



COMPARATIVE ANALYSIS OF THE UNESCO CONVENTIONS AND NATIONAL MUSEUMS AND MONUMENT ACT OF ZIMBABWE, 1972

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ABSTRACT :

The importance of culture and heritage across the world has led to implementation of tangible measures for its preservation and safeguard. This has led to the implementation of the frameworks established by UNESCO Conventions. Most of the countries do follow the UNESCO conventions, Zimbabwe is one the country which implement global principles at local level. To understand, the relation between UNESCO Conventions and NMMMZ Act, this work provides a comparative study of the UNESCO Conventions to safeguard cultural heritage and the National Museums and Monuments Act (Zimbabwe, 1972). The research discusses how global frameworks, particularly the 1970 Convention on the Means of Prohibiting the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 1972 World Heritage Convention, support or deviate from Zimbabwean national law. The analysis examines key aspects including protection, conservation, and management of cultural heritage, enforcement measures, community engagement, and legal terminology for heritage. The report finds that there are areas of synergy as well as discrepancies between the international agreements and domestic law in Zimbabwe, with strengths in identification and listing of heritage, but with weaknesses in enforcement, resources, and integration of indigenous knowledge systems.

1.0 Introduction

Both tangible and intangible cultural heritage is the shared memory, history, and identity of societies passed from one generation to the next. Not only does it testify to the creativity and resilience of human beings but also constitute a rich asset for education, tourism, and sustainable development. But cultural heritage is under constant threat from urbanization, conflict, climate change, and illegal trafficking. In reaction to these global problems, global conventions like the UNESCO Conventions have been formulated to offer standardized directions for the preservation, protection, and promotion of cultural heritage across the globe.

Zimbabwe, a country blessed with archaeological sites, monuments, and indigenous heritage, has legislatively made efforts to protect its cultural assets through instruments like the National Museums and Monuments Act of 1972 (NMMA). The Act supplies the statutory basis for the identification, declaration, and management of national heritage places, and insists on the National Museums and Monuments of Zimbabwe (NMMZ) to be responsible for the conservation of heritage. Though the NMMA was an important move towards national heritage management, its efficacy in keeping in tandem with changing international standards has raised controversy.

This research undertakes a comparative analysis between the UNESCO Conventions primarily the 1970 Convention on the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage and Zimbabwe's NMMA. The objective is to identify areas of alignment, divergence, and potential gaps in national legislation, with a view to recommending policy and legal reforms for improved heritage protection.

The study employs a qualitative approach, relying on document analysis of legal texts, academic literature, and heritage policy reports. Particular focus is given to legal definitions, enforcement mechanisms, stakeholder involvement, and compliance obligations. Ultimately, the research seeks to contribute to a deeper understanding of how Zimbabwe's heritage management can be strengthened through harmonization with international legal frameworks.

Key words; Cultural heritage, UNESCO Conventions, National Museums and Monuments Act, Zimbabwe, heritage protection, cultural property, international law, heritage legislation, monument preservation, illicit trafficking, World Heritage, legal framework, comparative analysis Community involvement.

2.0 Aim

The research aims to evaluate the National Museum and Monuments Act (Chapter 25:11) and the international laws (UNESCO Conventions) on the protection of tangible and intangible heritage. It further on, give a comparative analysis of both policies on the heritage disaster management.

3.0 Methodology

Comparative analysis was used to examine similarities and differences between the National Museums and Monuments Act and the UNESCO conventions on the protection and safeguarding of tangible and intangible heritage in terms of disaster either natural or human-made disasters. The NMMZ Act (1972) and the UNESCO Conventions which include 1954 UNESCO Hague convention for the protection of cultural property in armed conflict, 1970 UNESCO Conventions on illicit trafficking of Cultural property, 1972 UNESCO convention on protection of tangible heritage, 2003 UNESCO convention on the safeguarding of intangible heritage and the Sendai Framework for Disaster Risk Reduction (2015-2030).

4.0 LITERATURE REVIEW

A comparison of the UNESCO framework and the National Museums and Monuments Act can help identify their impact on heritage conservation. UNESCO's framework ensures that cultural and natural heritage are preserved and safeguarded during disasters and conflicts. Cultural heritage refers to the legacy of physical and intangible attributes from past generation, maintained in the present and passed down to future generations. It includes tangible elements like historical buildings, monuments and artefacts as well as intangible aspects such as traditions, languages, rituals and knowledge UNESCO, (2009). However, some school of thoughts argues that cultural heritage goes beyond tangible aspects, it includes living heritage such as oral traditions, performing arts, social practices and festive events

Preserving heritage is crucial for maintaining state's cultural identity, cultural preservation, tourism development, education and research, social cohesion, national pride, community uplift and safeguard of intangible heritage. Every nation has got its own unique heritage which it preserves either by using indigenous knowledge systems or western knowledge systems). For example; Zimbabwe has five world heritage sites (Great Zimbabwe, Khami Ruins, Matobo hills, Mana Pools and Victoria Falls) in which they are protected by the UNESCO Convention due to their Outstanding Universal Value.

