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TWO DECADES AFTER THE NATIONAL HERITAGE RESOURCES Act [NO. 25 OF 1999]: ARE WE THERE YET?



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A dissertation submitted to the Faculty of Science, University of the Witwatersrand, Johannesburg, in fulfilment of the requirements for the degree of Master of Science.

FACULTY OF SCIENCE UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG 2023

DECLARATION

I declare that this is my own unaided work. It is submitted for the degree of Master of Science (Research) at the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.



Kerry-leigh Reddy

Date: 2023/03/23

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ABSTRACT

Twenty-four years ago, the National Heritage Resources Act 25 of 1999 (NHRA) was enacted in South Africa. With this democratic legislation arose a new grading system with the aim of uplifting previously marginalised groups by incorporating heritage management on a community level. But while South Africa now has all nine Provincial Heritage Resource Authorities set up, only three of the nine provinces' authorities have been granted full competency by SAHRA to perform functions under the NHRA. This reflects a functional bias because it implies differential institutional capacities. Furthermore, few studies have been conducted pertaining to the NHRA's efficiency across all nine provinces with a holistic lens. This is the first study to explore the impact of the NHRA on the types of heritage declared in South Africa across all nine provinces. The aim of this dissertation was to examine whether competency granted i.e., stronger institutional capacities lead to a greater transformation of heritage towards the postcolonial ideals of the NHRA. This was done by quantifying the types of heritage declared from the inception of new heritage legislation until March of 2022. The findings were that, statistically, PHRA competency has no bearing on the declared heritage lists in relation to non-colonial heritage legitimisation due the immense imbalance caused by the colonial legacy that still effects all provinces. It is therefore the recommendation of this dissertation that all former National Monuments be re-assessed for their significance so that accurate readings of the NHRA's changes can be facilitated.

KEYWORDS: Heritage; National Monuments; NHRA; PHRA; Postcolonial; SAHR

CONTENTS

DECLARATION **1**

ACKNOWLEDGEMENTS **2**

ABSTRACT **3**

CONTENTS **4**

LIST OF FIGURES **8**

LIST OF TABLES **10**

LIST OF ACRONYMS **11**

CHAPTER 1 - INTRODUCTION **12**

1.1 HISTORY OF HERITAGE MANAGEMENT IN SOUTH AFRICA 12

1.2 AIM AND OBJECTIVES 20

1.3 RESEARCH QUESTION AND HYPOTHESES 21

1.4 RATIONALE 21

1.5 OUTLINE OF CHAPTERS 22

CHAPTER 2 - LITERATURE REVIEW **24**

2.1 THEORETICAL FRAMEWORK 24

2.1.1 POSTCOLONIAL THEORY 24

2.1.2 POSTCOLONIALISM IN AFRICA 28

2.1.3 POSTCOLONIALISM AND HERITAGE MANAGEMENT 29

2.1.4 APPLYING POSTCOLONIAL THEORIES TO SOUTH AFRICAN HERITAGE MANAGEMENT 31

2.1.5 COMPARATIVE LAW STUDIES 33

2.1.6 POSTCOLONIALISM AND COMPARATIVE LAW 34

2.2 HERITAGE LEGISLATION IN INDEPENDENT SUB-SAHARAN AFRICA 35

2.2.1 KENYA: THE NATIONAL MUSEUMS AND HERITAGE ACT OF 2006..... 36

2.2.2 TANZANIA: ANTIQUES ACT 38

2.2.3 ZIMBABWE: NATIONAL MUSEUMS AND MONUMENTS OF ZIMBABWE ACT 40

2.2.4 NIGERIA: NATIONAL COMMISSION FOR MUSEUMS AND MONUMENTS DECREE 77 42

2.2.5 REOCCURRING ISSUES IN AFRICA..... 43

2.3 SOUTH AFRICAN HERITAGE: LEGISLATIVE BODIES 49

2.3.1 SOUTH AFRICAN HERITAGE RESOURCES AGENCY: SAHRA 49

2.3.2 PROVINCIAL HERITAGE RESOURCE AUTHORITIES AND PROVINCIAL HERITAGE..... 49

CHAPTER 3 - METHODOLOGY..... 51

3.1 COLONIAL VS POST-COLONIAL LEGISLATION..... 51

3.2 THE COLONIAL VS POST-COLONIAL CLIMATE..... 52

3.3 PROVINCIAL HERITAGE RESOURCE AUTHORITIES AND MUNICIPALITIES ANALYSIS..... 53

3.4 HERITAGE TRANSFORMATION IN AN INDEPENDENT SOUTH AFRICA 53

3.4.1 MATERIALS: SAHRIS 53

3.4.2 PROCEDURE 55

CHAPTER 4 - RESULTS 60

4.1 COLONIAL VS POST-COLONIAL LEGISLATION..... 60

4.2 COLONIAL VS POST-COLONIAL CLIMATE..... 67

4.3 PROVINCIAL HERITAGE RESOURCE AUTHORITIES: AN OVERVIEW 73
4.3.1 EASTERN CAPE PROVINCIAL HERITAGE RESOURCES AUTHORITY 73
4.3.2 FREE STATE HERITAGE RESOURCES AUTHORITY 74
4.3.3 PROVINCIAL HERITAGE RESOURCES AUTHORITY GAUTENG 75
4.3.4 AMAFA AKWAZULU-NATALI 76
4.3.5 LIMPOPO HERITAGE RESOURCES AUTHORITY 77
4.3.6 MPUMALANGA PROVINCIAL HERITAGE RESOURCES AUTHORITY 77
4.3.7 NORTH WEST PROVINCIAL HERITAGE RESOURCES AUTHORITY 78
4.3.8 NORTHERN CAPE HERITAGE RESOURCES AUTHORITY 78
4.3.9 HERITAGE WESTERN CAPE 79
4.4 LOCAL MUNICIPALITIES 80
4.5 HERITAGE TRANSFORMATION IN INDEPENDENT SOUTH AFRICA 81
4.5.1 NORTH WEST PROVINCE 82
4.5.2 LIMPOPO PROVINCE 85
4.5.3 MPUMALANGA PROVINCE 88
4.5.4 FREE STATE PROVINCE 91
4.5.6 GAUTENG PROVINCE 95
4.5.7 NORTHERN CAPE PROVINCE 99
4.5.8 KWAZULU-NATAL PROVINCE 103
4.5.9 EASTERN CAPE PROVINCE 106
4.5.10 WESTERN CAPE PROVINCE 110

4.5.11 AMALGAMATED DATA FOR ALL NINE PROVINCES..... 114
CHAPTER 5 - DISCUSSION 119
5.1 TRENDS FOUND ACROSS HERITAGE LISTS..... 119
5.1.1 RANKING THE PROVINCES..... 119
5.1.2 DIFFERENTIAL DECLARATION MAGNITUDE AMONG THE ACTS..... 122
5.1.3 THE CONTINUED DOMINATION OF UNREMARKABLE COLONIAL HERITAGE..... 128
5.1.4 THE UNDER-DECLARATION OF LIVING HERITAGE..... 130
5.1.5 THE STATE OF STRUGGLE HERITAGE..... 133
5.1.6 OTHER HERITAGE 134
5.1.7 THE CURIOUS CASE OF GAUTENG..... 135
5.1.8 NATIONAL SITES BREAKDOWN 137
5.1.9 GENERAL REMARKS AND RECOMMENDATIONS 137
CHAPTER 6 - CONCLUSION..... 138
REFERENCES..... 140
APPENDIX..... 161

LIST OF FIGURES

Figure 1: SAHRIS's homepage and relevant navigation 56

Figure 2: Declared heritage page 56

Figure 3: Declared heritage list by province 57

Figure 4: Sample page demonstrating individual sites with comments and access to site reports (PDF link located under "standards recordings") 57

Figure 5: Declaration magnitude under different Heritage Acts for North West Province 82

Figure 6: Declared heritage transformation for North West Province 83

Figure 7: Heritage Site type distribution for North West Province 84

Figure 8: Declaration magnitude under different Heritage Acts for Limpopo Province 86

Figure 9: Declared heritage transformation for Limpopo Province 87

Figure 10: Site type distribution for Limpopo Province 88

Figure 11: Declaration magnitude under different Heritage Acts for Mpumalanga Province 89

Figure 12: Declared heritage transformation for Mpumalanga Province 90

Figure 13: Site type distribution for Mpumalanga Province 91

Figure 14: Declaration magnitude under different Heritage Acts for Free State Province 92

Figure 15: Declared heritage transformation for Free State Province 94

Figure 16: Site type distribution for Free State Province 94

Figure 17: Declaration magnitude under different Heritage Acts for Gauteng Province 96

Figure 18: Declared heritage transformation for Gauteng Province 97

Figure 19: Site type distribution for Free State Province 98

Figure 20: Declaration magnitude under different Heritage Acts for Northern Cape Province 100

Figure 21: Declared heritage transformation for Northern Cape Province 101

Figure 22: Site type distribution for Northern Cape Province 102

Figure 23: Declaration magnitude under different Heritage Acts for Kwa-Zulu- Natal Province 103

Figure 24: Declared heritage transformation for Kwa-Zulu- Natal Province 105

Figure 25: Site type distribution for Kwa-Zulu- Natal Province 106

Figure 26: Declaration magnitude under different Heritage Acts for Eastern Cape Province 107

Figure 27: Declared heritage transformation for Eastern Cape Province 109

Figure 28: Heritage Site type distribution for Eastern Cape Province 110

Figure 29: Declaration magnitude under different Heritage Acts for Western Cape Province 112

Figure 30: Declared heritage transformation for Western Cape Province 113

Figure 31: Heritage Site type distribution for Western Cape Province 114

Figure 32: Site counts for pre-colonial, colonial, postcolonial and other sites for each province 115

Figure 33: Sites declared under South Africa's different heritage legislation 117

Figure 34: Site categorisation declared under the NHRA 117

Figure 35: Pearson's chi-squared test procedure and outcome 119

LIST OF TABLES

Table 1: Aim, responsible authority, heritage types, protection and management procedure and offences under different South African Heritage Acts 62

Table 2: Socio-political climate comparison for colonial, Apartheid, and Independent South Africa 70

Table 3: Summary of PHRAs' full competency status 79

LIST OF ACRONYMS

AMAFA: Amafa aKwaZulu-Natali

CLS: Comparative law studies

ECPHRA: Eastern Cape Provincial Heritage Resources Authority

FSHRA: Free State Heritage Resources Authority

GHIP: Gauteng Heritage Inventory Project

HM: Heritage Management

HMC: Historical Monuments Council

HWC: Heritage Western Cape

KZN: Kwa-Zulu-Natal

LIHRA: Limpopo Heritage Resources Authority

MPHRA: Mpumalanga Provincial Heritage Resource Authority

NCHRA: Northern Cape Heritage Resources Authority

NCMM: National Commission for Museums and Monuments Act

NHRA: National Heritage Resources Act 25 of 1999

NMK: National Museums of Kenya

NMMZ: The National Museums and Monuments of Zimbabwe

NWPHRA: North West Provincial Heritage Resources Authority

PHRA: Provincial Heritage Resource Authority

PHRA-G: Provincial Heritage Resources Authority Gauteng

SAHRA: South African Heritage Resources Agency

UNESCO: The United Nations Educational, Scientific and Cultural Organization

CHAPTER 1 - INTRODUCTION

1.1 HISTORY OF HERITAGE MANAGEMENT IN SOUTH AFRICA

Heritage is that which we inherit from the past to utilize in the present, and South Africa's rich history is reflected in its many cultural and natural heritage resources (SAHRA 2021; Timothy 2021). South Africa has ten World Heritage Sites, five of which are cultural, four are natural, and one is mixed (UNESCO 2021). This abundant and diverse heritage is double-edged because while the many sites are a point of pride and identity, South Africa's troubled past has influenced the legislation, economics, and intellect that manage and declare these sites (Chiwaura & Naidoo 2020). To elaborate, Smith (2006:236) said that there is no such thing as "heritage", only "heritage making" which is biased towards certain narratives and influenced by Western discourse.

In this dissertation, heritage management will refer to the interdisciplinary field aimed at the identification, protection, and stewardship of heritage for the public and future generations (Elia & Ostovich 2011).

To secure heritage's future, heritage legislation aims to safeguard heritage resources from destructive forces by creating a structured framework on which management is formed (Ndoro & Pwiti 2001: 21; Ndlovu 2011a: 31). Frameworks serve as a touchstone for defining and assessing the significance of heritage, as well as for constructing and upholding management practices (Ndlovu 2011a). But a previously disregarded fact was that management occurred by the hands of local African peoples even before the implementation of written laws, and it is due to traditional custodianship that so many sites were available for colonial administration to "discover" (Ndlovu 2011a: 31; Ndoro & Pwiti 2001; Chirikure *et al.* 2016). Indigenous (native or natural to an environment) management came in different forms including religious and cultural beliefs, taboos, and status-dependent access (Jopela & Fredriksen 2015; Jopela 2018). For example, chiefs (indunas) of Barotseland, Zambia had authority over site management and appointed officials to care for heritage sites, and the entire community's participation induced a sense of ownership (Chirikure *et al.* 2017). In Tswana culture, the movement and removal of old items that belonged to the ancestors was prohibited (Ndobochani 2016: 37). But these cultural practices were ignored by colonial entities.

After the Scramble for Africa and South Africa's colonisation (first by the Dutch, then by the British), the colonial administration did not recognise indigenous heritage management thus

methods of preservation were informed by colonial values and modes of thought (Chirikure *et al.* 2010; Lane 2011; Jopela 2018). Western ideals were transported into Africa without regard for the context in which African heritage emerged (Chirikure *et al.* 2017). During colonial times, the protection of heritage was a piecemeal pursuit detached from the people who created it and certainly not intended for African consumption (Ndoro & Pwiti 2001; Chirikure *et al.* 2010: 31; Chirikure *et al.* 2017). Then, the focus was scientific, and academics aimed to create categorical compartments but did nothing to link those elements back to the African people (Chirikure *et al.* 2017). Similar situations can be observed in places like Great Zimbabwe, Mapungubwe, and the Rift Valley, where local people were often employed as labourers and possessed valuable historical knowledge, yet they were seldom given credit or consulted during decision-making processes (Chirikure *et al.* 2017). To legitimize colonial approaches, legislation was fashioned.

In 1911, the Union of South Africa, which was then a British colony, passed one of its first pieces of legislation: the Bushmen Relics Protection Act (no. 22 of 1911) (Deacon 2010; Ndlovu 2011a: 34; Chirikure *et al.* 2017). The law was created in response to concerns that the cultural heritage of the Bushmen people was being threatened by the actions of European settlers, who were looting and destroying rock art sites and artifacts as well as exporting those goods into European museums (predominantly Germany). The law made it illegal to disturb or damage any rock art or other cultural relics, and established penalties for those who violated those parameters (Deacon 1993; Deacon 2010; Ndlovu 2011a). In and of itself, this is not problematic, but the legislation was biased in that it did not serve non-Bushmen or non-colonial heritage (i.e., pastoralists and agropastoralists of Khoe- and Bantu-language groups) and only accounted for exploitative export (Deacon 1993:119; Ndlovu 2011a: 34). According to Ndlovu (2011a), this was due to the inability of colonial administrations to safeguard and enhance the cultural heritage of communities that they claimed superiority over. Acknowledging the significance of indigenous heritage would have undermined the White superiority that the colonial administration sought to perpetuate. The protection of Bushmen heritage could be said to be an exception since they were a “dying nation” and thus not perceived as a threat to colonial rule (Ndlovu 2011a). Another perspective is that the protection of "Bushmen Relics" was used to legitimize the European mission of "civilizing the primitive" through colonization. Rock Art was viewed as evidence of the natives' primitive (i.e., backward) way of life, as noted by Holtorf (2010). The concept of "civilization" combined assumptions that justified the superiority of European culture, which in turn, created a framework for the existence of "other" cultures that

were considered inferior and incapable of self-governance. The inferior cultures were thought to require the superior cultures to improve their way of life through colonial encounters. Furthermore, this perspective suggested that European countries had a historical right to advance the progress of the "primitive" cultures. These beliefs and prejudices were captured in a series of legal frameworks that —trying to justify the colonial policy— created subaltern legal categories (i.e., colonised Africans) (Jopela 2018:107). Ultimately, the protection of Bushmen heritage differed from those other types of heritage declared during the colonial period because it represented that of an indigenous group.

In 1923, with the passing of the Natural and Historical Monuments Act (no. 6 of 1923), a council - the Historical Monuments Council (HMC) (inspired by the British Historic Monuments Board, Great Britain) was erected to construct a register of monuments to be protected (Deacon 1993; Deacon 2010). While this Act was more inclusive by having a broad definition for what constituted a monument, it still suffered from inadequacies. The choice of sites to list was left to the Council, and their overall interest remained in hunter-gatherer and colonial heritage (Deacon 1993).

Over a decade later, in 1934, the first declaration of sites as National Monuments was implemented with the introduction of the Natural and Historical Monuments, Relics and Antiques Act, 4 of 1934 that replaced all previous heritage legislation (Deacon 1993; Ndlovu 2011a). The legislation did not consider the full range of cultural heritage, and only regarded physical objects such as monuments, relics, or antiques as worthy of protection. Therefore, the focus remained on physical objects rather than the broader spectrum of cultural heritage. Specifically, this Act focused on the protection of sites considered National Monuments and these were primarily colonial buildings (Deacon 1993; Deacon 2010; Ndlovu 2011a). Acknowledging this flaw, the Act was later amended to the Natural and Historical Monuments, Relics, and Antiques Act, 4 of 1937, which granted National Monument status to other types of heritage sites.

This indicates that during the early colonial period, protection and management was centred on tangible elements of history, namely colonial structures, architecture, and monuments (Ndoro 2005; Manetsi 2006; Ndlovu 2011a). Heritage management did not make space for the voice of host communities (Chirikure *et al.* 2017). Intangible heritage such as oral traditions, folklore, knowledge etc.—which was of the vast majority—was excluded (Manetsi 2006).

In May of 1948, Afrikaner nationalism came into power and Apartheid began (Dubow 2014). For the purposes of this dissertation, Apartheid will be treated as a sub-unit of "the colonial period" since Apartheid is rooted in colonial ideals of White superiority and Christian nationalism (Dubow 2014). As Giblin (2015:322) puts it, "Although Apartheid was not technically a colonial period, because the government of this era of oppression did not answer to a colonial power, it was no less colonial in nature". Therefore, Pre-Apartheid colonialism is between 1652 and 1948, Apartheid colonialism is between 1948 and 1994 and independent South Africa is 1994 to present. These are the three periods covered in this dissertation.

During the Apartheid era, the Natural and Historical Monuments, Relics, and Antiques Act, 4 of 1937 was replaced by National Monuments Act (Act No. 28 of 1969) (Deacon 1993). This Act was the onus of the National Monuments Council that replaced the Historical Monuments Council (Deacon 2010). It saw many amendments (1970, 1971, 1975, 1979, 1980, 1981, and 1986) and grew to include more heritage types in its protection (Ndlovu 2011a). However, with the rise of urbanisation, the Act was not able to protect many sites due to unregulated development's destructive nature (Ndoro & Pwiti 2001). The main objective of this Act was to establish staff, organizational structure, and penalties for individuals who vandalized or destroyed heritage sites (Deacon 2010). It became the blanket legislation that covered all archaeological, palaeontological, and historical sites (Deacon 1993).

Current scholarship suggests that colonial heritage in South Africa has been given longer and more sustained protection, which has continued into the country's independence era (Ndlovu 2011a; Ndoro & Wijesuriya 2015; Mudzamatira 2019). This is because heritage that was deemed significant by colonial administrators and declared as such during the colonial period has been recognized in formalized heritage management since its inception. While the emphasis on legitimizing colonial heritage was on the rise, it was not solely due to apartheid-era heritage legislation since the National Monuments Act of 1969 was broad in its scope.

According to Deacon (1993), the continued emphasis on colonial sites during the Apartheid period was because of National Monuments Council personnel's interests and the White publics' demand. People of European descent in South Africa tended to feel more emotionally connected to colonial monuments and architecture than to heritage predating colonial influence. This could be because many people of European descent saw colonial heritage as a symbol of their own identity and culture (Deacon 1993: 131).

Another possible explanation is the schooling system that was in place during apartheid. According to Setati and Patel (2014), the "Bantu" education system, which was designed to be inferior to White and Indian/Coloured education, excluded any instruction on precolonial history, thereby perpetuating a biased and distorted understanding of South African history and heritage. As a result of the education system, Apartheid's inferior-superior ideals were promulgated to all groups, further reinforcing the idea that indigenous heritage and cultural traditions were inferior to those of European colonizers. This lack of education and understanding about precolonial heritage contributed to the marginalization and undervaluation of indigenous communities and their cultural resources. (Thobejane 2013).

This meant that academic and public interest was still in the realm of colonial heritage. The legitimisation of Black heritage would have gone against the socio-political agenda of the Apartheid government which was European paramountcy (Meskell 2008; Dubow 2014: 32). I bring up this point not only to illustrate that colonial heritage persisted into the Apartheid period but also to set a legislative precedent. Apartheid legislation was technically, legally inclusive because it carried broad specifications in writing despite emerging during a period of segregation (Deacon 2015), but the social and political climate of non-White suppression (i.e., Apartheid ideology) impacted the type of sites which gained protection and recognition.

With the dawn of democracy in 1994, there was considerable change in the heritage arena, with more focus on rectifying the inequalities of the past and promoting the conservation of an inclusive South African heritage (Meskell 2008; Ndlovu 2011a). After thirty years of the National Monuments Act, the National Heritage Resources Act (NHRA, no. 25 of 1999) came into being, and in 2000, the National Monuments Council was replaced by the South African Heritage Resource Agency (SAHRA) whose objective is, in accordance with section 12, to "co-ordinate the identification and management of the national estate" (NHRA 1999; Ndlovu 2011a). Every three years, a council is appointed to oversee SAHRA's operations and finances (Deacon 2010: 165). As per Section 14, even this council represents public inclusivity as five of the fourteen members are selected from public nominations (NHRA 1999).

The preamble of the Act defines its aims as promoting good management of the national estate to enable communities to conserve their legacy for future generations. Further stating that heritage contributes to redressing of past inequalities (NHRA 1999). From this, the NHRA echoes the goals of democratic South Africa, which amongst others, are inclusivity, equality, and the elevation of indigenous peoples. It is crucial to acknowledge that the existing legislation

serves as a remedy for long-standing social and political debates that were previously neglected, so its necessity cannot be overstated. (Meskell 2008). The NHRA has broadened heritage definitions to include more heritage types such as slavery sites and freedom fighters' graves (NHRA 1999).

The NHRA incorporates international management principles from documents such as the World Heritage Convention's guidelines and Australia's Burra Charter (Deacon 2015:1). The goal of heritage management is not to deem anything indigenous as inherently correct or anything Western as inherently negative. Instead, it should aim to foster a collaborative approach that integrates the knowledge and perspectives from both indigenous and Western sources. The NHRA was drafted with the intent to i) incorporate an interactive system for heritage resources through identification, assessments, and management, ii) establish general management principles and iii) implement provincial heritage resource authorities for management on smaller scales (Deacon 2015).

The inclusive ideals are held together by the NHRA's defining feature—the three-tier grading system (Ndlovu 2011a). As per Section 7(1) of the NHRA, Grade I heritage are those that are so exceptional that they hold significance on a national scale and are managed by national bodies (Meskell 2008; Ndlovu 2011a; Saccaggi & Esterhuysen 2014). Grade II heritage holds significance at a provincial level and is managed by provincial bodies (NHRA 25 1999; Meskell 2008; Ndlovu 2011a; Saccaggi & Esterhuysen 2014). Grade III sites are other heritage resources worthy of conservation and to be managed by local bodies where local bodies are also responsible for ungraded sites (NHRA 25 1999; Meskell 2008; Ndlovu 2011a; Saccaggi & Esterhuysen 2014).

The preservation system described here aims to promote inclusivity by involving smaller bodies and the public in decision-making processes at lower levels. This approach is intended to allow local communities to play an active role in the preservation of their cultural heritage (Meskell 2008). Sections 7 and 10 of the NHRA are particularly relevant to this approach, as they provide guidance for the identification and management of heritage resources at the local level.

By including local communities in these decision-making processes, this preservation system provides a platform for these communities to help construct their own identities. As Ndlovu argued (2011a) and Mokoena (2017) reiterated, the preservation of cultural heritage is not just about protecting physical artifacts or buildings; it is also about preserving the cultural values

and practices that define a community's identity. Allowing local communities to have a say in the management of their heritage resources can empower them to take ownership of their cultural heritage and ensure that their voices are heard in the decision-making process. The system aims to ensure that heritage resources are managed in a way that is both sustainable and respectful of the cultural values and practices of the communities involved.

The Act also redresses previous inequalities by embracing intangible heritage (NHRA 25 1999 definitions xxi; Scheermeyer 2005), acknowledging the role slavery had in South Africa's past (Section 3(i)), promoting the education of the public about African heritage (Section 5 (5)), and when the Act came into law, the previous colonial National Monuments were to have been downgraded to grade II status and then to be renominated to receive higher statuses (Deacon 2015).

However, while this new grading system was created as an essential tool to promote postcolonial ideals, it has proven to be difficult to implement (Deacon 2010). When the NHRA came into effect, KwaZulu Natal was the only province with an already established Provincial Heritage Resource Authority (PHRA)—AMAFA Heritage aKwaZulu-Natali (Deacon 2015; Ndlovu & Smith 2019). Effectively, eight PHRAs still needed to be set up, and the goal was to have all nine PHRAs operational by 2002. This did not happen (Ndlovu & Smith 2019).

One reason for this could be the legislation itself. According to Section 23 of the NHRA: "An MEC (Member of the Executive Council) may establish a provincial heritage resources authority which shall be responsible for the management of the relevant heritage resources within the province." The use of the word "may" means that the failure to implement a PHRA is not in violation of the legislation since PHRAs are technically not mandatory (Deacon 2015; Ndlovu & Smith 2019). This has given provincial authorities more leeway since there is no perception of urgency.

Another reason was that SAHRA kept its doors open to provincial heritage so regional and provincial were allowed time to train and employ staff (Ndlovu & Smith 2019). Plus, in relation to Section 6(b), provinces without competent bodies (competence granted by SAHRA) are handled by the national body (or technically according to Section 8 (b) component bodies of the same level) which defeats the purpose of the three-tier system (Deacon 2015). This provided provinces with flexibility, so they delayed allocating funding to PHRAs (Ndlovu & Smith 2019).

In 2011, SAHRA closed their provincial offices to force provinces into establishing PHRAs. While that did kickstart some improvement, there was a period in which there were no provincial authorities in certain provinces (Ndlovu & Smith 2019). The 2015 Heritage Resources Management Report, which was prepared by SAHRA itself, acknowledges that there were challenges in the establishment of PHRAs in some provinces. The report notes that "the progress of establishing PHRAs has not been uniform across the country and there are still areas where the establishment of PHRAs is at various stages of development. (SAHRA 2015: 38).

Now finally, all nine provinces have a PHRA that has been operational for a varying number of years (Van der Merwe 2019). However, less than half of those PHRAs have been certified as competent by SAHRA to perform functions under the NHRA (Ndlovu & Smith 2019). Competence (according to Section 8(6a)), this "shall be assessed in terms of criteria prescribed by the Minister, including the availability of adequate staff, expertise, experience, and administrative systems (NHRA 1999). In essence, PHRA's strategic plans need to be assessed by SAHRA's national council to ensure the PHRA has competence and funding (Deacon 2015). Those that have been granted competency are AMAFA aKwaZulu-Natali (AMAFA), established in 1997, Heritage Western Cape (HWC), formed in 2002 and Eastern Cape Provincial Heritage Resources Authority (ECPHRA), established in 2003. Further, according to Section 8 (6d), these agencies' competencies need to be reassessed every two years. This has not been done (Smuts & Wiltshire 2016).

In this dissertation, those provincial authorities with SAHRA's granted competencies will be assumed to have stronger institutional capacities and are assumed to be better at implementing the NHRA. This is not to say that provinces without granted competence are incompetent or have incompetent members of staff, but rather that the authority simply has not yet to be granted competence due to operational inadequacy as deemed by SAHRA.

The three-tier grading system is the linchpin of the NHRA and is one of the main tools through which inclusivity and combating colonial biases of the past is to be achieved. But PHRAs are still not fully developed, so devolution has been slow. The authorities have only been recently set-up, so they lack funding and therefore have fewer resources, are experiencing a shortage of well-trained staff, are not opening new positions and less than half are certified competent. Further, where competence is granted, it is not regularly assessed by SAHRA.

Whether intentionally or not, certain provinces having substantially better institutional capacities than others. This constitutes a manifestation of a politico-economic bias because it shows that certain provinces are better able to declare, nominate and manage old and new heritage compared to others. It is generally accepted that exported Western ideals of conservation persist into modern African heritage practices (Manetsi 2006; Lane 2011; Ndlovu 2011b), and while South Africa's NHRA reflects the process of decolonising heritage management, it is unclear whether these goals can come to fruition when so many outside factors (in this case, differential PHRA capacities) impede this process. And whether those with sound institutional capacities are utilising it in a way that coincides with the NHRA or better holding on to colonial legislation that came before. The NHRA is a sound piece of legislation that was influenced by other sound pieces of legislation, but given South Africa's tumultuous relationship with development, money, and corruption, the NHRA seems idealistic.

Note: the NHRA is not the lone legislation devoted to addressing past inequalities concerning heritage. The Cultural Institutions Act, Act No. 119 of 1998, was established with the objective of creating a National Museums Division, among other things. Similarly, the National Heritage Council Act, Act No.11 of 1999, established the National Heritage Council and has been vital in managing heritage resources in South Africa. However, these two acts are not the focus of the current dissertation, which is centred on the NHRA.

1.2 AIM AND OBJECTIVES

This dissertation aims to ascertain whether the postcolonial ideals of the NHRA are coming to fruition equally across South Africa's nine provinces by analysing the transformation of gazetted heritage types in relation to differential provincial institution capacities. The objectives are:

1. To compare the colonial and postcolonial heritage legislation as well as the socio-political climate.
2. To capture, sort and display the available data on SAHRA's database to infer quantitative relationships between PHRA competency and that same PHRA's dominant heritage types.
3. To tabulate the transformation of declared heritage of all nine provinces for cross-provincial comparison.

4. To graphically and statistically determine whether there exists a difference in legitimised heritage type dependent on full competency as granted by SAHRA.

1.3 RESEARCH QUESTION AND HYPOTHESES

Has the South African National Heritage Resources Act, no. 25 of 1999, achieved its envisaged goal of promoting inclusion and transforming the nature of sites designated for protection by heritage authorities among declared sites?

i) PHRAs with stronger institutional capacities should have the resources to nominate and declare more sites therefore the disparity between the number of postcolonial vs colonial heritage sites declared should sites have lessened since 1999 i.e., granted the hypothesis is that those competent PHRAs granted competent status, should be closer to achieving the envisioned inclusive goals of the NHRA.

1.4 RATIONALE

For the longest time, heritage management and declaration has had a political component (Harrison 2010). Given that heritage is inherently tied to identity (McLean 2006), when South Africa's colonial administration imposed their Western ideals of heritage on academia and heritage legislation, it formed indigenous identities that were divisive and inaccurate in its portrayals. For example, Zulus were portrayed as savage to create tension between that group and another, so they would not together revolt against colonial forces (Schönfeldt-Aultman 2006). Now, democratic South Africa can reclaim the narrative and indigenous communities can lend their voices to create a true identity. After decades of being excluded, ignored, and underrepresented, it is important not only to include indigenous people but to deconstruct the narrative of superiority the colonial powers enforced (Manning 2004).

There has been very little research into implementation of the NHRA (Scheermeyer 2005; Ndlovu 2011a; Deacon 2015), no research into the efficiency of the PHRAs (only three of the nine PHRAs even have Wikipedia pages) and the only occasion when we hear about the local municipalities role in heritage is when there is a colossal blunder (Esterhuysen 2009).

As it stands, there are no academic papers analysing the way in which heritage has been transformed under the NHRA with a holistic lens. Further, while there is a research article that shows the distribution of heritage sites across the country (Van der Merwe 2019), this was not performed across all gradings and little discussion as to the potential reasons were postulated.

Overall, it is now (after the NHRA has had time to marinate and all the PHRAs have been set up) that analysis pertaining to heritage transformation will assess the equality of uptake across the country.

It is worth mentioning that I recognise the importance of heritage upliftment on a practical level i.e., analysing site management (from site protection and guidelines to marketing and tourism) across the provinces. However, this dissertation analyses declared heritage data in isolation as I believe legitimisation of heritage is the initial step that determines the kinds of heritage that the government and legislative bodies prioritises. Management, while important, is a separate component of heritage in South Africa and warrants its own study entirely. I further believe that declared heritage is a more direct indication of whether the NHRA's stipulations are being achieved.

1.5 OUTLINE OF CHAPTERS

Chapter One sets the scene of this dissertation by painting a historical picture of heritage legislation from the conception of the Western heritage management in South Africa until the democratic present. This exists to illustrate the different values attributed to heritage across significant temporal periods to ascertain how legitimised heritage might transform on paper. This chapter also introduces the main research question and the rationale for this study.

Chapter Two, namely the literature review, serves three main functions which are to (i) describe the theoretical frameworks that inform this study, (ii) to examine the state of heritage legislation in Africa by analysing legislation from a selection of African countries and (iii) to examine the functionality of heritage bodies in South Africa today across the NHRA's three grading levels.

Chapter Three outlines the methodology of this study and is compartmentalised into three sections. The first aims to compare the heritage legislation of South Africa across a temporal scale. The second to compare the socio-political times across South Africa's history. The third sections set to graphically depict the transformation of heritage types across all nine provinces and statistically validate those findings. Here, SAHRA's database is examined, and its limitations considered.

Chapter Four presents the research findings in the visual display of the transformation of heritage for all nine provinces by looking at heritage type declared across a temporal scale. It

then shows the quantity of heritage declared under different Acts. Further, the data is amalgamated to facilitate readings across all nine provinces. Lastly, statistical analysis is presented to examine whether PHRA full competency has sway over heritage type declarations.

Chapter Five postulates reasons for unexpected trends found in the declared heritage lists of all nine provinces. This section exists to find contributing factors discernible on the legitimised heritage lists that have led to heritage transformation or lack thereof in democratic South Africa.

