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Intangible Cultural Heritage Protection and Nigeria's Heritage Legislation

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Abstract: This article focuses on the legal and technical challenges of protecting intangible cultural heritage in Nigeria. Over time, Nigeria and its population have focused heavily on the petroleum industry as the primary source of the country’s economic sustainability, ignoring other viable economic sectors such as heritage preservation, protection, and management for sustainable tourism. This is because the country’s heritage legislation has been severely eroded and rendered ineffectual in protecting Nigeria’s heritage resources, in particular its intangible cultural heritage. Various stakeholders have expressed concern about the need to maintain and protect cultural assets all around the world. This has thus led to the promulgation of laws governing their protection. These regulations, however, did not begin in Nigeria until the colonial period, when the necessity to acquire and conserve heritage objects became recognized. Therefore, this article uses an exploratory research design with key informant interview methodologies as a data-gathering instrument. As a result, it demonstrates that numerous intangible cultural heritage resources in Nigeria are negatively impacted by political and societal instability, the increasing demand for antiquities and artworks, and socioeconomic challenges, amongst other human-induced factors. The existing heritage law in Nigeria, Decree No. 77 of 1979, is insufficient in terms of currency, enforcement, and efficiency, rendering its provisions ineffective.

Keywords: intangible cultural heritage, heritage law, heritage protection, 2003 UNESCO Convention, Nigeria

Introduction

Nigeria has many natural and cultural resources that possess great potential for a vibrant economy. Prominent among these resources is cultural heritage (both tangible and intangible). Indeed, Nigeria is home to about 250-300 ethnic groups, and there are over 500 languages spoken by different groups of people in the country.¹ Thus, not only is Nigeria dynamic in terms of ethnicity, population (over 210 million based on the 2021 Worldometer elaboration of the latest United Nations data), and area (about 923,768 km²), so too it is dynamic in terms of the cultural heritage of its

¹ See T.S. Nomishan, P.-K. Tubi, D.S. Gubam, *Cultural Heritage Management and the Effect of Corruption in Nigeria: Hampering Sustainable Development via Cultural Heritage Destruction*, “Journal of Cultural Heritage Management and Sustainable Development” 2023, Vol. 13(4), p. 662, doi.org/10.1108/JCHMSD-12-2020-0175.

citizens.² Nigeria's cultural heritage manifests itself in many ways: including, among others, monuments as objects of art; archaeological sites, cultural landscapes; historic towns, places, and objects; as well as customs, practices, artistic expressions, and values (i.e. intangible cultural heritage). This article focuses in particular on intangible cultural heritage protection and the contribution (or lack thereof) of Nigeria's heritage legislation.

The major ethnic groups in Nigeria include the Hausa, Yoruba, and Igbo, who are found predominantly in Nigeria's north, southwest, and southeast. Apart from these major groups, other ethnic groups have influential demographics. This category includes the Tiv, Igala, Berom, Jukun, Gwari, Bassa, Idoma, and Nupe, among others, in the Middle Belt; and the Ibibio, Edo, Annang, Ijaw, Urhobo, Ogoni, Nkum, Isekiri, Esan, and Efik, among others, in the South-South region. These various ethnic groups possess unique intangible cultural heritage resources that have great potential for cultural tourism, which should be meaningfully enhanced and protected through heritage laws.

Intangible cultural heritage resources – such as social practices, performing arts, oral traditions, rituals, festive events, knowledge, practices concerning nature and the universe, and the knowledge and skills to produce traditional crafts³ – are found among all these ethnic groups. Unfortunately, these fascinating cultural resources are not well preserved. On a general level, adequate attention has not been allotted to heritage management in the country. In 2017, the United Nations Educational, Scientific and Cultural Organization (UNESCO) expressed the view that Nigeria's cultural heritage constitutes a substantial part of the country's tourism resources; and that, if properly harnessed, protected, and managed, it can contribute significantly to the country's economic development goals.

Furthermore, the International Training Centre for Intangible Cultural Heritage in the Asia-Pacific Region (CRIHAP) explained in 2014 that “Intangible cultural heritage is important as it gives us a sense of identity and belonging, linking our past, through the present, with our future. Intangible cultural heritage is of both social and economic importance”.⁴ It added that it aids social cohesion and helps individuals to have a sense of belonging to a community. This paper adopts this CRIHAP standpoint as a sacrosanct truth, positing that the knowledge obtained from these intangible cultural heritages can influence economic policies that would drive cultural heritage protection within the enabling legislation

² ICCROM, *General Country Data: The Main Cultural Assets of Nigeria*, June 2020, <https://www.iccrom.org/profiles/doku.php?id=countries%3Anga> [accessed: 27.01.2023].

³ See UNESCO ICH, *What is Intangible Cultural Heritage?*, <https://ich.unesco.org/en/what-is-intangible-heritage-00003> [accessed: 23.01.2023].

⁴ CRIHAP, *Intangible Cultural Heritage: Frequently Asked Questions*, http://en.crihap.cn/2014-10/14/content_18734800.htm [accessed: 26.06.2022].

in Nigeria. The concepts of intangible cultural heritage and heritage legislation are thus coherently articulated and explained.

Conceptualizing Intangible Cultural Heritage and Heritage Legislation

Intangible cultural heritage refers to the practices, representations, expressions, knowledge, skills, as well as the instruments, objects, artefacts, and cultural spaces associated therewith, that communities, groups, and, in some cases, individuals recognize as part of their cultural heritage. This encompasses the entirety of the capital of knowledge derived from the development and experience of human practices. It also involves the spatial, social, and cultural constructions that may be encapsulated in the word “memory”.⁵

In the face of expanding globalization, intangible cultural heritage is important in maintaining cultural diversity. An understanding of the intangible cultural heritage of different communities aids intercultural dialogue and encourages mutual respect for others’ ways of life.⁶ According to UNESCO, intangible cultural heritage is traditional, contemporary, and living at the same time; as well as inclusive; representative; and community-based. Such intangible cultural heritage is transmitted from generation to generation and is constantly recreated by communities and groups in response to their environmental changes, cultural changes, and historical discoveries. This provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity.⁷

The 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (CSICH)⁸ proposes five broad “domains” in which intangible cultural heritage is manifested. These include (i) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;⁹ (ii) performing arts;¹⁰ (iii) social practices, rituals, and festive events;¹¹ (iv) knowledge and prac-

⁵ T.S. Nomishan, P.-K. Tubi, D.S. Gubam, op. cit., p. 663.

⁶ UNESCO ICH, *What is Intangible Cultural Heritage...*

⁷ T.S. Nomishan, P.-K. Tubi, D.S. Gubam, op. cit., pp. 663-664.

⁸ 17 October 2003, 2368 UNTS 3.

⁹ For UNESCO’s definition of “oral traditions and expressions” see UNESCO ICH, *Oral Traditions and Expressions Including Language as a Vehicle of the Intangible Cultural Heritage*, <https://ich.unesco.org/en/oral-traditions-and-expressions-00053> [accessed: 27.01.2023].

¹⁰ See UNESCO ICH, *Performing Arts (such as Traditional Music, Dance and Theatre)*, <https://ich.unesco.org/en/performing-arts-00054> [accessed: 27.01.2023].

¹¹ See UNESCO ICH, *Social Practices, Rituals and Festive Events*, <https://ich.unesco.org/en/social-practices-rituals-and-00055> [accessed: 27.01.2023].

tices concerning nature and the universe;¹² and (v) traditional craftsmanship.¹³ Furthermore, the specific domains of intangible cultural heritage are not limited to a single manifestation, and as such many include elements from multiple domains. Take, for example, the *Kwagh-hir* of the Tiv people. The *Kwagh-hir* involves traditional music and dance, drama and songs, clothing and carved marks, thereby giving the audience a broad understanding of how the natural world is viewed by a Tiv person.

