

## A CRITICAL REVIEW OF PRE AND POST-INDEPENDENCE CULTURAL PROPERTY LAWS IN NIGERIA

(*TINJAUAN KRITIKAL UNDANG-UNDANG HARTA BUDAYA SEBELUM  
DAN SELEPAS KEMERDEKAAN DI NIGERIA*)

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### Abstract

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*This paper presents a critical review of the cultural property laws in Nigeria, both before and after independence. The study delves into the historical development of these laws, tracing their origins from the pre-colonial era to the present day. It examines the various legislative enactments and policy frameworks that have been put in place to protect and preserve Nigeria's rich cultural heritage. The paper critically evaluates the effectiveness of these laws in safeguarding the country's cultural property against theft, illegal export, and destruction. It explores the challenges and gaps that exist in the current legal framework and proposes recommendations for improvement. Through a comparative analysis of cultural property laws in the pre-colonial and post-colonial eras, the paper seeks to draw lessons and best practices that can be applied to enhance the legal framework in Nigeria. The study concludes with a call for the urgent reform of cultural property laws in Nigeria to ensure the protection and sustainable management of the country's cultural heritage for future generations.*

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**Keywords:** Pre-independence, Post-independence, Cultural property law, Heritage protection, Sustainable heritage management

### Abstrak

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*Makalah ini membentangkan ulasan kritikal undang-undang harta budaya di Nigeria, sebelum dan selepas kemerdekaan. Kajian ini mendalami perkembangan sejarah undang-undang, menelusuri asal-usulnya dari zaman prapenjajahan hingga ke hari ini. Ia meneliti pelbagai enakmen perundangan dan rangka kerja dasar yang telah dilaksanakan untuk melindungi dan memelihara warisan budaya Nigeria yang kaya. Makalah ini menilai secara kritis keberkesanan undang-undang ini dalam melindungi harta budaya negara daripada kecurian, eksport haram dan kemusnahan. Ia meneroka cabaran dan jurang yang wujud dalam rangka kerja undang-undang semasa dan mencadangkan cadangan untuk penambahbaikan. Melalui analisis perbandingan undang-undang harta budaya dalam era prapenjajahan dan pasca-penjajahan, makalah ini berusaha untuk menarik pengajaran dan amalan terbaik yang boleh digunakan untuk meningkatkan rangka kerja undang-undang di Nigeria. Kajian ini diakhiri dengan seruan untuk pembaharuan segera undang-undang harta budaya di Nigeria untuk memastikan perlindungan dan pengurusan mampan warisan budaya negara untuk generasi akan datang.*

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**Kata Kunci:** *Prakemerdekaan, Pascakemerdekaan, Undang-undang harta budaya, Perlindungan warisan, Pengurusan warisan mampan*

## Introduction

Nigeria, a country celebrated for its vast and diverse cultural heritage, stands as a testament to the intricate interplay of history, tradition, and ethnic diversity (ICCROM 2020; Nomishan et al. 2023). This rich cultural heritage, stemming from a myriad of ethnic groups, is a source of national pride and identity. This cultural heritage cuts across tangible and intangible. Nigeria's tangible cultural heritage encompasses a wide range of physical artefacts, structures, and sites that bear witness to the country's history and cultural identity. From ancient archaeological sites to traditional architecture and craftsmanship, Nigeria's tangible cultural heritage is a testament to the ingenuity, creativity, and resilience of its people.

One of the most prominent aspects of Nigeria's tangible cultural heritage is its archaeological sites, which date back thousands of years. Sites such as the Nok Terracotta sites in central Nigeria, which date back to around 500 BC to 200 AD, provide valuable insights into Nigeria's early history and artistic traditions. These sites are characterized by their distinctive terracotta sculptures, which depict human figures and animals and are considered some of the oldest sculptures in sub-Saharan Africa. Others include "Turunku, Kabitu Hills, Katsina-Ala Basin, Ibinda and Tse-Dura Complexes, Wo-Mondo, Da'ama, Birnin-Kudu Rock Painting, Iwo-Eleru Rockshelter, Erijiyan Postsherd pavements, Ancient Ile-Ife, Old-Oyo Kingdom, Olumo Rock, Idanre Hills, Ancient Benin Empire, Igbo-Ukwu and Akwanshi Stone Figurines" among others (Nomishan et al. 2023: 665).

In addition to the examples above, there are numerous historic sites, monuments, and museums that tell the story of Nigeria's rich history and diverse culture. These sites are a testament to the country's longstanding traditions and customs and offer a glimpse into its past. For instance, the Benin City Walls are an impressive feat of engineering that dates back to the 13<sup>th</sup> century, and the Osun-Osogbo Sacred Grove is a UNESCO World Heritage site that is revered for its religious significance. These sites not only hold immense historical and cultural value but also have the potential to attract tourists and provide economic benefits to local communities (UNESCO 2005). Nomishan et al. (2023: 667) continue that "there are many of these sites in all the six geopolitical zones of the country. Some of them are still well preserved, while some are gradually or completely destroyed as a result of agricultural activities, conflict or communal crises, cattle grazing, farming, timber works and mining activities, among others. This is in many cases due to a lack of attention from heritage stakeholders toward the sites."

Another significant aspect of Nigeria's tangible cultural heritage is its magnificent display of the rich diversity and creativity of its people. One of the most striking aspects of this heritage is the traditional architecture that varies significantly across the country's diverse ethnic groups. From the intricate and ornate wooden houses of the Yoruba people in the southwest to the simple and elegant mud-brick houses of the Hausa-Fulani in the north, Nigeria's traditional architecture is a testament to its people's ingenuity and adaptability. These structures not only serve as architectural wonders but also as symbols of community identity and continuity, connecting the past to the present.

In addition to the remarkable traditional architecture, Nigeria's tangible cultural heritage also includes a wide range of craftsmanship and artistic traditions that have captivated the world for centuries. The country's artisans are known for their exceptional skills in weaving, pottery, metalwork, and other traditional crafts that have been passed down from generation to generation. These crafts are not just decorative objects but also a means of cultural expression and identity, reflecting the unique history, beliefs, and customs of various ethnic groups. For example, the Adire textile tradition of the Yoruba people is a unique art form that involves resist-dyeing techniques to create intricate patterns that are not only visually stunning but also hold deep cultural significance.