Chapter Six concludes the dissertation by answering the research question and making recommendations for future studies.

CHAPTER 2 - LITERATURE REVIEW

2.1 THEORETICAL FRAMEWORK

At the heart of this dissertation is a comparative analysis that investigates the types of heritage that are currently nominated and declared under the NHRA in comparison to those recognized under colonial law. The intent is to determine whether indigenous heritage is receiving greater attention in the heritage arena evenly across all nine provinces of democratic South Africa. This is done by identifying which provinces are falling behind in achieving the democratic objective of uplifting indigenous heritage and, in doing so, this study intends to pinpoint areas that require improvement and analyse their shortcomings. Two main theoretical frameworks guide this research: postcolonial theory shapes the methodology, and comparative law studies form the foundation of the approach.

2.1.1 POSTCOLONIAL THEORY

The 1980s saw a rise in politicised academia and with this began an epistemological interrogation of the humanities (Young 2003; Patterson 2008). This introspective and reflexive period gave rise to frameworks with activist agendas such as women's studies, cultural studies and relevant here, postcolonialism (Matsikidze 1996).

Because postcolonial theory cannot be considered a unitary body of thought, it is difficult to define but, at the theory's core, it is an ideological critique of colonialism and the knowledge systems constructed thereof (Quayson 2002 Gosden 2002; Abrahamsen 2003; Burney 2012). The theory aims to provide a new perspective by encouraging active participation from those that were previously silenced, overlooked and oppressed by colonial administration. Further, through the deconstruction of metanarratives, postcolonialism can challenge the universal truths built by colonial powers (Otto 2000; Abrahamsen 2003; Young 2003).

Colonial contact's effect has been persistent in almost every avenue of colonised countries ranging from art and literature to economics and politics. And postcolonialism works to disentangle colonial thought's omniscience in academia by giving agency and epistemological value to the non-European world (Overbey 2012). This is done by retaliating against the cultural homogeneity both perpetuated and formed from the "truths" made by colonial powers (Gosden 2002).

I have chosen this theory because for centuries, social scholars had failed to investigate the social disciplines' knowledge systems. Because of this, only a small portion of humanity's experience has been represented (Seth 2021). Not only were Western ideals imposed onto non-European groups, but the proper study of those groups was prevented because deviations from those "norms" were disregarded and explained away. An example would be the colonial dispute centred on the creators of Great Zimbabwe (Ndoro 2001). Western conceptions of knowledge were perpetuated not because of intellectual superiority but political dominance which left the social sciences an endeavour that represented segments of Europe only (Seth 2021). This can now be openly challenged.

In this dissertation, postcolonialism refers to the theoretical framework that critiques colonialism whereas post-colonial refers to the temporal period marked by the end of colonisation.

I have analogised postcolonialism as follows: marginalised people are the protagonists of their stories as we are all the main characters of our own lived experiences. Under colonial rule, their stories were not told in first person narrative because —in the academic arena— they did not play a role in the creation of their identity. While first person is biased towards the teller, it does have the benefit of portraying lived truths. Their stories were not told from third person limited narration either as total objectivity does not exist. Nor were their stories narrated in third person omniscient as God has yet to publish a dissertation. In reality, indigenous stories were told from the perspective of colonial administration—their antagonists. Antagonists who were motivated by their own opposing political and social agendas. Now, postcolonialism aims to disentangle the truths injected by colonial administration. This is done in conjunction with elevating indigenous voices and centralising culture to incorporate first person perspective into an already convoluted story.

Because postcolonial studies aim to answer questions pertaining to culture, identity, and representation in previously colonised societies, it has methodological flexibility (Burney 2012). It is only a tool to deconstruct colonial narrative across the social disciplines therefore has applications ranging from nationalism, politics, history to socioeconomics and more (Burney 2012). Like all academic bodies of thought, but perhaps more so, postcolonialism has received its fair share of criticism both from within and outside the theory (Ahluwalia 2001; Young 2012).

One criticism is that it can be too essentializing and homogenizing of colonized people and cultures, perpetuating stereotypes, and ignoring the diversity and complexity of different cultures (Spivak 1999). Another criticism is that postcolonial theory can be too abstract and theoretical, lacking concrete solutions for the issues it addresses (Bhabha 1994). Additionally, critics argue that postcolonial theory neglects the agency of colonized people and their role in shaping their own history and culture (Said 1979), while also being overly preoccupied with identity politics and overlooking other important factors that shape society and culture, such as economics, power relations, and globalization (Grosfoguel 2013). Lastly, some critics argue that postcolonial theory can be too focused on abstract theory and overlook empirical research and evidence-based analysis, suggesting that a more empirical approach is needed to better understand the complex issues facing postcolonial societies (Chakrabarty 2000).

Despite its flaws and criticisms, postcolonialism and its core principles are valuable, especially in the context of academic research. While its flexibility can be either helpful or problematic, depending on how it is applied, its broad framework provides researchers with a range of perspectives and interconnected theories to draw upon.

Over the years, several scholars have played a significant role in shaping postcolonial studies and advancing its principles. Among these scholars are Frantz Fanon, Edward Said, Gayatri Spivak, Homi K. Bhabha, R. Siva Kumar, Dipesh Chakrabarty, Derek Gregory, and Amar Acheraiou. For the purposes of this dissertation, I will focus on Said's (1978) work on Orientalism and Bhabha's (1994) concept of hybridity. Additionally, I will explore postcolonialism, its major contributors, and its connections to heritage in the African context.

Edward Said: Orientalism

In Edward Said's influential book, *Orientalism*, he shines light on the dichotomy between the West (Europe and to some degree, America) and the East (everyone else), asserting that Western notions of the East were fiction turned non-fiction to serve a Western narrative (Quayson 2000; Gosden 2002; Kapoor 2002; Ambesange 2016). Because the West had constructed truths and held essentialised views of the East (painting them as inferior, sexually depraved, voiceless etc,), they inflicted symbolic violence (termed essentialised violence) on colonised groups. Truth-making was an exertion of their power as they produced knowledge to serve colonial agendas and misrecognized Orients (Said 1978; Kapoor 2002; Gosden 2002; Guhin & Wyrtzen 2013).

According to Said, the conception of the East was done with the intent of fabricating racist narratives to assert superiority. Effectively Orients were socially, politically, academically, and ideologically created (Kapoor 2002; Ambesange 2016). Then by preventing these culturally diverse people from expressing discreetness (essentialism), colonial structures were able to simply label them homogeneously as "Eastern" (Ambesange 2016). The persistence of this essentialization led to prominent stereotypes that remain today (Guhin & Wyrtzen 2013). For the colonial administration, it then became easy to justify controlling Eastern peoples and places and bringing them under colonial rule. Plainly, Orientalism existed to validate Western imperialism (Ambesange 2016).

Homi K. Bhabha: Hybridity

In postcolonial and cultural studies, the concept of hybridity gained prominence with Homi Bhabha's (1994) publication of *The Location of Culture* in 1994 (Pieterse 2001; Stockhammer 2012). The 1980s postcolonial rising repositioned the scientific term *hybridity* to analyse the impact of prolonged colonial contact (Pieterse 2001; Ackermann 2012). In his book, Bhabha discusses the creation of new transcultural types that arise between the colonised and the coloniser within contact spaces, therefore the study of hybridity looks at how colonial players create each other (Abrahamsen 2003: 204; Roy 2008: 339). Bhabha (1994) rejects the oppositional dualism that Said (1978) outlined and maintains that colonial discourse cannot be thought of in two distinctive realms of "colonised" and "coloniser". This is because he sees differences as not always oppositional and discreet but fluid and dynamic (Otto 2000; Roy 2008).

Hybridity resonates with the tenets of postcolonial studies because it opposes essentialism and elevates agency. The concept emphasizes the changing nature of culture, rejecting the notion that it is monolithic and stagnant. It does so by challenging preconceived Western notions of indigenous culture and drawing attention to the heterogeneity of colonised peoples and places (Gosden 2002; Abrahamsen 2003; Burney 2012). Agency is given to indigenous groups because hybridity casts off the antiquated notion that colonisers dominated all aspects of the colonised (Kapoor 2002; Gosden 2002). It rejects the idea that the colonised were quiet victims whose identities were dictated by colonial forces (Kapoor 2002; Abrahamsen 2003). Reality sees that colonial cultures are mixtures and blends of multiple agents. This illustrates that even the colonised, with restriction, played a role in constructing the modern world, having had sway on culture, linguistics, and politics (Gosden 2002). According to Roy (2008), hybridity is useful

as a tool for deconstructing legal discourse to facilitate new readings of the law by looking at law, legal identities, and cultures.

2.1.2 POSTCOLONIALISM IN AFRICA

In Africa, achieving independence or appointing African leaders does not mark the end of postcolonial efforts because the mere elimination of colonial rule does not necessarily equate to decolonization (Grosfoguel 2007). Rather, colonial discourse is the ongoing process of decolonising societal foundations and unravelling the colonial power matrix both within and outside Africa (Hitchcock 1997). While most African countries gained their independence by the 1960s, nation building in the wake of colonial influence has been trying especially since patterns in independence mimic are similar to those under colonial rule. It is also logical to consider that the process of decolonization in Africa is not uniform, and the nature and degree of colonial oppression have left distinct imprints on each nation, resulting in varying struggles and challenges.

Ndlovu-Gatsheni (2013: 7) suggest distinguishing between three forms of coloniality (the longstanding effects of colonialism) that have persisted into the present. They are the coloniality of power, the coloniality of knowledge, and the coloniality of being. This underpins why renouncing colonial influence remains difficult and why the envisioned postcolonial Africa centred on indigenous knowledge and values has not yet come to fruition (Ndlovu-Gatsheni 2013).

The *coloniality of power* refers to the continuity of colonial mentalities that mainly took the form of political and economic domination. *Coloniality of knowledge* refers to the epistemological domination that affected the way Africans "know", assign meaning, and produce knowledge. And the *coloniality of being* discusses the dehumanisation of colonised bodies and the hellish life experience under colonial power (Ndlovu-Gatsheni 2013).

Birmingham (1995) argues that the reason colonial assumptions persisted in post-independent Africa was because people failed to decolonize their minds. This supports Fanon's (1963) idea that true liberation requires a conscious effort to decolonize oneself first.

Since colonialism impacted cultural expressions, political and sexual structures, spiritual meanings, epistemic systems, and economic arenas, Africans now exist in a neocolonial space (Ndlovu-Gatsheni 2013). This is because colonial modernity ("the domination of physical

space, the reformation of natives' minds, and the integration of local economic histories into Western perspective") is not confined to colonial happenings. Together, these factors maintain motifs of the dichotomous inferior and superior relations. But because we live in post-colonial societies in Africa, these invisible snares are not always easy to locate and remove. Grosfoguel (2007: 220) argues that "decolonization discourse has obscured the continuities between the colonial past and current global colonial/racial hierarchies and, therefore, contributed to the invisibility of coloniality today."

According to Ahluwalia (2001) and Ndlovu-Gatsheni (2013), Africa is currently navigating its identity in relation to Western and colonial modernity, while also facing challenges in nation-building and continental unity politics. However, Africa's current state is also an entanglement of its past, present, and future, as the continent grapples with various trajectories that are neither convergent nor divergent but paradoxically interlocked (Mbembe 2001).

Running parallel to the political and economic failings are shortcomings on the academic front especially in relation to centralising African voices. A reason for this is African academics are dependent on universities and publishers for support and exposure (Appiah 1992). And both institutions are overwhelmingly Western, having been informed by Euro-American influence. Thus, the first generation of postcolonial literature—that inevitably influenced subsequent generations—was Western-born. So, there is then the concern that postcolonialism is, as Appiah (1992: 142) puts it: "a relatively small, Western-style, Western-trained, group of writers and thinkers who mediate the trade in cultural commodities of world capitalism at the periphery."

In essence, Africa's past is severely entangled in every regard to colonial influence. The disentanglement thereof is trying and, in some cases, impossible. Regardless, Africa now is in the process of decolonising modes of thought that govern research, politics, economics, legislation and more.

2.1.3 POSTCOLONIALISM AND HERITAGE MANAGEMENT

Taking a postcolonial approach to heritage management involves examining the relationship between heritage, politics, power, and colonialism, including how these factors have affected heritage discourse in Africa (Giblin 2015). This approach is valuable because archaeology and heritage have historically played a significant role in constructing colonial discourses by controlling the representation of the past in colonized societies. This narrative justified colonial conquest and helped to construct the identity of the European bourgeois classes (Trigger 1984:

360). Colonial archaeology, produced by archaeologists from imperial powers, created a narrative that excluded other accounts of the past, becoming hegemonic because it was broadly accepted by colonizers and colonized, producing the only authorized discourses about the past (Liebmann & Rizvi 2008). Such discourse legitimized the authority of the West as colonizers and relegated the "Other" (non-European colonized) to a secondary status as inferior, subordinate, and dependent (Díaz-Andreu 2007:8). Against this backdrop of European colonization of the African continent, the use and preservation of heritage sites became based on legal instruments (heritage legislation) that transformed culturally significant places (i.e., sites) and objects into the property of the colonial authority.

Thus, the incorporation of postcolonialism into heritage management helps scrutinise power relations that are behind the hegemonic official images and narratives of the past as currently produced across Africa. The adoption of postcolonial critical approaches to heritage is useful to understand the relationship between nationalism and heritage in post-independent Africa (Giblin 2015). Usually, this entails a focus on indigenous issues relating to forced assimilation, suppression of native heritage and value systems, marginalisation, inclusive heritage methodology etc. but is not confined here; postcolonialism in heritage also must explore identity (Giblin 2015). Thus, a postcolonial lens is essential to critical heritage studies.

Giblin (2015) has mentioned three ways in which postcolonial heritage has operated in post-independent countries and this includes reappropriation, recycling, and renewal of identity. Regarding reappropriation, when South Africa gained independence, there was a governmental push for the idea of the “rainbow nation”. This idea is spiritually the same as the colonial governments as it centres on the differences and discreteness of cultural groups. However, this time, it is done by Africans to express sovereignty; a form of self-exotism and pride (Meskell 2012). In terms of recycling, pre-colonial Zimbabwe attached spiritual meaning to Great Zimbabwe as it was a site used for spiritual and cultural practice. Then during the colonial period, it served as “proof” of earlier non-African colonisation (because the discourse refused to credit its construction to Africans) and in post-colonial Zimbabwe, it was heralded a pre-colonial accomplishment (Fontein 2006). Here we see how meaning is renegotiated (recycled) through time and politics. And it is through these two processes of reappropriation and meaning recycling that there has been a cultural renewal.

2.1.4 APPLYING POSTCOLONIAL THEORIES TO SOUTH AFRICAN HERITAGE MANAGEMENT

Orientalism

Given South Africa's colonial heritage, legal systems excluded indigenous heritage (except for Bushmen heritage because they were not perceived as a threat to colonial rule) from conservation lists so that the indigenous heritage of other groups was not legitimised (called Black indigenous heritage here) (Ndlovu 2011a; Deacon 2010; Chirikure *et al.* 2010). Because of this, a dichotomous relationship formed where colonial and Bushmen heritage were regarded as worthy of conservation and other indigenous heritage, as not. Thus, indigenous heritage that was non-Bushmen was legally invisible, which contributed to the erasure of black landscapes and culture (Meskell 2008; Young 2015).

During the colonial periods, colonial heritage mattered, and Black indigenous heritage did not. Colonial heritage was visible and Black indigenous heritage, invisible. I argue that this perpetuation of insignificance and invisibility is how indigenous South African heritage was "othered" and that exclusion was a form of narrative construction as it implied unimportance. Further, I argue that this type of orientalism—like all other types—was a form of epistemic violence because it promulgated the idea that indigenous heritage was not worth legitimisation and most indigenous heritage was seen as not as important as colonial heritage.

Orientalism underlies the general assumption that this dissertation is built upon. Indigenous South African heritage was "othered" therefore invisible under colonial rule, and the NHRA aims to give it visibility.

Hybridity

Creolization refers to the process in which aspects of various cultures are mixed and blended until new unique cultures form. For centuries, South Africa has undergone mixing resulting in a rainbow nation with denizens of varying ethnicities, races, language groups and religions (Rassool 2000; Martin 2006). Because of South Africa's history, the culture is dynamic and in a constant process of making and remaking where the present is only a momentary outcome of conflict and creative blending (Martin 2006; Cocks *et al.* 2017).

To a large degree, colonialism contributed to South Africa's multiculturalism and influenced South Africa's cultures, politics, sociology, and identities in different ways. An example for

ethnic blending, are South African coloureds who are a highly mixed population comprising African, European, and Asian roots that has influenced both genes and culture (Quintana-Murci 2010).

Linguistic mixing, for example, includes Afrikaans; the creole language developed in South Africa from Dutch but that incorporates Malay, Bantu and Khoisan languages and additional European languages like Portuguese (Niesler *et al.* 2005).

The formation of African cultural groups, or at least their discreteness, can be attributed to colonial forces who (among other things) divided these groups into categories (Zulu, Xhosa, Venda, Khoisan etc.) to create hostility and prevent unified uprising (Meskell 2008). In this case, it is due to colonialism that different cultural groups "exist". Given that hybridity has no general or overarching parameters, one could argue that every South African group is a hybrid of some sort because of South Africa's intensely mixed nature.

This theme can then be seen in the heritage. For example, I mentioned that Bushmen heritage was legitimised under colonial rule, so it could be said that Bushmen heritage is reflective of colonial ideals since it was given value under colonial rule. But it was created by indigenous people, so it could also represent indigenous values informed by their culture. It could be said to represent both. A second example is the most famous heritage site, Robben Island which was significant because Nelson Mandela and other Apartheid activists were political prisoners there (Buntman 2003). This site is considered postcolonial because of the role it played in bringing about democratic South Africa, but the very concept of anti-apartheid activist only exists because White supremacy and colonial ideals necessitated opposition. While the site may reflect postcolonial ideals, it was made by colonial forces. "Places like Robben Island are protected not because of the famous or infamous prison, but in part because of the colonial history represented on the island dating back to the occupation of the Cape by the Dutch East India Company" (Ndoro & Pwiti 2001: 24).

Everything in South Africa could be a hybrid and because of that, nothing could be. Thus, hybridity is relative to what the topic of research is, and each academic will find themselves outlining the parameters differently.

The dualistic categorisation of postcolonial vs colonial heritage does not broadly fit South African heritage because there is a great degree of hybridity and creolization that goes into the

making of heritage. But this dissertation is based on classifying heritage so parameters will be used (outlined in methods section).

2.1.5 COMPARATIVE LAW STUDIES

Over the last two and a half decades, comparative law studies (CLS) have gained prominence in the legal arena (Reimann & Zimmermann 2006). Along with this, it has met scrutiny, branched into the social disciplines, and lost its methodological innocence (Reimann & Zimmermann 2006). This has contributed to CLS's growth into a booming and engrossing field with far-reaching applications (Jansen 2006; Reimann & Zimmermann 2006).

Comparative law studies is the study of the differences and similarities between legal systems in different countries or regions (Jansen 2006). Probing into the historic and cultural context that gave rise to respective legal systems, it consists of more than legislative analysis because CLS is about situating studies in the foreign contexts. This includes factors such as religion, culture, customs etc. (Eberle 2011). Therefore, it is a field of study that examines the legal system in its totality, even analysing the legislation's implementation and reception and further allows academics to concentrate on specific problems for micro-comparisons (Eberle 2011).

CLS helps to comprehend the complexities of domestic law by analysing foreign law. It is utilized to inform national domestic law, assist judges in making difficult decisions, unify international law, and, in cases such as this, for academic research to identify problem areas in the current legal system (Eberle 2011). There is an underlying quest for universalism in CLS, where central interest lies in empirically observable elements of legal systems across all democratic nations, irrespective of cultural and historical variability (Rosenfeld & Sajó 2012).

The functional and cultural analysis of legal systems is a subject of significant ideological debate (Michaels 2011; Rosenfeld & Sajó 2012). Supporters of functional analysis argue that all legal problems are the same across countries, and therefore legal systems of different countries can be compared because they address the same consistent issues (Michaels 2011; Rosenfeld & Sajó 2012). In contrast, cultural comparative law sees legal systems as a reflection of a society's culture and mentality, and therefore solutions are not relevant outside of their society (Michaels 2011; Rosenfeld & Sajó 2012). However, some suggest that while the fundamental issues are universal, not all solutions are applicable due to different circumstances (Rosenfeld & Sajó 2012).

Comparative law is faced with multiple challenges. One of the main challenges is the difficulty of accessing foreign law due to the language barrier, which makes it hard for scholars to explore legal systems beyond their own country (Rosenfeld & Sajó 2012). Additionally, it can be tough for lawyers and academics to fully comprehend the cultural, historical, and social contexts of foreign countries and translate those into legal structures (Jansen 2006; Rosenfeld & Sajó 2012). Critics have also pointed out that comparative law tends to impose the dominant legal system onto others, resulting in ethnocentrism (Rosenfeld & Sajó 2012; Schacherreiter 2016). However, it is equally problematic to entirely embrace cultural relativity and disregard any Eurocentric modes of thought for foreign legal systems (Schacherreiter 2016). Essentially, it requires skilful navigation between the unfamiliar and the familiar.

A highly debated topic within CLS is whether a standardized method should be adopted or not (Eberle 2011; Michaels 2011). Some scholars argue for laying out a method, while others oppose it as being too formulaic and limiting.

The approach used in this dissertation is grounded in the core principle of Comparative Law Studies, which involves a holistic comparison of legal systems within the broader societal context, rather than following a specific scholar's methodology.

2.1.6 POSTCOLONIALISM AND COMPARATIVE LAW

In his 2017 essay "Jameses at Play," Pierre Legrand critiques the ethnocentric nature of Comparative Legal Studies (CLS) and suggests decolonizing approaches that incorporate multiple disciplines. The author argues that comparative study should involve situating research in the greater world by immersing oneself in foreign contexts and challenging self-centric normality. Legrand (2017) notes that CLS often lacks self-reflection and perpetuates a self/foreigner dichotomy that can lead to imposing Eurocentric ideals on foreign law or at the other end, embracing cultural relativism to the point where comparisons are not possible.

Postcolonial studies have shown that both extremes can be problematic when seeking to understand cultural and social underpinnings. Simplifying legal systems into ‘Self’ and ‘Other’ can lead to a fixation on differences that overlooks similarities and external influences on law, resulting in exoticism, self-isolation, and stagnancy. On the other hand, an overemphasis on cultural relativism can prevent critique and improvement of laws and render the transfer of methods from foreign contexts theoretically unfeasible. Therefore, comparative studies need to

question Western epistemology without reaffirming prejudice and dissect ontology to avoid perpetuating stereotypes and promote nuanced analysis.

This then raises questions pertaining to what postcolonialism might offer CLS. Postcolonialism offers an environment in which perceptions can be questioned and methods for overcoming cultural bias can be discussed (Schacherreiter 2016). Legrand (2017) has urged academics of comparative law to critically engage with knowledge production to consider why some questions are asked and others disregarded (Legrand 2017).

For instance, Legrand (2017) discusses the positivist (only recognising that which can be scientifically validated) echo-chamber that has formed around comparative studies where academics are narrowly focused on authorised legal texts. This leads to studies that are set in rules, neatly organised and unengaged with cultural and historical contexts in a meaningful way (Legrand 2017). Given law is so entangled with the socio-political and economic climate, a positivist approach results in epistemic blindness, authoritarian inclination, and a disregard of otherness (Munshi 2017). Comparative studies attempting to copy the natural sciences by adhering to objectivity and certainty does more harm than good because law is influenced by society and cannot be studied in isolation (Munshi 2017).

The apoliticism of positivism is a political stance because it refuses to engage with politics, but politics (in this case postcolonialism) intends to incorporate culture therefore apoliticism by transitive properties refuses cultural incorporation. From a political standpoint, it keeps unequal systems intact, but even from an academic standpoint, it is not feasible because an overly reductionist view makes research suffer.

Legrand (2017) suggests engaging with the unruliness of legal systems instead of trying to cleave internal inconsistencies (Munshi 2017). Legal texts have a magnitude of meanings and readings that have not been exhausted, and since positivistism have in the past had a narrow focus, an immersive inclusion of culture and history can facilitate new readings of the same text (Legrand 2017; Munshi 2017). This is what Legrand (2017:4) has termed “enculturation” where he believes the exclusion thereof leads to silencing and erasure.

2.2 HERITAGE LEGISLATION IN INDEPENDENT SUB-SAHARAN AFRICA

Almost every African country now has heritage legislation, but due to Africa’s entangled history with colonialism, most laws are heavily influenced by foreign policy and continue to

suffer from the colonial legacy (Chirikure *et al.* 2016; Jopela *et al.* 2012). But, in addition to colonisation, many shortcomings are of Africa's own creation (Pwiti & Ndoro 1999). For example, protective heritage legislation is often overridden by mines or mineral rights (Ndoro & Pwiti 2001) and heritage has been exploited and commodified thereby turned into a political and economic resource more concerned with gain than preservation.

Furthermore, in countries with large European settlement populations, heritage management was cultivated into an academic pursuit concerned with scientific procedure and typology that supported the mission to "civilise" (Giblin 2015). Thus, heritage was detached from the local communities because public consumption was never the intent (Ndoro & Pwiti 2001). During the colonial period, indigenous culture and spirituality was met with apathy, and this attitude carried into the continent's modern heritage management. Simultaneously, the African cultural heritage arena has been weaponized to promote nationalism with little care for educating the public (Negri 2009). Globally, only a small segment of the World Heritage List contains African sites which shows how African culture and heritage is continuously.

Africa is not a monolith and even saying that colonialism was grafted onto domestic systems would be an oversimplification of a complex system (Negri 2009). It would be more accurate to say that given the systems colonisation built, it is impossible to completely renounce colonial law, but different countries have responded differently (Negri 2009). For most African countries, decolonisation brought about the need to restore traditional and cultural values that were lost (Pwiti & Ndoro 1999).

This section examines the criticism of heritage legislation in certain sub-Saharan African countries that were colonized by the British, to contextualize South Africa's engagement with colonialism in terms of African heritage legislation. The purpose is to compare and contrast the priorities of other African countries' heritage legislation with those of South Africa's NHRA, and to identify common shortcomings in the field of heritage across Africa.

2.2.1 KENYA: THE NATIONAL MUSEUMS AND HERITAGE ACT OF 2006

The republic of Kenya's heritage is protected by the National Museums and Heritage Act which commenced on the 8th of September 2006 (Otieno 2013). This Act and —to a lesser degree— the National Policy on Culture and Heritage (adopted in 2009) are the two main pieces of legislation that govern Kenya's heritage management (Otieno 2015: Kyule 2016). The Act of focus (the National Museums and Heritage Act) stipulates the functions of the National

Museums of Kenya (NMK) and gives authority for the identification, protection, preservation, and transmission of cultural heritage thus, the NMK is the official organisation tasked with instrumenting the Act (Otieno 2013).

Critique of the legislation has been ample. For one, Part II, Section 2 (30) stipulates that "an "object of archaeological or palaeontological interest" is an antiquity in existence before the year 1800, and an "object of historical, cultural, or scientific interest" means an object which came into existence in or after the year 1800". From this, it is observable that the NMK Act prioritises tangible sites predating the 1800s. However, since those sites are archaeological, palaeontological, monuments or architectural, other forms of cultural heritage (like cultural landscapes) are excluded (Kyule 2016).

Another issue is that by the Act not including procedures for scholars to follow when wanting to conduct research, it creates loopholes to be exploited by corrupt officials (Kyule 2016). The Act has also been shown to favour foreign academics over local ones and is non-committal and silent when academics or the public raise concerns relating to cultural heritage sustainability (Kyule 2016). Further, Kenya's National Museums and Heritage Act does not state guidelines for impact assessment, but it does embrace The Environmental Management and Co-Ordination Act (S38), however since that Act favours natural elements, Kenya is left without any legislation to govern cultural heritage impact assessments (Sinamai & Kiriama 2010; Lane 2011). Otieno (2013) has criticised the offences section because the maximum punishment of twelve months in prison and a fine of one million shillings is far too lenient (Sections 32, 36, 45, 51, 55 and 63). Ngetich (2019) has criticised the Act for not necessitating community engagement when managing heritage thereby promulgating a material-based approach (Section 43).

It also severely falls short in its recognition of intangible heritage. Kenya, like most African countries, has a rich assortment of intangible heritage that exists in the form of language, knowledge systems, eating habits etc. (Okotto 2019). There has been an attempt to preserve living heritage and indigenous knowledge as is evident in policies like the National Policy on Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions, the National Policy on Culture and Heritage, and the Policy on Traditional Medicine and Medicinal Plants and the Constitution of Kenya. However, the National Museums and Heritage Act makes no mention of intangible heritage. While it is helpful that some legislation recognises the importance of preserving intangible heritage, it is unfortunate that the main heritage legislation

has ignored it especially in Kenya where intangible heritage is under threat (Deisser & Wahome 2016). The main issue with implementing heritage legislation in Kenya, as in most of Africa, is the lack of funding. This then leads to fewer well-trained staff and poor implementation of policy (Mungai 2017).

The National Museums and Heritage Act was intended to implement international standards on a local scale, but it was unable to shake its heavily English roots as it shows little concern for local people and their cultural resource rights (Otieno 2015; Kyule 2016).

2.2.2 TANZANIA: ANTIQUES ACT

The Republic of Tanzania's heritage is governed by the Antiquities Act of 1964 which was later amended in 1979 (The Antiquities Act 1979; Bwasiri 2011; Bushozi 2014). The original 1964 Act on page 2 defines itself as "an Act to provide for the preservation and protection of sites and articles of paleontological, archaeological, historical or natural interest." The powers of implementation were vested to the Department of Antiquities (DoA), and they hold power of Tanzania's tangible cultural resources (Bushozi 2014).

The Act mentions "antiquities" as relics, monuments, and protected objects. For relics and monuments, the cultural heritage must be shaped by human agency before 1863 (Section 18(a)) and for protected objects, the Act specifies wooden doors and their frames which must be of an African style and created before 1940 to be considered cultural heritage.

Further, the Act gives power to the Director of Antiquities to supervise, control and regulate cultural heritage as well as give research permits (Bushozi 2014). It also gives the Minister the immense power to declare any site, object, or relic as heritage under the law (Sheriff 2005; Bushozi 2014). When the Act was amended in 1979, it gave the Minister further power to acquire land. The issue, however, is that it gives no regard for heritage in relation to people, the environment or nature (Bushozi 2014).

Instead, it is heavily focused on ownership and maintaining the government's residing power because all heritage is transferred to government property (Schmidt and Ichumbaki 2020; Bwasiri 2011). A further criticism is that for the declaration of heritage sites or heritage objects to occur, there needs to be consultation with people living close to it, but this consultation usually happens only with government officials and village officers because the Act does not

explicitly state that consultation needs to occur with local people who attach cultural or spiritual value to the heritage of interest (Bwasiri 2011).

According to Bwasiri (2011: 131), failing to consult the public is not new. Some extreme cases like Kaole show that a portion of the archaeological site was leased for development by the DoA without asking the local community for their input. Another case occurred at the site of Kunduchi ruins where the DoA tried to develop and promote the site without the consent of the local people even though they use it for traditional and religious purposes (Bushozi 2014). Those responsible for heritage protection have privileged private ownership above public interests (Schmidt & Ichumbaki 2020).

Implementation is hindered by the underfunding and understaffing of the DoA. Schmidt and Ichumbaki (2020) report that a sizable portion of DoA funds is used for higher ups to attend workshops and while this shows inappropriate use of funds, it also contributes to the agency being isolated from the needs of heritage on national and local scale. This understaffing then leads to cases where there is a failure to address critical violations of antiquities law (disturbances, damage etc.) (Schmidt & Ichumbaki 2020). So, the Act is not strictly enforced and the instructions pertaining to handling cultural resources are not comprehensive and because of this, management inevitably suffers. Ichumbaki (2016) has reported that many built sites are not regularly maintained and are overgrown with vegetation.

Another implementation issue arises from the Act itself because while UNESCO demands that developers conduct AIAs, the Antiques Act does not, so the Act facilitates destruction by remaining silent (Sheriff 2005). During developmental endeavours, heritage is often deemed to have low priority.

Because intangible heritage was largely ignored in the legal arena, governance thereof was reliant on taboos and beliefs in both the colonial and pre-colonial period (Bwasiri 2011). According to Bwasiri (2011), the colonial administration was aware of intangible heritage in Tanzania because they actively attempted to interfere with its indigenous management, but they did not manage it. It is generally accepted that many aspects of culture were lost due to colonial influence, but now, even the post-independence legislation remains focused on the physical. Within the Antiquities Act, there is not a single mention of intangible heritage, living heritage or indigenous knowledge. The colonial emphasis on the physical has carried over into the

current legislation because it only recognises physical elements of relics, monuments, and objects.

Tanzania's Antiquities Act retains colonial views of cultural heritage by remaining heavily centred on age and tangibility to the exclusion of knowledge, traditions, and memory.

2.2.3 ZIMBABWE: NATIONAL MUSEUMS AND MONUMENTS OF ZIMBABWE ACT

When Zimbabwe gained their independence in 1980, there was a strong emphasis on establishing an African national identity (Bhatasara 2012). The National Museums and Monuments of Zimbabwe Act 25/11 of 1972 (the NMMZ of 1972) is the main piece of heritage legislation in Zimbabwe and was first established in 1972 when it was known as the National Museums and Monuments of Rhodesia Act (Makuvaza 2014). It brought about the amalgamation of the Monuments Commission and the country's city museums (Ndoro & Pwiti 2001: 30). The Act saw amendments in 1984, 1990 and 2001 but remains almost identical to its colonial predecessors especially in relation to definitions and protective methods (Makuvaza 2014). Despite this, it did help bring heritage management to the major cities of the country (Ndoro & Pwiti 2001).

Criticism of NMMZ Act states that it is exclusionary because it fails to address community involvement in management, remaining silent on how the community should be engaged, so there has been no systematic approach (Schmidt & Pikirayi 2016; Chiwaura & Thondhlana 2016). Chiwaura & Thondhlana (2016) state that the NMMZ Act gives too much authority to the directors at the cost of private and public owners of land and the community.

