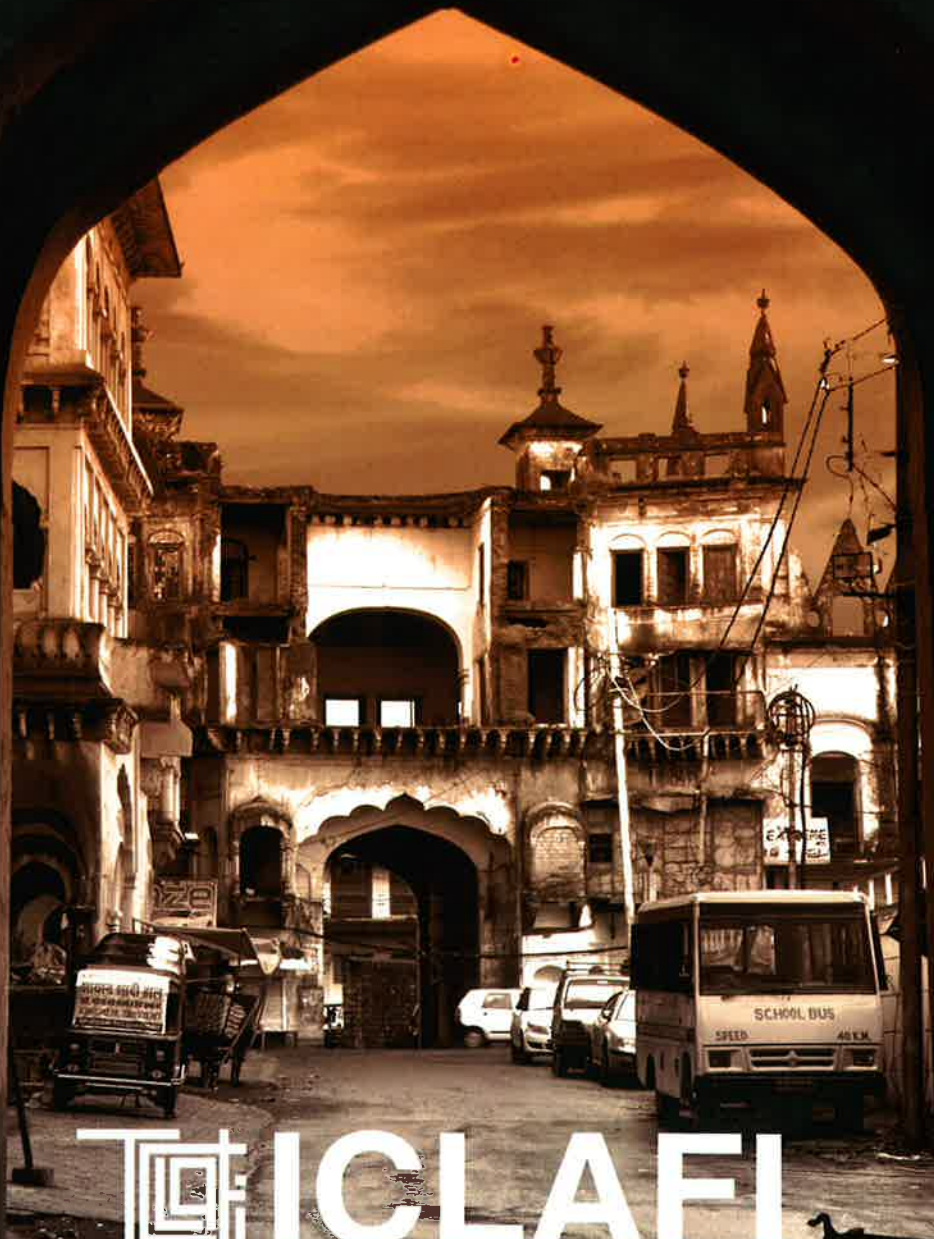


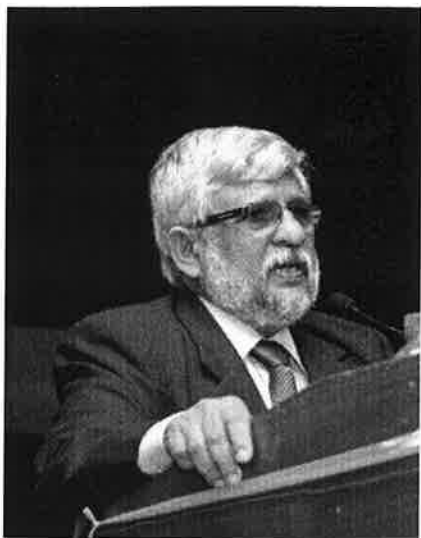
SHARED GLOBAL EXPERIENCES FOR PROTECTION OF BUILT HERITAGE



 **ICLAFI**
INTERNATIONAL COMMITTEE ON LEGAL ADMINISTRATIVE AND FINANCIAL ISSUES



SCHOOL OF PLANNING AND ARCHITECTURE, BHOPAL



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Heritage Management in Sri Lanka: In Legal, Administrative and Financial Perspective Over 125 Years

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Abstract

Archaeological heritage in Sri Lanka is defined under the headings of ancient monument, antiquity, archaeological heritage and monument. The paper elaborates the legal provisions and organizations for protection of heritage in Sri Lanka. The main issues currently identified in the management of the archaeological heritage in Sri Lanka is under the lack of human resources and lack of consistent financial resources. There are several instances where the protection of religious monuments experienced positive and negative influences backed by political pressures. Sri Lanka could be identified as one of the nations that have used heritage for sustainable development of the country

Keywords

Heritage, Protection, Conservation, Management, Sustainable

1.0 Definition of Heritage protected under the Law

According to the Antiquities Ordinance of Sri Lanka following definitions could be identified related to the Archaeological Heritage.

1.1 "ancient monument" means any monument lying or being found in Sri Lanka which dates or may reasonably be believed to date from a period prior to the 2nd day of March, 1815, and includes :-

- (a) any other monument which has been declared to be an ancient monument by an Order published in the Gazette under section 16, and
- (b) any tree in respect of which an Order under section 17 has been published in the Gazette.

1.2 "Antiquity" means which date or may reasonably be believed to date from a period prior to the 2nd day of March, 1815:-

- (a) any ancient monument, or
- (b) any of the following objects lying or being found in Sri Lanka,

statues, sculptured or dressed stone and marbles of all descriptions, engravings, carvings, inscriptions, paintings, writings, and the material whereon the same appear, all specimens of ceramic, glyptic, metallurgical and textile art, coins, gems, seals, jewels, jeweller, arms, tools, ornaments, and all other objects of art which are movable property.