Heritage legislation, on the other hand, is considered to be any regulation, or part thereof, relating to the protection, preservation, conservation, and/or management of the cultural heritage of a place. Eze-Uzomaka refers to heritage legislation as “laws, rules, regulations, acts, bills, statutes, enactments, charters, ordinances, measures, canons or codes which affect the protection and management of the archaeological and/or CH of a country”.¹⁴ This includes all the applicable laws and regulations relating to the protection, reconnaissance, and preservation of archaeological, historical, or cultural evidence, as well as remains, sites, features, or artefacts.¹⁵

Thus, laws to protect cultural heritage arose at different times and took different forms in different regions of the world.¹⁶ Early attempts first emerged in the classical antiquity in the Mediterranean Basin as royal edicts by Alexander the Great, and later by Rome. Others developed in the 8th-century Islamic caliphates of the Middle East, and in imperial China in the 11th century; in Italian states (in Rome and Tuscany); then at the national level in Sweden in 1666 and Russia in 1704.¹⁷ In the 18th and early 19th centuries in Europe, cultural heritage, its conservation, protection, and management became gradually regulated on the national level.¹⁸ Other countries of the world followed suit later in the 20th century. Importantly, in the second half of the 20th century, the settlers states, such as Australia and New Zealand, also started to protect Indigenous heritage.¹⁹

¹² See UNESCO ICH, *Knowledge and Practices Concerning Nature and the Universe*, <https://ich.unesco.org/en/knowledge-concerning-nature-00056> [accessed: 27.01.2023].

¹³ See UNESCO ICH, *Traditional Craftsmanship*, <https://ich.unesco.org/en/traditional-craftsmanship-00057> [accessed: 27.01.2023].

¹⁴ P. Eze-Uzomaka, *Archaeology and Heritage Legislation: A Comparative Study*, “Research on Humanities and Social Sciences” 2014, Vol. 4(8), p. 135.

¹⁵ See *Cultural Heritage Laws Definition*, “Law Insider”, <https://www.lawinsider.com/dictionary/cultural-heritage-laws> [accessed: 20.12.2022].

¹⁶ J.K. Reap, *Introduction: Heritage Legislation and Management*, “Built Heritage” 2022, Vol. 6. doi.org/10.1186/s43238-022-00059-9.

¹⁷ T.W. Neumann, *Heritage Legislation, The Introduction of: Disciplining Through Law*, in: C. Smith (ed.), *Encyclopedia of Global Archaeology*, Springer, New York 2014.

¹⁸ *Ibidem*, p. 3292.

¹⁹ See L. Prott, P. O’Keefe, *Law and the Cultural Heritage*, Vol. 1: *Discovery and Excavation*, Professional Books, Abingdon 1984.

The process was also followed by the newly independent states in Africa. While Nigeria became formally independent on 1 October 1960, already in 1953, the Antiquities Ordinance of Nigeria, known as Ordinance No. 17, established the National Department of Antiquities.²⁰ This was followed by the Antiquities (Export Permits) Regulations, which were promulgated in 1957. Furthermore, the Antiquities (Prohibited Transfers) Decree No. 9 of 1974 preceded the Decree No. 77 of 1979, which established the National Commission for Museums and Monuments (NCMM).²¹ However, the NCMM – which is now the only legally recognized body with the powers to regulate all activities pertaining to Nigeria’s heritage – has not been able to fully deliver on its obligations. Shyllon believes that the consolidating legislation of 1979 was hurriedly enacted and has many defects.²² The sanctions and protective measures enshrined in the Act are now hopelessly inadequate and therefore need urgent revision and re-enactment. This assessment, along with the deficiency of the legislative instrument for protecting intangible cultural heritage, becomes the major premise of this paper.

Research Methods

This study delves into the obstacles encountered in safeguarding Nigeria’s intangible cultural heritage. At present, safeguarding such heritage is met with considerable difficulties. Unfortunately, cultural heritage matters are often overlooked in the country. The legislative instrument responsible for cultural heritage protection, Decree No. 77 of 1979, has become outdated and is unable to adequately protect the cultural heritage of the Nigerian people, in particular their intangible cultural heritage. This is an urgent issue that needs to be addressed if Nigeria’s intangible cultural heritage is to be preserved for future generations. To meet this need, this study aims to interrogate the issues regarding Nigeria’s heritage law, including its strengths, weaknesses, deficiencies, and lapses. It also examines the institution responsible for regulating Nigeria’s cultural heritage, the categories of Nigeria’s intangible cultural heritage, and the provisions of international laws on safeguarding intangible cultural heritage.

To meet the goal of this study, we used an exploratory research design and key informant interview methodologies as data-gathering instruments. The sample data was collected from selected states in Nigeria’s six geopolitical zones, including Kaduna and Katsina in the North-West; Adamawa and Taraba in the North-East;

²⁰ N. Nzewunwa, *Nigeria*, in: H.F. Cleere (ed.), *Approaches to the Archaeological Heritage Management*, Cambridge University Press, Cambridge 1984, p. 34.

²¹ D.S. Gubam, T.S. Nomishan, C. Dakogol, *The Decree No. 77 of 1979 and Nigeria’s Cultural Heritage: An Appraisal*, “Wukari International Studies Journal” 2021, Vol. 5(1), p. 5. <https://doi.org/10.2139/ssrn.4050323>.

²² F. Shyllon, *Cultural Heritage Legislation and Management in Nigeria*, “International Journal of Cultural Property” 2007, Vol. 5(2), p. 235.

Benue and Abuja in the North-Central; Anambra and Imo in the South-East; Lagos and Osun in the South-West; and Rivers and Cross River in the South-South. The study selected the Igbo and Tiv ethnic communities in Southeast and Central Nigeria and conducted a sampled survey on their intangible cultural heritage. As a result, a diverse spectrum of informants, including community leaders, academics, civil/public workers, artisans, businessmen/women, students, and farmers, were interviewed. Thus, 120 men and women, ranging in age from 18 to 85 years old, were chosen and interviewed utilizing the key informant interview approach. In addition, the study used secondary sources such as books, theses, journals, and monographs, among others, to gather additional information for a coherent submission.

An Overview of the Intangible Cultural Heritage in Nigeria

As noted earlier, Nigeria is home to many intangible cultural heritage assets. This cuts across festivals, traditional dances, dramas, oral traditions, cuisines, belief systems, deities, and rituals, among many others. At present, there are five inscribed elements which belong to Nigeria on the UNESCO Representative List of the Intangible Cultural Heritage of Humanity (hereafter, "ICH Representative List"). These elements include the Ifa divination system; the oral heritage of Gelede; the Ijele masquerade; the Argungu international fishing and cultural festival; and the *Kwagh-hir* theatrical performance.²³ A detailed explanation of each of these elements is given below, as follows:

Ifa divination system

The Ifa divination system was originally proclaimed in 2005 and inscribed on the ICH Representative List in 2008. This is a mystical figure known as "Ifa" or "Orunmila", which is regarded by the Yoruba as the deity of wisdom and intellectual development. The divination system makes use of an extensive corpus of texts and mathematical formulas. It is practised among Yoruba communities and by the African diaspora in the Americas and the Caribbean.