Furthermore, Nigeria's Intangible cultural heritage (ICH) on the other hand, is a vibrant tapestry of traditions, practices, expressions, knowledge, and skills passed down from generation to generation within diverse communities. These elements are pivotal in shaping the identity, values, and worldview of the Nigerian people, reflecting the country's multicultural and multi-ethnic society. One of the most significant ICH of Nigeria is oral traditions, including myths, legends, folktales,

proverbs, and epic narratives, which serve as vital conduits for transmitting history, cultural norms, values, and societal ethics. These narratives are often performed during festivals, ceremonies, and social gatherings, enriching the preservation and dissemination of Nigeria's cultural heritage.

Another ICH of Nigeria is performing arts traditions, which encompass music, dance, and theatre, renowned for their diversity and vibrancy. Each ethnic group boasts either unique musical styles, dance forms, and theatrical performances that are intrinsic to their cultural identity. This is usually accompanied by elaborate costumes, musical instruments, and rituals, reflecting a rich cultural heritage. A myriad of cultural rituals and ceremonies mark significant milestones in individual and communal life. Weddings, funerals, initiation rites, and harvest festivals are deeply ingrained in tradition, fostering social cohesion and reinforcing cultural identity among ethnic groups in Nigeria. The tradition of craftsmanship, including pottery, weaving, beadwork, carving, and metalwork, is also steeped in history. Passed down through generations, these skills are often associated with specific ethnic groups or communities, preserving cultural heritage and stimulating economic development through handicrafts and artworks.

Further, traditional medicine and healing practices are also integral to Nigeria's cultural heritage, blending herbs, plants, and spiritual rituals. This is rooted in cultural beliefs, and is crucial, especially in rural areas with limited access to modern healthcare. Another unique ICH of Nigeria which binds all Nigerian groups together is a rich tradition of traditional sports and games, fostering entertainment, social interaction, and community bonding. Wrestling, traditional board games, and various forms of martial arts are cherished pastimes across generations. Nigerian cuisine is another critical ICH celebrated for its diversity, reflecting the country's cultural patrimony. Each ethnic group boasts unique culinary traditions, ingredients, and cooking techniques that serve as cultural expressions and identity markers.

However, the preservation and safeguarding of this heritage have become increasingly critical in the face of rapid urbanization, globalization, and modernisation (Nomishan and Sani 2023). The legal framework governing the protection of cultural property in Nigeria occupies a central role in this endeavour. From pre-colonial times to the present, Nigeria has seen the evolution of various legislative measures and policies aimed at preserving its cultural treasures (Eze-Uzomaka 2014). These laws are crucial not only for the protection of physical artefacts but also for the intangible cultural practices and expressions that form the essence of Nigeria's cultural identity (Nomishan and Sani 2023).

### **Statement of the Research Problem**

Despite Nigeria's rich and diverse cultural heritage, encompassing tangible and intangible elements, there exist significant challenges in the protection and preservation of this heritage. The country's cultural property laws, both pre and post-independence, have been designed to safeguard this heritage, yet their effectiveness remains questionable. Rapid urbanization, globalization, modernization, insecurity and general social unrest pose threats to this cultural heritage, leading to the destruction, illegal export, and theft of cultural property. There is a need for a critical review and analysis of Nigeria's cultural property laws to evaluate their effectiveness in protecting and preserving the country's cultural heritage. This study aims to examine the historical development of these laws, tracing their origins from the pre-colonial era to the present day. It will also explore the various legislative enactments and policy frameworks that have been implemented to protect Nigeria's cultural heritage.

Furthermore, the research will assess the current legal framework's ability to address the challenges and gaps in cultural property protection. It will consider the impact of globalisation, modernisation, and technological advancements on the preservation of cultural heritage in Nigeria. Through a comparative analysis of cultural property laws in other jurisdictions, this study seeks to identify best practices that can be applied to enhance Nigeria's legal framework. Ultimately, this research will contribute to the ongoing discourse on the protection and preservation of Nigeria's

cultural heritage. It will provide insights and recommendations for improving the legal framework to ensure the sustainable management of the country's cultural heritage for future generations.

### **Research Methodology**

The research will begin with an in-depth review of existing documents on cultural property laws in Nigeria, drawing from academic works, government reports, and legal documents. This extensive review aims to develop a comprehensive understanding of the historical development, legislative enactments, and policy frameworks governing cultural property in Nigeria. Following this, a meticulous analysis of relevant legal documents, including legislation, policies, and international conventions, will be conducted. This analysis will focus on understanding the evolution of cultural property laws in Nigeria, their key provisions, and their effectiveness in safeguarding cultural heritage.

The research includes a comparative analysis of cultural property laws in other jurisdictions to identify best practices and lessons that can be applied to enhance Nigeria's legal framework. This analysis draws insights from case studies and comparative legal studies, providing a nuanced understanding of effective cultural heritage protection strategies. The primary method of data collection will involve gathering information from secondary sources, including academic databases, libraries, government websites, and reports from cultural heritage organisations.

### **Pre-Independence Cultural Property Laws in Nigeria**

The commencement of cultural heritage laws in Nigeria can be attributed to several key reasons, including the need to protect and preserve the country's rich and diverse cultural heritage, which plays a significant role in shaping its national identity and heritage. These laws were also established to address challenges such as urbanization, globalization, and modernization, which pose threats to Nigeria's cultural heritage, including theft, illegal export, and destruction. This may also have been out of a projection for the utilization of the economic benefits of cultural heritage, including tourism and cultural industries, and the need to ensure sustainable management and development of cultural heritage resources (Gubam et al. 2021; Nomishan and Sani 2023).

Aside from the above, there were extensive construction projects during the colonial era, which were undertaken without regard for their environmental impact, leading to widespread deforestation and the destruction of natural and historical landscapes. This resulted in the loss of many historical and cultural artefacts.

Consequent to the above, cultural artefacts from Nigeria were being exported through various means, including removal as curios to museums and private homes in the countries of origin of Christian missionaries and colonial administrators. They were also being exported through gifts, either as a mark of hospitality or in exchange for trinkets. Also, but more recently artefacts have continued to be plundered and taken by research workers who claimed they were for study collections or to publicize African art worldwide (Eyo 1979).

