An Appraisal of the Development of Archaeological Legislation in Botswana, 1911-2011: A 100-year Journey

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Abstract

This paper reviews the development of archaeological legislation in Botswana, with specific interest in how integration of archaeological issues in other pieces of legislation has facilitated the growth of archaeological legislation. With its first statute, in the form of a proclamation, towards protection of archaeological resources in 1911, Botswana continued to revise its archaeological legislation until 2001. This paper argues that the review of a piece of legislation from time to time (growth through time), is indicative of advancement in the operations of any field. The growth through time allows for refining definitions, broadening the scope of the discipline or profession, and embracing other emerging issues worthy of consideration. It is also in most cases a necessary endeavor in response to satisfying basic requirements of the rule of law. This includes the need for clarity, precision, and transparency among other things. This paper further purports that while this growth through time is fundamental to any legislation, it is also imperative that legislation grows through integration into other pieces of legislation. This facilitates integration of the discipline/field and the profession into other legal and policy apparatus. The integration does not only provide context within which archaeological resources can be protected, but also ensures sustainability as implementation of other pieces of legislation may directly or indirectly nurture the archaeological agenda.

Introduction

In the wake of Botswana's economic, political and socio-cultural growth and dynamics, one is bound to ponder the underlying progressive and undesirable milestones. A number of times, consideration of a society as a developed or underdeveloped one is premised on infrastructural developments, political stability, improved livelihoods and a recognized or appreciated culture (Carney 2003 and Murray Li 2007). As such, milestones for development and growth are largely considered tangible and visible with impact on day to day activities of any society. The development of a society is, therefore, not usually judged through professional development, improved legislation and operations. It is the 'impact on daily life' or benefit to an individual that determines recognition of any development programme, academia and policies. For academia, the medical disciplines tend to get more recognition for their contribution to the wellbeing of humanity. A state would, for instance, get more recognition from other states if it has the best hospitals, healthcare programmes, medical schools and developed vaccines that address epidemics which often threaten humanity. For disciplines such as Archaeology, which studies the human past, recognition at policy level does not come cheap. This is especially true where there would be no legislation fostering the protection of archaeological resources, and where the very resources are not considered to be immediately benefiting or impacting daily lives in the concerned society. It must be pointed out, however, that there are instances where archaeological resources may not get legal or policy recognition but are valued by general members of the society. Furthermore, where archaeological resources are not appreciated at the larger societal level, they may be still valued if considered meaningful at the individual level (Ndobochani 2009). For instance, research carried out in Botswana in 2007 and in eastern Botswana in 2008 has shown that a member of a society may not cry foul for economic benefits from archaeological resources, if an individual has their own income generating ventures. However, such an individual or individuals would

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argue for protection of such archaeological resources for the benefit of the society (Ndobochani 2009). In instances like this where archaeological resources are valued at individual or societal level, they tend to get protection (outside of legislation and policy) by virtue of the cultural values attached to them. It must be pointed out that this is not a new phenomenon as archaeological resources, and cultural landscapes in general, in precolonial Africa were largely protected through traditional management systems (see Ndoro 2001a and Dichaba 2009 for details on traditional management systems of the Moremi Cultural Landscape in Botswana).

In recent years African archaeologists have been calling for a decolonized archaeological theory and practice so that the rich indigenous archaeologies, Africa's past included, can be reinvestigated and better appreciated. Gilbert Pwiti and Robert Soper's (1996) edited book *Aspects of African Archaeology* has put together case studies demonstrating the rich African past and how its significance can be better understood by redressing archaeological theory and practice. This campaign emanated from the fact that Africa has a rich past which developed and got sophisticated in parallel with the Western world, although the Western approach tends to portray a different perspective of Africa. This calls for a relook at the whole concept of complexity and civilization, that it was not necessarily always migration and diffusion of ideas –African states could develop and grow in parallel with their Western counterparts. The same sentiments are shared when it comes to archaeological heritage management, with arguments that African communities and societies had a way of managing their resources before the advent of colonial rule and the introduction of legislation (Ndoro 2008; Mahachi and Kamuhangire 2008). Nevertheless, one may ask whether there was no statute before the colonial period, or just that the rules and instructions of what to do and not to do as well as the associated penalties, were not in print. Elsewhere, Smith (1999) and Nicholas (2008) highlight the need to incorporate local knowledge in the investigation, interpretation and management of archaeological resources.