In the region, there are various forms of divination that rely on spirit mediumship. However, Ifa divination is unique as it does not require a person to have oracular powers. Instead, it relies on a system of signs interpreted by an Ifa priest or Babalawo, which translates into "the priest's father". Ifa divination is utilized for making important individual or collective decisions. The Odu, Ifa's literary corpus, is made up of 256 parts and is subdivided into verses called Ese. The number of Ese

²³ Permanent Delegation of Nigeria to UNESCO, *Intangible Cultural Heritage*, <https://nigeria-del-unesco.org/intangible-cultural-heritage/> [accessed: 29.01.2023].

is unknown as they are constantly increasing, but there are approximately 800 Ese per Odu. Each of the 256 Odu has a specific divination signature, which is determined by the Babalawo using sacred palm nuts and a divination chain. The Ese, which are the most critical part of Ifa divination, are chanted by the priests in poetic language. The Ese reflect Yoruba's history, language, beliefs, cosmivision, and contemporary social issues. The knowledge of Ifa has been preserved within Yoruba communities and transmitted by Ifa priests.²⁴

Oral heritage of Gelede

The oral heritage of Gelede, which is performed by the Yoruba-Nago community and spread over Benin, Nigeria, and Togo, was proclaimed in 2001 and inscribed on the ICH Representative List in 2008. The Gelede ceremony is "performed to pay tribute to the primordial mother Iyà Nlà and to the role women play in the process of social organization and development of Yoruba society".²⁵

The Gelede ceremony is a significant cultural event, which takes place annually after the harvest, as well as during challenging times such as droughts or epidemics. It is an occasion where dances, chants, and masks are showcased, all of which are carved to tell the history and myths of the Yoruba-Nago people in their language. This ceremony is typically held at night in a public square, with masked dancers wearing stunning costumes following the orchestra, singers, and drummers. The preparation process is quite intricate, with the masks and costumes being created by hand. The performances convey an oral heritage that combines epic and lyric verses, incorporating irony and mockery, supported by satirical masks. The masks often feature animals such as the serpent, symbolizing power, or the bird, the "mothers" messenger.²⁶

Ijele masquerade

The Ijele masquerade was inscribed on the ICH Representative List in 2009. It is performed by the Anambra people of south-eastern Nigeria. The Ijele masquerade is performed in many communities within the state, especially during celebrations, burial ceremonies, and other special occasions during the dry season to evoke fertility and a bountiful harvest. The mask is about four metres tall, and because it is very large, it takes six months of work for a hundred men to prepare the costume and build an outdoor house to hold it before a performance. "Divided into upper and lower segments by a large python at the centre, the Ijele is constructed of co-

²⁴ UNESCO ICH, *Ifa Divination System*, <https://ich.unesco.org/en/RL/ifa-divination-system-00146> [accessed: 31.01.2023].

²⁵ UNESCO ICH, *Oral Heritage of Gelede*, <https://ich.unesco.org/en/RL/oral-heritage-of-gelede-00002> [accessed: 31.01.2023].

²⁶ Ibidem.

lourful fabric on a skeleton of bamboo sticks and decorated with figurines and depictions of every aspect of life".²⁷

At the end of a sequence of masquerades, a tall figure wearing a mask dances while being guarded by six "police" and holding a mirror capable of capturing and punishing wrongdoers. Those who carry the Ijele mask are selected by lottery and spend three months in isolation, during which they follow a special diet to gain the necessary strength to wear the mask.²⁸

This masquerade plays several important roles in the community, including spirituality, which marks both festive and solemn occasions; politics, which provides an opportunity to reaffirm loyalty to a chief or king; and culture, with the provision of popular entertainment in which young boys and girls sing and dance to the tunes of Akunechenyi music.²⁹

The Argungu international fishing and cultural festival

The Argungu international fishing and cultural festival was inscribed on the ICH Representative List in 2016. It is an annual festival that is carried out near the Matan Fada River in Kebbi State. Many communities in the northwest of Nigeria participate in this four-day festival, which runs between late February and early March. The festival features *kabanci*; "a series of water competitions including hand fishing, canoe racing, and wild duck catching, as well as other traditional practices, such as the local style of wrestling and boxing". Men and boys participate in the contests, while women encourage them by providing and performing songs and dances.

The Argungu international fishing and cultural festival has been celebrated since before Nigeria gained independence. It is an important event for the participants, contributing to their sense of identity. It is also a means of promoting peace between the Argungu and neighbouring Sokoto communities by celebrating shared cultural practices. The Sarkin Ruwa, who manages the river's sanitation levels, and the Homa, the chief of the Argungu fishermen, pass down knowledge about the river's water quality and fish stocks to the participating chieftaincy-holding families. This knowledge has been crucial in ensuring the festival's continuity. The festival's activities require a range of skills, which are transmitted to younger generations through both formal and informal training. For instance, apprenticeships are common for specific fishing techniques, and families often conduct demonstrations as a means of passing down knowledge.³⁰

²⁷ UNESCO ICH, *Ijele Masquerade*, <https://ich.unesco.org/en/RL/ijele-masquerade-00194> [accessed: 31.01.2023].

²⁸ Ibidem.

²⁹ Ibidem.

³⁰ UNESCO ICH, *Argungu International Fishing and Cultural Festival*, <https://ich.unesco.org/en/RL/argungu-international-fishing-and-cultural-festival-00901> [accessed: 31.01.2023].

Kwagh-hir theatrical performance

The *Kwagh-hir* theatrical performance was inscribed on the ICH Representative List in 2019. It is an ancient and composite art that is both visually stimulating and culturally edifying. *Kwagh-hir* is practised by the Tiv people of Central Nigeria. It consists of a dramatic public performance that tells moral stories of past and present events and incorporates puppetry, masquerading, poetry, music, dance, and animated narratives to portray its moral themes. It is used to reinforce traditional beliefs and convey otherworldly tales to educate, socialize, provide secular entertainment, and address societal issues.³¹

The art of *Kwagh-hir* has its origins in the Tiv people’s tradition of *kwagh-alom*, which involved a storytelling session for families by creative storytellers after a day of farming work. Over time, these stories were dramatized, leading to the current status of *Kwagh-hir*. Through creative dramatization, daily struggles, aspirations, successes, and failures are expressed. The community owns the *Kwagh-hir* theatre, and knowledge and skills are transmitted through apprenticeships. Those interested in the troupe’s activities receive training and mentoring, and once they reach a certain level of proficiency, they are accepted into the troupe. Regular performances are held to keep the culture alive and ensure that the younger generation identifies with it.³²

Apart from the above-described five intangible cultural heritage events listed on the ICH Representative List by UNESCO, more have been identified by the Federal Ministry of Information and Culture (FMIC) in Nigeria. This includes the Durbar festival, celebrated by the people of Katsina, Kano, and Zaria, among others; the Eyo festival – an Indigenous festival celebrated in Lagos to mark the transition of an important Indigene to the great beyond; and the Osun festival – an annual worship of the Osun goddess of fertility in the second week of August.³³

Others worth mentioning include the Ige-Agba new yam festival – celebrated every first week of September by the Igede people of Benue State at the Oju and Obi areas; the Mamanwu festival – a colourful display of masquerades to usher in the new yam every November by the Enugu people; the Ovie Orese festival – a mandatory marital rite for virgins in Ogori land, carried out to initiate adulthood; and the Igbogo cultural festival. There is also the Kyegh Sha Shwa cultural festival, which is celebrated every December in Gboko by

³¹ T.S. Nomishan, P.-K. Tubi, D.S. Gubam, op. cit., p. 672.

³² UNESCO ICH, *Kwagh-Hir Theatrical Performance*, <https://ich.unesco.org/en/RL/kwagh-hir-theatrical-performance-00683> [accessed: 31.01.2023]. Also see I. Hagher, *The Kwagh-hir Theatre (A Metaphor of Resistance)*, Caltop Publications, Ibadan 2003; idem, *The Kwagh-hir Theatre: A Weapon for Social Action*, University Press of America, Lanham 2013.