The first major looting for the exportation of Nigeria's cultural artefacts occurred in 1897 by a British expedition led by Admiral Rawson. Benin Bronzes, which are crucial records of important events and are significant in Nigeria's artistic and cultural heritage, were looted from the palace and dispersed among museums worldwide (Eyo 1979; Greenfield 1996). Consequently, Nigeria now has only a minority holding of its own art, with mere casts and photographs of the pieces that once belonged to Benin on display (Eyo 1968).

One explanation for this significant outflow of Nigeria's antiquities was the belated awareness of the need for legislation to prevent the exportation of art treasures (Shyllon 2000). This delayed response contributed to challenges faced by Nigeria in protecting its cultural heritage and retaining ownership of its artistic treasures. This situation prompted K.C. Murray and other concerned colonial officers to advocate for laws and the establishment of an institution to protect Nigerian antiquities from further destruction and looting. As a result, the first legislation on cultural heritage protection

in Nigeria was a 1924 Ordinance passed in view of the export from the country of bronzes (Shyllon 2000). Kenneth Murray pointed out that the intensification of the Second World War prevented the creation of a more comprehensive Act to protect works of Art in Nigeria at that time (Murray 1942). The Antiquities Service and the Office of a Surveyor of Antiquities were established on July 28, 1943, to lead this effort (Gubam et al. 2021).

Following the above, the Antiquities Ordinance No. 17 of 1953 was created to replace the 1943 legislation. This Ordinance empowered the Federal Department of Antiquities under the Federal Ministry of Information to conserve and prevent the illegal exportation of Nigeria's antiquities. According to Ordinance No. 17, antiquities means "any object of archaeological interest, any work of art or craft work of indigenous origin made before 1918, or of historical, artistic, or scientific interest" (Odofin 2000: 42).

The Antiquities Ordinance No. 17 of 1953 provided for a commission, with three operational levels including:

- i. The government represented by the minister,
- ii. The organising, control and policy-making body,
- iii. The division with a specified function for achieving the objectives of the department.

This Ordinance introduced provisions for Regional Committees, although it did not specify their exact powers and functions. It also acknowledged the role of local government authorities, empowering them to designate antiquities and regulate activities such as the sale, loan, removal, excavation, or alteration of antiquities through the enactment of bylaws. The effective functioning of the department was overseen by an Executive Director, who was supported by a Deputy Director and responsible for initiating policies within the department (Ugwu et al. 2018).

The Department of Archaeology, Ethnography, and Museums was divided into three sections, each headed by an individual who reported to the director and deputy director. Among these sections, the Museum section was the most extensive, boasting a more comprehensive organization in terms of personnel, capital investment, and representation across Nigeria. Periodically, the heads of these sections would work under the museum curator, especially if they were stationed outside of Lagos, which served as the Headquarters at that time (Nzewunwa 1983).

This period marked a significant shift in the legislation concerning the preservation of cultural heritage (CH) in Nigeria (Gubam et al. 2021). In March 1953, Sir Abubakar Tafawa Balewa, then Prime Minister and Minister of Works, introduced the Bill in the House of Representatives. He highlighted the importance of CH, stating that it serves as a source of pride and inspiration to Nigerians, both in the present and future (Ugwuanyi 2018). The Antiquities Department, established by this Ordinance, was tasked with various responsibilities, including the establishment of museums, supervising archaeological excavations, declaring and protecting monuments, and controlling the movement of antiquities (Nzewunwa 1984). Following the passage of the Ordinance, a total of 55 national monuments were declared between 1959 and 1964 (Osuagwu 2009).

In 1957, the Antiquities (Export Permits) regulation was enacted to control the exportation of Nigeria's antiquities. This regulation was a significant step in safeguarding Nigeria's cultural heritage by preventing the unauthorized removal of valuable artefacts from the country. The regulation required individuals or entities seeking to export antiquities to obtain permits, which would only be granted under specific conditions and criteria (Adewumi 2013).

Section 2(2) of the Antiquities (Export Permits) Regulations 1957 stipulated that applications for export permits should be submitted at least three months prior to the intended export date. However, this requirement could be waived in cases of "reasonable grounds for urgency." The determination of what constituted "reasonable grounds" was subjective, left to the discretion of the designated officer, without any defined criteria. This ambiguity opened the door to potential abuse or arbitrary decision-making, as the sincerity of the officer's judgment was not guaranteed.

Paragraph 3(2) of the regulation further highlighted the laxity in inspection procedures. Exporters were not obligated to physically present the antiquities to the Director of Antiquities for inspection to verify their status. Instead, they were only required to provide the location of the antiquities. Similarly, paragraph 4(1) merely required applicants to facilitate access to and inspection of the antiquities as requested by the Director or a commission member, without specifying the extent or rigour of such inspections.

These provisions suggest a lack of genuine commitment by the colonial government to effectively regulate the illicit trade in Nigerian antiquities. The absence of stringent inspection requirements and the discretion granted to officials facilitated the continued illegal exportation of cultural artefacts from Nigeria to Western countries. This raises concerns about the integrity and effectiveness of the regulatory frameworks in preserving Nigeria's cultural heritage in the pre-independence era (Shyllon 2000).

### **Post-Independence Cultural Property Laws in Nigeria**

The illicit export of Nigeria's cultural heritage persisted extensively even after the enactment of the pre-independence cultural heritage laws. This led to criticism that the laws essentially facilitated smuggling. For example, Eluyemi (1982) opines that the Antiquities Ordinance No. 17 of 1953 was perceived as a 'smuggler's charter' because it did not outrightly forbid the export or smuggling of the country's antiquities; instead, it required smugglers to obtain a permit. Moreover, the colonial government, which was responsible for the illegal export, was also responsible for issuing these permits, creating a conflict of interest and enabling further illicit activities. Shyllon (2000) also stated that the absence of specific laws prohibiting the sale of antiquities in Nigeria granted some individuals the liberty to both sell and purchase such items without legal constraints. This unrestricted trade extended to various locations, including shops, markets, and entertainment venues.

According to Adewumi (2013: 92), the "exploitation of African cultural heritage reached alarming levels in the 1960s and 1970s, as traders in ethnographic art organized expeditions to remote parts of Africa, including Nigeria. Following independence, Nigeria's antiquities became part of a lucrative commercial trade, driven by high demand in Europe and America, leading to the looting and illegal exportation of these cultural treasures. The Daily Times newspaper reported on December 20, 1963, the trial of Aharon Boas, an Israeli convicted for illegally exporting terracotta heads and carvings recovered from Canada, America, Paris, and Amsterdam. Boas was fined £50 or faced three months in jail for exporting nine antiquities."

