

# Dialogue between Asia and Africa

JUNE 2024



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Padma Sundar MAHARJAN

# Editorial

Under the influence of globalization, heritage conservation and urban regeneration have become shared concerns to countries and regions in contemporary urban development. Striking a balance involves protecting and utilizing historical and cultural heritage and the pursuit of social, economic, and environmental sustainability.

As an international platform for architectural exchange, Architecture Asia has, for the first time, brought together scholars from Asia, Africa, and Europe to introduce cutting-edge theories and practices in the relevant fields. Through these exchanges, scholars worldwide collaboratively construct localized theories and practices to enrich the global discourse.

This issue is drawn from the Architecture Asia Forum Series: Global and Local-Heritage Conservation and Urban Regeneration, which convened 12 experts and scholars from Kenya, Nepal, Italy, France, the UK, and China. The forum convenor was Ar. Wu Jiang, the editor-in-chief. Ar.Thomas Cheung, ARCASIA Vice President (Zone C), delivered the opening speech.

The forum sought to share global practices and explore innovative models through cross-cultural and interdisciplinary dialogues. Reflecting on the issue discussion, Professor Nilda Valentin analyzed the challenges and opportunities in the urban regeneration of historic cultural centers. Professor Kalandar Shedor Kamalkhan focused on the Old Town of Mombasa, Kenya, proposing strategies for heritage conservation and architectural restoration. Director Onesmus Kakoi Mwatu examined Kenya’s legal framework and underscored the necessity of aligning urban planning policies with heritage protection regulations. Architect Padma Sundar Maharjan emphasized the social-constructivist nature of architecture and advocated for the concurrent development of heritage conservation and urban regeneration.

These contributions have envisioned the potential for cross-cultural and interdisciplinary collaboration to innovate heritage conservation and urban regeneration models. They have also expanded ARCASIA’s exchange network beyond Asia, fostering the integration of Asian and global experiences.

# Urban Regeneration of Historic Centers: Challenges and Opportunities

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**Abstract**

Urban regeneration of historic centers has emerged as a transformative strategy that reconciles heritage preservation with contemporary urban development. This comprehensive approach prioritizes sustainability, social inclusion, and community engagement while addressing challenges such as modernization, funding, and gentrification. This article explores methodologies, challenges, and best urban regeneration practices through case studies of cities such as Bologna, Milan, and Xi'an and initiatives such as the EU's NextGenerationEU program. By integrating historical preservation with modern needs, urban regeneration revitalizes historic centers, stimulates economic growth, improves quality of life, and strengthens community identity, ensuring a vibrant and resilient urban future.

**Key words:** Urban regeneration; Historic centers; Cultural heritage preservation; Sustainability; Community engagement

**Introduction**

Urban regeneration has emerged as a vital strategy for preserving and enhancing historic centers in major cities worldwide. This approach contrasts with the earlier trend of demolishing historic buildings and neighborhoods to accommodate new constructions. Instead, urban regeneration emphasizes the protection, restoration, regeneration, and enhancement of historic centers through a thoughtful, gradual process. This methodology not only aims at the physical transformation of urban spaces but also integrates cultural, social, economic, and environmental interventions to improve the quality of life while adhering to sustainability, inclusion, and participation principles. As cities grapple with the challenges of modernization, the conservation and regeneration of historic centers offer a path to blend historical heritage with contemporary urban needs. Urban regeneration, in many cases, encompasses a set of integrated actions designed to recover and redevelop degraded, abandoned, or underutilized urban areas while limiting land consumption. The

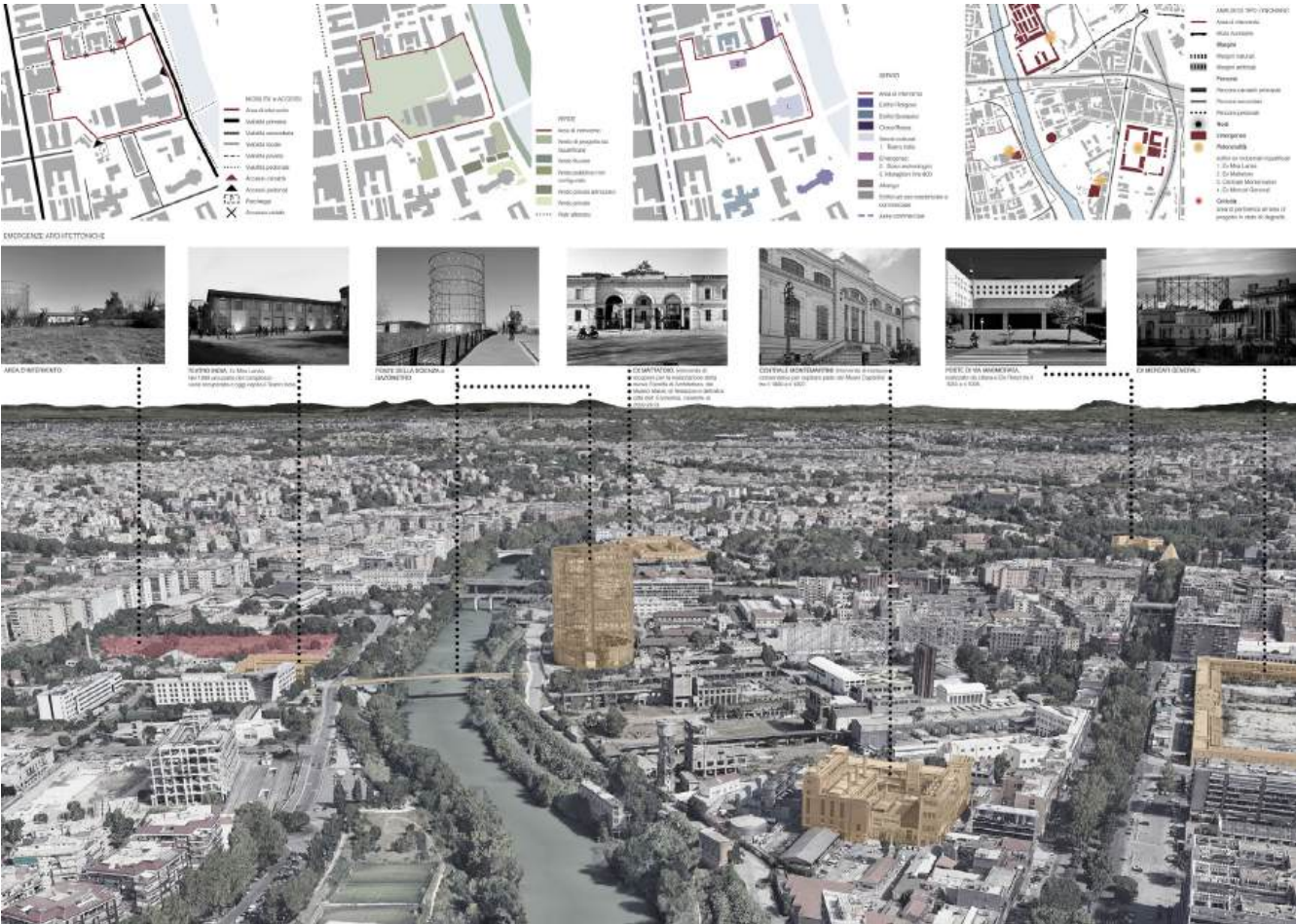
goal is to create sustainable and human-scaled cities, enabling communities to reclaim and revitalize the urban fabric. This would include enhancing the unique architectural and urban characteristics of historic areas and fostering a vibrant, livable environment through the creation of new cultural and socio-economic activities. However, urban regeneration is more than renovating buildings or neighborhoods or creating attractive public spaces. It encompasses a holistic approach that considers economic revitalization, social inclusion, and environmental sustainability. The involvement of local communities is fundamental, as their engagement ensures that regeneration projects meet residents' needs and aspirations. This participatory approach can foster a sense of ownership and pride among locals, contributing to the long-term success and sustainability of regeneration efforts. Economic revitalization often involves promoting local businesses, encouraging tourism, and creating jobs. Successful urban regeneration projects frequently include mixed-use developments that

combine residential, commercial, and cultural spaces. This diversity of uses can stimulate economic activity and make historic centers vibrant and lively places to live, work, and visit. Social inclusion is another critical aspect of urban regeneration. Ensuring all community members, including marginalized groups, benefit from regeneration efforts is essential. This can involve creating affordable housing, improving access to services and amenities, and fostering social cohesion through community activities and events. Socially inclusive regeneration can help reduce inequality and build more resilient communities. Environmental sustainability is a cornerstone of modern urban regeneration. Efforts to enhance green spaces, promote sustainable transportation, and implement energy-efficient building practices are integral to creating environmentally friendly cities. Regeneration projects often aim to reduce carbon footprints and enhance the overall environmental quality of urban areas.



View of the proposal.





Academic research with Valeria Sciarra, Proposal for the redevelopment of the former Miralanza industrial area in Rome: urban analysis [author's image].

Historical Stratification and City Identity

Every city is a palimpsest, composed of layers from various historical periods, each contributing to its physical, social, and economic development. These layers, characterized by unique architectural styles, contexts, and cultural backgrounds, serve as valuable repositories of collective heritage. Understanding the complex stratigraphy of a city — from its urban, architectural, archaeological, and natural perspectives — is crucial for appreciating its historical and cultural legacy. This knowledge helps identify appropriate tools for developing sustainable urban plans that respect and integrate these historical layers and preserve the city's identity while enabling modern growth. Since rapid urban development and the pursuit of progress and modernity have often neglected the richness of the past in the name of progress, urban regeneration has become one of the best tools for upgrading city areas. It follows a thorough study, analysis, and evaluation of tangible and intangible traces meaningful to the place and its people — a process that reinforces the historical memory that binds communities together.



Historical development of the studied area [author's image].

Methodology of Urban Regeneration

The urban regeneration of historic centers involves many aspects, such as the enhancement and protection of cultural and historical heritage, the perpetuation of the unique architectural and urban character of the place, the improvement of people's quality of life, the creation of new cultural and socio-economic activities, and the development of new open public spaces, such as pedestrian zones, squares, and green areas. Upgrading infrastructure for better functionality is also central. All these activities, while bringing a historic center back to life, also leave a legacy for future generations. However, determining the best approach to urban regeneration involves a multi-faceted methodology. First, it is crucial to define the historical and cultural importance of the center. This will be followed by a study and analysis of the current conditions of the area (urban fabric, buildings, green spaces, existing functions, and pedestrian and vehicular circulation). Once the areas to be enhanced and protected are selected, an analysis that identifies the potentialities and criticalities of the area is conducted to develop proposals that respond specifically to the context. For example, a SWOT analysis can assess the strengths, weaknesses, opportunities, and threats of a specific zone. Once the needs of both the people and the city are understood, specific architectural and urban proposals and strategies for revitalizing and reorganizing the area, including new functions and infrastructure improvements, can be advanced. All the above aims to reintegrate the historic center with the rest of the city and ensure it is well-connected with its surrounding environment. This process, though, often requires collaboration between the public and private sectors, utilizing various funding sources, loans, and new urban regulations. Developing specific design guidelines guarantees the quality and sustainability of the proposal.





Academic research with Francesco Santarelli, Proposal for the redevelopment of the former Miralanza industrial area in Rome: master plan (author's image).

### Challenges in Urban Regeneration

Despite its many benefits, urban regeneration also faces several challenges. One of the primary challenges is balancing the preservation of historical assets with the need for modernization. While protecting historical and cultural heritage is essential, these spaces must also be adapted to contemporary needs. Striking the right balance requires careful planning and sensitivity to the historical context.

Funding is another significant challenge. Urban regeneration projects can be expensive, and securing sufficient funding from public and private sources is often difficult. Innovative financing mechanisms, such as public-private partnerships and community-based funding, can help overcome this problem.

Gentrification is a potential downside of urban regeneration. While regeneration can revitalize neglected areas, it can also lead to rising property prices and the displacement of long-term residents. Strategies to mitigate gentrification include ensuring a mix of housing types, providing affordable housing options, and involving the community in planning processes. Ensuring that regeneration projects are inclusive and equitable and address the needs of all community members requires careful planning and implementation.

Regulatory obstacles and bureaucratic red tape can also impede urban regeneration efforts. Streamlining planning and approval processes and fostering collaboration between different levels of government can help overcome these obstacles.