Others have stated that the Act is outdated and reactionary because it perpetuates the colonial view that heritage must be preserved rather than used. The Act also treats the National Museums and Monuments of Zimbabwe as the only agency responsible for heritage protection thereby disregarding traditional forms of protection entirely (Levey 1983).

From an implementation viewpoint, it alienates people from their heritage because when sites such as Great Zimbabwe, Khami and Tsindi were placed under National Parks, the African population no longer had free access (Ndoro 2001). For example, when a medium named Sophia Muchini tried to set up her home at Great Zimbabwe, she was removed because doing so was illegal, yet the site is often used for photography, filming, and tourism (Pwiti 1996).

Another issue is that the Act, like the colonial legislation that came before, does not stipulate guidelines for environmental impact assessments in cultural heritage (Musindo 2010). In fact, cultural landscapes are not even included in its definition of cultural heritage (Musindo 2010). Subsequently, many heritage sites have been damaged for development because the cultural heritage legislation failed to protect them.

Regarding intangible heritage, the resettling of indigenous people in Zimbabwe predictably disrupted intangible heritage in the form of practices and traditions and this was compounded by colonial education (Katsamudanga 2003). In Zimbabwe especially, colonial education taught that African traditions were a hindrance, both economically and politically, to "progress", so a large segment of society adopted new Western values (Katsamudanga 2003).

Now, the legislation does not recognise the importance of intangible heritage (Katsamudanga 2003). When significance is assigned to sites, it is done so by the heritage manager, however it is the community who determine spiritual value (Katsamudanga 2003). Thus, if both the legislation and management overlook intangible heritage then it is being disregarded in both theory and practice in Zimbabwe (Katsamudanga 2003). For example, at the site of Khami, between 2000 and 2015, drystone restorations were made in an effort to preserve the site, but since the site is an ancestral resting place, doing so fundamentally opposed the indigenous, non-intervention philosophy (Chirikure *et al.* 2016).

Implementing the Act is hindered by funding. Due to strained international relations, there have been withdrawals, drying-up and cancellations of donor funds (Makuvaza 2014). Local funds have also been low because of Zimbabwe's business depression and poor economy. This has left heritage management's future unclear, and it is suffering because, for example, only seven new cultural heritage sites were declared between the years of 1980 and 2006 even though universities were actively finding and studying new ones (Makuvaza 2014).

Another implementation deterrent comes from a lack of awareness. The Act deems it an offence to destroy, alter, damage, or remove any archaeological sites or relics without written approval from the Director. For these offences there is a fine of up to 2000 Zimbabwean dollars and/or five years imprisonment. But most of the public (and the police) are not even aware that this legislation exists let alone when they commit an offence (Ndoro & Pwiti 2001).

Zimbabwe's heritage legislation needs modification as it retains the colonial characteristics of community exclusion and a disregard of heritage outside the narrow colonial parameters.

2.2.4 NIGERIA: NATIONAL COMMISSION FOR MUSEUMS AND MONUMENTS DECREE 77

Nigeria's National Commission for Museums and Monuments Act 1979 (NCMM Act) is the main piece of heritage legislation that governs the country's rich heritage (Shyllon 1996; Adewumi 2014). For decades, Nigeria has had a serious issue with heritage being lost through plundering and illicit trade (Shyllon 1996). Thus, this Act was borne out of the necessity to prevent loss and increase penalties for destruction (Shyllon 1996).

But the NCMM Act has been met with much criticism. For example, Section 2 of the Act states that five members are to be appointed to the National Council of Ministers where they have specialised knowledge in education, culture, natural history, science and technology, and science (NCMM Act, S2(1a)). It does not cover whether each member must specialise in all five fields or just one specialisation per member, and it further does not state whether there needs to be a member representing each of the five fields at any given time or whether overlap is permitted (Adewumi 2014). Within the same section, the Act mentions that a Director General is to be appointed but does specify their required qualifications (Adewumi 2014).

Another issue is the enhanced deterioration promoted by Section 3 because it states that the commission is permitted to take steps towards conserving heritage with permission from the owner, but the owner is not required to maintain their site themselves (Adewumi 2014). Further, The Act does not make a provision for retaining the cultural heritage's owners right over declared sites so given there is no longer a vested interest by the owner, many sites are not properly cared for.

The legislation is again problematic in Section 20 where it states that if objects are found then notice must be given within seven days but then does not detail disposal. This lack of restriction means that developers can do away with the objects and continue development. And this has in fact happened where heritage destruction for developmental projects occurred such as in Olokun Grove (Shyllon 1996). It also fails to stipulate what should happen to the object once in possession of developers especially since context is essentially lost (Adewumi 2014).

Another frequently cited issue is the definitions section. Usually this would be first mentioned but definitions occur in Section 32. Regardless of the Act's bizarre ordering, it has retained outdated terms like "antiquities" "monument" and "object of archaeological interest" (Shyllon 1996). Antiquity means archaeological objects, relics, art, and craftworks made before 1918 or

of historic, artistic, scientific interest and is or has been used at any time in the performance and for the purposes of any traditional ceremony. This raises questions as to why 1918 and what about objects of cultural significance not used in ceremonies (Adewumi 2014)? Similarly, why does it not ever mention intangible heritage? In essence, this section's definition of antiquity does not allow for the inclusion of objects that would qualify as heritage under the International Conventions (Adewumi 2014).

Additional critiques revolve around the Act not including development surveys, a lack of guidelines for rescue operations, its bias for museums and disregard for buildings and site care, lenient punishments, and complete exclusion of local government and transitively, the local communities (Shyllon 1996; Adewumi 2014).

Implementation of the Act is hindered by the fact that the NCMM is low priority in the government and therefore half-heartedly implemented (Shyllon 1996). This can be seen in their funding which drastically decreased when Nigeria's economy collapsed (Shyllon 1996).

Nigeria's heritage is under threat from theft and export and while the heritage legislation has attempted to mitigate this, it is severely falling short in implementation. Like previous countries, it retains much of its colonial practice into the present.

2.2.5 REOCCURRING ISSUES IN AFRICA

From these cases, four problems frequently arise across all these countries. These include (a) selective heritage parameters that carried into independent heritage legislation, (b) little attention paid to community involvement and their preservation systems, (c) a disregard of intangible heritage, and (d) poor or diverted funding leading to low quality management. These four issues encapsulate the spirit of this dissertation because they contribute to the suppression of indigenous heritage, explored below.

Exclusionary legal language

Preservation is determined by value, meaning that those elements of heritage deemed valuable will receive better protection and management (Jopela 2011; Munjeri 2009). But value remains in an interconnected relationship with economics, politics, culture, and aesthetics, so value (and thereby preservation systems) has evolved differently in different countries (Munjeri 2009).

As demonstrated earlier, African heritage legislation suffers from a lack of clarity regarding its own values, leading to a disproportionate focus on immovable cultural heritage and material objects, which is a product of the colonial legacy (Ndoro 2001; Abungu & Ndoro 2008; Jopela 2011; Munjeri 2009). Heritage such as cultural landscapes, intangible, underwater etc. do not get recognition and protection (Abungu & Ndoro 2008). This is because the legislation defines the types of heritage that are to be protected so those that are not mentioned are not celebrated. In this way, many African countries still subconsciously abide by the colonial code of conduct. The absence of significant progress in the field of African heritage legislation can be traced back to the fact that many countries have not made substantial revisions to their laws since the colonial period, and any modifications that have been made are merely superficial, thereby perpetuating the undervaluation of traditional perspectives. Currently, southern African heritage legislation is a patchwork of previous ordinances and regulatory mandates linked to the western milieu (Ndoro 2001).

African legislation continues to use colonial terms like "ancient monuments" or "objects of historical, aesthetic or scientific value" instead of defining its own standards. These terms are rooted in Western epistemology and do not align with African principles (Ndoro 2001). For instance, Zimbabwe's Act does not mention culture or cultural landscape at any point. The focus is on protecting colonial terms that are discussed in boardrooms and museums and are based on Western values that do not align with those of local communities (Munjeri 2009).

This prioritisation is reflected in legal language (Ndoro 2001; Misiura 2006). In Africa, South Africa’s NHRA 1999 is the only legislation that highlights that the country’s heritage belongs to all. Stating that (NHRA 1999: XX: 3), “This legislation aims to promote good management of the national estate, and to enable and encourage communities to nurture and conserve their legacy so that it may be bequeathed to future generations”. The aim here is to make people the focus. But this thought is not universal, and just from the above examples: Kenya’s Act aims to provide for the establishment of national museums, Tanzania’s Acts aims to preserve and protect sites and articles of archaeological, historical, or natural interest, and Zimbabwe’s aims establish a board of trustees to administer museums and monuments in Zimbabwe. None of these focus on people. In fact, in Africa, people are often seen as a threat to heritage and their access is restricted. In this way, heritage legislation is an oppressor (Munjeri 2009).

Community exclusion

In the field of heritage management, the issue of community participation has gained significant attention since the early 2000s (Jopela *et al.* 2012). Despite the presence of various stakeholders such as practitioners, governments, researchers, and developers, communities have often been marginalized and excluded from the decision-making process (Ndoro 2001; Chirikure 2013). This is due, in part, to the fact that protective legislation was not designed to accommodate Africa's diverse heritage, but rather to preserve sites of significance to White settlers. As a result, legal frameworks have failed to create adequate space for community involvement. Even in countries like South Africa, where community participation is legally mandated, it typically occurs only after major decisions have already been made, highlighting the continued need for greater community engagement in heritage management (Chirikure 2013).

One of the ways that protective legislation excludes the communities comes in the form of ownership (Ndoro 2001). Except for South Africa, which allows for private ownership, governments (or the state agencies) take ownership of ancient and national monuments. Cultural property then becomes government property, and they are managed according to national or international regulations for which community input is not considered (Ndoro 2001). This has resulted in community displacement and restricted access by heritage agents (Ndoro 2001). The issue here is that cultural landscapes form part of indigenous communities' cosmological environment, necessitating respect because it has spiritual connections to ancestors and the spirit world (Jopela 2011). In this way, protective legislation alienates the people. This then decreases spiritual connectedness since those who use the sites for their cultural values are displaced, sometimes hundreds of kilometres away.

An example of this can be seen in Nigeria. The Benin Kingdom's walls are perceived by the adherents of traditional religion as the boundary between the spiritual and the earthly (Eboreime 2005). When the walls we declared a national monument, they fell out of the jurisdiction of customary law, now considered government property instead. After its declaration, it became a place of limbo for waste disposal thus adding to the deterioration of the walls which reduced its spiritual significance (Eboreime 2005).

Another method of community exclusion comes through the invalidation of traditional custodianship (the mechanisms employed by the local community and determined by customs and belief systems which aim to use and maintain places, its values, and surrounding

environment) (Jopela 2011). In the academic arena, there has been a large focus on modern (state-based) versus traditional systems (community-based) where the former is seen as progressive and latter, outdated (Mumma 2005). The management of sacred sites has led to conflict between managers and the local people (Jopela 2011),

There are general characteristics that separate formal state-based systems from community-based traditional systems. State-based systems are usually formalised, affected by its colonial roots, established through a state-based hierarchical system, given legitimacy through the state, enforced through the legal system and generally indifferent of the local communities (Mumma 2005). Conversely, community-based systems are not written in legal texts. Rather, they originate from the community, acquire legitimacy from historical rights of use and ownership, are regulated through customary law, enforced through cultural and ethical beliefs and by traditional custodians (Jopela 2011; Mumma 2005).

These two systems have had an antagonistic relationship where they have competed for legitimacy (Mumma 2005). Generally, state-based systems have almost entirely suppressed traditional forms. Among other reasons, this has occurred because state-based systems have revoked community-based systems, criminalised community uses, invalidated community systems and their leaders, and replaced traditional leaders by state-appointed ones (Mumma 2005). Formal practitioners have often criticised traditional systems because of the physical damage it has caused sites such as the Tsodilo Hills in Botswana and the Matobo Hills in Zimbabwe (Jopela 2011). As a result, the survival of community-based systems remains unknown and delicate because state-based systems have relegated community systems to peripheral management systems.

A major plight of African heritage legislation is its lack of consideration for indigenous peoples, and this is an area in desperate need of revision. While not easy to fix, some cases show promise. For example, in Uganda, the Kasumbi tombs are one of the few cases where community-based systems and traditional systems work together as the formal legislation allowed for the restoration of traditional systems which had been previously outlawed thereby allowing for the return of the tombs to the community (Mafukata *et al.* 2021). As it stands though, there is much improvement needed.

Disregard of Intangible Heritage

Heritage encompasses more than just physical artifacts and sites; it is a multifaceted representation of a culture's cosmology. Spiritual meanings and values are often intertwined with local communities' monuments and sites, to the point that they are inseparable from those who attach spiritual significance to them (Katsamudanga 2003; Deacon *et al.* 2004). As Boonzaaier said in African Heritage Challenges: Development and Sustainability panel of 2015: "Traditional knowledge expresses both an epistemological and ontological dynamic – knowing and relational."

When colonial systems were imposed onto African countries, they ousted customary beliefs and traditional preservation systems (Manyanga 2003; Abungu & Ndoro 2008). These systems and beliefs were opposed by colonial law because colonialism influenced not only politics and economics but also education and intellect. In southern Africa, the West created an environment in which there was shame in retaining indigenous religious practice instead of adopting western ones, so traditional systems were legally marginalised (Manyanga 2003). Much of this dogma persists today and heritage's intrinsic value is largely legally ignored (Katsamudanga 2003; Manyanga 2003; Deacon *et al.* 2004). Now, because the history of intangible heritage is one of suppression, this type of heritage's management is highly political as it relates to human empowerment, African renaissance, and the reclamation of past truths (Manyanga 2003). It is at threat of being marginalised due to social, cultural, and changing natural factors (Boonzaaier 2015).

The turbulent foundation laid by history is not the only hindrance. Preserving intangible heritage is difficult by nature of what it is: abstract. Since intangible elements of heritage are centred on value, it is dynamic, especially with how globalisation has influenced the way communities perceive their past and self (Logan 2012). Each generation defines what is valuable to them, there is a constant state of change. This makes intangible heritage's preservation a tight system with little room for formal heritage managers. As a result, Katsamudanga (2003) has argued that intangible heritage management should be left to traditional systems and the community. But even then, there are still issues that can arise from claims over heritage and relevant authenticity. For example, at South Africa's Thulamela site, the Shangaan and the Venda groups had conflict relating to who was to be accredited during the reburial of excavated graves (Manyanga 2003).

Though intangible heritage is not left to the communities' preservation, it is neither widely formally protected either. In cases where intangible heritage does have legislation, it is frequently an additional policy, but not the main heritage act. This sort of separation of tangible and intangible heritage in legal documents further pushes it to the outskirts because it holds onto Eurocentric views (Deacon *et al.* 2004). In African heritage legislation, heritage is narrowly viewed and with a material lens; they are places that can be found on a map and are a physical entity to be protected (Katsamudanga 2003; Manyanga 2003). This is the Euro-American view of heritage that fails to consider non-material aspects and continues to deny local access (Manyanga 2003). There are a few exceptions with South Africa's NHRA recognising "living heritage" and Botswana's Monuments and Relics Act of 1970 broadening its definition of culture to include value systems and beliefs (Deacon *et al.* 2004).

This is essential progress because according to Manyanga (2003), religious groups often seek permission to use sites for sacred rituals as opposed to claiming ownership of the physical. And while the physical is appreciated by them, the intangible is where the significance resides for many.

This clearly indicates that the laws require revising, so the values they protect coincide with the people which will allow their knowledge and ideals to be preserved (Katsamudanga 2003). As it stands, intangible heritage is a severely neglected area and subsequently, elements of indigenous heritage are legally disregarded.

Underfunding

The common thread that unites all African heritage management is that of poor funding promulgated by legislation that does not centralises indigenous heritage and an economy that is still largely controlled by European descendants (Misiura 2006). While also important, areas such as defence, healthcare, and development are often given financial priority over heritage. Many African countries remain hindered by foreign debts and depend on outside finances, so heritage bodies are left understaffed and under-resourced (Misiura 2006; Chirikure 2013). This then affects heritage in that staff do not have sufficient training or the tools to carry out efficient operations. Inevitably, this casts doubt onto whether African heritage has a future at all as heritage management is seen as a luxury for the elite (Chirikure 2013). As it stands, approximately 40 % of the endangered sites on the World Heritage List are African, and this is attributed to institutional failings (Misiura 2006).

It seems, given the issues plaguing heritage management in Africa, that there is a need to not only review heritage legislation, but to overhaul it, its values and resituate its place in government. Many countries are pushing for the “African renaissance” in a nationalistic sense but in most African countries, its heritage and protection remain entrenched in colonial ideals and epistemology.

2.3 SOUTH AFRICAN HERITAGE: LEGISLATIVE BODIES

2.3.1 SOUTH AFRICAN HERITAGE RESOURCES AGENCY: SAHRA

SAHRA, which was established in 2000, is responsible for preserving and managing heritage with exceptional qualities in South Africa. This is achieved through formal declarations of heritage resources. SAHRA's vision is to unite people through heritage, aligning with the NHRA's goal of healing heritage from its traumatic past. However, SAHRA must balance engagement with national, provincial, and local heritage authorities, as well as communities and stakeholders, to effectively carry out its mission. (Meskell & Scheermeyer 2008; Ndlovu 2011b; Deacon 2015).

Now technically, SAHRA is the custodian of Grade I sites while PHRAs and municipalities oversee Grade II and Grade III sites respectively (Ndlovu 2011b). However, the task of SAHRA devolving power to these organizations has been slow because, in part, these organisations lack institutional capacity (Ndlovu 2011b). As it stands, SAHRA remains overworked, under-resourced and lacking in trained staff (Deacon 2015).

This can be attributed to politics both outside and inside of heritage. Outside, heritage is a low priority to the government and is thus not allocated the same funding as areas such as development or mining. And inside, prestigious sites (e.g., Robben Island) receive disproportionately more funding than all of SAHRA (Meskell & Scheermeyer 2008). Thus SAHRA, as it stands, is barely managing to stay ahead of the immense workload.

2.3.2 PROVINCIAL HERITAGE RESOURCE AUTHORITIES AND PROVINCIAL HERITAGE

The NHRA designates PHRAs as entities that have the responsibility of managing national estate properties at a provincial level. These properties are classified as Grade II heritage, and the tasks of the PHRAs include identifying, documenting, and conserving the heritage resources within their respective provinces. Additionally, they must provide periodic reports detailing

their activities to their province. Furthermore, the provincial heritage agencies are mandated to inform SAHRA of any heritage resources that meet the criteria for national level heritage. PHRAs also must evaluate whether local authorities are qualified to manage heritage resources within their jurisdiction.

CHAPTER 3 - METHODOLOGY

Keeping with comparative law studies theme of a robust and holistic approach to legal systems in their entirety, this methods section is divided into three parts. The first section compares the heritage legislation of the colonial period with that of the post-colonial period on a text basis only. The second looks at the socio-political climate of the two periods. The third section merely analyses the operations of the PHRAs on an individual basis. The first two sections are done to provide the context for the third section where the transformation of legitimised heritage is analysed. In this third part, the outcome of colonial vs post-colonial heritage legislation is examined as this section tracks how legitimised heritage types have changed since South Africa gained independence. By doing so, the rate of improvement can be found as well as identification of PHRAs that are lagging.

However, this study deviates from CLS in relation to scale and positivism. The geographic scale of this study is provincial. CLS usually operates on national levels only; however, this study takes a reductionist approach to analyse the effectiveness of heritage legislation (the NHRA) at provincial level.

Another shift in scale is the change from geography (usually comparing two countries' legal systems) to time (comparing two periods' legal systems). But since the CLS framework is flexible and since I will not be treating the two time periods as separate units by using a continuous time scale, I do not believe that this change will affect the integrity of the study.

Another deviation from CLS is objectivity or lack thereof. Where CLS analyses differences in a positivist and objective way, this dissertation treats the expected shift in legal foci from colonial to postcolonial heritage as progress. Thus, postcolonial sites (and its aim of uplifting the subalterns) is here treated as an inherently good thing that promotes diversity.

3.1 COLONIAL VS POST-COLONIAL LEGISLATION

The Bushmen Relics Protection Act (No. 22 of 1911), the Natural and Historical Monuments Act (No. 6 of 1923), the Natural and Historical Monuments, Relics and Antiques Act (No. 4 of 1934), and the National Monuments Act (Act No. 28 of 1969) are considered colonial legislation, while the National Heritage Resources Act (No. 25 of 1999) represents postcolonial legislation. These pieces of legislation were accessed through SAHRA's website, SAHRIS.

To compare the two types of legislation, I examined each Act for five components: (1) their aims, (2) the type of heritage to be protected, (3) any amendments, (4) offences and punishments for transgressions, and (5) the protocol for heritage management and protection, including impact assessments.

I focused on examining the aims of each Act to gain insight into the political views of heritage officials and the importance of heritage to the country. The type of heritage protected was also examined to understand which types were valued the most by the ruling party at different times. Amendments were investigated to identify areas that needed improvement, reflecting the mindset of the government at the time. Offences and punishments were analysed to determine which threats were considered most significant, and the associated punishments provided insight into how seriously heritage was taken. Finally, the protocol for heritage management and protection revealed the government's approach to conserving heritage through identification, protection, and stewardship.

Examining the legislation in its rawest form provides insight into the wider cultural context from which it emerged, as legislation represents the values of the ruling classes. This also sheds light on the types of heritage that were expected to be most legitimized by the government during different periods and provides expected trends for the third section of this methodology.

3.2 THE COLONIAL VS POST-COLONIAL CLIMATE

This section includes the comparison of colonial and post-colonial society to gain a robust understanding of South Africa. For Section 2, I divided South Africa into three chronological segments: (1) Pre-Apartheid colonialism, (2) Apartheid colonialism and (3) the independent period. Apartheid is given its own segment because of the governmental change and the political power shift from the English to Afrikaners, but it is still treated as a subsection of colonialism as per the definition given in the introduction.

From there, I used historical journal articles to contrast societal markers such as (i) government, (ii) segregation and discrimination, (iii) access to education, (iv) voter rights, (v) religious recognition and (vi) language across these three periods. Because this study is postcolonial in nature, when I compare societies, it is done with a postcolonial lens to ascertain how differently life functioned for the subjugated when contrasted with the elite thus I chose markers that have a socio-political component.

To provide a contextual background for analysing the relationship between colonialism and the legal system of South Africa, this section aims to place the reader and comparatist in foreign societies, which in this context, is not defined by geographical boundaries but temporal ones. The purpose of this approach is to facilitate a disassociation with one's own perspective and reduce bias in the findings. But to keep in line with postcolonial tenants, the section aims to depict life under colonialism as a marginalized individual rather than providing an objective and detached context. This helps to create a framework for examining the impact of colonialism on South Africa's legal system.

3.3 PROVINCIAL HERITAGE RESOURCE AUTHORITIES AND MUNICIPALITIES ANALYSIS

This section entailed individually researching each PHRA to determine their operations. For this, I made use of journal articles, relevant PHRAs' websites, and PHRA reports. Above this, I performed a literature review to gleam the operations of municipalities and their grade III heritage management endeavours.

3.4 HERITAGE TRANSFORMATION IN AN INDEPENDENT SOUTH AFRICA

3.4.1 MATERIALS: SAHRIS

As mandated by section 39 of the NHRA, South African Heritage Resources Information System (SAHRIS) is an interactive online database that must include all those heritage resources that make up the national estate (Mlungwana 2015; Smuts 2015; Mlungwana & Jackson 2017). It was established in 2012 and records moveable and immovable heritage resources across all grading scales (Wiltshire 2013; Mlungwana 2015). Their sources include surveys, archival documents, heritage impact assessments, permit applications and other databases of which SAHRA is the custodian. Further, archived reports—dating back to the 1980s— were uploaded onto the database and in 2013, SAHRA stopped accepting paper-based reports because all future documentation is to be electronically recorded (Wiltshire 2013). SAHRA has hosted over 50 workshops and trained over 1000 people to use the database in South Africa (Smuts &Wiltshire 2014).

SAHRIS has four primary functions. Firstly, it aims to speed up and simplify developmental projects by enabling all South Africans, including public and private institutions, researchers, learners, and communities, to log in and provide feedback on the projects (Wiltshire 2013).

Secondly, SAHRIS serves as a repository for National Heritage Sites, drawing from various archives such as museums and universities, as well as direct submissions to SAHRA. Thirdly, it functions as a National Collections Management System that permits museums in South Africa to establish free digital repositories, which will be integrated into a comprehensive list. Finally, a Centralised Heritage Crime Database is included, which intends to help combat crimes against heritage by keeping detailed repository records so that theft and damage can be identified swiftly (Smuts 2015).

SAHRIS is interactive because it allows commenting, and for individuals to submit applications depending on their heritage requirements (Wiltshire 2013). These applications include reporting crimes relating to heritage, nominations of sites, applying for developments, and permits for site management and the exportation of moveable heritage (Wiltshire 2013).

Of interest to this dissertation is the National Repository of heritage sites. This interface allows for the filtering of sites based on: Site ID, reference, full site name, latitude and longitude, province, site type and grading.

I have chosen this database for three reasons. One, the interface's categorisation allows for quick filtering of data that suit the needs of this study. Two, given it is SAHRA's database, it is the most official and comprehensive database of heritage sites for South Africa. And three, I will be able to assess usability and friendliness to help to identify issues with the database to recommend areas for improvement.

There are potential biases in the SAHRIS database. Given SAHRIS is still in its infancy, full operation has yet to be achieved (Van der Venter-Radford 2017). Across the nine PHRAs, SAHRIS' uptake has been patchy due to funding, staffing, skills etc. Only SAHRA and AMAFA have been actively engaging with SAHRIS' application process since its inception (Smuts & Wiltshire 2016). Heritage Western Cape has refused its use in favour of their own system (Smuts & Wiltshire 2016). While SAHRA requests annual verification of datasets from each PHRA to ensure accuracy for the annual reports, in 2020 only the Western Cape's authority responded to this call.

SAHRA is presently engaged in validating, consolidating, and refining the data contained in SAHRIS. Nonetheless, Mr. Clinton Jackson, who serves as the Manager of the National Inventory Unit at SAHRA, granted me access to the organized data from the four provinces where the clean-up was already conducted, namely, the North West, Free State, Limpopo, and

Mpumalanga. I am confident in the precision of the data obtained from these provinces. However, the limitations mentioned in the previous paragraph concerning potential biases will be applicable to the remaining five provinces.

Another general limitation is the state of the literature. There is a disconnect between management practices (more prominent in some provinces than others) and academia in the sense that few reports have been written about the management operations of sites across all grading levels.

The purpose of contacting Clinton Jackson was to gain proper guidance in navigating SAHRIS and effectively utilizing the software. Furthermore, Mr. Jackson graciously provided me with cleaned data for half of the provinces and engaged in discussions regarding SAHRA operations. For example, he informed me that the task of reassessing competent phrases was neglected and expressed concerns about the lack of commitment from municipalities to protect Grade III heritage. But my primary objective in reaching out was centred around navigating SAHRIS itself. Therefore, I chose not to individually contact PHRAs as well as my dissertation's scope focused on analysing the publicly available data on SAHRIS and sorting information that was accessible to the public. This could be considered a limitation, but I am confident that the tight scope provided a more focused approach.

3.4.2 PROCEDURE

This third section is the most crucial to this dissertation as it measures the heritage legislation's output in the broader context of South Africa's vastly differing socio-political climates. Using both SAHRIS and the data shared by SAHRA, I was able to examine declared heritage for each province. It is important to mention that I have looked at declared heritage specifically (as opposed to the three grading tiers) for two reasons. One, declared heritage is formally gazetted, so it is a better indication of the current and previous government's values than those sites that have not been declared. And two, the three-tier grading system did not exist before the NHRA, so comparisons of dissimilar systems across the last forty years would introduce bias whereas gazetted sites existed under the previous heritage system. In the end, maintaining a broader temporal scale took precedence over examining the three-tier system, however I did keep track of which sites were of national importance and which were of provincial importance for review.

For each province, I consolidated the data into one table per province. These tables kept the basic information of site name, site ID, date that the site was gazetted, site type and the site's

level of protection. In addition, I added a column for significance and site classification (pre-colonial, colonial, postcolonial or other).

The steps to obtain this data was as follows:

Upon accessing the SAHRIS website, I navigated to the "Explore" tab, followed by the "Sites" section, and finally selected the "Graded Sites" option (Fig. 1).

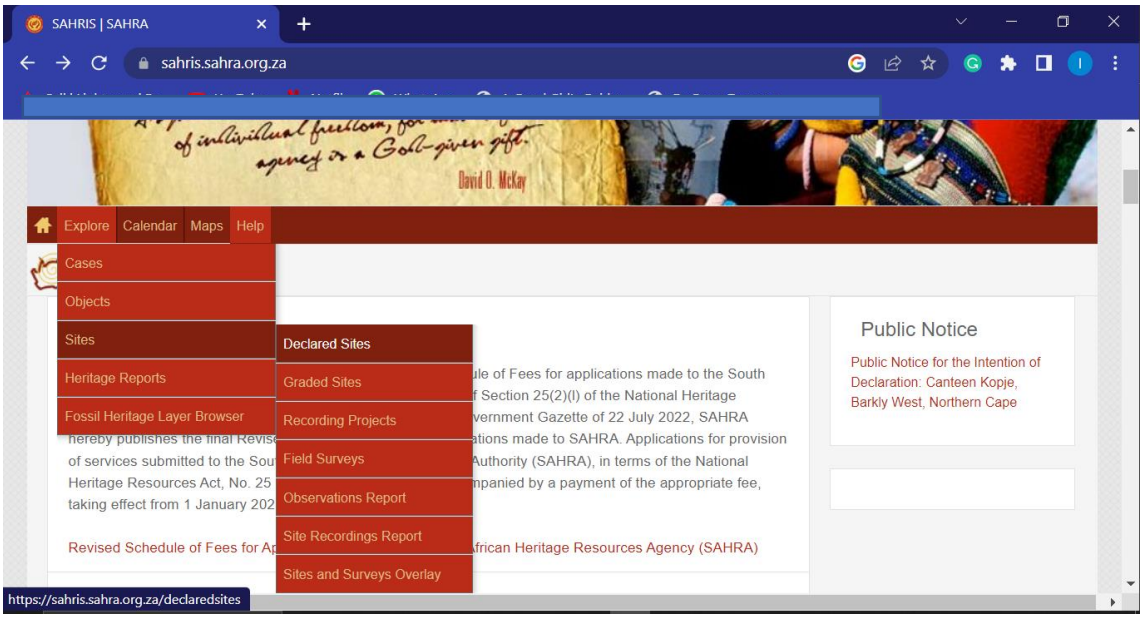


Figure 1: SAHRIS's homepage and relevant navigation

Subsequently, I was guided to the comprehensive inventory of declared heritage sites. To streamline the results, I proceeded to refine the search based on provinces while keeping all other criteria, such as site reference, full site name, and gazette date, set to "any" Fig. 2).

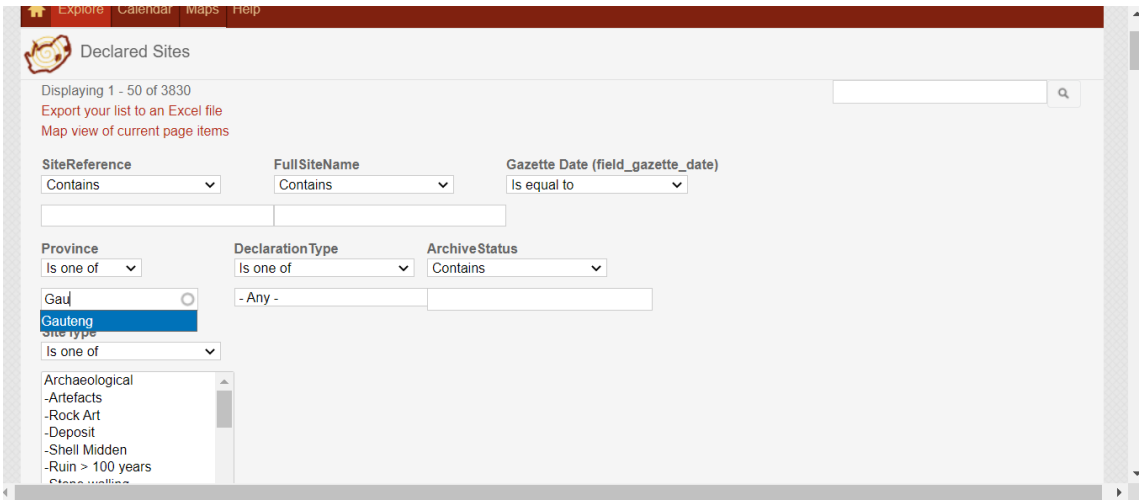
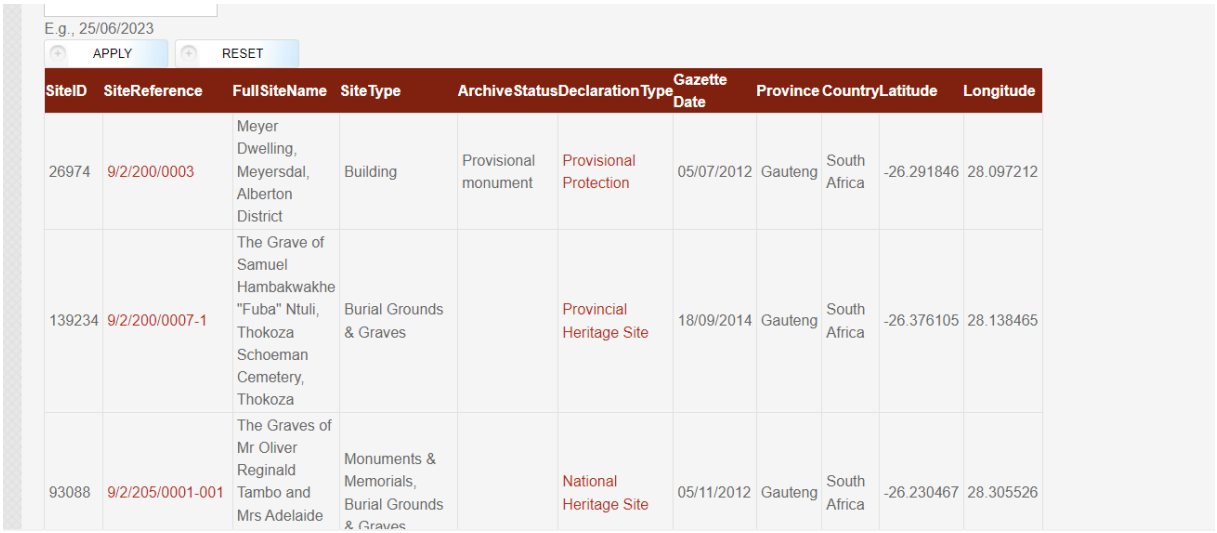


Figure 2: Declared heritage page.