It is evident that before the Western form of legislation was imposed, African societies had measures in place to protect the past. Whether one chooses to call it myths or taboos, the underlying point is that there were processes and an intangible system in place to facilitate protection of the past. As an example, in Tswana culture, one is discouraged from moving items such as old objects from their original place, unless they are the owners, as these belonged to the ancestors and needed to be left where one found them. Although in some instances written evidence may not be available, it can be argued that the good conservation status of archaeological resources prior to legislation was due to sound traditional management systems that prevailed then (Ndoro 2001a and Dichaba 2009). In fact, the UNESCO World Heritage Committee recently called for recognition of the role of local populations or communities in nominating and inscribing natural and cultural sites in the World Heritage List as they have other forms of knowledge relating to management of heritage sites (WHC.15/01; Ndoro 2005 and Ndobochani 2012). This was in the realization that the authenticity and integrity of these sites (which is a prerequisite for their listing) is a result of the long interactions the local people had with them. The irony here though is that while the past is meaningful to the contemporary society in varying ways and at different levels, there is still need for a progressive legislative framework to ensure the future of archaeological resources.

Of interest to this paper is not just legislation but the legislative framework as it denotes the need for a foundation, context and a structure for better management of archaeological resources. A progressive legislation is the one that has developed through time to better its definitions, widened its scope, and improved its implementation and operations (Allen 2013). This paper argues that, additionally, a progressive legislation must be integrated in other pieces of legislation or be integrated in other statutes and policies for effective growth and implementation. This being the case a few questions may be posed to help guide the discussion. Does this scenario apply to the development of archaeological legislation in Botswana? Is Archaeology embraced in other legislative and policy structures, and how has this benefited the discipline

and profession? If this has indeed happened has the integration into other pieces of legislation in any case suffocated and retarded the growth through time of archaeological legislation in Botswana?

This paper starts by providing a background to the intricacies of managing heritage in Africa, and discusses previous studies that called for a review of Africa's archaeological and heritage legislation to facilitate incorporation of emerging trends in the discipline. The temporal development of archaeological legislation in Botswana is reviewed, and the paper discusses integration of archaeological issues in the formulation and implementation of other pieces of legislation in Botswana. It is noted that although these other pieces of legislation and policies are addressing other government's socio-economic agenda, they provide a framework for protecting archaeological resources.

It should be noted that this paper does not set out to critique the archaeological legislation in Botswana, but to provide a platform for celebrating the Archaeology of the country as it turns 50 years of independence. Therefore, the appraisal was not looking for loopholes in the legislation through time, but basic issues that facilitated the comprehensive legislation the country now has.

Intricacies of Managing Heritage on Regional and International Platforms

Legislation on environmental management intensified immediately after the Second World War as part of the reconstruction of destroyed buildings in Europe, and infrastructural developments that characterised the 1960s and 1970s in most parts of the world (Cleere 1989). The destruction of the environment, and of course heritage landscapes, necessitated the establishment of the United Nations Environmental Programme (UNEP) in 1972 to avail funding to mitigate impact by development. Some of the earliest efforts at regulating environmental degradation include that of the United States with her National Environmental Policy Act (NEPA) of 1969, and the Archaeological and Historic Preservation Act of 1974, both of which facilitated funding for predevelopment studies for all federally financed projects. As early as 1972, notes Cleere (1989), the World Heritage Convention set up the UNESCO World Heritage Centre with the aim of creating a global structure to facilitate protection and management of the natural and cultural (inclusive of archaeological and historical resources) properties. 'Heritage' is defined by the *Oxford English Dictionary* (2006) as inheritance or that which we inherit, and it can either be a natural or cultural resource. Graburn (2001) discusses at length the definition of heritage, expanding onto the English Oxford Dictionary, and includes the intangible heritage that is passed from one generation to the other. As such, archaeological and historical resources become heritage since communities/societies inherited them or found them in existence. Following ratification of the 1972 World Heritage Convention by most states, efforts towards formulation of policies and legislative frameworks to safeguard the natural and cultural heritage hastened. Article 5 of the 1972 World Heritage Convention mandated signatory states to ensure that effective and active measures were put in place to protect and conserve the natural and cultural heritage (1972 World Heritage Convention). It also encourages states to adopt policies that give heritage a function in the life of a community, and to develop scientific and technical studies that would enable states to counteract threats to the natural and cultural heritage.