### Case Studies: Examples of Urban Regeneration

Numerous cities worldwide have successfully implemented urban regeneration projects, providing valuable insights and models for other regions. Here are just some examples:

- **Bologna, Italy:** Bologna's historic center regeneration is a model of preserving cultural heritage while enhancing livability. The city's approach includes restoring historical buildings, creating pedestrian-friendly streets, and promoting local businesses. Bologna's success lies in its ability to balance the old with the new, integrating modern amenities while maintaining its historical charm.
- **Milan, Italy:** Milan has undertaken several urban regeneration projects to revitalize its historic center. Notable projects include the redevelopment of the Porta Nuova district, which transformed an underutilized area into a vibrant mixed-use neighborhood. Milan's regeneration efforts have focused on sustainability, with green spaces and energy-efficient buildings playing a central role.
- **Naples, Italy:** To address the challenges of a dense, historical city, Naples has embraced urban regeneration in many

### Components of Successful Urban Regeneration

A successful urban regeneration strategy involves five general design procedures:

- **In-depth study and analysis of the historic area.** This means analyzing the urban fabric, architectural styles, historical development, cultural, social, and economic activities, and environmental and infrastructural conditions. This information helps to identify the main problems and opportunities and, therefore, the best types of interventions to make in the area.
- **Development of a strategic urban vision.** Developing an urban vision that emphasizes not only the single buildings but the whole historic center is essential for integrating and interconnecting the center with the surrounding urban context.
- **Development of specific architectural and urban action plans.** Since new interventions must deal with the specific character of the historic center, that is, the existing architectural, urban, and infrastructural conditions, it is crucial to create specific architectural and urban action plans based on a list of priorities with both short and long-term objectives. This includes the development of design guidelines that allow the design control of the redevelopment to ensure quality and sustainability.
- **Protection and enhancement of historical and cultural heritage:** Emphasizing the protection and enhancement of cultural and historical heritage is core to urban regeneration. This fosters historical memory and strengthens community identity.
- **Development of a participatory process:** Promoting a participatory process by engaging local governments, decision-makers, stakeholders, institutions, and communities is fundamental. This ensures that decisions are socially and economically sustainable and that the projects reflect residents' needs and aspirations.

zones. The city's projects include restoring historic buildings, creating cultural spaces, and improving public transportation. Naples' regeneration efforts aim to enhance the quality of life for residents while attracting tourists and investors.

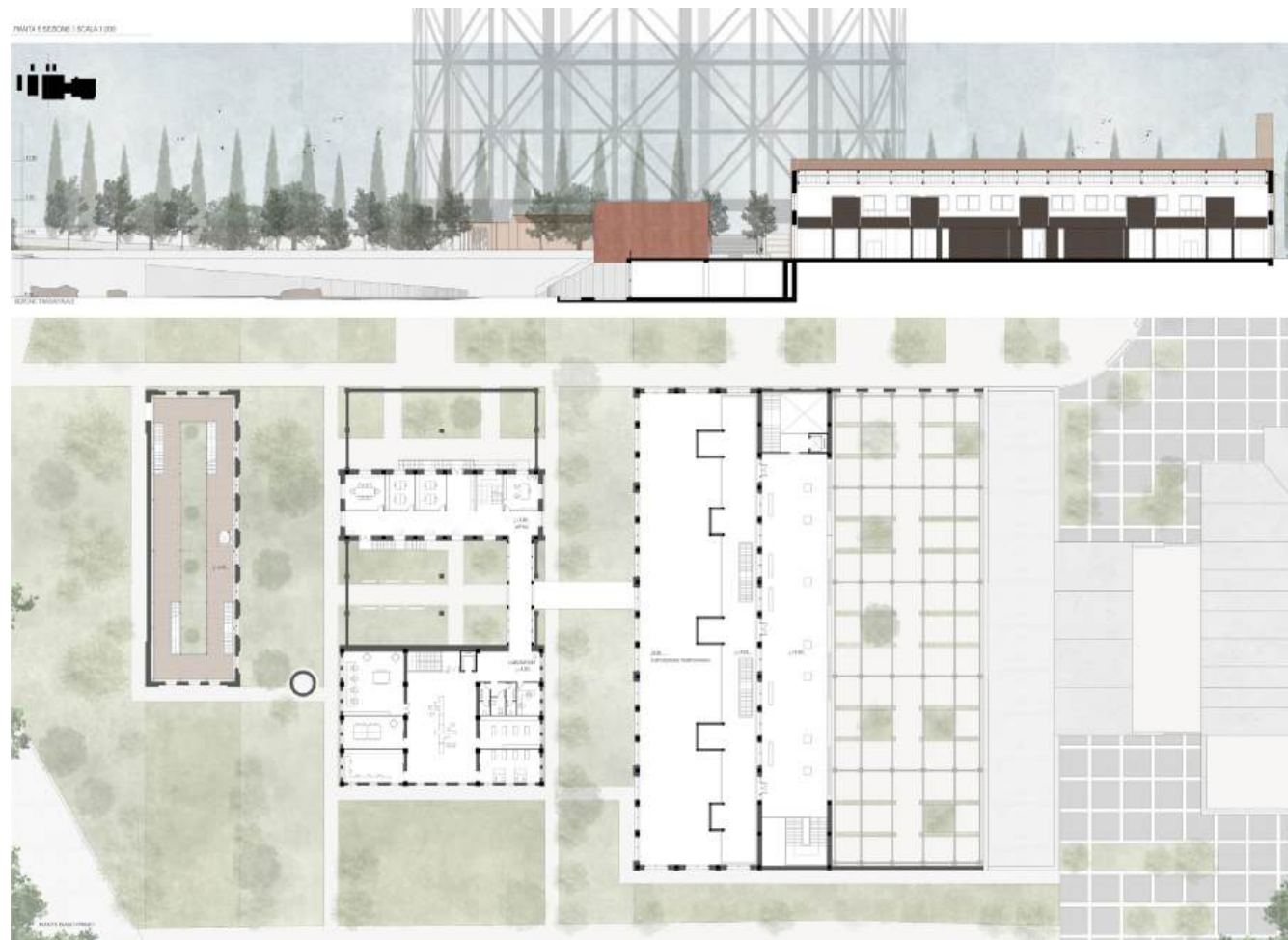
- **Florence, Italy:** Florence's urban regeneration strategy involves preserving its rich cultural heritage. Projects include restoring historical monuments, creating pedestrian zones, and promoting cultural activities. The city's success lies in its ability to leverage its historical assets to drive economic and social revitalization.
- **Rome, Italy:** Rome's urban regeneration projects are notable for their scale and ambition. The city is preparing for the upcoming Jubilee with several initiatives, including the redevelopment of the Forum area, the requalification of green spaces, and the improvement of infrastructure. Rome's approach emphasizes the integration of historical preservation with modern urban needs.

• **Buenos Aires, Argentina:** Buenos Aires has implemented several successful urban regeneration projects, such as the redevelopment of San Telmo neighborhood. These projects have focused on restoring historical buildings, enhancing public spaces,

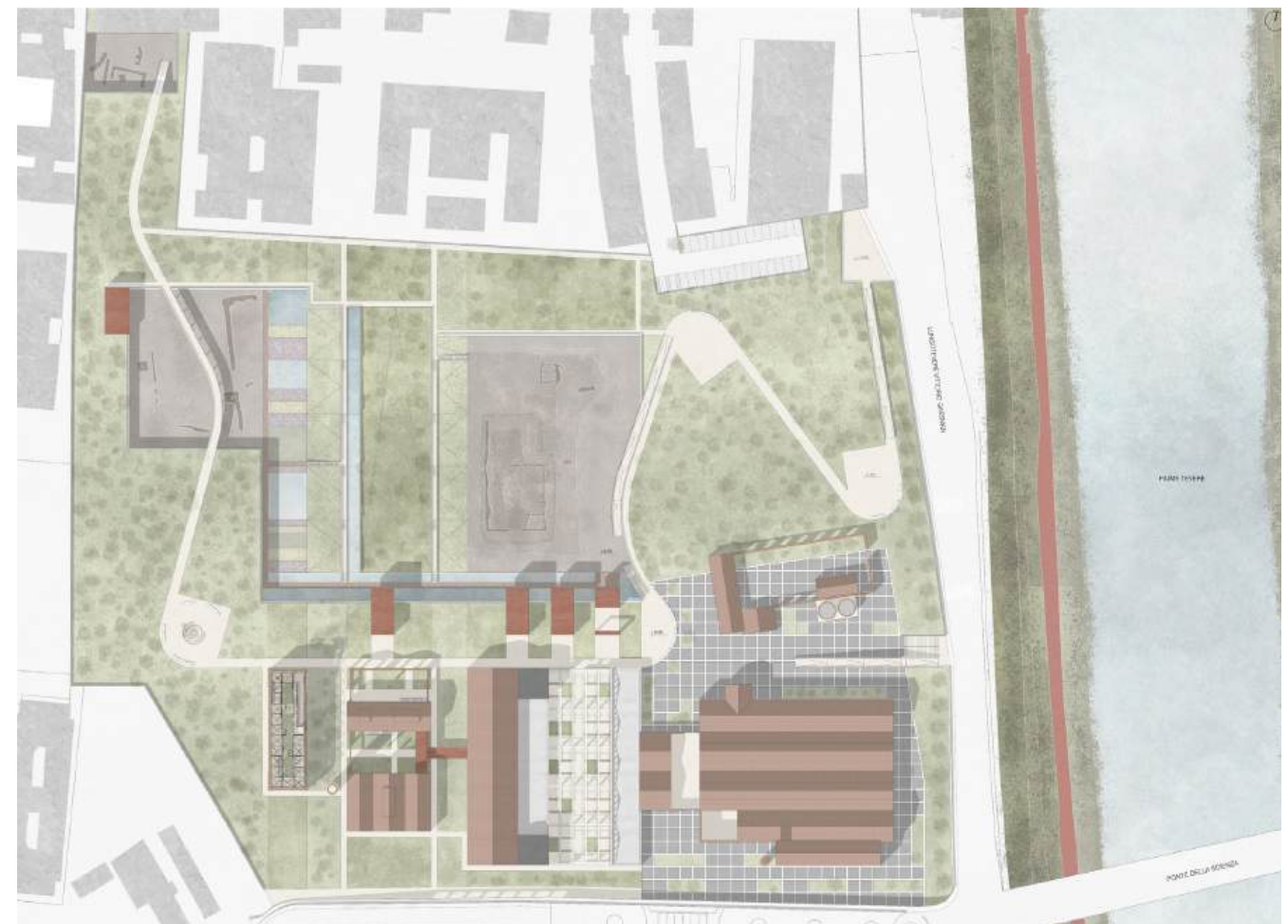
and promoting cultural activities. Buenos Aires' regeneration efforts aim to create a vibrant urban environment that celebrates the city's rich cultural heritage.

- **Sydney, Australia:** Sydney's urban regeneration projects include redeveloping the Barangaroo area, transforming a former industrial site into a thriving mixed-use precinct. Sydney's approach emphasizes sustainability, with green buildings, public spaces, and sustainable transportation options playing a central role.
- **Brussels, Belgium:** The requalification of former textile industry sites into cultural and residential hubs demonstrates Belgium's innovative approach to repurposing industrial heritage for contemporary uses.
- **Xi'an, China:** Xi'an, known for its historical significance, has undertaken several urban regeneration projects to preserve its cultural heritage while promoting economic development. The city's efforts include restoring historical sites, creating cultural districts, and improving public transportation. Xi'an's regeneration projects aim to enhance the city's attractiveness to tourists and investors while preserving its historical identity.





Partial plan and section.



Master plan for the former Miralanza industrial area (author's image).

### NextGenerationEU: A Catalyst for Urban Regeneration

In 2021, the European Union (EU) launched the NextGenerationEU program to fund the Recovery and Resilience Facility and other EU initiatives, such as the Just Transition Fund, Horizon Europe, InvestEU, RescEU, and ReactEU. About 806.9 billion euros have been allocated in grants and loans to mitigate the pandemic's economic and social impact on European states while building more sustainable, resilient cities prepared for the challenges and opportunities of green and digital transitions, creating jobs, and spurring growth. The NextGenerationEU's focus on sustainability and resilience aligns perfectly with urban regeneration goals, providing critical funding and support for projects that aim to revitalize

historic centers. It deals with six main priorities: green transition, digital transformation, economic cohesion, productivity and competitiveness, social and territorial cohesion, institutional resilience, and policies for the next generation. The investments and reforms have been synthesized into seven flagship areas: Power Up (clean technologies and renewables), Renovate (energy efficiency of buildings), Recharge and Refuel (sustainable transport and charging stations), Connect (roll-out of rapid broadband services), Modernize (digitalization of public administration), Scale-Up (data cloud capacities and sustainable processors), Reskill and Upskill (education and training to support digital skills).

NextGenerationEU projects are already having a significant impact on urban regeneration across Europe. The funding has enabled numerous cities to embark on ambitious regeneration projects integrating historical preservation with modern urban development. For instance, many cities like Milan, Florence, and Rome are witnessing successful landmark redevelopments in Italy. These projects include the revitalization of old town centers, the transformation of abandoned industrial areas, and the enhancement of public spaces. NextGenerationEU provides a robust framework and substantial funding to support these initiatives, making it a pivotal force in the ongoing efforts to rejuvenate Europe's historic centers.