³³ Federal Ministry of Information and Culture, Federal Republic of Nigeria, *Festivals: Cultural and Historical Attractions*, <https://fmic.gov.ng/culture/festivals/> [accessed: 31.01.2023].

the Tiv people. The Kyegh Sha Shwa cultural festival fosters sustainable community building through the promotion of commonality, reconciliation, and harmonious co-existence.³⁴

Furthermore, traditional dances and drama also constitute an important intangible cultural heritage among the Nigerian people. These include the Nkpikiti dance of Umunze; the Ijele masquerade of Awka North; the Tembe duen and Cat dance of the Tiv; the Agaba masquerade of the Anambra; and the Pus-kat and Nzem Berom of the Jos Plateau, among many others.³⁵ These festivals are supplemented by others in the over 500 languages spoken by different groups of people in the country.³⁶

Another fascinating intangible cultural heritage of the Nigerian people is their traditional cuisines and gastronomic practices. According to the FMIC, the Nigerian culinary practice is as diverse as the country's ethnic groupings. This is because every ethnic group is associated with a particular culinary practice, which is cherished by all members of such groups. The major traditional dishes and delicacies which have become national heritage include *edikaikon*, *genger*, *okoho*, *fufu*, *tuwo*, *akpu*, *suya*, *kilishi*, *gbegeri*, *owo*, bush meat, *fura de nunu*, *kunu*, *amala*, *eba*, and pounded yam, among others.³⁷

Sampling Intangible Cultural Heritage of the Igbo and Tiv Communities in East and Central Nigeria

The intangible cultural heritage of Nigeria's Igbo and Tiv ethnic communities is prioritized in this section, which is sample research designed to demonstrate that Nigeria has vast intangible cultural heritage resources that are properly allocated throughout the nation's ethnic groupings.

Discussing a sampled intangible cultural heritage in Igboland

The south-eastern region of Nigeria is home to the Igbo people, who possess a wealth of intangible cultural heritage resources. These include the Ofo and Ode-gwo deities; traditional titles such as Ozo; various masks, festivals, and masquerades; the Igbo Oji cultural tradition involving the Kola nut Mbari; traditional songs and drama; as well as arts and crafts, among others.

³⁴ Ibidem.

³⁵ D.S. Gubam, T.S. Nomishan, *Archaeology and Tourism in Nigeria: An Overview*, "Journal of Tourism and Heritage Studies" 2020, Vol. 9(1), p. 97.

³⁶ T.S. Nomishan, P.-K. Tubi, D.S. Gubam, op. cit., p. 662.

³⁷ Federal Ministry of Information and Culture, Federal Republic of Nigeria, *Cuisine: Nigerian Cuisine and Gastronomy*, <https://fmic.gov.ng/culture/cuisin/> [accessed: 31.01.2023].

Ofo: The Ofo symbol holds great significance in Igboland as it represents truth, purity, justice, and authority, both materially and mystically. According to Ajaebili, Eze, and Omeje, the institution of Ofo is guided by the principle that right is might, with justice being the definition of right. The traditional Igbo rely on the cult of Ofo to apply this principle in their social and personal relationships, with Ofo serving as a defender of the innocent. The principle of *ofo-na-ogu* – meaning justice and innocence – forms the basis of all fundamental moral principles in Igbo traditional ethics, including truth, justice, uprightness, innocence, and moral purity. This principle also protects the weak, provided they are innocent and have Ogu on their side.³⁸

Deities of the Igbo people: The deities of the Igbo people are an integral part of their cosmology. Like many other West African ethnic groups, the origins of the Igbo are shrouded in myth. Igbo cosmology refers to the body of beliefs about the universe that are held in common among the members of the Igbo society and existentially demonstrated in their value systems and attitudinal orientations. This cosmology consists of two basic worlds: the visible and the invisible. The invisible world is further divided into the world of God and the gods, which are situated above the firmament, and the underworld, which is beneath the earth's surface and home to ancestors and disembodied spirits. In contrast, the visible world is inhabited by humans and all the physical aspects that are familiar to them, including the sky, earth, rivers, forests, and mountains.³⁹ Therefore, the Igbo people believe that the Supreme Being, known as Chi-ukwu, is the creator and sustainer of the universe. They call him "Onye okike" (one who creates) and "Onye nwe/ji uwa" (one who owns, holds, or sustains the world). However, since this Being is quite removed from the created world, he left the world to the watchful eyes of the deities.⁴⁰

Although opinions may vary among different groups, it is widely acknowledged that there exist many Igbo deities, which can be broadly categorized as major or minor. Deities that are considered major are recognized by a larger social group, such as tribes or nations, and are believed to be universal. There are several such deities in Igbo culture, each representing different aspects of life. These include Anyanwu, who is represented by the Sun; Ala, who is represented by the Earth; Igwe, who is represented by Thunder; Ahiajoku, who is the Lord of agriculture; Muo mmiri, who is a divinely appointed temptress; and Agwu-Nsi, who is the Lord of divination and healing. The minor deities are associated with specific localities and hold influential positions within these societies. They also have shrines located within these areas.

³⁸ N.C. Ajaebili, O.C. Eze, P.U. Omeje, *Ofo: The Tangible and Intangible Heritage of the Igbo of South-Eastern Nigeria*, "International Journal of Intangible Heritage" 2020, Vol. 15, pp. 103-113.

³⁹ J.C. Obidigbo, *Pauline Inspirations for the Study of Igbo Deities*, "OGIRISI: A New Journal of African Studies" 2010, Vol. 7, p. 45. <https://doi.org/10.4314/og.v7i1.57921>.

⁴⁰ N.C. Ajaebili, O.C. Eze, P.U. Omeje, op. cit., pp. 45-46.

Including such names as Eze Mewi, Ogwugwu, Idemili, Ulasi, Ubu, Ele, Ojiyi, Akpu, Ojukwu, Ngwu, etc.⁴¹

An example is Mbari, which is a collection of shrines dedicated to the soil goddess Ala. Although it is often associated with religion due to its connection to ancestral worship, Mbari itself is not a religious institution or place of worship. Rather, it functions as a museum where goddesses are displayed to showcase the art of the people, as well as a storehouse for the gathering of cultural artefacts. Mbari is primarily observed by the Igbos of Owerri origin, who are mostly situated at the heart of the Igbo territory in south-eastern Nigeria.⁴²

Titles and title-taking: The taking of chieftaincy titles is an important aspect of the social life of the Igbo people. Both humans and deities can participate in this tradition, after consulting with appropriate oracles. The process of taking a title is prescribed by the law of the land and is essentially similar throughout the Igbo culture, although slight differences in names and customs may exist. This practice provides a path for individuals to take on important social, religious, political, and administrative roles within their village or town.⁴³

Festivals and masquerades: The Igbo people hold many festivities and cultural performances, most notably the masquerades and the new Yam festivals. Masquerade is a common feature in the cultural milieu of the Igbo people. It is seen as a means of communication between the living and the dead, where the spirits, through a messenger, usually masquerade, bless, or curse the living.⁴⁴ In Igboland, masquerades are classified into two types: visible and invisible. The visible masquerades are intended for the general public. They are frequently more entertaining. Masks have a visual appeal due to their shapes and forms. In these visible masquerades, harassment, song, dance, and parody are performed. The invisible masquerades occur at night. Sound is their primary tool. The masquerade screams loudly enough for the entire hamlet to hear. The masks worn are typically harsh in appearance, and their interpretation is only fully understood by members of the community. These unseen masquerades summon a silent community to terrorize individuals who have not been inducted into their society.

For instance, the Nkwọ Onunu celebration is held to honour the mother of all, known as the *nne mụrụ ọha* – the mother who gave birth to the Nsukka Asadụ Ideke Arụmọna people. This is a time when the council of daughters (*umụada*) and all

⁴¹ Ibidem, p. 46.

⁴² C. Okoronkwo, F.I. Emoh, J.U. Ogbuefi, *Radiocarbon Dating and Preservation of Cultural Heritage: A Study of Igbo Mbari Culture*, "Research Journal of Humanities, Legal Studies & International Development" 2019, Vol. 3(1), p. 110.

