industry (Cleere, 1990, p. 10). Therefore, the protection and preservation of them is unquestionable.

Cultural heritages are non-renewable resources. Their losses constitute an irreplaceable one to the society. This is another factor behind the philosophy of cultural resource management. As Chojnacki put it, man has two distinct heritages, i.e., the "animal" and the "civilization" heritages. The first shows no significant mutation through time and requires no serious effort, from men, to transfer them from generation to generation. The latter, the non-physical or mental part of our heritages, i.e., the cultural heritage, whereas, is vulnerable to destruction and needs proper management to transfer them to the next generation (Chojnacki, 1971, p. 7).

Therefore, in these days the need for cultural heritage conservation and the application of the philosophy and the techniques of management into cultural heritage received a worldwide attention. The discipline cultural resource management also became a respectable scholarly discipline in many countries of the world. The discipline involves history, archaeology, architecture, management, law, education, politics, etc. (Herrmann, 1989, p. 30). In short, it requires the application of all sorts of human knowledge because it is concerned with all kinds of materials resulting from human activities in the past and in the present. Moreover, it deals with the process by which a culture transforms its material and spiritual products to the coming generation.

### **Cultural Heritage Management From Historical Perspective**

The concept and practice of protection and preservation of cultural heritages is among the most ancient activities of man. The activity also belongs to among the most fundamental human behaviour. Hence, protecting and preserving cultural heritages is universal to every society. The activity is hardly confined to differences in political outlooks, creed, nationality, etc. However, providing conservation for relics of human existence using legal instruments and institutions to a greater extent is a recent development. Particularly, the application of modern management skills into such activities is largely a post-World War II (WWII) phenomenon (Cleere, 1990, p. 2).

The period immediately after the end of WWII witnessed the rapid economic, technological, social, and political changes that contributed to the development of concern for cultural heritages. The aforementioned changes coupled with demographic booming had an adverse effect on environment, precisely speaking, on the exploitation of natural resources. Thus the issue of environment became a hot global agenda. This eventually led to the establishment of many organizations, which were concerned with environmental protection with strong support from the public. The issue of cultural heritage conservation was also raised together with environmental protection as the other side of the coin. Ultimately, the movement for environmental and cultural heritage protection induced governments to incorporate cultural heritage conservation as one of their main principles. Hence, cultural heritage management became an integral part of social and economic planning particularly in Europe and in the USA (Cleere, 1990, pp. 2-3). Moreover, the development of tourism as an

important source of income was also among the major factors that reinforced the development of cultural heritage management (Cleere, 1990, pp. 2-3). Subsequently, the 1960s and 1970s witnessed almost in every European country and in the USA the drafting of new cultural heritage legislations (Cleere, 1990, p. 4). This development was paralleled with a dramatic growth of cultural experts in number and in profession. This made the application of laws and the improvement of management techniques applied into cultural heritages possible (Cleere, 1990, p. 4).

Moreover, the gradual enfeeblement of colonialism and the coming into existence of new independent states in Asia and in Africa, since 1945, also stimulated the development of cultural heritage management. In the search for shared historical root and in the process of creating new nationhood, the value of cultural heritage was quite tremendous. Thus to coordinate operations related to discovering and protecting cultural heritages, the new governments of Asia and Africa gave a new attention for cultural heritage legislations (Cleere, 1990, p. 2).

In Ethiopia, the awareness for cultural heritages and their legal protection could be traced back to the Aksumite period. Some fragmented domestic sources shade light on the existence of protection and preservation spirit of cultural heritage law in ancient Ethiopia. To cite a case, the “Pagan Inscription of Ezana” in the 4th century AD depicts the following legal provision:

And he set up a throne here in Shado, and committed himself to the protection of Astar, and Beher, and Meder (the Earth). If there be anyone who would overthrow him and remove him, that person, and his land, and his race, shall be overthrown and removed, and he shall be rooted out of the country. (Sergew, 1972, p. 94)

Elements of such scattered spirits of legal protection for cultural heritage could be cited in various periods of Ethiopian history; but the scope and purpose of this paper are obviously restricted to the recent developments of the issue under discussion. Hence, we will turn to the much more advanced and organized efforts of providing legislative provisions to cultural heritages in the period after 1945.