### Future Directions and Research

Preserving cultural and heritage assets is central to urban regeneration. These assets provide a sense of identity and continuity in rapidly changing urban environments. Historical buildings, monuments, and public spaces offer tangible connections to the past. Regeneration projects prioritizing cultural and heritage preservation can foster a deeper appreciation of local history and traditions among residents and visitors alike. Urban regeneration projects aim to enhance the livability of historic centers by incorporating sustainable practices. This includes improving building energy efficiency, enhancing public transportation systems, creating pedestrian-friendly zones, and expanding green spaces. These initiatives improve residents' quality of life and attract tourists and new

businesses, boosting the local economy. Upgrading infrastructure is a critical component of urban regeneration. Modernizing utilities, transportation networks, and communication systems improves the functionality and resilience of historic centers. Enhanced connectivity, including efficient public transportation and high-speed Internet access, ensures historic centers remain vibrant and competitive in the modern economy. Infrastructure improvements should be designed to complement the area's historical character while meeting contemporary needs. Future research in urban regeneration should focus on developing innovative strategies to address the challenges of funding, gentrification, and regulatory obstacles. Exploring new financing mechanisms, such as impact investing and green bonds, can provide additional

resources for regeneration projects. Research on effective strategies to mitigate gentrification can ensure that regeneration efforts benefit all community members. Simplifying regulatory processes and fostering collaboration between different levels of government can facilitate more efficient and successful regeneration efforts. The role of technology in urban regeneration is another promising area for future research. Investigating the potential of emerging technologies, such as artificial intelligence and augmented reality, can enhance the planning, implementation, and management of regeneration projects. For example, artificial intelligence can optimize urban planning processes, while augmented reality can provide immersive experiences for community engagement and heritage preservation.





Aerial view of the proposal.



View of the entrance to the underground museum and library.

### Policy Implications

Policymakers play a crucial role in shaping the success of urban regeneration projects. Effective policies can support sustainable and inclusive regeneration by providing clear guidelines, incentives, and stakeholder support. Policymakers should prioritize the preservation of cultural heritage while promoting economic revitalization, social inclusion, and environmental sustainability. Collaboration between public and private sectors and community involvement should be central to policy development and implementation. Policies that support innovative financing mechanisms, such as public-private partnerships and community-based funding, can help overcome funding challenges. Regulations that promote affordable housing and mixed-use developments can mitigate the risks of gentrification. Streamlining regulatory processes and fostering collaboration between different levels of government can facilitate more efficient and successful regeneration efforts.

### Conclusions

Urban regeneration of historic centers, when conducted with respect for the specificity of the place, presents significant opportunities for protecting and enhancing cultural and historical heritage, creating new cultural, residential, social, and commercial activities, modernizing urban infrastructure and public transportation, redeveloping public spaces, and improving overall living conditions. It is a comprehensive process that involves multiple stakeholders, complex planning, and a deep understanding of historical, cultural, and social contexts. By prioritizing sustainability, inclusivity, and community engagement, urban regeneration can transform historic centers into dynamic, resilient, and vibrant urban spaces that honor the past while embracing the future. As cities continue to evolve, the principles and practices of urban regeneration will

play a crucial role in shaping the built environment and enhancing the quality of life for urban residents. Integrating cultural preservation with modern urban development is not merely a technical challenge but a philosophical and ethical one. It requires a commitment to valuing the past while innovating for the future, creating spaces that reflect our history and aspirations. As such, urban regeneration stands as a testament to our ability to adapt and thrive, ensuring that historic centers remain living, breathing parts of our urban landscapes. By embracing a holistic approach that integrates economic, social, and environmental considerations and leveraging the potential of emerging technologies, urban regeneration can enhance the quality of life for residents and leave a lasting legacy for future generations.



# The Plan for Urban Regeneration of Mombasa Old Town in Kenya

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Introduction

Balancing urban heritage conservation with urban regeneration is a challenging task for professionals in the field of urban development. On the one hand, there is a need to conserve the existing heritage; on the other hand, there is a need for development. This creates a delicate balance between living with the past and striving for the future. This is a global issue affecting the conservation of historic cities and the need for such cities

to develop. Innovative approaches are needed to balance the two, i.e. heritage conservation and urban regeneration. In this paper, I will look at the urban regeneration plan of the Old Town of Mombasa in Kenya which is a gazetted (protected) national site/monument and which also acts as a buffer zone to the world-renowned Fort Jesus which is a World Heritage site inscribed under UNESCO’s World Heritage List.

The Old Town of Mombasa

The Conservation Plan for the Old Town of Mombasa was published in 1990. The Plan outlined the history of Mombasa and the need to conserve its urban heritage – the Old Town. The Plan laid down guidelines for the implementation of the conservation of the Old Town of Mombasa.

In 1991, the Mombasa Old Town Conservation Area of about 32 hectares (which is about half the total size of the Old Town of Mombasa) was gazetted or legally protected as a “monument under the ‘Antiquities and Monuments Act’.” The Mombasa Old Town Conservation Office was established under the auspices of the National Museums of Kenya. The aims and objectives of the Mombasa Old Town Conservation Programme undertaken by Mombasa Old Town Conservation Office are:

- Planning, execution and actual implementation of the Conservation Programme
- Preparation of plans and proposals for restoration
- Provision of technical advice
- Improvement of public areas
- Setting up a legal framework for Conservation
- Fund-raising for the improvement of the Old Town of Mombasa
- Engaging in partnership with local and international governmental and non-governmental institutions

For over three decades, the National Museums of Kenya, through the Mombasa Old Town Conservation Office, has been implementing the Conservation Plan to the letter. The Conservation Plan has been rather focused on physical aspects such as the restoration of houses, the application of building guidelines, the rehabilitation of infrastructure, and the re-landscaping of open public areas, among others. These technical exercises can only be successful if they are placed within a development policy and if the programme is able to contribute to the strengthening of the economy and cultural identity. However, if too much emphasis is placed on physical aspects, it tends to freeze development. No one within the National Museums of Kenya or from outside has argued for total preservation of everything that is old in Mombasa. It is not the aim of the National Museums of Kenya to “fossilize” or “romanticise” the Old Town of Mombasa and to turn it into an open-air museum.



Part Map of Mombasa Old Town



**The Urban Regeneration Plan**

In the Constitution of Kenya 2010, public participation is ensured in all areas of the daily life of a human being. In Chapter 11 on Devolved Government, Section 184 ① on Urban Areas and Cities notes that: National legislation shall provide for the governance and management of urban areas and cities and shall, in particular, a. establish criteria for classifying areas as urban areas and cities, b. establish the principles of governance and management of urban areas and cities; and c. provide for participation by residents in the governance of urban areas and cities Adhering to the Constitution, all government agencies and institutions have to involve the local residents in planning for any development as noted in (c) “provide for participation by residents in the governance of urban areas and cities.” In early 2018, National Museums of Kenya came up with an idea to revitalize and revamp the historic and gazetted Old Town

of Mombasa and to give the area a “new face.” An “Urban Regeneration Plan for the Historic Old Town of Mombasa” was prepared by the National Museums of Kenya through its Mombasa Old Town Conservation Office. This Plan looked at all issues and challenges affecting the Old Town and documented this for presentation to the local residents. Different alternative solutions borrowed from different parts of the globe were suggested. The issues and the challenges and their corresponding mitigation measures were presented to the public in February 2018 in a meeting that took the whole day. The public was constituted by residents of Old Town, National Museums of Kenya, and the County Government of Mombasa (including the Governor of Mombasa), amongst others. The presentation made to the public started with showing the existing condition of houses and infrastructure in the Old Town of Mombasa. The dilapidated houses of Old Town, the cobweb of overhead

electrical wires, the damaged roads, the non-functional drainage system, the roads overcrowded with “tuk-tuks” (3-wheeler vehicles), the damaged architectural features of Old Town houses (balconies, doors etc.), the garbage disposal challenges, the drug addiction afflicting the young residents of Old Town, amongst other issues and challenges were enough to convince the public who attended the meeting that there was a dire need to come up with a plan for the urban regeneration of Old Town. Seeing the need for revitalizing and revamping the Old Town, the National Museums of Kenya had prepared mitigation measures borrowed from different countries of the world. These measures were found to be successful wherever they were applied. Using such case studies, the Plan proposed several measures that, if applied, would revitalize and revamp the Old Town.

**House Painting**

The proposal to re-paint all the houses in Old Town in different colours was presented to the public. Taking examples from Greece, Morocco, the Netherlands, and other parts of the world, it was proposed and, thereafter, agreed that all houses in Old Town would be re-painted with the funding provided by the County Government of Mombasa. Two different colours were chosen – golden yellow and brown – to match the colours of the Fort Jesus World Heritage Site. While painting the Old Town houses in white had always been the practice and the norm, it was decided that these colours would be changed to golden yellow and brown. Also, after having travelled to Santorini, Greece, some county senior officials from the County Government of Mombasa decided that these colours would be used for buildings in the Central Business District of Mombasa. It was argued that the white and blue

colours chosen for the buildings within the Central Business District represented the sky and the ocean, respectively. The colours of golden yellow and brown chosen for the painting of houses in the Old Town, while borrowing the colours of Fort Jesus World Heritage Site, also represented the sun and the earth, respectively. This was widely accepted by the public who attended the meeting to discuss the urban regeneration plan for the historic Old Town of Mombasa. The County Government of Mombasa agreed to paint the houses while the National Museums of Kenya would provide the relevant technical expertise whenever required. External donors from friendly countries with a rich history in Mombasa would also be approached to provide the financial back-up. These suggestions were unanimously accepted and agreed upon for implementation.



Basheikh Mosque in Old Town



The confusing traffic layout



The cobweb of the electricity lines





The choosing of colours for painting the houses in Old Town



Retaining the serenity of Old Town

### The Existing State of Infrastructure in Old Town

More than two decades ago, the infrastructure of the Old Town was functional. Old Town was one of the best residential areas in Mombasa due to the functional infrastructure like water supply, rainwater drainage, sewage, garbage collection, paved areas, roads, pavements, and electrical works, among others. Also, easy accessibility to different amenities and facilities like banks, hospitals, schools, government offices, playgrounds, and hotels, amongst others, made Old Town a place where people wanted to reside. Safety and security of residents and properties were also a main factor that people preferred to live in Old Town. Today, due to the influx of refugees from the neighbouring country, the situation in Old Town has changed drastically. Overpopulation and the influx of refugees in Old Town have placed a big burden on the existing infrastructure. Whereas the

population in Old Town has increased, the infrastructural services have remained the same. Due to shortage of water provided by the County Government, residents have resorted to digging water boreholes. The high number of water boreholes has, in turn, turned the water saline. Thus, the salty water has had its negative effects on the human body, kitchen equipment and other wet facilities. The residents of Old Town have resorted to buying potable water from water vendors. As there has been no improvement of infrastructural facilities – even with the population growth in Old Town, rainwater drainage and sewage disposal have deteriorated, sometimes causing outbreaks like cholera and other water-borne diseases. Many new buildings coming up in Old Town have connected the sewage disposal to the rainwater drainage channels. Hence, during rainy seasons, the rainwater drainage channels tend to block and raw sewage over-flooded the

Old Town streets. Garbage collection and disposal remains the biggest enigma of the residents of Old Town. The Old Town residents have complained about the poor services offered by the County Government regarding garbage collection and disposal. Young people of Old Town have grouped themselves to offer the services of garbage collection and disposal at a small fee. The quality of paved vehicular and pedestrian roads has deteriorated due to lack of maintenance. Potholes have appeared on vehicular roads while pedestrians cannot walk on the pavements due to lack of maintenance and overcrowding by hawkers selling their wares on the pavements. The haphazard electrical cables and the cobweb of internet cables have not only placed Old Town in a precarious position due to the possibility of fire outbreaks, but also portrayed ugly scenes as one walks along the streets of Old Town.



Buildings along Mbarak Hinawy Road

### The Existing State of Buildings in Old Town

Family ownership of buildings in Old Town coupled with the high cost of maintenance are the main causes of deterioration of the state of the buildings in Old Town. Other causes are climatic and environmental factors that have negative effects on the buildings.

### The Rehabilitation and Upgrading of Buildings and Infrastructure in Old Town

The rehabilitation and upgrading of buildings and infrastructure are important for the urban regeneration of Old Town. In order to revamp and revitalize the Old Town, it is important to look at the state of existing buildings and infrastructure and try to map out the challenges and possible solutions to the existing problems. The stakeholders who attended the meeting were shown the different challenges and issues affecting the Old Town. Possible solutions taken from other countries in the world were presented to the stakeholders to appreciate the different possibilities to revamp, revitalize and regenerate the Old Town of Mombasa. Images of restored and revamped buildings were shown to the stakeholders who attended the meeting. Images of upgraded infrastructure, including roads, pavements and even street lighting undertaken in other historic cities in the world were shown to the stakeholders. It was agreed that there was a need to revamp, revitalise and regenerate the historic Old Town of Mombasa. Thus, an urban regeneration plan had to be prepared by the National Museums of Kenya. This urban regeneration plan would indicate ways of regenerating the Old Town by revamping the historic buildings, upgrading the infrastructure, and revitalizing the economy of the Old Town.





The Mombasa Old Town Urban Regeneration Plan

#### Integrated Strategic Urban Development Plan of Mombasa – Vision 2035

This document was prepared by the County Government of Mombasa. It aims to coordinate development projects, provide services and facilities for Mombasa residents, promote environmental conservation, and guide investments. It establishes goals in five areas: economy, living standards, environment, land use, and sustainability to achieve a vision of Mombasa as a vibrant, connected, affordable, well-maintained, high-quality city that preserves its character. The vision of the Integrated Strategic Urban Development Plan is:

A vibrant-world class connected hub of excellence that promotes diversity, natural environment and heritage.

