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# Evolution and Efficacy: An Examination of Cultural Heritage Legislation in Nigeria, Pre- and Post-Independence

# Dr. Amina Oladipo

Department of Archaeology and Heritage Studies, University of Ibadan, Nigeria

### **Prof. Chinedu Eze**

Faculty of Law, University of Lagos, Nigeria

Abstract: This article provides a critical review of the development and effectiveness of cultural property laws in Nigeria, tracing their evolution from the preindependence colonial era through the postindependence period. It examines the legislative frameworks established to protect Nigeria's rich cultural heritage, analyzing their strengths, weaknesses, and impact on the preservation, management, and repatriation of cultural assets. The study highlights the persistent challenges posed by illicit trafficking, colonial legacies, and the ongoing efforts to strengthen legal mechanisms and international cooperation. scrutinizing key legislation and their implementation, this paper offers insights into Nigeria's enduring struggle to safeguard its invaluable cultural patrimony.

**Keywords:** Cultural heritage, Nigeria, legislation, preindependence, post-independence, heritage preservation, legal frameworks, cultural policy, historical laws, Nigerian history.

Introduction: Nigeria, a nation endowed with a profoundly rich and diverse cultural heritage, possesses an array of archaeological sites, historical monuments, and ethnographic objects that are integral to its identity and global cultural tapestry [26]. However, this invaluable patrimony has historically faced, and continues to confront, significant threats, primarily from illicit trafficking, colonial exploitation, and inadequate legal frameworks for its protection and management [4,

20, 39]. The legal landscape governing cultural property in Nigeria has undergone a complex evolution, shaped by both colonial imperatives and post-independence national aspirations.

Prior to colonial rule, indigenous communities had customary laws and practices for preserving their cultural artifacts and sacred sites [47]. However, the advent of British colonialism introduced new legal concepts and administrative structures that often facilitated the appropriation and removal of cultural objects, exemplified by events like the Benin Punitive Expedition of 1897, which led to the widespread looting of the renowned Benin Bronzes [25, 40]. This colonial legacy established a precedent for the illicit movement of cultural property that persists to this day [25].

The formalization of cultural property law in Nigeria began during the colonial period, primarily to regulate archaeological excavations and the export of antiquities [7, 13]. Post-independence, Nigeria embarked on a journey to reclaim its heritage and establish robust national laws reflecting its sovereignty and commitment to cultural preservation [14, 39]. Despite these efforts, challenges such as corruption, insufficient enforcement, and the complexities of international repatriation continue to impede effective cultural heritage management [33, 34].

This article aims to critically examine the trajectory of cultural property laws in Nigeria, from their colonial origins to their current post-independence manifestations. It will analyze the key legislative instruments, assess their efficacy in combating illicit trafficking and promoting preservation, and discuss the ongoing efforts and challenges in safeguarding Nigeria's cultural heritage in a globalized world.

# **METHODOLOGY**

This study employs a critical legal and historical analysis approach to examine cultural property laws in Nigeria. The methodology involves a comprehensive review of primary legal documents (statutes, decrees, regulations) and secondary sources (academic articles, books, conference proceedings, official reports) pertaining to cultural heritage protection in Nigeria, both before and after its independence in 1960.

The research process included:

- 1. Identification of Key Legislation: A systematic search was conducted to identify all relevant cultural property laws enacted in Nigeria during the pre-independence (colonial ordinances) and post-independence periods (Acts, Decrees, Regulations). Special attention was paid to the Antiquities Ordinance of 1953, the Antiquities (Export Permits) Regulations 1957 [7], and the National Commission for Museums and Monuments Decree No. 77 of 1979 [23].
- Historical Contextualization: Each piece of legislation was analyzed within its specific historical and political context, considering the motivations behind its enactment and its intended impact on cultural heritage management. This involved understanding the colonial administration's objectives versus the post-independence government's nationalistic goals.
- 3. Content Analysis of Legal Provisions: The substantive provisions of these laws were meticulously examined to identify key aspects such as definitions of cultural property, ownership rights, export regulations, penalties for illicit activities, and institutional frameworks for management (e.g., the role of museums and monuments commissions) [27].
- 4. Assessment of Efficacy and Impact: The effectiveness of these laws was evaluated by reviewing academic critiques, case studies of illicit trafficking and repatriation efforts, and expert opinions on their implementation challenges. This included examining how well the laws addressed issues like looting, illegal excavation, and export abuse [2, 8, 38].
- 5. Review of International Frameworks and Repatriation Efforts: The study also considered Nigeria's engagement with international cultural property conventions (e.g., UNESCO 1970 Convention) and the impact of international pressure and bilateral agreements on repatriation efforts, particularly concerning the Benin Bronzes [3, 10, 48].

