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Changes in the cultural landscape and their impacts on heritage management : a study of Dutch Fort at Galle, Sri Lanka

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4. Institutional and Legal Framework

The chapter focuses on the institutional and legal framework for the management of World Heritage property, which is mainly handled by the state sector with a top-to-bottom approach (Table 5). While it discusses the obligations of the state party according to UNESCO, with special reference to the legal and administrative framework for the protection of Galle Fort, it also focuses on how this framework addresses other factors, including financial measures, research and benefits to the lives of members of the fort community.

4.1 INTERNATIONAL LEVEL: INSTITUTIONS AND LAWS

4.1.1 UNESCO AND THE ORIGIN OF THE WORLD HERITAGE CONVENTION

UNESCO and the origin of the World Heritage Convention were discussed in sub-chapter 2.2. Sri Lanka (then Ceylon) joined UNESCO on 14 November 1949.²⁴⁵ The country accepted the Convention Concerning the Protection of World Cultural and Natural Heritage (1972) on 6 June 1980, and thus Sri Lanka is legally bound to follow the convention. With the acceptance of the convention, the country is also responsible for following the Operational Guidelines for the Implementation of the World Heritage Convention.

The Sri Lanka National Commission for UNESCO (SLNCU), established in 1949 under the auspices of the Ministry of Education, is the government arm tasked with implementing the UNESCO agenda in Sri Lanka.²⁴⁶ National Commissions of UNESCO were established under Article VII of the UNESCO

Constitution (1945), and were further empowered by the Charter of the National Commissions for UNESCO (1978).

4.1.2 THE CONVENTION CONCERNING THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE, 1972

The World Heritage Convention is discussed separately in sub-chapter 2.2. According to Article 5 of the convention (1972), the obligations of the states parties for the protection, conservation and presentation of the World Heritage-listed properties include the following:

(a) to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;

(b) to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge their functions;

(c) to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;

(d) to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and

(e) to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.

²⁴⁵ Available at <http://www.unesco.org/new/en/unesco/worldwide/asia-and-the-pacific/sri-lanka/> (accessed 16 July 2018).

²⁴⁶ Source: Sri Lanka National Commission for UNESCO, <http://www.slncu.lk/index.php/joomla/featured-articles> (accessed 16 July 2018).

Institution	International Level	
	World Heritage Committee, 1977 World Heritage Centre, 1992	<i>World Heritage Convention, 1972</i> <i>Operational Guidelines, 2017 (revised)</i>
	Advisory Bodies to World Heritage Committee: ICOMOS (Soft Laws)	<i>Venice Charter, 1964; Washington Charter, 1987; Valetta Principles, 2011, etc.</i>
	National Level (also functions within local level)	
	Department of Archaeology, 1890 [Key responsible agency]	<i>Antiquities Ordinance (9, 1940)</i> <i>Antiquities (Amendment) Acts (2 & 22, 1955; 24, 1998)</i> <i>Ceylon Government Gazette (14959, 1971)</i>
	Urban Development Authority, 1978 [Regulate building activities]	<i>Urban Development Authority Act (41, 1978) and subsequent amendments</i> <i>Special Regulations (Planning and Building), 2009</i>
	Central Cultural Fund,* 1980	<i>Central Cultural Fund Act (57, 1980)</i>
	Local Level	
	Galle Heritage Foundation, 2004 [Limited management powers]	<i>Galle Heritage Foundation Act (7, 1994)</i>
	Galle Heritage Planning Sub-Committee,** circa 1997 onwards	<i>Special Regulations (Planning and Building), 2009</i>
	Galle Municipal Council, 1866	<i>Municipal Councils Ordinance (29, 1947) and subsequent amendments</i>
Legislation		

* less involvement in management; ** a committee with the representatives from national- and local-level institutions

Table 5 Key institutions and legislation involved in the management of Galle Fort.

In addition, the states parties should not take any deliberate measures that might damage cultural or natural heritage, according to Article 6.3 of the convention (1972). The convention provides direct but limited monetary benefits to states parties for safeguarding these properties, including the access to the World Heritage Fund, emergency assistance, technical assistance and indirect access to various other donors. The World Heritage recognition of the Old Town of Galle resulted in positive monetary benefits, primarily generous funds from the Dutch government, as elaborated in sub-chapter 4.4.3.

The Operational Guidelines for the Implementation of the World Heritage Convention (hereafter also referred to as “Operational Guidelines”), a document that is continuously revised in light of new concepts and experiences, is developed by the World Heritage Committee for the implementation of the World Heritage Convention.²⁴⁷ The highlights of the

Operational Guidelines are the process of inscribing properties on the World Heritage list, including the criteria for inscribing said properties; monitoring the state of conservation of the inscribed properties; managing the World Heritage Fund; and securing international assistance. Increasing the consideration of the community in the context of the Operational Guidelines and the notion of World Heritage is discussed under sub-chapter 2.4.2

4.1.3 THE WORLD HERITAGE COMMITTEE AND WORLD HERITAGE CENTRE

In terms of Article 8 of the World Heritage Convention (1972), the World Heritage Committee (hereafter also referred to as “WHC”) is an intergovernmental committee established within UNESCO for the protection of the cultural and natural heritage of outstanding universal value. The WHC, which meets annually, consists of representatives from 21 states

²⁴⁷ Available at <http://whc.unesco.org/en/guidelines/> (accessed 16 July 2018).

parties to the convention.²⁴⁸ It established the Bureau of the World Heritage Committee, which meets during the sessions of the committee as frequently as deemed necessary and consists of seven states parties elected annually by the committee.²⁴⁹

The WHC decides which properties should be inscribed on the World Heritage list and which should be removed from the World Heritage in Danger list.²⁵⁰ According to Paragraph 169 of the Operational Guidelines (2017), the WHC examines the annual state of conservation (SOC) reports of inscribed properties under threat, and ask the states parties to take appropriate action when the properties are not being properly managed.²⁵¹ The committee has expressed its concern over the intrusive development projects in the buffer zone of Galle Fort, namely the Galle International Cricket Stadium and Galle Harbour Development Project, which are discussed separately under sub-chapters 7.7.2 and 7.7.3. In addition, the annual decisions of the WHC related to the Old Town of Galle are analysed under sub-chapter 4.5.5. The WHC also defines the World Heritage Fund and allocates financial assistance on request from states parties.

Established in 1992, the World Heritage Centre is the focal point of and coordinator within UNESCO for all matters related to World Heritage.²⁵² According to the Operational Guidelines (2017), the centre functions as the Secretariat of the World Heritage Committee, and the Director General of UNESCO has designated the Director of the World Heritage Centre as Secretary of the World Heritage Committee.²⁵³ Among the responsibilities of the

centre are organizing the annual sessions of the World Heritage Committee and its Bureau; implementing the decisions of World Heritage Committee; providing advice to states parties on the preparation of site nominations; organizing international assistance from the World Heritage Fund upon request; and coordinating both the reporting on the condition of sites, and the emergency action undertaken when a site is threatened.²⁵⁴

4.1.4 ADVISORY BODIES TO THE WORLD HERITAGE COMMITTEE AND SOFT LAWS

In terms of the paragraphs 30 to 37 of the Operational Guidelines (2017), the advisory bodies of the WHC consist of the ICCROM, ICOMOS and IUCN, which mainly leverage their expertise to provide advice on implementing the convention.²⁵⁵ Among these three, ICOMOS (International Council of Monuments and Sites), a non-governmental organization founded in 1965 and whose work is based on the Venice Charter (International Charter for the Conservation and Restoration of Monuments and Sites, 1964), is the most influential on Galle Fort. The Report of the ICOMOS Monitoring Mission to Dambulla, Kandy and Galle, Sri Lanka in 1998²⁵⁶ was the first influential policy document that recommended the state party to design guidelines for the renovation of private houses in Galle Fort, which resulted in the formulation of the Special Regulations (Planning and Building), 2009 (discussed in sub-chapter 4.5.2).

These international and non-governmental institutions, including the above, are responsible for the preparation of non-binding (soft) laws in the field of heritage protection. Although the state party is not legally bound to follow these, there are occasions when some of these principals are used in local policies and laws. The most influential international soft law was the Venice Charter (ICOMOS, 1964), which has a strong material-based conservation approach (as

248 Articles 19 and 21 of the World Heritage Convention (1972). However, this becomes four years in practice, according to UNESCO. Available at <http://whc.unesco.org/en/committee/> (accessed 16 July 2018).

249 Available at <http://whc.unesco.org/en/committee/> (accessed 16 July 2018); Paragraph 19 of the Operational Guidelines (2017) is available at <https://whc.unesco.org/en/guidelines/> (accessed 22 January 2019).

250 Paragraphs 153 and 191 (b) of the Operational Guidelines (2017) are available at <https://whc.unesco.org/en/guidelines/> (accessed 22 January 2019).

251 The Operational Guidelines (2017) are available at <https://whc.unesco.org/en/guidelines/> (accessed 22 January 2019).

252 Available at <http://whc.unesco.org/en/world-heritage-centre/> (accessed 16 July 2018).

253 Paragraphs 3 (c) and 27 of the Operational Guidelines (2017) are available at <https://whc.unesco.org/en/guidelines/> (accessed 22 January 2019).

254 Available at <http://whc.unesco.org/en/world-heritage-centre/> (accessed 16 July 2018); Paragraph 28 of the Operational Guidelines (2017) is available at <https://whc.unesco.org/en/guidelines/> (accessed 22 January 2019).

255 The Operational Guidelines (2017) are available at <https://whc.unesco.org/en/guidelines/> (accessed 22 January 2019).

256 Formulated by Nishimura and Wijaratne (1998) and available at <https://whc.unesco.org/en/list/451/documents/> (accessed 13 July 2018).

discussed in sub-chapter 2.2.2). The first local policy document of 1987 included a recommendation for monitoring colour schemes in the heritage city, which derived from Article 6 of the Venice Charter (1964) and developed into an accepted colour code in the Special Regulations (Planning and Building), 2009.²⁵⁷ In contrast, the requirements of the community as they relate to living in inhabited historic cities, highlighted by soft laws like the Washington Charter (Charter for the Conservation of Historic Towns and Urban Areas, 1987), the Valletta Principles for the Safeguarding and Management of Historic Cities, Towns and Urban Areas (2011) and UNESCO's Recommendation on Historic Urban Landscape (discussed in sub-chapter 2.3), are not positively integrated into the formulation of local laws.

4.2 NATIONAL LEVEL: INSTITUTIONS AND LAWS

4.2.1 DEPARTMENT OF ARCHAEOLOGY

The Department of Archaeology (hereafter also referred to as "DOA") was established in 1890, during the British colonial occupation, as the Archaeological Survey of Ceylon, and currently operates under the Ministry of Housing, Construction and Cultural Affairs (March 2019).²⁵⁸ The DOA is empowered by the Antiquities Ordinance No. 9 of 1940 as the national apex institution for preserving and maintaining the country's archaeological heritage, and is therefore the main agency responsible for World Heritage property.²⁵⁹ The DOA has the authority over

the declaration of monuments and archaeological reserves in the country, and these provisions are discussed below as they relate to Galle Fort.

The DOA is headed by the Director General of Archaeology, a position held by a highly qualified heritage professional. It is the key authority responsible for taking higher-level management decisions regarding the heritage city and compiling annual state of conservation reports for the World Heritage Committee. The DOA implemented the first preservation plan (1987) for Galle Fort soon after its World Heritage recognition, and also formulated the first management plan, "Integrated Management System 2015," in collaboration with Galle Heritage Foundation. The DOA's active involvement in the documentation and conservation of the monuments in Galle Fort at the initiation of the World Heritage project (discussed in sub-chapter 1.4.1) has now declined with the increasing involvement of Galle Heritage Foundation (discussed in sub-chapter 4.3.1).

Apart from the above responsibilities, the DOA's involvement in the heritage city is significant in regulating developments through representing the Planning Sub-Committee (the committee that regulates development at Galle Fort, which will be discussed in sub-chapter 4.3.2) and taking legal action against illegal developments. In addition, the maintenance work of several monuments, including the ramparts, is the responsibility of the DOA. These are mainly handled by the Southern Regional (or Provincial) Office of the DOA, which is located within Galle Fort, and headed by a Regional Assistant Director who is also responsible for granting permission for minor developments that do not require the approval of the Planning Sub-Committee. The Regional Office does not have a separate department for handling the affairs of the heritage city, as Galle Heritage Foundation was established specifically for the heritage city. It employs a site officer for the fort, replaced by a site manager in September 2017, who is mainly responsible for carrying out these duties. Neither the DOA nor its Southern Regional Office engages in community work in the heritage city, a major weakness according to the former Director General of the DOA (2016).²⁶⁰

²⁵⁷ Article 70.18, Special Regulations (Planning and Building), 2009.

²⁵⁸ It is important to note that government ministries of Sri Lanka often change with the government. The respective ministries of these key responsible agencies also changed over the four years of this study, and the ministries mentioned in this chapter were prevalent in March 2019. For example, the DOA was affiliated with the Ministry of National Heritage (November 2010 to January 2015) and Ministry of Higher Education and Cultural Affairs (January 2015 to November 2018), respectively, and currently falls under the Ministry of Housing, Construction and Cultural Affairs. Thus, when discussing incidents or short cases, the associated ministry is mentioned as the prevalent ministry of that period in this study.

²⁵⁹ In particular, the powers vested in the Director General of Archaeology by the amendments (10, 24 of 1998) are as follows: (40 a) to formulate a national archaeological policy and to coordinate and implement such policy after it is approved by the government, and (40 c) to protect and maintain such archaeological

heritage.

²⁶⁰ Interview, 26 April 2016.