The Integrated Strategic Urban Development Plan of Mombasa proposed some interventions for the Old Town:

- rationalization of traffic
- linking the Old Port to Mackinnon Market
- renewal of the Old Port, the Fish Market and Mackinnon Market
- creation of thematic trade bazaars (street-based)
- upgrading of community public spaces
- creation of tourist information and business centre
- development of water transport terminals
- upgrading of the Swahili Cultural Centre
- creation of a buffer zone between the new and the Old Town quarters

It was from this stakeholders meeting that a need was found for the urban regeneration of the Old Town of Mombasa. This need has since been included in all policies and development plans affecting the City of Mombasa. The issue of cultural heritage and the urban regeneration of the Old Town of Mombasa has since then been considered an important inclusion in the development of Mombasa.

#### The Implementation of the Urban Regeneration Plan of Mombasa Old Town

The National Museums of Kenya and the County Government of Mombasa entered into a partnership to look into the urban regeneration issues of Mombasa Old Town and to implement some small programmes that have immediate effects.

The repainting of buildings in Old Town was the first act to be undertaken. This act also extended to the Central Business District of Mombasa. The Old Town of Mombasa was the first area in Kenya to have the buildings painted uniformly using golden yellow and brown colours while the buildings in the Central Business District were painted in white and blue. During the stakeholders meeting, the residents of Old Town were promised that the costs of repainting their houses would be borne by

the County Government of Mombasa. True to its word, the County Government, supervised by the National Museums of Kenya, started repainting houses in Old Town using golden yellow and brown colours. However, after some houses in Old Town were repainted for free, the County Government asked the residents to undertake the repainting at their own costs. Other places like Nairobi followed suit, whereby the County Government of Nairobi asked its residents to repaint their houses using recommended paint colours. The pedestrian pavements began to be upgraded by using concrete tiles popularly known as “Cabro” tiles named after the company that first produced such tiles – Cabroworks.

The Urban Regeneration Plan of Mombasa Old Town also included installing street

lights and renaming the roads in Old Town. It was agreed that the street-lights would be appropriate for historic areas like the Old Town. The choice of street lights would be done carefully. Along with this, the streets in Old Town would be renamed to reflect the history and the residents of the Old Town. Irrelevant street names would be removed and replaced with street names that reflect the importance of Old Town in the history of Mombasa and the country in general.

Public open places would be re-landscaped for the enjoyment of Old Town residents.

Due to the high amount of investment required, the upgrading of the infrastructure would be undertaken at a later stage.



The serene Old Town



The different choice of colours for painting the houses





More choices of colours for painting the houses



Choosing the colours for painting houses



Proposed street signs to match the historic character of Old Town

#### Failure of the Urban Regeneration Plan of Mombasa Old Town

The Urban Regeneration Plan of the Old Town of Mombasa was accepted by all the stakeholders present during the meeting. What remained was the implementation which required a substantial amount of money, political power, and close supervision of the works.

A potential and friendly Arabian country was willing to finance the Urban Regeneration Plan of the Old Town of Mombasa. Plans were already made by officials from the National Museums of Kenya and the County Government of Mombasa to visit this friendly Arabian country to discuss the modalities and logistics of the implementation.

In terms of supervision of the works, there were qualified technical and non-technical staff from both, the National Museums of Kenya and the County Government of Mombasa, who would be able to carry out the works without any problem.

However, what was missing was the political power to implement the Plan. The County Government did not give its political blessing for this Plan. As the main local authority in terms of approval of building plans and even implementation, the County Government should have taken the lead in this process. However, local politics played a big role in frustrating the Urban Regeneration Plan of the Old Town of Mombasa. Only a couple of items were undertaken. These included re-painting the houses and re-paving the pedestrian pavement areas. Recently, due to the pressure exerted by Mombasa Old Town residents, some minor infrastructural works have started. However, this is still not enough.

It was a pity that the political will to implement the Plan was missing in this case. The Urban Regeneration Plan, if fully implemented, would have drastically improved the living conditions of Old Town residents.

#### Conclusions

Even if there is a substantial amount of funding and technical skills to implement any programme in a historic old town anywhere in the world, it is important to have the political willpower and political support to undertake the programme. Hopefully, the National Museums of Kenya can re-visit this Urban Regeneration Plan of the Old Town of Mombasa and again partner with the County Government of Mombasa to implement the programme. Maybe, the involvement of the National Government can act as a mediator to ensure that the political willpower and political support will be present to implement the Urban Regeneration Plan of the Old Town of Mombasa in the near future.



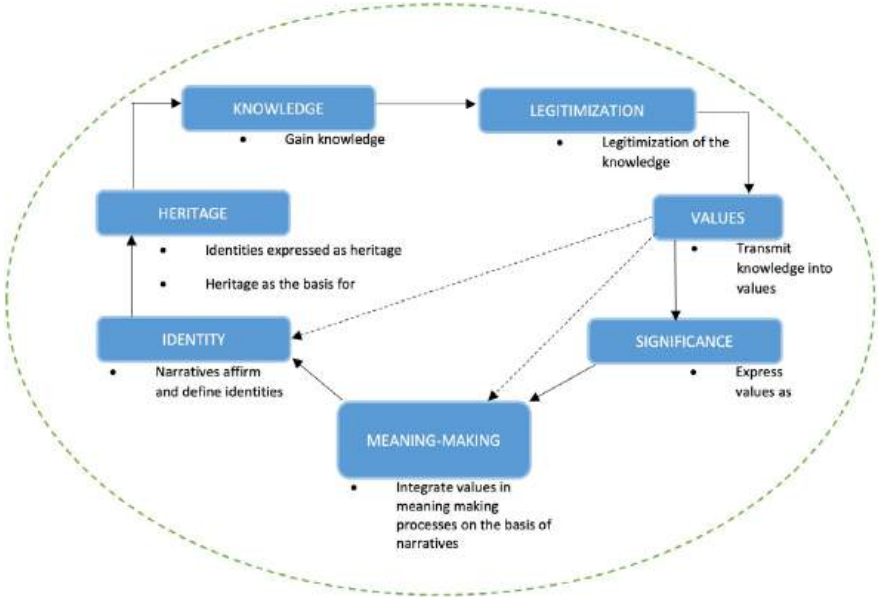
# Cultural Heritage and its Legal Protection in Kenya since the Colonial Period

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**Abstract**  
*This paper documents and analyses the legal framework for cultural heritage protection in Kenya from the colonial period to the present. The study relied on literature review and historical data from various sources on cultural heritage legislation in Kenya. Since the legal definition of heritage and its categories was influenced by the colonial experience, which focused on the material aspects of heritage, it is observed that the legal framework for cultural heritage protection has, until 2016, overemphasized elements of tangible heritage. The limited attention given to intangible heritage has implied the exclusion of indigenous perceptions of heritage, a situation which impacts negatively on heritage management.*

**Key words:** Cultural heritage, Legal protection

Figure 1  
The Heritage Construction Cycle [Source: Adapted from Rodolff (2006). 'Intangible' and 'Tangible' heritage: A topology of culture in contexts of faith. (Unpublished PhD thesis)]



**Introduction**  
Since the colonial period Kenya has had six laws relating directly to heritage protection:  
(1) the Ancient Monuments Preservation Ordinance, 1927 (repealed);  
(2) the Preservation of Objects of Archaeological and Palaeontological Interest Ordinance, Chapter 215 (repealed);  
(3) the Antiquities and Monuments Act, 1983 (repealed);  
(4) the National Museums Act, Chapter 216 (repealed);  
(5) the National Museums and Heritage Act number 6 of 2006;  
(6) the Protection of Traditional Knowledge and Cultural Expressions Act number 33 of 2016.

Other laws which indirectly affect cultural heritage include the Physical Planning Act number 6 of 1996 (repealed), the Environment Management and Coordination Act number 8 of 1999, the Urban Areas and Cities Act number 13 of 2011 (together with the amendment act, the Urban Areas and Cities Amendment Act, 2019), the County Governments Act number 17 of 2012 (together with the amendment Act, the County Governments Amendment Act number 11 of 2020) and the Physical and Land-Use Planning Act number 13 of 2019. Has Kenyan domestic laws on heritage clearly identified the type of heritage to be protected? Does the scope of heritage in these laws exclude other forms of heritage? Is the legal framework adequate to protect and enhance the national and local heritage? Through documenting and analyzing the legal frameworks for cultural heritage protection in Kenya from the colonial period to the present, this paper

seeks to answer this battery of questions. The theoretical conception of heritage will be cast first before delving into the matters of law. The discussion on heritage law will pit colonial laws against post-colonial laws.

**The Conception of Heritage**  
Does the challenge of conservation lie in the definition and understanding of key concepts such as heritage? The many possible meanings that can be attached to the basic notion of conservation are an important obstacle to any reflection regarding this topic (Rodwell, 2007, Vinas, 2005). Rodwell is particularly more emphatic: “Architectural conservation is handicapped by confusion and ambiguity in key elements of its vocabulary: heritage, preservation, conservation, restoration and authenticity” (Rodwell, 2007, p. 22). A legal definition of heritage has a precision (or should have a precision) without ambiguity and influences the way heritage is administered or protected (Ndoro, W., 2009). This should remain the focus of heritage laws and instruments. However, the definition may be limited in its scope, thus excluding some heritage elements from protection. Secondly, the law does not always mirror reality, at best, it may reflect it (Negri, 2005, pp. 5-8). The way institutions operate is often another very useful source of information. Various authors (Rodwell, 2007, Hodder, 1993, Layton & Ucko, 1999, Salvatore & Lizama, 2018, Ndoro, W., 2009 and Vinas, 2005) have made attempts to define cultural heritage, albeit, with differences in emphasis. Some see cultural heritage as physical entities fashioned by human actions (Layton & Ucko, 1999); others see it

as an expression of meanings, values and claims based on material things (Hodder, 1993). For some, heritage is embedded in the movable and immovable, tangible and intangible (Ndoro, W., 2009), the intangible giving meaning to the tangible. Heritage construction is cyclic (Rodolff, 2006), being a synthesis of knowledge, legitimization of the knowledge, values, significance, meaning-making, and identity. Identities are expressed as heritage which becomes a basis for knowledge generation. This is illustrated in figure 1. With slight modifications, a number of international instruments (charters, conventions, declarations and protocols) have categorized heritage as immovable and movable properties and sites, this largely applying to the tangible. The concept of intangible cultural heritage was not always part of the strong foundation of cultural heritage discourse. It was not until its meeting in 1989 that UNESCO adopted a resolution on the “safeguarding of traditional culture and folklore”. This paved the way for more reflections on cultural expressions and intangible heritage through declarations and conventions such as the 2001 Universal Declaration on Cultural Diversity; the 2003 Convention for the Safeguarding of Intangible Cultural Heritage; and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. While stressing the need to define clearly the type of heritage to be protected, since ‘a people’s heritage is much more than just archaeological sites and historic buildings...’, Ndoro (2009) identifies four approaches to the definition of heritage: (1) firstly, a definition of protected heritage which specifies particular places by giving



the list of items and places to be protected, such as relics and ancient monuments. This list may, however, exclude important places or areas which could in future be considered as heritage;

(2) secondly, a definition of protected heritage based on values of the heritage resources, such as archaeological, historical, architectural, scientific and aesthetic or artistic values. This list may not cover all the values. In addition, values may be subject to various interpretations;

(3) thirdly, a definition based on land management or demarcation of places to provide general protection. Areas can be declared conservation or protected zones. This approach is found mostly in laws relating to environmental management and physical planning;

(4) fourthly, a definition based on time scales (chronology) or historical value. A termination calendar date for what is protected is provided and, at times, the age of the heritage to be protected is given. With the termination calendar date, it means that as years pass, the extent of protected heritage does not grow. The alternative of specifying the age of the heritage, such as anything older than 100 years, provides an accumulated buildup of the protected heritage.

(Ndoro, W., 2009, pp. 25-35).

Now we turn to the heritage laws.

### The Colonial Period

The first legal instrument on the preservation of cultural heritage in Kenya was the Ancient Monuments Preservation Ordinance, 1927. This Ordinance was replaced in 1934 by the Preservation of Objects of Archaeological and Palaeontological Interest Ordinance, Chapter 215.

a) The Ancient Monuments Preservation Ordinance, 1927 (Repealed)  
Established to provide for the preservation of ancient monuments and objects of archaeological, historic and artistic interest, the Ordinance categorized cultural heritage into monuments and antiquities.

Section 2 defined monuments as any structure, erection or memorial, or any tumulus or place of interment, or any cave, rock-sculpture, inscription of monolith, which is of archaeological, historical or artistic interest, or any remains thereof (Kenya, Republic of, 1927). This included the site of the monument, the adjoining land and the means of access to the site. The Ordinance gave the colonial Governor immense powers of assigning cultural heritage value to properties and objects. For instance, an antiquity was defined to include any movable object that the Governor, by reason of its archaeological or historical association, may think it necessary to protect against damage, removal or dispersion. Furthermore, section 3 empowered the Governor to declare any monument or antiquity to be a protected monument by posting a notice of such intention of declaration in a conspicuous place on or near the monument or antiquity to which it relates (Kenya, Republic of, 1927).