Upon gaining access to the individual lists for each province, I was able to obtain detailed information for each site, including its ID, reference, full name, archive status, declaration type, gazette date, province, as well as latitude and longitude coordinates. Specifically, I extracted the ID, full name, date, and declaration type for the purpose of populating my tables (Fig. 3).



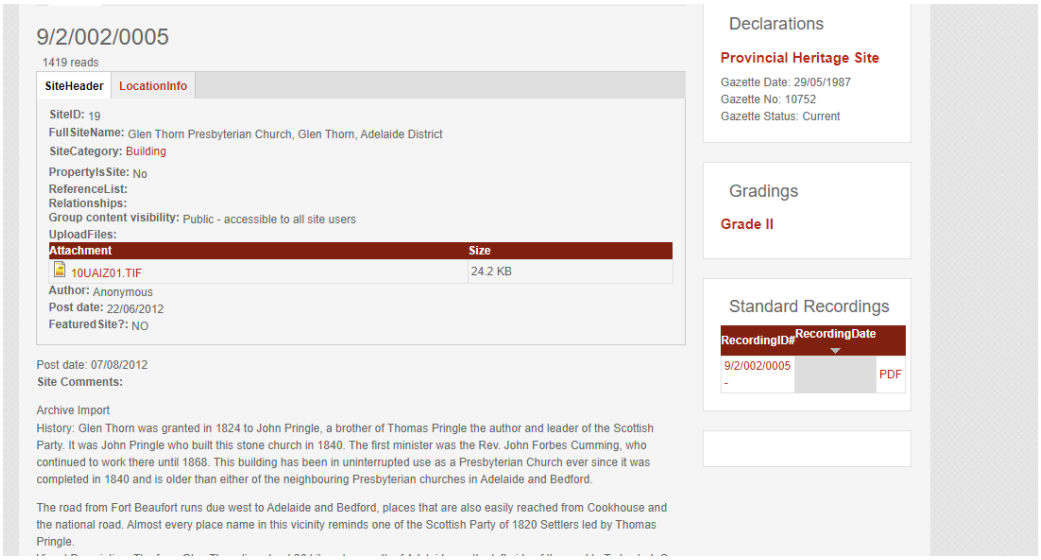
E.g., 25/06/2023

APPLY RESET

SiteID	SiteReference	FullSiteName	SiteType	ArchiveStatus	DeclarationType	Gazette Date	Province	Country	Latitude	Longitude
26974	9/2/200/0003	Meyer Dwelling, Meyersdal, Alberton District	Building	Provisional monument	Provisional Protection	05/07/2012	Gauteng	South Africa	-26.291846	28.097212
139234	9/2/200/0007-1	The Grave of Samuel Hambakwakhe "Fuba" Ntuli, Thokoza Schoeman Cemetery, Thokoza	Burial Grounds & Graves		Provincial Heritage Site	18/09/2014	Gauteng	South Africa	-26.376105	28.138465
93088	9/2/205/0001-001	The Graves of Mr Oliver Reginald Tambo and Mrs Adelaide	Monuments & Memorials, Burial Grounds & Graves		National Heritage Site	05/11/2012	Gauteng	South Africa	-26.230467	28.305526

Figure 3: Declared heritage list by province.

To determine the significance of each site, whether it was pre-colonial, colonial, postcolonial, or “other”, I proceeded to click on each site reference individually. By doing so, I was able to gather information about the site's significance from either the comments or the site report (Fig. 4).



9/2/002/0005

1419 reads

SiteHeader | LocationInfo

SiteID: 19
FullSiteName: Glen Thorn Presbyterian Church, Glen Thorn, Adelaide District
SiteCategory: Building
PropertyIsSite: No
ReferenceList:
Relationships:
Group content visibility: Public - accessible to all site users
UploadFiles:

Attachment	Size
10UAIZ01.TIF	24.2 KB

Author: Anonymous
Post date: 22/06/2012
FeaturedSite?: NO

Post date: 07/08/2012
Site Comments:

Archive Import
History: Glen Thorn was granted in 1824 to John Pringle, a brother of Thomas Pringle the author and leader of the Scottish Party. It was John Pringle who built this stone church in 1840. The first minister was the Rev. John Forbes Cumming, who continued to work there until 1868. This building has been in uninterrupted use as a Presbyterian Church ever since it was completed in 1840 and is older than either of the neighbouring Presbyterian churches in Adelaide and Bedford.

The road from Fort Beaufort runs due west to Adelaide and Bedford, places that are also easily reached from Cookhouse and the national road. Almost every place name in this vicinity reminds one of the Scottish Party of 1820 Settlers led by Thomas Pringle.

Declarations
Provincial Heritage Site
Gazette Date: 29/05/1987
Gazette No: 10752
Gazette Status: Current

Gradings
Grade II

Standard Recordings

RecordingID#	RecordingDate	
9/2/002/0005 -		PDF

Figure 4: Sample page demonstrating individual sites with comments and access to site reports (PDF link located under "standards recordings").

In instances where site reports or comments were not available, I made use of literature to determine significance. The completed tables can be found in Appendix A of this dissertation as they should be scrutinised. Essentially, I relied on site reports and comments to determine the significance of each site, allowing me to classify them as pre-colonial, colonial, postcolonial, or categorized under the "other" category.

To reiterate, the classification parameters for pre-colonial, colonial, postcolonial and other are as follows:

Pre-colonial: Heritage predating the colonial period. This heritage type is indigenous focused and entirely of the African people because it was conceived prior to European contact. For example, all archaeological heritage is by nature of its time of creation, pre-colonial.

Colonial: Colonial heritage is heritage designed by colonists, related to the colonial periods and of significance to colonial administration. For the purposes of this study, this includes the Apartheid period and any object/place designed by the Apartheid administration. This type of heritage pre-dates the dawn of democracy in South Africa in 1994. Examples are buildings in colonial style architecture, monuments to colonial figures, the Voortrekker monument etc.

Postcolonial: This refers to heritage that was not allowed recognition under the colonial and Apartheid administration. For example, heritage related to the struggle for freedom and living heritage of indigenous peoples. By nature of this heritage's definition (heritage that was previously overlooked), this heritage type would have been solely declared in the democratic period under the NHRA.

Other: This heritage type can either refer to heritage that is 'other' in nature like trees and conservation areas, but also to heritage that is non-colonial but declared during the colonial/Apartheid periods. Therefore, it is not restricted to a particular period or type of heritage but largely encompasses heritage that does not fall into any of the three other categories defined above. For example, temples and synagogues declared during Apartheid that celebrate non-Christian religion.

Using the table, I could graphically display two sets of information. 1) The transformation of heritage types since the inception of legitimised heritage using the colonial/postcolonial dichotomy as a benchmark and 2) the type of sites most prominent in the declared heritage lists of each province.

A potential bias that could occur is that when the NHRA was enacted, all national monuments were supposed to be downgraded to provincial heritage and then were to be re-examined for

their importance and classified accordingly. This was not done and as it stands, there was a mass heritage dump that remains that way today. However, given that I had access to the year in which heritage was gazetted, coupled with the fact that these sites are still technically provincial heritage sites, they will be treated as such. These sites are for all intents and purposes formally gazetted heritage and will remain that way until otherwise delegated by SAHRA. Please note result capture occurred in March to May of 2022 so any sites added after this would not be added.

Lastly, with the number of pre-colonial, colonial, postcolonial, and 'other' sites for each province, I performed a Pearson's chi-squared test to test for independence.

This test is used to ascertain whether there exists a significant difference between observed data in a contingency table with the expected data to determine whether the categories are dependent on each other i.e., are province and site type related.

This test is applicable because the data fits the requirement in that (i) it is mutually exclusive, (ii) the magnitude of data is high and (iii) the data in non-parametric.

One limitation of the test is its inability to determine between which two variables the difference is greater or lesser. This means pinpointing the provinces with greatest statistical sway will not be possible, but rather the data will be considered holistically.

Regarding statistical methodology, the two variables were site type and province, significance level was 0.05 and degrees of freedom was 24 (rows-1*colums-1).

CHAPTER 4 - RESULTS

This chapter consists of four sections. The first section compares the different South African Heritage Acts throughout time based on their text content and wording. The second section contrasts the socio-political climate of pre-Apartheid colonialism, Apartheid, and Independence in South Africa. The third section reports on each PHRA's operation. The fourth section looks at the transformation of declared heritage on a provincial basis.

4.1 COLONIAL VS POST-COLONIAL LEGISLATION

In Table 1, clear trends can be observed with the progression of the legislation. In the instance of protection, for The Bushmen Relics Protection Act of 1911, the sole aim of was to prevent the export of rock art and archaeological artefacts. In the Natural and Historical Monuments Act (no. 6 of 1923), the declaration of sites of significance as monuments was introduced which offered them general protection. In the National Monuments Act of 1969, the legislation introduced permits and only though obtaining one could organisations, such as cultural resource management companies, interact with heritage. For example, with this Act, excavations required permits before they could proceed, a forward step in the protection of heritage. In 1999 with the NHRA, there was the introduction of mandatory impact assessments ahead of any development which aimed to pre-emptively prevent the damage of heritage. In a way, heritage legislation has gained more power to manage heritage through the Acts.

In relation to heritage types, the Bushmen Relics Protection Act was focused solely on Bushmen heritage. The Natural and Historical Monuments Act allowed for the recognition of monuments, which were effectively colonial in nature. The Natural and Historical Monuments, Relics and Antiques Act of 1923 was simply an amalgamation of the two and while they stipulated monuments, relics and antiques were to be preserved, these types remained colonial for the most part. In the National Monuments Act, specifications were broad so that an assortment of different heritage types could be declared. From 1999, for the first time postcolonial heritage was actively encouraged where emphasis was placed on heritage representing African cultures and South Africa's difficult past. The list of heritage parameters in the NHRA is extensive, representing all the heritage types that can contribute to the understanding of South Africa's diverse cultures.

This final point can then be observed with the aims of each piece of legislation. The Bushmen Relics Protection Act has an aim that explicitly states that Bushmen heritage is to be protected, so there is no room for interpretation. The Natural and Historical Monuments Act (no. 6 of 1923: 13) then grows slightly vague stating that preservation is for natural and historical monuments *of the Union,* which we can take to mean as "natural and historical heritage deemed worthy by the colonial stakeholders". The Natural and Historical Monuments, Relics and Antiques Act's aim states that its intent is to re-enact the previous two thereby validating the notion that it exists to amalgamate and amplify the Bushmen Relics Protection Act and the Natural and Historical Monuments Act into one. The National Monuments Act states that it aims to, among other things, preserve certain immovable and movable property as national monuments. While the use of the word "certain" is vague because it is not explicit in the sort of heritage for protection, the aim goes on to discuss the establishment of a Burger-graftekomitee and a British War Graves Committee which provides insight into the types of heritage it might seek to promote and the social expectation to continue the colonial legacy. The NHRA's aim presents an ideological shift as it now focuses on people (the community) in heritage preservation, it discusses the importance of heritage for identity formation and how heritage can address past inequalities.

Further as the Acts progress, the complexity and expansiveness of what is deemed a criminal offence increase. With the earliest legislation, it was an offence to remove or destroy Bushmen heritage to prevent its export. For the Natural and Historical Monuments, Relics and Antiques Act, destruction of heritage remained a criminal offence. When the National Monuments Act introduced the permit system, it was then also illegal to provide misinformation that would hinder the integrity of those processes. With the NHRA, the list of offences is expansive. Offences include any contravention of the numerous sections (27(18, 22,23), 28(3), 29(10), 32(13, 15, 16, 17, 19, 20), 33(1, 2), 34(1), 35(3,4,6,7a,8), 36(3), 44(2,3), 51(8), 50(5) or 50(12)). Above this, removing heritage without a permit, destroying heritage, and receiving stolen heritage are offences. As well as not fulfilling obligations set out in the Act such as not notifying authorities when potential heritage objects are found. This means that the NHRA has the most extensive and comprehensive list of offences yet.

The respective punishments have also changed as the legislation progressed. For the Bushmen Relics Protection Act, fines of £50 max (£3,221.59 today or R67 613,76) were imposed. £100 (£7,625.79 today or R160 095,01) was the maximum fine for the Natural and Historical

Monuments, Relics and Antiques Act. Both the National Monuments Act and the NHRA have max fines of R10 000, but the NHRA also allows daily fines of R50 for up to 365 days (R18 250) in cases of ongoing offences and is flexible because the minister may adjust it to inflation rates. R10,000 in the National Monuments Act is equivalent to R791,915.8 today which means that fines have lessened over time and the NHRA has the smallest fine yet. Imprisonment in 1911 was set to a maximum of 6 months, it remained that way in 1934 then grew to 2 years in 1969 and back to 6 months for 1999. While the National Monuments Act has the longest imprisonment range, this Act was notorious for failing to protect heritage. There had been no convictions ever for illegal collecting of artefacts and only two for damage to Rock Art under the Act. In fact, this protection was still not enough to prevent the export and eventual auctioning of about 1400 gold coins thought to have been illegally salvaged from a shipwreck off the Eastern Cape Province coastline (Forrest & Gribble 2005). On paper still, the NHRA has the least severe punishment for offences.

In closing, if legislation were the only marker of heritage output, then we would expect to see a trend of many colonial and Bushmen sites being declared from 1934 to 1969. From 1969 onwards, the type of sites would diversify and since the National Monuments Act of 1969, remained in power the longest (three decades), the highest concentration of declared heritage would remain there. And lastly, democratic South Africa would see a jump in the declaration of postcolonial heritage.

Table 1: Aim, responsible authority, heritage types, protection and management procedure and offences under different South African Heritage Acts

	ACT	Aim	Authority	Heritage type(s)	Protection and/or management	Offences	Punishments	Amendments	Additional notes
Colonial legislation	The Bushmen Relics Protection Act (no. 22 of 1911)	To provide for the protection of Bushmen heritage	N/A	Bushmen relics	None outlined	Unlawful removal, defacement, or destruction of Bushmen heritage.	Fine not exceeding 50 pounds or imprisonment not exceeding three months.	None	Entire Act was a single page and only mentions Bushmen heritage
	The Natural and Historical Monuments Act (no. 6 of 1923)	To make provision for the preservation of natural and historical monuments of the Union and of objects of aesthetic, historical or scientific value or interest	Historical Monuments Council	Monuments	Establishes the monument register and outlines monument ownership acquisition by the newly established HMC to facilitate preservation. The HMC can (with Governor approval) create bye laws relating to public access and regulation. access fees and the safeguarding of monuments from damage and destruction. However, HMC may not alienate, hypothecate, or let any object without consent from the Governor-General	None stipulated	While the Act does not explicitly stipulate offences nor punishments for heritage destruction, it does state that the HMC may prescribe penalties that do not exceed a fine of 100 pounds or six months imprisonment.	None	This Act operated alongside The Bushmen Relics Protection Act (no. 22 of 1911) but had a larger scope than just Bushmen heritage.

The Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934)	To repeal the Bushmen Relics Protection Act, 1911, and the Natural and Historical Monuments Act 1923; to re-enact their provisions in amended and amplified form; to provide for the control of the export of certain antique objects, and for matters incidental thereto.	Historical Monuments Council	Monuments, relics, and antiques	Like the previous Act, resource's acquisition and ownership is similarly discussed but now the commission may also: hire secretaries or additional "servants" to improve operations, formulate a list of desired resources to be proclaimed, erect educational templates, preserve, repair, restore or immure any monument, relic or antique under its control, lend any such relic or antique to any museum or other public institution and recommend to the Minister the proclamation of objects. However, the commission may not alienate, hypothecate, or let any object without consent from the minister	(a) fails to comply with the provisions of sections 9 (S9 discusses finances) and 10 (S10 discusses exportation regulations), (b) provides false information on applications or (c) damages or destroys any informational tablet erected.	Fine not exceeding one hundred pounds or imprisonment not exceeding six months. For unauthorized export. fine may be increased to a sum not exceeding 75% of the market value of such an antique.	Because the Act did not recognise any heritage outside of a relic, monument or antique, it was amended in 1937 where "archaeological" was replaced by "historical and scientific" to broaden the scope of protected objects. Again, amended in 1967	Amalgamation of the previous two Acts and made it possible for the very first time to declare sites as national monuments.

National Monuments Act (Act No. 28 of 1969)	To provide for the repair, maintenance and general care of certain burial grounds and graves, the establishment of gardens of remembrance in respect of certain persons, the erection of memorials for certain persons and the preservation of certain immovable or movable property as national monuments and for that purpose to establish the National Monuments Council and to define its powers, functions and duties; to establish a Burger-graftekomiteeand a British War Graves Committee to assist the said Council in connection with certain matters; to provide for National Gardens of Remembrance and for the continued existence of the War Graves Trust Fund established by the War Graves Act, 1967; to repeal certain laws relating to natural and historical monuments, relics and antiques; and to provide for incidental matters	National Monuments Council	Blanket coverage of all archaeological, palaeontological, or historical sites. It had broadened the range of sites protected to include historical sites older than 50 years and movable items of colonial origin in the form of antiques, cultural treasures, and shipwrecks.	This Act introduced the permit system for excavations and, later, surface collections that requires that a permit be applied to destroy, damage, alter, excavate, remove from its original site or export from the Republic any of these sites or objects.	Illegal to destroy, damage, excavate, alter, remove from its original site or export without a permit	Fine of up to R10 000- or two-years' imprisonment, or both.	1970, 1971, 1975, 1979, 1980, 1981, and 1986 to broaden site types until all sites were technically legally within the scope of the Act	This Act has proven to be quite weak (in execution) at protecting heritage.

Postcolonial legislation	The National Heritage Resources Act (Act 25 of 1999)	Aims to promote good management of the national estate, and to enable and encourage communities to nurture and conserve their legacy so that it may be bequeathed to future generations. Our heritage is unique and precious and it cannot be renewed. It helps us to define our cultural identity and therefore lies at the heart of our spiritual well-being and has the power to build our nation. It has the potential to affirm our diverse cultures, and in so doing shape our national character. Our heritage celebrates our achievements and contributes to redressing past inequities. It educates, it deepens our understanding of society and encourages us to empathise with the experience of others. It facilitates healing and material and symbolic restitution and it promotes new and previously neglected research into our rich oral traditions and customs.	South African Heritage Resource Authority	(a) places, buildings, structures, and equipment of cultural significance; (b) places to which oral traditions are attached or which are associated with living heritage; (c) historical settlements and townscapes; (d) landscapes and natural features of cultural significance; (e) geological sites of scientific or cultural importance; (f) archaeological and paleontological sites; (g) graves and burial grounds, (h) sites of significance relating to the history of slavery in South Africa.	Introduced the three-tier grading system and placed emphasison slavery and indigenous heritage (living heritage). Mandated impact assessments for development.	Withholding information, giving false statements in terms of the NHRA, fails to comply with or performs any Act contrary with issued permit, consent, or authority, obstructs the holder of a permit in terms of this Act in exercising a right granted, of heritage, damages, takes or removes, receives any badge, emblem or any other property or thing unlawfully taken or within the terms of this Act, commits or attempts to commit any other unlawful act.	Imprisonment for a period not exceeding six months, fines up to a maximum amount of R10 000. Also, daily fine of R50 for ongoing contravention for max 365 days. The fine amounts can also be adjusted based on inflation.	None	Current heritage legislation

4.2 COLONIAL VS POST-COLONIAL CLIMATE

The Bushmen Relics Protection Act, the Natural and Historical Monuments Act, the Natural and Historical Monuments, Relics and Antiques Act and the National Monuments Act were borne from periods of intense inequality where life for the subjugated was economically limited and harsh (Table 2). These notions are seen in the legislation.

The arrival of the Dutch in South Africa in 1652 marked the beginning of the country's colonial history (Fourie & Fintel 2011). The Dutch East India Company established a settlement in the Cape Town area, primarily for the purpose of providing fresh food and water to their ships on their way to and from the East Indies. Over time, the settlement grew and expanded, leading to the establishment of a formal colony by the Dutch in the 17th century.

This period, spanning the 15th to the 17th century, is commonly referred to as the "golden age" of colonialism (Fourie & Fintel 2011). During this time, many European powers, including the Dutch, established colonies in various parts of the world to exploit resources and expand their empires. In South Africa, the Dutch imposed colonial rule primarily in the Cape Colony, which encompassed the area around Cape Town and surrounding regions.

As the Dutch colony grew and expanded, it had significant impacts on the region's indigenous populations, including the Khoikhoi and San peoples. The Dutch introduced new agricultural practices, technologies, and customs to the area, while also imposing their own laws and governance structures. These changes had lasting impacts on South African society and laid the foundation for the country's complex and often contentious history of colonialism and its aftermath (Cilliers & Fourie 2012).

Then 19th century South Africa saw large-scale urbanisation and industrialisation with the discovery of diamond and gold. Further, different capitalist modes of production formed (Kubicek 1990). When the British took control in the 19th century, the Dutch moved inland to separate themselves and the inland grew more colonised.

With this rising economic power, South Africa, being rich in minerals, became a major player for trade. But these capitalist endeavours such as, large scale mining, agriculture and more required labour and the majority of which was supplemented by indigenous people, who after political war and enactment into colonial control, were forced into increasing the wealth of the

White minority. With the turn of the 20th century, the colonial powers saw it necessary to unify the states as a better means to serve capitalism.

The centralisation of state helped to solidify White superiority and mitigate legal uncertainty. There was also a real fear of black insurgency felt among Afrikaners (Meierhenrich 2008). This then made way for Apartheid's formalisation.

The colonial period before Apartheid revolved around labour control and segregation and the colonial period during Apartheid was no different. During Apartheid, the Bantu Homelands Citizenship Act of 1970 forced Black Africans into designated spaces that comprised only 8% of the entire country and the 1913 Land Act prevented them from owning land thus ensuring White control over farms (Christopher 2001). The Mines and Works Act and the Native Labour Regulation Act of 1911 kept certain higher jobs for Whites only. In this way, the colonial government ensured that non-White citizens would not have access to resources for their betterment and would be forced into labour beneficial for the White minority (Christopher 2001). Black culture, religion languages were suppressed and education in the Christian missionary schools were poor, keeping with the themes of White superiority and intended to keep Africans from taking up skills that could improve their economic standing. The public schools that were federally supported and moulded after the English curriculum were mainly for White students (Jansen 1990). Black people had little to no political power and played a very small role in voting. All these factors created an inescapable cycle of Black oppression where Black people were kept in poverty. These themes carried over into the Apartheid era.

Apartheid was, at its core, an intensification of racial segregation with the word translating literally to "separateness." When Apartheid was enacted in 1948, the White-Black dichotomy became even more pronounced and laws that separated education, living areas and access to resources were promulgated to further the ideals of White superiority. This was done to ensure the White minority had political, economic, and social power over the racially marginalised. For forty-five years, the National Party dominated the South African political sphere alone with the intent of legalising and bureaucratically propagating (Jansen 1990). And with their rule, they largely kept the black labour force in perpetual subservience.

Minor forms of Apartheid included White-only bathrooms and restaurants, while grand Apartheid related to employment, land rights and separate spaces. In conjunction with the law,

the social climate ensured only White cultural events were held and White-only sports teams were promoted. The media (TV, radio, and news) were used to push a White agenda and to instil fear in whites of the Black liberation movement (Mattes 2012).

Under this system, the classification of race occurred in four categories namely "White", "Black", "Indian" and "Coloured". From here, places of residences were determined which was legalised through the Group Areas Act of 1950. In one of the most extreme cases of mass evictions, people were removed from their residences and forced into racially segregated areas. African people were arrested because of the Pass Laws and forced back to one of the ten "Tribal Homelands" where unemployment remained high and conditions poor (Mesthrie 1993).

Violence was facilitated through The Terrorism Act of 1967 which was broad in its specifications of what constitutes a terroristic Act and thus, the police were able to arbitrarily capture and detain citizens for an unspecified period. Because of this, many of these detainees (mostly Black) were interrogated, tortured, and brutally murdered. Complementing this was the Internal Security Amendment Act of 1976 which allowed police to "preventatively detain" those that they suspected to be engaging in illegal activity (Meierhenrich 2008).

As a result of the Bantu Education Act of 1953, education in non-White schools was poor, and they were frequently underfunded. They were intended to prepare Black students for the labour market and subjects were more practical based than in White schools, which were more academically focused. It was also a disadvantage that in Black schools, Afrikaans had to be the language of instruction, which created another barrier. Black teachers attended rudimentary training colleges whereas White teachers in White schools had qualifications for post-secondary schools or colleges (Ndimande 2013).

Christianity was treated with the most respect, forcing many people to abandon their own religion. Black languages and culture were not given any attention in government and many traditions were lost (Kuperus 2011)

Now in independent South Africa —the period in which the NHRA emerged— the government aims to promote diversity by implementing legislation that prohibits discrimination such as. 'The Promotion of Equality and Prevention of Unfair Discrimination Act of 2000' and, 'The South African Schools Act of 1996'. They have also taken on projects such as Land Reform and Black Economic Empowerment (Nowak 2005). And indeed, the economy has improved

since the post-Apartheid government took over which can be attributed largely to South Africa being allowed into the global market from which they were prior exiled (Nowak 2005). But post-Apartheid South Africa is far from being the rainbow-nation eutopia that it is marketed as.

For one, South Africa ranks first in the world for economic inequality with a Gini score of 0.63 (Statista 2021). Poverty, unemployment, and income inequality run rampant among the previously disadvantaged. Unemployment is up to 34% and is concentrated among the historically disadvantaged groups (especially black women) and youths because of a rigid labour market (Arora & Ricci 2005). Interestingly, the reason for this is the Apartheid government's legacy and the current government's corruption (Arora & Ricci 2005). The majority Black population remain severely impoverished in areas where their basic needs such as electricity, water and housing are not met.

Educational opportunities and quality are still plagued with Apartheid's legacy. Generally, White learners have a longer academic career than Black learners (11 years> 5 years) (McKeever 2017). Parental background plays a factor in whether youths have access to quality education, and since many Africans are still in poverty, they are unable to provide this to the degree that White parents are. Black Africans are also geographically limited because of this as good schools are in richer areas that they cannot afford and in this way the Homelands Citizen Act left a severe impact in the way marginalised races receive education. Unemployment levels can be attributed to many factors but especially lack of skill due to poor education of infrastructure because of Apartheid (Van der Berg 1997). As a result, the race-class hierarchy prevails, and this inevitably leads to feelings of resentment.

Socially, racial tension in South Africa is still high. Despite the Black majority rule, there is still a fair degree of mistrust among the racial demographics. This is in part due to social strain that comes from wealth disparities inherited by Apartheid as well as persisting racial stereotypes (Nowak 2005).

In closing, the colonial and Apartheid government were, regrettably, good at their goal of suppressing marginalized bodies and perpetuating White superiority. Now the current government aims for inclusivity and Black empowerment and while there are laws in place to support this, it is not coming to fruition on a ground level due to the legacies of the past. One then can justifiably question whether these harsh realities are present in the heritage

conservation and management sector. Because while the NHRA is an extremely inclusive document informed by other well-crafted legislation, consistent and equal implementation is difficult for a flailing country.

Table 2: Socio-political climate comparison for Colonial, Apartheid, and Independent South Africa

	COLONIAL PERIOD		INDEPENDENT PERIOD
	PRE-APARTHEID	APARTHEID	POST-APARTHEID
Duration	1652-1948	1948-1994	1994- Present
Government	The Dutch East India Company (1652 to 1795 and again 1803 to 1806) followed by The Union of South Africa (1910 to 1948)	Afrikaner nationalism	African National Congress
Segregation and discrimination	Policy regarding segregation was not explicit in legislation. Discriminatory laws like the 1911 Mines and Works Act, the Industrial Conciliation Act of 1924 and the Natives' Land Act of 1913 existed to keep Africans in unskilled labour without the ability to unionise and own land (Clark & Worger 2022).	Segregation policy was explicit, and every aspect of life was determined by race. The Population Registration Act (No. 30) of 1950 ensured all races were registered. The Native Laws Amendment Act (No. 54) and the Abolition of Passes and Co-ordination of Documents Act (No. 67) was used to restrict non-White access to White-only spaces. Racial mixing was criminalised with The Prohibition of Mixed Marriages Act (No. 55) and The Immorality Act (No. 21) of 1950. Physical segregation was facilitated through the Group Areas Act of 1955 (No. 41) which allowed non-Whites to be forcibly removed and relocated to poor designated areas	The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 prohibits discrimination by government or private businesses based on race, gender, sex, pregnancy, family responsibility or status, marital status, ethnic or social origin, HIV/AIDS status, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, and birth. The Employment Equity Act, No. 55 of 1998 was enacted to ensure workplace discrimination does not occur (Kok 2008).

		(Mabin 1992).	
Access to education	Under the Union, Africans were excluded from life as citizens and African and many Coloured children were educated in mission schools, which became increasingly inadequate as numbers increased but funds did not (Windel 2009).	Education was another means for division and the perpetuation of White superiority. The Bantu Education Act (No. 47) of 1953 called for the division of education based on race where those of Indian, Coloured and Black ethnicity were of poor quality compared to White. The Extension of University Education Act (No. 45) of 1959 ensured Black People were not allowed to attend White institutions of higher education (Wills 2012).	The South African Schools Act (SASA), 1996 (Act 84 of 1996) was enacted with the goal of ensuring that all students have access to quality education without discrimination (Woolman & Fleisch 2006).
Voter rights	Men over 21 years of age who could pass literacy tests. Therefore, a small portion of non-White men qualified. In 1930, White women over 21 were allowed to vote. In 1936, Black voters were segregated to the "native voters' roll." (Hassim 1991).	Coloured and Black voters were removed from the roll. By 1983, Coloureds and Indians were given their own House of Representatives in government which many rejected for its powerlessness (Bundy 2006).	All South African citizens over 18 (Constitution of the Republic of South Africa, Act 108 of 1996).

Religious recognition	While there was no legal suppression of traditional African religions in colonial South Africa, social suppression occurred due to the influence of Christian missionaries who clashed with indigenous traditional systems. Islam and Hinduism were introduced with slaves from other parts of the world and were treated with more respect than traditional African systems (Ross 1999).	Religious freedom did not exist because while other religions were tolerated, Christianity was treated as superior still and this was due to its interwovenness with colonialism. For example, Hindu and Muslim marriages were not legally recognised as their leaders were not state marriage officers. Radio and TV stations broadcasted Christian Services exclusively. Those of Buddhist faith were not allowed their right of conscientious objection (Limb 2014).	The Constitution of South Africa states that everyone has the right to religious freedom (Constitution of the Republic of South Africa, Act 108 of 1996).
Language	South Africa's official languages were English and Dutch which was then replaced to Afrikaans in 1925 (Christopher 2018).	Official languages remained English and Afrikaans (Christopher 2018).	South Africa's official languages are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa, and isiZulu as of 1994 (Constitution of the Republic of South Africa, Act 108 of 1996).

4.3 PROVINCIAL HERITAGE RESOURCE AUTHORITIES: AN OVERVIEW

The following sections explore South Africa's nine PHRAs, their competency and the available research on each.

4.3.1 EASTERN CAPE PROVINCIAL HERITAGE RESOURCES AUTHORITY

The Eastern Cape Provincial Heritage Resources Authority (ECPHRA) was established in 2003 by the Executive Council member Hon Nosimo Balindlela (ECPHRA 2021). It is in East London and has full competency granted by SAHRA. For nine years after its establishment, the

PHRA had authority to carry out section 34 of the NHRA only. Then in 2012, it was granted competency by SAHRA to authorise additional sections.

Their mission statement on their website reads: ECPHRA will, through identification, documentation, conservation, and protection of the rich and diverse cultural heritage resources undertake to transform the cultural heritage landscape in the province of Eastern Cape for sustainable development of local communities (ECPHRA 2021).

The background section of the ECPHRA does reveal a major discontent between the provincial authority and SAHRA. For one, they state that PHRAs have the most work but are the least resourced and staffed. A direct quote from the site is "since 2013 it [the ECPHRA] had experienced the worst operational and governance nightmare." They further state that due to a lack of support, they are rendered dysfunctional.

However, the site also states that when resources are sufficient (thereby times are good) the PHRA has been able to positively contribute to processes relating to environmental impact assessments and development. Further, they state that they have been able to protect sacred sites that do not fall in the jurisdiction of municipalities which is an issue important to them (ECPHRA 2021).

Having said this, there is no research detailing the operations and efficiency of the ECPHRA in the academic arena, thus making their claims difficult to validate. At present, there exists only a DispatchLive news article published on the 21st of April reporting that the authority is dysfunctional and holding up energy projects (Hartle 2021).

4.3.2 FREE STATE HERITAGE RESOURCES AUTHORITY

The Free State Heritage Resources Authority (FSHRA) is situated in Bloemfontein and was established in 2004. The primary function of the FSHRA is to provide advice to the Member of the Executive Committee (MEC) for Sport, Arts, Culture, and Recreation on the implementation of the NHRA. They also have a responsibility to create new policies and objectives and establish protocols for identifying, recording, and assessing heritage resources.

However, despite being in operation for nearly two decades, the FSHRA has no research articles available on it, making it challenging to assess its effectiveness. On their official website, only one semester report from 2013 to 2014 is available, making it difficult to evaluate the authority's performance over time. Additionally, no academic research on the FSHRA is available, which limits the ability to validate the claims made by the authority.

Without full competency, the FSHRA is unable to authorize any development or changes to heritage sites in the Free State Province, as this remains the responsibility of SAHRA. This limited mandate can result in an inability to act in situations where urgent intervention is needed, and resources may be better utilized elsewhere. Therefore, it is essential that the FSHRA is granted full competency to enable it to operate more efficiently and effectively in preserving the heritage resources of the Free State Province.