4.2.2 ANTIQUITIES ORDINANCE NO. 9 OF 1940: A COLONIAL LAW MANIFESTS A WESTERN MATERIAL-BASED CONSERVATION APPROACH

Although the Antiquities Ordinance is a powerful colonial law, the law does have provisions for dealing with historic urban landscapes, which lack in Sri Lanka, unlike in Europe. In contrast, the majority of Sri Lanka's monuments are Buddhist religious monuments (as briefly elaborated in sub-chapter 1.3.1), while its ancient cities, built by the native kings, were mostly ruined (except Kandy) when the colonial Archaeological Survey of Ceylon commenced its work. Thus the law, which deals with monuments and archaeological reserves, does not deal specifically with historic buildings, but considers them within the broader category of monuments.

Limitations in the Legal Protection of World Heritage Property

Against this background, there are some practical issues in the implementation of the law with respect to Galle Fort, a historic urban landscape with historic buildings. The Antiquities Ordinance provides legal provisions for the Department of Archaeology to acquire legal authority over monuments and archaeological reserves by orders published in the government gazette in three methods: declaring monuments on state land as “ancient monuments;” declaring monuments under private ownership that are in danger²⁶¹ as “protected monuments;” and declaring sites of archaeological importance on state land as “archaeological reserves.”²⁶² While the ramparts of the fort and number of properties within the fort are (legally) owned by the state, the greater majority of properties in Galle Fort are under private ownership, including residential and commercial buildings of colonial origin. This land ownership

mix has made it difficult for the DOA to take the whole fort into its custody in any way.

The first preservation plan implemented by the Department of Archaeology (discussed in 4.5.1) states that the ramparts “were declared a protected monument” (Wijesuriya and Vos 1987, 8; Kuruppu and Wijesuriya 1992, 34). However, the ramparts have not been “declared” a protected monument by the government gazette so far. In fact, only monuments under private ownership can be declared protected monuments, while the ramparts are owned by the state. In contrast, the “Integrated Management System 2015” states, “The World Heritage Site of the Old Town of Galle and its Fortifications have been included as an ancient monument since the fortifications have been built prior to the 2nd March 1815” (Mandawala 2015, 37). Section 48 of the Antiquities Ordinance (9, 1940) interprets “ancient monument” as “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,” the day the country surrendered to the British Empire.²⁶³ Therefore, this identification is justifiable with reference to the “fortifications” under state ownership. The “Integrated Management System 2015” also includes this contradictory statement: “although few houses which have been built before 2nd March 1815 could be categorized as ancient monuments none of the houses has been declared as protected monuments” (Mandawala 2015, 37). None of the privately-owned historic buildings within the fortifications has been declared a protected monument, as this requires the consent of the owners, which is discussed separately below. In addition, several buildings in the fort were built after 1815.

Although the Dutch ramparts, the main physical feature of the fort, were surveyed in 1976 at the request of the Department of Archaeology in order to be declared an archaeological reserve, this important step was somehow never finalized. It was only in 2016 that the Director General of Archaeology requested

261 Monuments under private ownership that are in danger of destruction or removal, or damage from neglect or injudicious treatment, and that it is in the public interest to protect, can be declared as protected monuments by the gazette by the order of the appropriate minister, if there are no objections from the owners (Section 18 and 19, Antiquities Ordinance No. 9 of 1940).

262 Section 16 [Section 5, Antiquities (Amendment) Act No. 24 of 1998], Section 18, Section 19 and Section 33 [Section 3, Antiquities (Amendment) Act No. 2 of 1955] of the Antiquities Ordinance.

263 On 10 March 1815, the country (or rather, the Kandyan Kingdom in the middle of the country surrounded by the Maritime Provinces, which were already under British control) surrendered to the British Empire after signing the Kandyan Convention (*Udarata Givisuma*) between the British and the chiefs of the Kandyan Kingdom. The convention deposed King Sri Vikrama Rājasigha (1798–1815), the last ruling monarch, who was strategically betrayed by his chiefs, as elaborated by Obeyesekere (2018).

the permission of the Land Commissioner General to declare the ramparts of Galle Fort an archaeological reserve, a request that is still being processed.²⁶⁴ Generally, state lands with multiple monuments are declared archaeological reserves. Thus, trying to declare a rampart of a fortress an archaeological reserve is also an exception and limitation of the law with respect to historic urban landscapes.

400-Yard (365.76-Metre) Control Zone, 1971: A Fast and Strategic Alternative

The Department of Archaeology realized the lack of legal protection for property during the 1971 insurgency,²⁶⁵ when the military moved into the fort and repaired some of the historic buildings in military style, neglecting their archaeological value.²⁶⁶ In order to protect the historic buildings inside the fortress, the DOA applied a 400-yard (365.76-metre) control/buffer zone to the Dutch ramparts in a 1971 government gazette (no. 14959), under Section 24 of the Antiquities Ordinance (9, 1940) (“Ceylon Government Gazette” May 21, 1971 ; Silva 1992; Mandawala 2015):

“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” (Section 24, Antiquities Ordinance No. 9 of 1940).

Although the rampart was not declared an “ancient monument” by the gazette before applying the 400-yard (365.76-metre) rule, it could be considered an ancient monument since it was built prior to 1815, as discussed above, and thus it was possible to apply the rule.

Apparently, this was the fastest solution the DOA could take to ensure the legal protection of the fort at that moment, as declaring an archaeological reserve is a long process that involves several government institutions.²⁶⁷ The law covers 400 yards (365.76

metres) inside and outside the rampart walls (Fig. 36), and thus the whole fort and a radius of 400 yards (365.76 metres) outside the fort “comes under the preview of Director General of Archaeology as there is no point which exceeds 400 yards from the rampart” (Silva 1992, 3). However, only developments within the prescribed area can be regulated by this law.

Generally, this law is applied outside the monuments, and this is a special case in which the rule was automatically applied to the interior, the monument being the rampart walls of a fort. The rule was applied for similar cases twice prior to this, in 1952 and in April 1971, regarding the ramparts and the moats of Sigiriya, the “indigenous” rock fortress and the ramparts of Fort Frederick at Trincomalee, a colonial fort.²⁶⁸ Although this law has been applied to 11 colonial forts so far, including Galle, only three colonial forts have declared archaeological reserves.²⁶⁹

Roland Silva, a former Archaeological Commissioner, states that the Department of Archaeology held a major seminar to notify “all the dignitaries” regarding the application of such “strict laws” (Silva 1992, 4). While Silva (1992) identified this as the most powerful law applied to the fort by the Department of Archaeology, “Integrated

to be given by the respective Divisional Secretary (of the Divisional Secretariat) where the monuments are located, upon the request of the Department of Archaeology. Afterwards, the DOA has to seek the Land Commissioner General’s approval to declare the area an archaeological reserve, with the submission of the survey plan showing the ruins. Finally, the land has to be declared an archaeological reserve by the government gazette.

268 *Ceylon Government Gazette*, No. 10370, 21 March 1952; *Ceylon Government Gazette*, No. 14954, 16 April 1971.

269 The nine forts apart from Galle and Trincomalee are: Jaffna Fort (1971); the ramparts of the Dutch fort at Batticaloa (1971); the Dutch fort at Mannar and its ramparts (1971); the ramparts of Matara Fort (1974); the (Dutch) Star Fort at Matara (1974); Katuwana Fort (2001); the Dutch fort at Rathnapura (2004); Menikkadawara (Portuguese) Fort (2004); and Ruwanwella (British) Fort (2004) (*Ceylon Government Gazette*, No. 14959, 21 May 1971; *Ceylon Government Gazette*, No. 14967, 16 July 1971; *Ceylon Government Gazette*, 11 April 1974; *Ceylon Government Gazette*, No. 95, 18 January 1974; *Gazette of the Democratic Socialist Republic of Sri Lanka*, No. 1214, 7 December 2001; *Gazette of the Democratic Socialist Republic of Sri Lanka*, No. 1344, 4 June 2004). The three colonial forts declared as Archeological Reserves are Kalpitiya Fort (1964), Ruwanwella Fort (1965) and Fort Frederick at Trincomalee (*Ceylon Government Gazette*, No. 13931, 24 January 1964; *Ceylon Government Gazette*, No. 14480, 13 August 1965; *Gazette of the Democratic Socialist Republic of Sri Lanka*, 16 January 1981). Thus, two forts, namely Ruwanwella and Fort Frederick, are both Archaeological Reserves as well as subject to the 400-yard (365.76-metre) rule, providing them full protection.

264 A letter from Director General of Archaeology to the Land Commissioner General, “Declare the World Heritage of Galle Dutch Ramparts as an Archaeological Reserve,” 20 January 2016, requested the permission of the Land Commissioner General to declare the ramparts of Galle Fort an archaeological reserve.

265 See footnote 107, chapter 1.

266 Discussed in sub-chapter 1.3.1.

267 First, the proposed land owned by the state has to be surveyed by the Survey Department, and the order to survey it has

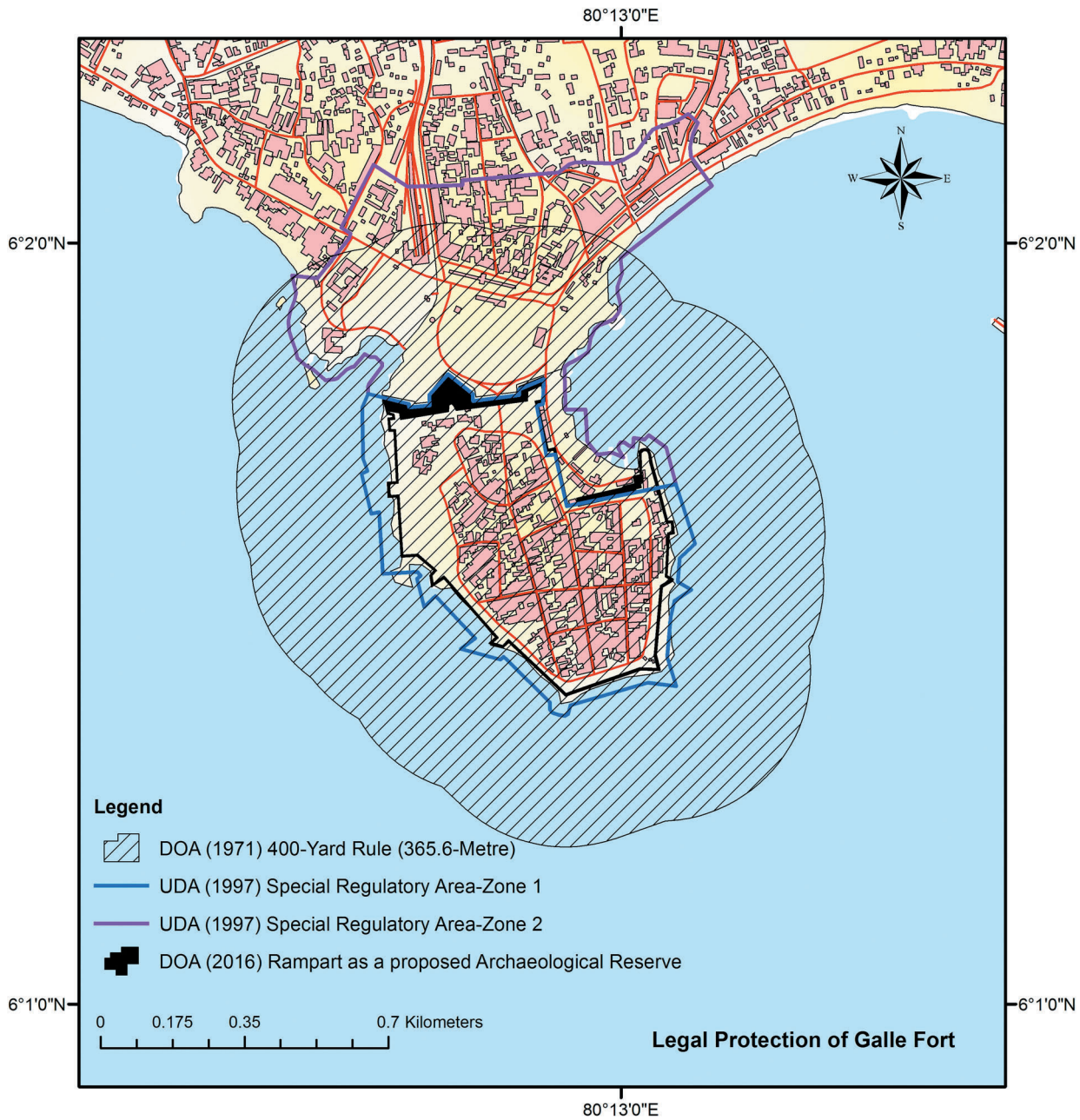


Fig. 36 Legal protection measures of the World Heritage Property initiated by the Department of Archaeology and Urban Development Authority.

Management System 2015” equates the law to a building regulation.²⁷⁰ In practice, the law, which is not well articulated, does not serve as a proper building regulation, which led to the implementation of the Special Regulations, 2009 (discussed in sub-chapter 4.5.2 and 4.6.3, and prevalent since 1997) amid growing development requirements.

The interviews and conversations with residents revealed they were aware that developments have been restricted in the fort since the 1970s, as briefly mentioned in sub-chapter 6.2.1, and indicate community awareness of this law.²⁷¹ In practice, the law is mainly implemented inside the rampart walls, while it was hardly used to control development activities in the outer buffer zone.²⁷² However, the law became important with the initiation of the large-scale development projects outside the fortress walls (discussed in sub-chapter 7.7). Thus, it took nearly 40 years to survey and mark the outer buffer zone of the land, while the process for the outer buffer zone of the sea was initiated in 2014, and gained importance with the launch of the Galle Harbour Development Project.²⁷³ However, the short

case discussed in sub-chapter 7.7.2 shows that there were challenging situations in which the heritage authorities failed to control intrusive developments in the outer buffer zone despite this law.