Whereas the Ordinance alluded to an Authority for purposes of guardianship of monuments and antiquities, the definition

of the Authority in section 2 as “... all Senior Commissioners and any person or body of persons authorized by the Governor to perform the duties of an Authority...” provided a weak link to the envisaged guardianship. Individuals could easily abuse such powers accorded to them. b) The Preservation of Objects of Archaeological and Palaeontological Interest Ordinance, Chapter 215 (Repealed)  
This Ordinance construed cultural heritage as monuments, these being objects of archaeological, palaeontological, anthropological, ethnological, prehistoric or historic interest, including the area of land in which such objects are believed to exist. The definition of monuments was similar to that in the Ancient Monuments Preservation Ordinance, 1927, with the inclusion of palaeontological, anthropological, ethnological, and prehistoric interest. Antiquities, as declared in the 1927 Ordinance, were considered as monuments in this Ordinance.

The declaration of monuments by the colonial Governor was covered in section 6. Section 3 expounded on the requirements for an exploration license. Subsection (1) read:  
“Unless authorized by a permit issued by the Minister, no person shall by means of excavation or surface operations search for any object or archaeological or palaeontological interest” (Kenya, 1962). The requirements for an export permit were covered in Section 19 in which case the Minister would ‘as he may deem fit’ authorize or deny such exportation. This section did not allow for consultation between the Minister and a competent authority while granting or otherwise the export permit.

Following the spirit of the 1927 Ordinance, the Preservation of Objects of Archaeologi-

cal and Palaeontological Interest Ordinance made reference to an authority which may, with the sanction of the Minister purchase or take lease of any monument, accept a gift or bequest of any monument, and accept guardianship of a monument. Section two defined this ‘authority’ as:  
“a Provincial Commissioner or any person or body of persons authorized by the Governor to perform the duties of an authority...” (Kenya, 1962). As it was observed in the case of the Ancient Monuments Preservation Ordinance, 1927, the inclusion of individuals within the meaning of the ‘authority’ provided a weak link to the guardianship of monuments since individuals could be easily compromised.

The categorization of heritage as monuments and antiquities (the Ancient Monuments Preservation Ordinance, 1927) and as monuments (the Preservation of Objects of Archaeological and Palaeontological Interest Ordinance, Chapter 215) excluded intangible heritage, thus alienating local people from the administration of their natural and cultural heritage. Mumma (2009) observes that the colonial period saw the redefinition of heritage from an African perspective to a western perspective, that is, one of monumentality and aesthetics (Mumma, 2009, pp. 109-113). Consequently, many of the traditional values that had provided the rationale for the protection of Africa’s heritage in the past, particularly its intangible elements, became objects of ridicule and were discarded. This weakness of a European legal system transplanted to Africa has also been discussed by Ndoro and Kiriamu (2009) in their book section Management mechanisms in heritage legislation (Ndoro & Kiriamu, 2009)

### Post-independence Kenya

Post independent Kenya witnessed the enactment of four Acts relating to cultural heritage:

(1) the Antiquities and Monuments Act, 1983;

(2) the National Museums Act, Chapter 216;

(3) the National Museums and Heritage Act number 6 of 2006;

(4) the Protection of Traditional Knowledge and Cultural Expressions Act No. 33 of 2016.

#### a) The Antiquities and Monuments Act, 1983 (Repealed)

The first post-colonial law on cultural heritage, the Antiquities and Monuments Act, repealed the Preservation of Objects of Archaeological and Palaeontological Interest Ordinance, Chapter 215. The enactment of this law twenty years after independence, might imply that independence did not necessarily result in the breaking off with the cultural heritage protection system installed by the colonial power. Due to the public and administrative structures left by the colonial powers and developed in African territories, it was understandable that the principle of continuity (as dictated by economic and political realities) in the legal domain was found necessary by independent African states (Negri, 2005).

The Act construed heritage as movable and immovable, this including antiquities, monuments and protected objects. An antiquity was defined as any movable object other than a book or document made or imported into Kenya before the year 1895, or any human, faunal or floral remains of similar minimum age which may exist in Kenya.

A monument was on the other hand defined as:

(1) an immovable structure built before the year 1895, other than that which the Minister may declare not to be a monument;

(2) a rock-painting, carving or inscription made on an immovable surface before the year 1895;

(3) an earthwork or other immovable object attributable to human activity constructed before the year 1895;

(4) a place or immovable structure of any age which being of historical interest, is declared by the Minister to be a monument. ‘Historical interest’ was qualified as “an antiquity which came into existence in or after the year 1800”.

The definition included the site thereof and any adjoining land required for mainte-

nance. Furthermore, a site on which a buried monument or object of archaeological or palaeontological interest exists or is believed to exist, together with the adjoining land, was declared ‘protected’ area under section 4 (1)(b). The application of the Act extended to monuments and antiquities on the seabed within the territorial waters of Kenya.

A protected object was defined as a door or door frame carved in an African or Oriental style before the year 1946, or any other such object, which, being of historical or cultural interest, the Minister might declare as such.

Whereas the Act gave a list of items to be protected (following Ndoro’s (2009) Four Approaches to the definition of heritage), it is to be faulted for laying emphasis on age, archaeological, palaeontological, architectural and historic values without considering other values such as scientific and technological ones.

Secondly, whereas the Minister could declare a place or an immovable structure of any age to be a monument, the definition gave priority to such structures which were built before the year 1895, this year corresponding to the establishment of the British protectorate in Kenya. That protected objects should have been in existence before 1946 must also be challenged. This form of definition, using a termination calendar date, in addition to discarding modern heritage, implies that the extent of heritage does not grow with the passage of time. The Act was not alive to article 1 of the ICOMOS Charter for the Conservation and Restoration of Monuments and Sites, Venice 1964, which intimated that modest works of the past would acquire cultural significance with the passing of time. The phrase in the definition of monuments “a place or immovable structure of any age which being of historical interest has and remains declared by the Minister ... to be a monument” (Kenya, 1983 Article 2(d)) requires further interrogation. Since the Act defined historical interest to be “an antiq-

uity which came into existence in or after the year 1800” (section 2), and an antiquity as “any movable object ... made or imported into Kenya before the year 1895” doesn’t this bring some sort of contradiction to that which, being of any age, the Minister may declare to be a monument? The age is already locked to between 1800 and 1895. Technically a place or immovable structure outside these age limits could not qualify as a monument. The author agrees with Kyule (2016) that traditional resources are transitional. Kyule’s remarks are worth quoting in full: “the symbolic value of traditional or cultural resources cannot be restricted in a time capsule that declares certain cultural materials antique or otherwise, just because they existed before or after a certain date that has no significance on the existing cultural resource context” (Kyule, 2016).

#### b) The National Museums Act, Chapter 216 (Repealed)

This Act was enacted to provide for the establishment, control, management and development of National Museums and for connected purposes. It also established the National Museums Board of Governors (the successor of the Museums Trustees of Kenya) and bestowed power on the Board to “operate as an authority within the meaning and for the purposes of the Antiquities and Monuments Act, and otherwise assist the Government in the administration of that Act” (Kenya, 1984, Section 8(1)(k)).

Section 3 outlined the functions of the National Museums as:

(1) to serve as a national repository for things of scientific, cultural, technological and human interest;

(2) to serve as a place where research and dissemination of knowledge in all fields of scientific, cultural, technological and human interest may be undertaken. (Kenya, Republic of, 1984).

**c)The National Museums and Heritage Act Number 6 of 2006**

This current law on heritage repealed the Antiquities and Monuments Act, Chapter 215 and the National Museums Act, Chapter 216. It provides for the identification, protection, conservation and transmission of the cultural and natural heritage of Kenya. In addition, it consolidates the law relating to national museums and heritage and provides for the establishment, control, management and development of national museums.

The Act categorizes heritage into antiquities and cultural heritage. Whereas the definition of an antiquity is similar to that ascribed by the Antiquities and Monuments Act of 1983, this Act broadens the meaning of heritage beyond monuments and protected objects to cultural heritage. Cultural heritage is defined as:

- (1) monuments;
- (2) architectural works of universal value from the point of view of history, art or science;
- (3) groups of separate or connected buildings of outstanding value from the point of view of history, art or science;
- (4) works of humanity or the combined works of nature and humanity, and sites of outstanding value from the historical, aesthetic, ethnological or anthropological point of view.

The definition includes objects of archaeological or palaeontological interest, objects of historical interest and protected objects. (Kenya, Republic of, 2006).

The Act introduces the terms “universal value and outstanding value”, but does not give the criteria for determining these values within the Kenyan context; the term was most certainly informed by the Outstanding Universal Value concept used in the 1972 World Heritage Convention. That the Act considers cultural and natural heritage is a good thing, another idea borrowed from the World Heritage Convention, 1972.

Section 2 defines monuments as:

- (1) a place or immovable structure of any age which, being of historical, cultural, scientific, architectural, technological or other human interest, has been and remains declared by the Minister ... to be a monument;
  - (2) a rock-painting, carving or inscription made on an immovable object;
  - (3) an ancient earthwork or other immovable object attributable to human activity;
  - (4) a structure which is of public interest by reason of the historic, architectural, traditional, artistic or archaeological interest attached to it,
  - (5) a shipwreck more than fifty years old, and such adjoining land as may be required for maintenance thereof.
- The earlier requirement in the Antiquities and Monuments Act, 1983, that a monument is an immovable structure built before the year 1895 is struck off. This definition is progressive, for, it not only allows the inclusion of modern heritage, but also allows the list of heritage resources to keep growing.

It is instructive that the Act considers shipwrecks more than fifty years old to be monuments. This is particularly important for the conservation of underwater heritage. Section 2(2) further notes that “This Act extends to heritage including monuments, antiquities and shipwrecks in lakes and waters within Kenya, or on the seabed within the territorial waters of Kenya”. It is, however, noted that the UNESCO Convention on the Protection of the Underwater Cultural Heritage, 2001, avers that underwater cultural heritage should have been underwater for over 100 years: “Underwater cultural heritage means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years ...” (UNESCO, 2001 (b) Article 1.1 (a)). It is further observed that, in respect to

underwater cultural heritage, the Act has not provided further regulations or details of the measures to be taken in:

- (1) guiding comprehensive protection for underwater cultural heritage;
- (2) harmonizing the protection of underwater cultural heritage with that of heritage on land;
- (3) providing archaeologists with guidelines on how to treat underwater cultural heritage.

Following the spirit of the repealed Antiquities and Monuments Act, 1983, the Act is emphatic on the protection of monuments, antiquities, protected objects and sites; exploration licenses and dealership in antiquities including the requirement of export licenses. Whereas this is positive, it does not address the fundamental issues of benefit to communities. It is clearly silent on intangible forms of heritage.

Kyule (2016) observes that the Act is not clear on the rights of community cultural heritage ownership, use and compensation for exploitation of the same and communal public-orientated approaches toward cultural heritage resources management. In the light of this, Ndoro, et al, (2009) was right in asserting that most heritage legislation in Africa are concerned with monumental heritage, rather than other types such as vernacular architecture and intangible and spiritual heritage. There is, therefore, a need to contextualize the heritage laws for, as observed by Keitumetse (2016) “... African landscapes of outstanding universal value are commonly utilized for traditional purposes by local populations” (Keitumetse, 2016, p.24).

It is argued that the Act did not take cognizance of the various UNESCO instruments on cultural diversity and intangible heritage such as the 2003 Convention for the Safeguarding of Intangible Cultural Heritage and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

**d) The Protection of Traditional Knowledge and Cultural Expressions Act Number 33 of 2016**

Enacted in 2016, the Protection of Traditional Knowledge and Cultural Expressions Act attempts to fill in the gaps identified in the National Museums and Heritage Act number 6 of 2006 regarding intangible heritage and cultural expressions. It also gives effect to articles 11, 40 and 69(1)(c) of the Kenya Constitution 2010.

Section 2 of the Act defines cultural expressions as any forms, whether tangible or intangible, in which traditional culture and knowledge are expressed. They appear or are manifested in:

- (1) verbal expressions including stories, epics, legends, poetry, riddles; other narratives; words, signs, names, and symbols;
  - (2) musical expressions including songs and instrumental music;
  - (3) expressions by movement, including dances, plays, rituals or other performances, whether or not reduced to a material form;
  - (4) tangible expressions, including productions of art, drawings, etchings, lithographs, engravings, prints, photographs, designs, paintings, including body-painting, carvings, sculptures, pottery, terracotta, mosaic, woodwork, metal ware, jewelry, basketry, pictorial woven tissues, needlework, textiles, glassware, carpets, costumes; handicrafts; musical instruments, maps, plans, diagrams, architectural buildings, architectural models; and architectural forms.
- (Kenya, Republic of, 2016).