The Convention created a platform on which the natural and cultural properties could be protected at the global level. It did not only call for protection of natural and cultural landscapes, but also that peoples' interactions with the natural landscapes must be noted. The 1972 World Heritage Convention further emphasized that the natural and cultural properties must have meaning and be relevant to everyday life. Although the World Heritage Committee considered the intangible heritage associated with the physical or tangible resources only in 2003 (Convention for the Safeguarding of the Intangible Cultural Heritage), the idea was that for the scientific value of heritage resources to be meaningful, it needed to make sense to contemporary life. As an example, with Africa known to be the cradle of humankind (UNESCO 2012), human origin sites in Africa needed to be appreciated at local, regional and continental levels before being

celebrated at international level as World Heritage Sites. For example, it would not make sense for the international community to celebrate the significance of Tsodilo World Heritage Site in Botswana if the natural landscape and the rock art at Tsodilo carry no meaning to Botswana and the region.

Therefore, it is argued in this paper that legislation and policies at international level provide global context for the protection of archaeological resources. It also provides a structure for the same since there is now an instrument that obliges member states to protect all natural and cultural inheritance irrespective of whether they are recognized internationally or not. Inherently, in a state that does not have legislation specific to the protection of archaeological resources but has ratified the World Heritage Convention, archaeological resources may be protected through that platform. Why is it necessary that Africa takes advantage of the Convention's provision for an integrated approach to nature conservation and protection as well as management of cultural properties?

Ndoro (2001a and 2001b) is of the view that heritage management 'is a multifaceted concept' and it considers the physical landscape on which heritage resources exist, the actual resources – in their tangible and intangible form, and the concerns of all groups interested on heritage. In his argument for an integrated approach he classifies heritage management in Africa into three main concepts. These are a) memories, denoting individual, collective, cognitive, and culturally constituted processes, b) culture, signifying actions, habits, text, music, rituals, events, material objects, monuments, structures, places, nature, and landscapes, and c) cultural heritage, denoting individual, as well as collectively defined memories and cultures produced as a result of deliberate socio-political processes (Ndoro 2001a). This classification stems from the fact that the landscapes on which heritage resources exist should be viewed as part of the cosmology of past societies and that they provided a platform for a human-environment interaction (Cleere 1989; Creamer 1990; Ndoro 2001b and Smith 2004).

The conservation and management of heritage was, therefore, in the past 30 years geared towards consideration of ethical values, social customs, and beliefs or myths that may be expressed through the physical heritage (Luxen 2001). The 1994 Nara Document on Authenticity emphasizes consideration of the cultural diversity and the diverse values that make up heritage (Jokilehto and King 2001). The same sentiments for a tripartite (physical properties, cultural values and other diverse values associated with heritage) approach towards heritage management in Africa was echoed by Munjeri (2005). He further argues for a heritage management practice that recognises a harmonious relationship between legislation, values and society. Munjeri's argument is relevant to this paper because it has already recognized the need for context and structures within which heritage management can prevail. There must be heritage values to be protected by legislation, but these heritage values must make sense to the contemporary society. Munjeri states that notwithstanding the scientific role in safeguarding heritage resources, values attached to resources motivate decisions of what and how much should be saved for the future.