1.3 "archaeological heritage" means that part of the material heritage of mankind in respect of which archaeological methods provide primary information and includes all vestiges of human existence and places relating to all manifestations of human activity, abandoned structures and remains of all kinds (including subterranean and underwater sites), together with all the portable cultural material associated with them.

1.4 "monument" means any building, or other structure or erection, or any tomb, tumulus or other place of interment, or any other immovable property of a like nature or any part or remains of the same or any other site where the material remains of historic or prehistoric human settlement or activity may be found; and includes the site of any monument and such portion of land adjoining such site as may be required for fencing or covering in or otherwise preserving any monument.

2.0 System of Legal protection of Heritage

Heritage in Sri Lanka are protected through the Antiquities Ordinance No. 9 of 1940 and its subsequent amendments by Acts No. 2 and 22 of 1955 and Act No. 24 of 1998. According to the legal provisions the following sections could be identified as important.

2.1 Property in Antiquities

No antiquity shall, by reason only of it being discovered in or upon any land in the ownership of any person, be or be deemed to be the property of such person: provided that such person

shall be deemed to be interested in such antiquity in accordance with the provisions of this Ordinance. Every ancient monument which on the date on which this Ordinance comes into operation is not owned by any person or the control of which is not vested in any person as trustee, incumbent or manager, shall be deemed to be the absolute property of the State. All undiscovered antiquities (other than ancient monuments), whether lying on or hidden beneath the surface of the ground or in any river or lake or within the territorial sea of Sri Lanka, shall be deemed to be the absolute property of the State, subject to the provisions of this Ordinance.

2.2 Discovery of Antiquities - Excavations

No person shall excavate for the purpose of discovering antiquities, whether on land belonging to himself or otherwise, except under the authority of a license issued by the Director-General of Archaeology.

