

Revisiting the Cultural Heritage Laws in Pakistan to Identify Policy Gaps

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Abstract

This study provides a critical insight and identifies gaps in the contemporary cultural heritage laws in Pakistan. Apart from a quick historical review this study explores the push-factors on the lawmaking process, preferences and the connotation using the lens of culture. It is ontologically a reflective epistemology. It also argues that culture and economic conditions play a vital role in formulation and regulation of the cultural policies. The study highlights the role of UNESCO in promoting cultural heritage worldwide and its connectedness with the domestic evolution of cultural heritage laws in Pakistan. This paper is significant because the agency is renegotiated between the federating units and the federation after the 18th amendment in the constitution of Pakistan. However, it is significant for Pakistan to develop her image as a heritage loving nation in the comity of the nations. The social episteme to analyze the people's behaviors and it is a diverse process that may be categorized in different logical scenarios. Looking at the motivations or pull-factors may bring forth the significance of ideas for promoting and preservation of cultural heritage for the future. The data was collected by using ethnographic research methods and tools including participant observation, in-depth interviews and focused group discussion.

Keywords: cultural heritage, policy, UNESCO, 18th Amendment of Constitution of Pakistan

1. Introduction

Cultural Heritage is a complex idea that invokes multitude of meanings, embedded in a general idea of culture. Culture is geographical bonded and it cannot be mixed up by any religious philosophy or otherwise because it evolves from the soil and also belongs to the people and every country has

its own culture¹. Generally, the conquerors, invaders and rulers might have left their cultural influences through acculturation but often they are assimilated and acquired as part of the local culture. Cultural heritage is manifested through monuments, clusters of old buildings, historical sites and other forms of architecture and infrastructures. Cultural heritage provides the social capital for local communities through a shared understanding of the past which contributes to the social cohesion within the community².

The declaration on Cultural Heritage 2003 of United Nations Educational, Scientific and Cultural Organization (UNESCO) explained that cultural heritage is a significant aspect of the cultural identity of the communities, groups and individuals and also a source of social amalgamation³. It has a significant role in every society for glorifying the past. However, many of the communities are incapable to protect, preserve or promote their valuable cultural heritage in the wake of contemporary modernization and technological advancement with climate change lead by the over consumption of fossil fuels. UNESCO is doing serious efforts for the protection and preservation of the evidence of the significant past; a past that is conceived through material cultural heritage that invokes a sense of socio-cultural belonging in the rapidly changing social arena of the globe⁴. In other words, heritage is a significant marker of identity. The destruction of cultural heritage may pose serious consequences for future generations; apart from the loss of connectivity with the cultural past.

The preventive role of UNESCO to protect cultural heritage is vital, since the establishment of the convention in 1972, it has effectively tried to the protection of the global heritage. The convention also proved to be the largest international treaty for securing and safeguarding the heritage of the world. The treaty has the salient features that it correlates

¹T.S. Eliot, *Notes Towards the Definition of Culture* (London: Faber and Faber Limited, 1973): 3-9.[N.B.: in this article the contributor was allowed to insert full citations in the footnotes instead of using the standard final bibliography (or "References"), which is customary in this Journal].

² M. Harris, *Culture, people, nature: An introduction to general anthropology* (New York: Longman, 1997): 57-63.

³ Draft UNESCO, Declaration concerning the Intentional Destruction of Cultural Heritage, Paris: UNESCO 2003.

⁴ UNESCO, Convention Concerning the Protection of the World Cultural and Natural Heritage, Paris: UNESCO 1972.

the concepts of conservation and preservation of the world culture in a single agreement which makes this treaty more unique in nature. Under the UNESCO convention 2003, this treaty highlighted the growing threats to natural and cultural relics worldwide and doing necessary preemptive actions for mitigating the growing concerns⁵. Furthermore, it has reshaped the concept of collective efforts for the protection of the world heritage beyond the limits.

Despite the ancient roots of cultural history of the region, it is academically prudent to think of Pakistan's cultural heritage and its legislative and policy aspects from the partition of India and the inception of Pakistan as a new state in August, 1947. The main hypothesis of the creation of a separate state took place with claims of a distinct cultural heritage from the Hindus. The Muslims of India wanted a country in which they can live freely and manifest their cultural identity as a cultural entity⁶. The establishment of Pakistan was the advent evidence of a separate cultural heritage because Muslims were living together for centuries but they have not commonalities in food and others pattern of life with Hindus and other religious groups of the south-Asia. However, on the other hand, Bangladesh (formerly East Pakistan) was entirely different but considered to be a part of Pakistan. Both wings were unruffled on the name of Islam but in reality, no cultural similarities were found between them. Therefore, it is overt that we may observe a religious overtone to legislature and policy related to cultural heritage rather than culture per se in the case of Pakistan.

Six heritage sites from Pakistan are solicited on the UNESCO list of world heritage including the archaeological relics at Moenjodaro, the historical monuments of Thatta from Sindh, the Buddhist monuments of Takht-i-Bahi and Taxila from Khyber Pakhtunkhwa, the Rohtas Fort, the Lahore Fort and the Shalamar Gardens from Punjab⁷. These aforementioned historical sites are representing the three major provinces of Pakistan and another ruins of oldest civilization is found at Mehrgarh in Balochistan which is not included in the list of UNESCO world heritage sites yet.

⁵ UNESCO 2003.

⁶ S.M. Ikram, Percival Spear, eds, *The Cultural Heritage of Pakistan* (New York: Oxford University Press, 1955), pp. 16-25.