⁴³ C.C. Opata, O. Asogwa, *Title, Rituals, and Land Use: The Heritage of a Nigerian Society*, "SAGE Open" 2017, Vol. 7(2), doi.org/10.1177/2158244016689129.

⁴⁴ C.C. Oguamanam, C.J. Odum, K. Ezeh, *Odo Masquerade in Northern Igbo Land: A Cultural Resource in Demise*, "Journal of Tourism and Heritage Studies" 2018, Vol. 7(1), pp. 79-95.

other Nsukka devotees gather in Ugwu-Nkwọ to satisfy her with kola nuts, a local delicacy known as *ọkpa*, palm oil, and kegs of palm wine – an act performed to demonstrate the people’s devotion and belief in the deity. This is embodied in the Igbo proverb *nkh dh ne mba neyen mba nri*, which translates as “the firewood in a particular town gets its food done”.⁴⁵

Other festivals celebrated by the Igbo people include the New Yam Festival (all Igbo community), Ofala Festival – Onitsha and Ukpo, Anambra State; Ovala Festival – Aguleri, Anambra State; Aju Festival, “Iwa Akwa” – Ugbo, Enugu State; Iwa Akwa Festival – Obowo, Imo State; Igu Aro Festival – Enugu-Ukwu, Anambra State; Ekpe Festival – Umuahia, Abia State; Egbo Festival – Ikwueke Oboro, Ikwuano, Abia State; and Inne Festival – Asaba, Delta State.

The Igbo Oji traditional heritage (kola nut): This cultural tradition holds a distinct place in the Igbo people’s cultural existence. The first item any visitor to an Igbo home is served is Oji. Oji is served before the start of a major function, like a marriage ceremony, the resolution of family problems, or the signing of any form of agreement. It is customarily broken into pieces by hand, and a special celebration is planned whenever the kola nut is broken into three pieces.

Igbo culinary practices: The Igbo people are famous for a variety of traditional foods. The most popular and widely consumed Igbo food is *utara na ofe*, also known as swallow and soup. *Utara (nri onuno)* can be *akpu (fufu) utara ji* or *nri ji* (pounded yam), *nri ede* (pounded cocoyam), or any type of swallow such as *garri*, corn swallow (*nri oka*), semo, or Guinea corn swallow. *Utara* can be eaten with a variety of Igbo soups. *Ji* (yam) is one of the most popular and important foods among Igbos. *Ji* can be cooked and eaten in a variety of ways, but the most popular manner is having it with vegetables. The procedure is known as *igwo ji* or *ibio ji*, while the vegetable yam is known as *ji agworo agwo*. Other ways the Igbo eat yam include *ji ahrur ahu*, *ji olulu/orulu*, *ji abubo*, and *ji mmanu*.⁴⁶

There are many other foods among the Igbos. This includes *osikapa*, *abacha*, *okpa*, *nkwobi*, *ukwa*, *achicha*, etc. Soups are at the heart of Igbo cuisine. *Ofe oha*, *onugbu*, *ofe akw*, *egwusi*, and *nsala* (white pepper soup) are popular soups among the Igbo people.⁴⁷

Igbo arts and crafts (Nkà Igbo): The Igbos are extremely competent in the fabrication of intricate craftworks, and they have advanced talents in the practice of arts and crafts. Their arts and crafts are extremely diverse in terms of output,

⁴⁵ M.N. Okoro, *Nkwọ Onunu Cultural Heritage in Nsukka Igbo, Nigeria: A Festival in Honor of a Mother Goddess*. “African Arts” 2022, Vol. 55(2), pp. 50–65.

⁴⁶ C. Ndice, *How to Make Abacha (African Salad)*, “The Guardian Nigeria News”, 19 August 2018, <https://guardian.ng/life/how-to-make-abacha-african-salad-2/> [accessed: 18.06.2023].

⁴⁷ Igbo Cultural Organisation, *Igbo Food and Recipes*, <https://www.icogermany.de/igbo-food-recipes/> [accessed: 18.06.2023].

inspiration, similarity, methodology, and raw materials used. Though arts may be created to have the same basic appearance of representing ethnic identity, the procedure by which they are created varies among groups. Arts and crafts were a wealthy family enterprise in ancient Igbo society. Drum carving, mask carving, smiting in both gold and bronze, raffia weaving, and many other arts and crafts were characteristics of Igboland. Each practising family had their trade secrets and rituals that aided in the effective production of diverse works of art. Along with the advanced talents used in the creation of these numerous artworks, this component of cultural evolution qualifies as the intangible cultural legacy of the Igbo people.

Sampling the intangible cultural heritage in Tivland

The Tiv people have a diverse cultural heritage (tangible and intangible) that is revered by all the members of the Tiv community. The intangible aspect of their heritage encompasses phenomena such as customs, traditional practices, places, objects, artistic expressions, and values, among others.⁴⁸ Some of the notable intangible cultural heritage of the Tiv people include the traditional music/dances and drama, oral traditions (tale-telling), cuisine practices, cultural festivals, and arts and crafts, among others.

Tiv traditional music/dances and drama: The Tiv people have many traditional dances and drama, which include the *Kwagh-hir* theatrical performance, Swange dance, Girinya dance, Ishen dance, Ijov-mbakugh dance, Ingyough dance, Takera dance, Dasenda dance, Hinga dance, Tsue-tsela dance, Ibyumev dance, and Tembe duen, among others. Prominent among all of these is the *Kwagh-hir* theatrical performance, which has been inscribed on the ICH Representative List in 2019, as explained above.

Oral traditions (tale-telling): The Tiv people have a rich cultural tradition of tale-telling, which dates back to ancient times and is still thriving today. They refer to this tradition as *Kwagh-hir*, which translates into "something supernatural", and it encompasses a variety of verbal art forms, including folktales, puppet/masquerade theatre, proverbs, and riddles.⁴⁹

Kwagh-hir is an art form that is deeply meaningful and complex. It involves supernatural or magical elements that represent various aspects of the human experience. The performance provides a tangible platform on which human beings, spirits, animals, and other anthropomorphic entities can enact dramatic scenes and communicate their significance. The same fantastic characters that feature

⁴⁸ T.S. Nomishan, P.-K. Tubi, D.S. Gubam, op. cit., pp. 667-668.

⁴⁹ J.T. Tsaaior, *Telling the Tale, Telling the Nation: Tiv Tales, Modernity and the (Re) Construction of Nigerian Nationhood*, "Southern African Journal for Folklore Studies" 2015, Vol. 25(2), pp. 1-15.

in the stories are also present in the puppet/masquerade theatre, emphasizing the supernatural nature of the art form.⁵⁰

The Tiv people sometimes refer to the *Kwagh-hir* as *Kwagh-Alôm*, which means “something about the Hare”. This term is used to describe the stories and theatre performances that are a long-standing tradition of the Tiv people. The creative storytellers would entertain families with these tales, usually after a day of farming work, by moonlight. This tradition is similar to those of other African societies. While some African societies have Tortoises, Spiders, or other animals as trickster heroes in their tales, the Tiv have Alôm, the Hare, as their trickster hero. These tales often feature Alôm as the main character, highlighting his cunning and resourcefulness.⁵¹

Cuisine practices: There are many culinary practices among the Tiv people. Their foods are mostly solid, cooked, pounded, or prepared with hot water. Some common Tiv foods include *ruam kumen* (pounded yam), *ruam nahan* (turned food), *akuto* (sweet potato pottage), *choko* (dafa), and *akpukpa* (native bread), among many others. The Tiv also have a variety of soups, including *pocho*, *ager*, *genger*, *atyever*, *tur*, *vambe*, *igyo*, *agbende-a-ashwe*, *mngishim*, *ashwe*, *atuur*, *ijôv*, *aninge*, *furum*, *adenger*, *gbungu*, *angahar-a-ikyuna*, *gbande*, etc. Other staples among the Tiv people include roasted yams, *ahuma*, rice and beans (*chingapa sha alev*), etc.