The post-WWII international development concerning cultural heritage management, which we have discussed, was also reflected in Ethiopia. The restitution of cultural heritages, which were looted from Ethiopia by Fascist Italy, in the period between 1935 and 1941, was one of the points that Ethiopia raised at the Paris Peace Conference of 1946 (Pankhurst, 1970, p. 40). Subsequently, Italy was also forced to sign at the *Peace Treaty of 1947*, to restore Ethiopia’s cultural heritages under Article 37 of the treaty, although it was not fully entered into force (Pankhurst, 1970, p. 40). This indicates that the existence of a deep concern for cultural heritages in the immediate post-war period.

The Imperial government also worked with World Heritage Fund and UNESCO in selecting some tourist sites, making them accessible, and improving their conditions (Solomon, 1989, p. 41). As Chojnacki noted, problems related to the preservation of Ethiopia’s cultural heritages and museums were hot public discourse in the country between 1960s and 1970s (Chojnacki, 1971, p. 7). The birth of the Institute of Archaeology in 1953 under a bilateral agreement between the French and the Ethiopian governments was also a step forward regarding the issue under discussion (Tadesse, 1990, p. 77). Up to this time despite the fact that Ethiopia was rich in cultural heritages, it did not have any form of institution that concerned with cultural heritage management.

In a strict sense, providing modern legal provisions for cultural heritages, in Ethiopia, like the other countries, was a post-World War II development. The revised Ethiopian constitution of 1955, under Article 130,

stated that cultural heritages were public properties and being aware of their importance for development provided a legal protection for them (*Revised Constitution of Ethiopia*, 1955, p. 90)<sup>1</sup>. This was the first legal instrument of the Ethiopian government concerning activities related to the study of cultural heritages (Kassaye, 2002, p. 4). The constitution gave green light to the first proclamation on the protection and preservation of “antiquities” which was issued in January 1966 (*Negarit Gazeta*, 1966, p. 23). This marked that the concern for cultural heritage conservation in Ethiopia attained its climax. Providing legislative protection for the country’s cultural heritages was perpetuated as a tradition, as the two successive governments issued their own proclamations on cultural heritages. As Kassaye had summarized the major cultural heritage legislations in Ethiopia:

In general from 1955 to the present 12 legal instruments, 3 constitutions, 1 cultural policy, 3 proclamations, and 1 order were issued with the intention of documenting, conserving researching and promotion our national heritages. (Kassaye, 2002, p. 4)

Clearly, the last 60 years witnessed many legal instruments pertinent to cultural heritage conservation, in a different forms, at various times; but this paper will survey and analyze the legislative provisions, which were specific for recording, investigating, protecting, conserving, and promoting cultural heritages in Ethiopia under the three regimes, i.e., the proclamations of the Imperial, the Military (Derg), and the reigning governments. Before looking at the legal impediments, it is necessary to know the basic essences of the three proclamations on cultural heritages one by one.

### **The Three Ethiopian Proclamations on Cultural Heritage Management**

#### **The First Proclamation**

Promulgating proclamations for the conservation of cultural heritages, in Ethiopia, as a practice was laid down during the Imperial regime. For the first time a decree entitled “A Proclamation to Provide for Protection and Preservation of Antiquities”, with a Proclamation No. 229 of 1966, was promulgated on 29 January, 1966 (*Negarit Gazeta*, 1966, p. 23). This was the first policy statement in the form of proclamation that symbolizes the beginning of legislations specific to cultural heritage in Ethiopia.

