

Critics on Heritage Laws and Tourism Politics in Ethiopia: Multi-layered Delphi Approach

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This research has analysed the substantive essence of the Constitution of the Federal Democratic Republic of Ethiopia (FDRE) on mandated jurisdiction about heritage matters between federal and state governments. It has also scrutinised the FDRE Proclamation No. 209/2000 on its constitutional permissibility, and its validity against international declarations. A Multi-layered Delphi Method was used with interdisciplinary sub-panels. Accordingly, the constitution substantively and majorly puts heritage matters as state jurisdiction rather than federal power. However, it also has polyphony-monograph dilemma as it puts multi-layered sovereignty on heritages, makes hybridization of responsibility, and has constitutional silence on the schemata of exercises of its stipulations. In this regard, its essence of federalism has dialectical problems of being rhetorical and lacking transcendence. Politically, it suffers from imperialist syndrome on heritage ownership which is a legacy of Unitarianism that dominated the political scene of Ethiopia. On the other hand, the essence of proclamation No. 209/2000 is found to be against international declarations on the rights of indigenous peoples regarding heritage self-determination that put heritage sites as first and forever local places. Majority of the contents of this federal proclamation fall under jurisdictions of regional state powers which make it unconstitutionally. It also establishes a neo-imperialist structure. As an impact, and politically, this opens doors to (deliberate) delay of conservation of treasure, productivity of meanings that construct counter-history where the politicized ‘portion of truth’ is produced, and biasedly publicizing certain heritages as “national” prestige. It also opens doors to lootings, and smuggling. At last, it is found that this hyper-centralization again harms indigenous people on heritage economics and fair remunerations from tourism as it can storylin and mold public opinions on which tourist destination is ought to be popular.

Keywords: Heritage Laws, Tourism Politics, Ethiopian Tourism, Delphi Approach, Heritage Economics



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Introduction

The specific questions of interest of this research are the Constitution of the Federal Democratic Republic of Ethiopia (hereafter FDRE), and the FDRE proclamation decreed under Proclamation No 209/2000,

which establishes the Federal Authority for Research and Conservation of Cultural Heritages (hereafter ARCCH).

The Proclamation is the highest Ethiopian heritage-related legal framework next to the Constitution,

and it can govern heritage-related matters in Ethiopia. The Proclamation's entire essence, from its Preamble to its last section, is checked for its constitutionality, permissibility in answering the national question, and acceptability in light of international declarations on the rights of indigenous peoples regarding heritage self-determination.

The dialect of this research epistemologically inspired the works of Lenin (1914) and the idioms of Wallelign (1969) on the issue of the national question and class struggle. The second epistemic inspiration is Jones's (1984) propositions on policy development, which are the proponents of the pioneering groundwork of the current field of inquiry. So, we adopted Heritage and Tourism Politics dialects in this conceptual category.

Statement of the Problem

Merryman (1986) articulates two competing dimensions of the ownership ladder of cultural property: one as the common culture of all humanity, imparted in the 1954 Hague Convention, and the other as belonging to specific nations, imparted in the 1970 UNESCO Convention. However, there is a third way to it (Lixinski, 2019), where the host community is brought upfront from the back seat, and multi-layered sovereignty over heritages is shifted to the local Authority with community control over the heritages (Al-Ansi et al., 2021; Lixinski, 2019). As heritage is the contemporary use of the past (Wight & Lennon, 2007), there may be conflicting interests among owners (McCamley & Gilmore, 2017) and perhaps several politically motivated layers of owners with their claim of sovereignty (Lixinski, 2011) and are prone to be managed for a range of purposes defined by the needs and demands of the present societies (Wight & Lennon, 2007) which ultimately make it cumbersome obstacle to protect cultural heritages (Lixinski, 2011). Simone (2019) stated that the values of heritages are not measured by what they overtly say or how they are exposed to tourists now but by the meaning that explains how the past happened and has the power to influence generations on how they will memorise and analyse their history. They can act as sites of both memory (Al-Ansi et al., 2021) and counter-memory

(Davis & Starn, 1989). They may reflect tyrannical histories of domination and demand for autonomy and sovereignty. Therefore, given the fact that heritage occupies a discursive political space with vast sphere of influence, so much is not in doubt that institutional racism characterised by wrongly structured heritage governance mechanisms may lead up to; identity cleansing, in any appropriate sense of the term, (Hall and Jenkins, 1995; Mill and Morrison, 1985): opening doors to deliberate delay of conservation of treasure, undermine or silence contestant's treasures (Wallelign, 1969); deconstruct, deny, or omit elements considered unfit for specific purpose); memories of all nations may not be equally and sufficiently presented to the deserved scope and scale of the reality as some may be under-presented and others over emphasised (Merryman, 1986; Wallelign, 1969; Wight & Lennon, 2007; Biehl et al., 2015) which means the productivity of meanings that construct counter-history where the politicised 'portion of truth' is produced; Smuggling of heritage treasures (Casana & Panahipour, 2014; Al-Ansi et al., 2021); Biasedly selecting heritage as national prestige (Wallelign, 1969; Wight & Lennon, 2007); Selectively researching and publicising heritages (Wallelign, 1969); and, Selectively proposing treasures to be world heritages (Wight & Lennon, 2007; Lixinski, 2011).

