is important that the production of knowledge is not racially or culturally defined, but should include people from diverse backgrounds. This can only be healthy for the discipline, and transformation is thus an important agenda. I am strongly of the view that our journal should provide a platform for more publications from African scholars, and I intend to promote an increase in the number of publications by these scholars. Increasing conference attendance by African scholars is not good enough; they should be actively producing knowledge. While there is an upward trend in SAAB publications by African scholars (Smith 2014: 131), it is still very disappointing because it is such research findings that are the core of knowledge production, and ultimately determine what is taught in our institutions. The June 2015 editorial by Phillipson is food for thought in considering what other changes may be necessary in continuing to improve the SAAB.

Another transformation issue which needs discussion is the use of African languages in our publications. There will be a contribution by Catherine Namono on this issue in the Discussion Forum of the June 2016 volume.

References

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Guest Editorial

Heritage Laws: Whose Heritage Are We Protecting?

The current state laws on heritage have often proved to be problematic in most parts of Africa. Apart from the fact that lack of expertise and resources limit its implementation, national heritage legislation has always privileged certain typologies and aspects of the heritage. In most of Africa, the national monuments registers are dominated by archaeological sites in rural areas and colonial buildings in city centres. Given the format and thrust of the state systems to unify, standardise and demand scientific proof, it appears they fail to accommodate the intangible and dynamic vibrancy of Africa’s heritage. In African societies, time is considered cyclical and values are ascribed to materials as well as to the wisdom or the knowledge that created them, including associated rituals, practices and festivals; and all have a function in contemporary lives. The African state laws which ordinarily originate from the former colonial capitals are generally antagonistic towards aspects of traditional systems. As Mignolo (2001) has argued, Western expansion (colonialism) was not only political and economic, but also educational and intellectual. Hence, along with the alienation of local people from the management and use of heritage resources, was the marginalisation of the same people’s knowledge systems and practices within formal education. Experiences and research findings drawn from across Africa have, however, continued to reflect that heritage legislation and associated management and education practices have largely remained Eurocentric (see Ndoro, Abungu & Mumma 2008; Maluleke 2010). More precisely, implementation of heritage legislation has remained a state function at all levels, over-emphasising colonial architecture and often ignoring traditional African laws and cultural practices.

Nature of heritage laws

The way heritage laws define heritage has a bearing on what is to be protected. Therefore, an exclusion of a particular heritage typology from the definition will mean such heritage will not be celebrated. Most heritage laws define heritage mainly in material aspects. Owing to the public administrative structures established on the continent during the colonial period, it is no surprise that the legal structures and thrust also remained the same after independence (Negrí 2005). All the laws are derived from the concept of protection which, in turn, is clear about ownership, usage, protection, and rights over other regulatory mechanisms. These laws fail to address the fundamental question of why heritage protection is being done and for whose benefit. The recent vandalism of legally protected statues in South Africa is a case in point, illustrating that legal instruments protect that which communities may not necessarily see as their heritage, or which they deem unpalatable to commemorate.

Apart from the fact that the current laws evolved without considering the cultural context, the state laws tend to protect unitary entities, e.g. sites and monuments and not the totality of heritage as envisioned in cultural landscape approaches (Stephenson 2008). The continent has numerous traces that demonstrate an intricate relationship with nature. One of the main characteristics of African cultures is their relationship with nature. This relationship has engendered many spectacular cultural landscapes and sacred places: rivers, mountains, forests, etc. However, state heritage legislation isolates individual sites and places and ignores any special relationships which might exist between and among various entities on the landscape.

Some of the religious and/or commemorative practices that have grown around these places are very much alive today. Among these are some practices and regulatory mechanisms which are genuine lessons in sustainable development and community participation. The Kuomboka Ceremony along the great Zambezi River in Zambia provides a good example. Here, the community has developed a more resilient system of ensuring survival in the face of perennial flood disasters. However, most of the legal instruments on the continent do not protect such heritage. The symbiotic relationship between nature and culture is often lacerated by a plethora of legal instruments (related to environment, wildlife, arts and culture) and administered by a several government departments and ministries. The result is a mutilated heritage and community. I have argued elsewhere (Ndoro 2008) that the protection of Great Zimbabwe as an archaeological site or monument alienates many of its stakeholders who do not have direct access, but at the same time privileges the experts (archaeologists, historians, etc.). One then begins to wonder whose heritage is being protected and for whom? is it for the experts, government, or for the generality of society? Who decides on what to protect and what to commemorate?
State heritage systems