2.3 Discovery of Antiquities Otherwise than Under A License to Excavate

Every person who discovers any antiquity otherwise than under the authority of a licence to excavate-

- 2.3.1 shall forthwith report the discovery to the nearest peace officer and, if it is practicable so to do, deliver the antiquity to such officer and obtain a receipt therefore from such officer, and
- 2.3.2 shall, within seven days of the discovery, report the discovery, together with the prescribed particulars relating thereto, to the Government Agent of the district in which, the discovery was made.

2.4 Ancient Monuments

The Minister may by Order in writing declare that any specified monument which has existed or is believed to have existed for a period of not less than hundred years, shall, notwithstanding that such monument does not or is not believed to date to a period prior to the 2nd day of March 1815, be deemed to be an ancient monument for the purposes of this Ordinance.

Where it appears to the Minister that any tree, whether growing in State land or any other land, is of such historical or archaeological importance, that it is necessary in order to secure the preservation or protection of such tree that the provisions of this ordinance relating to ancient monuments should apply to such tree, the Minister may, by order in writing, declare that such tree shall be deemed to be an ancient monument for the purposes of this ordinance.

Where it appears to the Minister that any ancient monument situated on any land other than State land is in danger of destruction or removal, or damage from neglect or injudicious treatment, and that it is in the public interest that such monument should be protected, he may, subject to the provisions of section 19, by order published in the Gazette, declare such monument to be a protected monument; and from the date of the publication of such order, the monument to which the order relates shall be a protected monument for the purposes of this ordinance.

2.5 Prohibition or Restriction of Building, Mining, in Vicinity of Certain Monuments

Regulations may be made prohibiting, or restricting subject to the prescribed conditions, the erection of buildings or the carrying on of mining, quarrying, or blasting operations on any land within the prescribed distance of any ancient monument situated on State land or any protected monument. The distance now stands as 300 yards from the boundary of the Monument.

2.6 Archaeological Reserves

The Director-General of Archaeology may-

2.6.1 with the approval of the Land Commissioner, or if approval is refused by the Land Commissioner,

2.6.2 with the approval of the Minister to whom the subject of State lands is for the time being assigned, declare, by notification published in the Gazette, any specified area of that land to be an archaeological reserve for the purposes of this Ordinance.

2.7 Export of Antiquities

No person shall, except upon a license in the prescribed form issued by the Director-General of Archaeology, export any antiquity from Sri Lanka. (2) For the purposes of application of provisions of the customs ordinance, antiquities shall be deemed to be articles the exportation of which is restricted by enactment or legal order.

2.8 Impact Assessment of Proposed Development Projects

Whenever any development or industrial scheme or project is proposed by the Government or other institution or person entailing the use, encroachment or submergence of any land falling within the inventory prepared under law, or any land as may be prescribed, such scheme or project shall not be approved or permitted until after a report; is submitted by the Director-General of Archaeology, as to the effects the implementation of such scheme, or project may have upon such land or any antiquities within it.

2.9 Penalty for Destruction of Antiquity

Any person who wilfully destroys, injures, defaces or tampers with any antiquity or wilfully damages any part of it, shall be guilty of an offence under this Ordinance and shall on conviction after summary trial before a Magistrate be liable to a fine not less than twenty five thousand rupees and not exceeding two hundred and fifty thousand rupees or to imprisonment of either description for a term not less than two years and not more than five years or to both such fine and imprisonment.

2.10 Violation of Law cited as unbailable Offence

Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No. 15 of 1979 or any other written law, no person charged with, or accused of an offence under this ordinance shall be released on bail.

2.11 Evidence

In a prosecution for an offence under this Ordinance, a certificate to be signed by the Director-General and to the effect that the object described therein is an antiquity, shall be admissible in evidence without further proof, and shall be prima facie evidence of the facts stated therein.

3.0 Government organizations and Administrative Provisions for Protection of Heritage

There are several government organizations responsible for the protection of heritage in Sri Lanka. They are:-

- Department of Archaeology
- Central Cultural Fund
- National Museum Department
- Department of National Archives
- Department of Cultural Affairs
- Galle Heritage Foundation
- National Physical Planning Department
- Urban Development Authority
- Universities

3.1 Department of Archaeology

Department of Archaeology of Sri Lanka is the apex institution and chief regulatory body for the management of archaeological heritage in the country.