The Tiv also produce and consume beverages like *burukutu* and *ibyer*. Their snacks include peanuts and sesame (beni-seed), *asondo* (dried sweet potatoes), *ig-bough ahi* (fried or boiled Bambara nuts), *mzembe* (roasted or cooked pears), *huu* (fried termites), *alie* and *nyata*, *kuese logo* (cassava cake), *ngyata* (groundnut paste), and *garri*, among others.

Cultural festivals: There are many festivals celebrated in Tivland. This includes the Katsina-Ala Fishing Festival, *Kwagh-hir* Festival, Annual Christmas, Tiv Kyegh Sha Shwa Cultural Festival, and Yam Festivals, among others. All of these festivals have their dedicated periods of celebration.

Arts and crafts: The Tiv practice numerous arts and crafts works. The distribution of roles is done according to gender, age, and experience. Women make pottery; young men weave cotton cloth; and men and boys weave baskets. Both mature men and their apprentices make Indigenous chairs and decks, including beds, stools, mortars, and grinding stones. “The Tiv share the general West African respect for blacksmiths; they made and hafted hoes, digging sticks, and spearheads as recently as the 1950s. All specialists in such crafts are farmers”.⁵²

⁵⁰ Ibidem, p. 2.

⁵¹ Ibidem.

⁵² Every Culture, *Countries and their Cultures: Tiv – Economy*, <https://www.everyculture.com/Africa-Middle-East/Tiv-Economy.html> [accessed: 16.06.2023].

Tiv deities and spirituality: According to Nomishan,⁵³ the Tiv people are concerned with health, acknowledging that death is the ultimate manifestation of poor health; the fertility of crops, animals, and the people, as well as social harmony, are also allotted great attention. Thus, *tsav* and *akombo* are at the heart of the maintenance of these aspects of life. While *tsav* stands for witchcraft, *mbatsav* stands for a cult of men and women who possess spirit forces, used to manipulate the physical and spiritual worlds. Thus, the good *mbatsav* are people who acquired the *tsav* ability by birth and operate on behalf of their communities, holding the communities in check and harmony, and guaranteeing potency in their social control mechanism; the bad *mbatsav*, on the other hand, apart from possessing natural *tsav* also buy numerous *akombo* to increase the content of their *tsav*. They are a malevolent, selfish, and destructive group of people, who disrupt the social fabric of the community. Therefore, at the heart of the activities of *mbatsav* (whether the bad or good *mbatsav*), exists what is called *akombo*.

Akombo means divinities which deal directly with the people's needs for food, water, health, shelter, security, safety, fertility, order, peace, and wealth, among many other things. Wegh also explained that "*akombo* are diseases which have symbols, and which may be prevented or cured by magical practices, different in detail in each case. Submerged within the *akombo* is a series of ancestral cults and fertility rites. Each *akombo* has a group of masters who can prevent or cure the diseases in question, with proper compensation".⁵⁴ There is a general belief among the Tiv that there are good and bad *mbatsav*.

Nomishan explained that the bad *mbatsav* engage in supernatural practices that cause people to become ill, but the *Swem* oath provides justice and intervention. At the end of daytime *akombo* rituals or funerals, the Tiv prepare and break a symbol called *Swem*. The *Swem* deity is responsible for upholding justice, fairness, truthfulness, security, peace, stability, order, and faithfulness. The power of the *Swem* oath is a liberating force that prevents oppression by the bad *mbatsav* in Tivland and ensures that all members of Tiv society have their rights and duties respected.⁵⁵

Protecting the Intangible Cultural Heritage in Nigeria: Where is the Law?

As discussed above, Nigeria is rich in intangible cultural heritage resources. However, these fascinating heritage or cultural assets have been under serious threat because of unfavourable human activities. The forces of globalization, religious

⁵³ T.S. Nomishan, *Heritage, Memory, and Identity: New Perspectives on the Swem Oath, an African Traditional Justice System*, LAP Lambert Academic Publishing, [s.l.] 2023, pp. 52-54.

⁵⁴ S.F. Wegh, *Marriage, Family, and the Church in Tiv*, Dekon Computer Services, Makurdi 1994, pp. 1-23.

⁵⁵ T.S. Nomishan, op. cit., pp. 57-58.

adventurism, and social conflict have greatly affected many of these elements of intangible cultural heritage. This is in addition to the already existing problems left behind by colonialism. Kolade-Faseyi articulates that the colonial masters not long after they introduced and imposed foreign religions in their colonial territories, made native adherents believe that their cultural heritage and traditional practices, once revered, were local, fetish, and ungodly.⁵⁶ They were encouraged to adopt the modern lifestyle introduced by the colonialists and to discard their own, which was seen as primitive and promoted uncivilized ways of living. This resulted in the abandonment of many aspects of cultural heritage, including intangible ones.⁵⁷

Another dimension in which the intangible cultural heritage of Nigeria is threatened today is in the face of insurgencies and armed conflict. Nigeria is currently faced with multidimensional conflicts, which are greatly affecting the heritage of its people. For example, the farmer-herder conflict happening in different parts of the country has in recent times negatively impacted the intangible cultural heritage of the Nigerian people. In places like the Jos Plateau, people no longer gather freely for cultural activities like festivals and performances of cultural rites, among others. The Kyegh Sha Shwa cultural festival of the Tiv – which has made considerable waves in recent times – was not allowed to take place at its usual venue in Gboko in the year 2022. This was because the authorities could not guarantee festival participants reliable security with respect to their lives and property. This is in direct contrast to the provisions in Article 11 CSICH, which spells out the role of the States Parties in safeguarding the intangible cultural heritage at the national level.

Article 11 provides that each State Party shall endeavour to “take the necessary measures to ensure the safeguarding of the intangible cultural heritage present in its territory”. In the same vein, Article 13(a) insists that each State Party shall “adopt a general policy aimed at promoting the function of the intangible cultural heritage in society, and at integrating the safeguarding of such heritage into planning programmes”; while Article 13(d) provides that the State Party shall:

- adopt appropriate legal, technical, administrative and financial measures aimed at:
 - (i) fostering the creation or strengthening of institutions for training in the management of the intangible cultural heritage and the transmission of such heritage through forums and spaces intended for the performance or expression thereof;
 - (ii) ensuring access to the intangible cultural heritage while respecting customary practices governing access to specific aspects of such heritage;

⁵⁶ I. Kolade-Faseyi, *Cultural Heritage in Nigeria: An Appraisal of International and Domestic Frameworks for their Protection and Preservation*, “Nigerian Current Law Review” 2019-2020, pp. 1-28.

⁵⁷ T.S. Nomishan, D.S. Gubam, P.-K. Tubi, *A Discussion of the Challenges Confronting Archaeology and Its Practice in Nigeria*, “Journal of African Studies and Sustainable Development” 2021, Vol. 4(3), pp. 140-160.

- (iii) establishing documentation institutions for the intangible cultural heritage and facilitating access to them.