Unsuccessful Attempt to Declare Private Houses “Protected Monuments”

Although the Department of Archaeology took the initiative to declare 87 historically important houses under private ownership as protected monuments through the gazette in 2007, it was stalled due to objections from the owners (WHC 2010, 127). The owners staged a protest in front of the Department of Archaeology, along with forwarding their objections in writing to the Director General of Archaeology (the formal procedure by law).²⁷⁴ Furthermore, the community also approached the line minister, who had to consider their objections,²⁷⁵ since serious objections could stall the process, according to the Antiquities Ordinance (9, 1940).²⁷⁶ The reason behind the objections was the fact that the Director General of Archaeology’s power over a protected monument overrides the owners’ rights, as was known to these property owners.²⁷⁷ As per the ordinance, commencing or carrying out any restorations, repairs,

270 “The Archaeological Department was quite nervous with the application of such a hard set of rules where no private or public buildings could theoretically even change the paint of their façade without the approval of the Department of Archaeology” (Silva 1992, 3-4); “In keeping with these provisions, the Department of Archaeology is consequently responsible for the protection of ancient and protected monuments, including the prescription of building regulations, approving requests for building permits and for any other construction activities within the protected zone which now stands as 400 yards. The Department of Archaeology is given the authority to stop inappropriate and/or illegal building activities” (Mandawala 2015, 36).

271 “The Archaeology Law was prevalent even back in the ’70s. My (late) father built a sun shade in this shop [which can be seen even today], and he was charged by the Department of Archaeology with blocking the road with the sun shade. Later, the Department of Archaeology withdrew the case, as my father agreed to remove (demolish) it whenever requested by the Department of Archaeology” (personal conversation with Ms. Hewage, 12 May 2017).

272 In contrast, the law is put into practice with private properties in the outer buffer zone of Sigiriya, since the land inside the moat and rampart (including the moat and rampart) is owned by the state. Thus, the practical use of the law changes according to the situation.

273 The larger part of the 400-yard (365.67-metre) outer buffer zone is sea, as shown in Fig. 36. While the buffer zone of the land was surveyed and demarcated in 2010 (nearly 40 years after its implementation), it was only in 2014 that the DOA requested the Divisional Secretariat to survey and demarcate the boundary of the sea. At this juncture, the Divisional Secretary (of the Four Gravets Divisional Secretariat, Galle) requested the Survey Department,

Galle, with the assistance of the Sri Lanka Ports Authority, to give priority to the matter, as the “Department of Archaeology had to submit the map including the buffer zone of the sea to the UNESCO regarding the clearance for Galle Harbour Development Project” (letter from Divisional Secretariat, Four Gravets Divisional Secretariat, Galle to the Senior Superintendent of Surveys, Galle on the “Galle Harbour Development Project/Mapping the Galle Fort Protective Zone,” 10 December 2014).

274 After the notification of the proposed list of protected monuments in the gazette by the DOA minister responsible, there is a period in which the public may forward their objections against the proposed order, which are then forwarded to the minister for the final decision through the Director General of Archaeology (Section 19, Antiquities Ordinance No. 9 of 1940). When the minister publishes the list of proposed monuments in the government gazette, the owners may forward their objections in writing, which is the formal way. However, in this case they also demonstrated against the proposal in front of the Department of Archaeology in Colombo. The DOA forwarded the objections to the line minister according to the Antiquities Ordinance, and subsequently the Ministry requested Galle Heritage Foundation to submit a report on the matter. However, the DOA did not receive this report from GHF, and the work did not proceed. This incident shows that serious objections can always stall the process (personal conversation with the officer responsible at the DOA, January 2016).

275 Personal conversation with a community member who participated in the protest, March 2016.

276 The objections were specified in terms of Section 19, Antiquities Ordinance No 9 of 1940.

277 Interview with Mr Fowzie, 16 February 2016.

alterations or additions in connection with any protected monument must be done with the permit of Director General of Archaeology, who also has the authority to refuse the issuance of such permits.²⁷⁸ According to a community member, the selection of houses was not based on contemporary research, but merely on the DOA's 1992 documentation, which is already outdated, a fact denied by the DOA officer responsible for the matter.²⁷⁹ However, 13 state-owned historic buildings were declared ancient monuments by the government gazette in March 2017, indicating the power of the Antiquities Ordinance over state-owned buildings.²⁸⁰

Strengths and Limitations with Respect to “Unauthorized” Developments

The DOA has the authority to file lawsuits in the case of unauthorized building activities in Galle Fort according to Sections 24 and 34 (a), (b), (c) and (d) of the Antiquities Ordinance (9, 1940). The Antiquities Ordinance is a powerful act, as no person who is charged with or accused of an offence under the ordinance shall be released on bail.²⁸¹ While the penalty is a fine of no less than 50,000 LKR which is a relatively small amount, or imprisonment for a term not exceeding two years—or both fine and imprisonment—the maximum fine upon a guilty plea is limited to 500,000 LKR.²⁸² Furthermore, the DOA has no legal provision to issue demolition orders (which lies with the Urban Development Authority and Galle Municipal Council), nor for restoring the monument to its previous form. The negative effects

of this and the DOA's proposed amendments to the Antiquities Ordinance in order to cope with these challenges (2017) are discussed under sub-chapter 7.4.1.

4.2.3 URBAN DEVELOPMENT AUTHORITY

The Urban Development Authority (hereafter also referred to as “UDA”), empowered by the Urban Development Authority Act No. 41 of 1978 as the key urban planning and implementation agency of Sri Lanka, is responsible for regulating the building activities of the World Heritage city.²⁸³ In terms of Section 23 of the UDA Act (41, 1978), the UDA has legal provisions to declare development areas, and thus Galle Fort was declared a “Special Regulatory Area” by the *Extra Ordinary Gazette* notification No. 987/12 of 7 August 1997 (Fig. 36) (UDA 2009). Declaring a Special Regulatory Area was proposed by the second policy document of 2002 (discussed in sub-chapter 4.5.2) in order to regulate building activities in the fort, since the UDA Act (41, 1978) is among the country's most powerful legislation.²⁸⁴

Accordingly, “The Special Regulations (Planning and Building) for World Heritage City of Galle Fort” (hereafter also referred to as “Special Regulations, 2009”) were implemented in 2009 in order to “preserve the historic character,” along with the more general Building Regulations of UDA in 1999, which is applicable to the municipality (UDA 2009). However, these Special Regulations have been applied to the heritage city at a basic level since 1997, with the declaration of the Special Regulatory Zone; this was the beginning of the UDA's involvement in the heritage city.²⁸⁵

278 Provisions of Sections 21 and 22, Antiquities Ordinance No. 9 of 1940. “The Director General of Archaeology may in his discretion — (a) refuse to issue a permit under section 21 in any case in which he is of opinion that the applicant for such permit is unable to carry out and complete satisfactorily the work to authorize which such permit is applied for, or that such work is unnecessary” (Section 22 (a), Antiquities Ordinance No. 9 of 1940).

279 Interview with Mr Fowzie, 16 February 2016; personal conversation with the DOA officer responsible, 10 February 2017.

280 *Gazette Extraordinary of the Democratic Socialist Republic of Sri Lanka*, No. 2011/7, 20 March 2017. The buildings include the Black Fort, Dutch Warehouse, British Hospital (known as the Dutch Hospital), National Museum (building), post office building, old building at All Saints' College, Pedlar Street properties at no. 64/64A etc.

281 Section 15C, Antiquities Ordinance [Section 4, Antiquities (Amendment) Act No. 24 of 1998].

282 Section 44, Antiquities Ordinance [Section 13, Antiquities (Amendment) Act No. 24 of 1998] and [Section 5, Increase of Fines Act No. 12 of 2005].

283 The UDA is a government authority that currently operates under the Ministry of Megapolis and Western Development.

284 “The declaration of the Fort and its immediate environment including the waterfront along the marine drive as a Special Development Zone by the UDA” (Wijeratne 2002, 63).

285 Boxem and Führen state that Special Regulations have been applied to the heritage city since 1997 (2010, 84). While the Project Planning Officer of GHF claim that it was 1998 (personal conversations in January 2017), the Town Planning Officer of UDA states that it was in 2000 that the Planning Sub-Committee started its work (personal conversations, January 2017). According to the second policy document (discussed in sub-chapter 4.5.2), regular Planning-Sub Committee meetings were held after 2002 (Wijeratne 2002).

The “Development Plan for Galle Urban Development Area (Galle Municipal Council Area) 2008–2015” was initiated by UDA in 2009 in accordance with Sections 8 (c) and (f) of the UDA (Amendment) Act No. 4 of 1982. The plan identifies Galle Fort as an “Archaeological Conservation Zone,” and thus subject to the Special Regulations, 2009 mentioned above. Currently, the UDA is the main agency responsible for granting Preliminary Planning Clearance, Building Permits and Certificates of Conformity, as discussed in sub-chapter 4.3.2.²⁸⁶

Strengths

The UDA has the authority to take legal action against unauthorized developments/changes in use of the buildings in Galle Fort; the penalty for unauthorized building activity is similar to that of the Antiquities Ordinance.²⁸⁷ As both the DOA and UDA can file lawsuits, it is common in Galle Fort that the two institutions may charge and fine an individual under two separate cases for a single wrongdoing, as illustrated by an anecdote in sub-chapter 7.4.1. Unlike the DOA, the UDA has legal provisions to notify an owner to restore any unauthorized construction, as well as to apply to a magistrate to issue a mandatory order allowing the authority to demolish or alter the unauthorized building work.²⁸⁸ Although no such demolitions have been carried out in Galle Fort by the UDA so far, 36 residents were issued a written notice to remove their illegal renovations in 2017, as discussed in sub-chapter 7.5.1.

The first half of the 2010s showed an expansion of the UDA’s involvement in the field of conservation, however with greater authority over other heritage management institutions. In 2014, the UDA conserved the former Dutch Hospital

into a shopping precinct with the assistance of the Sri Lanka Army, a successful project based on adaptive reuse, although other heritage institutions were involved to a lesser extent.²⁸⁹ After a change in regime, the UDA initiated the SCDP (Strategic Cities Development Project), which proposed Galle Fort Rampart: Sky Walk Way Improvement, a rehabilitation project for the ramparts financed by a World Bank loan in 2015. The project, which was planned without the consultation of the DOA, was vehemently criticized by some of the fort’s residents as well as by leading heritage practitioners in 2016, which resulted in the revision of the plan.²⁹⁰ In 2016, the SCDP also funded the conservation of the clock tower of the rampart.

4.2.4 CENTRAL CULTURAL FUND

The Central Cultural Fund (the institution as well as the fund of the same name, hereafter also referred to as “CCF”), established under Central Cultural Fund Act No. 57 of 1980, manages most of the state-owned, World Heritage-listed cultural properties in the country,²⁹¹ and has fewer responsibilities over Galle Fort. The CCF, the second most prominent entity in managing the country’s heritage, is a government authority under the Ministry of Housing, Construction and Cultural Affairs. The CCF is governed by a Board of Management chaired by the prime minister, and includes the ministers in charge of cultural affairs, finance,

²⁸⁶ Until February 2017, the UDA was only agency responsible for granting Preliminary Planning Clearance, while the other tasks were the responsibility of the Planning Committee of the Galle Municipal Council, since these powers were delegated to local government authorities at that time.

²⁸⁷ That is, a fine not exceeding 50,000 LKR imprisonment for a term not exceeding two years or both, upon a trial before a magistrate [Section 28 (1) UDA (Amendment) Act No. 4 of 1982].

²⁸⁸ According to Section 28A (1) and (3) of UDA (Amendment) Act No. 4 of 1982. This order will be issued if the occupiers do not act within seven days of the written notice of the UDA to do so, according to 28 (A) (1).

²⁸⁹ This is the result of a UDA project on restoring colonial buildings, initiated during the time of Gotabhaya Rajapaksa, then Secretary to the Ministry of Defense and Urban Development and one of the contemporary president’s brothers, a highly influential official in the former regime. The project was carried out by military personnel, who were employed in such projects after the end of the war in 2009. According to a Galle-based heritage officer, rather than political will, it was the lack of interest in preserving the building on the part of other heritage institutions that led the UDA to handle the project. The DOA was involved in the initial plaster analysis of the building; however, the rest was carried out by the UDA (personal conversation, 29 June 2018).

²⁹⁰ Based on observations of public-awareness meeting for the project involving UDA officials and stakeholders, including state agencies and residents, on 26 November 2015 at the Information Centre of Galle Heritage Foundation.

²⁹¹ Two of the six, namely Polonnaruwa and Sigiriya, that are owned by the state are solely managed by the CCF, while a number of sites in Anuradhapura (under the Maha Vihara and Jetawana Projects of the UNESCO-Sri Lanka Cultural Triangle) are also managed by CCF and have been owned by Buddhist temples for centuries.

UNESCO and tourism and the Commissioner of the Department of Archaeology.²⁹² Thus, Roland Silva, the pioneer in establishing CCF and its founding Director General, later stated that “a decision here was a mini-cabinet decision.”²⁹³ The CCF is headed by a highly qualified heritage practitioner, and has significant expertise and resources.