3.2 Central Cultural Fund

Central Cultural Fund operated as an organization for preserving the ancient grandeur of Sri Lanka for the future generation through sites under the license provided by Department of Archaeology.

3.3 Department of National Museum

National museums are established in Sri Lanka for the collection, preservation and exhibition of objects of scientific, historical or artistic interest and for the maintenance of libraries of books and other documents relating to subjects and matters of such interest.

3.4 Department of National Archives

Department of National Archives is committed to the systematic management and conservation of public records as a part of National Cultural Heritage by preparing rules and regulations relating to the accrual of Public Records and unique Private Collections as permanent deposits. It is also responsible for the management and preservation of traditional (Palm leaf and Papers) and non-traditional (Digital) government records basing on relevant stipulated rules and regulations. It also receive Newspapers and Publications for legal deposit in terms of the relevant laws, making facilities to retrieve information from its holdings for use by the government for its administrative processes and for research purposes by the public.

3.5 Department of Cultural Affairs

Department of Cultural Affairs has the responsibility in uplifting the Sri Lankan Culture by the preparation and implementation of programmes for preservation, propagation and expansion of Literary Arts and Cultural activities in order to maintain the Sri Lankan Identity.

3.6 Galle Heritage Foundation

Galle Heritage Foundation is geared to make the World Heritage Living City of Galle Fort to a cultural tourist centre of excellence by conserving Galle Fort as a historic cultural city centre and a site of archaeological importance and developing it to be a cultural tourist location of excellence.

3.7 National Physical Planning Department

National Physical Planning Department is established to formulate national physical policies, plans and strategies and to ensure and monitor the implementation of such national policies and plans through regional and local plans with the object of promoting and regulating integrated planning of economic, social, physical and environmental aspects of land and territorial waters of Sri Lanka. Accordingly a national physical plan may be prepared in conformity with the national physical planning policy, with respect to land, whether there are or are not buildings thereon, with the general object of promoting and regulating the development of land, of securing proper infrastructure, amenities and conveniences, of conserving the natural and built environment or architectural, historic or aesthetic interest and natural beauty.

3.8 Urban Development Authority

Urban Development Authority was formulated to prepare development plans and to promote, implement and regulate development activities with a view to achieving the position of a financially independent and globally admired creator of full-fledge sustainable urban centres. They also are empowered to restore historical buildings with the aim of improving urban city standards.

3.9 Universities

There are 15 government owned universities in Sri Lanka; out of which 6 have academic Departments of Archaeology. There are two post graduate institutions directly related to the subject of Archaeology. The main aim of these academic institutions is to provide the necessary human resources for the protection and management of heritage. Over and above the universities also take the responsibility of providing archaeological services in the country by way of taking the responsibility of archaeological research excavations, conservation of monuments and the management of archaeological monuments and sites. The best example is that the Sri Lanka Department of Archaeology has handed over one of their archaeological reserve for the **procuring or furnishing the archaeological investigations, archaeological and architectural conservation, infrastructure facilities, landscaping, layout, maintenance, security, public relation, construction and administration services at the Rajagala Archaeological Reserve.**

4.0 Archaeological and Conservation Practice including Adaptive Re-Use of Heritage

Archaeological and Conservation Practice including Adaptive Re-use of Heritage of Sri Lanka is carried out under the subsections explained below.

4.1 Exploration and Documentation

The objectives of Exploration and Documentation is -

- To identify the archaeological heritage of Sri Lanka through exploration
- To document movable and immovable archaeological properties in Sri Lanka
- To implement the provisions of the Antiquities Ordinance
- To implement the provisions of the cultural properties act
- To protect the archaeological heritage of Sri Lanka

These objectives are achieved by

- conducting special and urgent explorations
- declaring archaeological reserves
- declaring archaeological reserves and protected monuments
- preventing the destruction of antiquities
- conducting archaeological impact assessment surveys
- collecting geographical information with regard to archaeological sites and monuments and prepare maps
- conducting oceanic explorations
- planning the exploration of the ancient irrigational heritage and to ensure its protection
- Conducting Special and Urgent Explorations

Since it is of utmost importance to identify archaeologically significant locations to carry out activities such as conservation, exhibition, research or excavation, ancient sites and monuments are documented in detail and reports are compiled, in addition to making reports of sites that need to be reported urgently owing to urgent needs.