⁷ UNESCO, Country Programming Document for the Islamic Republic of Pakistan, Islamabad: UNESCO, 2008,

Furthermore, one drastic thing came into knowledge that the frail conditions of Lahore Fort and the Shalamar Gardens engendered alarming bell for the world heritage committee and both historical places have included in the list of 'World Heritage in Danger' in 2000. The apprehension is reflecting an overall lack of awareness, capacity, skills and public funding for the preservation of Pakistan's heritage⁸. Since 1976 to date, UNESCO has selected six historical sites in Pakistan which mentioned above as for World Heritage Sites and also eighteen sites have been nominated on the provisional list. Pakistan's heritage properties are the subject of periodic monitoring by the World Heritage Committee. Although mentioning of the cultural heritage sites among endangered ones in the UNESCO list is alarming, albeit; no legislative or policy level initiative reflects that it is taken as a serious issue. If compared to the steps taken by India regarding Taj Mahal; where the vicinity is cleared to avoid environmental and noise pollution by the transport vehicles. A greater 'walled city Lahore' project is initiated under walled city Lahore Authority that is a significant policy and practice advancement.

An important and positional aspect of the convention of 2005, the Article 02 'the protection, promotion and preservation of the diversity of cultural expression provided the guidelines that all properties enlisted on the world heritage list must have adequate long-term legislative, regulatory, institutional and/or traditional protection and management to ensure their safeguarding⁹. The article 04 of the Convention 2005 described that the 'Cultural Heritage' is an expression of the ways of living, developed by a group of people or community and passed through generation to generation which included cultural content, customs, practices, artistic expression and values¹⁰. According to UNESCO, it is often expressed as either tangible or intangible cultural heritage respectively. However inheritance is a broad concept that comprehends the natural and historic legacy of the nation.

The tangible cultural heritage covers with moveable cultural heritage (sculptures, paintings, manuscripts and coins), immovable cultural heritage (archaeological site and monuments). The intangible cultural heritage constructed on the bases of oral traditions, rituals and

⁸ Ibid.

⁹ UNESCO, *The Protection and Promotion of the Diversity of Cultural Expressions*, Paris: UNESCO, 2005,

¹⁰ Ibid.

performing arts¹¹. The fascination of heritage places can provide a helping hand in boosting country's tourism industry domestically in general and internationally in particular. The lucrativeness of the visiting heritage places, museums, events and cultural festivals can become a major source of revenue and also can assist in promoting the soft image a country to the world. There are pathways to protect intangible cultural heritage through legislative and policy measures but for tangible cultural heritage it is more important because at identity level an artifact may be an idiosyncratic to one community or culture, however, as shared heritage it is a global responsibility and legislative, regulatory and policy measures will ensure continuity of culture. There are challenges in post 18th amendment scenario regarding Pakistan; there are lacunas in policy and practices at provincial level hampering the potential of revenue and tourism synergy with cultural heritage.

UNESCO promotes 'Culture' as a key instrument for the development in its own rights. Cultural heritage, thus, a significant role in capacity building programs for communities and also an income generating potential for cross cultural events and activities¹². Another aspect of culture is to play an important role in initiating dialogue between the people and communities. It also displays the image of different perspectives that providing identity inside societies. In order to meet the Sustainable Development Goals (SDGs), then culture needs to be recognized as an important factor for sustainable development. Nevertheless, cultural heritage has a capacity to play a vital role for the nation building programs for the world including Pakistan. Thus, keeping in view of these dimensions of culture, it becomes more significant to facilitate any regulatory or grievances resolution mechanism for culture and heritage through legal and policy frameworks and actions.

Furthermore, cultural heritage has also been acknowledged as a driver of sustainable development, peace, stability and economic progress of the country because it brought societies and nations together. Keeping in mind, culture as a national priority, the government is developing a national policy on culture, working on the basis that the diversity of the country's rich cultural heritage, both tangible and intangible which is an essential requirement for sustainable development. This policy aims to

¹¹ Ibid.

¹² UNESCO, Country Programming Document for the Islamic Republic of Pakistan, Islamabad: UNESCO, 2008,

define the cultural values with the strong participation of people and communities. Through this policy, a healthy environment for training, education and performance of different cultural activities on local level and nation level will strive the people to participate in cultural programs. In this regard, if this policy is implemented with its full essence, then, it would be able to support and strengthen the national solidarity. This policy can also create harmony in diverse religious and social-cultural points of view.

2. Definition of Culture

To understand cultural heritage and related laws it is of utmost importance to understand conceptual underpinnings of culture. The study of culture and its components have fascinated the attention of the contemporary researchers from its multi-dimensional aspects of study. Renowned anthropologists including Franz Boas¹³ (1940, 242), Ruth Benedict¹⁴ (1934[1959]: 29), Margaret Mead¹⁵ (1928:9), Edward Sapir¹⁶ (1949:79-84) and Benjamin Lee Whorf strongly advocating the argument that customs, social structure of the community, religious and social practices play a significant role for a society. Culture is defined as the socially transformed knowledge and behavior shared by the communities over generations¹⁷.

Culture denotes the learned and collective experiences and also socially transformed patterns of behaviors of a society or community¹⁸. Culture is a complex web and based upon the knowledge, art, moral values and customs of a society¹⁹. The culture of a society comprised of a

¹³ F. Boas, *Race, Language and Culture* (New York: MacMillan Company, 1940): 244

¹⁴ R. Benedict, *Patterns of Culture* (New York: A Mentor Book – The New American Library, 1934 [1959]): 29

¹⁵ M. Mead, *An Inquiry into the Question of Cultural Stability in Polynesia* (New York: Columbia University Press, 1928): 9

¹⁶ E. Sapir, *Culture, Language and Personality: Selected essays edited by David G. Mandelbaum*, (California: University of California Press, 1949): 79-84

¹⁷ J.G. People, *Humanity: Introduction to Cultural Anthropology* (California: Wadsworth Publishing, 2012): 97-105.

