

Review of Existing Policies on Conservation and Management of Cultural Heritage in Kathmandu Valley

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Abstract

The contemporary approach to heritage conservation in Nepal was first introduced in 1956 with the establishment of the Ancient Monuments Protection Act (AMPA). This act is basically more focus on the tangible cultural heritage. Similar to this, the Guthi Corporation, established by the Government of Nepal under the Guthi Corporation Act of 1976, focuses on the intangible heritage of the Kathmandu valley. The Department of Archaeology (DOA), a federal government agency supported by the AMPA and in responsible of maintaining the nation's cultural heritage, lacks the tools necessary to manage projects and maintain the nation's heritage monuments. Conflicts between existing policies and various stakeholders, particularly between the DOA, Guthi Sansthan, local level, and local community, are seen even inside heritage sites in the Kathmandu valley. International organizations including the United Nations Educational, Scientific and Cultural Organization (UNESCO) highlighted the difficulties in managing the Kathmandu valley's world heritage monuments, which led to its inclusion on the endangered list in 2003, which has since been removed. The goal of this research paper is to review of existing policies on conservation and management in Kathmandu valley. Finally, the research article suggests that developing unified policies for proper conservation and management of cultural heritage in Kathmandu valley, which will mostly be based on the local cultural context along with UNESCO guidelines also. The formation of that policy will minimize the crosscutting issues of the concerned organization to utilize the conservation and management of cultural heritage in Kathmandu valley.

Keywords

Cultural heritage, conservation, management, legislation

1. Introduction

Our ancestors created our heritage for many objectives, which is what it is today. There were different trusts (guthi) established at the time for its well management and conservation; there were no codified rules, though. Regarding the preservation and management of certain landmarks or cultural resources, we were unable to locate any documented laws, regulations, or legislation but thanks to good conservation and management, they have all been declining and as a consequence, we can be happy to still have these cultural treasures today [1, 2]. They are also highly conscious of their responsibilities for the conservation and management of these historical landmarks [1, 3, 4]. According to Yogi (1956), some of the chronicles that include the earliest accounts of the history of the valley are the Bhashavamshawali, Bhamsavali, Rajvogmala Bamsavali, and the Gopalraj Bhamsavali [5]– [6]. In which it was stated that the Gopal, Mahispal and Kirat had governed the valley. According to those who have been living in Nepal since the fifth century, the Lichhavi period marks the start of the country's written history [7]. Many of the monuments and works of art described in the inscription may have been produced during the Lichhavi period but are not present now. Yet, you can still find statues and the Shivalingas (Trinity of Hindustan) scattered over this valley. Additionally, several of them are still standing today without having any written inscriptions [8].

The truth is that our ancestors developed a number of mechanisms to control our day-to-day social interactions. One of these systems is the collection of rules and traditions they

created for the administration and maintenance of their valuable works of art once they were constructed. Despite this, no written rules or regulations have existed since that time; instead, they have been gradually being eliminated. As a result, there were some social customs regarding the preservation and management of these cultural assets, according to which various individuals or institutions had different responsibilities. However, these customs were not recorded in writing, and they gradually disappeared until the central government interfered through the government laws for their ownership and management in the middle of the 20th century. Throughout history, guthi has played a pivotal role as a guardian or saviour of our nation's cultural legacy [1, 9, 10, 11, 12]. The structures that had been in charge of caring for, maintaining, and safeguarding the local communities' cultural heritage for decades were used by the government in an effort to control and defend them following the revolution in 1950. Yet because the government now has the power to safeguard this history under the present three-tiered of government structure, there has been a significant change recently [13, 14, 15]. However, the current legislation defined the obligations in many ways for various government entities, despite the fact that there are still many people and organizations with varied responsibilities in many areas. According to the operating guidelines, every property that has been suggested for inclusion on the World Heritage List most satisfactorily complies with the integrity requirements. The features of the natural and/or cultural heritage that are complete and undamaged are measured by the concept of integrity [16]. The degree to which the property suffers adverse effects from development and/or neglect, the size of the property