In another incident, Dr. Winfried Rathke, a German eye specialist, was charged with attempting to smuggle thirty works of art out of Nigeria. He claimed to have purchased them from local traders as Christmas presents for Germany. However, other antiquities in his possession were covered by a permit issued by Kenneth Murray, the then Director of the Department of Antiquities (Daily Times, 29 October 1964). The same Murray who issued the permit was also the one expressing concern about expatriates helping antiquities vanish from Nigeria under the guise of having permits to buy them. He urged the public to cooperate in protecting Nigeria's cultural heritage by refraining from selling antiquities to dealers.

The Nigerian Civil War of 1968 to 1970 further facilitated the large-scale exportation of cultural goods by dealers and smugglers. These incidents led to the establishment of the Antiquities Discoverers Club of Nigeria, later transformed into the Society of Nigeria National Museum, aimed at searching for and collecting antiquities in Nigeria for preservation (Shyllon 1988). To address these challenges, the Antiquities (Prohibited Transfers) Act was passed in February 1974. This Act prohibited the sale of antiquities to anyone other than the Director of the Federal Department of Antiquities or an authorized person or body. Violators faced sanctions, although the penalties were not stringent enough to deter them. The Act also mandated the registration of antiquities by accredited agents, failure to comply could result in the seizure and forfeiture of the antiquities (Antiquities (Prohibited Transfer) Act 1974).

However, shortly after the enactment of the Antiquities (Prohibited Transfer) Act of 1974, the National Commission for Museums and Monuments (NCMM) was established through Decree No. 77 of 1979. This is because the 1974 Act was not able to function effectively towards achieving its goal. Shyllon opines that the Antiquities (Prohibited Transfer) Act had internal challenges including funding which made it ineffective.

Therefore, the promulgation of Decree N. 77 of 1979 and the establishment of the NCMM became necessary for several reasons. One of the key reasons for this was the need to consolidate and streamline the management of Nigeria's cultural heritage, including museums, monuments, and archaeological sites. Before the establishment of the NCMM, cultural heritage management was fragmented, with different government agencies responsible for different aspects of heritage protection. This fragmentation led to inefficiencies and gaps in the protection and preservation of Nigeria's cultural heritage.

Prominent among the reasons was the increasing threats to Nigeria's cultural heritage, including looting, illegal excavation, and encroachment, highlighting the need for a dedicated agency to oversee the protection and preservation of cultural heritage. Another important reason was the recognition of the importance of cultural heritage in nation-building and identity formation. Nigeria, with its diverse cultural heritage spanning thousands of years, recognized the need to preserve and promote this heritage for future generations. The establishment of the NCMM was seen as a way to centralise efforts to protect and promote Nigeria's cultural heritage. The NCMM was, therefore, established with the mandate to protect, preserve, and present Nigeria's cultural heritage for the benefit of present and future generations.

Specifically, the NCMM Act repealed and replaced previous enactments related to cultural heritage and consolidated their provisions. It, in addition, introduced new provisions that established a framework for the declaration of national monuments. For example, the regulations in the Antiquities (Prohibited Transfers) Act 1974, which were abolished, are reintroduced in the NCMM Act under Part III as Sections 21, 22, 23, 24, and 26.

Adewumi (2013) points out that section 25, which pertains to export restrictions, reiterates the content of section 22 from the repealed Antiquities Act of 1953 and states the following:

1. Unless prescribed otherwise, no antiquity can be exported from Nigeria without a permit issued by the Commission, subject to subsection (4) of Decree No. 77 of 1979.
2. An application for a permit under this section must be made in the manner prescribed in the 1979 Act.
3. The Commission may inspect and seal the antiquity before issuing a permit for its export under this section.
4. A permit is not needed for the export of an antiquity that has been legally imported into Nigeria. However, in any legal proceedings regarding a contravention of this section, the burden of proving the lawful importation of an antiquity into Nigeria lies with the individual(s) involved.

The regulations concerning the export of antiquities, initially established in the Antiquities (Export Permits) Regulations 1957, are still in effect under the 1979 Act, now referred to as the National Commission for Museums and Monuments (Export Permits) Regulations. It is important to note that this regulation has been criticized for a provision that allows for an exemption from full inspection in cases of 'reasonable grounds for urgency.'

Unfortunately, the 1979 Act retained some of the shortcomings of earlier laws, leading to the ongoing issue of exporting cultural goods without adequate control. Incidents of theft and break-ins at museums have been rampant (Gundu 2014), with museums unable to effectively prevent these occurrences (Gundu 2020). They continue to be targeted and looted one after another, indicating a persistent challenge in safeguarding cultural heritage (Nomishan et al. 2023).

Studies by Gubam et al. (2021) offer a thorough assessment of the functions, mandates, achievements, and limitations of Decree No. 77 of 1979 and the NCMM. Given the comprehensive nature of their analysis, this study will not replicate their findings. However, previous research by scholars such as Akinade (1999), Eluyemi (2002), Kimbers (2007), Ojedokun (2012), Gundu (2012, 2014 & 2020), Adewumi (2013), Eze-Uzomaka (2014), Arua et al. (2019), Gubam et al. (2021), Nomishan et al. (2023), and Nomishan and Sani (2023) indicates that Decree No. 77 of 1979 and the NCMM have not effectively fulfilled their roles as a legal framework and institution for heritage regulation, preservation, protection, management, and promotion in Nigeria.

As a result of these findings among other factors (see Nomishan and Sani 2023), scholars such as Shyllon (1996), Gubam et al. (2021), and Nomishan et al. (2023) have called for a comprehensive and critical review of the Decree to enhance its effectiveness. They argue that a review is necessary to ensure that the Decree and the NCMM are empowered to better fulfil their roles and responsibilities in regulating, preserving, protecting, managing, and promoting Nigeria's cultural heritage. This call for review highlights the importance of continually evaluating and improving legal frameworks and institutions to meet the evolving challenges of heritage conservation and management anywhere in the world.