4.2 Archaeological Excavations

The archaeological excavations in Sri Lanka are carried out under the following sections.

- Prehistoric Excavations
- Prehistoric Research Excavations
- Early Historical Period
- Historic Excavations
- Rescue or urgent excavations (E.g.: excavations carried out after evaluating damages to archaeological objects)
- Excavations carried out prior to conservation of Sacred sites and Monuments

After completing the archaeological excavations post excavation analyses are conducted to analyze the excavated material. This will be followed by writing reports - compilation of archival reports and interpretation reports. On completion of the excavation reports, excavated materials are handed over to the Museums for further research, exhibition and storage.

4.3 Epigraphy and Numismatics

A large amount of Epigraphy and various types of coins circulated in ancient Sri Lanka are scattered in various areas of the island. The identification and registration of all archives and coins, taking stumpage of archives, preserving and maintenance of field data and facsimiles collected, reading of archives, conducting research, preparation of basic work required to declare results of research and forwarding necessary recommendations and data to relevant sections for the protection of archives are being carried out.

4.4 Archaeological Museums and Information Centres

Archaeological Museums and Information Centres are established to provide facilities for the public to gain knowledge and entertainment by following the principles of conservation, preservation, documentation and maintenance of antiquities of cultural value discovered by explorations, excavations and by communicating truly and actively to the public to gain the knowledge, education and entertainment by means of preserving the objects, events and activities of the past.

4.5 Architectural Conservation

Architectural Conservation of Sri Lanka is carried out for the conservation and systematic presentation of protected monuments and site monuments within archaeological reserves. The activities are commenced by the preparation of inventories of the architectural remains, preparation of Conservation Proposals. There after conservation works are implemented and finally conservation reports are prepared. New constructions in order to establish museums, information centres, common amenities etc. within the Archaeological Reserves and Lands are also managed, implemented and supervised.

4.6 Chemical Preservation

Application of chemical and physical treatment to ancient paintings, sculpture and artefacts in order to minimize their deterioration due to natural or other causes, is the major role of the Chemical Conservation. By such treatment, it is expected to prolong the lifespan of ancient paintings, sculpture and artefacts and preserve them for posterity.

4.7 Conservation of ancient paintings, coloured sculpture and objects

The activities consists of conservation of antiquities, chemical conservation of immovable monuments, documenting and taking photographs of ancient paintings, coloured sculpture and objects, documentation of antiquities to be conserved, preparation of replicas of antiquities, copying mural paintings, maintenance of sites with conserved paintings by

observing their deterioration condition from time to time and maintenance of movable and immovable antiquities by periodical observation for their deterioration condition.

4.8 Maintenance

Safeguarding and maintaining archaeological monuments and archaeological reserves are also being carried out. Demarcation of archaeological reserved lands and their maintenance, provision of necessary display boards at the archaeological sites and providing infrastructure facilities, maintenance of buildings, essential maintenance work of protected monuments belonging to individuals and issue of trade license for selected archaeological sites are the main activities carried out under maintenance.

4.9 Public Services

Inculcating awareness in the general public on various archaeological activities and research work carried out by the technical divisions and on the management of archaeological heritage is the main aim of public services. Promotion of public understanding and awareness on archaeological heritage, providing infrastructure to researchers, issue of permits to persons to take photographs and for video recording of archaeological sites and monuments, giving publicity to archaeological activities through electronic and printed media, conducting workshops to advocate school children and public officers and sale of publications are the main activities carried out under this service.

4.10 Project Monitoring & Evaluation

Preparation of annual action plan after obtaining project proposals, approval of project proposals / indication of expenditure and making them available for implementation, performing follow ups on projects and obtaining interim progress reports on them, furnishing information on projects when required, by ministries, departments and individuals, organization and coordination of meetings of the Archaeological Advisory Board, staff officers, staff officers and other progress review meetings of all types are the activities carried out by the project monitoring and evaluation.

4.11 Adaptive Re-Use of Heritage

Adaptive reuse refers to the process of reusing an old site or building for a purpose other than which it was built or designed for. In Sri Lanka adaptive re-use of heritage sites and buildings are being practiced. Followings could be cited as examples for adaptive re-use of heritage in Sri Lanka.