The research has selected three countries showcasing how they are preserving their own heritage, these are India, Zimbabwe and Egypt. India has rich cultural heritage with many historical sites, monuments e.g. Taj Mahal and cultural festivals e.g. Holi and Diwali, so the state has established the Archaeological Survey of India and Ministry of Culture to preserve and safeguard its cultural heritage. Secondly, Egypt has established the Supreme council of Antiquities to oversee the preservation and protection of its cultural heritage like pyramids, temples and tombs. Similarly, Zimbabwe established National Museums and Monuments Act to preserve and protect mainly tangible heritage. UNESCO emphasises on the importance of cultural heritage in disaster risk management by recognising heritage as both vulnerable to disaster and crucial for community resilience. Therefore, importance of heritage led to layout of policy for the protection of heritage. The main differences between the NMMZ and UNESCO on disaster management and preservation of cultural heritage are in scope and jurisdiction, legal framework, heritage protection, disaster management approach, funding and support and lastly the recognition levels.

With concern to the jurisdiction and scope levels the UNESCO framework protocol operates at a global level which means having international recognition and setting benchmark rules of concern to almost all countries. Having conventions such as the 1972 World Heritage Convention and 2003 Convention for Safeguarding of Intangible Cultural Heritage, it makes its operability on a global level since all nations adhere to these regulations.

In contrast the NMMZ Act is a nation specific protocol only applicable in Zimbabwe. It provides the legal rights and protection to tangible and physical heritage. According to the legal the UNESCO protocol incorporates with nations to have an international agreement of rules, regulations and guides such as the 1972 World Heritage Convention and they are to be recommended by members of state as national laws meaning it does not enforce laws but incorporates with the nation for law stating.

4.2 THE DIFFERENCE BETWEEN UNESCO CONVENTIONS NATIONAL MUSEUMS AND MONUMENTS ACT

4.2.1 Table below showing the difference between UNESCO and NMMZ Act

Feature	UNESCO Conventions (1954,1970,1972,2001,2003& 2015-2030)	NMMZ (National Museums and Monuments of Zimbabwe Act 1972)
Scope	International treaties for protection of cultural and natural heritages	Governing Legislation for the protection of heritage in Zimbabwe
Legal Authority	Adoption by member states of UNESCO, legally binding on the member after ratification	Enacted Law of the Zimbabwean Government for use in Zimbabwe
Main Objective	Global protection, preservation and promotion of cultural and natural heritages	Conservation, preservation and management of historical and cultural heritage in Zimbabwe
Key Conventions	- 1972 World Heritage Convention - 2003 Important Intangible Cultural Heritage Convention -1974 Hague Convention for the Protection of Cultural Property in Armed Conflict, - 2001 Underwater cultural heritage convention	National Museums and Monuments Act [Chapter 25:11 of the Laws of Zimbabwe]

Protection Mechanism	Establishment of world heritage sites, international cooperation and protection from illegal trafficking of cultural property	Declared tangible Heritage and National monuments 25:11 (section 20)
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The NMMZ Act is a directly imposed national law which has interference and penalties of violation directly affect the offended, since the laws are constitutional. In heritage protection the UNESCO protects all forms of national heritage which are both the tangible and intangible heritage these are (traditions, festivals, monuments and landscapes). World Heritage Sites listing is also determined by the UNESCO. Differing from the UNESCO policy the NMMZ Act has a primary focus on tangible heritage which are monuments and landscapes mostly.

Regarding the Disaster Management Approach, the protocol rules and risk management strategies for cultural heritage disasters. In example Sendai Framework for Disaster Risk Reduction and UNESCO Heritage Emergency Fund. Whereas the NMMZ has the guidelines to the protocols to be adhered to when running a response to calamities involving heritage scenes and sites. The procedures include site restoration and legal measures.

The UNESCO conventions and the NMMZ act share common goals in heritage protection, but there are a number of gaps between them in terms of implementation, scope and enforcement. UNESCO provides global framework for heritage protection, funding and international cooperation. NMMZ Act focuses on localised implementation, national heritage policies and site management.