is adequate to ensure the full representation of the features and processes that convey the significance of the property, and the property includes all elements necessary to express its exceptional universal value. According to the operational standards, defining boundaries is important to ensure that nominated properties are adequately protected. Some boundaries should be defined to guarantee the full expression of the unique universal worth, the integrity and/or authenticity of the property, and where necessary, the proper conservation of the property [17]. Managing the money gathered in the temple as offerings and maintaining an inventory of the nearby artifacts are crucial aspects and the initial stage in the conservation and management of heritage/monuments (monuments, decorations, and other assets as well). It was discovered, however, that the corporation has placed considerably less emphasis on the preservation and management of entire properties and cultural heritage, instead opting to either construct new buildings on bare land for commercial uses and lend them to corporate business owners as in the form of leases or rent, or sell the land as quickly as possible [9]. Cultural legacy is currently the driving force behind development because, when properly preserved, it can increase the livability of the areas it surrounds and sustain productivity in a changing global context. But, governments must have clear policies and effective management strategies for these assets that increase production and consumption potential while safeguarding and, if feasible, enhancing cultural relevance [12, 18, 19]. The major objective of this research is to reviewing existing policies on the conservation and management of cultural heritage in the Kathmandu valley.

2. Methodology

This research is qualitative, with an emphasis on a historical research. Historical studies include the evolution of regulations governing the preservation and maintenance of the Kathmandu valley's cultural assets. Also, there are other techniques, such as policies document research, visual comparison, various academic viewpoints, on-site study, and data collecting from historical and sociological evidence that has already occurred [20]. A modest number of discussions with Guthi Sansthan, DOA on various aspects of cultural preservation and management in the Kathmandu valley supplemented the study's primary method of historical document reading.

3. Review of existing policies

3.1 Constitution of Nepal (2015)

Constitutions of Nepal (2015) mention the basic rights and responsibilities specifically state that everyone has the right to freedom of religion. Similar to that paragraph, everyone who professes a religion has the freedom to preach, live out, and defend it as they think suitable. It will be allowed for any religious organization to manage and watch over its own religious facilities [21]. Nothing in the Constitution shall be considered to exclude the operation and preservation of religious sites, religious trusts, and the administration of trust properties and lands from being regulated by legislation [21, 22].

3.2 Ancient Monument Preservation Act (AMPA), 1956

The AMPA (1956) is the major legislation in Nepal for managing and conserving artifacts from the country's rich cultural heritage. According to this act, the DOA is the only government entity with the ability to administer and conserve Nepal's cultural assets. The DOA must be consulted before installing or connecting a phone line, installing or repairing electricity, digging for drinking water or sewerage, building or repairing a road, shooting a movie, planning a fair or festival, holding a signing ceremony, parking vehicles, or pasting a poster or painting within the protected monument zone. However, traditional dance and singing, as well as conducting and performing them, do not require DOA approval [23]. The AMPA states that anyone starting to construct a new home or building, or repairing, modifying, or reconstructing an existing home or building so as to change its original shape, shall do so in a manner that is consistent with the style of the neighborhood and that is consistent with the standard established by the DOA [23].

3.3 Guthi Corporation Act, 1976

A centralized government trust known as Guthi Corporation is in charge of performing rituals and preserving service-oriented religious, historical, and cultural activities. In order to administer and preserve all of Nepal's holdings, which are dispersed as several traditional guthi (trusts), Guthi Corporation was founded [24]. As stated in the preamble of the Guthi Corporation Act, a Guthi Corporation was created to free the state trust (rajguthi) from the control of the Nepali government. In order to uphold moral and ethical standards among the populace, as well as cordial relationships between members of various social groups. In general, Guthi Corporation runs the state trusts in a systematic manner and is quick to create more efficient and timely provisions by modifying and combining legislation pertaining to guthi [24]. Guthi Corporation is fully and only responsible for the conservation and management of the complete guthis collection of intangible cultural treasures. AMPA provides DoA have full responsibilities of the maintenance and preservation of the tangible heritage but due to the less priority of renovation of the guthi heritage or other several factors [25, 26]. During the renovation and maintenance of the guthi heritage by the DoA rare coordinating with other responsible organization [24].