### **Illegal Activities in Cultural Property in Nigeria: A Historical Overview**

As stated in the introduction, Nigeria has a lot of cultural heritage assets of great significance. This includes artefacts, historical monuments, religious beliefs, languages, and traditional art forms, etcetera. These cultural resources are deeply connected to the nation's identity, history, and development. However, illegal activities such as theft, smuggling, and the illicit trade in cultural resources have posed significant threats to these cultural resources (Gundu 2014 & 2020; Nomishan et al. 2023). These activities undermine the integrity of Nigeria's cultural heritage and deprive the country of its historical richness. These illegal activities are further discussed as follows:

1. **Pre-independence Period:** Before Nigeria gained independence in 1960, cultural property theft and smuggling were already prevalent, largely due to colonial influence. The British colonization of Nigeria from 1861 to 1960 (Utuk 1975) saw the systematic looting and removal of significant cultural artefacts from various Nigerian kingdoms, such as the Benin Bronzes in 1897 (Hicks 2020). These artefacts were taken from royal courts and sacred sites, exported to Europe, and sold in international markets (Gundu 2020). The colonial authorities did little to protect indigenous heritage, and there was no formal legal framework to address the illicit trade of cultural property (Nomishan and Sani 2023). Traditional institutions, though strong, lacked the capacity to prevent the onslaught of external actors who sought to profit from Nigeria's rich cultural heritage.
2. **Impact of the Benin Expedition:** The British punitive expedition against the Benin Kingdom in 1897 is one of the most notorious cases of cultural property theft in pre-independence Nigeria. Thousands of artefacts, including bronze sculptures and ivory carvings, were taken by British soldiers and subsequently sold to collectors and museums around the world (Hicks 2020; Gundu 2020; Nomishan et al. 2023). This event set a precedent for further looting and illegal activities concerning Nigerian cultural property. As a result, many of Nigeria's most valuable cultural artefacts ended up in private collections and public museums in Europe and America.
3. **Cultural Property Loss During World War II:** The looting of Nigerian cultural property intensified during World War II, as global instability created opportunities for smugglers and looters (Arua et al. 2019). Foreign collectors, archaeologists, and soldiers exploited the lack of oversight, removing artefacts from archaeological sites and sacred locations. Many of these items, particularly those from the Nok culture, were smuggled out of Nigeria and sold to private collectors or institutions abroad (Gundu 2020). With no significant regulations in place, the plundering of Nigeria's cultural treasures went unchecked during this period.



4. **Post-independence Challenges (1960s–1970s):** After Nigeria gained independence in 1960, the newly formed government sought to address the growing problem of cultural property theft. However, the 1960s were marked by political instability, including the Nigerian Civil War (1967–1970), which exacerbated the situation (Bouchat 2013). During the Nigerian Civil War, museums and cultural sites were vulnerable to looting, and many artefacts were illegally removed from the country. This period saw an increase in the smuggling of cultural property to Europe and North America, where demand for African art and antiquities continued to rise (Arua et al. 2019).
5. **Enactment of Protective Legislation (1970s):** As captured earlier in this article, in response to the widespread looting and smuggling of cultural property, and the failure of previous legislations, Nigeria enacted Decree No 77, establishing the National Commission for Museums and Monuments, in 1979. This law aimed to safeguard Nigeria's cultural heritage as it was given the responsibility of managing and protecting the country's archaeological and ethnographic resources. The act also made it illegal to export cultural property without official authorisation (Gubam et al. 2021; Nomishan et al. 2023; Nomishan and Sani 2023).
6. **Rise of International Smuggling Networks (1980s–1990s):** The 1980s and 1990s saw the rise of sophisticated international smuggling networks that exploited Nigeria's weak enforcement mechanisms. These networks targeted Nigerian cultural property, smuggling artefacts through porous borders to neighbouring countries and onward to Europe, the United States, and Asia. Items such as terracotta sculptures, Nok figurines, and Benin bronzes were in high demand on the black market (Gundu 2014). Many of these objects were smuggled out via West African ports, with little to no regulation by Nigerian authorities. This era highlighted the growing global demand for African art and the inability of local institutions to curb the illegal trade. For example, Gundu (2020) explained that “about 50 Nigerian terracotta figurines were housed in the private collections of Gert Chesi in Schwaz, Austria, before being donated to city of Schwaz” (Nomishan et al. 2023: 675).

Gundu (2020) observed that Nigerian museums are vulnerable repositories that have unfortunately continued to experience significant losses. Terracotta and other collections have steadily disappeared from the storage rooms of both National and institutional museums (Gundu 2014). For instance, in 1987, burglars stole nine objects from the Jos Museum. It is also estimated that in the 1990s alone, around 429 antiquities were stolen from approximately 33 national and institutional museums across Nigeria (Gundu 2012). In 1993, 13 statues were stolen after the main door of the Esie Museum was broken, with an additional 21 statues stolen in 1995, totalling 34. Similarly, the Ife Museum lost 40 objects between 1993 and 1994 (ICOM Red List 2016; Brodie et al. 2000). Museum staff were involved in many of these thefts (Jegade 1996; Willet, 2000; Adesari 1999). In addition to the above, Akwanshi stone monoliths from the Upper Cross River region, located at open-air museum sites in Alok, Emangabe, and Edamkono, were also stolen and illegally trafficked abroad in violation of national and international laws (Gundu 2020).

7. **Efforts at Repatriation (2000s):** In the 2000s, Nigeria intensified efforts to repatriate stolen cultural property. The Nigerian government, in collaboration with international organisations such as UNESCO and Interpol, began to press for the return of artefacts that had been smuggled out of the country. Some high-profile cases, such as the return of Nok terracotta sculptures and Benin bronzes from museums in Europe and America, marked significant victories for Nigeria. However, the process of repatriation remained slow, with many foreign institutions reluctant to return artefacts acquired decades earlier under questionable circumstances.

Further, in October 2020, the Netherlands decided to return a 600-year-old Ife Terracotta, a significant artefact with historical and cultural value (FMINO 2020). In March 2021, the University of Aberdeen in Scotland followed suit by agreeing to return a Benin Bronze from

its collection. The sculpture is a significant artefact that portrays the head of an Oba, or king. It was part of a large number of religious and cultural items taken by British forces during the destruction of Benin City in 1897. The University of Aberdeen acquired the sculpture at an auction in 1957. After a thorough review of the artefact's history, it was confirmed that it was obtained under questionable circumstances during the Benin Punitive Expedition when the Oba's royal palace was destroyed and looted (University of Aberdeen 2021).