According to the proclamation, the vitality of cultural heritages, which were found in Ethiopia, as witness for the history and tradition of the country necessitated their legal protection. Hence the aforementioned proclamation was issued after if it had been approved by the Senate and the Chamber of Deputies. It was believed to have served as a legal basis for activities like discoveries, preservation, and study of the country’s cultural heritages (*Negarit Gazeta*, 1966, p. 23)

The term “antiquity”, in the proclamation, was clearly stated that any products of past human experience with archaeological or historical significance were manufactured before 1950 EC (*Negarit Gazeta*, 1966, p. 23). The Office of Archaeology was charged with the responsibility of enforcing the proclamation. According to the decree, the office was also empowered in issuing regulations for better implementation of the proclamation in consultation with the Ministry of Public Works and Communications. Moreover, it was also endowed with a legislative basis of administering and supervising the study and discovery of antiquities (*Negarit Gazeta*, 1966, pp. 24-25).

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<sup>1</sup> *Revised Constitution of Ethiopia*. as Promulgated by His Imperial Majesty Haile Sellassie I, on Twenty-Four Tekemit One Thousand Nine Hundred and Forty Eight (4th November, 1955) on the Occasion of the Twenty-Fifth Anniversary of His Coronation, *Negarit Gazeta* 15th Year No. 2, Addis Ababa, November 4, 1955.

To mention some of the legal provisions which were found in the proclamation of 1966: It required that any person who discovered, acquired and/or in possession of any object of the past should notify and register it to the concerned office. Selling, bartering, transferring, or exporting of cultural heritages without the knowledge and permission of the Office of Archaeology was strictly forbidden, and anyone who violated this would be punished. It was stated that the heritages owned by the church would be registered without transforming them from their original places but newly discovered cultural heritages and those privately owned could be transferred whenever necessary. It was made clear that individuals would not be forced to hand over the antiquities in their possession to the office. The proclamation made provisions for the protection of places, houses, etc., as historical sites after the office had proposed and approved by the Council of Ministers. Archaeological excavation in any part of the country was said to have required a certificate of written license from the Office (*Negarit Gazeta*, 1966, pp. 25-26). Therefore, the government apparently understood the importance and the necessity of legal protection for the country's cultural heritages in line with the proclamation's provisions discussed above. These provisions were perpetuated unchanged until they were revised by the second proclamation, which was issued in 1989.

### **The Second Proclamation**

"A Proclamation to Provide for Study and Protection of Antiquities" was promulgated under *Proclamation No. 36/1989* during the Derg regime (*Negarit Gazeta*, 1989, p. 47). It was the second proclamation on cultural heritages that repeated the first proclamation.

The importance of cultural heritages for better understanding of human evolution and nature as well as their importance in developing science, ideology, ethics, fine arts, etc., was taken as the rationale behind their proper study and conservation. Hence, the 1989 decree on antiquities was issued to provide a legislative basis for their proper study and protection. It was also said that countries like Ethiopia which has immense antiquities including those registered by UNESCO as world cultural heritages had to have legal procedures. Above all, the vitality of cultural heritages for the working people as source of national pride and love for their motherland seems to have been the underline factor that necessitated a legal instrument pertinent to cultural heritage conservation to promulgate the 1989 proclamation on antiquities (*Negarit Gazeta*, 1989, p. 47). In general, these necessities to devise ways and means for their full protection and preservation and to ensure that the research on antiquities was carried on in accordance with the interest of the country were said to have required the responsibility of the government

The responsibility of protecting and preserving any products of human mind with major artistic, scientific, cultural, or historical value in Ethiopia was vested on the Ministry of Culture and Sports (*Negarit Gazeta*, 1989, p. 48). It is noteworthy that the centre for Research and Conservation of Cultural Heritages (CTCCH) was instituted under the Ministry to handle activities related to antiquities.