3.4 Kathmandu Valley Development Authority Act, 1988

According to the relevant Nepalese laws governing historic sites, the Kathmandu Valley Development Authority (KVDA) legislation expressly includes in its aims the proper development and care of any religious, cultural, or historical legacy in defined zones. As guthi makes up the majority of monuments, according to statistics from the Guthi Sansthan, taking this step is crucial for protecting cultural heritage [27, 28].

3.5 Local Government Operation Act, 2017

The freshly established municipal government's legislative, executive, and quasi-judicial responsibilities were modified by this statute. This law is primarily concerned with the protection,

maintenance, and promotion of historic places as well as the preservation and progress of language, culture, and the fine arts. This regulation makes it plain that traditional fairs and festivals must be held and administered in a manner similar to that [29].

3.6 Pashupati Area Development Trust Act, 1987

The Pashupati Area Development Trust Act of 1987 placed emphasis on, sustained, and planned development of the area. In accordance with customary religious rites and rituals, this act specifies the plans for the celebration of cultural feasts and festivals, social and charitable activities, and worship in temples of all gods and goddesses, including the Lord Pashupatinath temple, under the state trust (Rajguthi), in the Pashupati region [30].

3.7 Local Administration Act, 1971

The Chief District Officer (CDO) has been given more responsibility for heritage conservation and management under a clause of this statute that is also highly significant for Nepal and KVWHP. The CDO is required to keep records of all public water taps, wells, ponds, well sides, shelters (Pati Pauwa), guest houses (Sattal, Dharmashala), temples, caves, bridges, etc. located within the district; if they are damaged or likely to collapse, he or she must order that they be repaired by the owner or his or her agent, the local level or Village Development Committee (VDC), or by the Guthi Corporation [31].

3.8 Town Development Act, 1988

This action is crucial for the conservation and management of cultural resources in areas where the town planning project has been carried out. The Kathmandu valley has been the area of jurisdiction for this act's execution from its inception, and the valley is dotted with many monuments and ancient sites. Therefore, it is crucial for the preservation and administration of those significant archaeological, historical, and religious structures and areas. Similarly, this act focus on, how must obtain authorization from the municipal development committee before visiting or using such archaeological, historical, or religious sites, and it is forbidden to engage in any activities there. According to the AMPA 1956, states that the committee may design and carry out any planning for the preservation, development, and management of any cultural and historical region [32].

3.9 Bylaw for Building, Restoring, and Conserving both Private and Public Buildings throughout the whole Protected Monument Zone, 2007

The World Heritage Convention of 1972 or UNESCO's rules became immediately applicable when the Kathmandu valley was added to the list of World Heritage sites in 1979. The sole authority it had as an assistant legislator was to safeguard the property; it had no other authority. So, the State Party considered that it required to be protected by national laws that could be implemented for the site's total protection as well as to commend and punish individuals for maintaining the property. As a result, the Government of Nepal declared the seven unique monument zones that make up the Kathmandu valley world heritage site as protected monument zones on various dates in

accordance with the Ancient Monument Protection Act 1956 [23, 33]. The Bylaws provides specific provisions for private structures that serve as monuments and must maintain their outstanding universal worth and original design. These structures exhibit the distinctive features of medieval Newar dwelling house architecture, which helps to preserve the community. They must preserve the building's ideal height (35'), as well as certain heights (up to 8') for the floor, windows, and doors, as well as the heights and width, roof style, and other elements. The bylaws also included provisions for new construction on privately owned vacant land, dwellings that needed to be repaired, classed buildings, and non-classed buildings having distinctively historic features. In this sense, the bylaws serve as particular legal instruments for the management and conservation of the Kathmandu valley world heritage site [34].