In 2020, the University initiated discussions, led by Professor Bankole Sodipo of Babcock University, Nigeria, with the National Commission for Museums and Monuments, the Edo State Government, and the Royal Court of the Oba, about the potential return of the artefact. Subsequently, a formal request for repatriation was made by the Federal Government of Nigeria. In March 2021, the University Court unanimously approved the repatriation request following discussions by an expert panel, which included representatives from the University, the Director of the Hunterian Museum at the University of Glasgow, and Professor Sodipo representing the Nigerian partners (University of Aberdeen 2021).

More so, in April 2021, a bronze piece from Mexico was also returned. The University of Cambridge in the United Kingdom has joined this movement by agreeing to return a disputed Benin bronze, and the repatriation process for this piece is set to begin soon. Furthermore, a significant event is scheduled for October 2021, during which antiquities from the Metropolitan Museum in New York will be repatriated. These antiquities consist of two important Benin Bronzes and an exquisite Ife Bronze head (FMINO 2021). The then Minister for Information informed the public that he was working with Germans especially Prof. Monika Grutters, the German Minister of State for Culture for the repatriation of 1,130 Benin Bronzes to Nigeria. In 1897, British colonial troops looted 3,500 to 4,000 bronzes from the royal palace in Benin City and set the city on fire (UNESCO 2022). Approximately 1,100 of these bronzes were purchased in Germany, with 440 of them acquired in Berlin alone, making it the second-largest collection in the world. The museums bought the artworks at auctions, so their possession is legal. However, their acquisition is not legitimate, as they were obtained through colonial violence (Deutsche Welle 2022). To date, Germany has returned only 22 Benin Bronzes to Nigeria (Ahn 2022).

8. **Modern-Day Smuggling and Theft (2010s–Present):** Despite legal frameworks and international agreements aimed at curbing the illegal trade in cultural property, the problem persists in Nigeria. Smugglers have become increasingly sophisticated, utilising modern technology and international connections to move stolen artefacts out of the country. Illicit excavations continue at archaeological sites, with valuable artefacts being smuggled abroad and sold to collectors.

In 2009, three artefacts smuggled into Canada were seized by the Canada Border Services Agency. Among them were two terracotta carvings, estimated to be between 700 and 1,300 years old, and a carved wood dating back 200 to 300 years. These artefacts were later repatriated to Nigeria through the efforts of the Canadian Conservation Institute (Agbedeh 2011; Arua et al. 2019). Thieves still target museums and cultural institutions within Nigeria, and there is growing concern over the security of cultural property stored in these facilities.

9. **Role of Technology in Tracking Stolen Artefacts:** The advent of technology has been both a boon and a bane in the fight against illegal cultural property trade. On one hand, smugglers use advanced methods, including online marketplaces, to sell stolen artefacts. On the other hand, stakeholders have begun employing technological tools such as databases, satellite tracking, and international cooperation to track and recover stolen items. For example, Abate et al. (2023) suggested that artificial intelligence (AI) holds significant promise in effectively detecting and tracking the illegal trade of cultural heritage items using image classification methods. This approach is particularly useful in online marketplaces, where the trafficking of stolen cultural heritage objects has become a critical global concern.

Amineddoleh (2019) on the other hand stressed that, today, technology has become a key player in the global trade of ancient artefacts. Thieves exploit the anonymity of the internet to sell looted relics, while authorities leverage these advanced tools to assess damage at plundered sites and raise public awareness about stolen cultural treasures. Collaborative efforts with global organizations, such as UNESCO's Database of National Cultural Heritage Laws and INTERPOL's Stolen Art Database, have contributed to facilitating the identification of looted Nigerian artefacts in foreign auctions.

10. **Future Prospects and the Need for International Cooperation:** Moving forward, Nigeria's efforts to protect its cultural property will require greater national legal reforms that will meet current standard practices (Shyllon 1996 & 2000; Gubam et al. 2021; Nomishan et al. 2023; Nomishan and Sani 2023). Reforms in cultural property laws in the country need to address ownership disputes and define frameworks for restitution and repatriation. This should also be complemented by international cooperation, particularly in the realm of artefact repatriation and legal enforcement (Gundu 2020). Strengthening partnerships with international institutions, art market regulators, and law enforcement agencies is crucial in curbing the illegal trade in cultural antiquities in Nigeria. Also, fostering awareness among Nigerian publics about the importance of cultural heritage protection is essential to preserving the nation's rich history for future generations (Gubam et al. 2021; Nomishan et al. 2023; Nomishan and Sani 2023).

### Comparative Analysis of Reforms in Cultural Property Laws and New Frontiers

The necessity for comprehensive reforms in cultural property laws has become increasingly apparent in light of the escalating risks of illicit trafficking, looting, and the destruction of cultural assets, particularly in regions experiencing conflict and political instability such as Nigeria (Arua et al. 2019; Gundu 2020). Over the past few decades, numerous nations have responded to these pressing challenges by enacting or amending their legal frameworks governing cultural heritage protection (UNESCO 2023). A comparative analysis of these reforms reveals significant divergences in approaches to safeguarding cultural property, which are often shaped by historical contexts, economic imperatives, and the degree of international cooperation (Al-Azm 2023).

In Europe, a number of countries have adopted a proactive stance toward the reform of cultural property laws, prioritising stringent regulations within the art market and the protection of national treasures. For example, Italy's recent overhaul of its cultural property laws has introduced strict controls over the export of cultural goods, complemented by rigorous inventory and tracking systems for artworks and artefacts (Visconti 2019). Similarly, France has fortified its cultural heritage protection framework by instituting tighter controls on sales and exports, as well as policies that encourage the repatriation of looted artefacts (de Saint-Laurent 2019). The European Union has further unified these efforts by adopting regulations aimed at ensuring the return of cultural objects unlawfully removed from member states, thereby reinforcing international legal standards such as those established by the 1970 UNESCO Convention (European Union 2022).