Accordingly this proclamation, the state or any person might own antiquities. Newly discovered antiquities had to be handed over to the state. The Ministry of Culture and Sports would register and preserve antiquities owned by individuals or institutions. Individuals who held antiquities had to fulfil the following obligations: properly preserve, repair and restore, and allow for exhibition or public show whenever they asked for. It is not worthy that the repair and restoration of antiquities would be carried out under the permission of the Ministry. To remove antiquities from its original site required writing approval from the Ministry. The use of antiquities for scientific, educational, cultural, and other purposes should not impair their historical value.

Any person could not transfer the ownership of antiquities through sale, donation, or otherwise other than succession without the knowledge of the Ministry. The Ministry was given a right of priority to purchase antiquities from individuals or institutions. Otherwise, commercialising antiquities was banned. The Council of Ministers could nationalize antiquities if not religious with appropriate compensation to the owner. Discoveries of antiquities and taking antiquities out of the country were now required permission from the government. Areas might enjoy protection provisions by the Council of Ministers on the basis of recommendation from the Ministry of Culture and Sports. The restitution of Ethiopian cultural heritages, which are found in other countries, would be carried out by the Ministry in cooperation with other government organs. Every person should have the duty to cooperate in matters related to this proclamation and its implementations were some of the stated decrees of the 1989 proclamation (*Negarit Gazeta*, 1989, pp. 49-54).

A person who violated the aforementioned terms of the proclamation was liable to some specified penalties, either in periods of imprisonment or punished with some amount of money (*Negarit Gazeta*, 1989, p. 54).

### **The Third Proclamation**

The reigning government repealed the second proclamation by promulgating a revised proclamation entitled: “A Proclamation to Provide for Research and Conservation of Cultural Heritage” under *Proclamation No. 209/2000* (*Negarit Gazeta*, 2000, p. 1345).

The justification of the proclamation for the need for cultural heritage legislation slightly differs from the previous one. Moreover, this proclamation is well-nigh a copy of the second proclamation. But this proclamation emphasizes Ethiopia as “a country of nations, nationalities and peoples with history and culture of their own” (*Negarit Gazeta*, 2000, p. 1345). It also avoided phrases like “working people”. There is also a slight change in name of the body responsible for the protection and preservation of cultural heritages from Ministry of Culture and Sports to Ministry of Culture and Information (*Negarit Gazeta*, 2000, p. 1346). The proclamation renders a more detailed definition for cultural heritage than the previous ones. The phrase “cultural heritage” also superseded the term “antiquities” in the proclamation of the current government. Similarly, the terms “protection and preservation” were replaced by “conservation”. It is noteworthy that conservation purports protection and preservation of heritages without changing their historical content. In a nutshell, this proclamation employs more sophisticated and highly professional terminologies than the previous one.

That this proclamation perhaps differs from the previous one is that it states the desired objectives, which should be attained. The general objectives stated as per Article 4 of the proclamation are: (1) to enable cultural heritages useful for the economic and social developments of the country; (2) to protect them from man-made and natural made disasters; (3) to discover and preserve cultural heritages; and (4) to carry out a scientific registrations and supervision of cultural heritages to transfer them properly to the next generation (*Negarit Gazeta*, 2000, p. 1347). Accordingly the proclamation, registration of cultural heritages would comprise photographing and recording them in film and video (*Negarit Gazeta*, 2000, p. 1347). This was believed to have differed substantial help to facilitate their utilization for the purpose of study and other functions. Moreover, the proclamation offered a legislative provision for the establishment of an advisory council to the Ministry. It was stated that the advisory council would be constituted from 13 members nominated by the government on the basis of the Ministry’s proposal (*Negarit Gazeta*, 2000, p. 1348). Clearly, some improved techniques of cultural heritage conservation are stated in the third proclamation.

The Ministry of Culture and Information was empowered with the responsibility of registration, protection and supervision, collection of information about cultural heritages. It also defines the nature of cultural heritage and levels their standards. The Ministry also has the authority to issue permit and supervise study and research conducted on the exploration, and discovery of cultural heritages (*Negarit Gazeta*, 2000, pp. 1347-1348). The detail procedures concerning such activities are not much different from that had been stated under the proclamation of the Derg regime. The Ministry, like the previous bodies, can recommend places to be reserved as historic sites and get approval from the Council of Ministers (*Negarit Gazeta*, 2000, p. 1354).