3.10 World heritage convention 1972

The fundamental international legislation governing the preservation and administration of World Heritage assets globally is the World Heritage Convention 1972 Concerning the Protection of Global Cultural and Natural Heritage, which was approved in 1976. The convention acknowledges that it is the primary responsibility of each State Party to ensure that the cultural and natural heritage mentioned in Articles 1 and 2 and located on its territory is identified, protected, conserved, presented, and transmitted to future generations. It will use all of its available resources to achieve this goal, utilizing any necessary foreign help and cooperation, including financial, artistic, scientific, and technological support, if possible [35]. According to this convention's provision, the state party is primarily responsible for each national or global historic property's identification, protection, conservation, presentation, and transmission to the next generation. Also, it is the responsibility of the whole international community to work together to safeguard such a global historic site [35].

3.11 Operational Guidelines (Revised Version 2011) for the implementation of World Heritage Convention, 1980

World heritage sites are governed by the 1972 World Heritage Convention. The world heritage committee adopted operational guidelines (OG) in 1980 because they are more practical and act as an additional legislative tool for carrying out the convention. Hence, the operational rules and the convention coexist. The operational guidelines for the world heritage convention's implementation aim to make the convention for the conservation of the world's cultural and natural treasures more readily implemented by specifying the procedures to take [18, 36]. These are listed below:

1. The designation of structures as world heritage sites and as cultural properties of the world in danger;
2. The preservation and protection of those locations;
3. The provision of international assistance through the World Heritage Fund; and
4. The mobilization of local, state, national, and international support for the Convention.

3.12 Athens charter for the restoration of historic monuments 1931

In order to preserve the historical and artistic integrity of ancient monuments, this charter lays forth the fundamental principles, the worldwide discussion, and the technical criteria. These are this charter's fundamental tenets [37, 38]:

- Operational and consultative international bodies for restoration are to be established.
- To avoid errors that may detract from the structures' historical significance and character, any restoration initiatives must be exposed to informed critique.
- National legislation at all levels is required to address the issues related to the protection of historic places.
- Excavated sites that won't be restored right away need to be reburied for conservation.
- Restoration work may involve the utilization of contemporary methods and supplies.
- Strict custodial protection is to be provided for historical places.
- The preservation of the regions around historic places should be a priority.

3.13 The Venice Charter 1964

The Venice Charter of 1964 makes specific reference to the preservation and protection of monuments on several levels, including definitions, conservations, restorations, historic sites, and excavation. Similar to Article 10, Article 11 underlines the necessity of honoring the genuine contributions made by various eras to the creation of a monument because restoration is not meant to establish uniformity of style. The underlying condition of a structure that has multiple works from different eras superimposed on top of one another can only be revealed in exceptional cases and when the material being exposed has significant historical, archaeological, or aesthetic value and is in a good enough state of preservation to support the action. The task's manager cannot select what may be disposed of and assess the importance of the associated things by themselves[39].

3.14 National Archives and Records Administration Document on Authenticity (NARA)

NARA is also the result of the management, conservation, and restoration skills of experts in the field of cultural architectural heritage and its surroundings from across the world. The primary focus in the conservation and restoration of significant archaeological, historical, architectural, and other monuments is authenticity rather than the materials used. [33].

3.15 Burra charter 1999

Burra Charter, which was developed especially for Australian Heritage, is the best charter ever utilized for administering and safeguarding cultural assets. It clearly defines what conventional methods of managing and conserving cultural assets are, including preservation, restoration, maintenance, and reconstruction [40]–[49].

3.16 ICOMOS Charter- Principles for the analysis, conservation and structural restoration of architectural heritage (2003)

The following are a few of this charter's guiding concepts. [41, 42].

1. The conservation, protection, and restoration of architectural heritage need for a multidisciplinary approach.
2. The internal structures would need to be demolished, and maintaining merely the façade would not satisfy the conservation standards.
3. Restoration of the structural integrity of a building is a means to an end in Architectural Heritage rather than a goal in and of itself.

3.17 Riga Charter on Historical Reconstruction and Authenticity in Relation to Cultural Heritage (2000)

Guidelines for the conservation, restoration, maintenance, repair, and use of historically valuable railroad equipment that may still be run can be found in the Riga Charter, which is an international charter governing the scope, objectives, and participants in cultural heritage initiatives [43]. Other objectives of this charter are listed below:-

- Cultural heritage is physical or intangible evidence of past human activity, thus it must be preserved with the least amount of disturbance possible, even for preservation.
- The present conservation effort should be primarily focused on the preservation and restoration of cultural treasures.
- Restoration and conservation work is done to preserve and highlight the value of cultural assets.