4.3.3 PROVINCIAL HERITAGE RESOURCES AUTHORITY GAUTENG

The Provincial Heritage Resources Authority Gauteng (PHRA-G) was established in 2003, but despite its nearly 20-year existence, it is not well-known or easily accessible to the public. In fact, it is even less represented than Free State because PHRA-G does not have an official website, which makes it difficult for interested parties to find information about the organization and its activities.

Additionally, in research articles, PHRA-G is only mentioned briefly and often in passing. The information provided is limited to one-liners about the organization's interventions or minor decisions. There are no detailed reports available on its finances, resource allocation, or tasks, which makes it difficult to evaluate its performance.

According to Deacon's (2015) research, Herbert Prins has described the PHRA-G system as dysfunctional and under-resourced. This is a significant concern, as the organization is responsible for managing and protecting the heritage resources in Gauteng province. Heritage resources are essential to preserving South Africa's cultural and historical legacy, and neglecting their protection could result in the loss of valuable artifacts and sites.

However, the article that contained this information, "The Prins Perspective - A Critique of the Provincial Heritage Resources Authority Gauteng - Part I," has been removed from the Heritage

Portal and is no longer accessible. This makes it challenging to assess the accuracy of Prins's claims and the extent of PHRA-G's challenges.

In conclusion, the limited information available about PHRA-G and its challenges is cause for concern.

4.3.4 AMAFA AKWAZULU-NATALI

Amafa aKwaZulu-Natali is the Provincial Heritage Resources Authority (PHRA) responsible for the province of KwaZulu-Natal in South Africa. It was established in 1997 as the successor to the National Monuments Council and is the oldest PHRA in the country. However, unlike other provinces' PHRAs which were established in accordance with the National Heritage Resources Act (NHRA), Amafa was established under the KwaZulu-Natal Heritage Act No.4 of 2008, which grants it full competency as a heritage authority.

One of the key differences between Amafa and other PHRAs is that it operates under its own provincial legislation, the KwaZulu-Natal AMAFA and Research Institute Act, rather than under Section 27 of the NHRA. This means that formal declaration of heritage sites is not done in the same way as other provinces, and a large segment of the province's heritage has not been reconciled with the national inventory. This creates an implicit bias when comparing KwaZulu-Natal's heritage with that of other provinces.

In terms of funding, Amafa's operational costs are covered by a combination of fees from the KwaZulu-Natal Premier's Department, application fees, and earnings from managed heritage sites. In 2019, the institute was brought under the portfolio of the MEC for Arts and Culture, signalling a renewed commitment to preserving and promoting the province's rich heritage.

Amafa's website is notably comprehensive and frequently updated, offering online tours, information about legislation and regulations, and a wealth of resources for researchers and heritage professionals. However, there is still room for improvement in terms of promoting and managing Black culture (NCOP Education and Technology, Sports, Arts and Culture 2018). As such, there is hope that Amafa will continue to shift towards a more inclusive and representative approach to heritage preservation and promotion.

4.3.5 LIMPOPO HERITAGE RESOURCES AUTHORITY

The Limpopo Heritage Resources Authority (LiHRA) was established in 2001 under the National Heritage Resources Act No. 25 of 1999, with the mandate to manage and conserve heritage resources in the province.

According to a study by Tshivhase and Makhubele (2015), LiHRA faces several challenges in managing heritage resources effectively, including inadequate funding, insufficient staff capacity, and limited public participation. These challenges have led to a lack of public awareness and support for heritage conservation efforts in the province. Another study by Mogashoa (2019) highlights the importance of involving local communities in heritage management and conservation, as well as the need for greater collaboration among stakeholders. The study recommends that LiHRA improve communication with stakeholders and increase community participation in decision-making processes. A study by Ledwaba and Mavhungu (2018) further emphasizes the importance of collaboration and partnerships in heritage conservation, specifically in relation to the preservation of rock art sites in the province. Overall, these studies suggest that LiHRA faces several challenges in managing and conserving heritage resources effectively, but also highlight the potential of community involvement, collaboration, and cultural tourism to promote heritage conservation and sustainable development in the province.

4.3.6 MPUMALANGA PROVINCIAL HERITAGE RESOURCES AUTHORITY

According to the Mpumalanga Provincial Heritage Resources Authority (MPHRA) website, the authority was established in 2001 under the National Heritage Resources Act No. 25 of 1999 (South African Heritage Resources Agency, n.d.). The MPHRA is responsible for managing and conserving heritage resources within the province, as noted by Ogunronbi and Ojo (2019). The MPHRA operates through a funding model that relies on government grants and financial contributions from the public, particularly in the form of application fees and heritage site rentals (Ogunronbi & Ojo, 2019; South African Heritage Resources Agency, n.d.).

The findings of Ogunronbi and Ojo's study indicate that the MPHRA faces several challenges in managing cultural heritage effectively, including inadequate resources, insufficient community participation, and poor stakeholder engagement. Despite the implementation of various policies and programs to promote heritage conservation and management in the

province, including the establishment of heritage sites and monuments, the development of cultural heritage tourism initiatives, and the promotion of public participation in heritage conservation, challenges remain in terms of inadequate funding, limited capacity and resources, and the need for improved coordination with other government departments and stakeholders (Ogunronbi & Ojo, 2019). The article also examines some of the key challenges facing the MPHRA, including inadequate funding, limited resources, and a lack of public awareness and support for heritage conservation.

4.3.7 NORTH WEST PROVINCIAL HERITAGE RESOURCES AUTHORITY

The North West Provincial Heritage Resources Authority (NWPHRA) has no digital footprint to speak of, only a section on SAHRA's website that states their location (Mmabatho) and contact details, there is no way of learning of their operations as I have yet to find a journal article that mentions their existence. They have yet to gain their full competency.

4.3.8 NORTHERN CAPE HERITAGE RESOURCES AUTHORITY

The Northern Cape Heritage Resources Authority (NCHRA) was established in 2003 and it is located in Kimberly. Formerly called gwao Boswa jwa Kapa Bokone (Setswana for Heritage Northern Cape), it is also known as Boswa. While formed under the NHRA, in 2013 they were reconstituted in terms of the Northern Cape Heritage Resources Authority Act, 2013. Their operations are administered by the staff of the Heritage Resources Unit of the Department and fall under the governance of the MEC for Sport, Arts & Culture's council. Furthermore, there exists the sub-committee known as the Permits Committee which has monthly meetings to discuss heritage applications.

Once established, they became responsible for nearly 130 former national monuments and as one of its functions, the PHRA must advise the MEC on the implementation of the National Heritage Resources Act or relevant provincial or municipal legislation. Unlike several other PHRAs mentioned, they do have a website and while it appears comprehensive, the annual reports and documents are currently being updated, so their operations cannot be assessed in that regard.

According to Deacon *et al.* (2015), neither the PHRA nor SAHRA had employed archaeologists in the authority. As a result, SAHRA's head office archaeologists are responsible for application

and permit processing and impact assessment reviews along the province's West Coast. Because of this, following up on provincial heritage's management is difficult at the coast.

4.3.9 HERITAGE WESTERN CAPE

Heritage Western Cape (HWC) is a Provincial Heritage Resources Authority (PHRA) established in 2002, located in Cape Town, South Africa. HWC manages and protects approximately 2,500 sites of Grade II status, most of which were inherited. As the second established PHRA, HWC has already been granted its full competency. The council appointed by the province's minister for Cultural Affairs and Sport established sub-committees to process the ±3,000 applications received annually. The council meets quarterly to carry out legal proceedings and responsibilities, ensuring public participation in decision-making. However, despite these efforts, HWC is still underfunded and overworked, which is partly due to the responsibility of protecting Grade III heritage sites that has fallen on them, as is the case for all competent PHRAs. Buchanan (2021) found that only two of the potential 24 local municipalities showed evidence of being heritage competent, leading to the PHRA taking on the responsibility of both Grade II and Grade III heritage. A meeting with HWC reinforced this observation, revealing that the authority is overwhelmed by the large volumes of heritage resource applications it has received. The effects of this overload can be observed in Wurz and Van Der Merwe (2004), where it was reported that HWC lacks the capacity to perform sustainable site monitoring. To address these challenges, HWC requires increased funding and capacity-building initiatives to ensure effective heritage resource management and protection.

Conclusion

Sections 7 and 8 of the NHRA are perhaps the most important as they establish the three grading systems and the parameters thereof. However, the failure to implement these sections is already showing a deficit in both the management of resources and the ability to conduct research.

As shown above, many provinces (3/9) have not been deemed competent by SAHRA and those that are, are not being biannually assessed to ascertain whether that competence stands. As shown, approximately half of these PHRAs do not even have standalone websites because they fall under subsections of the existing culture and sports sectors. This is even though they are supposed to exist independently. For these PHRAs, it is difficult determining whether they exist let alone examining their finances or operations.

Deacon (2015) states that SAHRA officials deal with between 800 and 1000 cases annually from the different provinces, and it is not hard to imagine that that number has not risen. This illustrates that SAHRA is very strained. Subsequently, SAHRA has not been able to develop standards and properly propagate them across the country. Because of this, SAHRA's envisioned goal of integration between all government heritage bodies with provincial departments (environmental affairs, tourism, and public works) has not materialised.

Table 3: Summary of PHRAs' full competency status

PHRA	Year established	Full competency	Year granted
Free State Heritage Resource Authority	Unknown	No	
Amafa aKwaZulu-Natali	1997	Yes	Unknown
Eastern Cape Provincial Heritage Resources Authority	2003	Yes	2012
Provincial Heritage Resources Authority Gauteng	Unknown	No	
Mpumalanga Provincial Heritage Resources Authority	Unknown	No	
North West Provincial Heritage Resources Authority	Unknown	No	
Northern Cape Heritage Resources Authority	2003	No	
Heritage Western Cape	2002	Yes	2003
Limpopo Heritage Resources Authority	Unknown	No	

4.4 LOCAL MUNICIPALITIES

Previously I have stated that SAHRA is forced to take on the work of PHRAs and is subsequently overburdened. But so are the PHRAs. Municipalities are not fully competent as

per SAHRA and do not have the capacity to manage heritage resources as these structures do not have heritage departments or because of insufficient resources (Ndlovu 2011a).

Only Western Cape has municipalities that are up to the task. In a dissertation by Buchanan (2021), the twenty-four municipalities of Western Cape participated in a questionnaire regarding grade III heritage management. Buchanan (2021) queried about the municipalities' Heritage precinct, Heritage inventory, Heritage personnel and Decision-making Committee. If a municipality were to have all four, they were 100% effective and should gain competence.

It was found that of the twenty-four contacted, two met all the criteria laid out in the NHRA and by SAHRA with those two being Drakenstein and Prince Albert. Five were at 75% with a major flaw being the lack of heritage personal. Four obtained 50% with those mostly not having both personal and a heritage committee. And the remaining thirteen scored between 0-25%. The fact nearly half of the local bodies could be made competent with some effort and adjustments is a promising start. Because of this, it appears that Western Cape is a step ahead of all provinces who are still scrambling to equipe their PHRA.

Municipalities are arguing that they should not have to be responsible for local heritage gazettement (Clinton Jackson [SAHRA], pers. comm. 2022). The NHRA's Section 8 (4) states that "a local authority is responsible for the identification and management of Grade III heritage resources." But according to these municipalities, that is not them, as they are not called a local authority, so they are attempting to rid themselves of that "burden".

In essence, if the low number of PHRA with full competency was not proof enough that the three-tier system on municipality level is not working then the fact that grade III heritage bodies refuse to exist says much about the failing system.

4.5 HERITAGE TRANSFORMATION IN INDEPENDENT SOUTH AFRICA

This section presents data on declared heritage sites in each of South Africa's nine provinces, with a focus on heritage transformation in independent South Africa. In the North West Province, there were a total of 59 gazetted sites and all were of provincial significance. The section first breaks down the temporal aspect of transformation in the province, followed by the ratios of pre-colonial, colonial, postcolonial, and "other" heritage. Lastly, it discusses the site type distribution in the province.

4.5.1 NORTH WEST PROVINCE

The North West Province has a total of 59 gazetted sites, and all of these sites only have provincial protection. Therefore, there is no heritage of national significance in this province.

a) Temporal breakdown

The first declaration occurs in 1937, and the last one in 2000. Heritage declarations do not rise until the 1970s, with 12 sites being declared in that decade, 17 in the 1980s, and 21 in the 1990s (Figs. 5 and 6). Prior to the 1970s, only six sites are gazetted.

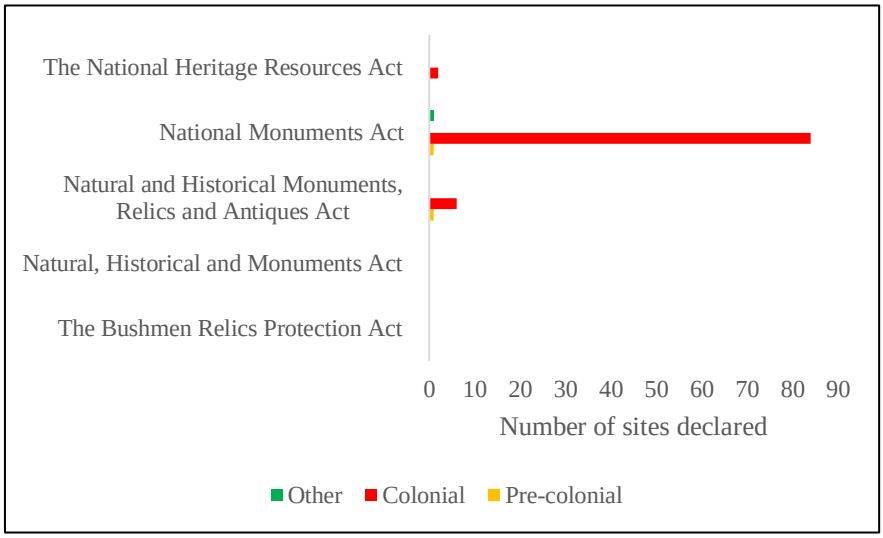


Figure 5: Declaration magnitude under different Heritage Acts for North West Province

For colonial heritage, legitimisation trends are visually parabolic. This is because legitimisation is slow from the 1930s to mid-1960s, then colonial declarations accelerate until the mid-1990s. In independent South Africa, it decreases again. The implication of this trend is that colonial heritage sees its peak legitimisation during the middle of the Apartheid period.

Pre-colonial heritage sees a marginal rise in declarations in the 1930s and 1980s, as indicated by the slight rise in Fig. 6. 'Other' heritage has its rise in the 1970s, and postcolonial heritage has yet to be gazetted by this province.

To cement the previous assertion that heritage is declared mainly during the Apartheid period, the declaration magnitude under the different Acts is here compared. Under the National Monuments Act (Act No. 28 of 1969), forty-eight sites were declared. Under the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934) six sites were declared and

under the NHRA five sites are declared. Unexpectedly, no sites were declared under the Bushmen Relics Protection Act (no. 22 of 1911) nor the Natural and Historical Monuments Act (no. 6 of 1923).

b) The distribution of the categories: Pre-colonial, Colonial, Postcolonial and Other

This province does not have a single postcolonial site, while colonial sites make up 95.1% of the total. Pre-colonial sites only comprise 3.3%, and 'other' sites encompass 1.6%.

Despite making up only 3.3%, there are only two pre-colonial sites. One of them is the Rock Engravings at Bosworth, which depicts Khoe and San engravings (Ouzman 2001). The other is the Archaeological site at Broederstroom, which is related to the Iron Age and representative of Bantu-speaking farmer occupation (Huffman 1975).

In the category 'other', the site is 'Oak Avenue' and was declared in 1977. While Oak Avenue was built in 1910 and therefore exemplifies colonial architecture, it is classified as "natural" under Apartheid and considered significant for its botany and natural aesthetics (Site Report 9/2/256/0014 2012). Because of this, I do not consider its origins a political enough reason to classify the site as fitting within the colonial category.

The category colonial sites are Apartheid-connected heritage (e.g., Preller House), different buildings related to the Christian faith (e.g., the Church of St John the Baptist), or buildings related to the Anglo-Boer war (e.g., Fort Eloff and the Old Imperial Reserve) with occasional sites significant for their colonial architecture (e.g., Roets house). Most of this province's gazetted sites are in Rustenburg and Potchefstroom, with a few in the Brits district or Vryburg

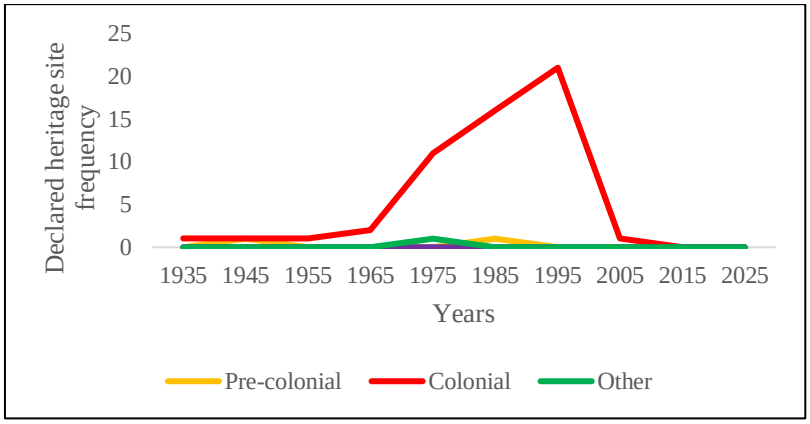


Figure 6: Declared heritage transformation for North West Province

c) Site Type Distribution

In the North West, 91.5% of sites are colonial buildings and structures significant for colonial aesthetics (Fig. 7). The single burial site (1.7%) is the Old Fort and Cemetery, and the significance is that Boer soldiers and civilians are buried at this location (Site Report 9/2/256/0008 2012). The sole monuments and memorials site (1.7%) (Syringa Tree Monument on Church Street) is significant because of its relation to the Afrikaans Reformed Church (Site Report 9/2/263/0016 2012).

The two pre-colonial sites are archaeological (1.7%) and the subcategory thereof, rock art (1.7%), and the one 'other' site is natural (1.7%), The remaining site types are colonial (almost exclusively related to Apartheid).

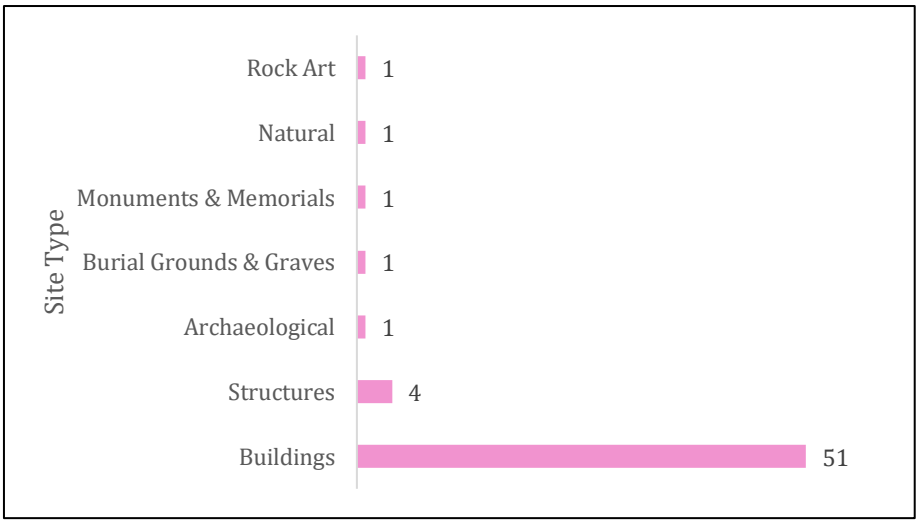


Figure 7: Heritage Site type distribution for North West Province

d) Questionable Sites

I excluded two sites from the data analysis and graphing, and these are (74 and 76 Dr James Moroka Avenue in Potchefstroom). These two sites are buildings that operate as a printing shop and an electrical equipment supplier, respectively. They did not have site reports on SAHRIS, nor were their significance mentioned elsewhere. A SAHRA staff member told me that during the colonial period, heritage-related staff would simply give significance to sites they found aesthetically pleasing, and this could have been a potential reason for their gazettement (Clinton Jackson [SAHRA], pers. comm. 2022). However, without a declaration of significance or brief description to infer their worth to the colonial government, classifying them as "colonial" on that fact alone would have been presumptuous.

Conclusion

In conclusion, North West has few gazetted sites and they are mainly significant to the former Apartheid government. Very few sites have been declared in since the NHRA came into being and none of them are postcolonial or representative of struggle or indigenous heritage. After the NHRA was implemented, only two sites were declared in this province, and both fit within the category ‘colonial’.

4.5.2 LIMPOPO PROVINCE

Limpopo currently possesses 32 gazetted heritage sites, all of which are classified as Provincial Heritage Sites. As a result, no sites in Limpopo have been granted national significance.

a) Temporal Breakdown

Limpopo Province currently has 32 Provincial Heritage Sites, all of which were declared within the provincial system. The first site was declared in 1936, while the most recent was declared in 2007. Due to the small number of sites, the declaration trends in Limpopo appear erratic. But really, few or no sites were declared in most years, so small increases appear large. However, there were some exceptions, with four sites declared in 1938, two in 1970 and 1975, and four in 2007 (Figs. 8 and 9).

Similar to the North West Province, Limpopo's most active period for colonial declarations was during the 1970s, which coincided with the middle of the Apartheid era. In the 1960s, the pre-colonial and 'other' categories had the most activity, while postcolonial heritage saw a peak in the mid-2000s. However, postcolonial heritage declaration in Limpopo seems to be less promising because there have been no further declarations since 2007.

Most of the heritage sites declared in Limpopo were done so under Apartheid legislation, with the National Monuments Act (No. 28 of 1969) being the most utilized having seen 15 declarations. The Natural and Historical Monuments, Relics, and Antiques Act (No. 4 of 1934) came in second with eleven declarations, while the Bushmen Relics Protection Act (No. 22 of 1911) and the Natural and Historical Monuments Act (No. 6 of 1923) had no declarations. Since the inception of the NHRA, Limpopo has declared seven sites.

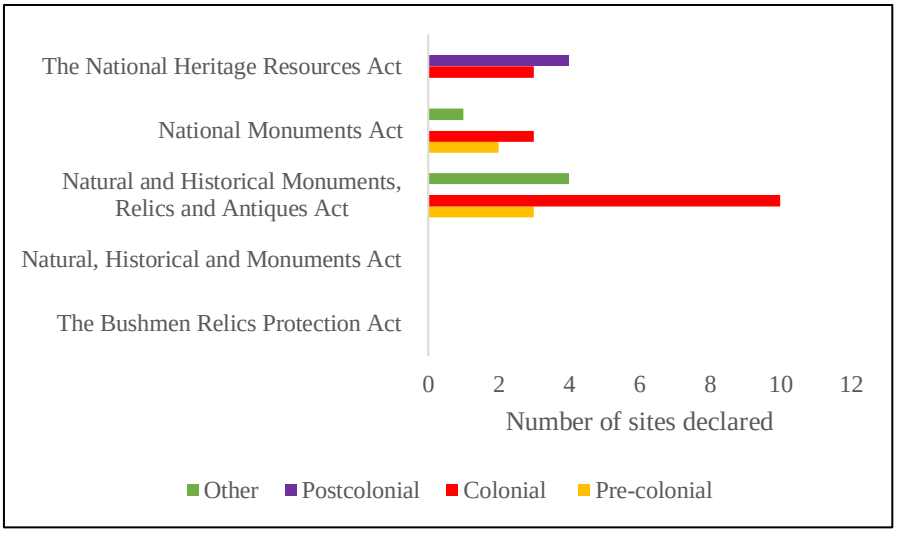


Figure 8: Declaration magnitude under different Heritage Acts for Limpopo Province

b) The distribution of the categories: Pre-colonial, Colonial, Postcolonial and Other

It should be noted that while Limpopo has a greater variety of site types declared compared to the North West, this diversity is somewhat insignificant due to the small sample size. Nonetheless, the variety of sites in Limpopo provides a glimpse into the rich history and culture of the region.

The colonial sites in Limpopo are varied, with some related to Afrikaans heritage and others to English heritage. For instance, the remains of Old Voortrekker Fort in Ohrigstad are significant for their connection to Afrikaans heritage, while Mapoch's Caves in Roos Senekal are significant for their connection to English heritage (Site Report 9/2/242/0003 n.d.).

Limpopo has six pre-colonial sites, five of which are related to the Iron Age. These sites include Iron Age smelting oven, Kgopolwe Koppie, Verdun Ruins, Machemma Ruins, and Sealeng Iron Age Site (Van der Merwe & Scully 1971; Evers & Van Der Merwe 1987). The last site, the Dzata Ruins, is significant for its cultural ties to the Venda people (Loubser 1991).

The postcolonial sites in Limpopo are diverse, but there are only four sites declared. These include one site related to salt purifying (Baleni-Soutini Salt Work), another related to the Pedi Empire (Tjate, Sekhukhuneland District), and two related to African struggles during the Boer Wars (Dzata Heritage Site and Malebobo-Boer War Battlefields) (Lousber 1991; Antonites

2006; Thotse 2015). These sites were only given recognition in 2007 implying that the NHRA is here operational.

The 'other' site type in Limpopo comprises natural, geological, and paleontological. Examples of these sites include Cycads in Modjadjiskraal, Dwars River Geological Occurrence, and Fossilised Footprints in Pontdrift (Site Report 9/2/210/0001 n.d.; Site Report 9/2/236/0006 n.d.).

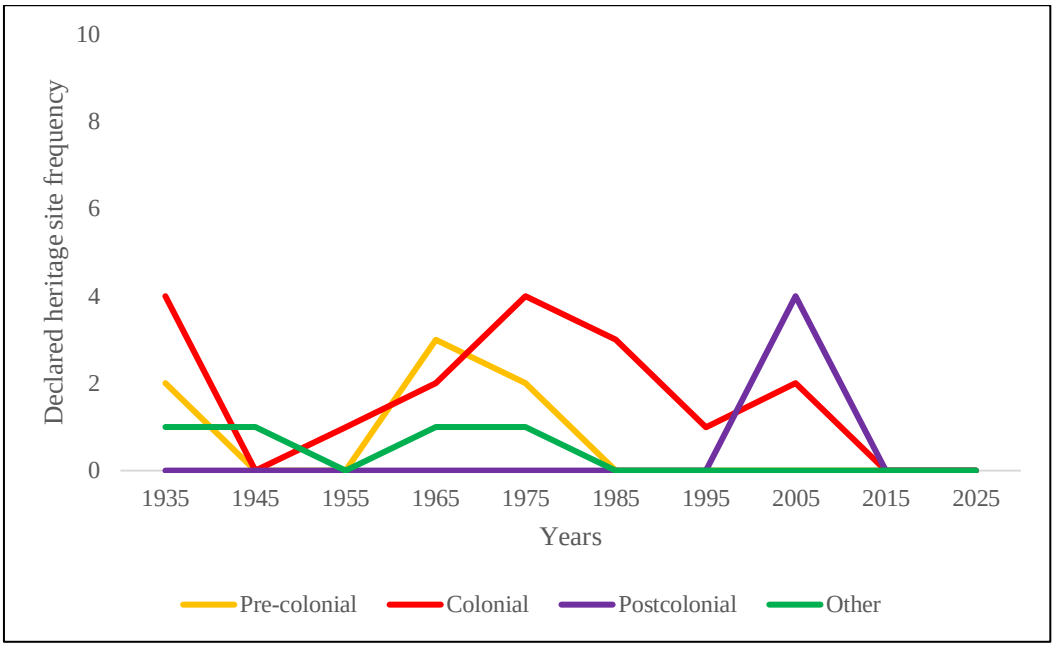


Figure 9: Declared heritage transformation for Limpopo Province

c) Site Type Distribution

Similar to the previous province, buildings comprise the largest proportion of site types at 26% (Fig. 10). These buildings are entirely colonial in nature and significant for their aesthetic qualities. This province boasts a diverse array of site types, with a total of fourteen different categories. The second highest site types are Archaeological and Place, both at 15%. The archaeological sites are entirely pre-colonial, while the places are predominantly colonial, with the exception of two postcolonial sites (Dzata Heritage Site and Tjate, Sekhukhuneland District). The remaining site types make up the remaining 44%, including natural, cultural landscape, living heritage, artefact, geological, stonewalling, structures, ruin>100 years, monuments and memorials, battlefield, and paleontological sites. Each of these individual site

types contributes a small percentage to the total, with most having only one site each. One particularly interesting example of a living heritage site is the Baleni-Soutini Salt Works in Giyani, which is postcolonial and demonstrates the beginning of the NHRA's influence. Another notable site type is monuments and memorials, with the Tjate, Sekhukhuneland District, Ntswaneng Village site being significant for its ties to the Pedi culture (Motlanthe 2021).

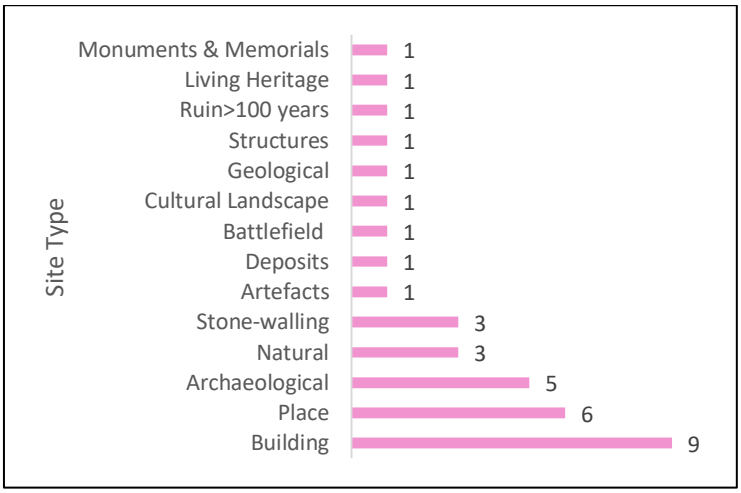


Figure 10: Site type distribution for Limpopo Province

Conclusion

Overall, Limpopo has very few sites and while it is once again dominated by colonial heritage, there is more diversity in heritage types than in the last province as seen with the acknowledgement of postcolonial heritage. However, the fact that a site has not been declared in fifteen years is concerning. Further, after the NHRA was implemented, only seven were declared, with a mere four being postcolonial and three colonial.

4.5.3 MPUMALANGA PROVINCE

Of Mpumalanga's 60 declared heritage sites, all have a provincial level of protection and thus none hold national significance (at the time of data collection).

a) Temporal Breakdown

For Mpumalanga, heritage declaration began in the mid-50s with the first site declared in 1955 and the last in 2003.

For colonial heritage, declarations begin slowly in the 1950s and then accelerate from the 1960s until the 1990s during which they reach their peak. From the late 1990s into the present, colonial declarations decrease rapidly. Despite colonial declarations decreasing in democratic South Africa, colonial declarations are still higher than the other three categories.

'Other' heritage and pre-colonial heritage are generally declared at low rates but see marginal rises in the 1980s (Figs. 11 and 12). This therefore implies that all three classifications increased in the 1980s and this was the most eventful decade. Postcolonial heritage is not being declared in this province.

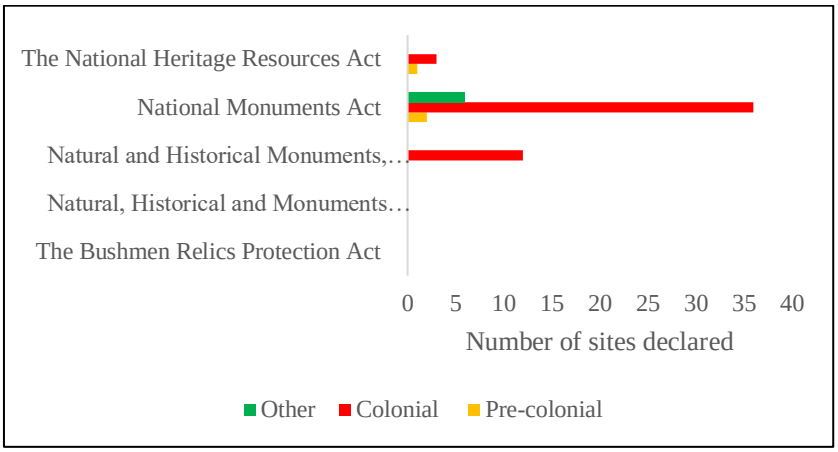


Figure 11: Declaration magnitude under different Heritage Acts for Mpumalanga Province

To corroborate the point that the 1980s was a very active decade, it is found that most declarations occurred under the National Monuments Act (Act No. 28 of 1969) with 44 sites being declared in those 30 years (Fig. 11). Under the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934), twelve sites were declared. No sites were declared under the Bushmen Relics Protection Act (no. 22 of 1911) nor the Natural and Historical Monuments Act (no. 6 of 1923). The NHRA only has four declarations.

b) The distribution of the categories: Pre-colonial, Colonial, Postcolonial and Other

This province is heavily dominated by colonial sites with 83.3% being declared from the inception of gazetted heritage in South Africa until the turn of the 21st century. The category 'other' makes up 11.6% of the total and is the second-highest site category, followed by three pre-colonial sites, making up 5% of the total.

The colonial sites are primarily buildings of Dutch historical value (e.g., Stopforth), and there are as many as eight colonial churches (Site Report 9/2/203/0002 2014).

The three pre-colonial sites are all related to Bantu-speaking people. They are the Stone hut Settlement at Tafelkop, which provides prehistoric information about the early Bantu-speakers (Hoernlé 1930). The stone ruins at Blaauboschkraal represent the Bokoni people and their stone-walling complex (Delius et al. 2014). Lastly, the Iron Age rock engraving site at Boomplaats (Mbewe 2006).

The sites belonging to the category 'other' are made up of the Natural Rock Bridge, Cycad at Bankfontein, and another rock bridge in Graskop, Mac Waterfall, Lone Creek Waterfall, and the Berlin Waterfall, Berlyn 506, and Pilgrim's Rest District. These are all nature sites (SAHRIS 2023).