Thus, the major focus of the 2003 UNESCO convention for the safeguarding of intangible cultural heritage whilst the NMMZ Act (chapter 25:11) primarily covers tangible heritage (monuments, sites and objects) but lacks comprehensive provisions for intangible cultural heritage. Since the adoption of the 2003 UNESCO Convention on the safeguarding of intangible heritage, Zimbabwe has approved the convention and contributed to safeguarding cultural traditions (oral traditions, performing Arts, social practises, rituals, festive events, knowledge about nature and traditional craftsmanship).

Safeguarding of intangible heritage is utmost important because it provides foundation for the identity, well-being of the communities it is a valuable resource for communities to strengthen resilience, reduce vulnerabilities and help community to prepare for, respond and recover from emergencies UNESCO, (2024). UNESCO conventions (2003 and 1972) emphasize on the engaging local communities in heritage management, this involves empowering indigenous and local communities to take part in conservation. The NMMZ Act remains largely- government led with minimal impact towards the local community.

4.3 EVOLUTION OF THE UNESCO CONVENTION

UNESCO CONVENTIONS

UNESCO has adopted various key conventions related to the protection and management of cultural natural and mixed heritage. Conventions set world-wide standards for preventing illicit trade of cultural heritage properties, safeguarding heritage and ensuring sustainable cultural practises.

4.4 CONVENTION,1954

The aim of this convention is to protect cultural heritage properties such as monuments, museums and archives during armed conflicts convention prohibits the destruction or theft of cultural property during war. It has established the procedures for restitution of stolen cultural property and strengthens criminal responsibility for violations.

4.5 CONVENTION,1970

The purpose of this treaty convention is to prevents the illegal trade of cultural artifacts. Thus, signatories are required to prevent their cultural property from illicit trafficking, calls country which has illegally trade cultural property to return to its origin and encourages international cooperation to stop illegal trade.

4.6 CONVENTION,1972

Focuses on protecting tangible heritage of outstanding universal value. It requires every country to protect and manage heritage sites effectively from either natural and human-made disasters.

4.7 CONVENTION, 2001

It focuses on protecting shipwrecks, sunken cities and other underwater cultural heritage. Once heritage has exploited it is difficult to be restored or discovered hence, this convention prohibits commercial exploitation of underwater heritage. It calls for international cooperation in safeguarding submerged sites.

4.8 CONVENTION,2003

Protects traditions, language, rituals, rituals, music and other intangible cultural heritage. It encourages community participation in safeguarding traditions and promotes education and awareness of intangible heritage. Establishes the representative list of intangible cultural heritage. This is utmost importance because it ensures the transfer of knowledge, skills and meaning.

4.9 THE SENDAI FRAMEWORK FOR DISASTER RISK REDUCTION (2015-2030)

It's a global treaty adopted by the United Nations in 2015 to guide disaster risk reduction (DRR) efforts worldwide aims to reduce disaster risks and losses in lives, livelihoods and infrastructure. This convention focuses on key priorities which includes understanding disaster risk, strengthening disaster risk governance, investing in disaster risk reduction for resilience and enhancing disaster preparedness for effective response and Build Back Better (BBB). In line with fulfilment of this program UNESCO has. The Sendai framework is essential because it emphasises on sustainable development by integrating DRR into national and local policies, risk reduction, making communities resilient and aligns the sustainable development goals (SDGs). Heritage laws in Zimbabwe need to be updated to align with modern disaster risk reduction strategies in order to ensure that monuments, museums and cultural sites are better protected against disasters.

5.0 OVERVIEW OF THE NATIONAL MUSEUMS AND MONUMENTS ACT CHAPTER 25:11

The national Museums and Monuments of Zimbabwe Act (Chapter 25:11) is primarily colonial law governing the protection, preservation and management of Zimbabwe cultural and natural heritage. It establishes NMMZ as the statutory body responsible for implementing the Act. The NMMZ is responsible for identifying, documenting, preserving, promoting national heritage and oversees museums, monuments and heritage sites across Zimbabwe such as Great Zimbabwe, Khami monument and Ziwa monument etc.

According to the NMMZ (1972) the Minister of Home Affairs and Cultural Heritage can declare any site, building or object as a national monument, monument is protected by the law from destruction, alteration or illegal trade once declared by the executive director. The Act prohibits unauthorized excavation or removal of cultural artifacts, meaning it should be done under the authorisation from the executive director, (section 20: subsection 1)

NMMZ ACT declare that all the national monuments belong to the state and are under NMMZ's management and private owners must seek NMMZ approval before they do any alterations or selling heritage properties (section 20: subsection 2). One must not export cultural or historical objects without written consent from executive director, if one found doing so it's illegal and must be stopped to prevent illicit trafficking (section 21). Violations against the law result in fines or imprisonment for three months (section 21: subsection 2), hence the Act ensures strict penalties to deter destruction and illegal trade on cultural property NMMZ Act (1972) (section)

The NMMZ Act cooperates with international bodies such UNESCO and ICOMOS to align with global heritage standard, thus the Act preserve, protect and safeguard its cultural and natural heritage in line with the policies implemented by UNESCO Conventions. However, NMMZ Act remain silent of heritage management policy as well as community engagement.