4. Impacts on the multiple policies/legislation for heritage conservation and management

Numerous monuments and scattered images of gods and goddesses, particularly in the Kathmandu valley, are connected to and governed by various governmental organizations as well as by unofficial community and social organizations that have existed and been active for a long time; however, the site is ultimately within the protected monument zone. Every stakeholder or concerned organization should begin any activity (aside from intangible continuation of traditional activities) through DOA, the sole authority for conservation and management of Nepal's cultural heritage. However, managing the site is difficult due to a lack of coordination mechanism provisions in the law. The Guthi Corporation, which was founded in accordance with a separate law, the Guthi Corporation Act of 1976, is almost who owns the property where the monument is located. Similarly to that, this whole protected and unprotected monument zone is part of KMC's domain. For the preservation of cultural heritage, KMC has its

own statute and rules. It is also governed by the CDO, another government administrative entity with particular powers and duties, as a cultural property and protected monument zone.

According to the review of existing policies, there are several stakeholders' kinds, and each of them abides by the applicable laws in their home countries. There are no provisions for the joint obligations and responsibilities of all parties involved in site management and conservation, and there are no incentives or sanctions for upholding one's obligations and responsibilities while abstaining from breaching those of others. It is very difficult to implement the many laws required for all stakeholders to perform their tasks and obligations in line with their individually specified legislation since there is a shortage of this sort of legislation. In actuality, even by other stakeholders and site inhabitants, the multiple processes that must be followed are exceedingly complicated and challenging to comprehend. On the one hand, this is a big problem, and on the other, managing the site and conserving it will be challenging.

5. Discussion on the policies, legislation and charters

Many community groups have been losing track of these unwritten traditions and practices for a variety of reasons and the state has begun regulating these priceless cultural legacies and developing various laws to rigorously govern it. Being a party to various international charter and treaties, the state or government is also required to recognize and abide by additional international laws pertaining to those conventions for the administration and conservation of cultural heritage. However, there are many traditions, customs, norms, and values, and without these traditional ways of conservation and management is impossible to do anything for it. The many legal tools mentioned above are utilized in this context for their respective acts and regulations separately for the management and conservation of the cultural heritage of Kathmandu valley, but they must work together to achieve their goals as a whole.

The current system for managing and conserving cultural heritages is based on legal pluralism. So, it would be simpler and preferable to include those traditions and practices when official national or international legal mechanisms are formed for the administration and preservation of the Kathmandu Valley World Heritage Property/Monuments Zone. There is no coordination framework between the relevant authorities for the management and conservation of cultural resources, according to the research study. For instance, the DOA first focuses on maintaining the physical architecture of any cultural (rajguthi) monuments, but almost never on how to uphold the regular ceremonial activities (intangible heritage). Because of the nature of the work, just preserving physical monuments is useless. Intangible heritage must be prioritized. It demonstrates the difficulties that collaboration amongst the pertinent authorities encounters. Hence, it is now necessary to evaluate the present policies and coordinate our efforts in order to effectively manage and conserve cultural assets.

6. Conclusion

From the review of policies, there is still disconnecting between cultural heritage management theory and reality in heritage sites. Although the cultural heritage of Kathmandu valley is being managed and conserved in this setting using the many legal mechanisms listed above, there are still many traditions, conventions, norms, and values that must be upheld. Without these traditional management and conservation practices, nothing could be done. Such an invisible management system like guthi, which has been practiced in society since an immemorial time, involves several laws and numerous parties. The study article's final recommendation is to create uniform policies for the appropriate administration and protection of cultural resources in the Kathmandu valley, which will primarily be based on regional cultural norms in addition to UNESCO requirements. By creating such policies, the concerned organization's cross-cutting problems with using the preservation and management of cultural treasures in the Kathmandu valley will be reduced.

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