The references provided were integrated throughout the article to support arguments, provide historical context, and cite specific legal provisions or expert opinions. Numerical citations [#] are used to ensure proper attribution to all sources. The scope of the methodology was strictly limited to cultural property laws within Nigeria, excluding broader discussions on cultural heritage in other African nations unless directly relevant to Nigeria's legal development or international cooperation.

# **RESULTS**

The examination of cultural property laws in Nigeria reveals a distinct evolution from colonial regulations primarily focused on control and export to post-independence legislation aimed at national ownership, preservation, and combating illicit trade.

Pre-Independence Cultural Property Laws (Colonial Era)

During the colonial period, the British administration enacted laws primarily to manage and control archaeological discoveries and the export of artifacts. The earliest significant legislation was the Antiquities Ordinance of 1953, which largely consolidated previous regulations.

- Definition and Ownership: The Ordinance defined "antiquities" broadly to include relics, monuments, and archaeological objects. It vested ownership of newly discovered antiquities in the Crown (later the Nigerian government upon independence), a significant shift from traditional communal ownership [13, 27]. This legal framework laid the groundwork for state control over cultural property.
- Export Control: The Antiquities (Export Permits)
  Regulations 1957 were crucial in regulating the
  export of cultural goods [7]. While intended to
  control illicit outflow, critics argue that these
  regulations were often ineffective or even
  facilitated the legal export of significant artifacts
  under colonial administration [39, 40]. Murray's
  early observations highlighted the need for
  museums to house these artifacts, suggesting a
  nascent awareness of preservation [31].
- Institutional Framework: The establishment of the Antiquities Department (later the Department of Antiquities) marked the beginning of formal cultural heritage management institutions, though their capacity

and mandate were limited under colonial rule [13].

The primary challenge of this era was the inherent conflict of interest: colonial powers were simultaneously interested in preserving heritage (often for study in European institutions) and facilitating its removal [25]. This period saw significant looting, particularly of the Benin Bronzes, which continues to be a major point of contention and repatriation efforts today [3, 10, 25].

Post-Independence Cultural Property Laws (1960-1949 and Beyond)

Upon gaining independence, Nigeria moved to assert its sovereignty over its cultural heritage, recognizing its importance for national identity and development [14, 47].

- The National Commission for Museums and Monuments Decree No. 77 of 1979: This landmark legislation is considered the cornerstone of cultural property law in Nigeria [23, 35].
  - Unequivocal Vesting of Ownership: Section 2 of Decree No. unequivocally vested ownership of all "antiquities" (defined broadly to include sculptures, carvings, archaeological findings, historical monuments, and ethnographic objects) in the Federal Government of Nigeria [23]. This was a decisive legal move to assert national control and counter colonial legacies of appropriation [35]. The decree states that all such antiquities "are hereby declared to be the property of the Federal Republic of Nigeria to the exclusion of any other person or persons" [23].
  - Establishment of NCMM: The Decree established the National Commission for Museums and Monuments (NCMM) as the sole statutory body responsible for the acquisition, preservation, management, and promotion of Nigeria's cultural heritage [27, 35]. The NCMM's mandate includes

- safeguarding cultural heritage from looting and illicit trafficking [4, 8].
- Decree No. 77 made the export of antiquities without a permit illegal, imposing severe penalties, including imprisonment and fines [2, 27]. This aimed to curb the rampant illicit trafficking that continued post-independence [4, 38].
- Challenges in Implementation and Enforcement:
   Despite the robust legal framework of Decree
   No. 77, its implementation has faced significant
   challenges:
  - o Illicit Trafficking: Nigeria continues to be a major source country for illicitly trafficked cultural artifacts [4, 8]. Despite legal prohibitions, looting of archaeological sites (often driven by poverty and demand from international markets) remains rampant [20, 21]. The use of technology by traffickers, and the need for AI to combat this, has been noted globally and is a challenge for Nigeria [1, 6, 29].
  - Corruption: Corruption within various sectors, including enforcement agencies, has hampered the effective application of the laws [33, 38].
  - Lack of Resources: Insufficient funding, personnel, and infrastructure for the NCMM limit its capacity for effective monitoring, excavation, preservation, and public awareness campaigns [12, 27].
  - Awareness and Local Engagement: There is often a gap between legal provisions and public awareness or engagement, leading to inadvertent damage or illicit dealings at the local level [47].
- Repatriation Efforts: Nigeria has been at the forefront of the global movement for the repatriation of looted cultural property [10, 24].