In contrast, the cultural property laws in the United States tend to be more decentralised, with individual states playing significant roles in the protection and management of cultural assets (Katherine 2009; Gerstenblith 2023). A landmark piece of legislation, the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990, recognizes the rights of Native American tribes regarding human remains and cultural objects, mandating their repatriation from museums and federal agencies (National Park Service 2023). Recent amendments to this law have focused on preventing illicit trafficking, ensuring that cultural property entering the U.S. is not obtained through illegal means. Nevertheless, the U.S. remains a major player in the art market, leading to ongoing tensions between the need for heritage protection and the interests of private collectors.

The Gulf region has also witnessed significant reforms in cultural heritage laws. Each country has implemented key regulations to protect and manage its antiquities. For instance, Bahrain's Decree Law No. 11, enacted on June 25, 1995, replaced the older Antiquities Law of 1970, with a specific

focus on safeguarding antiquities. Although a 1989 decree by the Bahrain Authority for Culture and Antiquities (BACA) aimed to list and protect monuments, many have since been lost due to urban expansion and development pressures (Woskinski and Renold 2017).

Kuwait's Law of Antiquities, enacted in 1960 and supplemented by Princely Decree No. 11 in the same year, has undergone several amendments, including Antiquities Law No. 9 of 1994 and Decree No. 52 regarding the National Library. In 1999, Kuwait introduced Law No. 64 on Intellectual and Artistic Property to safeguard cultural and intellectual works (Al-Azm 2023).

Oman has a rich history of heritage protection laws, beginning with Royal Decree No. 14 of 1976, which restructured the Ministry of Omani Heritage. Subsequent laws introduced by the Sultan in 1977 addressed the protection of manuscripts, the censorship of artistic works, and the management of the ministry's functions. Oman has further strengthened its legal framework with the 1980 Law on the Protection of National Cultural Heritage and various decrees throughout the 1990s and 2000s, including laws controlling art trafficking and the 2005 adoption of the UNESCO Convention for the Safeguarding of Intangible Heritage. Notable legislation was also enacted in 2007 and 2008 focusing on intellectual property and cultural diversity (Al-Azm 2023).

In Qatar, the 1980 Antiquities Law (Law No. 2) laid the groundwork for cultural heritage protection. It was subsequently amended by Law No. 23 in 2010 to enhance heritage preservation efforts. Furthermore, Law No. 7 was enacted in 2002 to protect copyrights, thereby, ensuring intellectual property rights in cultural contexts (Al-Azm 2023).

Saudi Arabia initiated its antiquities protection framework with the Antiquities Law No. M 26 in 1972, which established criteria for cooperation among cultural institutions and set regulations on the export of antiquities. This law was expanded in 1998 to include protections for archaeological sites and cultural objects. In 2000, the Saudi Commission for Tourism and Antiquities statutes were introduced, followed by the Antiquities, Museums, and Architectural Heritage Law in 2014, which reflects a comprehensive approach to reforming laws that preserve the nation's heritage (Al-Azm 2023).

The United Arab Emirates has also developed a robust legal framework for heritage preservation. Abu Dhabi's introduction of Law No. 8 on Antiquities and Excavations in 1970 was complemented by Sharjah's Antiquities Law in 1992. A landmark reform occurred in 2017 with the enactment of Federal Law No. 11, which modernised the country's approach to the protection of antiquities (Al-Azm 2023).

In Africa, the momentum for reforming cultural property laws is gaining traction as countries grapple with the enduring legacy of colonialism and the ongoing repatriation of looted cultural artefacts. Egypt, home to some of the world's most significant archaeological sites, has focused its reforms on curtailing illegal excavations and antiquities trafficking. The Egyptian Antiquities Law No. 117 of 1983, which has undergone multiple amendments, serves as a key legal instrument for heritage protection (Michail 2022). The 2010 revisions to this law imposed stricter penalties for smuggling and unauthorised excavations, while Egypt's ratification of international conventions, such as the UNESCO 1970 Convention, aligns its domestic laws with global heritage protection efforts (Michail 2022).

Ethiopia has enacted heritage protection laws aimed at preserving its rich cultural heritage, including religious artefacts. The Cultural and Heritage Proclamation No. 209/2000 governs the protection, preservation, and promotion of Ethiopia's cultural heritage (Zewdu 2024). This legislation is part of broader legal reforms aimed at curbing the illegal export of historical artefacts, which has long been a significant challenge. Ethiopia's active engagement with UNESCO and its commitment to safeguarding both tangible and intangible heritage has fostered initiatives that promote local community involvement in cultural preservation. These efforts have led to stronger mechanisms for protecting cultural heritage and underscored Ethiopia's historical significance on the global stage (Zewdu 2024).

Cultural heritage law reforms in South Africa have been significantly influenced by the country's apartheid history and subsequent transition to democracy. The National Heritage Resources Act of 1999 marked a transformative shift in heritage management by decentralizing control and promoting inclusive heritage conservation (Ndlovu 2011; Kotze and Rensburg 2003). This landmark law established the South African Heritage Resources Agency (SAHRA) and introduced a more holistic approach to heritage protection, emphasising the inclusion of previously marginalised communities and recognising their cultural contributions (SAHRA 2024). South Africa's post-apartheid heritage reforms are particularly notable for their focus on rectifying historical injustices and fostering social cohesion through cultural recognition and preservation (Madida 2023).

Ghana has also made notable advancements in reforming its cultural heritage laws. The Ghana Museums and Monuments Board (GMMB) Act of 1957 laid the foundation for heritage management; however, more recent reforms have sought to modernise these laws to address contemporary challenges, such as illegal mining and the looting of archaeological sites (Presidential Committee on Ghana's Museums & Cultural Heritage 2021). The introduction of Ghana's Heritage Protection Act aims to bolster heritage preservation and promote sustainable tourism, reflecting the nation's recognition of cultural heritage as a vital asset for national identity and economic development through tourism (Osei 2020).

In Nigeria, cultural heritage law reforms have focused on the protection of ethnographic and archaeological resources, with the current legislation being Decree No. 77 of 1979, which established the National Commission for Museums and Monuments (NCMM). Despite this framework, Nigeria faces challenges in enforcing these laws, particularly concerning the illicit trade in cultural artefacts. Recent calls for reform have aimed to enhance the capacity of the NCMM to meet global standards in the preservation and protection of Nigeria's cultural heritage (Shyllon 1996 & 2000; Gubam et al. 2021; Nomishan et al. 2023; Nomishan and Sani 2023).

