

Element 1: LEGAL FRAMEWORK**Overview**

In every country there exists some form of mandate to define, identify, protect and conserve cultural heritage and to make it accessible. Its form ranges from a formal body of law to unwritten traditions passed down from generation to generation. It may be a fusion of the requirements of international conventions and charters and national legislation, regional regulations, local by-laws and spatial planning frameworks. Whatever its form, it constitutes a legal framework which defines the existence of a management system and empowers those within it to act.

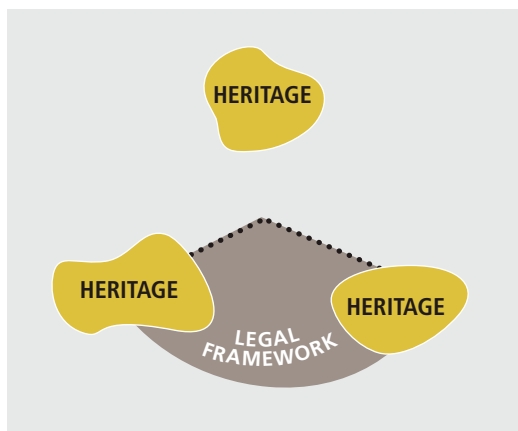


Diagram 8: A legal framework to identify, define, protect and conserve heritage

LEGAL FRAMEWORKS IN GENERAL**They vary extensively**

Heritage legislation, like any other legislation, can have many purposes: to regulate, to authorize, to proscribe, to provide (funds), to sanction, to grant, to declare or to restrict.⁴⁹

Legal frameworks for managing cultural heritage might be formalized in legislation specifically drawn up for heritage or they may be a by-product of general legislation that is being used for heritage purposes (and so are less easily defined). Some legal frameworks might have retained an informal, unwritten status, either wholly or in part. They might result from recent expressions of a community-led consensus or be a survival of word-of-mouth practices passed on from generation to generation.

Legal frameworks tend to be permanent, but occasionally a temporary one can be designed to serve in exceptional circumstances or for the purposes of a specific partnership agreement. Many legal frameworks have a variety of origins and operate at different levels of a management system (e.g. the state constitution, national laws, local by-laws, property-specific agreements and compliance with cultural heritage conventions and charters).

What legal frameworks are for

A legal framework, whether formalized or not, should provide sufficient legal and regulatory tools for the protection of cultural heritage. It governs all aspects of the management system for a property. It is through the legal framework that a state will often define the cultural heritage that needs protection, using criteria that may depend on age or provenance, a mix of both, or indeed other factors.

49. <http://en.wikipedia.org/wiki/Legislation>