He also observes that the values of heritage are predominantly economic, political, cultural, social, spiritual and aesthetic, although heritage management in Africa does not seem to always employ this holistic approach. Furthermore, since cultural heritage is a contested social construction and a medium through which issues of identity and power come into play, the contemporary society becomes critical in heritage management decisions. Therefore, he perceives the society as facilitating the involvement of 'the individual, the family, the local community, ethnic and religious groups, the nation-state and the world at large –hence, creating the concept of a world heritage' (Munjeri 2005:3). To him legislation is the third critical aspect (the other aspects being values and society) of heritage management which should strike a balance with other aspects. Sneddon (2007) has shown how broadening the concept of heritage and including it in the legislation has paved way for recognition of intangible values of heritage in the Australian National Heritage List.

Another international platform for environmental management was the 1992 Convention on Bio-

logical Diversity (CBD), which facilitated development of guidelines and implementation of generic impact assessment techniques and processes worldwide. Ratification of the CBD compels states to implement general measures to ensure the development of national strategies, plans or programmes for the conservation and sustainable utilisation of biological diversity Malm (2001). Article 14 of the CBD, as regulated by the Akwe: Kon Voluntary Guidelines (CBD –Akwe: Kon Voluntary Guidelines, 2004 Decision VII/16 Part F), emphasizes that development projects with a potential impact on indigenous and local communities undergo appropriate impact assessment processes, and local communities be involved at all impact assessment and decision-making stages. The main contention and emphasis of these guidelines is that the sustainability of the broader environmental management can be achieved by incorporating environmental, social and cultural concerns of local communities.

In South Africa, the legislation on environmental impact assessments was established earlier than Botswana, with the Environmental Conservation Act of 1989. This Act required an impact assessment of any land development on both the natural and human environment (Schalkwyk 1996). This was followed by the 1991 Minerals Act, which also mandated impact assessment by requiring mine and quarry owners to submit an Environmental Management Programme prior to their licensing to prospect and mine. South Africa introduced another legislative tool, the National Heritage Resources Act No. 25 of 1999, which further required that 'any assessment should make provision for the protection of all these heritage components, including archaeology, shipwrecks, battlefields, graves, and structures over 60 years, living heritage and the collection of oral histories, historical settlements, landscapes, geological sites, palaeontological sites and objects' (SAHRA 2006)

Examples of heritage legislation development in other African countries are not discussed in this paper as they are well summarized by Negri (2005 and 2008) and the publication by the International Centre for the study of the Preservation and Restoration of Cultural Property (ICCROM) Conservation Studies (2005). The publication has contributions from 17 countries on the development of legal frameworks and their role in heritage management. The various authors also highlighted weaknesses in the various pieces of legislations, especially in relation to an integrated approach to heritage management. A further review of heritage legislation in Africa was made three years later through the ICCROM Conservation Studies (2008) edited by Webber Ndoro, Albert Mumma and George Abungu. The various authors discuss the character of legislation in Africa, and how it has grown to broaden the definition and scope of archaeological and heritage resources. The discussion further incorporated issues of management and stakeholder interests (including communities at local and international levels). It must be noted, however, that the appraisal on Botswana legislation in both volumes is very limited despite the fact that Botswana is one of the few African countries that has had archaeological legislation at a rather early stage. The discussion on Botswana legislation (Mmutle 2005) even fails to note its early (1934) concern for pertinent issues such as community consultation, clarity on definitions and procedures for interactions with archaeological resources, and management of privately-owned or resources in private property (Natural and Historical Monuments, Relics and Antiquities [Bechuanaland Protectorate] Proclamation 1934).