One of the major reasons behind the establishment of this alternative institution was to secure UNESCO’s funds for preserving the country’s cultural heritage (the Cultural Triangle initiative, as discussed in sub-chapter 1.3.1) and promote cultural tourism (Silva 1992). In addition, the necessity for an institution with a more flexible financial management system was also considered in order to handle large-scale foreign-funded conservation projects. The DOA, a government department, which follows the (strict) financial regulations of the public administration system and depends solely on the inadequate funds provided by the government treasury, could not fulfil these objectives.

The CCF’s most significant contribution to the heritage city is implementing large-scale, Dutch government-funded conservation and research projects, including those of the Dutch Reformed Church and Avondster Project (some are discussed in sub-chapter 1.4.2).²⁹⁴ As a professional institute,

it is also involved in compiling some of the annual state of conservation reports for the heritage city in collaboration with the DOA. The responsibility of the CCF with respect to developments in the fort is limited to participation in the Planning Sub-Committee. The CCF runs the Maritime Museum and the Maritime Archaeology Unit, both funded by the Netherlands and exerting a positive effect on the heritage city.

Although the CCF receives international financial aid as well as funds from the government treasury, it has currently become a profitable entity through cultural tourism. Most of the CCF’s income is derived from entrance tickets to the World Heritage sites and museums under its management. However, Galle Fort is an exception, having free entrance, although there is an entrance fee for the Maritime Museum at Galle Fort. In 2015, CCF sold 722,676 entrance tickets to foreign tourists (40% of the total tourist arrivals to the country), which generated 2751 million LKR.²⁹⁵ The CCF annually provides substantial funds for the DOA, a non-profit entity. Although significant projects have not been carried out from these funds recently at Galle Fort, the museum of Dutch Star Fort at Matara, also located in Southern Province, was allocated 4.5 million LKR in 2018.²⁹⁶

Apart from these institutions and laws, there are a number of other laws dealing with the protection and the management of Galle Fort, within several domains.²⁹⁷

292 Section 3, CCF Act No. 57 of 1980.

293 Interview with Roland Silva conducted by Christina Cameron (2011), Victoria, Canada. Available at <https://www.patrimoinebati.umontreal.ca/en/research-projects/active-projects/oral-archives-of-the-world-heritage-convention/roland-silva/> (accessed 13 July 2018).

294 The first such project was the conservation of the Dutch Reformed Church (completed in 2004), suggested by the World Heritage Committee due its poor condition on the arrival of the Deputy Director of the World Heritage Centre in 2001 (WHC 2001, 40). The project was also assisted by Dutch experts, and won a UNESCO Asia-Pacific Heritage Award for Cultural Heritage Conservation in 2005. In 2010, a 136.7-million LKR conservation project was completed on the rampart, and with the financial assistance of the Netherlands, the Dutch Warehouse was turned into a Maritime Museum after the conservation project, with the financial assistance of the Netherlands. In addition, the CCF’s contribution to the initiation and development of scientific research in maritime archeology in Galle Bay through the Dutch-funded MAU (Maritime Archeology Unit) has been discussed in sub-chapter 1.4.2. The Avondster Project, a collaborative project between Dutch experts and MAU and funded by the Netherlands, excavated and preserved in situ the Avondster, the Dutch East Indiaman that wrecked in Galle Bay in 1659. The CCF runs the above-mentioned Maritime Museum, the first of its kind in the country, in the former Dutch Warehouse of Galle Fort, and has a project office on the same

premises, separate from the MAU, which is located at the old piers outside the fort. Expert knowledge for conservation projects in Galle Fort is provided by the CCF on request.

295 Financial statement of the Central Cultural Fund by the Auditor General of Sri Lanka, 2015. Available at http://www.auditorgeneral.gov.lk/web/images/audit-reports/upload/2015/Funds_2015/CentralCulturalFundE.pdf (accessed 13 July 2018).

296 However, Galle Fort also benefits from the funds allocated to Southern Province. In 2018, 15 million LKR was allocated to put up new monument name/description boards for archaeological sites in Southern Province, including Galle Fort (source: DOA, August 2018).

297 Cultural Property Act, No.73 of 1988; the Archaeological Sites of National Importance Act, No.16 of 1990; Town and Country Planning Ordinance, No.13 of 1946 and subsequent amendments; Ceylon Tourist Board Act, No. 10 of 1966; Coast Conservation Act, No. 57 of 1981; and National Environment Act, No. 47 of 1980 (Abeywardana, Court, and Thompsan 2017).

4.3 LOCAL LEVEL: INSTITUTIONS AND LAWS

4.3.1 GALLE HERITAGE FOUNDATION

Galle Heritage Foundation (hereafter also referred to as “GHF”), established under Galle Heritage Foundation Act No. 7 of 1994, was the only organization specifically established for the heritage city. GHF could be categorized as a local-level semi-government institution (currently) operating under the Ministry of Housing, Construction and Cultural Affairs.²⁹⁸ According to the “Integrated Management System 2015,” “the management of the site is vested on the Galle Heritage Foundation as provided by the Galle Heritage Foundation Act of 1994” (Mandawala 2015, 11). This is an inaccurate statement, as no such provisions are provided by the act, despite future plans to amend the act.

According to the Periodic Report of the State Party (Report 2003), GHF was established in order to overcome inadequate coordination between agencies in preserving heritage. However, this contrasts with the objectives of the GHF Act (7, 1994), which focuses on promoting the preservation and conservation of Galle Fort, including the preservation of houses as well as the general welfare of residents.²⁹⁹ Thus, unlike other key institutions, the GHF has more responsibility over the community of the fort, though less in practice than its early years, as the foundation’s vision has since turned towards making the World Heritage city a cultural tourist centre of excellence in 2025 (official website of GHF, July 2018).³⁰⁰

In terms of Sections 5.1 and 6.1 of the GHF Act (7, 1994), the administration, management and control over the affairs of the GHF is vested in this Board of Management, consisting of 14 ex officio members, six appointed by the minister and six appointed bi-annually by ex officio members. These 14 ex officio members, mainly representing the government and semi-governmental institutions, have power over

various aspects of the fort, including the above key institutions. Thus, the foundation could act as a coordinating institution, as mentioned in the Periodic Report of the State Party (2003). The 14 ex officio members are the following heads of institutions or their nominees:

- i. the Director General of the Department of Archaeology;
- ii. the Chairman of the Urban Development Authority;
- iii. the Minister of Cultural Affairs of the Southern Province;
- iv. the Divisional Secretary of Galle;
- v. the Mayor of the Galle Municipal Council;
- vi. the Director of the Post Graduate Institute of Archaeology;
- vii. the President of the Netherlands Alumni Association;
- viii. the Chairman of the Sri Lanka Ports Authority;
- ix. the Director General of the Central Cultural Fund;
- x. the Chairman of the National Aquatic Resources Agency;
- xi. the Director of the National Museums Department;
- xii. the Director of the Coast Conservation Department;
- xiii. the Director of Architectural Conservation of Monuments and Sites of the University of Moratuwa; and
- xiv. the District Secretary of Galle.

The Chairman of the Board should be a board member appointed by the board members themselves (including the six appointed by the minister) according to Article 6 (2) (a) of the GHF Act (7, 1994).

Weaknesses: Lack of Decision-Making Power

The power of the foundation is limited and subject to the key institutions with decision-making power over the heritage city: the DOA, UDA and Galle Municipal Council. GHF has no authority over building activities in the fort, except for participating in the Planning Sub-Committee (the committee discussed in sub-chapter 4.3.2), which also began much later, in 2010.³⁰¹ However, GHF currently

298 Formerly under the Ministry of Law & Order and Southern Development.

299 Section 3, GHF Act No. 7 of 1994.

300 Official website of the Galle Heritage Foundation available at <http://www.galleheritage.gov.lk/> (accessed 13 July 2018).

301 Personal conversation with the Project Planning Officer



Fig. 37 An awareness project conducted by GHF for schoolchildren of the Fort Cities,³⁰⁴ January 2016.

has a strong voice in decision-influencing within the committee, which, despite weak institutional power, rather depends on the personal power of the officials.³⁰² The foundation should follow the directions of other state institutions, including the above, even with regard to general maintenance work and the development of public amenities within the fort.³⁰³ Against this background, the World Heritage Committee recommended empowering the foundation in its annual decisions from 2010 to 2016, including further legislative enactment of the act (WHC 2008, 97; 2010, 129; 2013, 128-30; 2014, 23; 2016, 80). The aim of the World Heritage Committee is to make GHF the key management institution, and positive suggestions to this effect were made by the

of GHF, 18 October 2017.

302 Observations from the Planning Sub-Committee meeting at UDA, Galle in 30 November 2018.

303 Section 4 (g), GHF Act No. 7 of 1994.

“Integrated Management System 2015” (discussed separately in sub-chapter 4.5.4), which however remain vague, as discussed below. Thus, the World Heritage Committee identified weaknesses of GHF in its role as the managing authority of the property despite the new proposals (WHC 2016, 78).

304 The term “Fort City” was used by GHF specifically on this particular occasion, and is hardly used otherwise in the country. The programme was attended by schoolchildren from Galle and Trincomalee. The Dutch (formerly Portuguese) Fort Frederick, also known as Trincomalee Fort, is located at Trincomalee, on the eastern coast. Fort Frederick is not inhabited by civilians but is garrisoned by the Sri Lanka Army, although it is a major tourist and pilgrimage destination, the latter due to the centuries-old Hindu temple of Koneshwaram being located within the fort. The programme was also aimed at strengthening ethnic harmony among schoolchildren. The students of Galle were mainly Sinhalese, and those from Trincomalee were Tamils, the country’s largest ethnic minority.

In practice, the chairman of GHF is a political appointee who often changes with the government. This political criterion for recruitment seriously affects the direction of the foundation, as suitable professionals are not always appointed. GHF has a director, the second-ranking officer that handles its administrative matters (until mid-2018), while its influential middle-level role is played by a project planning officer. GHF suffers from a lack of resources, especially a lack of staff and expertise.

Strengths and Gaining Recognition

Despite the fact that the parliamentary act was implemented in 1994, the GHF was only institutionalized in 2004, with its office and staff within the fort due to the lack of government funding (Boxem and Führen 2010).³⁰⁵ GHF was moved out of the fort after the tsunami in December 2004, and located outside the fort until July 2018, a major impediment to its work at the fort and with the community that required its services.³⁰⁶ In June 2018, GHF managed to acquire a state-owned building inside the fort, and established its office there in August 2018, an initiative supported by national-level political influence due to the lack of support by the bureaucracy of local public administration and local politicians.³⁰⁷ GHF also runs an information centre at the fort that caters to tourists, visitors and researchers.

Despite the lack of decision-making power, GHF has gradually gained recognition by implementing projects in the heritage city, including preservation and conservation, awareness and social welfare. GHF has implemented two successful preservation projects: the Preservation of Private Houses Project (2006–2009), funded by the Dutch government, and conservation of the dungeons at Moon and Triton Bastions (own funds). The target groups of the heritage-awareness projects and workshops conducted by GHF represent different layers of society, including residents, higher-ranking government officials, schoolchildren and mobile vendors and three-wheeler taxi drivers employed

at the fort (Fig. 37). These projects have led GHF to work closely with stakeholders and gain recognition as a significant heritage management institution at the fort. Positively, a few employees attached to GHF maintain friendly and supportive relationships with the community, which in practice depends more on their individual personalities than institutional policies.³⁰⁸

Through the UDA, GHF commissioned ICOMOS Sri Lanka to undertake the formulation of the (unimplemented) second policy document, discussed in sub-chapter 4.5.2 (Report 2003, 10). It also collaborated with the DOA in formulating the current “Integrated Management System 2015,” which will give GHF a key role in implementation, though subject to the authority of the DOA. GHF has the legal provision to render better services to the heritage city through research and education.³⁰⁹ However, these goals—including establishing and maintaining museums, laboratories, educational institutions and research centres, as well as funding research into the history of the heritage city—are among some of the ventures unachieved by GHF.³¹⁰

Criticisms, Challenges and Solutions

The financial independence vested upon the institution as a foundation by the GHF Act (7, 1994) has led to serious criticism about the financial transparency of GHF. The foundation can receive money (in the form of loans, gifts, etc.) and land, both locally and internationally, invest money and borrow money.³¹¹ In addition, the foundation is entitled to maintain its own fund, either earned on its own or received through the above-mentioned ventures.³¹² Although GHF receives comparatively limited funds from the government treasury, it has a steady income, mainly from renting out space and granting permission for various activities in the heritage city, which are currently increasing. The accounts of the GHF can also be audited by auditors appointed by the Board of Management, and the GHF Act (7, 1994) does not mention the Annual

305 Basnayake, quoted in Boxem and Führen 2010, 64.

306 GHF had moved from the former Dutch Hospital at the fort due to damage to the building after the tsunami. The building was converted to a shopping precinct after conservation in 2014.

307 Personal conversation with a Galle-based heritage officer, June 2018.

308 Observations, 2016–January 2019.

309 Provisions of Section 4 (f) and (i), GHF Act No. 7 of 1994.

310 Ibid.

311 Section 4 (e), (j) and (k), GHF Act No. 7 of 1994.

312 Section 12, GHF Act No. 7 of 1994.

Financial Report of the Foundation.³¹³ Having their finances handled in this manner has created the impression among some residents that the system is “corrupt” (discussed in sub-chapter 7.1.3), as is also remarked by Sanjeewani (Sanjeewani 2012).³¹⁴ Not only do the residents, but also some heritage officers had the same impression in 2016.³¹⁵ GHF was also accused of recently supporting politicized heritage decisions and bypassing the appropriate authorities, including the DOA, as elaborated in sub-chapter 7.7.1. Against this background, the DOA has disagreed with GHF’s request to empower the foundation by amending the Antiquities Ordinance in March 2018.³¹⁶ According to a Galle-based heritage officer (March 2018), empowering GHF, which was weakly supported by the bureaucracy, depended totally on political will.³¹⁷ Although a major reorganization of the GHF staff was planned during the chairmanship of architect Channa Daswatta, the chairmanship changed following the constitutional crisis of the country in October 2018.³¹⁸

313 “The accounts of the Foundation shall be audited by qualified auditor or auditors appointed by the Board” (Section 13 (2), GHF Act, 7, 1994). In contrast, the accounts of the Central Cultural Fund (a national-level institution) are audited by the Auditor General with the assistance of qualified auditors (Section 9 (2) of CCF Act No. 57 of 1980). The annual finances of the CCF are tabled in the parliament and published in the government gazette (Section 9 (4), CCF Act No. 57 of 1980).