The notion of heritage as old and ancient continues to dominate the categorisation of heritage up to the present day. This directly impacts on what is preserved and protected. Negri (2005) provides a critical assessment of African legal systems inherited from the colonial powers. He contends that owing to public and administrative structures left by the colonial powers, there was a need to continue with the system together with its legislation. While the state laws are very clear on private ownership, usage, protection rights and other regulations, they do not address the fundamental issues on customary rights and processes.

Most of the legal systems are largely concerned with monumental heritage and very little effort has been put on other types, such as liberation heritage, township cultural spaces, and vernacular architecture, intangible and spiritual (see Ndlovu 2011). The designation of heritage as of ‘national’ or ‘world’ status often leads to disempowerment of the local communities and takes away their rights of control and access, as seen with sites like Manyikeni in Mozambique and Thulamela in South Africa. The proliferation of laws created to take care of heritage also brings unnecessary divisions between intangible or tangible, nature or culture, movable or immovable.

The Second Cycle of Periodic Reporting for the Africa region identified four regional priority needs, among which were the documentation, recognition, and implementation of Traditional Management Systems (TMS). The report further noted that effective management of World Heritage properties is hampered not only by the lack of sufficient resources, but legal and technical challenges as well. However, the successful implementation of the TMS can only prosper through the significant transformation of heritage legislation in Africa.

Tradition versus modern concepts

The concept of cultural heritage promoted by most protective legal instruments assumes an unchanging present and past. This, in many ways, is influenced by such disciplines as architectural conservation, anthropology, and archaeology. However, particularly in urban (especially townships) areas, heritage is neither static nor stable. It is generally enmeshed in very dynamic intercultural processes of social change, mobility and diversification. Heritage is ever changing and elusive, particularly in these urbanised environments. Take the township scenario, for example: sometimes the vestiges of cultural interactions survive in neglected spaces and areas. As in most places, the survival of remnants of the past is an incidental rather than an intentional result of heritage legislation. These residues might be important to communities’ memory effect and identity. The very concept of local communities, stakeholders and even ownership takes a new dimension which our current heritage laws do not seem to cater for. In today’s always changing world, in addition to planning frameworks and environmental constraints on property development, heritage laws must take into account the various aspirations. The integration of the past into the contemporary city/township is as much part of the urban renewal as it is part of that heritage. Heritage is always in the present, with multiple values and voices and is ever changing. It does not address issues of the past but grapples with contemporary dynamics and livelihoods.

The conflictual relationship of state heritage laws and the varied concept of what is to be protected are clearly demonstrated by the infamous case of the Domboshava rock art shelter in Zimbabwe (Taruvunga & Ndoro 2003). Only specific cultural heritage values were recognised by the law, which led to a conflict between the community and heritage authorities. This, however, is not an isolated case. Instead, such incidents happen all the time in our continent.

Conclusion

Despite the rhetoric of liberation and independence, governance of heritage places and objects has remained the same as during the colonial days. No meaningful changes have been made to most legal heritage instruments in Africa. In most countries, it is either that legislation has not been revised since colonial times, or there were only minor cosmetic changes that were affected. It is my view that a cultural landscape and land use approach to heritage protection would go a long way to ensuring a comprehensive legal framework acceptable to many. With this approach, sites or buildings are not seen as static individual entities, but as having a dynamic relationship with people and space.

Heritage management is still a preserve of the few, and protected for the experts. Very little consideration has been made to having more embracing legal instruments which take in the aspirations and definitions of heritage of the general public. Experts define what is to be protected and what is ‘good’ for communities and nations to commemorate and celebrate. It is equally important for the legislation to recognise that places and landscapes will be valued in multiple ways by those people who are closely associated with them. Recognising these values will ensure better implementation of the laws.

References


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Condolences to the families, colleagues and friends of Dr Bronwen van Doornum and Dr Eric Wendt who passed away in 2015. Their obituaries will appear in the June 2016 issue.