Another remote consequence of the politicisation of heritage governance is on the economics of heritage (Lixinski, 2019), which collided with the long-run interests of the economic remunerations in the tourism industry (Richter, 1983; Jordan et al., 2007). Heritage has four main significances (Lixinski, 2019): economic, social, political, and scientific. Out of these four, the social and scientific significance-related discussions are beyond the scope of this study. At the same time, heritage politics and means of translating the economics of heritage into benefits, such as the remuneration from tourism, are the subjects of interest in this study. However, the above theses have many academic limitations. First, all postulates remain partial regarding Dialectical mutual exclusiveness and epistemic indicator measurability. It means the propositions do not have an exhaustive set of robust indicators, and there are problems with the limited scope

of knowledge in the area; this requires a knowledge extension type of discourse that fills the rift of exhaustiveness and the ideological vacuum. Second, they do not show how they are reflected by what applies in what context, especially in multi-national federations like Ethiopia, historically polarised states, developmental states, liberal economies, and different types of markets and levels of economies. Third, there are no such grounded empirical pieces of evidence elsewhere; to the researcher's knowledge, they are not vindicated and verified empirically, especially in Ethiopia; this again demands corroboration and substantiation type of research in Ethiopia. Five, there are no agreed and exhaustive pieces of literature in this regard, and no antitheses sufficiently provided. This paper sees these problems as an apparent scientific rift. A semi-exploratory type of discourse should warrant initial investigation to fill the need to establish a new theory adequately.

Probing along these lines of dialects at the phenomenal levels, apart from the above academic aspects of the necessities, and with regards to Ethiopian context leads that the issue requires clear articulation of the Constitution of the FDRE on account of its essence and substantive spirit on mandate jurisdiction about heritage governance and ownership matters between Federal and State Governments. Second, it requires evaluating the FDRE Proclamation No. 209/2000 on account of Constitutional permissibility. Third, there is a need to validate the FDRE Heritage Proclamation No. 209/2000 against international declarations on the right of indigenous peoples regarding heritage self-determination; fourth, it requires analytical articulation on the potential adverse effects of FDRE Heritage Proclamation No. 209/2000 in Ethiopian Tourism on account of its remuneration landscape and overall industrial vigorousness. These all together necessitated the applied aspect of the current research discourse. Hence, the discourse features at both the conceptual and the unprecedented levels, as indicated in the above two paragraphs.

Objectives of the Study

This research aims to analyse the permissibility of the federal legal frameworks established generally on

Ethiopian heritages and articulate them because of the Ethiopian tourism remuneration landscape.

Specific Objectives

To analyse the substantive spirit and essence of the FDRE constitution on mandate jurisdiction about heritage matters between Federal and State Governments

To evaluate the Constitutional Permissibility of FDRE Proclamation No. 209/2000

To evaluate the validity of FDRE Heritage Proclamation No. 209/2000 against international declarations on the right of indigenous peoples regarding heritage self-determination

To articulate the potential adverse effects of FDRE Heritage Proclamation No. 209/2000 in the Ethiopian Tourism remuneration landscape

Literature Review

Literature-Map on the Discourse of Enquiry

Literature mapping discourse of this study has revealed that there are many areas of research in Heritage and Tourism related politics: one aspect of literature is heritage laws, governance, and tourism (Wight & Lennon, 2007; Darian-Smith, 2013; Anker, 2014; Soderland & Lilley, 2015; McCamley & Gilmore, 2017; Berman, 2012; Carpenter & Riley, 2014; Klabbers & Piiparinen, 2013; Al-Ansi et al., 2021). The second significant stream is public policy and tourism politics (Kerr et al., 2001; Hall & Rusher, 2004; Krutwayscho & Bramwell, 2010). Another stream of study is the heritage economics and political economy of tourism (Bramwell, 2011; Nelson, 2012; Nunkoo & Smith, 2013).

Literature Review on Heritage Laws, Governance and Politics

Merryman (1986) articulates two competing dimensions of the ownership ladder of cultural property: one as the common culture of all humanity embodied in the 1954 Hague Convention and the other as belonging to certain nations represented in the 1970 UNESCO Convention. However, there is a third way to it (Lixinski, 2019), where the host community is brought upfront or at least to the centre from the back seat (Lixinski, 2019; Al-Ansi et al., 2021) in the dichot-

omy of Merryman (1986) that excludes communities. Communities must be more centrally involved in cultural property governance and benefit-sharing. They shall shape that involvement by changing existing rules of multi-layered sovereignty over heritages to local independence, which presents novel possibilities for community control over heritages; this supports the 2007 United Nations Declaration on the Rights of Indigenous Peoples, which provided a platform for Indigenous peoples to unsettle the autonomy of the nation-states in which they live and provided the institutional presence required to exert influence on national governments to respect their collective rights as peoples and their struggles to maintain their unique cultural identities, traditions, and institutions in the face of discrimination (Soderland & Lilley, 2015). From the philosophical and political categorical imperatives of national treasures, it is recognised as a priori, a knowledge that needs no proof, to be heritage only in their textual address by this UN proclamation. As heritage is the contemporary use of the past (Wight & Lennon, 2007), there may be conflicting interests among owners (McCamley & Gilmore, 2017) and perhaps several politically motivated layers of owners with their claim of sovereignty (Lixinski, 2011) and are prone to be managed for a range of purposes defined by the needs and demands of the present societies (Wight & Lennon, 2007) which ultimately make it cumbersome obstacle to protect cultural heritages (Lixinski, 2011). Heritages can shape how future generations remember and analyse their ancestors. They can act as sites of both memory (Al-Ansi et al., 2021) and counter-memory (Davis & Starn, 1989); they may reflect tyrannical histories of domination and misrecognition and hold great spaces for politics and political struggle as there is a split between the national culturalist demand for autonomy and sovereignty, and the negation of the certainty in the articulation of imperialist demands as a practice of domination. Simone (2019) has also stated that the powers of heritages are not measured by what they overtly say or how they are exposed to tourists now but by the fabricated meaning that explains how the past happened. Therefore, given the fact that heritage occupies a discursive political space with vast sphere of influence,