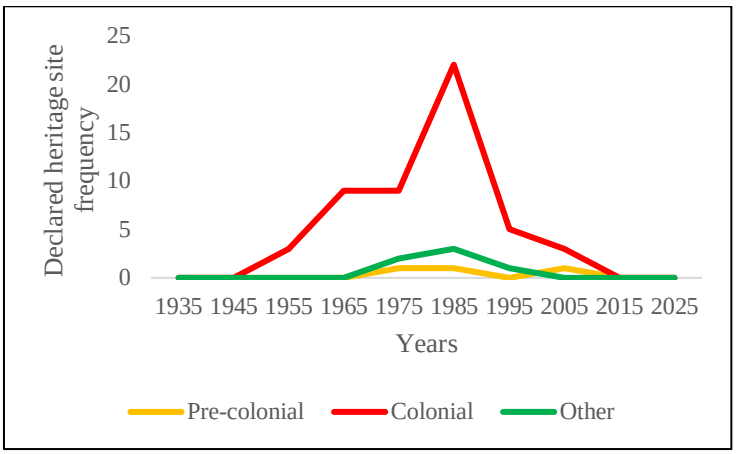


Figure 12: Declared heritage transformation for Mpumalanga Province

c) Site Type Distribution

In this province, buildings and natural sites constitute the largest proportion of recognized site types, accounting for 60.7% and 11.5% respectively (Fig. 13). All building sites are of colonial nature, while all natural sites fall into the category of 'other'. Bridges make up the next greatest segment of heritage type at 8.2%, which are also colonial, having been built in accordance with the Executive Council of the Zuid-Afrikaansche Republiek (Pieterse 2017). The same goes for transport-related heritage sites (4.9%), which are all related to the Netherlands-South African Railway Company. Stone-walling sites (3.3%) and monuments and memorials (3.3%) contribute marginally to the total, with the former being pre-colonial (e.g., stone ruins at

Blaauboschkraal) and the latter colonial (e.g., the site of the Mozambican Train Disaster at Elandspruit) (SAHRIS site reports). The remaining site types have only one site each, accounting for 1.6% each, including burial grounds and graves (e.g., the colonial Grave of Gen. Piet Joubert), rock art (e.g., pre-colonial Iron Age authored rock art), cultural landscape (e.g. colonial Pilgrims Rest), structures (e.g. a colonial borehole), and place (e.g. the site of the Mozambican Train Disaster at Elandspruit, Waterval Boven District).

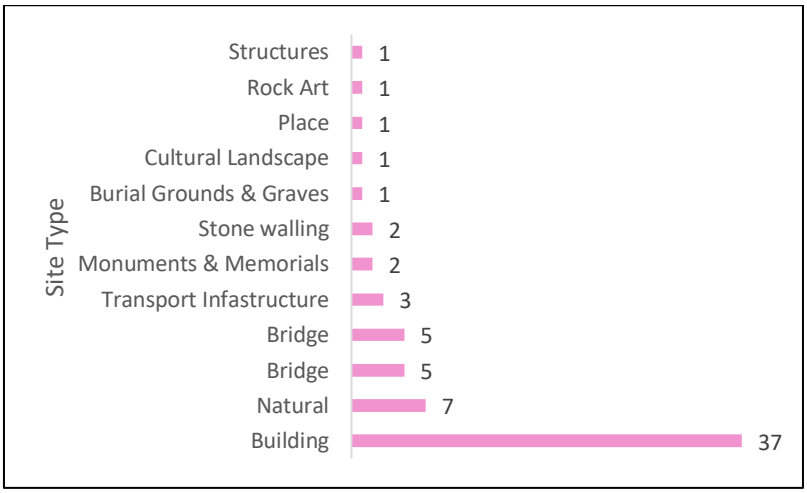


Figure 13: Site type distribution for Mpumalanga Province

Conclusion

Like the previous two provinces, Mpumalanga is dominated by colonial heritage, and these mainly comprise of buildings. There is no postcolonial heritage and no heritage declared after 2003. Only four sites were declared after the NHRA was enacted and three of those are colonial and the other is pre-colonial. While this province has more natural heritage than the last two, they are mainly waterfalls so natural diversity such as botany is also under-represented.

4.5.4 FREE STATE PROVINCE

The Free State has substantially more declared heritage than the previous three provinces with 230 gazetted sites in total. Of those, all 230 have provincial protection therefore this province has no heritage that is nationally protected.

a) Temporal Breakdown

The first declaration occurs in 1937 and the final declaration is in 2016. Colonial heritage declarations start slowly in the 1930s and then drastically increase from the 1970s onwards. The 1980s and the 1990s both have a high number of colonial heritage declarations, with nearly 200 sites being declared in those two decades alone. Since the NHRA was implemented, the declaration of colonial heritage drops drastically (Figs. 14 and 15).

For pre-colonial and 'other' heritage, declarations are generally small in magnitude with slight increases in the 1980s and the 1990s. Those declarations then slow down in democratic South Africa. Numbers of declared postcolonial heritage only rise noticeably from 2015.

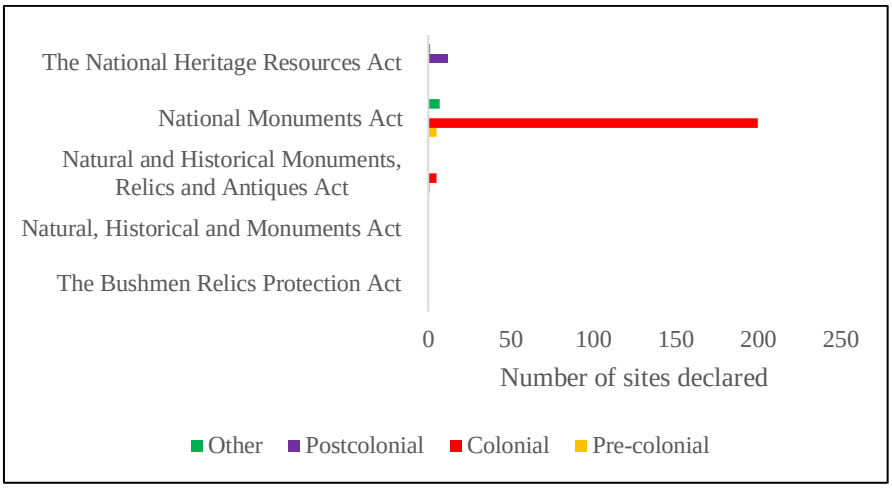


Figure 14: Declaration magnitude under different Heritage Acts for Free State Province

Most sites were declared under the National Monuments Act (Act No. 28 of 1969) with 210 sites declared during this piece of Apartheid legislation. The NHRA unusually has the second highest with 14 sites declared. The third highest is under the Under the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934) with six sites. And zero sites declared were the Bushmen Relics Protection Act (no. 22 of 1911) and the Natural and Historical Monuments Act (no. 6 of 1923) (Fig. 14).

b) The distribution of the categories: Pre-colonial, Colonial, Postcolonial and Other

This province in South Africa is dominated by colonial heritage at 88%. The second highest category is postcolonial heritage at 6%, while pre-colonial heritage (3%) and 'other' heritage (3%) contribute equally.

Due to the large body of colonial heritage in this province, the sites are diverse. They include several colonial churches such as the Dutch Reformed Mother Church, farmhouses like the Old Farmhouse and Merumetsu, battlefield-related memorials like Jammerberg Drift Battlefield and Anniesdale, and more (Site Report 9/2/300/0009 2012; Site Report 9/2/346/0007-001 2012).

There are currently eight pre-colonial sites in the province, with most related to rock art. These include rock-engravings in the Stowlands-on-Vaal Shelter, and rock paintings at the sites of Tandjiesberg, Modderpoortspruit, Ventershoek, and Schaapplaats (Site Report 9/2/303/0002 n.d.; Site Report 9/2/325/0010 2021). Additionally, there is a stone walling site in Leghoya Village named Beehive Stone Huts, and another in Willem Pretorius Game Reserve (Site Report 9/2/326/0003 n.d.). Finally, there are two archaeological sites related to the Middle Stone Age, namely Florisbad and Rose Cottage Cave (Site Report 9/2/306/0006 2012).

The 'other' category of sites in the province is made up of a nature reserve (Pretoriuskloof Nature Reserve), a dam wall (Loch Athlone Dam Wall), a botanical garden (Orange Free State Botanical Gardens), and a conservation site (President Brand Street Conservation Area) (SAHRIS 2023).

Lastly, there are currently twelve postcolonial sites in the province, primarily struggle-related heritage sites that pay homage to anti-Apartheid figures through the legitimisation of their graves or houses. These figures include Dr JS Moroka, Albert Ndoyisile Xhamfu, Martha Moipone Motlhakwana, Samuel Zuka Baloi, Sipho Mutsi, Vuyo Edward Charles, and Thomas Mtobi Mapikela. The remaining three postcolonial sites are the Nkoe/Sefate/Poqong Site in Verkykerskop, the Witsie's Cave in Monontsha Village due to its association with indigenous peoples' early habituation, and a living heritage site declared in 2016 that represents indigenous religion (Mantsopa's Cave) (Mashinini & Lotriet 2011; Ntlhabo 2011).

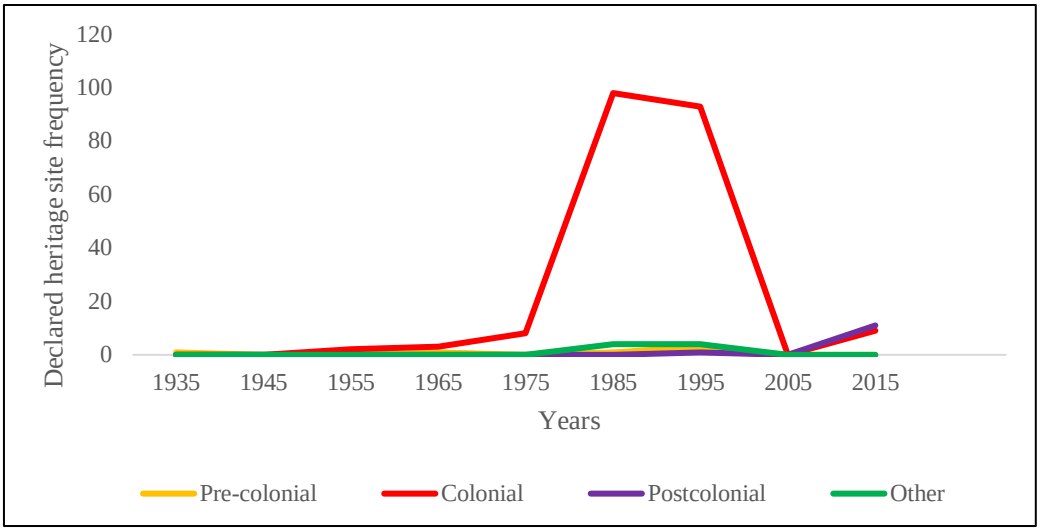


Figure 15: Declared heritage transformation for Free State Province

c) Site Type distribution

The heritage of the Free State is dominated by buildings, accounting for 74.1% of all sites (Fig. 16). Most of these buildings are colonial in nature. Burial grounds and graves make up 6.7% of the heritage sites, with the majority of them being postcolonial and associated with anti-Apartheid figures. Pre-colonial rock art comprises 2.9% of the sites, while colonial monuments and memorials account for 3.3% of the heritage, except for one postcolonial site (Nkoe/Sefate/Poqong Site). Colonial battlefields represent 2.8% of the sites, with the exception of one postcolonial site (Namoha Battle Site, Witsieshoek) (Semela 2005). The remaining site types include natural areas (1.7%), places (1.7%), structures (1.3%), archaeological sites (1.3%), palaeontological sites (0.4%), ruins over 100 years old (0.4%), stone walling sites (1.7%), living heritage sites (1.3%), and conservation areas (0.4%).

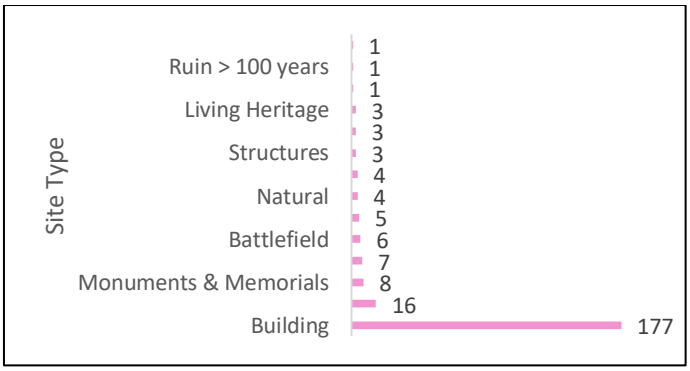


Figure 16: Site type distribution for Free State Province

Conclusion

Free State province has a relatively high number of gazetted sites and recent declarations with the last being made in 2016. The postcolonial sites are related to struggle heritage and anti-Apartheid activism which can only be attributed to the NHRA's implementation, so to some degree, it has had an impact in this province. However, the province is largely dominated by colonial heritage (88%) and there is very little diversity regarding site type as colonial buildings remain the largest type of recognized heritage. After the NHRA was implemented, 19 sites were declared, with nine being colonial and eleven being postcolonial.

4.5.5 Note on Uncleaned Data

The data for the preceding four provinces has undergone thorough sorting and cleaning by SAHRA. However, the information beyond this point is sourced directly from the SAHRIS online registry, which is uncleaned data. Consequently, two issues emerge. Firstly, some sites have been assessed twice, and both grading levels appear on the list, leading to duplicate entries. Secondly, parts of the same large site have been designated individually, thus inflating the total number of sites listed. These issues result in a distorted representation of the number of sites present in a particular region.

4.5.6 GAUTENG PROVINCE

Gauteng has a total of 282 declared heritage sites, of which 34 are National Heritage Sites and 248 have provincial protection. Therefore, in contrast to the last four provinces, Gauteng is active across both grade I and II lists.

a) Temporal Breakdown

The first declaration of heritage sites occurs in 1936 and the last in 2019.

For colonial heritage, declarations begin slowly in the 1930s but gradually decrease until the 1950s. From the 1960s, there is extreme acceleration in colonial declarations until a peak is reached in the mid-1990s. With independence, there is a sudden drop in colonial heritage declarations, followed by a small rise in the mid-2010s. In summary, Gauteng sees the most colonial declarations in the 1980s and 1990s and a small rise in independent South Africa (Figs. 17 and 18).

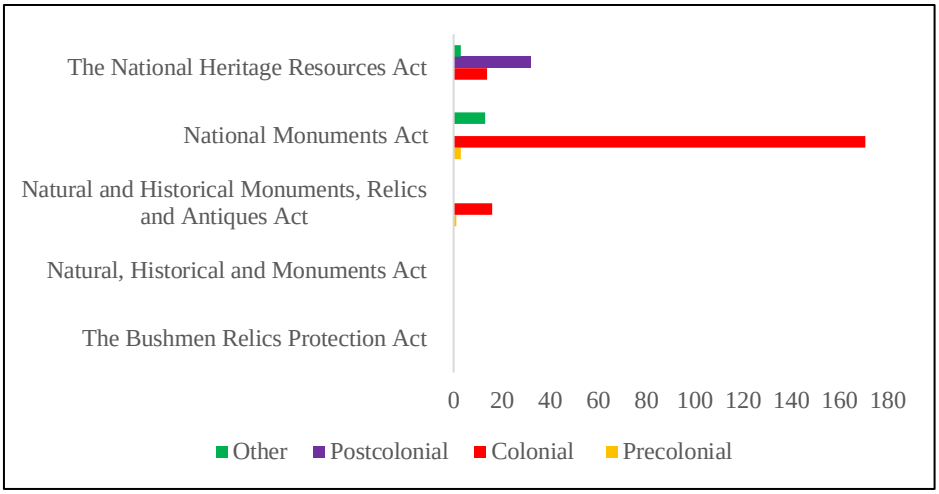


Figure 17: Declaration magnitude under different Heritage Acts for Gauteng Province

"Other" heritage is declared at a slow rate until the 1980s and 1990s where there is a slight rise before it drops again in the 2000s. Precolonial heritage peaks in the mid-2000s. Postcolonial heritage is declared as early as 1998 but rises noticeably only in the 2010s.

Of Gauteng's 282 sites, 173 were declared under the National Monuments Act (Act No. 28 of 1969), so Apartheid legislation declarations dominate in sheer magnitude. Declarations under the NHRA are second highest, with 64 sites declared, and under the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934), 18 sites were declared. Zero sites were declared under the Bushmen Relics Protection Act (no. 22 of 1911) and the Natural and Historical Monuments Act (no. 6 of 1923) (Fig. 17). The 'missing' 27 sites here are either duplicate sites or sites with missing declaration dates on SAHRIS because the data is uncleaned.

b) The distribution of the categories: Pre-colonial, Colonial, Postcolonial and Other

This province is once again dominated by colonial heritage as these sites comprise 71.5% of recognized sites. Postcolonial sites are the second largest category with 13.9%. This is followed by pre-colonial at 2.1% and the category 'other' at 7.8%. This adds up to 95,3% because the remaining 4.6% can be attributed to duplicate sites and the final 0.1% is simply lost due to rounding of decimals. This 4.6% indicates how the lack of data cleaning on SAHRIS can slightly skew data outcomes. Though it will not have a significant impact on the major trends.

There are 17 precolonial sites declared in this province. They are made up of Melville Koppies Nature Reserve, an archaeological site in Duncanville and another site in Klip River Quarry (Le

Roux 1971; Berry 1980; Prins 2007). The Redan rock engraving site in Kookfontein, a hut cave in Kleinfontein significant for Iron Age remains, an early Sotho Stone-walling site and 11 sites relating to fossil discoveries as indicated by their site type on SAHRIS.

The colonial sites are diverse. There are many buildings representing colonial architecture such as the Art Deco style (e.g., Villa Guy, Peter's Place and Dudley Court) and there are many colonial church buildings (Dutch Reformed Church, Kirkness Street) and residential dwellings (e.g., Leenhoff House, 799 Schoeman Street). Homage is often paid to colonial figures such as Paul Kruger and the Kruger house. There are also several old colonial school buildings declared for their architectural contribution (e.g., King Edward VII School, Houghton Estate) (Site Report 9/2/228/0001/078-001 2014).

The 33 postcolonial sites are most often struggle heritage that honours anti-Apartheid activists such as Vilakazi Street which is significant for its ties to Nelson Mandela and Desmond Tutu (Dondolo 2018; Hoogendoorn *et al.* 2009). There are many gravesites of significant freedom fighters (e.g., Chris Hani's grave) and a few houses related to struggle history (e.g., Patel House) (Longford 2020).

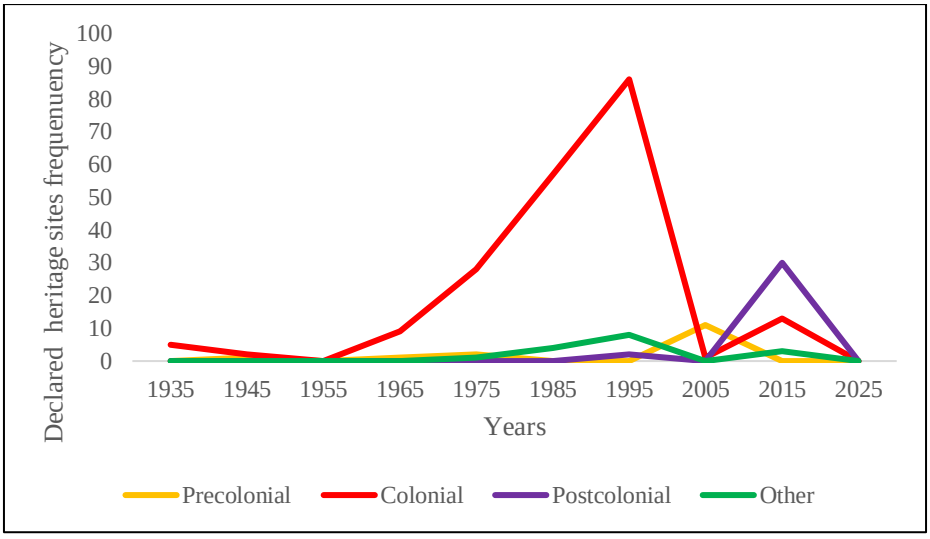


Figure 18: Declared heritage transformation for Gauteng Province

Gauteng differs from the previous provinces mentioned regarding the category 'other'. This is because there are unique sites like the Mariammen Temple in Asiatic Bazaar which is a Hindu temple that declared in 1982 during a time when Christian nationalism was enforced (Mabin 1992). There is also the Poswohl Synagogue which was declared in 1981. While Judaism is

associated with Ashkenazi Jews in South Africa (who are politically White) and the site was built by Jewish Randlords (those who controlled the gold and mining industry then), it is unusual for the Apartheid government to acknowledge two non-Christian faiths in this way (Harrison 2004). These sites were declared to enforce demarcated segregation but still represented a previously marginalised group. Sites like these are classified in this study as 'other' because they are effectively non-colonial heritage declared during colonialism.

c) Site Type Distribution

Gauteng's declared heritage is dominated by buildings (71%) (Fig. 19). While the majority of these buildings are colonial, some are 'other' like the earlier mentioned places of worship.

Archaeological sites (6%) and places (6%) are the second highest gazetted heritage type. The archaeological sites are pre-colonial and often related to hominid discoveries (e.g., Sterkfontein Caves, Swartkrans) (SAHRIS 2023). The place site type is diverse in that some are colonial such as a Voortrekker meeting place (Landing Site of the 'Voortrekker', University of Pretoria Experimental Farm) and some are postcolonial like the ANC headquarters (Lilliesleaf Farm, Rivonia) (Masilo & Van der Merwe 2016).

At 5% are the burial grounds & graves which are primarily postcolonial and graves of Anti-Apartheid Activists. The sole exception is a Hindu crematorium declared before the NHRA and therefore classified as 'other'.

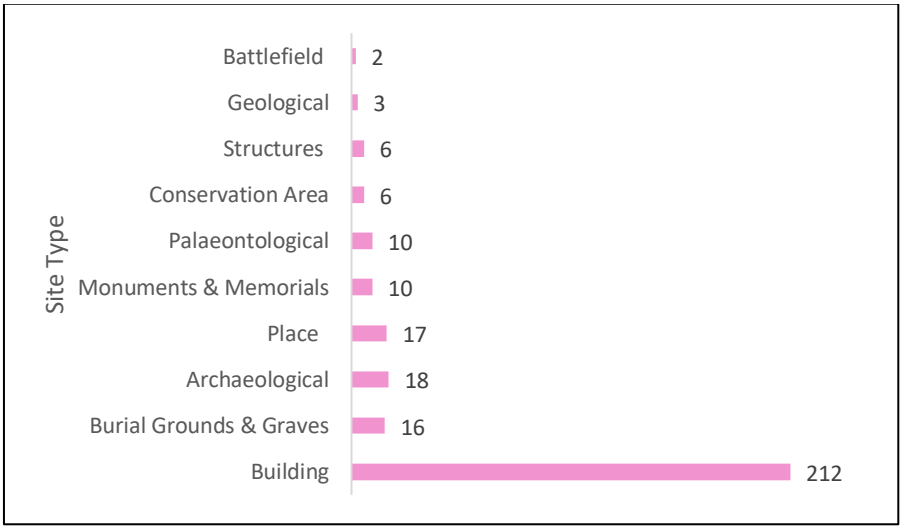


Figure 19: Site type distribution for Free State Province

The remaining site types has less than ten sites each and contribute marginally to the total. These were monuments and memorials (3%), palaeontological (3%), conservation area (2%), structures (2%), geological (1%) and battlefield (1%).

Conclusion

The PHRA-G has not been granted fully certified competence by SAHRA yet. This province has a diverse declared heritage list with several postcolonial heritage sites that are related to struggle and the fight for freedom. The first postcolonial site was declared in 1998 when the NHRA was first implemented and the last in 2019. Gauteng, more than most provinces, has a declared heritage list that shows the NHRA is operating by declaring heritage in line with its values. This is unusual. Therefore, the reasons for why a PHRA without full competence might be performing so well will be discussed in the next chapter. However, Gauteng's heritage list is not perfect. The NHRA emphasized the importance of living heritage and Gauteng does not have a single site for this category. While the upliftment of struggle heritage is a promising step, it would be beneficial to explore heritage of previously marginalised groups in other contexts such as how Limpopo declared the Baleni-Soutini Salt Works site. After the NHRA was implemented, 49 sites were declared with 14 being pre-colonial, 32 being postcolonial and 3 being 'other', this suggests that in Gauteng, the priority has shifted to giving more emphasis to postcolonial heritage.

4.5.7 NORTHERN CAPE PROVINCE

The Northern Cape has 630 declared sites, only two are National Heritage Sites and the remaining 638 have provincial protection.

a) Temporal Breakdown

The first declaration occurs in 1936 and the last in 2020. The final declaration in 2020 was after a decade of inactivity.

For colonial heritage, declarations are slow from the inception of heritage legitimisation, then there is a gradual increase in the 1960s that carries into the early 1980s. During the 1980s, there is a spike in legitimisation and colonial heritage declarations reach their peak in the 1990s. After the mid to late 1990s, there is a severe drop in heritage declaration for this heritage category.

Northern Cape therefore too has the most heritage declared during the 1980s and 1990s and its colonial declarations are parabolic (Figs. 20 and 21).

Due to the high magnitude of colonial heritage, graphically it appears that no other classification sees declaration (Fig. 21). However, based on the raw data, 'other' heritage very slightly increases in the 1980s. The precolonial category has a few declarations throughout the decades (e.g., one in 1990s, one in 1940s etc.) therefore there are no clear temporal trends for this classification. In other words, pre-colonial sites are haphazardly declared across time. Postcolonial heritage has a single site declared in 2020, so would not be graphically visible.

Currently, 603 out of 630 sites were declared under the National Monuments Act (Act No. 28 of 1969). The Natural and Historical Monuments, Relics, and Antiques Act (no. 4 of 1934) follows with 17 declared sites, while the NHRA has seven. However, there are no declared sites under the Bushmen Relics Protection Act (no. 22 of 1911) or the Natural and Historical Monuments Act (no. 6 of 1923).

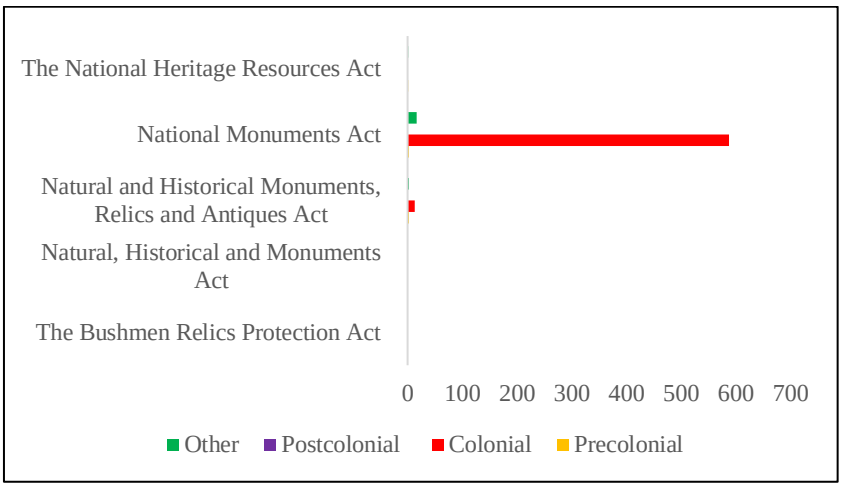


Figure 20: Declaration magnitude under different Heritage Acts for Northern Cape Province

b) The distribution of the categories: Pre-colonial, Colonial, Postcolonial and Other

This province is dominated by colonial heritage declarations, with that site type making up 95.7% of the total. Pre-, post-colonial and the category 'other' sites make up 1%, 0.1% and 3.0% respectively. The remaining percentage (0.2%) is comprised of duplicates.

The colonial sites are overwhelmingly residential buildings that were presumably significant for their colonial aesthetic. There are several sites that are Dutch Reformed Churches and many buildings related to the Anglo-Boer war (SAHRIS 2023). Therefore, the colonial category is not diverse.

The pre-colonial sites, of which there are five, are Wildebeestkuil rock art site (Laue *et al.* 2001). A specularite mine in Gatkoppies which provided evidence of early pottery use in the area (Thackeray *et al.* 1983). Canteen Kopje in Barkly West is important for its Stone Age sequence (Forssman et al. 2010). Wonderwerk Cave its with its Earlier, Middle and Later Stone Ages sequence (Berna *et al.* 2012). Lastly, an Archaeological Site in Doornlaagte that is an Acheulian occupation site (Butzer 1974).

There is one postcolonial site which is the grave of Magrieta Jantjies who was one of the last Khoisan people to speak *Nuu*. The site was declared in 2020 (Campbell 2018).

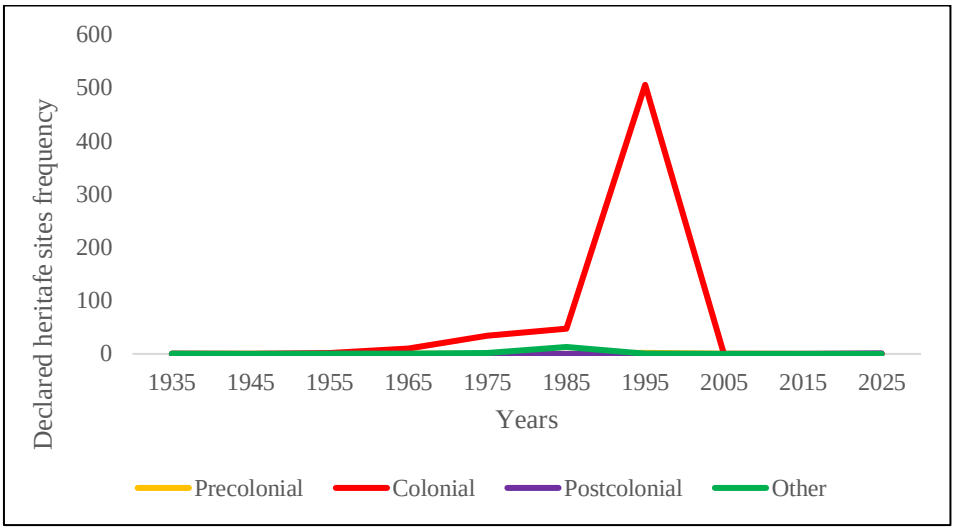


Figure 21: Declared heritage transformation for Northern Cape Province

The category ‘other’ sites are primarily conservation areas with a handful relating to the glacial pavement thereby indicating that geology is significant in this province. Two interesting sites in the category ‘other’ are the Cenotaph on Spencer Street which pays homage to fallen WWI soldiers and the Grave of Solomon T. Plaatje who was the first secretary of the ANC (Remmington 2013; Site Report 9/2/049/0120-036 n.d.). The latter site was declared in democratic South Africa but a year before the NHRA was implemented hence the classification as ‘other’ for the purposes of this study.

c) Site Type Distribution

The most common site type are colonial buildings with these comprising 92.9% (Fig. 22). The next highest site type is conservation area with a low 1.4% which are all ‘other’. Third was monuments and memorials with 1.1%. These are mainly colonial (five sites), one ‘other’ and one postcolonial (grave of Magrieta Jantjies). The remaining site types were so few that they did not even make up a per cent. These were archaeological (0.9%), geological (0.9%), burial grounds and graves (0.8%), structures (0.6%), rock art (0.5%), natural (0.3%), battlefield (0.3%) and place (0.2%).

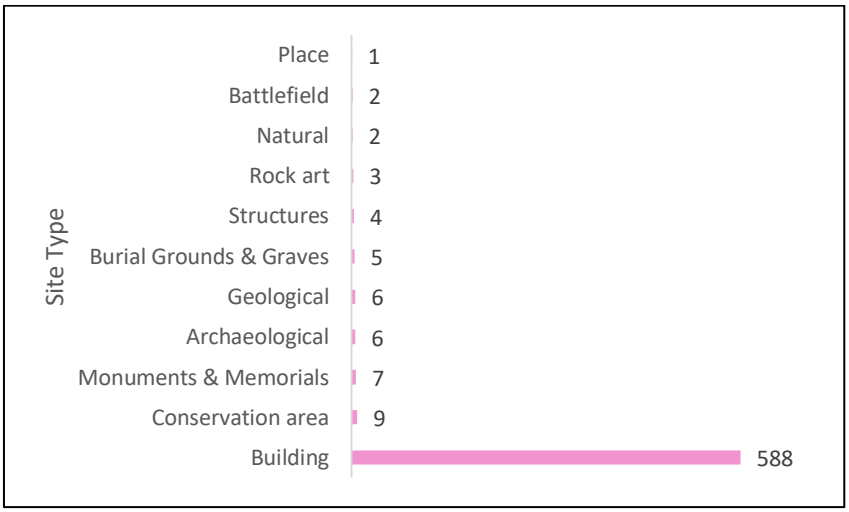


Figure 22: Site type distribution for Northern Cape Province

Conclusion

Overall, this province is in desperate need of significance reassessment as their heritage list is overwhelmingly made up of colonial buildings that are all similar in nature. There is very little pre-colonial and postcolonial heritage declared. While their last site was declared in 2020, it was after a long period of inactivity that suggests that the declaration frequency leaves much heritage of indigenous peoples unrecognised. There is no indication of living heritage acknowledgement and of the mere three sites gazetted under the NHRA, only one was postcolonial in nature. The remaining two were pre-colonial and ‘other’.

4.5.8 KWAZULU-NATAL PROVINCE

KwaZulu-Natal has a certified fully competent PHRA, as granted by SAHRA. This province has 350 declared sites. Of these, 342 have provincial protection and eight hold national significance.

a) Temporal Breakdown

The first site was declared in 1936 and the last in 2020. Further, there was consistency in declarations up to 2020, i.e., there have not been any long periods of inactivity.

For colonial heritage declarations, the 1930s started off strongly with twenty declarations occurring in that decade alone, but then these decrease in the 1940s. Declarations remain low in the 1940s, 1950 and 1960s and then they rise considerably in the 1970s. The 1970s, 1980s and early 1990s saw the highest magnitude of colonial declarations and these then decrease in the democratic South Africa (Figs. 23 and 24).