The Development of Archaeological Legislation in Botswana

During the colonial period Botswana's legislative tools, especially from 1890 to 1954, were characterised by proclamations, notices and orders. Amongst these proclamations, were ones specific to protection of archaeological resources. The earliest of these was the Bushman Relics and Ancient Ruins Protection (Bechuanaland Protectorate) Proclamation No. 40 of 1911, which made provision for the preservation of Bushman (Basarwa/San) relics and ancient ruins. Clearly outlining the dos and don'ts, this Proclamation protected Bushman relics and ancient ruins in the Protectorate, and prohibited unpermitted removal of relics from their original places and ancient ruins. The 1911 Proclamation laid a good foundation for pro-

tection of archaeological resources in Botswana in that it included all forms of art (rock art –petroglyphs/ engravings, rock paintings, and drawings), artifacts, graves, features such as middens, and almost all types of sites. It further specifically protected the built heritage which included buildings even those constructed with loose stones. Archaeological stone-walled sites were also protected because they are largely constructed with loose stones. The protection of stone-walled sites was done in that the Proclamation specifically outlined that the structures must have been erected by predecessors of tribes occupying the country then.

Unlike in other parts of Africa (discussed in previous sections of this paper), we see the Archaeology of Botswana protected by legislation as early as 1911. The 1911 Proclamation was very clear on what it protected, had a wide scope, and outlined the required procedure in case one wished to interact with the protected resource. It made it necessary for whoever wished to remove the resources from their original place to provide critical information such as the exact location of the material's origin, and the drawings or tracings of whatever was to be transmitted (Bushman Relics and Ancient Ruins Protection [Bechuanaland Protectorate] Proclamation No. 40 of 1911). Although still narrow in scope of archaeological resources, and not enforcing consultation in removal of the resources, it most importantly stipulated penalties (not exceeding fifty pounds or three months imprisonment) for transgressions. It is worth noting that just like most early legislation in Africa, this Proclamation was silent on intangible heritage. This is considered compromising to the assessment of values to heritage as it results in skewedness towards the physical aspects (Ndoro 2001a; Mmutle 2005 and Munjeri 2005).

On 7 December 1934 the Bechuanaland Protectorate government passed a much improved piece of legislation titled the Natural and Historical Monuments, Relics and Antiques (Bechuanaland Protectorate) Proclamation, 1934. Section 1 (a), (b) and (c) of this Proclamation defined and explained all important historical and archaeological resources in Botswana associated with the Bushmen and other aborigines of South Africa. Interestingly, whether made by Bushmen or other aborigines of South Africa, the Proclamation prohibited removal from Botswana (the 'Territory') or destruction of any relic or antique without the permission of the resident commissioner. The Proclamation is broader in scope and classification of heritage which is reflected in its definition of monument, relic and antique. The scope of relic was broadened to include fossils of any kind, and this development can also be noted in heritage legislation of other countries such as Kenya (Negri 2005). The 1934 Proclamation in Botswana also introduced the protection of antiques which it classified as movable heritage. Antiques were defined as any movable monument and relic or any object of historical, archaeological and scientific value that existed in South Africa for more than 100 years or was made in South Africa more than 100 years before the Proclamation. Procedures on what to do and the penalties are clearly laid out, and in line with what Allen (2013) would argue. The 1934 Proclamation provided clear and precise definitions of heritage. The link between Botswana and South Africa may have been a result of Botswana having been planned to be incorporated into South Africa starting in 1910. It should also be stated that colonial Botswana was administered from Mahikeng in South Africa where the Resident Commissioner was based.

The 1934 Proclamation in its definition of monument, explicitly recognized the natural heritage, and considered distinctive geological formations, flora and fauna to be monuments (Natural and Historical Monuments, Relics and Antiques (Bechuanaland Protectorate) Proclamation, 1934). This should be considered a milestone since even the natural heritage was protected. Land on which historical and archaeological resources as well as any objects or buildings of scientific value were located was equally protected. This development would have acted as a starting point for addressing challenges often faced by heritage institutions and land authorities regarding core and buffer areas necessary for adequate protection of archaeological resources, or protection of such resources in privately-owned land. The critical issue of managing privately-owned heritage, or heritage in private property is currently a challenge for heritage institutions, and it is a milestone to note that in Botswana this matter was of concern as early as 1934. We

see this aspect further echoed through subsequent developments in archaeological legislation that took place in Bechuanaland. For instance, there was realization that although antiques could be privately-owned or could be situated on land not under direct jurisdiction of the resident commissioner, they still needed to be protected for posterity. Interestingly, previous reviews of Botswana's heritage legislation (Mmutle 2005 and Ndoro 2008) are silent on this matter, and do not acknowledge that there was an apparent move towards recognition of both the natural and cultural heritage by the 1934 Proclamation.