so much is not in doubt that institutional racism characterised by wrongly structured heritage governance mechanisms may lead up to; identity cleansing, in any appropriate sense of the term, (Mill & Morrison, 1985; Hall & Jenkins, 1995): open doors to deliberate delay of conservation and neglecting the restoration of treasures; undermine or silence contestant's treasures (Wallelign, 1969); deconstruct, deny, or omit elements considered unfit for specific purpose. Memories of all nations may not be equally and sufficiently presented to the deserved scope and scale of the reality as some may be under-presented and others over emphasised (Merryman, 1986, Wallelign, 1969; Wight & Lennon, 2007; Biehl et al., 2015) which means the productivity of meanings that construct counter-history where the politicised 'portion of truth' is produced; Deconstructionist systematic suppression or deletion of heritage related evidence; Smuggling of heritage treasures (Casana & Panahipour, 2014; Al-Ansi et al., 2021); Biasedly selecting heritage as national prestige (Wallelign, 1969; Wight & Lennon, 2007); Selectively researching and publicising heritages (Wallelign, 1969); and, Selectively proposing treasures to be world heritages (Wight & Lennon, 2007; Lixinski, 2011). This over/under/misrepresentation of the past could serve as a tool of social, political and economic hegemony and a place for objectifying political aspirations.

Literature Review on Heritage Economics and Tourism Politics

Heritage has a value that transcends numbers and figures. The remote consequence of the politicisation of heritage governance is on the economics of heritage (Lixinski, 2019), which in turn unnecessarily collided with the long-run interests of the economic remunerations in the tourism industry (Richter, 1983; Jordan et al., 2007). The Tourism Business sub-sector can be an instrument and victim of this politics (Richter, 1985; Matthews & Richter, 1991; Hall, 1994; Dredge & Jenkins, 2003; Douglas, 2014; Hollinshead & Suleman, 2017). So, the above postulates indicate that the functioning of the Tourism sector is against the ontological Dialectical Materialism because it adheres to a pure materialist worldview about tourism instead of an integrated totality of the political domain.

Material and Methods

Research Methodology

The multi-layered Delphi method is the principal analysis methodology employed in this paper. In this method, panels of specialists who know related areas anonymously give an opinion on complex phenomena. If they do not reach a consensus, the process repeats the thesis and antithesis to work towards synthesis until a consensus plateau emerges. The process can stop after a predefined stop criterion, consensus achievement, or results stability. The technique could be used in areas where actual scientific dialectics does not appear, to capture multi-disciplinary or inter-sectoral perspectives on a topic that requires various areas of knowledge, to assess the desirability of a direction, or to capture the temperature of opinions on a controversial topic; This is because a knowledgeable participant pool generates survey instruments and ideas (Hasson et al., 2000).

Although there is considerable variation in how the method is applied, the Delphi method has its distinct characteristics: it uses expert panellists; It has a series of sequential 'rounds'; employs an 'idea generation and evaluation phase; and is interested either in the formation of consensus or exploration (measurement) of agreement.

Panel Size

Although 10 to 50 experts are considered adequate for content validation (Turoff, 2002), and Delphi surveys have had as few as seven and as many as 2000 panellists, this study's panel consists of 91 thematic academicians. The size of the panel was determined by the topic area and the time and resources available to the researcher.

The type of Delphi used is the Multi-layered Delphi Approach; this means there were sub-panels within the panel to capture the interdisciplinary dimension of the discourse. Based on this, seven sub-panels of appropriate specialisations that have 13 experts each were formed within the overall panels of the discourse to give a total of 91 experts at the beginning. The number of 13 experts does not affect the attrition rate throughout the rounds and retain at least seven experts (as prescribed in FGD) in each sub-panel in

the last round of the Delphi. Accordingly, the selected appropriate specialised sub-panels were the sub-panel of tourism management, archaeology, heritage management, political science, ethnography, history, and the sub-panel of law. This professional diversity enabled us to see the issue from seven academic dimensions. Participants were confined to the various regional states of Ethiopia only, favouring the establishment of a conclusion that suits the nuances of the Ethiopian scenario and the potential adoption of the study's results predominantly to this very context.

Panel Inclusion Criteria

Accordingly, the following inclusion criteria were applied: Professional expertise in one of the above-stated fields. Consistent with the principle that panellists should have special qualifications (Hasson et al., 2000): More than ten years of work experience in Ethiopia; Proven track records in publication; Rank of assistant professor or above; More than 30 years of age; and individuals with a minority perspective. Accordingly, we sent e-mails to 131 experts who met this study's inclusion criteria through snowball sampling. One hundred three professionals showed interest, but an agreement finished with only 91 of them.