Similar to the second proclamation, it states that cooperation towards the implementation of the proclamation was a duty to every citizen of the country. It also clearly specified penalties for those who violated the decree (*Negarit Gazeta*, 2000, p. 1354). In a nutshell, with regard to exploration, discovery, study, and management of cultural heritages, no major difference exhibited between the second and the third proclamations.

### **Legal Impediments of the Proclamations**

Some of the major legal impediments to proper cultural heritage management that this paper wishes to address will be pointed out under this topic. To begin, as just mentioned, when we discuss the basic essences of each proclamation; the decrees clearly reflect the political philosophy of its own respective regimes. Clearly, change in legislations should have been development but not merely coincided with metamorphosis in government and their ideologies.

The Imperial proclamation tends to conclude that heritages were those, which were owned by the state and the church. The decree said nothing about heritages, which were found in mosques, and other places of religious worship. As one can understand from the regulation, which was issued as per Article 7 of the proclamation, it only discusses about cultural heritages, which exist in churches and in the hands of individuals (*Negarit Gazeta*, 1966, p. 24). In the proclamation even the name “Mosque” was not mentioned. Moreover, it gave disproportionate emphasis to archaeological and paleontological objects. The proclamation also excluded objects, which were manufactured after 1950 EC (1957/58) from the category of cultural heritages (*Negarit Gazeta*, 1966, p. 23). Above all, the proclamation was vitiated by abridging explanation on procedures of management and study of cultural heritages. Finally, although the Office of Archaeology was more appropriate for activities related to cultural heritage management, the government did not establish an organ that concerned with cultural resources at the ministerial level. These were constraints that specifically attributed to the proclamation of 1966.

The second proclamation also had some specific constraints. To mention: it did not enumerate specific objectives in its proclamation. The philosophy of cultural heritage management was highly politicised and corrupted by the government’s strong affiliation to Marxist ideology. According to the proclamation, “Antiquities play a major role in imbuing the working people with a spirit of national pride and love his motherland” (*Negarit Gazeta*, 1989, p. 47). Needless to say, Ethiopian cultural heritages should not be described from the perspective of class. And the proclamation said nothing about the protection and preservation of cultural heritages belonged to feudal or any other classes.

The third proclamation has the following impediments to proper cultural heritage management. The decree seems to classify cultural heritages of the country into nations and nationalities or ethnic ownership. “Ethiopia, a country of nation and nationalities and peoples with history and culture of their own...” (*Negarit Gazeta*,



2000, p. 1345). The policy of the government as we may see from the above consideration is discriminatory. It favours objects of cultural heritages that reflect separate ethnic identity than shared cultural or historical experience. The proclamation says almost nothing about the latter. It is important to note that such linkage of cultural heritages to ethnic identity inevitably will lead to an unequal and unfair treatment of them. Moreover, it will also induce the obliteration of some cultural heritages whenever inter ethnic conflicts happen. It is important to note that it would not be too early to pass such a comment or judgement on the legal instruments of the reigning government. In the final analysis, such classification of cultural heritages into class or ethnic ownership, which were apparent in the second and third proclamations, contradicts with the basic philosophy of cultural heritage management that all heritages should be conserved whatever political or ideological messages, or ethnic or religious affiliations they contain.

This paper also identifies the following legal obstacles common to the three proclamations. The three proclamations seem to ignore the intellectual heritages in providing legislative basis. Heritages like oral tradition, myth, folklores, music, etc., have not yet received attention that they deserve. Precisely speaking, particularly, the first two proclamations were on “antiquities” which are not inclusive to all fruits of human mind. Because “antiquities” literally refer to objects that were invented in a distance past. Therefore, “antiquities” do not comprise cultural heritages, which are produced in these days.