Besides the issue of protection for the interest of all, there was need for consultation, an aspect that we see the contemporary global heritage community desperate for (Ndoro 2001 a and 2001b; Ndobochani 2009; Scarre and Coningham 2013). In Botswana the concern for consultation became very apparent with the amendment of the 1934 Proclamation in 1935 –just one year later. The 1934 Proclamation was amended to include the need to consult a chief (*kgosi*) in a concerned tribal area or community before seeking the resident commissioner's consent for moving monuments, relics and antiques situated in tribal reserves.

For 40 years that characterised the development and application of the archaeological legislation colonial Botswana, there was no regulation for subsurface archaeological deposits. This is evidenced by the lack of regulation of excavated monuments as defined in the 1911, 1934 and 1935 Proclamations. In 1951, the 1935 Proclamation was amended to become the Natural and Historical Monuments, Relics and Antiques (Bechuanaland Protectorate) Proclamation Amendment, 1951, and this Proclamation prohibited unpermitted archaeological excavations. After 1951, there was no growth in Botswana's archaeological legislation until after independence in 1970. This was despite the fact that the country experienced growth in other areas as it introduced new laws and amended existing ones. This lagging pace is appreciated by Allen (2013) as he thinks that the law must also display some sense of stability, and not change too much as a way of ensuring predictability by the society.

The Monuments and Relics Act of 1970 (Cap 59:03) was more comprehensive and inclusive in the scope of archaeological resources than the previous proclamations. Most importantly, this time around the legislation did not stipulate that archaeological resources belong to the Bushman, but rather were owned by the state on behalf of Batswana (inhabitants of Botswana). Besides the broader definitions, the Act appreciated how implementation of other legal structures would facilitate destruction of archaeological resources. For instance, we see here concern over impact brought about by infrastructural development such as construction and mining. It actually mandated predevelopment environmental and archaeological impact studies for all activities disturbing the ground which included prospecting. The earliest initiative on pre-development studies in Botswana was in 1987 when the Cultural Resource Management (CRM) programme was started by the National Museum Monuments and Art Gallery as a way of minimizing destruction to heritage resources (van Waarden 1996). A lot was achieved through this programme, considering that at the time there was no formal legislation on environmental impact assessment to protect archaeological sites when pre-development studies were conducted for major projects such as construction of roads, dams, pipelines, mines among (van Waarden 1996:832). The challenge, however, was that cultural aspects were often relegated to socio-economic investigations biased towards monetary gains from development as opposed to impact on the socio-cultural welfare of communities (Flood 1989; Creamer, 1990; Trotzig 1989 and Smith 2004).

Three decades later, the Monuments and Relics Act of 1970 was repealed and replaced by the Monuments and Relics Act, Act No. 12 of 2001. Besides the ordinary purpose of the law –definitions and procedures, the new Act recognized protection of archaeological resources at landscape level. It allowed for identification and protection of heritage areas, and emphasized public consultation and engagement (probably explaining why the Act called for the appointment of custodians and honorary officers) in management of heritage in general (Monuments and Relics Act, Act No. 12 of 2001). The Monuments and Relics Act of 1970 and that of 2001 came in at a period when preservation of archaeological resources was

in competition with the need for economic growth and provision of social amenities. Protection of archaeological resources, especially if it means compromising provision of social amenities, is often considered a hindrance (Ndobochani 2012). It is argued here that, the success of any legislation in such a period must be judged against its ability to grow through time (to accommodate new trends) and through integration in order to gain context and a milestone in other legal structures.