Research Paradigm, Positionality, and Place of the Researcher

The research acknowledges that the researcher's biography, i.e. personal and professional experiences, historical-political location, and pre-study beliefs, may directly or indirectly influence the design, execution, and interpretation of the research. The recognition is that the researcher is part of the social world he is researching, making it challenging to attain a completely 'objective' reality. However, this difficulty does not mean that, ontologically, there is no objective external reality independent of human thinking and out of personal value systems. Siding a positivistic world but reflexively acknowledging the influence of biography, the research has aspired to achieve 'empathetic neutrality, eliminate the relationship between the researcher & the researched, and strive towards dualism or knower and known independence and separability. Axiologically, they tried to find findings that were

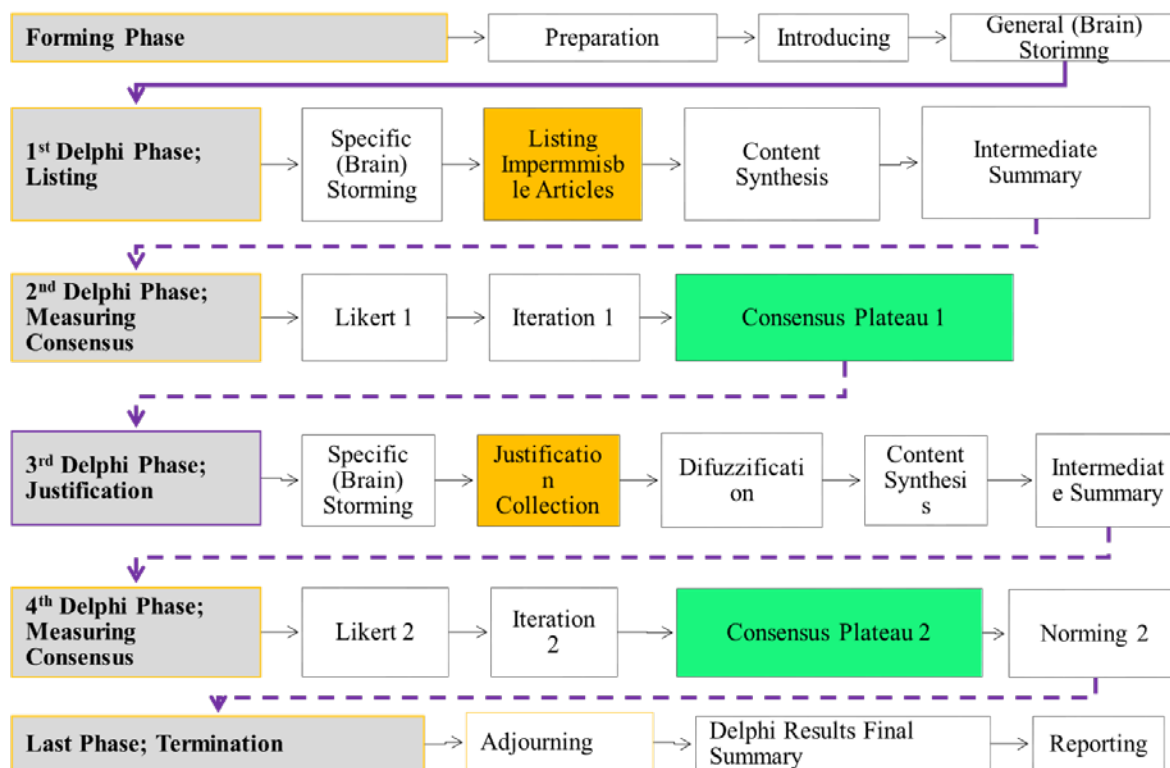


Figure 1 The Five-Phased Delphi Flow Chart

Source Adapted from Fish and Busby (2005)

not mediated by values and strived to avoid at least conscious bias while recognising that this aspiration is 'difficult' to attain with completely 'objective' reality. Though all the above efforts were put in place to attain an acceptable level of objectivity, by appreciating the influence of the value system, the researcher would like to reflect that by religion; he is a sceptic ethically; by political belief, he is Leninist, and, he has both academic and professional experience in the field if this biography would periphrastically influence the study process. Readers are, therefore, advised to vigilantly take this into account as it is pretty tricky (though attainable) to 'absolutely' control how, where, when, and in what way this biography might periphrastically influence the research process.

Role of the Facilitator

The role of the facilitator included but not limited to; designing overall Delphi methodology including selecting panel's fields and inclusion criteria, determining panel composition (size/expert breadth), determining Delphi period and number of rounds; sending invitation to participate in Delphi study and all nitty-gritty listed in the forming Phase of the Delphi; Defuzzification (where imprecise data are converted into something that has precision; reducing fuzzy sets of ideas into coherent ones; numbers and figures are transformed into linguistic expressions or terms; and, excessively jargon terms or proverbs, idiomatic expressions are converted into conventional expressions; filtering out "irrelevant (to the topic) or duplicated" content); providing an anonymised summary opinions; circulating outlier answers to be iteratively ventilated; measuring and reporting consensus levels

and monitoring attrition rate in each round; and, declaring whether or not a particular round is closed, based on stop criteria, and, saying that consensus plateau is reached.

Reliability and Validity

Fish & Busby (2005) indicate that we can estimate the reliability between the first and second rounds by exploring the consensus rates of the respondents. In other words, if a reasonable level of consensus is on many items on the second questionnaire, it is likely reliable. The issue of validity is directly related to the selection of the panel of experts. Against the field's appropriation, reviewed expert selection criteria is an insurance of the validity. In addition, the experts have expertise in the study area. Accordingly, reliability and validity concerns have been addressed by strictly following Fish and Busby's (2005) recommendations:

The Five-Phased Delphi Flow Chart

Although the classic Delphi technique recommends at least four rounds, this study used a five-round Delphi, except for the forming Phase, as seen in the diagram below.

Pre-Delphi Phase: Forming

The forming Phase included preparation, introduction, and general (brain) storming. The practice included:

- Designing the overall Delphi methodology, including selecting relevant fields of panellists.
- Designing panel selection criteria.
- Determining panel composition (size/expert breadth).
- Choosing the Delphi period.