¹⁸ R.M. Keesing, *Cultural Anthropology: A Contemporary Perspective* (New York: Holt, Rinehart and Winston Publishers, 1981): 4-11.

¹⁹ E.B. Tylor, *Primitive Culture* (London: J. Murray Publishers, 1871): 5.

collective ideas, emotional sentimental patterns and behaviors which they share on regular basis²⁰. Furthermore, culture is socially acquired patterns of life and bounds people together²¹. Culture is the multi-dimensional approach which consists of knowledge, belief, art, moral values, laws, customs and other practices or habit which a human being learned from the society²². It is more powerful than the religion, rather religion is subservient to culture. Every society has different levels of culture practices and rituals. More often, cultural activities are more desirable²³. Culture is the sharing and transmission of memory, ideology, emotions, life-styles, scholarly and artistic works, and other symbols²⁴. Moreover, Gusfield defined that cultures demonstrate modern societies at different levels either in uniformity or conflict²⁵. Culture is a systematic way of life which is based upon the traditions and environment that is effecting on human beings. Laws and religion bounded the human beings and culture is highly patterned and directed them through norms and value²⁶.

While defining the intangible aspect of culture, it is to be known as shared belief system, common norms and values, behaviors and languages of the society which hold them strongly together²⁷. UNESCO defined culture as the complex whole of distinctive spiritual, intellectual, material and emotional features which are categorized by a group of society²⁸. Thus, culture is a pattern of life of a society in which they perform certain

²⁰ R. Linton, *The study of man; an introduction* (New York: D. Appleton-Century Co, 1936), 7.

²¹ M. Harris, *Culture, people, nature: An introduction to general anthropology* (New York: Longman, 1997): 11-15.

²² A. Blumenthal "A New Definition of Culture," *American Anthropological Association*, 42, 4 (1940): 572-573.

²³ T.S. Eliot, *Notes Towards the Definition of Culture* (London: Faber and Faber Limited, 1973): 6-7.

²⁴ Akira Iriye "Culture," *The Journal of American History*, 77, 1 (1990): 100.

²⁵ J.R. Gusfield, "Culture," *American Sociological Association*, 5, 1 (2006): 43-44.

²⁶ C. Dawson, *Religion and Culture* (Washington D.C: The Catholic University of America Press, 2013): 5.

²⁷ A.-M. Deisser and Mugwima Njuguna, eds, *Conservation of Natural and Cultural Heritage in Kenya: A cross disciplinary approach* (London: UCL Press, 2016), pp. 6-12.

²⁸ UNESCO, Mexico City Declaration on Cultural Policies. Mexico: UNESCO, 1982.

socio-religious rituals together on the bases of common beliefs, behaviors and values, these activities are transformed from generation to generation. These definitions of the cultural heritage can be described in number of ways which is often subjective and at times idiosyncratic intangible part of culture. Keeping in mind the definition of UNESCO Convention of Cultural Heritage which inculcated with larger frame of cultural expressions, customs and social practices of the communities. However, Labadi expressed that heritage is an intertwined relation between nature and culture²⁹.

3. Locale and Methodology

This is a multi-sited research and conducted in different cities of Pakistan including Islamabad, Rawalpindi and Lahore. Qualitative research methodology was adopted to understand the socio-legal position on cultural heritage in Pakistan with a clear goal to identify the policy gaps that prevail in the existing situation. To critically examine the cultural heritage of Pakistan and the immensity of the study is attained through archival or secondary data in the form of books, documents, research articles from various journals, UNESCO reports, national policies on cultural heritage, different cultural institutions working inside the country and relevant documents from official records of Culture and Heritage Division of Pakistan. The secondary data lead to design questionnaire guides to collect primary data from different stakeholders through twenty interviews and four discussions. This research tried to clarify and examine the concepts of world cultural heritage laws and its implementation on Pakistan. Furthermore, the data is also taken from credible sources like periodicals of organizations such as American Anthropological Association, Wenner-Gren Foundation for Anthropological Research, Asia Society, Asian American Arts Centre, Pakistan National Council for the Arts (PNCA), National College of Arts (NCA), Pakistan Academy of Letters, National Institute of Folk and Traditional Heritage, Lok Virsa and National Performing Art.

²⁹ S. Labadi, "A review of the Global Strategy for a balanced, representative and credible World Heritage List 1994–2004," *Conservation and Management of Archaeological Sites*, 7, 2 (2013): 97.

4. Research Questions

Research question that lead this enquiry are based on the principal observation of consistency of language, concepts and frameworks in national or provincial documents, laws and policy texts as continuity of international treaties and conventions related to culture and cultural heritage. Primary question is “*how state policies and laws can play an affective role in promoting heritage loving nation image to the world?*” Albeit, it is necessary to review the existing state of laws and policies or regulations and practices concerning Pakistan’s cultural heritage; in addition to the identification of lags and the causes of those lags between policies, laws and practices. An overview of issues that curtail protection, preservation, and promotion of Pakistani Cultural Heritage might not be possible within this paper’s scope but it will touch the matter from policy gap perspective.

5. Cultural Heritage as National Issue

Cultural Heritage is often ignored as the national issue or a national priority in almost the complete history of Pakistani politics. However, it is often prevailed as omnipotent category in national and provincial politics. Aitzaz Ahsan, a senior politician raised a pertinent question in his book the Indus Saga; “what, in essence, is Pakistani identity?”³⁰. This paper is a contribution to bring forth the cultural heritage as a central concern in national and provincial agenda. It describes the observed existing pathways to preserve, protect and promote cultural heritage of Pakistan and also provide suggestions for future. One major concern that regulates this study is to attempt to guide an inclusive cultural heritage policy from an anthropological perspective.