These reforms in heritage laws across African countries are increasingly focused on negotiating the return of looted cultural objects from Western museums. Additionally, regional collaborations, such as the African Union's initiatives on cultural property protection, signal new frontiers in the continent's legal landscape. This shift reflects a growing assertion of sovereignty over cultural heritage as African nations engage in global discussions about repatriation and restitution.

Moreover, cultural property is increasingly targeted during armed conflicts, as evidenced by the destruction of heritage sites in Syria, Iraq, and Mali. Reforms in international law, including amendments to The Hague Convention and the introduction of UN Security Council resolutions, have sought to hold perpetrators accountable for such actions. International courts, including the International Criminal Court (ICC), are establishing precedents by prosecuting individuals for war crimes related to the destruction of cultural property. Future reforms must focus on enhancing protections during conflicts and addressing the challenges posed by the illicit trade of cultural property in post-conflict reconstruction efforts (Manacorda 2020).

Technological advancements are also reshaping the landscape of cultural heritage law and protection. The emergence of digital tools and platforms for documenting, preserving, and sharing cultural heritage has introduced new challenges and opportunities for reform. The use of 3D scanning and digital archiving allows for the preservation of artefacts at risk of destruction, while social media platforms facilitate global awareness and advocacy for cultural heritage protection (Barrett and Chiu 2023).

As countries continue to navigate the complexities of cultural property laws in an increasingly interconnected world, the need for robust, context-sensitive reforms becomes clear. A comprehensive approach that balances national interests, community engagement, and international cooperation will be essential to safeguarding cultural heritage for future generations.

## Observations and Recommendations

As seen through the comparative analysis of cultural heritage laws across the world, there are so many lapses in Decree No. 77 of 1979 which established the NCMM as noted earlier and by many other writers. The Decree is “deficient in terms of enforcement and effectiveness which have rendered its provisions ineffective” (Gubam et al. 2021: 9). It also failed to “make provision for traditional management and enforcement systems in the maintenance and protection of CH in Nigeria. This can be attributed to the inability of the Federal government to acknowledge the role of the public in safeguarding these heritage materials and the need to also involve them in the formulation of laws related to heritage protection. Nigeria inherited the colonial system of heritage management which did not take into consideration the interest of local people regarding their heritage” (Gubam et al. 2021: 10).

Thus, to enhance Nigeria's efforts in combating illegal exportation of cultural heritage, it is crucial to establish specialised task forces dedicated to this purpose. These task forces should focus on investigating and addressing instances of illicit trafficking, thereby strengthening the nation's response to this pressing issue. Also, implementing stricter penalties for those involved in illegal exportation can serve as a deterrent, sending a clear message about the seriousness of these offences. Furthermore, fostering improved collaboration with international organizations such as UNESCO and INTERPOL can significantly enhance Nigeria's capabilities in this area.

As explained by Adewumi (2013), Export regulations need not be excessively strict, but they must be practical and adaptable to Nigeria's evolving legal landscape to be effective. This should include:

- (i) Nigeria should implement a system where all antiquities are documented and registered in a cultural goods registry. This would facilitate the tracking of these goods at any given time.
- (ii) The country's export regulations for cultural property should classify cultural goods into three categories: items that are registered and thus cannot be exported, items that require a permit for export, and items that can be exported without a permit.

According to Gubam et al. (2021: 11) “the Decree does not give the much-needed attention to public awareness. As a result, the public is mostly ignorant of the place of museums in national development. Less or no regard is therefore given to cultural education and consequently, the unprecedented level of destruction done to archaeological materials, theft as well as exportation of Nigerian antiquities.” This needs to be corrected.

There should also be “specific provisions in the law for the prosecution of corrupt museum officials or any other officer in charge of antiquities who connives with anyone in a bid to export illegally our cultural goods and stiff sanctions should be imposed to serve as a deterrent to others” (Adewumi 2013: 100).

As recommended by Nomishan and Sani (2023: 315) “the amended Act should provide a clear law for the safeguarding of all intangible cultural heritage in Nigeria. This will help to protect the numerous intangible cultural heritages of the Nigerian people that were not protected by Decree No. 77 of 1979. These include oral histories/traditions, traditional drama/dances, festivals and ceremonies/songs and props, belief systems, cultural rites and rituals, traditional deities, and gastronomy, etcetera.” These recommendations are just a few compared to those made by all the scholars mentioned earlier in this article. The present writer, therefore, calls for a thorough consideration of these recommendations for the proper handling of cultural heritage in Nigeria.

## Conclusion

As explained earlier, Nigeria's cultural heritage is a vital aspect of its identity and national pride. The cultural heritage of Nigeria is rich and diverse, encompassing archaeological sites, historic monuments, museums, and traditional architecture, as well as oral traditions, storytelling, traditional music and dance, and languages that bear witness to its history and cultural identity. However, this fascinating cultural heritage is under threat from various factors such as theft, illegal export, and destruction. This is because the enabling laws for the protection of this heritage are not strong and effective enough to guarantee its efficient protection and management. Therefore, there is an urgent need for a reform of these laws to ensure the protection and sustainable management of Nigeria's cultural heritage for future generations. This, therefore, informed the necessity for this review.

The critical review and analysis of the cultural property laws in Nigeria, both before and after independence, reveal gaps and challenges in the current legal framework. Despite the numerous legislative enactments and policy frameworks put in place to protect and preserve Nigeria's rich cultural heritage, the laws remain ineffective in safeguarding the country's cultural property against theft, illegal export, and destruction. Therefore, there is a need for a comprehensive and robust legal framework that addresses the gaps and challenges in the current legal framework.

Further, the impact of globalization, modernisation, and technological advancements on the preservation of cultural heritage in Nigeria cannot be overemphasised. These factors have led to the erosion of cultural values and traditions, the loss of traditional knowledge, and the commodification of cultural heritage. Therefore, there is a need for a balanced approach to the preservation and management of cultural heritage in Nigeria that takes into account the benefits and challenges of globalization, modernisation, and technological advancements.

To address these challenges, there is a need for a holistic approach that involves stakeholders at various levels, including government agencies, local communities, and international partners. Collaborative efforts can help strengthen cultural property laws, improve enforcement mechanisms, and raise awareness about the importance of preserving Nigeria's cultural heritage. Moreover, leveraging technology and digital platforms enhances documentation, monitoring, and conservation efforts, ensuring the sustainable management of cultural heritage for future generations.

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