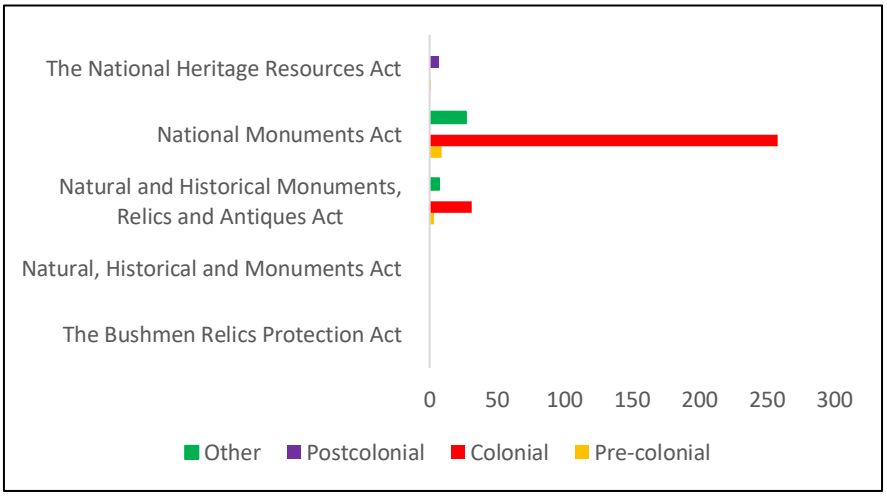


Figure 23: Declaration magnitude under different Heritage Acts for Kwa-Zulu Natal Province

'Other' heritage was declared to a significantly lesser degree than colonial heritage but saw a peak in the 1980s and 1990s. Pre-colonial heritage's highest number of declarations occurred in 1990s and postcolonial heritage in the 2010s.

Of KwaZulu-Natal's 350 sites, 295 were legitimised under the National Monuments Act (No. 28 of 1969). The second highest declarations occurred under the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934) with 42 sites. Nine sites are declared under

the NHRA. Zero sites were declared under the Bushmen Relics Protection Act (no. 22 of 1911) and the Natural and Historical Monuments Act (no. 6 of 1923) (Fig. 23).

b) The distribution of the categories: Pre-colonial, Colonial, Postcolonial and Other

The domination by the category colonial heritage continues in this province, with it making up 83.6% of the total declared heritage. 'Other' heritage was the second highest at 9.8% and the pre-colonial category was third with 3.7%. Last was postcolonial heritage at 2.0%. The remaining 0.9% was made up of duplicate sites. It is important to note that provinces without full competency such as Gauteng and Free State had postcolonial heritage as the second highest percentage yet Kwa-Zulu- Natal (which has been operational the longest period and has full competency) has the postcolonial category as the lowest percentage. This deviates from expectations.

Despite being certified competent and having its own legislation to abide by, KZN's colonial sites are also dominated by residential buildings significant for their colonial aesthetics (Gothic, Edwardian, German colonial etc.). Numerous colonial church buildings also clutter their heritage list. However, there are also several colonial sites with interesting political backgrounds such as General Louis Botha's Birthplace which pays homage to the first Prime Minister of the Union and the Blood River Battlefield site that represents the strife between the Voortrekkers and Zulus (Site Report 9/2/444/0006 2016; Marschall 2017). Therefore, there is diversity in the types of colonial heritage declared here which was an improvement over Northern Cape and Free State.

Despite KZN only having 15 pre-colonial sites, they are diverse in significances. Four sites were important for their ties to the Zulu people (Mgungundlovu, Fort Nongquai, Shaka Memorial, Mpande's Nodwengu Royal Homestead and Grave, Ulundi) (Van der Merwe *et al.* 1989). Two sites are connected to the Iron Age (Mgoduyanuka and Mhlwazini Cave) (Maggs 1989). The remaining sites provided insight into early human occupation through either engraving (Hattingsvlakte), rock art (Mhlwazini Cave), stone tool production or subsistence strategy (Mpongweni Cave and Collingham Shelter) (Deacon 1993).

The eight postcolonial sites are mainly related to the ANC and anti-Apartheid struggles. However, it is worth mentioning that three postcolonial sites namely Nelson Mandela Capture Site, the Bhambatha Memorial and Sigananda Shezi Memorial do not have declaration dates on

SAHRIS. Given that these three sites were posted on SAHRIS in 2016 and that they aimed to promote anti-Apartheid activism, it is likely they were declared just before 2016 (Thompson 2018; Schmahmann 2018).

The category 'other' sites, of which there are 34 are also diverse. There are sites declared for their natural aesthetic (e.g., Beachwood mangroves), geological significance (e.g., Lynmouth glacial pavement) and a few buildings (e.g., Hime Bridge). Further, a large portion of the 'other' sites were related to marginalised people's accomplishments. Early Indian schools (e.g., Sastri College), temples (e.g., Umbilo Shree Ambalavanaar Alayam Temple) and residential areas (e.g., the Phoenix Settlement) have been declared as early as the 1980s (SAHRIS 2023). KZN was the only province that had several gazetted sites related to the Indian community.

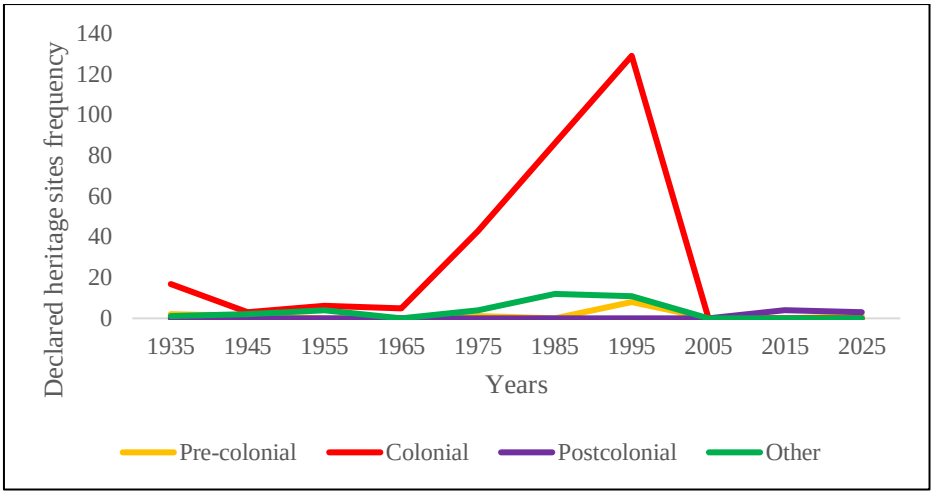


Figure 24: Declared heritage transformation for Kwa-Zulu Natal Province

c) Site Type Distribution

Like the previous provinces, buildings (which comprised 74.5%) (Fig. 25) dominate this province however the buildings do not solely belong to colonial heritage as seen in previous provinces and there were buildings of significance to Indian and Black people as well as the colonial legacy.

At 7.4% are monuments and memorials which are related to the Anglo-Boer war, the Voortrekkers, the Anti-Apartheid struggle, and the Zulu wars, so there is a fair degree of variability (SAHRIS 2023). Of a similar nature are the Burial grounds and Graves site type with 4.9%.

Place make up 3.6% which are usually used in conjunction with settlements, or conservation areas, so this site type entails overlap with the category 'other' site types. The remaining site types are natural (3.2%), battlefield (2.4%), archaeological (2.1%), rock art (0.8%), geological (0.6%) and stonewalling (0.3%). The remaining 0.2% was lost to decimal rounding.

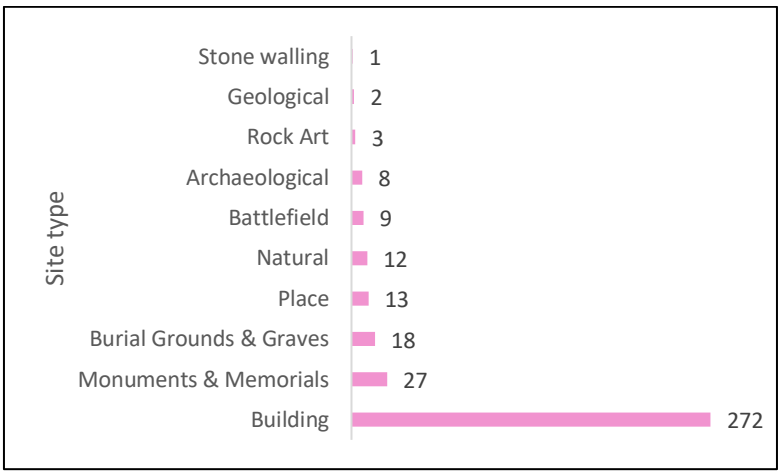


Figure 25: Site type distribution for Kwa-Zulu Natal Province

Conclusion

This province has a large degree of diversity in terms of significance for all site types with even the colonial type having interesting and politically entangled heritage. No Heritage declarations have been made since 2020 but prior to that sites were still declared, semi-regularly, so that shows promise. The postcolonial heritage being primarily struggle related is an area in need of work because this is a certified competent PHRA and attention needs to be paid to a variety of postcolonial significances under the NHRA. A major flaw here is the continual cluttering of heritage lists by colonial buildings significant for nothing other than aesthetics. Another issue is that under the NHRA, only nine sites were declared with eight being postcolonial and one being pre-colonial. While it is positive that heritage that is postcolonial in nature is being declared under the NHRA, the numbers are lower than anticipated.

4.5.9 EASTERN CAPE PROVINCE

The Eastern Cape has a provincial heritage body that has been certified fully competent by SAHRA. There are 630 declared sites in the province, and of those, 617 have provincial protection and 13 are national heritage sites.

a) Temporal Breakdown

For Eastern Cape, the first declaration occurs in 1936 and the last in 2018.

Like KwaZulu-Natal, colonial declarations began in high numbers in the 1930s with 21 sites being declared in that decade alone. After that, declarations decrease and remain low for two decades in the 1940s and 1950s. These gradually rise in the 1960s, and the in 1970s, there is a spike that carries into the 1980s where a peak in declarations is reached. Declarations are less frequent in the 1990s and by independent South Africa, they are slow again, so the trend was parabolic as with the other provinces (Figs. 26 and 27).

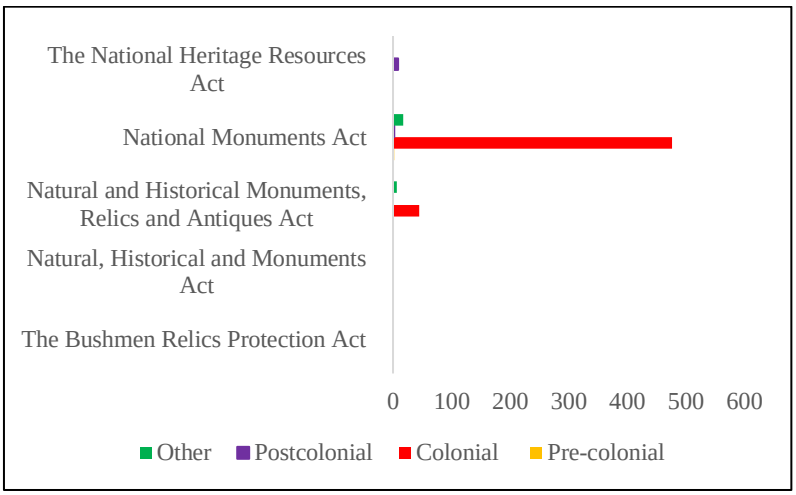


Figure 26: Declaration magnitude under different Heritage Acts for Eastern Cape Province

For 'other' and pre-colonial heritage there are no clear peaks or dips because they are haphazardly declared throughout the decades and never in a particularly high number. Postcolonial declarations see a minuscule peak after 2010.

The largest portions of sites are declared under the National Monuments Act (Act No. 28 of 1969) with 553 sites being declared across those three decades. Second was the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934) with 48 sites. The NHRA is third with 15 sites declared. Finally, no sites were legitimised during the time of the Bushmen Relics Protection Act (no. 22 of 1911) nor the Natural and Historical Monuments Act (no. 6 of 1923) (Fig. 26).

b) The distribution of the categories: Pre-colonial, Colonial, Postcolonial and Other

In this province 92.7% of sites are colonial. Second are ‘other’ at 4%, while only 1.9% are postcolonial and 0.6% are pre-colonial. The remaining 0.8% comprises duplicate sites.

Most certified sites are buildings significant for their colonial aesthetic, most often in the Victorian style (SAHRIS 2023). There are a few political buildings like the magistrate’s court and colonial churches, but the majority are residential i.e., colonial dwellings. This lack of diversity is unexpected for a province with certified competence.

There are four pre-colonial sites: the corbelled huts in Glenfield which is indicative of early house building ingenuity (two sites), the White Lady Cave in the Aliwal North District which is significant for its antelope-centred rock art, and the Klasies River Mouth Caves in Humansdorp District, significant for its Middle Stone Age remains (Baard 1970; Klein 1989; Site Report 9/2/006/0008 n.d.).

The postcolonial sites, of which there are twelve, are more varied in nature of significance. There are graves of figures who represent democratic ideals such as Dr R.M. Sobukwe and Van der Kemp (Sobukwe 2019). There is the University of Fort hare, that is significant for educating Black and other people of colour (Morrow & Gxabalashe 2000). There is also a site that pays homage to Sarah Baartman (Sarah Bartmann Site, R331 Hankey, Kouga Municipality) (Site Report 9/2/034/0004 2014). While the quantity of postcolonial sites was sub-par, variability in significances is present.

There are twenty-five sites in the category ‘other’. Some are natural including botanical gardens (Botanical Gardens, Grahamstown) and conservation areas (Rhodes Village Conservation Area, Barkly East District). Transport infrastructure (Naudes Nek Pass, Barkly East District) also fell under this category. Fossil sites, of which there are two, are the Cretaceous deposits of Mzamba Beach and the Dinosaur Track Site in the Maclear District (SAHRIS 2023). Present are also non-colonial sites like ones that pay homage to Steve Biko (Steve Biko's House, 698 Ngxata Street, Ginsberg, King William's Town) which was declared prior to the NHRA but after Apartheid ended in 1994, so was technically declared under Apartheid legislation but not the Apartheid political climate. Above this, there are a handful of sites related to Judaism namely Pioneer's Memorial Synagogue, the Jewish Cemetery on Donkin Street in Graaff-Reinet and the Old Synagogue on Berkley Street in King William's Town (SAHRIS 2023)

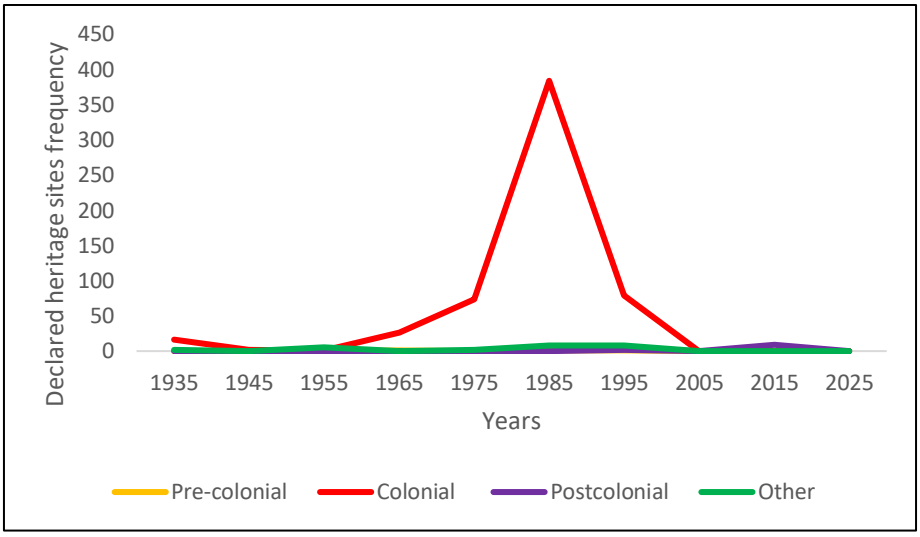


Figure 27: Declared heritage transformation for Eastern Cape Province

c) Site Type Distribution

Like all other provinces, the Eastern Cape's heritage list is dominated by buildings at 93.5% of the total (Fig. 28). As previously mentioned, most buildings are colonial residential buildings.

The second most common site type are monuments and memorials at 1.6%. Of this site type's ten sites, nine are colonial and one is postcolonial. The nine colonials represent early settler figures (e.g., Old cemeteries, Anderson Street), and the lone postcolonial site pays homage to Sarah Baartman. Burial grounds and graves (1.3%) are the last site type that has a contribution above 1%. This site type is diverse in its significances in that two are colonial (Old cemeteries, Anderson Street and Cemetery, Moravian Mission Complex), two are 'other' (Olive Schreiner Sarcophagus and Jewish Cemetery, Donkin Street) and two are postcolonial (Dr R.M. Sobukwe grave and Sarah Bartmann Site). Please note that the Sarah Bartmann site and Old cemeteries, Anderson Street are classified as both monuments and memorials and burial grounds and graves on SAHRIS.

The remaining site type each contributed less than 1% and they are: paleontological (0.8%), structures (0.6%), natural (0.5%), archaeological (0.5%), place (0.5%), bridge (0.3%), conservation area (0.2%) and transport infrastructure (0.2%).

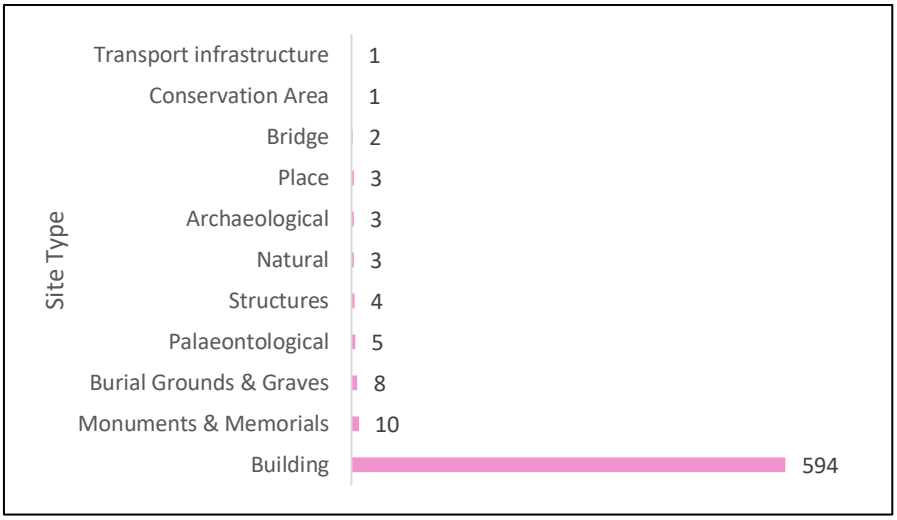


Figure 28: Site type distribution for Eastern Cape Province

Conclusion

The Eastern Cape was found to be less progressive than KZN because the Eastern Cape has colonial heritage that is of similar significance continuing to disproportionately dominate its declared heritage list. If a province with certified competence is so poorly implementing the NHRA then it does not bode well for other provinces. However, it is important to mention there is a growing number of postcolonial heritages, but it is a smaller proportion than anticipated for province with a fully competent PHRA.

4.5.10 WESTERN CAPE PROVINCE

With the most legitimised heritage, Western Cape had a total of 1498 sites. Of those, 70 are National Heritage Sites and the remaining 1428 have provincial protection. Therefore, this has the highest number of Grade I sites.

a) Temporal Breakdown

The first record of declared heritage is in 1936 and the last in 2021, therefore this province has both the earliest and most recent declarations.

For colonial heritage, Western Cape also follows a parabolic trend. For the 1930s, 1940s and 1950s, this province had between 15 to 20 colonial declarations then in the 1960s, it spikes to

323 and stays in that high realm until the early to mid-1990s. The late 1990s to early 2000s sees a rapid drop in colonial declarations which only gets lower as time progresses (Figs. 29 and 30).

For 'other' heritage, a big spike occurs in the 1960s. This decade is the first instance of another heritage classification (in this case 'other') surpassing colonial heritage in declarations during the Apartheid period. During the 1960s, 122 'other' sites were declared and only 68 colonial sites. The 1960s were however a once off since all other decade's declarations for the 'other' category never rose above 20.

Precolonial heritage never has more than ten declarations in any decade. The biggest "spike" occurs in the 2010s with eight sites being declared in that decade. Postcolonial heritage also sees a spike in the 2010s with eighteen sites declared.

The National Monuments Act (Act No. 28 of 1969) had the most declarations with 1125 sites followed by the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934) with 235 sites. Third is the NHRA with 138 sites. No sites were declared under the Bushmen Relics Protection Act (no. 22 of 1911) nor the Natural and Historical Monuments Act (no. 6 of 1923) (Fig. 29).

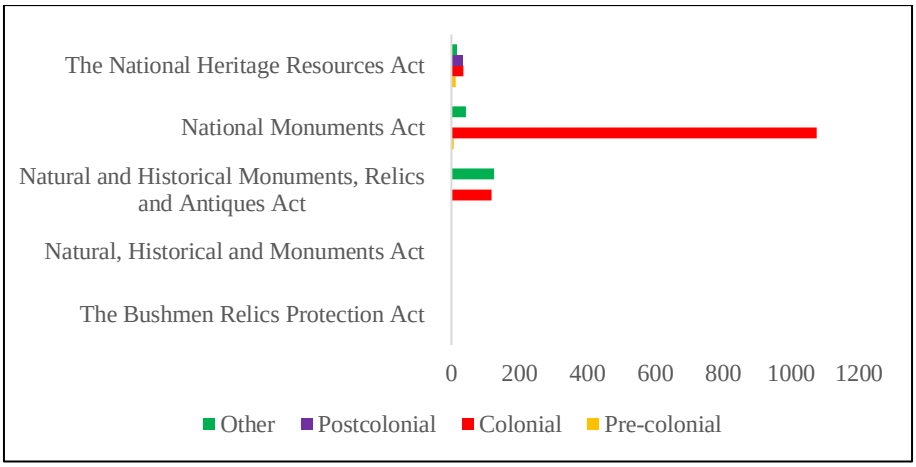


Figure 29: Declaration magnitude under different Heritage Acts for Western Cape Province

b) The distribution of the categories: Pre-colonial, Colonial, Postcolonial and Other

In the Western Cape, 82.3% of the declared sites are colonial in nature. The second highest is 'other' with 12.4%. Postcolonial and pre-colonial heritage makes up 2.3% and 1.4% respectively. The remaining 1.6% is made up of duplicates.

Colonial sites are, as all other provinces, comprised of aesthetically-valued buildings. These buildings are frequently in the unique Cape Dutch style (e.g., Rust-en-Vrede, Wellington Road) (Site Report 9/2/012/0018 2014). There are also numerous church buildings representing different branches of Christianity and many residential buildings. Further, there are several sites that pay homage to colonial figures (e.g., Woutersen-Wessels Vault) (Site Report 9/2/018/0037 n.d.; SAHRIS 2023).

The pre-colonial sites, of which there are 21, relate to early human occupation in the Middle Stone Age (e.g., Rock Shelter in Herold's and Robberg Nature Reserve in Plettenberg Bay etc.) (Avery *et al.* 2008). But there are also sites that represent early humans' culture through rock art (Baboon Point, Elands Bay, Piketberg District), shell middens (Mussel Point Midden and Mike Taylor's Midden), and trails (De Hel, Constantia, Cape Town) (SAHRIS 2023).

The postcolonial sites, of which there are 34, are similar in magnitude to Gauteng but not in significance. Where Gauteng is primarily focused on struggle heritage that was ANC-related, Western Cape only has a few related to activism of this nature, for example the Gugulethu Seven Memorial (Marschall 2020). A lot of the struggle heritage us Islam-focused by representing graves of important Muslim figures such as Sayed Mahmud and Shaykh Abdurahman Matebe Shah (Goldstuck 2012). Cape Malays and Islam is to Western Cape what Indians and Hinduism is to Kwa-Zulu- Natal. And these two provinces are the only ones that uplift through heritage marginalised peoples that were not white nor black.

There are also diverse sites that represented various postcolonial ideals like Sao Jose that paid tribute to shipwrecked African slaves (Lavery 2020) and the River Club which was —and still is today—a cultural landscape utilised by the indigenous communities (Steenkamp 2020). In essence, the postcolonial heritage of Western Cape had struggle heritage marginally related to black Africans, primarily related to Muslim activists then diverse heritage types that uplift or paid homage to a variety of marginalised bodies.

The category 'other' (186 sites) of the Western Cape was complex. Over half of those sites (approximately 85) declared were linked to the Bo-Kaap and its various segments. This formally segregated region is considered a culture epicentre of the Cape Malays (Spencer & Bassadien 2016). There are mosques declared during the Apartheid period.

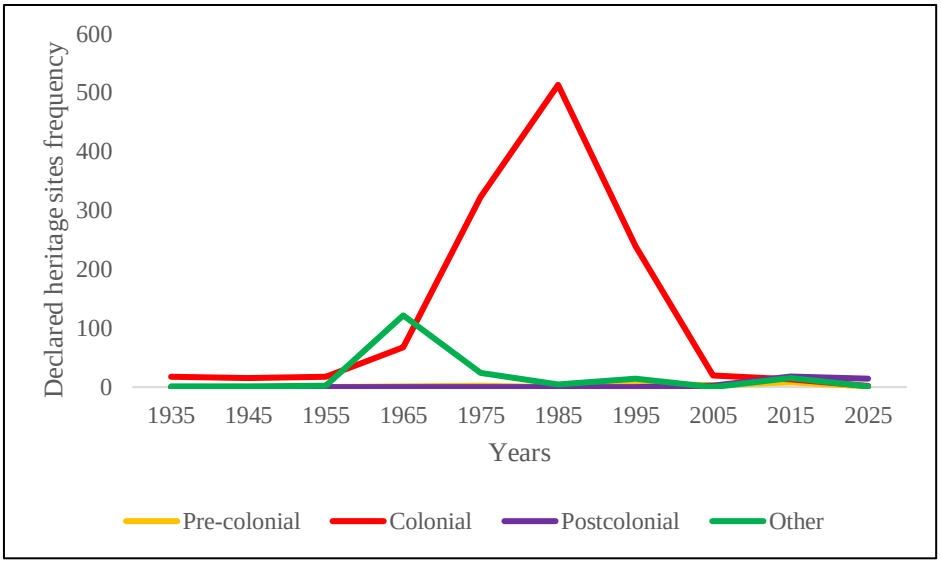


Figure 30: Declared heritage transformation for Western Cape Province

The rest of the 'other' category ranges from natural (e.g., Orange tree, Hexrivier, Clanwilliam District) to geological (Geological exposure, Sea Point, Cape Town) and to palaeontological (West Coast Fossil Park, Langebaanweg quarry fossil site, Hopefield District) (SAHRIS 2023). Like precolonial and postcolonial categories, 'other' sites are also diverse in significance.

c) Site Type Distribution

Buildings continue to dominate the heritage list of all provinces with that site type making up 90.5% of the total in the Western Cape. However, unlike the previous provinces, the buildings are not only attributed to colonialism because of the Bo-Kaap buildings and several mosques and shrines (Fig. 31).

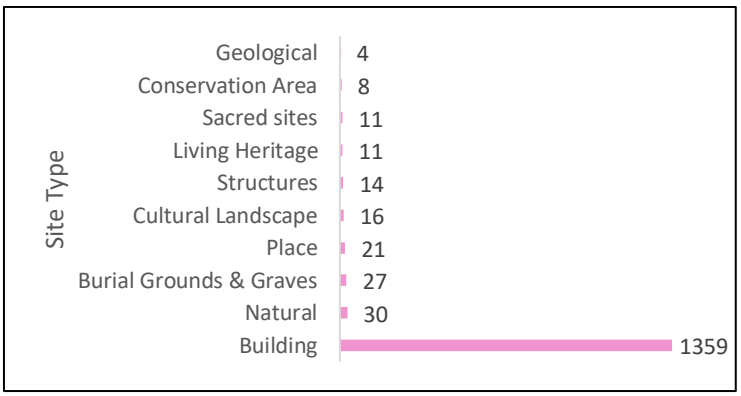


Figure 31: Site type distribution for Western Cape Province

The second highest site type is natural sites with 2%. Burial grounds and graves make up 1.8% and then place and cultural landscapes comprise 1.4% and 1.1% respectively. Most postcolonial sites are burial grounds and graves (because of the graves of prominent Islamic figures) but most of the burial grounds and graves are not postcolonial. They are mostly colonial, and this is because there were a high number of colonial figures' graves (e.g., St Peter's Cemetery, Main Road, Mowbray, Cape Town). There are several sites that fall under the site type 'cultural landscape' for the pre-colonial (Baboon Point, Elands Bay), colonial (Elim Mission Station), postcolonial (River Club, Observatory) and 'other' (Waenhuiskrans Fishing Village) category. So, I could not link this site type with any site category because it existed generously for all four categories. The same was found for the place category.

The remaining site types each make up less than 1% and these are: structures (0.9%), living heritage (0.7%), sacred sites (0.7%), conservation areas (0.5%) and geological sites (0.3%).

Conclusion

The Western Cape appears to show the most promise since there are higher numbers of heritage that is not inherently colonial as well as having sites being declared all the way into 2021. Above this, there are eleven sites that represent living heritage which shows that the province declares heritage in line with the NHRA. The Western Cape has the most heritage declared under the NHRA and the site type under the democratic legislation is diverse. However, due to the extremely high number of colonial heritages left from the colonial periods, the proportion of non-colonial heritage is still low in relation. Further, under the NHRA, more colonial heritage is declared than postcolonial heritage at 35 vs 34.

4.5.11 AMALGAMATED DATA FOR ALL NINE PROVINCES

It is evident that PHRAs with certified competence have higher numbers of declared sites (Fig. 32). Western Cape dominates in the sheer magnitude of legitimised heritage across all site types (pre-colonial, colonial, postcolonial and 'other') compared to all the other provinces. This is followed by the Eastern Cape (certified fully competent), Northern Cape (not certified competent) and KZN (certified fully competent). With the exception of the Northern Cape,

provinces that have not been certified fully competent have shorter heritage lists. The province with the least number of declared heritage is Limpopo with only 33 declared sites.

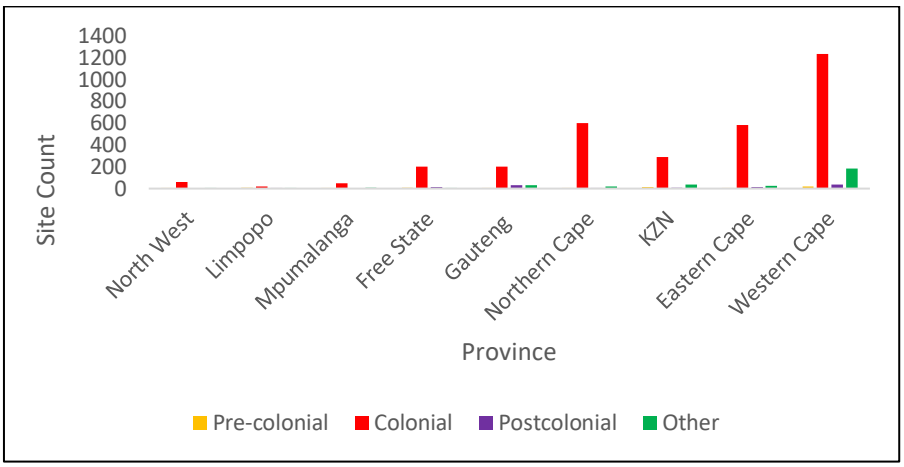


Figure 32: Site counts for pre-colonial, colonial, postcolonial and other sites for each province.

While it was found that PHRAs with fully certified competence had comparatively higher numbers of declared sites, declaration magnitude did not inherently imply that a province was promoting the NHRA nor that they were closer to achieving the envisioned inclusive goals of democratic South Africa. For example, Northern Cape has over 600 sites but only one declared site that was postcolonial in nature while Limpopo who had the least number of declared sites had three more postcolonial sites. This implies that declaration magnitude and postcolonial heritage promulgation are not linked.

To show that PHRA competency, declaration magnitude and postcolonial promulgation are not linked, Eastern Cape and Gauteng can be compared. The Eastern Cape has both full certified competency and a high number of declared sites (630 sites), yet it only has eleven postcolonial sites. At the opposite end of the spectrum, Gauteng has not been certified fully competent and it has a low number of declarations (281 sites), but it has the second highest number of postcolonial sites (33 sites).

Therefore, competency has little to do with how inclusive a province's heritage list is but is rather linked to the number of sites legitimised in the province. I use the word "linked" instead of "effected" because correlation does not imply causation so while it was true that certified competent provinces have more declared heritage, it could not be a result of their competence because most of the declarations came from the high numbers of colonial heritage declared

prior to them receiving competence. For example, the Western Cape had 1232 colonial heritage sites declared prior to the inception of Heritage Western Cape, so it could not be argued that their magnitude domination in general was due their competency status.

To elaborate on the last point that colonial heritage was the reason for the high number of declarations in most provinces, it was found that temporally and for all nine provinces, most sites were declared during the Apartheid period under the National Monuments Act (Fig. 33). It is graphically discernible that heritage legitimisation drastically decreased under the NHRA. Thus, looking at magnitude, the NHRA's heritage is not being propagated to the degree of colonial legislation's heritage. The National Monuments Act had been in place for 29 years and the NHRA for 25 years, yet the NHRA has nowhere close to the number of declarations that the National Monuments Act had. Magnitude should not be a point of concern because the focus should be on the quality of heritage declared and the management thereof. However, I am forced to bring attention to magnitude under the different Acts because in some provinces (such as North West, Mpumalanga and Northern Cape), declarations under the NHRA are so low that it raises questions as to whether the heritage sectors are even operational in those provinces.