The following action was to decide the number of rounds and iterations. Delphi rounds were predetermined to be five according to the typology of information required from the experts and to be careful not to compromise panellists' response rates and enthusiasm. However, we did not have predetermined iterations; instead, we were supposed to undertake them until we reached a consensus plateau. So, the depend-

ence was on how diffused the opinions were among panellists or how fast the panellists reached the plateau. The study timeframe was determined to be five and a half months, which is consistent with the recommendation of Fish and Busby (2005), which states that four months suffice for three rounds of Delphi. The continued tasks of this forming Phase were dispatching a general introduction of the problem statement, an invitation to participate in the Delphi study, developing consent acquisition forms, and completing ethical clearance from the responsible body. Forming a Delphi Panel with an anonymous respondent code throughout the inquiry was part of this task. The last part was general (brainstorming about ways forward.

First Delphi Phase; Identifying Salient Issues Phase

This Phase included brainstorming about the first task of identifying salient issues, identifying salient issues in each research objective, composing content, and producing a Delphi 1 summary. First-round questions with epistemic assumptions were circulated to 91 experts enquiring about identifying salient issues under each research objective. We subjected the responses to defuzzification and produced an intermediate summary of this round. We monitored the attrition rate, resulting in 82 panellists at the end of the first round of Delphi with a 90% response rate. We did not close the process of identifying salient issues under each objective at this Phase and did not reach the conclusion plateau. We structured the next rounds based on the responses to the previous stages.

Second Delphi Phase; Consensus Measuring Phase on Lists

In the second Delphi Phase, we sent a 5-Point Likert-based questionnaire back for validation to rate the identified salient issues under each specific objective; this aimed to investigate the level of consensus on the consolidated summary of lists of salient problems presented by the panel members in the first round of Delphi. We indirectly and methodologically cultivated divergence. We developed striking epistemic theses and called for antitheses through iterations until we reached the consensus plateau. The iteration process allowed participants to comment on the responses of

others and revise their own opinions in real-time. Articles deemed outliers and not accepted by a majority but had subjectively substantive reasoning on why and how they disagreed or significantly disagreed again circulated for discussion. We reiterated this process to penalise outliers until we established a declarable consensus plateau. We measured the Consensus Level for all identified salient issues of specific objectives, ensuring agreement with a maximum 8% coefficient of variation. Delphi's method requires a penalised attrition coefficient of variation of up to 20% as the cut-off point to reach a satisfactory consensus plateau. So, issues that passed this cut-off point were consolidated and sent back to panellists, declaring that Consensus Plateau was born and the identification phase was closed. Abstention was monitored and was at 5%.

Third Delphi Phase: Justification

The third Delphi Phase was the Justification Phase. In the Delphi method, analysis and synthesis coincide with data collection and panellists, given the academic and professional Authority they should have on the topic of inquiry, which are partly analysers and synthesisers. The justification phase does play this role. So, this third Delphi started through specific (Brain) storming in justifying the lists of salient issues. The typical (Brain) storming followed by a collection of justifications for why the problems under each specific objective were salient. Panellists have received reasons, and responses converted into defuzzification. Finally, we produced an intermediate summary of this round and monitored the attrition rate, resulting in 67 panellists. We did not close this justifying process at this Phase or reach the conclusion plateau. We structured the next rounds based on the responses to the previous stages.

Fourth Delphi Phase: Consensus Measuring Phase on Justification

In this Phase, the intermediate summaries of justifications collected during the third Delphi for all specific objectives were sent back to each panel member and subjected to the consensus test; this was an inquiry to put their agreement or disagreement levels in a 5-Point Likert Scale with space allowing experts

to comment on the ideas they significantly agree or disagree. Multiple iterations penalised outlier responses by ventilating them until the establishment of a consensus plateau. The consensus level was exposed against 20% as the cut-off point to reach a satisfactory consensus plateau, and the agreement was that there should be a maximum coefficient of variation of 12% in all specific objectives. So, we sent back justifications that passed this cut-off to panellists, declaring that the panellists reached the Consensus Plateau and closed this justifying Phase. The Attrition Rate stood at 4%, with a 96% response rate.

Last Phase: Termination

In the Termination Delphi Phase, we brought together the first consensus Plateau result document and the second consensus Plateau result document to be adjourned by the panel. We measured the response rate at this particular Phase, which was 100%, with 63 panel members remaining until the end of the Delphi process. The process occurred through a *laissez-faire* communication structure, allowing the experts to provide any late feedback about the consensus Plateaus reached earlier and to revise their opinions through subjectively good rounds of iterations. Finally, we endorsed the two Consensus Plateaus with a 5% coefficient of variation. The final summary report of the adjourned Delphi result was produced and returned to all the participants who had handed in the questionnaire from the first round.