The section further defines cultural heritage as:

- (1) tangible cultural heritage including

movable cultural heritage, immovable cultural heritage, and underwater cultural heritage;

- (2) intangible cultural heritage;
  - (3) natural heritage including natural sites with cultural aspects such as cultural landscapes, physical, biological or geological formations;
  - (4) heritage in the event of armed conflict.
- (Kenya, Republic of, 2016).

The Act successfully underscores the invaluable role of the intangible cultural heritage as a factor in bringing human beings closer together. It has accepted the importance of indigenous cultures in defining the heritage laws. In addition, it has brought together the spirit of the UNESCO 1972 World Heritage Convention; the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage; the UNESCO 2003 Convention for the Safeguarding of the Intangible Cultural Heritage; the UNESCO 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions; and, though a bit vaguely, the provisions of the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, 1954.

Despite these key highlights, the Act has not set out proper administrative procedures. Its operationalization largely lies with the National and County Governments. Section 43 (1) states that the Cabinet Secretary may make Regulations for the better carrying into effect of the Act. Section 43 (2)(a) reads, in part: “the regulations may provide for... administrative requirements necessary for the implementation of the provisions of this Act” (Kenya, Republic of, 2016).



Other Relevant Legislation

It is worthwhile to shift focus to other laws that indirectly relate to cultural heritage. These include:

- (1) the Physical Planning Act number 6 of 1996 (repealed);
- (2) the Environmental Management and Coordination Act number 8 of 1999;
- (3) the Urban Areas and Cities Act number 13 of 2011 (including the Urban Areas and Cities Amendment Act, 2019);
- (4) the County Governments Act number 17 of 2012 (including the County Governments Amendment Act number 11 of 2020);
- (5) the Physical and Land Use Planning Act number 13 of 2019.

Section 47 (3) of the repealed Physical Planning Act number 6 of 1996 (as revised in 2012) stated: “All regional and development plans shall take into account and record all heritage declared or deemed to have been declared by the Minister under the National Museums and Heritage Act...” (Kenya, Republic, of, 2012). This section dealt with the preservation of immovable tangible heritage (buildings of special architectural values or historic interest). In addition to excluding intangible heritage, the Act did not provide a comprehensive planning mechanism for heritage conservation.

Similarly, section 38 (jj) of the Environmental Management and Coordination Act number 8 of 1999 (revised 2018) states that the national environment action plan shall “take into account and record all monuments and protected areas declared or deemed to have been declared by the Minister under the National Museums and Heritage Act” (Kenya, Republic of, 2018). Heritage protection measures must go beyond inventory; the Act should have laid bare the programme of action towards

heritage protection within the environmental perspective. Part Four of the Urban Areas and Cities Act number 13 of 2011 has seven sections dedicated to integrated development planning. It is unfortunate that none of these sections deals with conservation planning in respect to urban heritage. Among the objectives of county planning as espoused in the County Governments Act number 17 of 2012, is to “protect the historical and cultural heritage, artefacts and sites within the County” (Kenya, Republic of, 2020)[Section 103 (g)]. This Act does not make reference to any law on heritage, neither does it elaborate on the heritage protection mechanisms. It is, however, laudable that Counties are at the moment developing their own laws on heritage protection, such as the Nairobi City County Cultural Act, 2017. Section 71 of the Physical and Land Use Planning Act number 13 of 2019 mandates County Governments to ensure the preservation of heritage sites. Sub article (2) reads: “All physical and land use development plans shall take into account and record all heritage sites declared or deemed to have been declared under the National Museums and Heritage Act, 2006” (Kenya, Republic of, 2019).

The scope of heritage in this Act is limited to immovable tangible heritage, that is, monuments and buildings of special architectural value or historic interest. It is therefore observed that the present planning and environmental laws have not done justice to the quest of heritage conservation. They cannot be relied upon to guide the preservation of cultural heritage within the urban context.

Conclusion

Until the enactment of the Protection of Traditional Knowledge and Cultural Expressions Act in 2016, all the heritage laws focused on tangible heritage (Tables 1 and 2). The local community has not been playing an active role in the definition and conservation of heritage. The Act successfully underscored the invaluable role of the intangible cultural heritage as a factor in bringing human beings closer together. Table 1 presents the scope of heritage definition in the cultural heritage laws from the colonial period to date.

Table 1 Scope of heritage definition

	Colonial Period		Post-independence			
	1927- 1934	1934-1963	1963-1983	1983-2006	2006 to present	2016 to present
Heritage law	Ancient Monuments Preservation Ordinance, 1927.	Preservation of Objects of Archaeological and Palaeontological Interest Ordinance, Chapter 215.		Antiquities and Monuments Act, 1983 National Museums Act, Chapter 216.	National Museums and Heritage Act number 6 of 2006.	Protection of Traditional Knowledge and Cultural Expressions Act number 33 of 2016.
Scope of heritage definition	Tangible heritage: • monuments • antiquities				Tangible heritage: • antiquities • monuments • architectural works • groups of buildings • works of humanity • combined works of nature and humanity • protected objects	Tangible and intangible: • movable & immovable heritage • underwater cultural heritage • intangible cultural heritage • natural heritage • heritage in the event of armed conflict

Source: Author

Following the model developed by Ndoro (2009), the Four approaches to the definition of heritage, Table 2 elaborates on the various approaches to the definition of heritage in the country’s legal framework. The challenges identified have been outlined.



Table 5 Various approaches to definition of heritage

S/No.	Ordinance/Act	General defini- tion of heritage	The Four approaches to the definition of heritage				Challenge identified
			List of heritage	Time scale	Values	Land manage- ment	
1.	Ancient Monu- ments Preserva- tion Ordinance, 1927	Monuments & antiquities.	• Monuments • Antiquities		• Archaeological • Historic • Artistic	Site and land adjoining a monument	• Omission of intangible heritage • Individuals to act as ‘authorities’ for purposes of heritage protection
2.	Preservation of Objects of Archaeological and Palaeontological Interest Ordinance, Chapter 215.	Monuments of archaeological and palaeontological interest.	• Monuments		• Archaeological • Palaeontological • Anthropological • Ethnological • Prehistoric • Historic		
3.	Antiquities and Monuments Act, 1983.	• Antiquities • Monuments • Protected objects	• Antiquities • Monuments • Protected objects	• Antiquity before 1895 • Monument before 1895 • Historic interest- an antiquity after 1800 • Protected object- before 1946	• Historical • Age • Archaeological • Palaeontological • Architectural		• Omission of intangible heritage • Termination dates implies limited growth of heritage & exclusion of modern heritage • Missing out values such as scientific & technological
4.	National Museums and Heritage Act number 6 of 2006.	• Antiquities • Cultural heritage • Natural heritage	• Antiquities • Monuments • Architectural works • Groups of buildings • Works of humanity • Combined works of nature and humanity • Protected objects	• Antiquity before 1895 • Protected object- before 1946 • Shipwrecks more than 50 years old of	• Universal and outstanding value • Historical • Age • Archaeological • Palaeontological • Architectural • Aesthetic • Ethnological • Anthropological • Artistic • Scientific • Technological • ‘any other human interest’	• Site and land adjoining a monument • Natural landscapes	• Omission of intangible heritage • The introduction of the terms 'universal' and 'outstanding value' lacks criteria for determining these values within the Kenyan context • Termination dates for protected objects imply limited growth of this form of heritage & exclusion of modern heritage • The consideration of shipwrecks of more than 50 years to be heritage is in contradiction to the 100-year period provided by the UNESCO Convention on the Protection of the Underwater Cultural Heritage, 2001 • It does not provide specific guidelines for the protection of underwater cultural heritage
5.	Protection of Traditional Knowledge and Cultural Expressions Act number 33 of 2016.	• Tangible cultural (movable & immovable) • Underwater cultural heritage • Intangible cultural heritage • Natural heritage • Heritage in the event of armed conflict	Tangible & intangible cultural expressions in which traditional culture and knowledge are expressed.		All forms of tangible and intangible cultural expressions.	• Cultural landscapes • Physical, biological or geological formations	• Limited institutional framework for implementation • It does not provide specific guidelines for the protection of underwater cultural heritage and heritage in the event of armed conflict

Source: Author

The current legislations (the National Museums and Monuments Act number 6 of 2006 and the Protection of Traditional Knowledge and Cultural Expressions Act number 33 of 2016) have made major strides towards the conservation of cultural heritage. Since tangible and intangible heritage is intertwined, with intangible heritage giving life to tangible heritage, it is proposed that these two Acts be merged into a single legislation. This will give the much-needed administrative and financial framework to the safeguarding of intangible heritage. The heritage laws have, however, not been fully integrated with planning laws. Consequently, the concept of urban conservation may remain outside the purview of urban and regional planning for a long time. Synergy needs to be created between the planning and heritage laws since planning takes place within a cultural landscape.

References

Hodder, I. (1993). Changing configurations: The relationships between theory and practice. In J. Henetr, & I. Ralston, Archaeological Resource Management in the UK: an Introduction. Sutton Publishing.

Keitumetse, S. O. (2016). African Cultural Heritage Conservation and Manage- ment: Theory and Practice from South- ern Africa. Springer International Pub- lishing.

Kenya, R. (1962). The Preservation of Objects of Archaeological and Palaeon- tological Interest Ordinance, Chapter 215 (Repealed). Nairobi: Government Printer.

Kenya, Republic of. (1927). The Ancient Monuments and Preservation Ordinance 1927. [https://gazettes.africa/archive/ ke/1927/ke-government-gazette-dated- 1927-11-15-no-1173.pdf](https://gazettes.africa/archive/ke/1927/ke-government-gazette-dated-1927-11-15-no-1173.pdf). Accessed 14.08.2021.

Kenya, Republic of. (1962). The Preserva- tion of Objects of Archaeological and Palaeontological Interest Ordinance, Chapter 215 (Repealed). Nairobi: Gov- ernment Printer.

Kenya, Republic of. (1984). The National Museums Act, Chapter 216. Nairobi: Government Printer.

Kenya, Republic of. (2006). The National Museums and Heritage Act number 6 of 2006. Nairobi: Government Printer.

Kenya, Republic, of. (2012). Physical Planning Act number 6 of 1996. Nairobi: Government Printer.

Kenya, Republic of. (2016). The Protection of Traditional Knowledge and Cultural Expressions Act No. 33 of 2016. Nairobi: Government Printer.

Kenya, Republic of. (2018). Environmental Management and Coordination Act number 8 of 1999. Nairobi: Government Printer.

Kenya, Republic of. (2019). Physical and Land Use Planning Act number 13 of 2019. Nairobi: Government Printer

Kenya, Republic of. (2020). County Gov- ernments Act number 17 of 2012. Nairobi: Government Printer.

Kyule, M. (2016). Assessment of legislation on cultural heritage resources in Kenya. In D. Marie, & N. Mugwima, Conservation of Natural and Cultural Heritage in Kenya. A cross- disciplinary approach. (pp. 30-44). London: UCL Press.

Layton, P., & Ucko, P. (1999). The archaeolo- gy and anthropology of landscapes: Sharing your landscape. Routledge.

Monuments, I. C. (1931). Athens Charter for the Restoration of Historic Monuments 1931. [https://www.icomos.org/en/167-the- athens-charter-for-the-restoration-of-his- toric-monuments](https://www.icomos.org/en/167-the-athens-charter-for-the-restoration-of-his- toric-monuments). Accessed 16.08.2021.

Mumma, A. (2009). Heritage policy and law-making processes. In W. Ndoro, A. Mumma, & G. Abungu, Cultural Heritage and the Law: Protecting immovable Heritage in English Speaking Countries in Sub-Saharan Africa (pp. 109-113). Rome: ICCROM Conservation Studies.

Ndoro, W. (2009). Legal definitions of Heritage. In W. Ndoro, A. Mumma, & G. Abungu, Cultural Heritage and the Law: Protecting immovable Heritage in English Speaking Countries in Sub-Sa- haran Africa (pp. 25-35). Rome: IC- CROM Conservation Studies.

Ndoro, W., & Kiriamama, H. (2009). Manage- ment mechanisms in heritage legislation. In W. Ndoro, A. Mumma , & G. Abungu, Cultural Heritage and the Law: Protect- ing immovable Heritage in English Speaking Countries in Sub-Saharan Africa (pp. 53-64). Rome: ICCROM Conservation Studies.

Nagri, V. (2005). An Overview of formal legislation on immovable cultural heritage in Africa. In W. Ndoro, & G. Pwiti, Legal Frameworks for the protec- tion of Immovable cultural Heritage in Africa. (pp. 5-8). Rome: ICCROM Con- servation Studies.

Rodolff, B. (2006). ‘Intangible’ and ‘tangi- ble’ heritage: A topology of culture in contexts of faith. (Unpublished PhD thesis).

Rodwell, D. (2007). Conservation and Sustainability in Historic Cities. Oxford: Blackwell Publishing.

Salvatore, C. L., & Lizama, J. T. (2018). Cultural Heritage Components. In C.L. Salvatore, Cultural Heritage Care and Maintenance: Theory and Practice. (pp. 3-16). London: Rowman & Littlefield Publishers.