Cultural heritages are obviously destroyed and sold because of lack of awareness among the society; despite the fact that the proclamations seem to fail in taking this fact into consideration as an effective means of cultural heritage management. According to the proclamations, cultural heritage management is a game played among politicians and technocrats. Hence, in the proclamations, the basic principle that cultural heritage management should be by the people and for the people seems to have been forgotten. Therefore the legislation should have a nation-wide foundation and relevant discussions should have been conducted before their promulgation. But no substantive testimony indicates this. This is an effective means to share the sense of responsibility for conserving the cultural heritages of the country to its every citizen. Together with this, the role of the people who live around in the areas where cultural heritages found has not yet established in the proclamations. The awareness of the need for cultural heritages should have been included in school curriculum. But this has not yet received a legislation basis. To conclude, cultural heritage management cannot be imposed by law; rather it must arise from the society per se. It should not be forgotten that without the awareness and active support of the public any proclamation would be little more than a decoration on paper.

It is quite clear that in Ethiopia existing reality, most of the cultural heritages are found in churches, mosques, and other religious institutions but not in museums. Therefore, cultural heritages, in Ethiopia, are objects of worship. Hence, religious men practically do not allow experts to register and touch these sacred objects let alone to repair them. Unfortunately, however, the problem remains untouched in the proclamations. And hence they devised nothing solution. Thus the proclamations which are adopted from other countries must be integrated to the indigenous methods of cultural heritage protection and integration.

The establishment linkages between agencies empowered with responsibility to implement cultural heritage management with formal training centres and indigenous institutions should have clearly been defined in the proclamations. Without this, it would be very difficult to develop our systems of cultural heritage management. More specifically, nothing was said about the establishment of cultural heritage management as field of study at this university or other equivalent higher learning institutions of the country. Obviously, this would help to produce professionals who could administer institutions that concern with cultural heritage and

make research on the improvement of the management techniques. Moreover, cultural heritage management is a shared responsibility that involves a complex activity. It requires the involvement of policy planners, cultural experts, professionals, non-governmental bodies, etc., for proper management.

It seems that the proclamations gave a disproportionate emphasis to discovery and maintenance of cultural heritages. It should not be forgotten that the exploration and discovery without proper protection and preservation would be no less than destruction. Similarly, maintenance without careful study and help from professionals is not far from destruction. The primary focus of the proclamations should have been the conservation and proper management of cultural heritages. Such lack of pertinent legal provisions can be mentioned as a factor behind the ever-increasing destruction of cultural heritages in Ethiopia.

Diversifying museums and other promotional centres in number and in kind also seem to have got peripheral treatment in the proclamations. The improvement of public appreciation of the value of cultural heritages has got no legal provision. Needless to say, museums play a key role to promote cultural heritage not only for tourist admiration but also for scholars to study and to educate the public about how to protect and preserve cultural heritages. Otherwise, an attempt to conserve cultural heritage management by hiding does not far from their loss or destruction. Therefore, the existence of museums<sup>2</sup> in number and kind could be a real test of practical concern for cultural heritage conservation and promotion.

The proclamations were handicapped by their deficient and abridged explanation on criteria that should be followed at the time of maintenance. It is quite believed that conservation must be provided to all cultural heritages. But more threatened cultural heritages, in spite of their political or ideological implications or ethnic attributes should be a primary criterion for selection. And this should have been affirmed by the legislations. Denial of access to certain cultural heritages, which are found under jeopardy, and the provision of their replicas in the immediate vicinity where the original is found should have been incorporated in the proclamations. The necessary cares which should be taken at the time of cultural heritage promotion and interpretation through education and the mass media have not yet been established. Cultural heritages should be accessible to every member of the society. And this should have also affirmed in the legal provisions of the proclamations. Moreover, nothing has also been said in the proclamations to protect Ethiopian cultural heritages from the invasion of foreign ware. This has really induced some cultural heritages of the country to lose their identity. Therefore, such a legal basis has not yet ratified.