Results and Discussions

Result and Discussion on Specific Objective 1

As mentioned elsewhere, the first specific objective of this research was to analyse the substantive spirit and essence of the FDRE constitution on mandate jurisdiction about heritage matters between the Federal and State. The panels of experts in the Delphi process have found that governments predominantly respond to the national question by giving powers to States in six critical articles. However, one article has elements of Unitarianism bias. The panels of experts of the Delphi concluded this by providing the following justifications: one, the fact that all sovereignty resides in the nations, nationalities, and peoples of Ethiopia (Article

8 (1) of the FDRE Constitution) indicates the fact that the federal government cannot be sovereign to state government in any matters, which of course heritage cannot be exceptional. Another article mentioned by the experts of Delphi panels is Article 39(2), which stipulates that every Nation, Nationality, and People in Ethiopia has the right to promote and develop its culture and preserve its history. This article explicitly uncovers the implicit essence of Article 8 (1) on matters of sovereignty is said by the panels of experts of the Delphi that this article is augmented by Article 39(3), which stipulates that States have the right to a full measure of self-government which includes the right to establish its institutions of government in the territory that inhabits, that shall consist of institutions that govern matters of heritage treasures. One exception in the Constitution about heritage is Article 51(3), which stipulates that the federal government shall establish and implement national standards and essential policy criteria for protecting and preserving cultural and historical legacies. These expressions, though they are post-structuralist ideas, are contrary to other articles mentioned above and are opposed to the national question, as they somehow put multi-layered sovereignty on heritages or at least are characterised by the hybridisation of responsibility; this makes the Constitution somehow suffer the polyphony-monograph dilemma. Besides this, there is constitutional silence or at least vague expressions that amount to silence, on the schemata of exercises of the above stipulations in the Constitution, which produced the epistemological and dialectical problems of being significantly rhetorical, lacking transcendence or going beyond its philosophical concept, into actualisation in answering the national questions. Though the panel did not deny that the structure of this article somehow suffers from Unitarianism bias, they saw it as an indication that the federal government has to establish just essential policy criteria. This comparison was made concerning the Constitution's general essence and substantive theme, as put in other articles listed above, and not as an indication of sovereignty over state matters of heritage. Generally, starting from Article 8 (1), Article 39(2), Article 39(3) and probing through Article 52(1) of the Constitution (its stipulation will be found elsewhere

in this document), the general substantive spirit and essence of the Constitution of the FDRE has been seen by the panels of experts of the Delphi to be predominantly responding to the national question by giving powers to States in four critical articles. However, as stated in four critical articles, one article has elements of Unitarianism bias. However, one article has elements of Unitarianism bias.

Result and Discussion on Specific Objective 2

The second specific objective of this research was to critically evaluate the Constitutional Permissibility of FDRE Heritage Proclamation No. 209/2000. In this regard, the panels of experts have made striking epistemic theses and antitheses argued with iterations until they reached the censuses plateau. Accordingly, the following articles were listed to be impermissible;

Article 23 (2) on "Transfer of Ownership of Cultural Heritage" Article 23(2) of the FDRE Proclamation No 209/2000 states, "The Authority shall enjoy a right of preemption over the sale of cultural heritage". A right of "preemption" means, in law, the judicial principle asserting the supremacy of Federal over State legislation on the same subject. Hence, it means the Authority, a federal institution, has sovereignty over the sale of cultural heritage. The panel concluded that this article is not constitutionally permissible, saying the national Authority cannot get such supremacy over nations and nationalities on the sales of their treasured heritage. Here are the following justifications: The federal House of Peoples' Representatives (HPR) does not have the power to proclaim legislation that declares a right of preemption (supremacy of the Federal Government) on the sales of heritages of these nations and nationalities. Article 8, Sub-Article 1 of the Constitution states that all sovereign power resides in Ethiopia's countries, ethnicities, and peoples. So, according to Article 8, Sub-Article 1 of the Constitution, the federal government cannot, in any case, be supreme to Nations and Nationalities. According to Article 55(1) of the federation's Constitution, the federal HPR cannot proclaim legislation in matters other than those expressly assigned by the Constitution to federal jurisdiction. Article 52(1) states that any power not explicitly given by the Constitution to federal ju-

risdiction is the power of the States. The Proclamation does not expressly grant federal control over the right of preemption regarding the sale of cultural heritage, as stated in this article. Therefore, the power to exercise this right belongs to the States.

Article 39(2) of the Constitution stipulates that every Nation, Nationality, and People in Ethiopia has the right to promote and develop its culture and history. So, the federal government cannot deny this right. Fourth, according to Article 39(3) of the Constitution, every nation, nationality, and people in Ethiopia has the right to a full measure of self-government, including the right to establish its government institutions in the territory it inhabits. This argument supports that the federal government cannot, in any case, be supreme to Nations and Nationalities in all matters. As such, heritage matters cannot be exceptional. Another justification provided by the panel is that the article's overall substantive spirit and essence suffer from Unitarianism and Imperialism biases with the interest of political hegemony in the politics of heritage and centralising power at the federal level. The panel of Delphi provided the last justification, stating that the Proclamation of selling heritage is incorrect. The panel argues that this case involves heritage and political and economic problems. Firstly, it goes against international declarations that we will discuss in subsequent sections of this paper. Second, "Whose heritage is to be sold, by whom and to whom?" The panel supports its claim that the article can also be the loophole for the illegal trafficking of many states' historical property.