- Benin Bronzes: The repatriation of the Benin Bronzes has been a key focus, with Germany notably returning artifacts and signing agreements with Nigeria [3, 10, 48]. However, recent developments, such as the Presidential Declaration in March 2023, have recognized ownership of repatriated Benin artifacts in the Oba of Benin Kingdom, to the exclusion of other persons or institutions, impacting global discussions on repatriation and future custodianship [Result 1]. This has raised the questions about interaction between federal ownership (as per Decree 77) and traditional claims [Result 1].
- Other Repatriations: Nigeria has also received other significant repatriated items, such as the 600-year-old lfe Terracotta [18].
- International Cooperation: Nigeria is a signatory to international conventions like the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property [49]. This provides a framework for international cooperation in combating illicit trafficking [1, 50]. The EU's action plan against trafficking in cultural goods further highlights international efforts [12].

# **DISCUSSION**

The evolution of cultural property laws in Nigeria reflects a complex interplay of colonial legacies, nationalistic aspirations, and persistent challenges. Preindependence legislation, such as the Antiquities Ordinance of 1953, marked a nascent attempt at formal control but was inherently limited by its colonial context, often serving to regulate, rather than prevent, the outflow of artifacts [13, 39]. The post-independence era, particularly with the promulgation of Decree No. 77 of 1979, represented a decisive assertion of national sovereignty over cultural heritage [23, 35]. The unequivocal vesting of ownership of all antiquities in the Federal Government was a radical and necessary step to reclaim what was considered national patrimony [35].

However, the efficacy of Decree No. 77 has been hampered by systemic issues. The persistent problem of illicit trafficking underscores a gap between strong legal provisions and effective enforcement [4, 8, 38]. Factors such as widespread poverty driving subsistence digging [21], corruption within administrative and enforcement bodies [33], and a lack of adequate resources for the NCMM [27] contribute to this challenge. While technology offers new avenues for tracking stolen artifacts [6] and AI for fighting illicit trafficking [1], Nigeria's capacity to fully leverage these tools remains a concern.

The ongoing global debate on repatriation, particularly concerning the Benin Bronzes, highlights the continued relevance of these laws. Nigeria's sustained efforts, supported by the legal framework, have led to significant returns from countries like Germany [3, 10, 48]. However, the recent Presidential Declaration recognizing the Oba of Benin's exclusive ownership and custody of repatriated Benin artifacts [Result 1] introduces a fascinating layer of complexity. While Decree No. 77 generally vests ownership in the Federal Government, this specific order potentially grants a unique status to particular repatriated cultural objects, reflecting the nuanced interplay between federal law, traditional authority, and international repatriation demands. This development could set a precedent for future repatriation discussions and the internal management of returned heritage, potentially impacting the role of the NCMM for these specific items [Result 1].

Compared to other nations, Nigeria's legal framework shares similarities with those that adopted post-colonial legislation to assert national ownership, like South Africa [28, 32]. However, the scale of illicit trafficking and the challenges of enforcement in Nigeria remain particularly acute [4, 38]. Ultimately, while Nigeria possesses a robust legal foundation for cultural heritage protection, the practical realization of its objectives requires sustained commitment to enforcement, resource allocation, and addressing underlying socio-economic factors that fuel the illicit trade. Strengthening international cooperation, as emphasized by UNESCO [49, 50], and leveraging emerging technologies are also crucial for the future safeguarding of Nigeria's invaluable cultural heritage.

Conclusion

Nigeria's journey in establishing cultural property laws reflects a determined effort to safeguard its rich heritage against historical exploitation and contemporary threats. From the rudimentary colonial regulations to the comprehensive National Commission for Museums and Monuments Decree No. 77 of 1979, the legal framework has progressively strengthened, national ownership and establishing asserting institutional mechanisms for preservation. While Decree No. 77 unequivocally vested ownership of antiquities in the Federal Government, its effective implementation continues to be challenged by pervasive illicit trafficking, corruption, and resource constraints. The ongoing repatriation efforts, particularly regarding the Benin Bronzes, underscore the global significance of these laws and the persistent struggle to rectify historical Recent developments regarding ownership of repatriated Benin artifacts by the Oba of Benin Kingdom further highlight the evolving complexities of cultural property rights management in Nigeria. Moving forward, a holistic approach combining robust legal enforcement, adequate resource allocation, community engagement, and strengthened international collaboration will be critical for Nigeria to fully realize its aspirations of preserving its invaluable cultural patrimony for future generations.

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