6. Overview of the Texts in the Context

The research is based on an extensive literature review. Firstly, it tried to elaborate the past and current discussions and positions on world culture and heritage. Second, it examined the cultural diversity of Pakistan and how laws and policies have been implemented for the protection of

³⁰ A. Aitzaz, *The Indus Saga and the Making of Pakistan* (Karachi: Oxford University Press, 1996).

cultural heritage. Thirdly, it reviewed new trends affecting cultural heritage and how local population perceive about it.

In today's scholarly world, the concepts of cultural heritage cannot be studied separately. In fact, the concepts developed alongside and closely linked with others. Prominent anthropologist including Margret Mead, Marvin Harris, Charles Wagely, Ruth Benedict, Levi-Strauss, Roger Callois and Lucien Bernot works and their efforts must be admirable for this field. Most of the existing literature relates to individual properties but not to how the world heritage system works or functional aspects in holistic terms. Publications that are widely accepted as impactful on the subject matter which directly related to this issue such as R. Jon McGee and Richard L. Warms *Anthropological Theory an Introductory History* (2008) captivated the characteristic of anthropological studies such as behavior, beliefs, and lifestyles of people in the context of cultural assimilation being adapted in the world. This is a great effort for knowing the history about the cultures of the past who disappeared a long time ago. Furthermore, it correlates the cultural acquaintances of the past with present in a decent way³¹.

Tim Ingold *Key Debates in Anthropology* (1996) concerns on the current theories which have been applied in anthropology for promoting a continuing dialogue process among cultural entities with divergent viewpoints in contemporary anthropology³². However, Paul Rabinow *Anthropos Today Reflection on Modern Equipment* (2003) describes that when someone wants to transform "logos" into "ethos" which equally required the explanation for understanding the culture of the society. Furthermore, he advocated the Foucault's concept of structuralism in which human indicating practices have been described that the rule of governed semiotic systems established subjects as a function of discourse, cultures infusion with deep meaning and the significance of interpretation which is required for understanding the cultural heritage³³.

Moreover, S.M Ikram and P. Spear's *The Cultural Heritage of Pakistan* (1955) focusing on the Islamic culture and heritage in Pakistan that has been existed after the attack of a Muslim Arab conquer Muhammad Bin Qasim on sub-continent in 712 A.D. Although, he also

³¹ ³¹ McGee, R. J. and R.L. Warms, *Anthropological Theory An Introductory History* (New York: McGraw-Hill, 2008).

³² T. Ingold, *Key Debates in Anthropology* (London: Routledge, 1996).

³³ P. Rabinow, *Anthropos Today Reflection on Modern Equipment* (New Jersey: Princeton University Press, 2003).

glorifies the significance of pre-Islamic cultural heritage in India³⁴. Furthermore, Aziz Ahmad *Cultural and Intellectual Trends in Pakistan (1965)* described the cultural diversity between Bangladesh (former East Pakistan) and West Pakistan. However, he lamented that after the creation of Pakistan, the great Urdu poets were ignored that's became the reason for the downfall in literature. The government failed to implement a unified policy for the protection of the national heritage of both wings of Pakistan³⁵.

Additionally, David Gilmartin *Partition, Pakistan, and South Asian History: In Search of a Narrative (1998)* explained that the Pakistan Movement had become a symbol of moral and cultural order in 1940s with the slogan of Muslim nationalism. As a result, sub-continent divided and Pakistan emerged on the map of the world in 1947, with integrating cultural and linguistic diversity, but rather one of imprinting its authority onto a new and intractable territory. Although, he remained quite skeptical about the political elite of Pakistan who failed to institute a common cultural policy for the Pakistani society³⁶. However, Syed Jalaluddin Haider *Archives in Pakistan (2004)* focused on the National Archives of Pakistan, he also argued the role of the archival collections at the provincial and district levels. Likewise, he identified different problems at different levels which create complications for knowing the history and culture of the country³⁷.

Saadia Toor, (*A National Culture for Pakistan: the Political Economy of a Debate, 2005*) defined that culture has immense importance in formulating national policy on cultural heritage. Furthermore, she explained that cultural nationalism can be seen as the outstanding form of nationalism in the 21st century, particularly within the concept of neo-colonial and globalization contexts. It has a way in which civic or political nationalisms go together for understanding the relationship of power for the formulation of state policies on culture³⁸. Ping Kong *Social Quality in*

³⁴ S.M. Ikram and P. Spear, *The Cultural Heritage of Pakistan* (New York: Oxford University Press, 1955).

³⁵ A.Ahmad, "Cultural and Intellectual Trends in Pakistan," *Middle East Journal*, 19, 1, (1965): 35-44.

³⁶ D. Gilmartin, "Partition, Pakistan, and South Asian History: In Search of a Narrative," *The Journal of Asian Studies*, 57, (1998): 1068-1095.

³⁷ S.J. Haider, "Archives in Pakistan," *Journal of Archival Organization*, 2, 4 (2004): 29-52.

³⁸ S. Toor, "A National culture for Pakistan: the political economy of a debate" *Inter-Asia Cultural Studies*, 6, 3 (2005): 318-340.

the Conservation Process of Living Heritage Sites (2008) described that the economic benefits and political prestige of the tourists destroys the social quality of the local community. Furthermore, he argued that the policies which have been implemented in living World Heritage sites carried negative impacts on the social quality of traditional communities. He also expounded to develop a policy which reduces the negative influences on the social quality although applying the UNESCO World Heritage conservation program³⁹.