Article 19 (1) on Conservation and Restoration of Cultural Heritages: Article 19(1) says, "Any conservation and restoration work on Cultural Heritage must have prior approval of the federal Authority". This article was considered constitutionally impermissible by the panel because it is inconsistent with Article 39(2) of the Constitution, which stipulates that every Nation, Nationality, and People in Ethiopia has the right to promote and develop its culture and to preserve its history. The panel says that the power is expressly given to the country's nations, nationalities, and peoples and not to the federal government. Again, the panel has reached a consensus plateau that it has dangerous

political implications: it opens doors to delay conservation and restoration; it is fertile for individuals that have a bias in giving attention to weathering of heritages; it gives a chance to erase nations' memories; and provides loopholes for historical cleansing by systematic suppression of evidence of a people that do not conform to the destroyer's politically motivated perception of what is appropriate. Disremembering the unconstitutionality of the Proclamation and just focusing on pure logic, the panel interrogated, "Can the federal Authority be fair enough to be concerned on the conservation, restoration and protection of the heritage of all nations and nationalities given the competing and counterproductive historical narrations of the country? Who is emotionally better connected to the treasures of the nations: the nations themselves or the federal government? The panel has finally reached a plateau conclusion that in a country where competing historical narratives are rampant, it is natural and experienced that a battle is raging between those who want to destroy and those who try to restore national treasures. This Proclamation, which gives loopholes to the former, can be conclusively regarded as lacking logical and legal rationalities.

Article 30 (1) on Permit Requirement of Exploration

Article 30 (1) says, "No person may conduct exploration, discovery, and study of cultural heritage without obtaining a prior written permission from the federal Authority."

The panel stated that the FDRE Constitution does not expressly grant federal power the right to explore, discover, and study cultural heritage. Any power not explicitly assigned by the Constitution to federal jurisdiction is the power of the States, Article 52(1). So, the panel concluded that it is the state government's power, not the federal government's. The Delphi discussants again emerged from the legal issue and concentrated on logical matters. According to the summarised result, given the historical competition and cultural polarisation in the country, the federal Authority has illogical empowerment to decide which heritage shall be a matter of exploration, studying, and discovery (striking the question of whose legacy will get the permission for exploration and study and

whose' to be prohibited). Again, it exposes selectively discovering heritages that it believed would be helpful for historical hegemony and technically suppressed treasures of others in the federation from being studied.

Article 36 on Publicizing Discoveries of Heritages

Article 36 says the federal Authority shall be the first to publish any field discovery in National Media. The Delphi discussants understood that for the member states to conduct exploration of heritages, the Federal Authority should give blessing and again, the Authority should be convinced of the value of the discovery and first publicise it through its national media; this was inconsistent with Article 39(2) of the Constitution, stipulating that every Nation, Nationality, and People in Ethiopia has the right to promote and develop its culture; and preserve its history. Besides this, Article 29 (1 & 2) of the Constitution states that everyone has the right to seek, receive and publicise information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any media of his choice. Therefore, for the panel, this sub-article of the Constitution concretises four essential points:

1. Everyone has the right to seek information.
2. Anyone can publish (citizens, nations and nationalities, states or the federal government).
3. Any media can promote the choice of the publisher.
4. Article 29(2 & 1) of the Constitution prohibits any form of censorship.

However, opposite to these four concrete constitutional stipulations, the HPR has proclaimed an unconstitutional article (striking the question of whose heritage is desired to be publicised). Apart from raising legal issues, the panel of the Delphi has agreed that this article exposes selectively publicising heritages believed would be helpful for cultural hegemony and technically suppressing rival treasures. Besides, the panel said it is difficult to settle when the Authority faces differences on whether certain heritage discoveries must be publicised (as the treasured heritage for

someone cannot be as such for another). All in all, article 36 of Proclamation No 209/2000 was found by panel members of Delphi to be both illegal and irrational.

Article 43(1) on Heritage Inspection

Article 43(1) says, "An inspector from the Authority may enter, at reasonable hours, any place where there is any heritage and conduct an inspection to ensure that the heritage is properly maintained and protected". The demerits of the article, as to the panel of experts, are that one, it doesn't have a constitutional base as according to reports, Article 39(2), 52(1) and 41(9) heritage conservation, restoration, protection and promotion are explicitly state powers, and not federal forces; two; it generally assumes that an expert from a national authority is above suspicion (lacking intent or capacity to injure local treasures in any form of damage); three, it doesn't require the permission of the owner states (nations and nationalities); four, it doesn't put any bureaucratic conditions that must be satisfied for an expert of a federal Authority to enter into any place of the states where there is any Heritage; five, its substantive spirit and essence suffer from Unitarianism and Imperialism biases by giving extreme trust on federal individuals; six, opposite to the radical faith in federal individuals, it doesn't have any level of trust or confidence in the States (nations and nationalities) on properly maintaining and protection of heritages. These all open doors for heritage smugglers from the federal Authority to loot and traffic treasures, their authentic environment, and sell them out. The panels of experts of the Delphi study, listing the above justifications, have concluded that article 43(1) of the Proclamation on heritage inspection is legally and logically impermissible.

In the Preamble ("WHEREAS") part of the Proclamation

The fifth "WHEREAS" or rationalisation part of Proclamation No 209/2000 states that protecting and preserving cultural heritage is the "responsibility of each citizen". The panel conceived that this rationalisation's substantive spirit and essence suffer from Unitarianism and Imperialism Biases. The justification provided is that it destroys the power of states on the matter

of their heritages through indirect diffusion of ownership to any citizen at any corner of the federation, diffusing collective power of ownership from nations and nationalities, thereby destroying their collective bargaining capacity and group rights. Besides, it is unconstitutional because the rights to protect and preserve cultural and historical legacies are the mandates and responsibilities of the Nation and Nationalities of the country, Article 39(2) of the Constitution.