Dutch Museum in Colombo

The two storied large building reflecting the features of a 17th century Dutch Urban house was built by Thomas Van Rhee, The Dutch Governor of Sri Lanka from 1692- 1697 as his official residence. During the British period in 1796 this building was used as an arms store of army hospital, police training centre, Pettah post office and telecommunication centre. This building was preserved by a special preservation committee with the assistance of Netherlands government in 1977 and opened for the public as Dutch museum by the Department of

National Museums. It has displayed over 3000 museum objects related to the Dutch who ruled coastal areas of Sri Lanka. (1658-1796)

Galle Maritime Archaeological Museum

The Maritime Archaeological Museum is housed in the Old Dutch East India Company VOC Warehouse which was restored under Sri Lanka – Netherlands Cultural Co-operation Program of the Royal Government of Netherlands. This is the only museum that showcases the marine biological and anthropological aspects of the Southern coast of Sri Lanka, which exhibits marine artefacts that are found during underwater expeditions.

Old Colombo Dutch Hospital

The Old Colombo Dutch Hospital is considered to be the oldest building in the Colombo Fort area dating back to the Dutch colonial era in Sri Lanka which was restored and converted into a heritage building and a shopping and dining precinct.

Royal Palace of the Kandyan Kingdom

The remains of the Royal Palace of Kandy is the residence of the last king of Kandyan Kingdom, Sri WickramaRajasinghe (1797 – 1814) houses the museum of the Department of Archaeology of Sri Lanka. Antiquities found in the central province are on display in this museum.

Galle Fort Hotel Building

A Dutch mansion and warehouse with 18th century doors and windows on the building's façade along with a grand Palladian colonnade, a ceremonial entrance arch which was rescued from neglect and decay, and lovingly and painstakingly restored in 2003 has being converted to a boutique hotel.

Historical Mansion Museum

A grandeur colonial Dutch house of the UNESCO world heritage site of Galle has been converted to a museum which is named as historical mansion museum. This museum believed to be the privately owned largest museum in Sri Lanka, initiated by Abdul Gaffer, the creator.

5.0 Management and Maintenance Issues towards Protection of Heritage

Human Resources

Since the establishment of the Department of Archaeology in 1890, the Department has faced the biggest challenge in the needs of the human resources in the management of archaeological heritage in Sri Lanka. According to the present cadre position in the Department of Archaeology of Sri Lanka out of 37 approved cadre positions in the higher management level 30 are vacant. Out of 629 middle management level cadre positions 100 are vacant. During a recent workshop held in Sigiriya it was found that 776 professional posts are needed to be created in the Government Sector for the better management of the heritage. Out of these 776 posts 750 posts are needed directly to the Department of Archaeology. It had been not yet identified about the need in the Semi-Government and private sector for the management of heritage. The Central Cultural Fund, the principle institution which is the implementation arm of the Department of Archaeology already has 207 professional posts in their permanent cadre while there are more than 100 young archaeologists working as temporary recruits. In recent times the Sri Lanka Council of

Archaeologists (SLCA) – only incorporated professional body of archaeologists in Sri Lanka – has taken steps to create an “Archaeological Service” in order to provide the necessary human resources to the Government Institutions to manage the heritage in Sri Lanka. Although the efforts have faced many obstacles, the management council of the SLCA is trying its best to fulfil its obligations to meet this challenge. The next challenge faced by the SLCA is to ascertain the human resource requirement in the semi-government sector and to create relevant cadre posts within the identified institutions.

Government of Sri Lanka through its higher education policy has taken adequate steps to provide an adequate number of qualified professional archaeologists to the labour market. But in order to harness the best possible interested young students from the primary education it has yet to take appropriate steps, introduce the values of heritage to the school curriculum although the subject of history now have been included with some aspects of archaeological heritage.

Although there are two institutes specially formulated for the capacity building of professional Archaeologists, Conservators and Heritage Managers, the lack of foreign exposure has hindered the recognition of them in the international field of archaeology. As such the challenge that is faced now is to adopt a method of elevating the professional standard to meet the international standard by sending them for long-term and short-term training in international centres and also to have international collaboration programmes with international training centres for capacity building of professionals who work in the fields of heritage management.

