

4 Defining, assessing and improving heritage management systems

Two common types of legislation are (a) specific designation of heritage places as being of special importance to the state and therefore subject to specific controls; and (b) an overall regulation of spatial development which can include specific policies for protection of heritage places or landscapes. Such forms of regulation are usually an essential part of a management system for a World Heritage property. It is essential that they are applied equitably and transparently so that all parties are fully aware of what is and is not legally possible.

Sources of 'legislation' for cultural heritage

The following are some common types of legislation for cultural heritage:

- Constitutional decrees: stipulations that derive from a country's constitution.
- National, regional or local legislation specifically made for cultural heritage conservation and management.
- Traditional customs and established practice.

Supplementary legislation from other sources might be:

- Other legislation which has an impact on cultural heritage conservation and management: urban planning laws, environmental laws, land laws and export control laws are examples.
- International law, for example, international conventions such as the UNESCO 1972 World Heritage Convention whose stipulations have to be incorporated into national legislation and policy.

There are codes and other regulatory frameworks which do not constitute primary legislation but can influence heritage management policy and practice. These include regulations and standing orders created by specific institutions.

LEGAL FRAMEWORKS FOR HERITAGE IN GENERAL

Key considerations

An effective legal framework for heritage will probably have the following characteristics:

- Clear provisions for inventories, protection, site demarcation and intervention policies.
- A clear directive to 'work with others', to enable broad consultation and wide participation.
- Provisions to integrate sustainable local development concerns into all areas of the heritage management system. It is through 'sharing' the benefits of cultural resources that society will rise to the challenge and in return share responsibility for heritage.
- An ability to make good use of other types of national and regional legislation (e.g. planning law) for the benefit of cultural heritage. New Zealand's Conservation Act of 1987 is an example: it brought twenty-five previous acts under a single law for the conservation of natural and historic resources.⁵⁰
- The possibility of decentralization of power in order to bring decision-making closer to the heritage properties and the problems to be solved.
- Provisions to use different management tools and to monitor their impact, and also to adopt new tools for more effectively managing changes to the cultural property and its management system.

50. <http://www.legislation.govt.nz/act/public/1987/0065/latest/DLM103610.html>