Patty Gerstenblith *Cultural Heritage Legal Summary (2009)* explained the United States of America's efforts in depositing the ratification of Hague convention of 1954, which maintain the cultural heritage in the conflict zones. USA is the first country who ratified the Hague Convention on the protection of 'Cultural Property' during war or conflicted areas. However, USA signed MoU with China to impose restriction including archaeological materials of the Paleolithic (beginning 75,000 BC.) through the Tang Dynasty which aims to the protection of world heritage in genuine form⁴⁰. Furthermore, UNESCO World Heritage Convention (*Convention concerning the Protection of the World Cultural and Natural Heritage (1972)*) provides the basic guideline for the conservation of the cultural heritage and also provides policy and instructions for the preservation of world cultural heritage. This is a modern document which defines restriction and limitations of world culture heritage⁴¹. Likewise, Bart J.M. van der Aa *Preserving the heritage of humanity? Obtaining world heritage status and the impacts of listing (2005)*, explains the role of World Conservation Union or the International Council on Monuments and Sites (ICOMOS) for nominating the site for the World Heritage. Furthermore, it defines that the site is natural or cultural in character and how experts assess the quality of the site for World Heritage. It also elucidated the significance of cultural sites for cultural heritage⁴².

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³⁹ Ping Kong, *Social Quality in the Conservation Process of Living Heritage Sites* (Groningen, The Netherlands: International Forum on Urbanism, 2008)

⁴⁰ Patty Gerstenblith, "Cultural Heritage Legal Summary," *Journal of Field Archaeology*, vol. 35, no. 02 (2010): 237-243.

⁴¹ UNESCO, *Convention Concerning the Protection of the World Cultural and Natural Heritage*. Paris: UNESCO, 1972,

⁴² Bart J.M. van der Aa, *Preserving the heritage of humanity? Obtaining world heritage status and the impacts of listing* (Groningen, Netherlands: University of Groningen/UMCG research database, 2005)

7. Identification of the problems for making heritage laws

7.1 Protection

A global study was conducted on the protection of cultural heritage from 1987-1993 that was a great initiative for understanding the dilemmas about the protection of heritage. The main purpose of conducting this research was to find out the gray areas for handling culture heritage. Moreover, the study suggested framework for addressing the mishandling issues related to the cultural heritage sites. The protection of the common heritage has become a global phenomenon and collective efforts are needed in this regard. The combined efforts of provincial and federal government can provide a mechanism for the protection of heritage for the future generations.

Personal interviewed with an official at Jaulian site part of the ruins of Taxila dated October 17, 2017, the interlocutor respondent's verbatim was:

“Chezo ka chori hona sb se bara masla hai aur baz okat logo ko purani chezain mil bhi jati hai lakin who unhain chupa lety hai ya phir thory paiso ki khater unhain bech dety hai.”

Translation: burglary has become a major concern for the protection of heritage, more often, people finds old relics but they conceal them or sold out at scantily amount of money.

For addressing these intricate manners, government should create awareness programs among the local communities adjacent with the heritage site for the protection of heritage remains.

Protection is a multifaceted task; it includes theft of relics and artefacts from the sites and surroundings. Smuggling cases are often reported but the laws are not ample to withhold the culprits. Policy need to focus on giving the ownership of cultural heritage to the local communities and plan assistance of the experts to be availed by the local communities. There is an often ignored aspect of making communities financial partners in an attempt to mitigate the threats of theft. A vigilant and aware domestic customs wing is mandatory for mitigating theft and

smuggling of material cultural heritage. In addition to this; policy shall suggest mechanisms for bilateral contact and contracts to keep a check on smuggling and to ease the return of any such artefacts. France returned terracotta ancient relics to Pakistan that were seized by the French customs a decade ago⁴³.

7.2 Compromised Protection (cutting off nose to Idols) under religious praxes

Protection of heritage relics are very important for preserving cultural heritage. The major issue is that idols and similar artefacts are metonyms of Hinduism that is constructed as foe or binary opposite in the two nation theory. That is a combination of opposition at two layers, one Islamic where religion is anti-idol worship; two, latent hate for Hinduism among Pakistani Muslims. The vernacular expressions of this alterity is a major threat to protection of cultural artifacts that are part of diverse religious traditions of Pakistan.

Personal interview with official at Taxila Museum dated October 19, 2017, *Log bouton (idols) kay kareeb jany se bhi darty hai, kyu kay Islami taleemat kay mutabik bout rakhna ya bout parasti krna haram hai. Ic liay ajaib ghar (museum) main jo bout hum daikhty hai aksar un ki naak (nose) kati hoti hai.*

(Translation: according to Islamic values, keeping idols are restricted and disallowed, therefore, people are afraid to touch them. When we see idols in museums, one thing comes to observation that their noses cut off.)

When societies turned intolerant, then, the understanding of the importance of cultural heritage and social history gets blurred or tainted. Unfortunately, Pakistan has passed through the intolerance phase of history where the promulgation of Islamic discourse in a wrong way has become a common practice. Personal interview with an expert on international relations gave an example of the discourse is found, when a gigantic statue of Buddha was destroyed by the Taliban in Bamiyan Afghanistan in 2001 and they justified this act by positioning Islam as

⁴³ <https://dailytimes.com.pk/422896/france-returns-stolen-relics-to-pakistan/>

anti-idolism. The international community raised their concerns over the annihilation of the largest statue of Buddha, and they strongly condemned this act and considered it a worse example of religious extremism against UNESCO world heritage. Another example can be seen in the Taxila Museum where most of the Buddha statues are found without noses.

7.3 Conservation (Provision of funds. Role of donors)

The execution of the conservation programmes for the protection of cultural heritage are based upon the interconnecting concepts of cultural diversity among different institutions for mitigating the risk of destruction. Conservation requires huge investments. It is not always possible, to feed in ample amount of money for the conservation purposes, for the government. The role of donor agencies is significant to keep things going. Apart from financial requirements; skills and expertise are required for conservation that may require international cooperation and sharing of personnel services. A more flexible framework to allow transnational cooperation in this regard is always required.