314 The matter is briefly discussed in sub-chapter 7.1.3. However, there are number of residents who are happy with the GHF, as also mentioned in sub-chapter 7.1.3.

315 This idea is based on personal conversations with Galle-based heritage officers in 2016 and 2017. According to one of them (conversations held in March 2016), “the money received by GHF is almost like something going into the dragon’s mouth,” a local saying that indicates it will never come back. However, the Director of GHF stated that GHF uses its profits for conservation and awareness projects (e.g., conservation of the dungeons) (interview, 9 March 2016). In 2018, GHF planned to use its profits for sustainable projects that support the community (personal conversation with an officer responsible at GHF, July 2018).

316 To empower GHF, both Galle Heritage Foundation Act and the Antiquities Ordinance have to be amended as the latter provides full power of management of archaeological heritage in the country to the Department of Archaeology. In March 2018, GHF called a meeting to address this, which was not agreed to by the DOA (personal conversation with an officer responsible at GHF, March 2018).

317 Personal conversations with an officer responsible at GHF, March 2018.

318 In October 2018, the president announced the removal of Prime Minister Ranil Wickremesinghe and the appointment of former president Mahinda Rajapaksa as the new prime minister. The prime minister refused to step down, stating that the removal

4.3.2 GALLE HERITAGE PLANNING SUB-COMMITTEE AND SPECIAL REGULATIONS, 2009: PRESERVING COLONIAL BUILDINGS

The UDA has legal provisions to establish planning committees to implement its development plans.³¹⁹ The Galle Heritage Planning Sub-Committee (hereafter also referred to as the “Planning Sub-Committee”) was established by the UDA separately from the Planning Committee of the UDA (called the Planning Committee of the Galle Municipal Council until 2015).³²⁰ The Planning Sub-Committee specifically deals with developments at Galle Fort, which are different from the general developments in the municipality, and are handled only by the Planning Sub-Committee due to the heritage value of the fort’s buildings. The Planning Sub-Committee, guided by the Special Regulations (Planning & Building), 2009, the building regulations for Galle Fort, issues a Preliminary Planning Clearance for any development in order to ensure that the development is in accordance with fort’s building regulations. In addition, the planning and building regulations prepared for the municipality by the UDA are also applicable to the fort.³²¹ Thus, a Development Permit granted by the Planning Committee and guided by these regulations is mandatory before commencing any development work in Galle Fort, a circumstance that is also applicable to the municipality’s developments outside Galle Fort. This means that getting a Development Permit in Galle Fort is a lengthy process that is further elaborated below.

The Planning Sub-Committee is headed by the UDA, and represent Urban Development Authority,

was unconstitutional. However, new cabinet ministers were appointed, which lasted until the Supreme Court’s ruling, in December 2018, that the president’s dissolving of the parliament was unconstitutional, which was followed by the resignation of Mahinda Rajapaksa. The impact of the crisis was visible in the state heritage sector, which resulted in changes in the top positions at both GHF and the CCF.

319 Section 8B UDA Act No. 41 of 1978, UDA (Amendment) Act No. 4 of 1982.

320 Galle Municipal Council’s Planning Committee served this purpose since the UDA’s power was delegated to local government authorities, but was regained by the UDA in February 2017 after the establishment of the Ministry of Megapolis and Western Development in January 2015. For the local government authorities, see footnote 332.

321 Prepared under Section 8J of the Urban Development Authority Act. No. 4 of 1982 (Section 70.2, Special Regulations, 2009).

Department of Archaeology; Galle Municipal Council; Galle Heritage Foundation; Central Cultural Fund; consultant architect(s) and other institutions (including the Coast Conservation Department, empowered by one of the most powerful acts in the country).³²² The Planning Sub-Committee generally meets monthly at the UDA's district office in Galle (2018), where the representatives of above-mentioned institutions discuss newly submitted building applications, amendments to the approved plans and change of use of buildings with the respective applicants and their architects.³²³ This takes the form of a negotiation between two parties to work out a development compatible with the colonial character of the buildings, and sometimes includes preserving certain colonial elements of the buildings. However, there have also been occasions when the Planning Sub-Committee has approved controversial developments, as discussed in sub-

chapter 7.5.1. There are also site visits prior to the meeting, and the Planning Sub-Committee has the power to monitor developments in progress.

Special Regulations, 2009: Material-based Heritage Preservation

The Special Regulations (Planning & Building) of "Galle Fort" World Heritage City-2009 were specifically designed to address the development requirements of Galle Fort, in comparison with the 400-yard (365.76-metre) rule applied by the Department of Archaeology. The law, an improvement on the Guidelines for Developers draft of 2002, was formulated and implemented according to the recommendations of the World Heritage Committee (as discussed in sub-chapters 4.5.2 and 4.5.3), and focused strictly on preserving the colonial architecture of the buildings.

"Archaeological and architectural interest features of the colonial period buildings within the Fort Area shall be conserved and maintained" (Section 70.12, Special Regulations, 2009).

In practice, the Planning Sub-Committee encourages applicants and their architects to assign colonial architecture to every development, including the existing buildings, which no longer even have such value. The front verandah is one of the main elements that cannot be "changed or covered,"³²⁴ and should be newly added to any building that does not originally have a verandah. The law restricts building heights to ten metres over two storeys, while building colour is limited to white, grey and yellow.³²⁵ However, in certain cases, three floors are allowed within the space of ten metres, as discussed in chapters 5 and 7. While garages, boundary walls and swimming pools are not allowed within the fort, floor and roof materials are also regulated for compatibility with colonial architecture.³²⁶ The Special Regulations, 2009 identify the historic urban landscape as a collection of colonial buildings; the practical implications of this law are discussed in sub-chapter 7.2.

322 The representatives include: Deputy Director of the Galle District Office of the UDA; President or representative of ICOMOS; Director General or representative of the CCF; Director General or representative of the DOA; Administrative Officer and a representative appointed by the Chairman of GHF; Municipal Commissioner and Municipal Engineer of the GMC; and the Town Planning Officer of UDA attached to the GMC. In practice, the heads of the DOA, CCF and GHF do not participate in the meetings. The usual representatives as of November 2018 include (based on personal observations): UDA: Southern Provincial Director (who chairs the committee), Assistant Director and Town Planning Officer; DOA: Director of General Services of the DOA head office, Colombo (formerly the Director of Architectural Conservation)—a position currently held by an architect—Regional Assistant Director (South) and Site Manager of Galle Fort; GHF: Project Planning Officer; GMC: Municipal Engineer; CCF: Project Manager of Galle Project; and external consultants—usually architect Varuna De Silva, attached to the Department of Architecture at University of Moratuwa, or architect Ashley De Vos (who is not often present) as a consultant architect and Secretary to the Governor.

323 Firstly, the Planning Sub-Committee members representing the UDA, DOA and GHF carry out quick site visits of the proposed development sites prior to the Planning Sub-Committee meeting. During the meeting, the UDA present each of the building applications in the form of a Power Point presentation including the building plans and photos. The committee discusses each of the development proposals, and makes its preliminary decision without the presence of the client or the client's architect, who are asked to enter the meeting room only afterwards. The preliminary decision is communicated to each client, followed by negotiations between the two parties. The final decision is made by the chair of the committee (usually the UDA's Southern Provincial Director), which is a collective decision taking into consideration the client's requirements and how these could be facilitated in terms of the Special Regulations, 2009. While the decision is communicated verbally to the client and the architect, it is also sent to the client in writing (personal observations, 30 November 2018).

324 "No existing front verandahs of the buildings be covered or changed, to effect its appearance. Any streets with specific features given for the front of the building as verandahs or row of columns shall be maintained and continued accordingly" Article 70.14 (a), Special Regulations, 2009.

325 Articles 70.17 (a) and 70.18, Special Regulations, 2009.

326 Articles 70.13, 70.21, 70.22, 70.20 and 70.17 of Special Regulations, 2009.

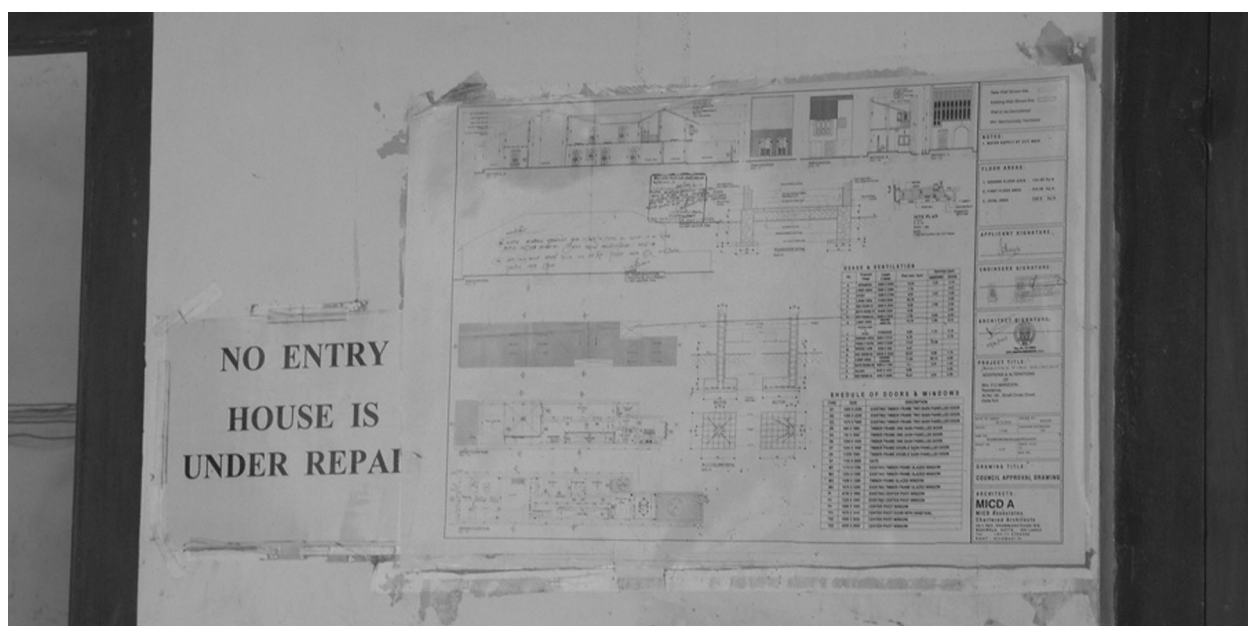


Fig. 38 Preliminary Planning Clearance shown on a house, 2016.

According to the Special Regulations, 2009, any development work in the heritage city must be permitted by the Galle Heritage Planning Sub-Committee and Planning Committee of the UDA in three steps: the Preliminary Planning Clearance, Building Permit and Certificate of Conformity.

a) To obtain the Preliminary Planning Clearance, the applicant must submit a completed application, processing fees and a building plan prepared and signed by a registered architect of the Sri Lanka Institute of Architects, photographs of the façade of the building and the buildings on either side to the UDA, Galle. The Preliminary Planning Clearance will be issued by the UDA within a month of the date of receiving the application, provided that all the requirements are completed.³²⁷ The recommendations of both the UDA and DOA, as representatives of Planning Sub-Committee, are equally important to granting a Preliminary Planning Clearance, while GHF currently also has a strong say in the matter.³²⁸

b) The Development Permit, which is obligatory for the commencement of any development work, should be obtained from the UDA (until 2015, from the Engineering Section of the Galle Municipal Council) upon the submission of the Preliminary Planning Clearance, building plan and other necessary documents. The Planning Committee of the UDA shall approve the development plan and issue a Development Permit to the applicant to carry out the development if the plans are in conformity with the regulations. A copy of the Preliminary Planning Clearance and Development Permit should be displayed in a prominent place at the proposed site throughout the entire period of the development³²⁹ (Fig. 38).

c) Although not mentioned by the law, a final planning clearance or COC (Certificate of Conformity) should be obtained by the UDA after the completion of the development, which until 2015 was the responsibility of Galle Municipal Council.³³⁰

327 Section 70.4, Special Regulations, 2009.

328 The Planning Sub-Committee's decision on a house

discussed under sub-chapter 7.5.2, is an example of how the UDA and DOA work collaboratively within the committee.

329 Articles 70.6 and 70.7, Special Regulations, 2009.

330 See footnote 320.

Currently, any change of use must also be approved by the Planning Sub-Committee according to the permitted and non-permitted uses introduced by the Special Regulations, 2009. While 13 uses are permitted by the law, which primarily include tourism-related ventures, 12 are not permitted, including use by production industries, state and military institutions and large-scale hotels exceeding 20 rooms.³³¹ In general, the law indirectly encourages touristic use while discouraging some of the former uses of the fort, mainly administrative and military ones, as discussed in chapters 6 and 7.