An elaborate safeguarding plan must be made to enable the community, group, or, where applicable, individuals concerned to continue the practice of their intangible cultural heritage, and also to be able to transmit the same to future generations. This point has recently been made difficult if not impossible to implement following the activities of some individuals who intentionally and consciously destroyed and/or prevented the practice of several intangible cultural heritage practices in the nation. Many of these valuable and irreplaceable tangible manifestations of intangible cultural heritage have been destroyed, looted, and illegally exported to other countries of the world, especially to America, Asia, and Europe. This is carried out by illicit traffickers, including professionals and some of the museum staff, who are supposed to be the custodians of these intangible cultural heritage manifestations.⁵⁸

There is also little official monitoring of trading activities in the International Art Market by governments and international organizations; thereby exacerbating the legal complexity, where both legitimate and illegitimate objects are often traded via the same channels in a so-called "grey market", and differentiating between legal, illegal, fake, and genuine artefacts is a significant challenge.⁵⁹

The Nigerian Government has, over time, made some notable efforts towards implementing the provisions of the CSICH. As a measure to regulate and control illegal activities involving heritage resources, the Nigerian Government (both colonial and post-colonial) put in place different legislative and administrative provisions for recording, investigating, protecting, conserving, and preserving the public heritage, as outlined earlier in this study and by several other scholars.⁶⁰ Here we shall – with the aim of facilitating a coherent discussion – give a brief review and interrogation of Decree No. 77 of 1979, which established the National Commission for Museums and Monuments (NCMM), the current legislative body in charge of all activities involving heritage resources in Nigeria.

⁵⁸ J. Stanyard, R. Dhaouadi, *Culture in Ruins: The Illegal Trade in Cultural Property. Case Study: Nigeria*, ENACT, November 2020, pp. 2-3; D.S. Gubam, T.S. Nomishan, C. Dakogol, op. cit., pp. 5-6.

⁵⁹ J. Stanyard, R. Dhaouadi, op. cit., p. 3.

⁶⁰ A.A. Adewumi, *A Critique of the Nigerian Legal Framework for the Protection of Cultural Goods from Exportation Abuse*, "The Journal of International and Comparative Law" 2013, Vol. 1, pp. 85-101; O.A. Akinade, *Illicit Trafficking in Cultural Property in Nigeria: Aftermaths and Antidotes*, "African Study Monographs" 1999, Vol. 20(2), pp. 99-107; G.N. Arua et al., *Cultural Heritage Looting and Trafficking in Nigeria*, "IFLA WLIC" 2019, <https://library.ifla.org/id/eprint/2512/1/189-arua-en.pdf> [accessed: 20.07.2023]; P. Eze-Uzomaka, op. cit.; Z. Gundu, *Looted Nigerian Heritage: An Interrogatory Discourse Around Repatriation*, "Contemporary Journal of African Studies" 2020, Vol. 7(1), pp. 47-66; D.S. Gubam, T.S. Nomishan, C. Dakogol, op. cit.

Decree No. 77 of 1979 and the National Commission for Museums and Monuments (NCMM)

Decree No. 77 of 1979⁶¹ dissolved both the Federal Department of Antiquities and the National Antiquities Commission, which were the preceding legislative bodies to it. Along with establishing the NCMM, this Decree also gave the Commission the powers to generate funds and enter into contracts with organizations and bodies both within and outside the country. A fresh power to designate national monuments, as well as to provide for stiffer penalties for illegal actors in the heritage sector, was also conferred on the Commission. The NCMM was also given the authority to administer and maintain national museums, antiquities, monuments, and all other heritage resources in Nigeria.

This meant that the Decree was put in place to correct the lapses observed over time in the legislations of 1943, 1953, 1957, and 1974.⁶² The functions of the NCMM are detailed in Part 1, Section 3(1) of Decree No. 77 of 1979,⁶³ as follows:

- (a) to administer national museums, antiquities and monuments;
- (b) to establish and maintain national museums and other outlets for, or in connection with, but not restricted to, the following, that is –
 - (i) antiquities;
 - (ii) science and technology;
 - (iii) warfare;
 - (iv) African, Black and other antiquities;
 - (v) arts and crafts;
 - (vi) architecture;
 - (vii) natural history; and
 - (viii) educational services;
- (c) to make recommendations to any State Government or other person or authority concerning the establishment and management of museums and the preservation of antiquities and monuments, not being national museums or antiquities and monuments declared to be national antiquities and monuments; and
- (d) to approve any museum, which is privately established and maintained, for the purposes of this Act and at any time withdraw such approval.

The NCMM now manages about 53 museums and 65 national monuments and sites, including numerous intangible cultural heritages across the nation. However, the Commission has in recent times observed that over 65 monuments and heritage resources have been vandalized, and others outright destroyed

⁶¹ *National Commission for Museums and Monuments Act*, 28 September 1979.

⁶² O.A. Akinade, *op. cit.*

⁶³ *National Commission for Museums and Monuments Act*, 28 September 1979, pp. 2-3.

and/or removed.⁶⁴ The Decree emphasized the responsibility of the Commission to protect Nigeria's cultural heritage resources – including those owned by private bodies and individuals. Part 2, Section 15 of the Decree states that

The Commission may, with the consent of the owner of a monument, or if it appears to the Commission that the monument is in danger of decay, destruction, removal or damage from neglect or injudicious treatment, maintain such monument and may:

- (a) have access at all reasonable times to the monument for the purpose of inspection of it and doing such acts and may be required for maintenance thereof; and
- (b) where practicable remove the monument or any part of it for the purposes of repair or protection for such period as may be agreed between the owner thereof and the Commission.

Part 2, Sections 19 and 20 of the Decree provide for regulations guiding archaeological excavations in the country. The regulations are aimed at preventing the destruction of archaeological sites and monuments by amateurs. Section 19(2) states that the applicant must be certified by the Commission to be competent in terms of training and experience and that the person should have the financial resources or other formal support of an archaeological or scientific society or institution of good repute. This is because illegal excavation and removal of archaeological materials destroy the basis for studying such heritage resources, and thus tamper with the national history and identity.⁶⁵

In Section 19(5), the Decree also provides for sanctions against persons who contravene the conditions laid out in Sections 19(1) and (4), which are aimed at the prevention of illegal trade in Nigeria's antiquities. This is because illegal trade in Nigeria's antiquities and heritage assets has become a global concern.⁶⁶ To control the indiscriminate movement of archaeological materials during and after excavations, Section 20(1-3) makes it mandatory for every researcher to report discoveries to the Commission, especially discoveries of archaeological interest.

Further, Section 21(1-2) of the Decree prevents unaccredited agents from selling or buying cultural materials in Nigeria, while Section 25 prohibits the export of antiquities without a permit. Section 22 authorizes the Nigerian Police Force and Officers of the Department of Customs and Excise to seize illegally acquired antiquities, and arrest the agent in possession for prosecution. Section 18 of the Decree provides for stiffer sanctions against individuals who wilfully destroy, deface, alter, remove, or excavate any monument. This is designed to prevent the

⁶⁴ T. Sowole, *Laws to Protect Nigeria's Heritage, Monuments Coming*, "The Guardian Nigeria News", 19 January 2020, <https://guardian.ng/art/laws-to-protect-nigerias-heritage-monuments-coming> [accessed: 15.02.2023].

⁶⁵ D.S. Gubam, T.S. Nomishan, C. Dakogol, op. cit., p. 8.

⁶⁶ K. Hodge, *Modern Issues in Archaeology: The Illegal Artifact Trade*, "Project Archaeology", 19 March 2021, <https://projectarchaeology.org/2021/03/19/modern-issues-in-archaeology-the-illegal-artifact-trade/> [accessed: 15.02.2023].

arbitrary destruction of any monument or material of cultural importance in Nigeria. The Decree also provides for public access to monuments, at a fee decided by the Commission with the consent of the Commissioner, as well as many other provisions.

However, a matter of serious concern (with respect to the subject matter of this article) is the fact that Decree No. 77 of 1979 has failed to provide adequate regulations for safeguarding the intangible cultural heritage resources in Nigeria. Provisions for the safeguarding of the intangible cultural heritage of the Nigerian people are very scant and rather absent in the Decree. It has also failed to make any provision for traditional management and enforcement systems in the protection and management of cultural heritage in the country. This is said to be a result of the inability (or unwillingness) of the Federal Government of Nigeria to acknowledge the role of the public in safeguarding heritage resources, as well as the need to also involve them in the formulation of laws related to heritage protection.