5.1 Financial Resources

The protection of Heritage should be considered as a collective responsibility of general public. This responsibility should be acknowledged by providing adequate funds for the effective management. As such it is the duty of the Government to ensure that adequate funds are available for management of cultural heritage. As such the Government of Sri Lanka has been providing funds for the management of heritage through its annual budget. But over the years it has always been felt that the financial allocations provided in each year has not being consistent resulting major sets backs in the efforts in protecting heritage. As such it is necessary to advocate the government to set apart a percentage in GDP for the provision of Heritage Services.

In addition, in order to have sustainable funding strategies, it is necessary to establish separate funds to directly receive financial assistance from local as well as international donors and to secure funds through cultural tourism and use such funds exclusively for the aspects related to management of heritage. The creation of the Central Cultural Fund could be identified as a positive step, but the authority of the fund to collect financial resources should extend beyond its current limits which confines to the archaeological remains within the Cultural Triangle.

Over and above the authorities shall ensure that economic benefits through cultural tourism to be provided to local communities by creating opportunities and allowing the local communities to harness the benefits without hindering the values.

6.0 Politics of Heritage towards Protection of Heritage

Since a large number of Sri Lankan Heritage consist of religious monuments, influences created by religious owners of religious monuments backed by the political pressure plays a significant role in the protection of heritage. The influence could be identified as positive as well as negative. The positive influence could be cited as the religious influence which always operates as catalyst for obtaining necessary government financial resources for the protection of heritage. The negative influence created by the politics could be identified as most damaging. Over the years several unethical developments and restorations have taken place in several sites and monuments which are in contrary with the archaeological strategies. For example the development that has been continuously carried out by the high priest within the buffer zone of the World Heritage site of Dambulla has now triggered the danger of listing the site in the Danger List. On the influence created by the high priest of the Buddhist monuments in the World Heritage Site of Polonnaruwa one of the Ancient Stupa, Kiri Vehera was re-plastered and white washed. Recently conserved Abhayagiriya Stupa in the World Heritage Site of Anuradhapura was about to be re-plastered by an order given by His Excellency the former President neglecting all possible dangers pointed out by the professionals could be diffused as he was defeated in early 2015 presidential election. As such, it could be stated that these positive and negative political influences will continue to happen in future of which the task of adhering or defusing it will continue to remain with the professionals.

7.0 Heritage for Sustainable development

The establishment of Central Cultural Fund in 1980 to carry out the archaeological activities in the Cultural Triangle in Sri Lanka could be identified as a significant land mark in the field of heritage for Sustainable Development. According to the Annual Statistical Report of Sri Lanka Tourism 2012, number of foreign visitors visiting the Cultural Triangle was 93,884 in 1986 and 592,980 in 1992. The revenue collected from the sale of entrance tickets to the Foreign Visitors was LKR 14.7 million in 1986 and LKR 1,330.7million in 2012. Although most of the sites in the Cultural Triangle except Sigiriya and the museums are free to Domestic Visitors, 650,524 Domestic visitors have been visited in 2012 with a revenue of LKR 18.12 million. These statistics are taken from five major sites namely, World Heritage Sites of Sigiriya, Polonnaruwa, Anuradhapura and Galle and one of other historical site of Kataragama. According to the statistics Accommodation Capacity (Rooms) in Graded Establishments in ancient cities in 2012 was 2,901 out of 15,510 in all regions which represent 18.70%. Out of these capacity occupancy rate in ancient cities was 66.5. Since the total arrival of foreign visitors to Sri Lanka in 1983 was 230,106 and in 2012 was 1,005,605, it could be observed that 40.80% in 1986 and 58.97% in 2012 of total arrivals has visited the Cultural Triangle Sites.

8.0 Conclusion

All these statistics provides the evidence of contributions of heritage to the sustainable development in Sri Lanka. The revenue earned by the Central Cultural Fund has provided employment for 3,131 staff of the institutions which is direct employment and the investment of finances for the excavation, conservation, maintenance and other activities has gained indirect employment by the way of material supply, contracting etc. The establishment of new hotels, guest houses, restaurants, souvenir shops, etc has also contributed to the upliftment

of local economy in the heritage sites. The manufacture of local textiles, food, fruits has been uplifted there by providing a direct return to the local community.

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