The proclamations failed to offer legislation provisions for experts of cultural heritage management to undertake preliminary study or investigation before sites are exposed for activities like mining, engineering or agricultural activities, etc. Moreover, legislations should have provided professionals with legal basis to participate in the preparation of the country's long term and short term economic and political plans. There is little doubt that any development policy in a developing country like Ethiopia, will be fated to fail if it ignores the culture in general cultural heritages in particular. Because it is particularly here that the kernel of underdevelopment is found. Heritage management should become a very important component of any development plan. However, in Ethiopia so far as we can infer from the legislation provisions of the proclamations, culture and its experts have not yet given considerable attention that they deserve. Hence this

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<sup>2</sup> It is said that the current National Museum of Ethiopia was built during the Italian occupation period to serve as residence for the then mayor of Addis Ababa. In the post liberation period it was used for different functions. Finally, in 1967 it was turned from the Office of the Ministry of Foreign Affairs to National Museum. Thus, since it was not constructed for the purpose of a museum, it has various problems (Tadesse, 1990, p. 77).

optimistic conception did not materialize because of failure to exploit cultural resources. The governments have stressed on other sectors like agriculture to get immediate results; but this proved to be a fiasco due to inappropriate consideration to the countries cultural heritages.

Finally, the second legal provision should be better than the first, and within the same logic, the third is more expected to mitigate the problems related to cultural heritage management than the second. To the contrary, sadly, it is an open secret that the destruction and loss of cultural heritages in Ethiopia are increasing from time to time. The legislations have not been in a position to halt illicit trade in movable cultural heritages. Tacitly, the ideals and legal provisions that were eloquently enunciated in the proclamations have rarely been translated into action. Because there is no way to conserve cultural heritages except by preventing their loss and by stopping their further deterioration. Moreover, the legal provisions failed to inform the complex and often political interests that all questions of heritage ownership and legislations necessarily entail. Thus the progress made in the field of cultural heritage protection and preservation so far begs for more to be done. Therefore, it is more plausible to say that the aforementioned legal impediments can only be getting rid off through the sincere efforts of continuous revision.

## **Conclusions and Recommendations**

### **Conclusions**

This paper attempts to show the amount of progress that was made in the legal aspect of cultural heritage management in Ethiopia with special focus on the three proclamations. Particularly, some legal impediments to proper cultural heritage management have been aired. However, the paper strongly believes that analysis of cultural heritage legislations is not sufficient rather it is a partial examination of a particularly complex subject. Therefore, it would be far from convincing to argue that the impediments that the author has endeavoured to point out solely contribute to the loss and destruction of Ethiopia's cultural heritages. But it should not be forgotten that legal provision is the most fundamental one since it may positively or negatively affect proper cultural heritage management more than anything else. This is the main reason that requires this paper to focus only on cultural heritage legislative basis.

The major legal impediments to proper cultural heritage management in Ethiopia are: absence of clear and well articulated cultural heritage legislative basis and adequate skilled man power; lack of integration between the modern and the indigenous management techniques; the legal instruments failed to invite other institutions of government and non-government to participate in cultural heritage conservation; poor operation of the law; and failure to aware and increase public participation in cultural heritage management.

### **Recommendations**

Depending on the legal impediments that have been raised and discussed, this paper suggests the following recommendations:

- (1) The public must have a say in the design and implementation of cultural heritage legislations;
- (2) Qualified personnel and sufficient funds must be allocated for the purpose of cultural heritage conservation;
- (3) There should be well-organized communication between governmental agencies, concerned with cultural heritage management, and higher learning institutions;
- (4) There should be far-reaching views, which bases on the science of cultural heritage management, when

legal instruments pertinent to heritages are drafted;

(5) Classification of cultural heritages should be on the basis of their nature; rather than the type of class, ethnicity, religion and the like they reflect in;

(6) Revision on cultural heritage legislations should be an endless process.

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