Result and Discussion on Specific Objective 3

The third objective was to evaluate the validity of FDRE Heritage Proclamation No. 209/2000 against international declarations on the rights of indigenous peoples regarding heritage self-determination. The panel found eight international declarations on matters related to heritage self-determination. Accordingly, eight international declarations have stipulated the rights of indigenous peoples regarding heritage self-determination. These rights have been explicitly stated or interpreted from these declarations' general substantive spirit and essence. The following are articles of the Proclamation that contravene these declarations: Article 23 (2) declares that transfer of ownership of cultural heritage is possible and gives the federal Authority the right of preemption over the sale of cultural heritage. This is not consistent with the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Articles 3& 6) that outlaw import, export or transfer of ownership of cultural property; two, Article 30 (1) which says "No person may conduct exploration, discovery and study of cultural heritage without obtaining a prior written permit from the federal Authority" is not consistent with the 1966 International Covenant on Civil and Political Rights (ICCPR) which stipulates that indigenous peoples have the right to self-determination and to freely pursue their cultural development (article 1); three, Article 19(1) which says "Any conservation and restoration work on Cultural Heritage shall be carried out with the prior approval of the federal Authority" is not consistent with 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) which declares the right of indigenous people for the

conservation, the development and the diffusion of culture (Article 15). The same article is not consistent with the 2003 UNESCO Convention for the Safeguarding of intangible cultural heritage, which stipulates that communities (UNESCO 2003: passim) are the principal actors in decisions about what is essential, endangered, and worth safeguarding in the area of ICH through "bottom-up" approach and, again, not consistent with the 2003 Operational Directives for the Implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage (ODs) which gives the indigenous people the right to identify, define, and draw up inventories of ICH (Article 80). It is also essentially at odds with the 1972 UNESCO World Heritage Convention, which emphasises that the aim should be to give heritage a function in the life of the community (Article 5.1) and with the 2007 United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) which stipulates that Indigenous Peoples have the right to self-determination; the right to cultural integrity; the right to self-government and autonomy; the right to heritage self-determination and to freely pursue their economic, social and cultural development (Article 3).

Result and Discussion on Specific Objective 4

The fourth specific objective of the research was to articulate the potential adverse effects of FDRE Heritage Proclamation No. 209/2000 in the Ethiopian heritage economics and Tourism remuneration landscape. The panel found out, with a majority, that the law impacts storylining worldviews about the existence of heritage and tactically loads this one-sided worldview over the preferences of tourists that come to the federal country. Such laws can potentially constrain access to promoting the historical heritages of competitors within the country. It can be a storyline in which the destination should be famous, a script for the country's tourism product presentation, and affect promotion and mould public opinion on how much tourists should stay and where; this is because such legal-structural problems can get the institutional and industrial shape as institutions can act as fertile farms for certain political ideologies by giving or denying institutional and administrative support to certain political discourses

or even reflecting what is known as institutional racism. Therefore, the structure of governance of heritages can actively or inactively sabotage the free flow of tourists. The tourism business sub-sector can be an instrument and victim of these politics. This way, this may defy the national prestige (identity and political) tourism could mean to nations and nationalities of the federation, and a substantial scale of quarrel may occur over how a specific heritage/attraction in the Ethiopian multi-national coalition should be valued (preserved, conserved, developed and promoted) for all to get justifiable economic and non-economic remuneration from tourism.

Conclusions and Recommendation

One conclusion reached by the Delphi study panel of experts is that the overall substantive spirit and essence of the Constitution of the FDRE indicates that the power to preserve, protect, investigate, and promote cultural heritages lies under the jurisdiction of the state government rather than the federal government.

The second conclusion is that the contents of FDRE Proclamation No 209/2000 fall under the jurisdiction of state powers. Therefore, the Proclamation is unconstitutional and impermissible, intended to establish a neo-imperialist structure at the federal level, and it is illegal, void, and null.

The third conclusion reached by the panel is about the validity of FDRE Heritage Proclamation No. 209/2000 against international declarations on the rights of indigenous peoples regarding heritage self-determination. The panel of experts of this Delphi study reached a plateau consensus that the Proclamation is not acceptable against international declarations on the right of indigenous peoples regarding heritage self-determination; this is because, one, almost all of the international declarations, place the communities, along with their “free, prior and informed consent”, at the centre of its scheme for the Safeguarding of cultural heritage worldwide, opposing international or domestic heritage colonisation; and, two, almost all of these declarations stress that World Heritage sites are, first and forever, local places and no conservation without or against these commu-

nities is possible, and the community can legitimately wish to draw benefits from their heritage treasures according to their criteria and priorities; three, almost all of these declarations assume there are no heritages without the heir or heritage bearers as there are no folklores without the folks.

The fourth conclusion made by the Delphi study panel of experts concerns the harmful effects of Ethiopian heritage laws on tourism economics. The panel, by a majority, concluded that the law harms heritage economics and fair remunerations from tourism.

Recommendations

This study has critically examined how politics reflects in heritage governance in Ethiopia and, as a result, impacts the landscape of tourism remuneration in the country through heritage laws.

The fact that the research design inhabits some characters of exploratory nature, meaning such kinds of studies were not conducted in Ethiopia before and rarely have been done elsewhere in the world, at least to the knowledge of the researcher, it would not capture academic appropriateness to give fast and challenging prescription to the public before further extended (with a longer spanning time) and extensive (with a broader scope of the study) confirmatory research (to confirm or dismiss) is conducted on the issue using explanatory design with the rule of ‘repeatable materiality’.

So, before the prescription is implemented, the scientific community is requested to augment this study through comprehensive, exhaustive, extensive, and extended works of inquiry. Specifically, the recommendation is that other countries corroborate current findings in their context; different types of research with scopes covering the intuition and industrial environments of the tourism sector are requested, and academicians should contribute to adequately establishing or clarifying the theories by giving depth and scale in their epistemic form.

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