Personal interview with an official at the Ministry of Finance dated 10 April 2018, *the financial embezzlement, discrepancies and irregularities are creating an obstacle in the way of developing an adequate monitoring for the funds by the donors and financial institutions. Ironically, no serious efforts have been made for controlling the misuse the funds and thought-provoking ideas are still lag behind.* One of the interlocutors expressed his views on the issue that it's a two way approach *firstly, what are the priorities of the government for cultural heritage and secondly, the role of donor agencies cannot be ignored.* In addition, there is a dire need to constitute a framework in which a strong check and balance espoused for monitoring mechanism for judging the accurate use of funds given by the government financial institutions and donors agencies.

There is a possibility to explore alternatives to generate more revenue for conservation; one may be the involvement of different corporations through utilization a share of their corporate social responsibility (CSR) funds. Instead of working in isolation; governmental offices or departments concerned with culture shall involve local chambers of commerce. Conservation is a highly skilled task and this requires specialized manpower. Unfortunately, Pakistan lacks in such

manpower. If universities are involved more actively only then such skilled experts can be produced; not only to conserve the cultural heritage of Pakistan but could serve across the globe and contribute towards the national economy. This aspect of conservation requires more participatory academia for cultural heritage.

7.4 Transmission (To educate students, school trips. Gender equality)

Education can provide a better understanding related to civic engagement and it can bring awareness in societal issues related to the protection of heritage. One of the interlocutors, a CEO of the prestigious school system, is of the view that *educated youth can play a significant role in nation building process and promoting national heritage of Pakistan. In the age of globalization, technology has reduced the distance and every-thing has reached to your access. Pakistan is the unique undiscovered treasure that when traveling the other parts of the country it is not mesmerized the scenic beauty of the area but also meet the people and learn the knowledge about them.* More often presenting yourself as a participant observer because observing the behaviors and characteristics of the native people. However, a retired official of Lok Virsa is of the view that *we are not well aware about our country but we know much about the world. Despite the fact that Pakistan is facing many problems but our domestic tourism is flourishing and greater connectivity can play a vital role in promoting the local tourism.* Through heritage, one can understand the culture of others and it may provide a bond for connectivity.

Pakistan needs an integrated policy that can help educators and educational institutions to appreciate the cultural heritage and diversity in curricula at primary, secondary and tertiary levels of education. Information and communication technologies should be part of promotional agenda and policy for educating masses about rich cultural heritage of Pakistan.

7.5 Subaltern voices

In a scholarly interaction with a prominent anthropologist stated that *government and private led participation is very important for promoting the national cultural heritage. There is a reality, if a nation wants a thriving heritage then it must be transformed to the future generations*

otherwise, it will disappear. Antonio Gramsci a well-known scholar coined the term subaltern⁴⁴ while working on cultural hegemony. He defined that if a group is deliberately ignored from the society and denied to have limited means of representation in their society. It does not mean oppressed things but everything that has limited access to cultural domain of difference of space⁴⁵. The question arises that who controls and monitors the national heritage and laws which voices are silenced and how can we make control and monitoring an inclusive process? There should be unified cultural policy in which all the communities can take part effectively.

A social activist working on cultural heritage is of the view that *the government of Pakistan is unable to formulate the cultural policy of the country because they are more focused on Punjab and ignored the smaller provinces even they are rich in heritage and old site. Furthermore, the youth of Pakistan is not interested in learning and knowing about the culture and they are mesmerized to see the Bollywood movies. Those nations who forget their culture they lose their destinations.* On the other hand, young people across the globe are keenly involved in the promotion and protection of their heritage and recognize heritage as the identity of their nation. Pakistani policy and practice shows gap regarding involving nationals and local communities into the process of promotion and protection of the national cultural heritage, inclusive policy is the solution. Social innovation is required to include the subalterns and marginalized; subsequently policy requires a revision to make them beneficiaries of the incentives that could be materialized through cultural heritage.

8. Need for revisiting Cultural Heritage Laws under 18th Amendment

The parliament of Islamic Republic of Pakistan agreed upon to accept the 18th constitutional amendment for restoring country's constitution in its original form and decentralized federation of provinces as foretold in the constitution of 1956 and 1973. The dawn of April 20, 2010 was of great

⁴⁴ L. El Habib, "Retracting the Concept of the Subaltern from Gramsci to Spivak: Historical Development and New Applications", *African Journal of History and Culture (AJHC)*, 4, 1, (2012): 4-8.

⁴⁵ C. Swati, B. Sarkar, "Introduction: The Subaltern and the Popular," *Postcolonial Studies*, 8, 4 (2005): 357-359.

historic importance for Pakistan, then, the sitting government of Pakistan People's Party approved the 18th amendment in which federal government transferred more powers to provinces which is clearly admissible in the constitution of Pakistan 1973. For approval of the amendment, a committee was constituted which was comprised of 26 members from different major political parties and stakeholders of the government to create a consensus on the draft bill which was passed in National Assembly and Senate of Pakistan on April 8 and 15, 2010 respectively⁴⁶. However, this amendment has become law by the signature of the President of Pakistan on April 19, 2010. This political development has the potential to redesign the governance structure in Pakistan. However, it is generally agreed that provinces lack the preemptive homework to make full use of this progress regarding provincial autonomy. Arbitrary steps were taken by amending the existing federal laws and policies to adjust to the urgent needs of the provinces. A provincially relative and contextual body of legal frameworks, legislations, laws and policies was not prepared then and as of today the work on these lines is either at halt or very slow in progress.