4.3.3 GALLE MUNICIPAL COUNCIL

The Galle Municipal Council (hereafter also referred to as “GMC”) was established in 1866, under the British colonial occupation, by Municipal Council Ordinance No. 17 of 1865 (replaced by Ordinance No. 29 of 1947) as the third Municipal Council of Sri Lanka (Krishnamohan 2016). The GMC is one of the local government authorities under the Southern Provincial Council administered by the Ministry of Provincial Councils and Local Government.³³²

The Municipal Council is responsible for the control and administration of all matters relating to public health, public utility services and public roads, public prosperity and welfare of the people and the amenities of the municipality, including Galle Fort within the municipal limits. Issuance of the Building Permit and the Final Planning Clearance were the responsibilities of the mayor until 2017, as these powers were delegated to local government authorities by the UDA up to that point. Thus, the “Integrated Management System 2015” mentions that the Special Regulations (Planning and Building) of the World Heritage city imposed

by the UDA in 2009 are implemented through the municipality (Mandawala 2015). The regulations are now being implemented by the UDA.

Although the municipality has the legal provision to take legal action against “illegal” developments, this task is mainly handled by the DOA and UDA at Galle Fort. The mayor has the authority to issue a demolition order regarding unauthorized development, and undertake to alter the development or bring it into conformity.³³³ However, the GMC, an authority with members elected by public vote, has hardly ever given demolition orders in Galle Fort.

Among the services rendered by the municipality is the maintenance of the Dutch-built sewage system of Galle Fort, which is often criticized by the community.³³⁴ The Municipal Council is also responsible for levying the property tax of the municipality, including the World Heritage city. Due to increasing foreign/local investments in tourism at Galle Fort, Galle Municipal Council conducted a tax assessment at the request of the former Central Government, which has resulted in an increase in tax income.³³⁵

4.3.4 SUMMARY OF POWERS OVER KEY INSTITUTIONS

The summary of the management powers over the heritage city, as shown by Tables 6 and 7 on the next page, indicate that decision-making power lies with the Urban Development Authority, Department of Archaeology and Galle Municipal Council, while power over regulating the building activities mainly lies with the UDA and GMC. The absence of one central authority to handle heritage management and the lack of power by the GHF can also be discerned.

³³¹ Articles 70.10 and 70.11, Special Regulations, 2009. The establishment not permitted are garage buildings (for parking), motor vehicle repairing garages, motor/auto service stations, fuel filling stations, stores not exceeding 200 sqm, industrial buildings and industries, government institutions and armed forces buildings (Army, Navy, Air Force and Police), quarters for a high security persons, hotels exceeding 20 rooms, new schools or extensions to the existing buildings, super markets and warehouses or other similar buildings (Article 70.11, Special Regulations, 2009).

³³² Municipal Councils, Urban Councils and Divisional Councils (*Pradeshiya Sabha*) are the lowest-level local government authorities under Provincial Councils at the second level, while the Central Government is at the first level.

³³³ The mayor has the authority to send a (written) demolition order to the occupant of an unauthorized building, as well as cause the building to be demolished if the occupant does not comply (Section 42 A (1) and (2), Municipal Councils Ordinance No. 29 of 1947), to alter it or bring it into conformity with related provisions (Section 42 A (2), Municipal Councils Ordinance No. 29 of 1947).

³³⁴ Personal conversations with the residents, 2016 to 2017.

³³⁵ Personal conversation with a Revenue Inspector (GMC), October 2016.

Task	The Institution				CCF
	DOA	UDA	GHF	GMC	
Impose building regulations	*	Yes	-	**	-
Implement building regulations	-	Yes	-	**	-
Participate in the Planning Sub-Committee	Yes	Yes	Yes	Yes	Yes
Issue Preliminary Planning Clearances	-	Yes	-	-	-
Issue Development Permits	-	Yes	-	**	-
Issue Final Planning Clearances	-	Yes	-	**	-
Take legal action against illegal developments	Yes	Yes	-	*	-
Demolish unauthorized buildings	-	Yes	-	Yes	-

DOA: Department of Archaeology; UDA: Urban Development Authority; GHF: Galle Heritage Foundation; GMC: Galle Municipal Council; CCF: Central Cultural Fund; * has legal provisions to perform the task although not involved; ** had the power until February 2017.

Table 6 Authority over each institute in the building development procedure for the heritage city.

Task	The Institution				
	DOA	UDA	GHF	GMC	CCF
Prepare state of conservation reports for the property	Yes	-	-	-	Yes**
Declare ancient/protected monuments and archaeological reserves	Yes	-	-	-	-
Declare a control zone around ancient/protected monuments	Yes	-	-	-	-
Declare a Special Regulatory Area	-	Yes	-	-	-
Manage tourist information/promotion	*	-	Yes	-	Yes
Carry out excavations	Yes	-	-	-	Yes**
Undertake conservation/preservation/restoration	Yes	Yes**	Yes**	-	Yes**
Manage research, publications, awareness	*	Yes	Yes	-	*
Coordinate with institutes	-	-	Yes	-	-
Issue permits (video footage, filming)	Yes	-	Yes**	-	-
Provide public utilities	-	-	-	Yes	-
Engage in community work	*	-	Yes	-	-

* Has legal provisions to perform the task although not involved; ** has the power subject to the DOA.

Table 7 Authority and other practical tasks of each institution.

4.4 OTHER INSTITUTIONS

4.4.1 ICOMOS SRI LANKA

ICOMOS Sri Lanka, established in 1983 as the national committee of the ICOMOS International, made a significant contribution to the World Heritage project at the onset, although its involvement later declined. The most significant contribution of

ICOMOS is the formulation of the second policy document, entitled “Conservation and Development of the World Heritage Site of the Dutch Fort in Galle (2002),” which was not fully implemented (discussed in sub-chapter 4.5.2). GHF has collaborated with ICOMOS in recent years, especially on awareness projects.³³⁶

³³⁶ Personal conversation with Project Planning Officer of GHF, January 2018.

4.4.2 PUBLIC ADMINISTRATION OF THE HERITAGE CITY

The World Heritage city is a separate *Grama Niladhari* or GN Division, the smallest public administrative unit in Sri Lanka, which comprises one, two or a few villages or towns. The public administration of the heritage city is handled by the Divisional Secretariat, a sub-unit of public administration currently under the Ministry of Internal and Home Affairs, Provincial Councils and the local government.³³⁷

96D Fort GN Division (the World Heritage city) is one of the 50 GN Divisions under the Four Gravets Divisional Secretariat. Among the more prominent public services offered by the Four Gravets Divisional Secretariat is the issuance of Business Name Registration Permits (except for companies under the Companies Act (7, 2007), which is handled by the Department of the Registrar of Companies), which has an impact on the balance between the residential and commercial use of the World Heritage city. *Grama Niladari*, the public officer appointed by the Central Government to carry out the duties in a GN Division, is responsible for forwarding the business registration applications of Galle Fort to the Divisional Secretariat with the recommendation of the head of the Regional Archaeology Office, Galle.

In addition, a number of government departments and authorities are also engaged in providing public utilities, local development, promotion of tourism and security to the World Heritage property.³³⁸

337 Formerly under the former Ministry of Public Administration and Home Affairs.

338 Sri Lanka Tourism Development Authority (currently under the Ministry of Tourism Development, Wildlife and Christian Religious Affairs); National Water Supply and Drainage Board (currently under the Ministry of City Planning, Water Supply and Higher Education); Road Development Authority (currently under the Ministry of Highways and Road Development and Petroleum Resources Development); Sri Lanka Ports Authority and Coast Conservation and Coastal Resource Management Department (currently under the Ministry of Ports and Shipping and Southern Development); Ceylon Electricity Board (currently under the Ministry of Power, Energy and Business Development); and the Sri Lanka Police (under the Ministry of Law and Order).

4.4.3 FUNDING AGENCIES: THE INTERNATIONAL DONORS AND THE DUTCH GOVERNMENT

The key heritage institutions of Galle Fort mainly depend on the funds allocated by the Central Government budget, although some have their own incomes.³³⁹ As a developing country, Sri Lanka has a lack of funds for large-scale conservation projects. Against this background, most of the large-scale conservation efforts in the heritage city have been funded directly by international donors; most significant among these is the financial assistance of the Dutch government, followed by that of other Dutch institutions. While the main field of assistance is conservation, there are also other domains, including research, capacity building and infrastructure development.

Although the Netherlands provides financial assistance to Galle Fort from time to time, the Mutual Cultural Heritage (MCH) Programme, 2009, initiated under the Dutch Common Cultural Heritage Policy (*Gemeenschappelijk Cultureel Erfgoedbeleid*) to preserve “mutual heritage,” is the most significant in this regard.³⁴⁰ The policy (2009–2012) focused on the sustainable maintenance and management of “relics of a past that the Netherlands has shared with others” (Golen 2010).³⁴¹ By 2010,

339 The DOA depends solely on the Central Government budget, which is inadequate for its entire needs, and the heritage city is not specifically allocated money; some of the funds allocated to the archeological sites of the Southern Province are also assigned to Galle Fort. These are mainly utilized for the general maintenance of the ramparts, which amounted to 50,000 LKR in financial year 2016, an extremely insufficient amount (interview with the Regional Assistant Director (South), DOA, 2 February 2016). However, the DOA has carried out the conservation of ramparts and some monuments within these budgets even before the World Heritage recognition of the fort. In contrast, GHF has its own income, separate from the government budget, which has mainly been used for awareness and a few small-scale conservation projects. According to the “Integrated Management System 2015,” the budget allocated to GHF by the Central Government mainly covers its administrative costs, which was 16 million LKR in fiscal year 2015 (Mandawala 2015). The large-scale conservation projects implemented by GHF are foreign-funded. Conversely, the UDA used its own (government) funds to restore the Dutch Hospital in 2014, a comparatively large conservation project.

340 Locally known as the Netherlands-Sri Lanka Cultural Cooperation Programme.

341 For practical reasons, the policy has been limited to eight (priority) countries in close cooperation with the embassies, namely, Ghana, India, Indonesia, Russia, Sri Lanka, Suriname and South Africa (Golen 2010).



Figs. 39–40 Plaques from the Preservation of Private Houses Project 2006–2009 (left, a house on Leyn Baan Street) and early assistance in 1995 (right, at YWCA, Church Street).

15 “common heritage” projects were completed in Sri Lanka with the assistance of 537 million LKR provided through the MCH, including three conservation projects at Galle Fort: the ramparts, which was the largest expenditure (136.7 million LKR), the Maritime Museum at the former Dutch Warehouse (93 million LKR) and the conservation of nearly 60 private houses (Fig. 39).³⁴²

Among the early projects assisted by the Netherlands was the renovation of the sewage system between 1992 and 1994 (funded by the Dutch Municipality

of Velsen);³⁴³ international assistance provided by the UNESCO/Netherlands Funds-in-Trust in 2002 (WHC 2005); the conservation of the Dutch Reformed Church (completed in 2004 and funded by the Dutch government and HGIS Fund);³⁴⁴ the Avondster Project (2004, funded by the HGIS Fund, Dutch government, University of Amsterdam and others);³⁴⁵ maritime research in Galle Bay; and the establishment of the Maritime Archaeology Unit of Galle (1990s to 2004) (Fig. 40).

4.4.4 RESEARCH INSTITUTIONS AND UNIVERSITIES

The involvement of local universities and research institutes are also significant in the fields of documentation, research, conservation and professional expertise on the heritage city. Among these, the contribution of the Faculty of Architecture of the University of Moratuwa has been particularly significant; it includes the systematic documentation of the buildings at Galle Fort (1988–1990), in collaboration with the DOA, and the Dutch government-funded Preservation of Private Houses Project (2007–2009), in collaboration with GHF. In addition, a few senior faculty members have either represented or currently represent the Planning Sub-Committee as the committee’s consultant architects. As the only local institution that trains architects, the residents mostly consult the chartered architects who have graduated from or are attached to the University of Moratuwa in preparing their development plans.

In 2015, the Department of History and Archaeology of the University of Sri Jayewardenepura carried out the documentation of buildings (on two streets) of Galle Fort with financial assistance rendered by the US Ambassadors Fund for Cultural Preservation 2011. Prof. P. B. Mandawala, the principal investigator of the project, also collaborated in formulating the “Integrated Management System 2015” with the DOA and GHF.

343 Source: http://www.culturalheritageconnections.org/wiki/Restoration_of_ancient_sewerage_system_in_Galle_Fort (accessed 16 July 2018).

344 (Dutch) Homogeneous Group for International Cooperation, under the Ministry of Foreign Affairs (http://www.culturalheritageconnections.org/wiki/Dutch_Reformed_Church,_Galle).

345 Source: http://www.culturalheritageconnections.org/wiki/Avondster_project (accessed 21 September 2018).

342 Source: Presidential Secretariat, Sri Lanka, available at http://www.info.gov.lk/news_update/Current_Affairs/ca201010/20101005heritage_sites_preserved.htm (accessed 13 July 2018).

Year	Name of the Policy Document	Recommended by	Planning Agency	Implementing Agency	Highlights
1987 and 1992	<i>The Preservation of the Historic City Centre of Galle</i>	-	Galle Heritage Committee*	DOA	Conservation and preservation
2002	<i>Conservation and Development of the World Heritage Site of the Dutch Fort in Galle, 2002</i>	ICOMOS Monitoring Mission Report 1998; WHC 1999 & 2001	ICOMOS Sri Lanka and UDA	GHF	Guidelines for Developers
2009	<i>Development Plan for Galle Urban Development Area 2008–2025**</i>	Reactive Monitoring Mission, 2002	UDA	GMC UDA	Special Regulations (Planning and Building), 2009
2015	<i>World Heritage Property of Old Town of Galle and its Fortifications: Integrated Management System 2015</i>	WHC 2005, 2008–2014	Ministry of Culture (representing DOA and GHF)	DOA GHF	Empowering Galle Heritage Foundation Boundary/buffer

DOA: Department of Archaeology; UDA: Urban Development Authority; GHF: Galle Heritage Foundation; GMC: Galle Municipal Council; WHC: Annual decisions of the World Heritage Committee. * The committee elaborated in sub-chapter 1.3.2 ; ** not specifically a plan for the heritage city.