6.0 GAPS AND CHALLENGES

After evaluation of the provisions under UNESCO and NMMZ needs to be revised in a way such that it aligns with global best practises such as;

- a. Have a specific policy which address safeguarding of intangible heritage and heritage disaster management. The Act primarily focuses on tangible heritage and does not adequately address intangible heritage like oral traditions, rituals and indigenous knowledge systems. Moreover, disaster management policy rarely takes cultural and natural heritage into consideration.
- b. Community participation frameworks in heritage conservation Local communities are often sidelined from heritage development e.g. heritage reconstruction processes which frequently led by both internal and external donors, agencies and national authorities. The act does not sufficiently integrate local communities in heritage management and decision-making processes, even though many heritage sites are located within communal lands
- c. Include stronger measures against illicit trafficking of cultural property Penalties for illegal excavation, vandalism and destruction of heritage sites are often not strong enough to deter offenders effectively.
- d. Limited Funding and Resources NMMZ board and committee faces financial and human resource constraints, limiting its capacity to effectively manage heritage sites. There is no direct funding provisions in the NMMZ Act to get support from the World Heritage Fund under the UNESCO framework

7.0 SUGGESTIONS

- a) Enhance community stakeholder involvement
A lot has to be considered regarding this, NMMZ need to enhance community participation by in local communities in heritage site management and tourism development. Enforcing public education campaigns to raise awareness of the importance of heritage conservation and encourage public -private partnerships to support site maintenance and infrastructure development.
- b) Expand protection to intangible heritage
This can be done through practising it every day either in schools and heritage so that it continues for the betterment of the present and future generations. It needs to be properly documented both digitally and manually.
- c) Improve funding mechanism-NMMZ has to increase government funding for heritage preservation and seek external funding from the World Heritage Fund and other international bodies
- d) Sustainable Development and conservation
This implies that the NMMZ has promote eco-tourism and sustainable tourism initiatives that benefit both heritage sites and local communities

- e) Increase public awareness and education -this can be done through distributing fliers and business cards that promote heritage awareness and heritage conservation. Increase heritage ambassadors so that they can help to spread the news.

8.0 MEASURES FOR IMPROVEMENT

- a. Alignment with the new constitution-this mean that the National Museum and Monuments need s to modify the Act and ensure its provisions are constituent with the country's Constitution Manica post (2015)
- b. Enhance Community Involvement-The Act needs to be amended to encourage greater participation of local authorities and communities in heritage management. This mean that it to clarified who the local community is referring to (section 18)
- c. Updating the key definitions and provisions-this means that definitions and language within the Act needs to be clarified revised and modernised for example (section 25:11: subsection 2) refining terms related to heritage, heritage sites, artefact, rock art and role of governing bodies. This helps to reflect on contemporary understandings, societal changes and technological developments.
- d. Integrates with International Conventions-In-order to ensure global practises in heritage conservation, the Act has to update to incorporate provisions that align with international conventions ratified by Zimbabwe.
- e. The Act can include Indigenous Knowledge System (IKS), that can be used to protect both tangible and intangible heritage in Zimbabwe

9.0 SUMMARY

The UNESCO Conventions and Zimbabwe's NMMZ Act (1972) both aim to protect cultural heritage, but they differ in key area, UNESCO protects tangible, intangible, and natural heritage, while the NMMZ Act focuses mainly on monuments and lacks strong provisions for intangible and natural heritage. UNESCO promotes modern conservation techniques and global cooperation. The NMMZ Act does not have enforcement mechanisms and contemporary strategies, promoting neglect and bad site management. Local participation is stressed by UNESCO, but the NMMZ Act is government-oriented, restricting public involvement in heritage management. UNESCO conventions demand stringent compliance, but the NMMZ Act has ineffective penalties for the destruction of heritage sites. UNESCO offers international funding, but the NMMZ Act is supported by inadequate government funding, resulting in underfunded heritage sites. UNESCO has disaster management policies but the NMMZ Act does not have emergency response plans for conflicts and climate change threats. Heritage today must account for urbanisation, climate change and social justice. Modern definitions should be inclusive recognising the heritage of marginalised communities that were historically marginalised.

The NMMZ Act (1972) forms the basis of heritage protection in Zimbabwe but is inadequate in areas such as community participation, financing, enforcement, and protection of intangible heritage. Bringing it into conformity with UNESCO conventions would enhance heritage preservation, international collaboration, and the development of sustainable tourism.

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