Following the Monuments and Relics Act of 1970, the growth of archaeological legislation through integration in other pieces of legislation can be seen in the development of the Mines and Minerals Act of 1999 –Cap 66:01 and Cap 33:01. These two clauses in the legislation protected archaeological resources indirectly by including an obligation for environmental management. The Mines and Minerals Act of 1999 required, as part of the application for a mining license, an Environmental Impact Assessment (EIA) study and an Environmental Management Plan (EMP). The Monuments and Relics Act of 1970 had defined the EIA and the Archaeological Impact Assessment (AIA), and that it was a prerequisite for all prospecting, mining and any ground disturbing activities. This would mean that where the developer was not aware of the requirement for EIA and AIA through the Monuments and Relics Act of 1971, they would still be required to do it through the subsequent Mines and Minerals Act of 1999. The protection of archaeological resources through other pieces of legislation does not only provide another structure for ensuring posterity of this non-renewable resource, but also gives a platform for integrating archaeological matters in development planning processes.

Botswana introduced a specific piece of legislation to protect the environment in 2005, the Environmental Impact Assessment Act No. 6 of 2005. Section 2 of this Act defines environmental impact assessment as 'the process and procedure for evaluating and predicting the likely environmental impact of a proposed activity' with particular reference to 'health, safety, or equality of life of people, archaeological, aesthetic, cultural or sanitary conditions of the environment, and configuration, quality and diversity of natural resources' (Environmental Impact Assessment Act No. 6 of 2005, Section 2). The inclusion of Archaeology, aesthetics and culture as part of the environment meant that archaeological resources could now be protected through the Mines and Minerals Act of 1999, the Monuments and Relics Act of 2001 and the Environmental Impact Assessment Act of 2005. Integration of archaeological issues in other pieces of legislation should be seen as growth as it is indicative of awareness and appreciation of such issues at policy level, and in this case planning stages of development.

The Environmental Assessment Act of 2011 (repealed Environmental Impact Assessment Act of 2005) also emphasized incorporation of the cultural, social, economic and archaeological components of the environment in the EIA process. Most importantly, Section 10 of this Act clearly stipulates the need to integrate concerns and objections of stakeholders and interested parties in decision-making processes. According to Mathope and Toteng (2015), Botswana's EIA process regarding public consultation is effective and consistent with international practice. These developments seem to dovetail with the sentiment expressed in the national Vision 2016 document on the environment (Republic of Botswana 1997).

Conclusion

It is apparent from the above discussion that heritage management, whose main aim is to minimize threats and risks to heritage resources, is reliant on legislative frameworks. The legislative definition of heritage influences the type and magnitude of heritage that is considered worthy of management. In Botswana, like elsewhere, the development of legislative frameworks to protect archaeological resources intensified from the 1960s, although initiated around the turn of the twentieth-century. It is demonstrated in the above discussions of archaeological legislation at regional and international level that growth through other pieces of legislation such as environmental legislation, can provide necessary context and structure for the protection of archaeological resources. It must be noted that this can work vice versa where environmental

legislation does not exist. For instance, with the case of Botswana, which is one of the few African countries with early (1911) legislation to protect archaeological resources, there was no formal legislation on environmental and archaeological impact assessments until 1970 with the enactment of the Monuments and Relics Act. The Mines and Minerals Act of 1999 and the Environmental Assessment Act of 2011 have integrated archaeological issues and this provides a platform for protection of archaeological resources through other means other than the Monuments and Relics Act.

This paper argues that integration of archaeological issues in other pieces of legislation has resulted in a boom regarding development-led research in Botswana – there has been more survey, mapping and documentation of sites as a result of pre-development studies. Although the Botswana government may have been very economical in funding archaeological research and management directly, there has been an indirect funding as EIAs and AIAs are included in the government budget for development projects. The scenario in Botswana suggests that the strength and sustainability of archaeological and heritage legislation in general is dependent on its ability to grow through time, and through integration in other pieces of legislation which provide the necessary structure and context for effective implementation.

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