The amendment has the capacity to change the functional responsibilities of the government at various levels and therefore, now more autonomies to be given to the provinces for increasing the capacity of own finances for setting up their developmental expenditure needs. Furthermore, National Finance Commission (NFC) award is renegotiated in the light of 18th amendment in which provinces are more eager to claim for their share, however, financial autonomy is a contested arena for the time being. However, the concurrent list has no more admissible and 47 items list has been transferred to the provinces but the question arises that how they are capable for handling and running them in an appropriate way⁴⁷. The nine ministries including Education, Human Rights, Inter-Provincial Coordination, Human Resource Development, National Heritage and Integration, National Harmony, National Food Security and Research, National Regulation and Services and Ministry of National

⁴⁶ K. Adeney, "A Step Towards Inclusive Federalism in Pakistan? The Politics of the 18th Amendment," *Publius: The journal of Federalism*, 42, 4 (2012): 539-565.

⁴⁷ C. Almeida, "Are you current with the concurrent list!," *Dawn*, April 8, 2010, <https://www.dawn.com/news/529445/are-you-current-with-the-concurrent-list>

Disaster Management were advised to be the subject of the provincial governments.

Although, as per the directions of the Amendment, 12 museums and libraries inside Pakistan including the birth place of Quaid-i-Azam Muhammad Ali Jinnah at Wazir Mansion, Central Archaeological Library and museums at Mohenjodaro (Larkana), Umer Kot and Bhambore (near Thatta) in Sindh province, the birth place of Allama Muhammad Iqbal and his personal antiques in Sialkot, Javed Manzil in Lahore, Taxilla Museum, Harappa ruins in Shaiwal and Pakistan Institute of Archaeological Research and Training in Lahore in Punjab and the Swat Museum in Khyber-Pakhtunkhwa has been shifted to the provincial governments⁴⁸. *An interview with a renowned legal expert is of the view that the handing over of federal government run museums and libraries to the provinces seems to be unconstitutional because this is the subject of the federal government.* The Article 15 of Fourth schedule of Legislative lists is, “Libraries, museums, and similar institutions controlled or financed by the Federation⁴⁹.” This is one of the major issues that financial aspects in design were not clearly understood by many stakeholders, they claimed for rights without realizing the responsibilities.

Subsequently, under the 18th amendment, certainly the formula of power sharing between the federal and provincial governments have been accepted which was unresolved for last four decades. The 18th amendment led provinces towards autonomy and adhering management of the problems at provincial level. The amendment is the first step towards larger frame of reforms for restructuring the multi-order public governance system in Pakistan.

UNESCO is given emphases on the legislation for the protection, promotion and preservation of the heritage and it also provides the mechanism for the protection of cultural heritage. Moreover, it is regulated the selected area of development, legal and management agreements in the surrounding fields. Keeping in mind the high speed of urbanization and development pressures which is affecting cultural heritage worldwide, it is

⁴⁸ A. Jawad, “Devolution under 18th amendment: Provincial govts handed over 12 museums, libraries,” *The Express Tribune*, April 25, 2011, <https://tribune.com.pk/story/156152/devolution-under-18th-amendment-provincial-govts-handed-over-12-museums-libraries/>

⁴⁹ National Assembly, *The Constitution Islamic Republic of Pakistan*, (Islamabad: The National Assembly of Pakistan, 2012), 202.

deemed to be taken serious efforts for the protection of heritage. Currently, the world is facing the wave of urbanization, the protection of the surroundings of the world heritage is solitary conceivable via establishing buffer zones. This notion was primarily developed for the protection of natural conservation areas. In this regard, a sensible connection may be created between heritage and human activities. Additionally, heritage conservation and protection can only be understood as a form of cultural politics and this effort must be reflected in heritage practice.

Pakistan is the signatory to the Convention on World Heritage that indicates its full commitment for ensuring heritage protection. Given UNESCO's expertise, the government of Pakistan is inevitably looking for developing a cultural policy that may help individuals for enhancing their quality of life with promoting and safeguarding the culture. The cultural sector, including cultural tourism and eco-tourism has a huge potential for generating services and job creation for the unemployed youth of Pakistan. The heritage protection is not only dependent alone on the interventions by the governments and the involvement of local communities are needed for better performances and through civic engagement it becomes easier and flexible in nature. User Experience (UX) and User Involved (UI) design strategists could be involved in the process to make policy innovative in its orientation.

The government of Pakistan passed an act on cultural heritage and archaeological remains called 'Antiquities Act, 1975' (Pakistan 1976). This act provides guidelines related to the preservation and protection of antiquities and cultural relics. According to the act, the federal government of Pakistan will establish a committee for the protection and promotion of cultural heritage. Furthermore, this act provides a guideline in any case if a conflict arises among the provinces and the last decision of the federal government will be acceptable for all disputed parties. Antiquities Act 1975 also deals with acquisition of land among the provinces, protection of immovable property, purchase of land and leasing agreement with federal government. Moreover, No one can damage or break the antiquities, if someone found guilty, a punishment of imprisonment for three years or with heavy fine, or both as defined in the act (Pakistan 1976). This act also provides the mechanism for the protection and preservation of the archaeological relics and heritage. In addition, the Sindh Cultural Heritage (preservation) Act 1994, Punjab special Premises

(Preservation) Ordinance 1985 and the Export of Antiquities Rule 2013 also define the jurisdictions of the provinces related to cultural heritage.

Pakistan's first film and cultural policy was announced in June 2018 at PNCA but it is limited in scope with a major focus on film production and visual arts. Aisa-Europe Foundation website reported in these words:

“Under the cultural policy, the focus would be on building cultural infrastructure, promotion of visual and performing arts and theatre, promotion of music and other arts development and preservation sites of folk and traditional culture as well as archaeological places, inculcating cultural principles and priorities into the younger generation and documentation of extraordinarily strong culture, literature and traditions. It also includes Film, Radio and TV as the mode of promoting cultural diversity.”⁵⁰

9. Recommendations

Some of the initiatives must be taken by the state for revisiting cultural heritage policy in the country to make it more effective and proficient. Some of the plausible measures and steps in this regard are mentioned below.