Table 8 Institutional policy documents.

4.5 INSTITUTIONAL POLICY DOCUMENTS AND THE DECISIONS OF THE WORLD HERITAGE COMMITTEE

The development of local policy documents for the World Heritage city of Galle was largely a result of the recommendations of the UNESCO World Heritage Committee (Table 8). While the annual decisions of the World Heritage Committee and the mission reports commissioned by the World Heritage Centre can be identified as major international policy documents, the following four planning documents serve as significant local policy documents related to the management of the property over the nearly 30 years of the World Heritage project.³⁴⁶

³⁴⁶ The first three institutional policy documents are discussed briefly by Boxem and Fuhren (2010), who identify the first policy document of 1987 as 1992, since it was published in 1992. However, the original proposal was presented to the President of Sri Lanka in 1987, as mentioned in sub-chapter 1.3.2.

4.5.1 THE PRESERVATION OF THE HISTORIC CITY CENTRE OF GALLE, 1987

Background, Aims and Contents

Formulation of this preservation plan in 1987 by the Galle Heritage Committee was elaborated in sub-chapter 1.3.2. The plan identified the uniqueness of Galle Fort, which was the fact that its living community resided in nearly 50% of the total building stock (Wijesuriya and Vos 1987). Thus, the plan aimed to preserve the fort as a living monument that would “permit the residents to live a contemporary lifestyle while preserving the atmosphere, the scale and the streetscape of the original monument” (Wijesuriya and Vos 1987, 7).

The brief plan consists of a historical background, the main features of the fort including a description, future management strategies for each of these features and a conservation plan with short- and long-term goals. As this plan is an initiative pioneered by Roland Silva, then Archaeological Commissioner (discussed in sub-chapter 1.3.2), some of these proposals were implemented by the Department of

Archaeology with the launch of the World Heritage project in 1988. It was also published as an official policy document in the DOA publication *Ancient Ceylon* (No. 15, 1992) entitled *The Conservation of the Galle Fort and its Environs*, a special volume to mark the completion of the first phase of the preservation programme. The highlight of this volume was the systematic documentation of the buildings, which was a long-term goal of the 1987 plan.

Achievements

Although Wijeratne noted that the proposals of this plan were not implemented due to lack of cooperation between stakeholders and inadequate facilities on the part of the implementing agency, the author also acknowledged the systematic documentation of buildings in the fort as the first such detailed record (Wijeratne 2002, 2005). Among some of the important proposals of this plan, which were carried out nearly two decades later, were the conservation of the ramparts and the establishment of the Maritime Museum (former Dutch Warehouse), funded by the Dutch government. The plan also had an impact on the legislative development of the World Heritage city. The ideas and suggestions, such as the preservation of the streetscape and monitoring of colour codes, were also included in the proposed Guidelines for Developers in 2002, which later developed into the Special Regulations (Planning and Building), 2009.

Issues and Failures

One of the major drawbacks of the implementation was the lack of consideration for the fort's urban community. The plan identified the contemporary issues of residential buildings, including lack of maintenance, unauthorized rebuilding and changing facades (Wijesuriya and Vos 1987). The important strategies for motivating the residents to take part in protecting residential buildings as outlined in the plan—such as tax reliefs, free advice on the conservation of private houses and an annual award for the best-preserved building—were not implemented. Although the necessity of educating residents on the preservation of the streetscape was identified, the authorities failed to convince residents of the future benefits of preservation—i.e., the tourism potential. This failure, which increased with

not integrating residents into the planning process, as well as prioritizing “residential buildings” over the aspirations of the “residents,” created a widening gap between the heritage institutions and residents in the following decades, which ultimately lead to drastic changes in both the urban community and their houses.

4.5.2 CONSERVATION AND DEVELOPMENT OF THE WORLD HERITAGE SITE OF THE DUTCH FORT IN GALLE, 2002

Background

The second policy document could be seen as an attempt to preserve material heritage in the face of growing “unauthorized” developments in the heritage city. In 1998, the ICOMOS Monitoring Mission Report recommended formulating an overall Master Plan for Galle Fort in order to provide clear guidelines for conservation as well as new developments in the historic city (Nishimura and Wijiratne 1998). Having examined the Mission Report of 1998, the Bureau of the World Heritage Committee, in its decisions in the 23rd session in 1999, expressed concern over the state of conservation of the property, and requested that the local authorities halt new construction that could harm the integrity of the site (WHC 1999a, 35). The decisions of the Bureau of the World Heritage Committee in the 25th session, in 2001, requested that the local authorities strengthen regulations on building permits and activities within the fortress, as the lack of regulation of building activities and poor maintenance had caused serious deterioration and deformation of the existing cultural-historic fabric (WHC 2001, 41). Against this background, the importance of elaborating a specific “Conservation and Development Plan” was underscored by the Observer of Sri Lanka (WHC 2001, 41). Consequently, the “Conservation and Development of the World Heritage Site of the Dutch Fort in Galle” report was compiled in 2002 by architect Pali Wijeratne, appointed consultant of ICOMOS Sri Lanka. He was also involved in preparing the ICOMOS Monitoring Mission Report in 1998, which first identified the necessity of a master plan. The UNESCO Reactive Monitoring Mission Report of September 2002 provides the following summary regarding the plan:

“This document, prepared by ICOMOS Sri Lanka in commission of the Urban Development Authority, consists of two parts. The first part describes historical, social, environmental, physical, economic and functional aspects of the city; the second part deals with strategies, projects and guidelines for development and conservation. The report makes an inventory of existing problems and of several aspects of the built environment, being land use pattern, buildings related to a time period and roofing materials” (Oers 2002, 10).

Proposed Guidelines for Developers

The introduction of the Guidelines for Developers, formulated by the Urban Development Authority, was the main highlight of the plan, which developed into the Special Regulations, 2009. The plan introduces a “Building Permit”—a written approval from the authorities to start any development work in Galle Fort—and a “Planning Committee,” which would be appointed by the Galle Heritage Trust (later Galle Heritage Foundation), consisting of members from the respective statutory authorities and ICOMOS Sri Lanka (Wijeratne 2002).³⁴⁷ The Guidelines for Developers demonstrated the procedure of obtaining building permits through the Planning Committee, which could be completed within roughly six weeks. According to the guidelines, a building plan, which would be submitted to the Planning Committee, should be prepared by an architect registered with the Sri Lanka Institute of Architects (Wijeratne 2002). A key point for the developments was that the architectural character of the building should be compatible with the architecture of the area (Wijeratne 2002). Moreover, the submission of a Cultural Impact Assessment was required to lessen the impact of possible destructive developments (Wijeratne 2002).

³⁴⁷ A development work is identified as a building construction, restoration, change of use, interior or exterior modification, alterations or replacement of any building elements, excavations, demolitions or any other type of permanent, semi-permanent or temporary work (Wijeratne 2002, 56). The Guidelines for Developers do not clearly indicate what statutory authorities are present in the Planning Committee. However, it is mentioned under the section on public awareness that such a committee should consist of the UDA, GMC, DOA, GHF and ICOMOS Sri Lanka (Wijeratne 2002, 54). At the same time, it is also mentioned that the authorities that should grant approval for any development are the DOA and GMC on behalf of the UDA (Wijeratne 2002, 56).

The plan also addressed issues such as the extension of the core zone of the property, environmental management including the Dutch sewage system, the enhancement of tourism potential, creating public awareness and inventorying priority projects (Wijeratne 2002).

Achievements

According to Wijeratne, the major achievement of the plan was regularizing the guidelines for development in a draft form and holding regular Planning Committee meetings to encourage proper development in harmony with the historic fabric of the fort (Wijeratne 2005). However, a draft version of regulations formulated by UDA had been used since 1997.³⁴⁸ Thus, this policy document went beyond the themes of conservation and preservation 14 years after the inception of the World Heritage project, with practical issues of urban expansion since having arisen. In addition, the author mentions relocating 26 government buildings and garment factories that were unacceptable to the overall integrity of the fort (Wijeratne 2005; SOC 2003). Thus, the plan created the idea of maintaining a stereotypical “colonial landscape” in Galle Fort—which would be promoted by government policies in the coming years—through gradually removing the fort’s traditional administrative function while promoting tourism (a recent example is also discussed in sub-chapter 7.7.1).

Issues and Failures

However, the success of the implementation of the “Conservation and Development Plan 2002” remains uncertain, as local authorities had agreed to prepare a management plan as part of the post-tsunami rehabilitation projects proposed by the World Heritage Committee, which undermined interest in the existing plan (Wijeratne 2005; WHC 2005).

The Reactive Monitoring Mission of the World Heritage Committee in 2002, which reviewed the plan, recommended that this plan take into account the relationships between the stakeholders, including an institutional body (which was identified as GHF) and the provincial or national governments as well as the community (Oers 2002). In fact, the plan

³⁴⁸ Discussed under sub-chapter 4.2.3.

lacks any consideration of the urban community, as the economic ability of the community to afford the proposed, expensive building developments, which required the service of registered architects, was not considered (sub-chapter 7.2 shows how the process became an economic burden to the local community). This indicates the lack of policy assessment in the local system, a typical drawback. Policy assessment seeks to inform decision-makers by predicting and evaluating the potential impacts of policy options (Adelle and Weiland 2012).

The compiling of the plan lacked the necessary institutional backing, since the Department of Archaeology, the key heritage management agency, was not involved in it, and its institutional interests were not considered in the preparation of the Guidelines for Developers.³⁴⁹ ICOMOS Sri Lanka, the planning institution, had no implementation powers as an NGO. The State of Conservation of the World Heritage Properties 2003 confirms that these proposals would be implemented by the Galle Heritage Foundation, which also lacks implementation powers (SOC 2003). Although Wijeratne (2005) states that the implementation was later entrusted to the Department of Archaeology, there is no such evidence from the DOA's sources.

Although Wijeratne, the author of the plan, states the plan highlighted a developer-friendly climate in 2002, he later acknowledged that the increased political pressure detracted from the smooth functioning of the Planning Committee (Wijeratne 2002, 2005). In addition, another indirect result was the increased demand of foreigners to buy land with the possibility of development, which caused gentrification and social imbalance within the historic city (Wijeratne 2005). Both of these facts are discussed in light of practical cases in chapters 6 and 7.

³⁴⁹ According to the proposed "Integrated Management System 2015" by the Ministry of Culture (also representing the Department of Archaeology and Galle Heritage Foundation), the Special Regulations, 2009 prepared by the Urban Development Authority conflict with the expectations of the Department of Archeology, as the Department of Archeology has so far not prepared its own building regulations despite its legal provisions (Mandawala 2015, 39).

4.5.3 DEVELOPMENT PLAN FOR GALLE URBAN DEVELOPMENT AREA (GALLE MUNICIPAL COUNCIL AREA) 2008–2025 (VOLUMES I AND II), 2009

Although this plan, compiled by the Urban Development Authority, is not specifically a management plan for Galle Fort, it is very influential as having introduced Special Regulations, 2009, which was proposed in a draft version by the former policy document of 2002. While the plan mainly focuses on the development strategies of the Galle Municipal Council area as a whole, it also pays special attention to the World Heritage city as a place of "enormous opportunities for tourism" (UDA 2009, 21).

The Special Regulations were implemented in response to the Reactive Monitoring Mission Report, 2002, which recommended the UDA to gazette the guidelines for developments as a law, as introduced in the previous policy document (Oers 2002). In addition, the Mission Report also recommended declaring the city a "Protected Townscape," in connection with the Draft Regional Planning Document that was under preparation (Oers 2002).³⁵⁰ Accordingly, this plan linked the future development plans for the World Heritage property with the development strategies and plans for the Galle Municipal Council area. As there is no such legal term as "Protected Townscape" nor legal provisions to declare such a designation within the country's current legislative provisions, the fort was declared a "Special Regulatory Area" according to the UDA Act (41, 1978), as mentioned in sub-chapter 4.2.3. This also shows the lack of legislative provisions in preserving historic urban landscapes in the country.

³⁵⁰ "The current initiatives of the Urban Development Authority (UDA) in designing and gazetting its Draft Set of Guidelines for Development, Alterations, Refurbishment and Conservation of Property in Galle Fortified City and it's Surroundings, as well as the Guidelines for Development, Alterations, Refurbishment and Conservation of Property inside Galle Fort of the Department of Archaeology fit within the above objective. It needs, however, to be matched by a legal decree declaring the city a Protected Townscape and be connected to a Conservation Plan for the city. Action by Department of Archaeology and Urban Development Authority jointly. This, then, needs to be taken up in the UDA's Draft Regional Urban Planning Document currently under design to indicate spatial-functional and economic relationships with greater Galle. Action by Urban Development Authority" (Oers 2002, 11).

Issues and Challenges

The Special Regulations, 2009 are highly focused on preserving colonial buildings and material heritage. According to the “Integrated Management System 2015” by the Ministry of Culture, the Special Regulations prepared by the UDA conflict with the expectations of the Department of Archaeology (Mandawala 2015, 39). The DOA has so far not prepared its own building regulations, despite its legal provisions (Mandawala 2015). The Reactive Monitoring Mission Report of 2002 recommended “close working relationships with the Central Cultural Fund and the Urban Development Authority, and to a lesser extent with the Department of Archaeology” in the management of urban heritage (Oers 2002, 20). Therefore, the task was fully undertaken by the UDA, which shows how the international policies engender contradictions between key management institutions.