This is so because Nigeria as a nation inherited the colonial system of heritage management, which did not take into consideration the interests of the local people regarding their heritage.⁶⁷ It has been noted that this situation has made individuals in many communities in the country feel alienated from their heritage, and thereby no longer interested in such heritage protection and maintenance.⁶⁸

This point, alongside many other reasons, gave rise to UNESCO's Intangible Cultural Heritage Safeguarding Project, aimed at organizing and garnering support for the effective implementation of the CSICH in Nigeria. The project was to run from 1 July 2014 to 1 July 2017, and a total budget of US\$300,000 was donated to the project by Japan. The project was aimed at laying a solid foundation to support Nigeria in its efforts to safeguard the living heritage present in the country.⁶⁹

The project pulled together community representatives, governmental and non-governmental experts, and representatives of professional bodies in the country to engage in dialogue on the best ways of safeguarding the intangible cultural heritage in Nigeria. In addition, stakeholders' meetings and workshops were held in locations like the Bida community in Niger State, the Oyo community in Oyo State, and the Calabar community in Cross River State, aimed at finding the best ways to implement the project. There was a workshop for the training of trainers for community-based inventorying and another on strengthening the policy and legal framework for the safeguarding of the intangible cultural heritage in Nigeria.⁷⁰

⁶⁷ J. K. Ugwuanyi, *Hegemonic Heritage and Public Exclusion in Nigeria*, "West African Journal of Archaeology" 2018, Vol. 48, pp. 71-85; T.S. Nomishan, D.S. Gubam, P.-K. Tubi, op. cit., p. 144.

⁶⁸ D.S. Gubam, T.S. Nomishan, C. Dakogol, op. cit., p. 10.

⁶⁹ UNESCO ICH, *Support to the Effective Implementation of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage in Nigeria*, <https://ich.unesco.org/en/projects/support-to-the-effective-implementation-of-the-2003-convention-for-the-safeguarding-of-the-intangible-cultural-heritage-in-nigeria-00282> [accessed: 15.02.2023].

⁷⁰ Ibidem.

Thus, following these efforts and several other calls by notable individuals, including academics, for the amendment of Decree No. 77 of 1979 in order to cater properly to the safeguarding of Nigeria's cultural heritage, as well as to deal with the current challenges confronting intangible cultural heritage in the country, a bill has been initiated in the National Assembly to amend the 1979 legislation. It is titled: A Private Bill to Amend the Enabling Act of the National Commission for Museums and Monuments. Among other issues to be included in this proposed amendment, this article recommends the following.

First of all, 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, among many others.

Secondly, the Act should also provide for the inclusion of the traditional forms of the protection, preservation, and management of cultural heritage in Nigeria. Before the advent of colonialism, most communities had traditional ways of protecting their heritage.⁷¹ These heritage materials were under the custody of traditional and/or religious leaders, who guarded them jealously. The sacred nature of some of these materials made their custodians, such as chief priests, associate them with taboos that protected them from looters and vandals.⁷²

Thirdly, the new Act should provide for compulsory stakeholders and community engagement. The level of negligence of cultural heritage by the public is becoming very worrisome; and therefore the authorities should see the need for mandatory allocations of responsibilities to all Nigerians towards the protection and preservation of Nigeria's cultural heritage, including its intangible ones.

Fourthly, the Act should also provide for compulsory heritage education at all levels of formal education. All citizens of Nigeria need good knowledge of their heritage and should be able to contribute meaningfully to its protection and preservation. Including heritage education in the curriculum of primary, secondary, and tertiary levels of education will assist in promoting good cultural values among all the nation's citizens, thereby curtailing many social vices in Nigerian society, particularly corruption.

Next, the new Act should also provide for stiffer penalties against individuals (particularly migrants/settlers and herders) who have recently engaged in the wanton destruction of tangible cultural heritage materials and sites, thus preventing the practice of intangible cultural heritage by members of their host communi-

⁷¹ O. Sogbesan, T. Laotan-Brown, *Reflections on the Customary Laws of Benin Kingdom and Its Living Cultural Objects in the Discourse of Ownership and Restitution*, "Santander Art and Culture Law Review" 2022, Vol. 2(8), pp. 9-28.

⁷² D.S. Gubam, T.S. Nomishan, C. Dakogol, *op. cit.*, p. 10.

ties. This point is critical because migrants in the country – especially in the northern and central parts of Nigeria – have been involved in senseless destruction and the prevention of activities involving the practice of some intangible cultural heritage practices in many communities. This can be seen in places like the Jos Plateau, and the border communities in Nasarawa, Benue, Taraba, and Cross River States, among others. For example, herders have joined together and mobilized and attacked communities in the areas mentioned above during cultural practices like festivals, conferment of cultural rites, and the performance of dramas, among others.

Finally and most importantly, the amended Act should provide for research grants, which will enable researchers in the areas of archaeology and heritage studies to engage in cutting-edge research in order to reposition the heritage sector in the robust cultural tourism in Nigeria.

Conclusions

As discussed above, intangible cultural heritage is an important factor in maintaining cultural diversity in the face of growing globalization. It gives us a sense of identity and belonging, linking our past, through the present, with our future. Thus, a proper knowledge or understanding of the intangible cultural heritage of different communities helps build intercultural dialogue and encourages mutual respect for others' ways of life. Nigeria has been blessed with a diverse heritage, especially its intangible cultural heritage, which has the potential to boost cultural tourism in the country and reposition the nation for sustainable tourism operations.

For example, the *Kwagh-hir* theatrical performance of the Tiv people is one of the most beautiful and complex cultural performances in the world, which involves traditional music and dance, drama and songs, clothing, and artistic works such as carved marks, giving the audience a great awareness of the complexity and sophistication associated with its performance. This intangible cultural heritage brings people from far and near, who become more educated by the performance and the incredible and fascinating ways in which the Tiv people have been able to manipulate their environment to achieve such cultural development. As explained earlier, many other ethnic nationalities in Nigeria have similar intangible cultural heritage practices that demonstrate their understanding of their worldview.

Furthermore, almost all the cultural festivals in Nigeria are complex expressions of intangible cultural heritage, including songs, dances, theatre, feasting, oral traditions and storytelling, displays of craftsmanship, sports, and other forms of entertainment. The boundaries between these domains are extremely fluid and often vary from community to community. Therefore, the diversity envisaged in the intangible cultural heritage of the Nigerian people requires a dynamic law, which will provide for the adequate protection, preservation, management, and promo-

tion of these heritage resources. This has become all the more necessary because of the multifaceted issues confronting many communities' intangible cultural assets. For example, the modified law could be used to combat the negative influence of foreign faiths on Indigenous peoples' intangible cultural heritage. It should also be able to preserve intangible cultural resources from insurgent activity and during armed situations.

It is critical for the government at all levels to support and fund large festivals and gatherings that highlight Nigeria's intangible cultural heritage expressions. This should be made a legal requirement. Policies should also be developed to help promote these cultural activities. These events are critical for revitalizing cultural education and strengthening cultural morals and values that can foster the nation's unity, peaceful co-existence, and socio-political well-being.

On this note, this paper concludes by urging the Nigerian government to recognize and/or acknowledge the contributions of heritage, particularly intangible cultural heritage, to the promotion of national unity, patriotism, the value system, and the development of a sustainable economy through cultural tourism. This acknowledgement should be supported by a readiness to investigate the country's current heritage law in order to quickly revise it to match the contemporary circumstances and effectively accommodate intangible cultural heritage.

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