- ◇ A strong monitoring should be carried out at all heritage sites, federal and provincial governments take serious actions if misconduct found at any heritage site and also create awareness among different segments of societies for the protection of archaeological relics. This monitoring and vigilance should be participatory and internet of things could be used for a more prompt reporting and reaction.
- ◇ Both federal and provincial governments shall try to regenerate economic activities through engaging local people. This will be helpful in promoting tourism on heritage sites. It can also become a source of generating economic potential of heritage sites. Those involved as vendors should be trained in environmental and cultural heritage protection skills/education. A specific and relatively contextual awareness sessions with such vendors should be integrated at policy and practice level.

⁵⁰ <https://culture360.asef.org/news-events/first-film-and-cultural-policy-announced-pakistan/>

- ◇ The government must establish a national tourism guidelines for the promotion of cultural heritage at local and international levels. In this regard, foreign missions of Pakistan abroad can promote cultural heritage and spread knowledge about historical places of Pakistan. 'The magnificent Pakistan' promotion must be launched as soon as possible which will portray the soft image of the country to the world. Social media campaigns and internet based promotional strategies should be launched and linked with the pages of Pakistani Embassies abroad to facilitate the foreign tourist.
- ◇ A proactive approach is needed for securing the heritage and archaeological site in the conflict zones and try all possible means for protecting the heritage remains. This is very significant for a country like Pakistan who is facing the turmoil in many areas of cultural and archaeological significance.
- ◇ Government should adopt a friendly environment and policies for the protection of old building and heritage because pollution and degradation of environment causing harm for the durability of the relics. The afforestation policy around the historical places should be a paramount concern for the federal and provincial authorities. Surroundings of buildings of historical nature should be banned for vehicles using fossil fuel and special arrangement of electric vehicles shall be made convenient.
- ◇ Many buildings of historical nature are occupied and/or inhabited by different state institutions, such buildings may be given statutory protection so that amendments and restoration work shall be regulated.
- ◇ Through civic engagement, public participation activities for the protection and preservation of the cultural heritage should be started.
- ◇ The government of Pakistan shall define her policy goals and objectives for the promotion of cultural activities. The authorities review cultural policy according to the contemporary global scenario.
- ◇ With focusing on the employment of the local people in and around the heritage site and ensure that all activities at the local and provincial level permitted harmony with the history of the area.
- ◇ More research and development funds shall be allocated for researchers those are working in the field of culture and heritage.

- ◇ Guidance and counselling for the visitors and the local community shall be mandatory that will enhance cooperation between them. Cultural sensitivity shall be made part of the literature and promotional material to make visitors aware of cultural relative norms of the local communities who share the space of heritage sites.
- ◇ A proper safety and security arrangements must be provided for visitor and the protection of belongings also be the utmost concerns for promoting speedy tourism in the country.
- ◇ Government should take serious measures for the protection of heritage sites from sudden destruction by natural hazards such as flooding, abrupt fire and others. This unfortunate phenomena may damage the historical site and government should take proper arrangement for the protection. Preemptive preparation to counter natural and manmade hazards shall be addressed in policy and shall be allocated ample funds for the preparation.
- ◇ Being a signatory of the UNESCO convention of heritage, it is the responsibility of the government to take initiatives at bilateral and multilateral partnerships for the protection of enlisted world heritage sites of the country.
- ◇ The legal framework is needed for the protection of cultural landscapes and ministry of law in consultation with the line departments and ministries should participate in making certain laws for the cultural heritage and serious punishment should be suggested for the violators. Moreover, a phenomenon came into observation that cultural landscapes are in peril while degradation and destruction resulting of human actions at the sites.
- ◇ The role of media is significant in the promotion of cultural heritage of the country. Ministry of Information and Broadcasting should broadcast on-air and in print public service messages on the activities which are affecting the heritage site in the primetime slots. Social Media shall be fully utilized to protect and promote the cultural heritage.

10. Conclusion

Cultural heritage has a great potential to promote nation building and economic progress. Culture is defined as the collective beliefs and actions or practices idiosyncratic to a community which distinguishes from the one human group to another. So, culture is viewed as a phenomenon at the

group, institutional, or societal level, even though it has strong significance for predicting individuals' behaviors. The participation of all stakeholders of the country shall be ensured and cross-cultural events and activities shall be initiated to celebrate the richness of cultural heritage diversity of Pakistan on more regular basis. The focus on constituting socio-cultural centric policy for the country in which federation and provinces play collective role for achieving mutual goals. By using the tool of culture, a dialogue may be initiated among the people or the communities that can make the process more inclusive and will certainly provide the communities a chance to identify with the cultural heritage of their surroundings. In order to meet the United Nations Sustainable Development Goals (SDGs), then culture needs to be recognized as an important factor for sustainable development. Thus, it could be concluded that a revisit of cultural heritage laws and development of a national cultural heritage policy is the need of the time to overcome the domestic challenges and to address the global demands.

The major gaps that are identified are much rooted in the 18th amendment where the contested environment or lack of cooperation between the federal government and the provinces is a major challenge. Council of Common Interest (CCI) in the post 18th amendment scenario lacks the negotiations for the sake of cultural heritage at large. Federal body National Heritage and Culture Division (NH and CD) is the one that can play vital role in international agreements whereas the similar ministries at provincial level are not recognized by international bodies to get into bilateral agreements, therefore; a more cordial relationship based on procedural clarity is to be made part of policy. The intellectual confusion on taking Pakistan as a cultural entity at national level requires a broader vision that admires diversity across time and space, that could be realized if the 18th amendment is accepted in true letter and spirit with focus on cultural heritage literacy among masses and a participatory and shared ownership across state, federating units and communities. Plurality, particularly religious plurality requires tolerant acceptance of shared cultural heritage that need to mitigate religious extremism that harms cultural heritage.