4.5.4 WORLD HERITAGE PROPERTY OF THE OLD TOWN OF GALLE AND ITS FORTIFICATIONS: INTEGRATED MANAGEMENT SYSTEM 2015

As per the revised version of the Operational Guidelines, which came into effect on 1 February 2005, a management plan or system that specifies how the outstanding universal value of a World Heritage property should be preserved is compulsory for each nominated property.³⁵¹ Since this rule was not prevalent when the Old Town of Galle was nominated to the World Heritage list in 1986, the general policy documents of 1987 (also adopted in 1992) and 2002 served this purpose until the state party agreed upon the preparation of a management plan after the 2004 tsunami, as part of the post-tsunami rehabilitation projects proposed by the World Heritage Centre (WHC 2005, 78). However, the state party was very slow in responding to this primary need, such that the World Heritage Committee re-emphasized the matter repeatedly in its annual decisions from 2008 to 2014 (WHC 2008, 96; 2009, 200; 2010, 129; 2011, 127; 2012, 141; 2013, 128-9; 2014, 22). A draft comprehensive

conservation plan, which was under preparation in 2009, was handed over to the Reactive Monitoring Mission of 2010 during its visit, and scheduled to be further improved (WHC 2009, 199; 2010, 128; Mandawala 2015, 4-5). Although the state party reported that a comprehensive management system was in place for the property in 2013, the “Integrated Management System” was proposed in 2015, nearly after a decade after the agreement in preparation (WHC 2013, 128).

The implementation of this management system was initiated at the beginning of 2017 by the Ministry of Education (then line ministry of the DOA), with GHF. Although a positive sign in this regard was assessing community opinion prior to implementation, not much progress has been seen in the implementation (March 2019).

Contents

The “Integrated Management System 2015” was proposed by the Ministry of Culture, representing both the Department of Archaeology and Galle Heritage Foundation, in collaboration with Prof. Prashantha B. Mandawala.³⁵² The primary objective of the plan was to “protect the Outstanding Universal Value of the World Heritage property as well as the locally recognized heritage values, while taking into account the standard of living, safety and economic viability of the community living within the World Heritage property” (Mandawala 2015, 23). The plan consists of three parts. The first part includes the background, an explicit definition of the property and the objectives. Overarching strategies for institutional, legal and economic frameworks are discussed in the second part, highlighting the introduction of a Coordinative Working Committee and empowering Galle Heritage Foundation. The final part is the implementation, discussed under three sub-categories: nationalization, sector-wide coordination and monitoring framework.

³⁵¹ Article 108, Operational Guidelines for the Implementation of the World Heritage Convention, 2005. Available at <https://whc.unesco.org/en/guidelines/> (accessed 9 August 2018).

³⁵² Prof. Prashantha B. Mandawala, who was the head of the Department of History and Archaeology at the University of Sri Jayewardenepura during the formulation of the proposed “Integrated Management System 2015,” currently serves as the (Acting) Director General of Archaeology of the Sri Lanka Department of Archaeology.

Importance and Highlights

The “Integrated Management System 2015,” as the first management plan for the property, mainly addressed the requirements specified by the World Heritage Centre. The proposals have some positive signs of integrating the community into the management of the property, as the Operational Guidelines recommend a participatory management approach (discussed in sub-chapter 2.4.2). The plan introduces a Coordinative Working Committee (CWC) as the key institution for the integrated management of the property, which also includes community representatives (Mandawala 2015). In addition, the plan identifies key issues through stakeholder interviews, including the residents and business community, both locals and expats (Mandawala 2015). Thus, it aimed to prepare development guidelines for heeding community requirements for sustainable development (Mandawala 2015).

Secondly, the proposals addressed empowering Galle Heritage Foundation—which was recommended by the World Heritage Committee in its annual decisions of 2008, 2010, 2013 and 2014—in range of ways, from staffing and funding to further legislative enactment (WHC 2008, 95; 2010, 129; 2013, 129-30; 2014, 23). Weaknesses in the management of GHF in its role as a managing authority were identified by the committee as a factor affecting the property, and therefore the “Integrated Management System 2015” proposed amending the foundation’s act (1994) in order to bestow them full management responsibility for the property, as well as to provide human and financial resources for acting as the key management institution. The proposed amendments to the GHF Act (7, 1994) would allow the foundation to prevent unregulated building activities at the fort, implement activities related to development and management plans, coordinate activities, take appropriate action on public property, promote understanding and manage and regulate funds (Mandawala 2015). In practice, the legislative empowering of GHF also requires the amendment of the Antiquities Ordinance, upon which the bureaucrats have not agreed, as discussed in sub-chapter 4.3.1.

Thirdly, the “Integrated Management System 2015” addresses the issue of extending the boundary/buffer, which was urged by the annual decisions of the World Heritage Committee in its decisions from

2008 to 2014 (WHC 2008, 96; 2009, 200; 2010, 128; 2011, 127; 2012, 140; 2013, 128; 2014, 22). The state party did not consider the extension of the boundary/buffer, as the existing 400-yard (365.76-metre) rule implemented in 1971 (elaborated in sub-chapter 4.2.2) acts as a buffer zone of the property (Mandawala 2015).

Strengths, Weaknesses and Challenges

The Coordinative Working Committee (“CWC”), proposed as the key management entity of Galle Fort, is chaired by the head of the World Heritage Section of the Department of Archaeology, which is slated to be established once the Antiquities Ordinance is amended (Mandawala 2015). Against this background, it is not clear whether Galle Heritage Foundation can function as the key management authority of the property, as the decision-making power lies with the Department of Archaeology. Thus, the World Heritage Committee, in its annual decisions of 2016, expresses uncertainty about how the overall strategy for the management of the property, as proposed in the “Integrated Management System 2015,” will reinforce the overall management capacity of Galle Heritage Foundation (WHC 2016, 80).³⁵³ The proposed CWC, involving community representatives, can be identified as a positive approach towards a participatory management system, an approach that was not reflected in the former policy documents. However, the CWC has not yet been established (March 2019).

According to the decisions of the World Heritage Committee in 2016, when the proposed plan was reviewed, the management and conservation of the property remains a concern, particularly in view of the lack of information in the state party’s report concerning progress on the revision of the boundaries, as well as on the international cricket stadium project, the latter of which is discussed under sub-chapter 7.7.2 (WHC 2016, 80). Furthermore, the plan lacks attention to preserving the intangible values of the urban community, which are significantly threatened by excessive gentrification.

353 “While the Integrated Management System Report contains overall strategies for the management of the property, it remains unclear how and when it will be implemented, how it will reinforce the overall management capacity of the Galle Heritage Foundation, and how far along the process of adopting this system has come—all of which was already requested by the World Heritage Committee at its 38th session” (WHC 2016, 80).

Topics Discussed	Annual Decisions of the World Heritage Committee													
	1999	2001	2003	2005	2008	2009	2010	2011	2012	2013	2014	2016	2018	
Boundary/buffer														
Development Plan														
Scientific research														
Unauthorized building activities														
International assistance														
Maintenance														
Conservation/restoration														
Increasing demand for property														
Threats to maritime archaeology														
Building regulations														
Museums														
Tsunami														
Management Plan														
Developments in cricket stadium														
Galle Harbour Development Project														
Empowering the GHF														

Table 9 Major topics discussed by the annual decisions of the World Heritage Committee (based on the available sources from the UNESCO website).³⁵⁴

4.5.5 THE ANNUAL DECISIONS OF THE WORLD HERITAGE COMMITTEE (1997–2018)

Important topics discussed by the annual decisions of the World Heritage Committee from 1997 to 2018 and related to the Old Town of Galle and its Fortifications are shown in Table 9 and Fig. 41.

The graph highlights that the most common factor discussed from 1999 up to the present is the boundary/buffer issue. The matter has been discussed in ten annual decisions, except in 2005, due to the tsunami, which was given prime attention. Besides this issue, the necessity for a development plan and for regulating unauthorized building activities were the main concerns from 1997 to 2002, followed by the preparation of the “Conservation and Development Plan 2002.” In addition, conservation and restoration were also discussed during this period. Although the tsunami in December 2005 did not cause much damage to the fort, the annual decisions of 2005 were mainly devoted to this and to the urgency of a management plan. The preparation of the management plan was the second most important topic discussed until 2016, and the “Integrated Management System” was formulated in 2015. 2008 marked the beginning of two frequently discussed, controversial projects in the buffer zone: the Galle Harbour Development Project and the intrusive developments at Galle International Cricket Stadium, which both potentially threaten the physical and

visual integrity of the property, as well as its outstanding universal value (discussed in sub-chapters 7.7.2 and 7.7.3). Scientific research, maintenance, international assistance, threats to maritime archaeology and museums were the least discussed topics.

According to Fig. 41, the decisions of the World Heritage Committee were broadly centred on five matters from 2008 to 2016; the buffer/boundary of the property, the intrusive developments at Galle International Cricket Stadium, Galle Harbour Development Project, empowering Galle Heritage Foundation and the Management Plan. While the first two still remain unresolved, the Sri Lanka Ports Authority has scaled down the Galle Harbour Development Project, as discussed in sub-chapter 7.7.3 (WHC 2008, 96; SLPA 2013, 1). The “Integrated Management System 2015” aims to empower GHF, as discussed earlier, which however is not well founded. However, prioritizing the issues of a buffer zone, especially the first three of the five issues mentioned above have undermined critical concerns for the World Heritage property. The requirements of the urban community were not directly discussed in the annual decisions of the committee, except for the

354 Available at <http://whc.unesco.org/en/list/451/documents/> (accessed 9 August 2018).

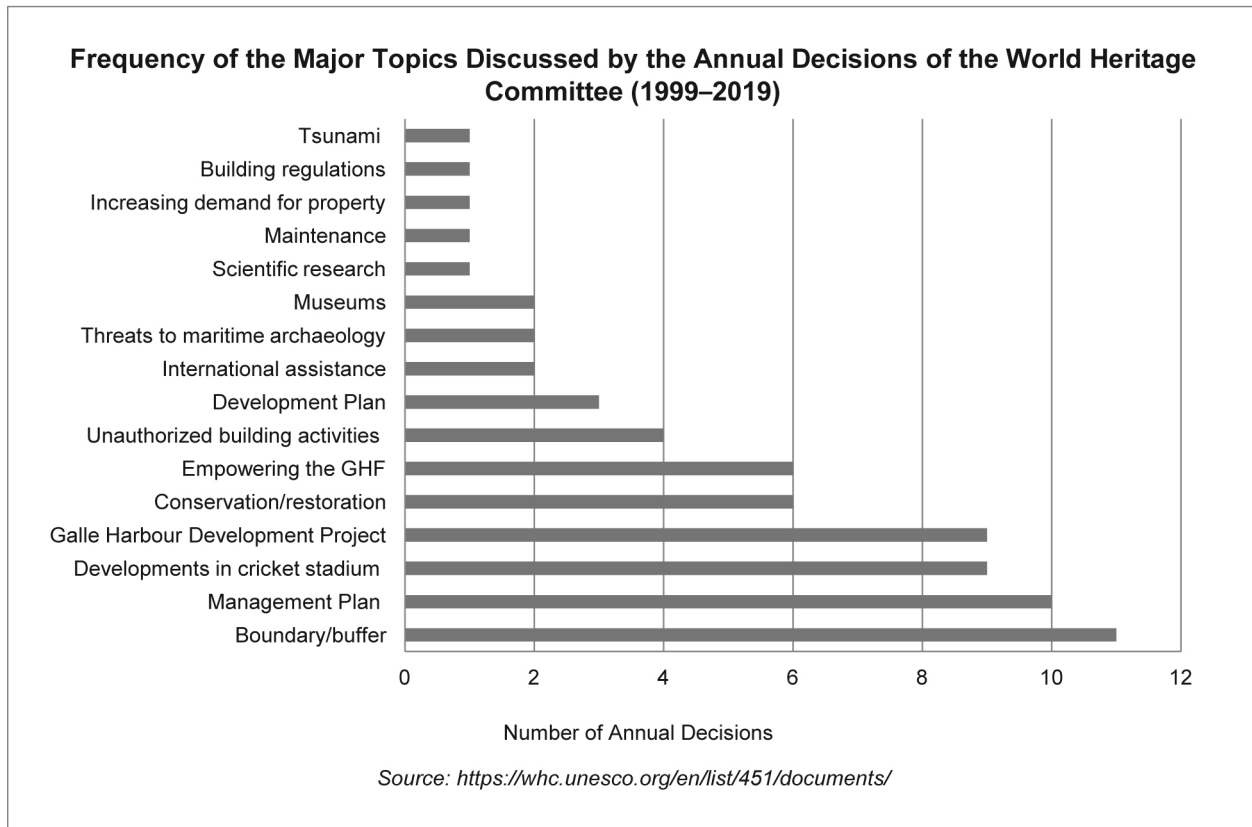


Fig. 41 Frequency of major topics discussed by the annual decisions of the World Heritage Committee (from 1999–2018).

preparation of building regulations, which also aimed at the preservation of material heritage. Furthermore, the discussion of excessive gentrification and threats to intangible values is limited only to academia. Finally, the conflicts between community and heritage authorities over building activities has not yet been given proper attention.

Conclusion

This chapter argues that most of the local institutional policy documents, as well as the Special Regulations, 2009, that were prepared according to the recommendations of the World Heritage Committee, do not consider the aspirations of the local residential community. The absence of one central authority to handle the heritage management of Galle Fort and the lack of power on the part of the GHF can also be discerned.