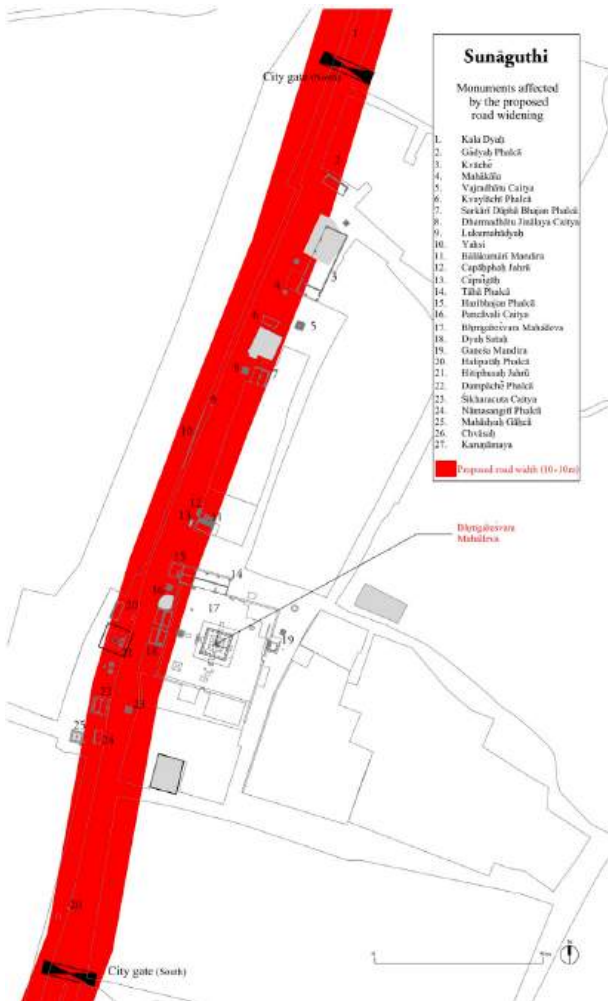
Vinas, S. M. (2005). Contemporary Theory of Conservation. Amsterdam: Elsevier Butterworth-Heinemann.

# Journey to Cultural Consciousness through Architectural Experiences in Two Decades

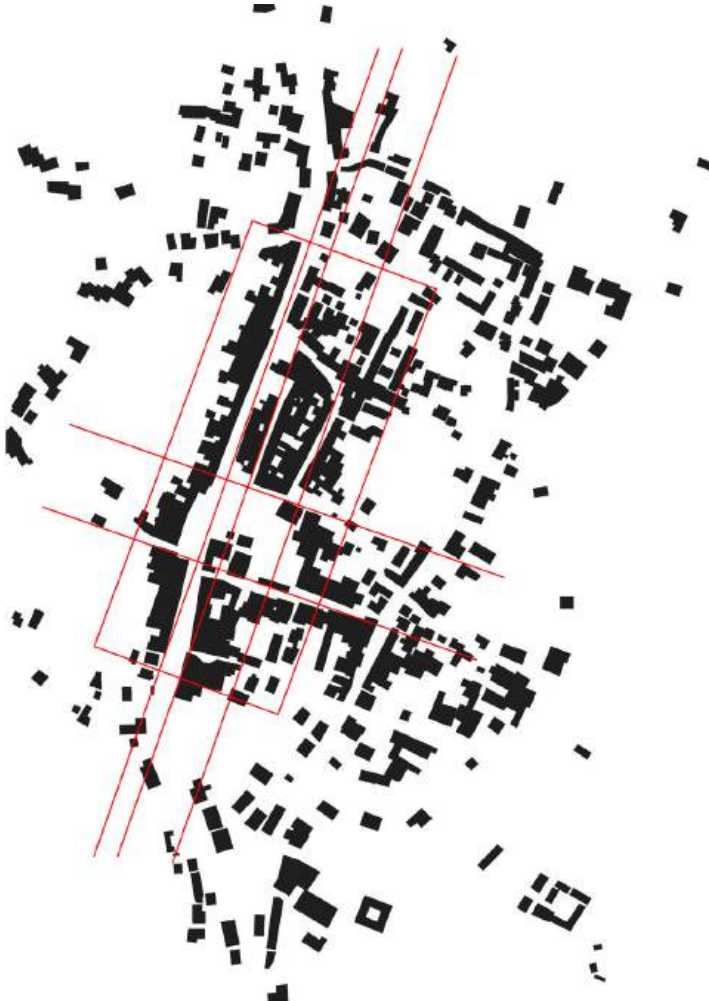
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Conservation architect (Kathmandu Valley Heritage Trust, KVHT)  
ICOMOS Nepal, ICOM Nepal, Society of Nepalese Architects, Nepal

Architecture is one of the most advanced forms of culture in human civilization. The two inseparable subjects of architecture and culture have played a vital role in every person’s life. This article reflects a presentation made for the “Global and Local Heritage Conservation and Urban Regeneration” forum at the College of Architecture and Urban Planning, Tongji University in China, in June 2024. The presentation, “Journey to Cultural Consciousness through Architectural Experiences in two decades,” is about my

collective experiences in art, architecture, and culture. The presentation was mainly about eight topics to discuss the topic of heritage conservation and urban regeneration. The proceedings of the forum here list the presented topics on my understanding of cultural appreciation through the perspective of material culture, architectural expression, and contextual activities from my hometown Sunāguthi, a historic settlement in Lalitpur, Nepal as an exemplary historic town.



27 Monuments recorded along a street in 800 meters, red marks denote the width of proposed road widening threat to the heritages.



Streets as regulating lines in planning historic towns.

## Streets as a regulating line for architecture and culture

The whole social structure of the historic settlements is interwoven by the communal space – “streets” networks, public open spaces, monuments, and dwelling architecture. The traditional network of spatial interconnections is expressed in streets and sidewalks, which, according to (Shrestha, 2011), cover about one-third of a city’s area and have multiple functions as both paths (for access and movement) and places (as social settings). As part of the public open space network, they are the

single most important urban design element that shapes the built environment, gives a neighborhood character, and regulates people’s daily activity. The street networks are also the processional route during festivals and social functions. Every festival is meant to celebrate along the street and the processions are designed to circumambulate the core of the town. Metaphorically, streets can be considered as the tying thread that weaves the various beads of tangible and intangible heritages together acting as a regulating line for architecture and culture.



**Looking into the hidden layers along the street**

As developed by Hall in 1976, the iceberg analogy of culture, if the culture of society was the iceberg, then there are some aspects visible above the water, but there is a larger portion hidden beneath the surface. Thus, the intangibles beneath the surface are the roots of a cultural tree that shapes the social behavior of the people in a particular place. This terminology of hidden layers tries to symbolize the intangible heritages that are experienced in a particular space and time. In this context, the cultural iceberg concept is

important, referring to the local heritage, which is most of the time underseen or neglected in heritage conservation. Famously quoted by Webber Ndoro in 2005 as “Your monument our shrine,” sarcastically or painstakingly demonstrates the reality of values given to the local heritage. For a living culture, the monument objects are not only cultural objects but are the manifestation of the living heritage. These “minor heritages,” shrines, and the immeasurable culture associated with them are the hidden layers of any civilization. The 2011 UNESCO general conference calls for “an approach that aims to balance urban

heritage conservation and socio-economic development (Article 11). In doing so, it considers urban heritage in its broader urban and historical contexts and geographical settings (Article 8), including by taking into account land use patterns and spatial organizations, social and cultural practices and values, economic processes, and the intangible dimension of heritage”. The creation of spaces through architecture for cultural practices indicates the hidden layers in any space that comes into living at particular times.



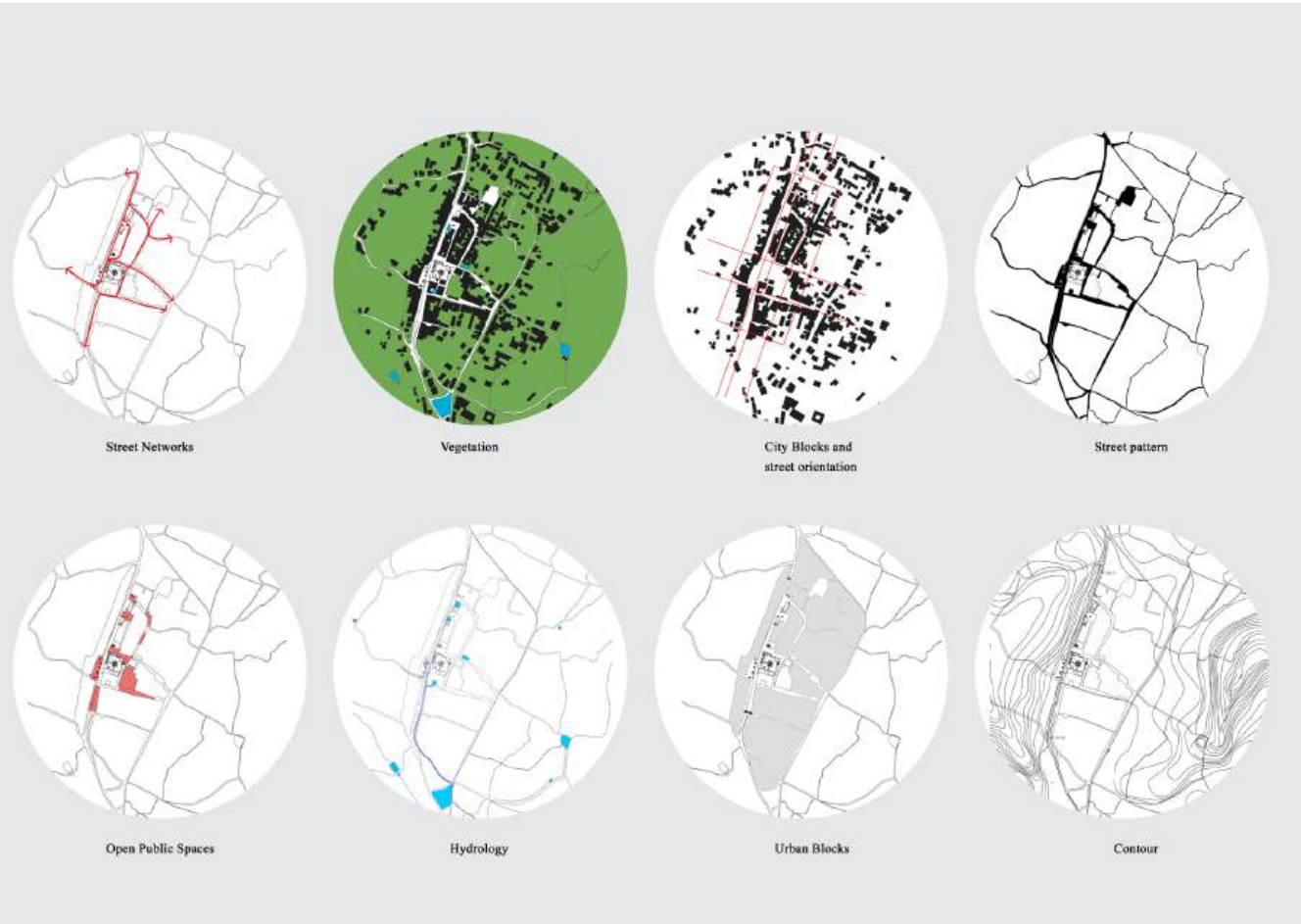
A young boy holding burning straw to throw the demons away from the city.

**Cultural mapping in understanding the social construct of any city**

An understanding of the social construct of any city can be gained by cultural mapping as a primary tool. It helps in identifying the unique cultural assets of any region or community involving the various aspects of systematic collection of data related to culture, traditions, language, arts, socio-cultural practices, and other important features. In addition, the study of geographical conditions its role in architectural development, hydrology, street networks, public open spaces distribution, various traditional routes for trade and processions, etc., historical place names, human behavioral patterns, the morphology of building blocks, and spaces with their relations, etc. are other characters of the cultural mapping. The process involving data collection, graphical representation,

community participation in identifying cultural assets and resources, and cultural planning helps in strategic arrangements for preserving and promoting cultural heritage as a part of urban heritage preservation and regeneration. It helps to understand the cultural dynamics of a place, fostering community engagement, which in turn helps in making informed decisions as it provides data-driven insights (both identity-based and Knowledge-based) for policymakers and cultural organizations to support effective cultural strategies. The traces of history, stories, archaeology, people, and places are another important aspect of cultural mapping to know about the social construct and fabric of the places. The methodology of recording such micro-social activities in a cultural setting is well explained by (Geddes, 1998) in his

book “Cities in Evolution,” which contains some pioneering ideas on the relationship between urban heritage, development and sustainability. For him, before any development could take place, the city as a whole needed to be understood through surveys and mappings of its economic, social and cultural functions. He believed that any development project should respect and conserve the ‘urban ecosystem’ of the whole city, paying particular attention to the connections between spaces for work, places for cultural and social uses as well as local communities. Geddes argued that local communities and their intangible attachments to places should be at the heart of urban heritage conservation and urban planning interventions, including urban regeneration.



Cultural mappings of various aspects from Sunāguthi



**Architecture should respect cultural, historical, and archaeological layers!** [Bacon, 1967] in his book Design of Cities from the “Principle of the second man”, he states that it is the second individual who determines whether the creation of the first will be carried forward or destroyed. New architecture, thus, should respect cultural, historical, architectural, and archaeological layers that will ensure the cultural continuum. As critically mentioned by [Labadi and Logan, 2016], too often, heritage destruction is carried out in the name of modernity and progress and against the wishes of local communities for whom the heritage is a valued part of their living environment

and a manifestation of their identity, destroying the “hidden sacred layers”. The conservation of different cultural layers, including historical and archaeological layers, is a must for the preservation of the local heritage that contributes to Global Heritage. Urban regeneration needs to respect those layers. The local heritage has pride in unique cultural assets that shape the morphology of the city. Nevertheless, the archaeological layers are the other important layers to be preserved in urban regeneration or any developmental works as they portray the scientific evidence of the evolution of human civilization.

**Tangible and intangible cultural heritage are complimentary.** The picture above shows an annual cultural performance at Kvaylāchī, Sunāguthi. Every year during the Mohanī festival, the Navadurgā gods and goddesses from Thecva come to Sunāguthi and perform a cultural dance at Kvaylāchī and circumambulate the settlement with pūjā and offerings. Every historic settlement has public places with ensembles of shrines, rest houses, sacred areas, and houses for the deities as the tangible heritage, which gets well utilized during the festivals and performances termed as the intangible heritage. For organizing such socio-cultur-

al functions, social institutions are formed as responsible entities for preserving intangible heritages. [Gutschow, 2011] explains the idea of the functioning of guthi as “Maintenance, repair, and replacement characterized the building practice of the Newars for millennia. Administered by trusts, endowments ensured regular maintenance, and in case of fire or earthquake royal donations ensured the recreation of what was lost, often by adhering to the original in form and detail.” This way of functioning is critical in maintaining the system of the interrelation of the tangibles and intangibles. As elucidated by [Bouchenaki, 2003]

“cultural heritage” is categorized into the two sub-categories of the tangible and the intangible, these cannot and should not be treated as two separate and unrelated categories. Intangible cultural heritage can be rendered visible and material by (or may at least have its customary setting and context within) certain establishments which are themselves regarded as tangible cultural heritage. The threat to the existence of tangible cultural heritage also threatens the existence of intangible cultural heritage and vice versa.

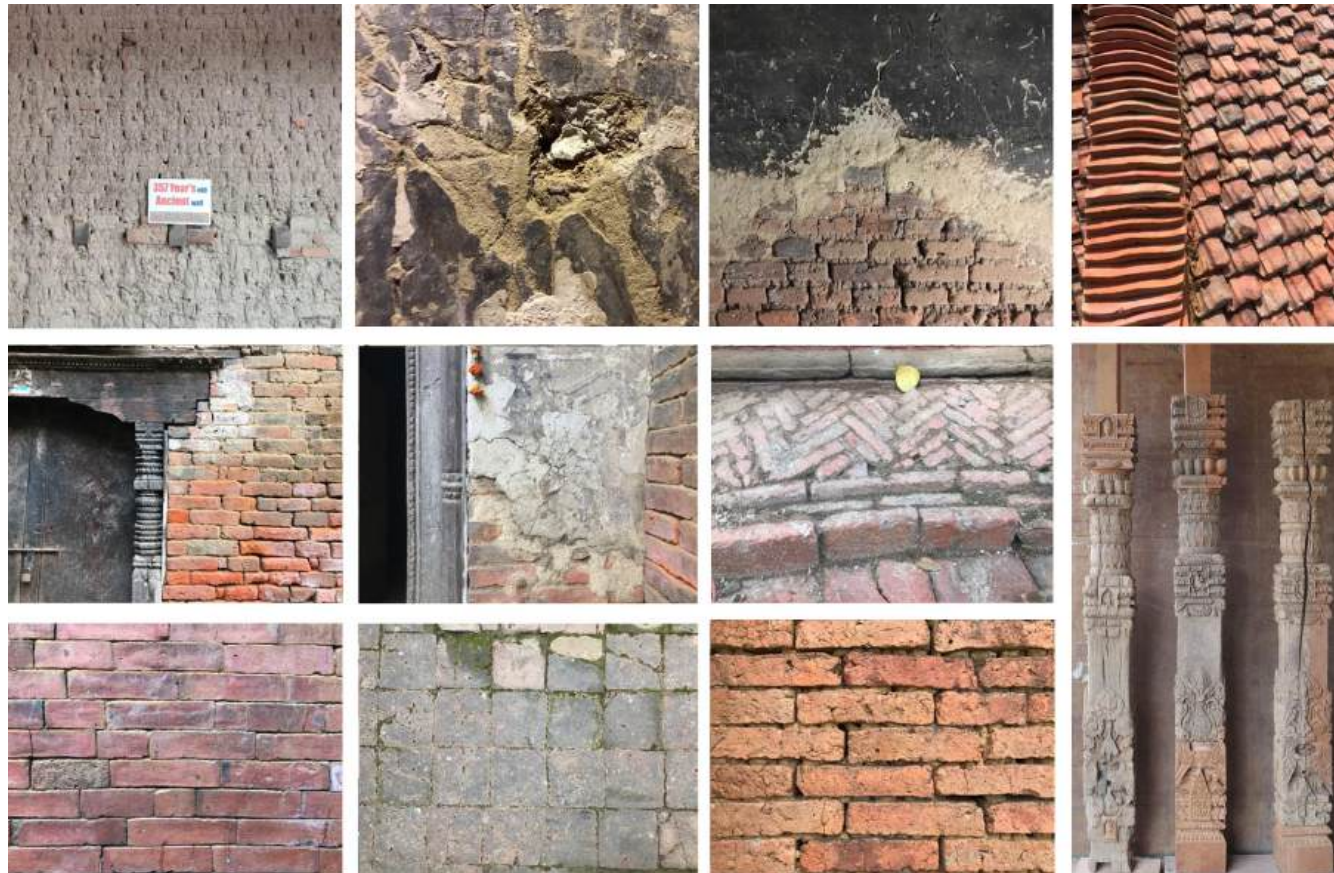


Water heritage is the most ancient heritage of mankind showcasing many hidden cultural, historical and archaeological layers.



Cultural performances by the Devagaṇa from Thecva at Kvaylāchī, Sunāguthi





Different traditional materials of building sustainable architecture

### Understanding material culture helps in understanding architecture.

The debate between traditional architecture and new architecture is always a hot topic in the building industry. The two architecture, besides the building form and style, differ mostly due to the materials they are built from. The archi-cultural identity of any place is defined by the building materials. The basic materials for architecture since prehistoric times are soil (土) and wood (木). Most of the components of the buildings are made of these two universal and most sustainable materials. Irrespective of the geographical

locations, these two materials dominantly make their presence in architecture. The material once shaped by the culture therein with various joinery, carvings, techniques in wood and sizes and shapes of bricks made out of soil turns a unique architecture. This material culture, shaped by the traditional intangible cultural heritage of craftsmanship, thus produces a variety of architectural forms and styles, making it stand with outstanding universal value. Be it the walls, floors, roofs, pavements, streets, or any components of the architecture, the understanding of material culture helps in understanding the

architecture and culture.

In today's world of climate change and other energy crises, sustainability issues are a major concern in the global arena. The thoughtful use of materials in buildings and other related construction should be well thought out. Conservation of traditional buildings, their adaptive reuses, and urban renewal with minimum can surely contribute to achieving a green movement. The notion of "The greenest building is the one that is already built." put forward by architect Carl Elefante is worth realizing during the urban regeneration.



learning about tools and building crafts

### Artistic Learning can be enhanced through tools and cultural objects.

Cultural heritage does not only mean monuments and collections of objects but also includes traditions or living expressions inherited from our ancestors and passed on to the next generations. Artistic learning can be enhanced through tools and cultural objects framed by oral traditions, performing arts, social practices, rituals, festivals, and events. The knowledge and practices concerning skills to produce traditional crafts is the other way of learning the culture that helps in preserving

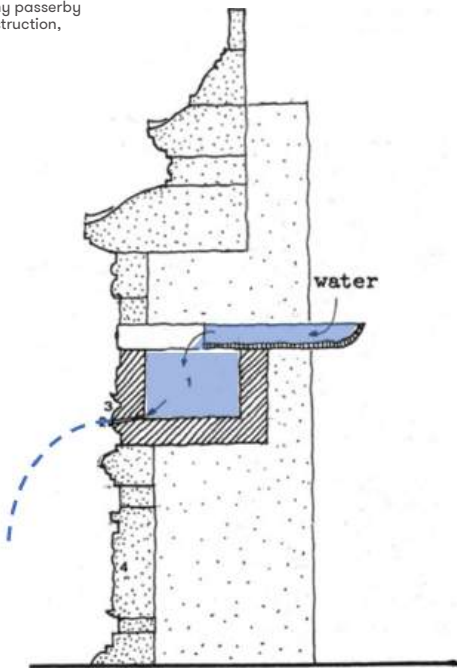
local and global heritage. The teaching-learning environment of using tools and creating handicrafts in today's stage of artificial intelligence and machine learning might sound like status quo. However, the ultimate essence of humans is being a tool using animals and creating for themselves by themselves. The concept of urban regeneration is revitalization; it's a renaissance to enjoy the past culture and move forward with newer perspectives being less intrusive to the cultural objects that we have in hand.





Jahrūhiti in Newari (from Sanskrit Jaladronī) - The spigot fountains built for a meritorious act availing drinking water to any passerby using small covered reservoirs. before and after reconstruction, Cibāhāh, Sunāguthi.

Water architecture (Gutschow et al., 1987)



### Small-scale, big change is what architecture does.

Architecture spans from a small scale – architecture like tiny houses, kiosks, pavilions, and installations to large-scale architecture like the Forbidden Kingdom, China or the Pyramids of Egypt. Irrespective of the scale of the architectural piece in human culture, the impact is well visible. The small-scale, minor heritage of the spigot fountains formerly built for a meritorious act availing drinking water using small covered reservoirs known as

*ṭeḍdhārā* in Nepali or *jaḥrūhiti* in Newari (from Sanskrit *jaladronī*) (Slusser, 1982) can be considered as one of the most influential pieces of utilitarian architecture in the Kathmandu valley with a written history dating back to 530 CE. The revival of the nearly destroyed *jaḥrūhiti* (see photo) in Sunāguthi is evident in creating a new hope for its regeneration, resulting in positive aspects of cultural urban regeneration. Small-scale, big change is what architecture does.

### Concluding remarks:

In March 2021, ICOMOS (Labadi et al., n.d.) prepared a policy guidance document to illustrate how heritage can address the United Nations (UN) 2030 Agenda for Sustainable Development Goals (SDGs), which indicates heritage as more than just monuments and defines heritage (cultural and natural, tangible and intangible) as an evolving resource that supports identity, memory and ‘sense of place’. It enables social cohesion, fosters socio-economic regeneration and poverty reduction, strengthens social well-being, improves the appeal and creativity of regions, and enhances long-term tourism benefits. One of its key policy statements put forward the notion of considering the protection, conservation, and management of heritage as a priority component of urban planning and territorial development plans, and a valuable resource to rethink and implement sustainable urban development models. The issues on heritage considering innovative approaches to managing developmental pressures and focusing on how taking an ethical, inclusive, and holistic approach to urban planning and heritage conservation may create a stronger basis for sustainable development.

Global and Local Heritage Conservation and Urban Regeneration are meaningful topics for academic discussion and need the political commitment to build a sustainable community through the preservation of cultural heritage and ensure balanced development considering the built heritage and practiced heritage as interdependent applying multidisciplinary approaches for our common future as we all are diverse, unique and yet common.

### Bibliography

- Bacon, E., 1967. Design of Cities. Vikings Press., New York.
- Bouchenaki, M., 2003. The interdependency of the tangible and intangible cultural heritage. Presented at the ICOMOS 14th General Assembly and Scientific Symposium.
- Geddes, P., 1998. Cities in Evolution. Routledge, Taylor & Francis Group.
- Gutschow, N., 2011. Architecture of the Newars, First. ed. Serindia Publications.
- Labadi, S., Giliberto, F., Rosetti, I., Shetabi, L., Yildirim, E., n.d. POLICY GUIDANCE FOR HERITAGE AND DEVELOPMENT ACTORS.
- Labadi, S., Logan, W.S. (Eds.), 2016. Urban heritage, development and sustainability: international frameworks, national and local governance, Key issues in cultural heritage. Routledge/Taylor & Francis Group, London ; New York, NY.
- Shrestha, B.K., 2011. Street typology in Kathmandu and street transformation. Urbani Izziv 22, 107–121. <https://doi.org/10.5379/urbani-izziv-en-2011-22-02-004>
- Slusser, M.S., 1982. Nepal *Maṇḍala* - A Cultural Study of the Kathmandu Valley, First. ed. Princeton University Press.



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Title: *Architecture Asia: Dialogue between Asia and Africa*  
ISSN: 1675-6886

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Logo design: JULY DESIGN GROUP

Cover project: Urban Regeneration of Historic Centers. Challenges and Opportunities

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