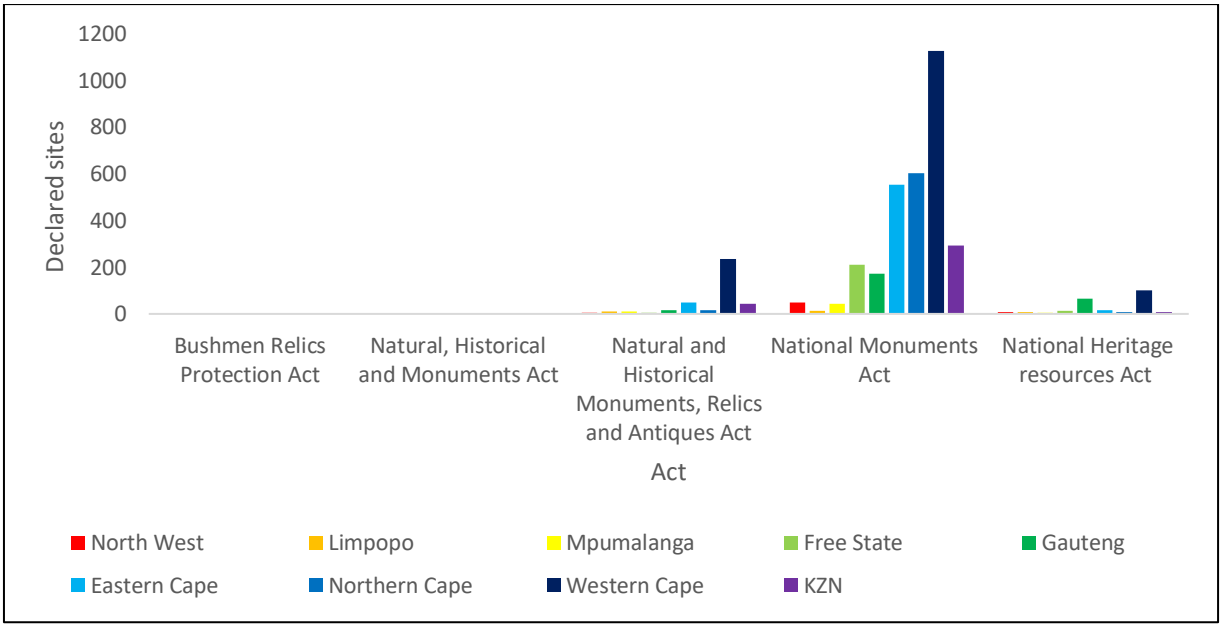


Figure 33: Sites declared under South Africa's different heritage legislation.

Yet, if we are to highlight a positive aspect, it is worth noting that in more than half of the provinces governed by the NHRA, there are greater numbers of non-colonial sites declared

compared to colonial sites (Fig. 34). The provinces that have not yet attained this distinction are North West, Mpumalanga, and Eastern Cape.

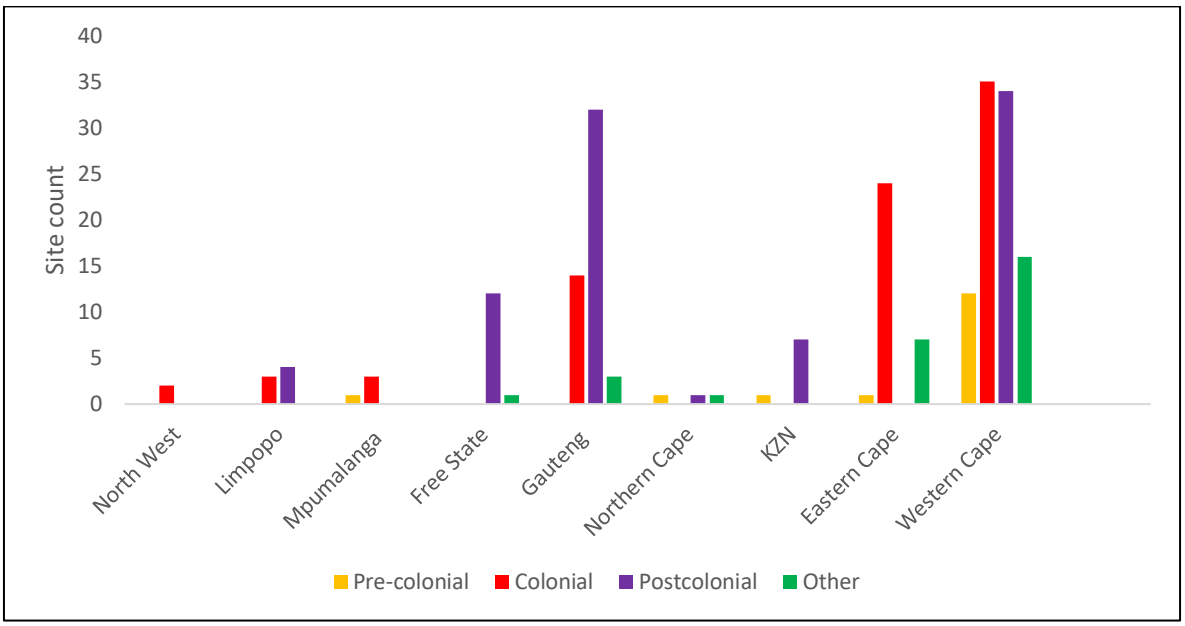


Figure 34: Site categorisation declared under the NHRA

After noting all these micro-trends and finding that certified competence has little bearing on site categorisation declaration, the statistical test (Fig. 35) revealed that provinces and site type are independent ($X^2_{crit}=10.93; \alpha=0.05$). This means that the province in which heritage is located has no statistical bearing on the categorisation of site (pre-colonial, colonial, postcolonial and other) being legitimised. And by transitive properties, whether a site is certified competent does not influence the sort of heritage gazetted in the province. In essence, the statistical test confirmed the graphical findings. Competency has not transformed heritage and if the provinces who are best equipped to implement the NHRA (i.e., those who had the resources to be granted full competence) have not done so in a statistically meaningful way then no provinces are carrying out the NHRA to the best of their ability.

H_0: Provincial location and site type count is independent
H_1: Provincial location and site type count is dependent

Reject H_0 if $\chi 2_{calc}$ is greater than $\chi 2_{Crit}$

$\chi 2_{Critical}$= 36.42 at α=0.05

Observed Values										
	North West	Limpopo	Mpumalanga	Free State	Gauteng	Northern Cape	KZN	Eastern Cape	Western Cape	Totals
Precolonial	2	6	3	10	16	5	15	3	21	81
Colonial	58	17	50	199	201	602	289	584	1232	3232
Postcolonial	0	4	0	12	33	1	8	12	37	107
Other	1	5	7	5	16	19	34	25	183	295
Totals	61	32	60	226	266	627	346	624	1473	3715

Expected Values									
	North West	Limpopo	Mpumalanga	Free State	Gauteng	Northern Cape	KZN	Eastern Cape	Western Cape
Precolonial	1	1	1	5	6	14	8	14	32
Colonial	53	28	52	197	231	545	301	543	1281
Postcolonial	2	1	2	7	8	18	10	18	42
Other	5	3	5	18	21	50	27	50	117

O-E/E^2									
	North West	Limpopo	Mpumalanga	Free State	Gauteng	Northern Cape	KZN	Eastern Cape	Western Cape
Precolonial	1.000	5.000	2.000	0.200	0.278	-0.046	0.109	-0.056	-0.011
Colonial	0.002	-0.014	-0.001	0.000	-0.001	0.000	0.000	0.000	0.000
Postcolonial	-0.500	3.000	-0.500	0.102	0.391	-0.052	-0.020	-0.019	-0.003
Other	-0.160	0.222	0.080	-0.040	-0.011	-0.012	0.010	-0.010	0.002

X^2_{calc} =10.9

Conclusion

$X^2_{Calc} < X^2_{crit}$; Fail to reject H_0

Figure 35: Pearson's chi-squared test procedure and outcome

CHAPTER 5 - DISCUSSION

The main takeaway from the previous chapter is that the vastness of colonial heritage legitimised under the colonial legislation has left such a prominent legacy that the declaration of postcolonial heritage from the implementation of the NHRA into the present has not transformed heritage types in a statistically meaningful way. If the heritage lists were examined in a vacuum, a foreign academic would have no choice but to conclude that South Africa's heritage legislation exists to elevate Apartheid heritage, while marginally acknowledging the struggle associated with gaining independence and the cultures that existed pre-colonial contact. The focus of this chapter is to discuss trends in declared heritage across all nine provinces to find factors that have contributed to this lack of transformation.

5.1 TRENDS FOUND ACROSS HERITAGE LISTS

5.1.1 RANKING THE PROVINCES

Although there is no statistically significant distinction among the nine provinces concerning heritage transformation, subtle trends can still be discerned from the visual data. The preceding chapters make it evident that some provinces are more inclined to declare heritage that adheres to the NHRA standards than others. Therefore, I have clustered together those provinces that exhibit comparable tendencies and established a ranking system based on their heritage declarations. The primary factors considered in this assessment are the extent of heritage sites declared under the National Heritage Resources Act, with a particular focus on non-colonial heritage, as well as the frequency of such declarations. For example, low performance would entail few declarations under the NHRA, low emphasis on non-colonial heritage as well as periods of inactivity, but these are not fixed.

Low-Performing provinces

The provinces of Limpopo, North West, Mpumalanga, and Northern Cape have been here identified as low-performing regions in terms of heritage declaration. These provinces are in dire need of attention due to the lack of postcolonial site declarations after the implementation of the NHRA. Shockingly, only between 0-3 postcolonial sites have been declared in these provinces, which underscores the urgent need for action.

Moreover, when not postcolonial, colonial heritage sites of minimal importance continue to be declared in these regions, except for Mpumalanga which has seen the declaration of a single pre-colonial site under the NHRA in addition to its repetitive colonial heritage. Northern Cape did not have a single colonial declaration under the NHRA, but this province only has three in total, one for each non-colonial category which is problematic for its low number. Thus, besides these provinces having low declarations in its entirety, their foci are not on non-colonial heritage. In fact, no foci can be discerned when a province is declaring three heritage sites in 26 years. Out of these four provinces, Limpopo has the highest NHRA declarations with a low seven indicating the underperformance of this tier.

Furthermore, it is worth noting that the last heritage declaration in these provinces occurred in the early 2000s, indicating a long period of inactivity in democratic South Africa. The only exception is Northern Cape, which had its lone postcolonial declaration in 2020 but it was after a decade of inactivity. If the authorities had devoted their attention to effectively managing the sites that they are responsible for these prolonged periods of inactivity would be somewhat justified. However, it is worth noting that the very same provinces have limited literature available on their management, with only a handful of dissertations outlining their deficiencies (which will be discussed later).

The low performance of these provinces in terms of heritage preservation could potentially be attributed to several factors, such as weak institutional capacities, underfunding, overworked staff, under staffing and more.

Mid-Performing Provinces

The mid-performing provinces of Eastern Cape, Kwa-Zulu-Natal, and Free State have made significant strides in heritage preservation compared to their low-performing counterparts. Between 7 and 12 postcolonial sites have been declared in these regions since the NHRA was implemented, a marked improvement.

Notably, Free State and Kwa-Zulu-Natal have prioritized the preservation of postcolonial heritage, with only one site each declared under the NHRA that was not postcolonial. For Free State, the exception was an ‘other' site and KZN's was pre-colonial site. These two provinces stand in stark contrast to the focus on colonial heritage preservation in Eastern Cape, which has declared three times more colonial heritage sites than postcolonial sites and only one pre-

colonial site. While the sheer number of heritage declarations under the NHRA in Eastern Cape (three and four times more than Free State and KZN) may seem impressive, it is the quality and significance of the sites that ultimately matter most. Having said, the quality of postcolonial heritage in all three provinces is moderate with all acknowledging the liberation struggle but all three failing to acknowledge intangible heritage.

These three also do not struggle with inactivity to the extent of the previous four provinces with sites being declared as recently as the late 2010s. This indicates a clear commitment to preserving the rich heritage of these regions. Nevertheless, there is always room for improvement in heritage preservation efforts.

High-Performing Provinces

Based on the analysis, Western Cape and Gauteng are considered high-performing provinces when it comes to heritage declaration. These two provinces have declared a remarkable number of postcolonial sites under the NHRA, with Western Cape declaring 34 and Gauteng declaring 33. It is worth noting that both provinces have also declared a considerable number of sites across all categories, except for Gauteng not declaring any pre-colonial sites. This broad approach to heritage preservation is more in line with the goals of the NHRA, as it recognizes the value and importance of all types of heritage. In my opinion, there seems to be a natural progression in the process of heritage declaration, with provinces initially clinging to colonial modes of preservation, then gradually shifting their focus towards postcolonial heritage, and finally expanding their categorization to encompass a broader range of heritage types. Under the NHRA, Gauteng has declared twice as many postcolonial heritage sites compared to colonial heritage sites, while in Western Cape, the number of declared postcolonial and colonial heritage sites is nearly equal.

Although the postcolonial legacy of Gauteng and Western Cape provinces varies, with the former predominantly celebrating the liberation heritage associated with the ANC and the latter featuring a more heterogeneous collection that recognizes Islamic and non-White achievements, I maintain that neither list enjoys an inherent advantage over the other, as both conform to the principles outlined in the National Heritage Resources Act. If I were to scrutinize more closely, I might contend that the Western Cape slightly surpasses the Gauteng province in recognizing intangible heritage.

It is worth noting that both provinces, Gauteng, and Western Cape, have managed to avoid the inactivity that has plagued less successful regions. In fact, Western Cape has demonstrated a strong commitment to heritage preservation by consistently declaring new sites up until 2021. Similarly, Gauteng has been diligent in identifying and safeguarding important cultural and historical landmarks, with declared sites extending up to 2019.

5.1.2 DIFFERENTIAL DECLARATION MAGNITUDE AMONG THE ACTS

In Chapter 4, I undertook an analysis of the Acts to anticipate the temporal patterns of heritage declaration types and quantities. I hypothesized that during the colonial era, from 1934 to 1969, colonial and Bushmen heritage would witness the most declarations. Subsequently, I conjectured that the period following 1969 would display a more diverse range of heritage types due to the National Monuments Act of 1969's comprehensive criteria for declarations, albeit constrained by the socio-political climate. Additionally, I posited that the Apartheid era would surpass prior Acts in terms of declaration numbers due to its prolonged duration, while predicting a surge in postcolonial heritage types during independent South Africa. However, my conjecture was not entirely accurate.

Colonial Acts: Missing Heritage and Inadequate Records

Initially, I was taken aback by the revelation that SAHRIS held no records of heritage declarations prior to 1937 across all nine provinces. This, in turn, suggests that neither the Bushmen Relics Protection Act (no. 22 of 1911) nor the Natural and Historical Monuments Act (no. 6 of 1923) saw any heritage sites being declared during the colonial period, barring the Apartheid era. Consequently, the only source to gain insights into the colonial administration's preferred heritage during this era stems from the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934), from its inception in 1937 until it was supplanted by the Apartheid legislation in 1969. As anticipated, the heritage sites declared under this Act were predominantly of colonial origin, with occasional nods to pre-colonial heritage.

The question arises as to what happened to the records of heritage declared under the Bushmen Relics Protection Act (no. 22 of 1911) and the Natural and Historical Monuments Act (no. 6 of 1923). It seems inconceivable that these Acts were active for twelve years, yet not a single declaration was made under them. It is possible that when the NHRA came into effect, the former National Monuments were designated as provincial heritage sites and subsequently

included in the current lists. However, since National Monuments did not exist until 1934, any heritage declared before then would not be on the list, which would imply that all heritage declared under the Bushmen Relics Protection Act has simply been lost – what I have termed "missing heritage". Whether records of this heritage still exist or not, the fact remains that the absence of these records skews the temporal understanding of heritage, as heritage declared under two Acts is not formally protected nor present on SAHRIS - a database *intended* for heritage data.

Another possible explanation for the lack of heritage declarations prior to 1937 under the Bushmen Relics Protection Act (no. 22 of 1911) and the Natural and Historical Monuments Act (no. 6 of 1923) is that SAHRA may have set all such declarations to a uniform date of 1937 due to inadequate record-keeping during the colonial period. This is a plausible explanation, given the limited technology and the early stage of formalizing heritage in the country at that time. The fact that the majority of provinces have their first declaration in the same year raises suspicions, as declarations were not common at that time. However, if this is the case, then it means that heritage that was assumed to be declared under the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934) could actually have been declared under the Bushmen Relics Protection Act (no. 22 of 1911) or the Natural and Historical Monuments Act (no. 6 of 1923). While the values of the heritage would be similar given that the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934) amalgamated the previous two Acts, the problem remains that the temporal accuracy of the records has been compromised, making it difficult to establish a clear chronological picture.

In summary, the issue of missing or inaccurate heritage records during the early colonial period presents a significant challenge for data analysis and understanding the priorities and efficiency of colonial administration. It is currently unclear whether the missing records are due to poor record-keeping or an inaccurate dating system. This poses a problem for research as the values and legislative protection of colonial and Bushmen heritage cannot be accurately analysed. However, my two postulations could be entirely incorrect and truly no sites were declared under these two Acts. It is recommended that SAHRA addresses this issue to provide clarity for future studies.

Apartheid Acts: Mindless Declarations

Given that the National Monuments Act (Act No. 28 of 1969) was active for thirty years, the longest period for any Act, I predicted that the most declarations would have occurred under it and further, that the declarations would be diverse in nature given its blanket protection. The first prediction was accurate only.

In 2001, Ndoro and Pwiti conducted a study which revealed that 99% of South Africa's 4442 National Monuments were colonial heritage. Given that more than two decades have passed since then, I anticipated that the number of colonial heritage sites would decrease significantly in this study. However, my findings show that in 2022, out of the 3768 declared heritage sites in South Africa, 3001 are still colonial buildings. This means that approximately 80% of the recognised heritage in the country consists of European-style buildings, and 83% of all listed heritage was declared during the Apartheid era. This is a clear demonstration of the legacy of colonialism, as most of the acknowledged heritage in an African country today is valued for its European aesthetics and was declared at a time when marginalized groups had no voice.

It would be more acceptable if the colonial heritage declared under Apartheid legislation in South Africa was unique and representative of complex political issues, rather than simply being numerous buildings of the same style. The Voortrekker Monument in Gauteng for example is an excellent piece that represents an important part of South African history. This site is educational, providing insight into the Anglo-Boer War, South Africa's Afrikaans community, the Great Trek they embarked on and more (Kruger 2002). But this is rare and most declared lists are cluttered with many heritage sites of the same significance. For example, in Western Cape, 129 sites significant for their Cape Dutch style architecture are listed. The Cape Dutch Style should be represented, but over a hundred dwellings of the exact same architectural style is surely excessive. According the NHRA, Section 3(1) on page 13: "those heritage resources of South Africa which are of cultural significance or other special value for the present community and for future generations must be considered part of the national estate." *Special value* sticks out as the definition is: "better, greater, or otherwise different from what is usual." but the repetitiveness of certain heritage types makes it difficult to determine what is truly special. This repetitive nature is present in all the provinces, Northern Cape for example has 28 Dutch Reformed Churches listed yet only three postcolonial sites. The point is not that colonial heritage should not exist nor be granted protection but that it is so overrepresented among

legitimised heritage that it is clouding other heritage types. Statistically, it makes analysis difficult, and it overburdens authorities who are legally obligated to protect it. The management of five of Dutch Reformed Churches would seem much less a daunting task than the management of 28.

Having said this, it is important to acknowledge that not only colonial heritage was declared under the National Monuments Act (Act No. 28 of 1969). I had previously expressed my expectation of observing a variety of heritage types declared under this Act, but this turned out to be only partially true. Western Cape provides the clearest illustration of this, with 85 of their non-colonial heritage sites declared in 1966, all of which are in the Bo-Kaap area. While these sites are now seen as representative of postcolonial values due to their association with the Malay Quarters, a primarily Muslim area that is significant for its slave culture, their original declaration was motivated by a more cynical purpose. During the Apartheid era, Cape coloureds, who have Southeast Asian roots and are primarily Muslim were to be differentiated from "Black" and "Native" communities as much as possible. Division of people was of course supported by the state and Malay culture was then celebrated (Worden 2009). Although I recognize that the Bo-Kaap heritage was declared to further the Apartheid regime's goal of segregating people and suppressing Black people, it also had the positive effect of uplifting a marginalized community. Therefore, in this study, the Bo-Kaap heritage was categorized as "other".

Under this legislation, there were only a few pre-colonial sites declared. During the colonial and Apartheid period, I found 48 sites declared, most of which were significant for Iron Age, Stone Age sequence or, in the case of Kwa-Zulu- Natal, Zulu landscapes.

Independent Legislation: Periods of Inactivity

The National Heritage Resources Act was implemented with a vision to recognize and uplift marginalized communities through its comprehensive list of heritage sites. It aimed to acknowledge liberation heritage as a representation of the struggle for freedom, slave heritage to expose the harsh conditions under colonialism, and living heritage to highlight the importance of indigenous knowledge and culture. However, after 24 years of the act's existence, there are still provinces like the North West Province that do not have a single postcolonial heritage site declared (as of 2022). This is a frequent issue; Mpumalanga also has none, and

Limpopo only has four. These findings suggest that the criticisms of the NHRA's idealistic intentions are valid.

One of the key flaws I noticed across the heritage lists for those sites declared under the NHRA are intense periods of inactivity. The heritage lists for North West, Limpopo, and Mpumalanga provinces have significant periods of inactivity ranging from 15 to 20 years, during which no new heritage sites were declared. This lack of declaration has resulted in very few postcolonial and other types of heritage sites being recognized in these provinces since the early to mid-2000s. I suspect two reasons for this.

According to the literature review, SAHRA closed their provincial offices in 2011 with the aim of pressuring provinces to establish their own PHRAs. Since the North West, Limpopo, Northern Cape and Mpumalanga were slow to establish their PHRAs, it is reasonable that there was a period of inactivity during the initial phase and for a few years thereafter. The newly established PHRAs would require time to assess sites and arrange their personnel. However, this does not explain why there continues to be inactivity in these provinces.

The reason for the continued inactivity needs to be investigated properly but it falls outside of the remit of this current study. I offer some thoughts, but they remain speculation. It could be attributed to their weak institutional capacities, particularly since they have not been granted competency and there is a lack of information available about their operations, including research articles and PHRA websites. The implication here is that these PHRAs have not enough active staff members to assess potential sites nor the funding to visit them. To delve deeper, an investigation by Motlanthe (2021) involved conducting interviews with members of the council of Limpopo Heritage Resource Authority (LIHRA). The council members expressed their dissatisfaction with LIHRA's mandate, citing underfunding, understaffing (as there were only two permanent staff members), and minimal resources, such as the lack of vehicles to travel to potential heritage sites. Prior to 2015, LIHRA did not even have a council. The interviewees disclosed that the budget to manage sites was insufficient and sporadic, and relationships with other government bodies were weak, such as the Limpopo Economic Development, Environment and Tourism department and police department, with whom LIHRA was not collaborating effectively. Additionally, community interviews revealed that the community was unaware of LIHRA's existence, highlighting the inadequacy of the PHRA in engaging with its stakeholders. Furthermore, in 2017, LIHRA failed to meet its mandate, further

underscoring its ineffective operations. In a separate dissertation about LIHRA by Lithole (2010), it was mentioned that there was only a single employee for all heritage matters. And because of this, the promotion of standing heritage and the declaration of new heritage was suffering. Thus, the reasons outlined above may provide a partial explanation for why Limpopo Province has only 31 declared heritage sites, the lowest number compared to the other eight provinces in South Africa.

The prolonged inactivity in declaring heritage sites in certain provinces of South Africa is concerning for the state of cultural preservation in the country. The significant gap between these inactive provinces and those that have been more active in this regard is clear. For instance, the Western Cape and Gauteng provinces have more than 30 postcolonial sites, while North West has none. The lack of activity has resulted in a limited transformation of heritage in these provinces, and they now need to make significant efforts to catch up with their more active counterparts.

One would then think the provinces that they need to reach are those with certified competent PHRAs, but this is not the case. Western Cape is an unusual province because declarations in independent South Africa did not occur until 2009 but they stated that the intent thereof was to be conscious of what was receiving legitimisation. After 2009 this was consistently postcolonial (29 sites over 14 years) and pre-colonial (19 sites over 24 years) heritage legitimisation. However, Kwa-Zulu- Natal and Eastern Cape have only declared eight and twelve postcolonial sites in independent South Africa, respectively, despite their certified competence. Interestingly, the province to compete with is Gauteng who, despite not having a certified competent PHRA, has declared 33 postcolonial sites consistently since 1999. So, while PHRA-G is not able to carry out all aspects of the NHRA, they show extreme promise in this regard.

This thus indicates that provinces (often with low institutional capacities) do not declare postcolonial sites to a sufficient degree to uphold the NHRA's ideals. But more complex, provinces with granted competencies are no different, as seen with Eastern Cape and Kwa-Zulu- Natal. Western Cape and Gauteng are the most active regarding declaration with Gauteng being consistent from 1999 and Western Cape from 2009. This then corroborates the statistical findings that competency has little to do with the heritage transformation solely on paper because declaration consistency is not directly affected by competency.

5.1.3 THE CONTINUED DOMINATION OF UNREMARKABLE COLONIAL HERITAGE

Most of the heritage recognised by law in South Africa was declared during the Apartheid period and this heritage continues to reside on declared heritage lists and to skew data. The socio-political section of Chapter 4 indicated that priorities in the heritage arena (and in all areas of government) would shift towards the upliftment of subalterns. However, this has not occurred in heritage because of the continued domination of colonial heritage declared during Apartheid. This then raises two questions: (i) why was the magnitude of declaration so high during this period? and (ii) why has this issue not been rectified in democratic South Africa?

Question 1: Why was the magnitude of declaration so high during this period?

As prior mentioned, the National Monuments Act (Act No. 28 of 1969) was active for the longest period at exactly 30 years. This could very well be a contributing factor the high number of heritages declared; the fact that it had more time to work. However, the NHRA is quickly approaching 30 years and has nowhere close to that number of declarations.

My second postulation is that the Act was more inclusive, providing blanket protection without any specific criteria to meet. However, this approach led to a mindset of "everything goes," allowing officials to simply drive around and declare sites they found aesthetically pleasing (Clinton Jackson [SAHRA], pers. comm. 2022). This is in stark contrast to the current process, which involves rigorous research reports that outline the historical and cultural significance of a site, as well as a committee to confirm its status (NHRA 1999). The emphasis now is on quality over quantity, ensuring that only the most important and meaningful sites receive protection.

This “everything goes” mindset is likely considering that the Apartheid period in South Africa was marked by a lack of attention to heritage preservation, and as a result, many sites were left vulnerable to destruction and vandalism. Given there was no pressure to manage the sites being declared, it makes sense that they were so liberal in their declarations. These actions have had lasting consequences, making it even more critical to carefully consider which sites should be protected and why. By prioritizing quality over quantity, the current approach to heritage preservation is better equipped to address the complex and nuanced issues surrounding cultural heritage in South Africa.

Another potential reason relates to economic incentive. Generally, the public interest at the time was centred on colonial heritage because it was a colonial period. The people (White people) wanted heritage they could relate to like those connected to the Anglo-Boer war thus they were easier to sell. According to Deacon (1993), colonial buildings were revamped and could then generate a profit to the extent that they would be self-sustaining. It was then far more provocative to declare heritage which could exist with little intervention on the council's part.

The final contributing factor is obvious but worth mention. Colonial heritage was declared in high magnitude during Apartheid because the legitimisation thereof helped enforce the notion of White superiority. Settler heritage had to take the centre stage to legitimise segregation, and indigenous heritage was buried to maintain indigenous inferiority.

Question 2: Why has this issue not been rectified in democratic South Africa?

Apartheid legislation clutters the list because these sites are former National Monuments from the Apartheid heritage legislation: the Natural and Historical Monuments, Relics and Antiques Act (no. 4 of 1934). It is known that colonial building continues to clutter the lists because the promised project to reassess heritage for its significance and rectify the imbalance was not done. As shown by the statistical test performed in this dissertation, the cluttering of declared lists by colonial heritage (mainly with repetitive significance) effects data analysis negatively in that it is difficult to garner the shift in PHRA heritage priorities when the priorities of previous colonial administration are still so present. In this sense, the sheer magnitude of colonial heritage is preventing the transformation of heritage and upliftment of other heritage types in a statistically meaningful way. The imbalance is far too prominent to make readings of the data clear.

But the more important question is perhaps why the reassessment has not been done. While we can likely (and probably correctly) attribute it to the fact that SAHRA is overworked and understaffed, I postulate it is mainly because the PHRAs are ill-equipped or unwilling to collaborate. Fundamentally, PHRA's structures are too weak to even organise their current data let alone conduct the overhaul necessary to rectify imbalances. For reference, SAHRA is currently cleaning the data available on SAHRIS and that is already difficult when so few PHRAs are co-operating and sharing their data with SAHRA's staff (Clinton Jackson [SAHRA], pers. comm. 2022). The needed reassessment would be a much larger task and if SAHRA were to undertake it, I speculate that only HWC would have the capacity to dedicate

staff (specifically archaeologists) to this project. Above this, archaeologists, palaeontologists and more would need to be consulted and in many provinces, those professionals are not operating. For example, Northern Cape has numerous paleontological sites yet no palaeontologists. This dissertation does recommend that the reassessment be of top priority however the feasibility is extremely low.

5.1.4 THE UNDER-DECLARATION OF LIVING HERITAGE

The NHRA of South Africa recognizes the importance of living heritage as a valid type of heritage resource. As defined in the Act's section on definitions, living heritage refers to the intangible aspects of inherited culture, which can include a wide range of practices, traditions, and knowledge systems that have been passed down through generations.

The NHRA places great emphasis on the importance of preserving and promoting living heritage, as evidenced by the fact that the term is mentioned five different times throughout the Act. This emphasis on living heritage reflects the Act's idealistic vision of heritage management, which recognizes the value of cultural diversity and seeks to protect and promote all forms of cultural expression, both tangible and intangible. Under SAHRIS, there are but 16 sites that have a classification of Living Heritage. Logically, these 16 sites are not the only ones with an intangible heritage component for example the Phoenix Settlement in KZN has clear ties to Gandhi, the Indian community and Hinduism (Zondi & Ndlovu 2014). For the people that live there, connections are on a spiritual and epistemological level, yet the site classification of this settlement is “place”.

The mere fact that intangible heritage is often overshadowed by other forms of heritage underscores its elusive nature, compounded by a lack of comprehensive preservation efforts. While safeguarding a physical structure or location may be achieved through regulatory measures, the preservation of intangible elements such as language and culture presents a more intricate challenge. This is particularly true in South Africa, where academic research on preservation strategies remains deficient (Wahl *et al.* 1998). It is evident from existing heritage catalogues that Living Heritage receives far less recognition than other forms of heritage.

Of those earlier mentioned 16 instances of Living Heritage, eleven are in Western Cape. Of those, ten are National Heritage sites and one has provincial protection. The remaining five

living heritage sites are in Limpopo (two) and Free State (three). All five of the sites in these two provinces are Provincial Heritage.

One implication of this is that the competence granted to PHRAs does not have any influence on the identification and declaration of sites categorized as Living Heritage. Although the provinces of Eastern Cape and KwaZulu-Natal possess sites with intangible attributes, these elements have not been prioritized in their respective areas since they are not classified as such. Since the inclusion of Living Heritage is a fundamental distinguishing feature between the NHRA and prior legislation, only HWC is upholding this particular section of the Act.

Another implication here is that Western Cape is the only province regarding Living Heritage highly. While it is a good step that Limpopo and Free State are legitimising intangible heritage at all, Western Cape is the sole province granting these sites national protection and doing so in the highest quantity.

In chronological order, the initial two Living Heritage Sites were established in Limpopo in 2007 and 2014, while all ten National Sites in the Western Cape were declared in 2021. Interestingly, this is the second instance in which the Western Cape province delayed initiating declarations for an extended period and subsequently promulgated a significant number of sites. My opinion for this trend is that the introduction of the Protection, Promotion, Development and Management of Indigenous Knowledge Act 6 of 2019 may have acted as a catalyst for this increased activity in the province. However, this hypothesis is primarily based on the timing of the Act's implementation and the declaration of the Living Heritage Sites.

Another noteworthy observation is the specific types of intangible heritage sites declared in the Western Cape. All ten of the province's national intangible heritage sites were identified as burial grounds of religious significance related to Islamic saints. While this represents a positive step in acknowledging the heritage of a historically marginalized religion, it is regrettable that only this type of intangible heritage has received national status. The sole remaining site recognized as intangible heritage in the Western Cape is a section of the River Club in Observatory, Cape Town, which has provincial protection as a Khoi landscape. It is evident that the provincial designation is operating in some capacity, as the River Club is currently embroiled in a controversial development project by Amazon that is generating significant opposition (Horber 2022).

The two sites declared in Limpopo are Baleni-Soutini Salt Works and Lake Fundudzi, Vhembe District Municipality. The latter is significant for its link to indigenous salt harvesting techniques (Thotse 2015). These techniques are intertwined with the spiritual world (Thotse 2015). Its provincial status has incentivised protection since when the site was declared the Premier addressed members of the community to employ traditional leaders to assist in preserving the history (Thotse 2015). The former is significant for the Vha-Venda people who believe the lake is sacred for its role in their folklore (Anyumba & Nkuna 2017). Despite ideas of turning the sacred lake into a tourist destination, the community have refused any development because doing so would compromise the spiritual component.

In the Free State province, there are three notable living heritage sites that have received recognition: Witsie's Cave, Monontsha Village, and the Nkoe/Sefate/Poqong Site in Verkykerskop, Harrismith. These sites are significant for a variety of reasons, ranging from their historical and spiritual importance to their cultural and sacred associations.

Witsie's Cave, for example, is considered a site of immense historical and sacred significance. It is named after the grandson of a prominent Chief of the Makholokoe, a clan of Basotho people who have lived in the region for centuries. The cave is believed to have served as a refuge for the Makholokoe people during times of war and has been a site of sacred ritual and worship for generations.

Similarly, Monontsha Village is a site of significant spiritual importance to the local community. The village is associated with Anna Makhetha Mantsopa, a renowned prophetess who played a key role in the resistance against colonialism and apartheid. The village and surrounding area are believed to have been visited by Mantsopa herself, and the site is considered a place of great spiritual power.

Finally, the Nkoe/Sefate/Poqong Site in Verkykerskop is recognized as a historical landscape of significance. The site is associated with the traditional and cultural practices of the local community and is an important reminder of the region's rich heritage and history.

Essentially, the classification of only 16 sites as Living Sites is a woefully inadequate number. It is not pertinent to consider the presence of intangible components in other provinces, as this section only examines the transformation of declared lists. Although the Western Cape outperforms other provinces, it still falls short of meeting the standards that reflect South

Africa's cultural richness and the HWC's declaration of living heritage in a unidirectional manner. Additionally, the diversity in the significance of heritage among Living Heritage sites is more apparent in Limpopo and The Free State, compared to the Western Cape, which is surprising.

5.1.5 THE STATE OF STRUGGLE HERITAGE

As per the NHRA, Section 36 (7 and 9), liberation struggle heritage is mentioned and the importance of finding graves of those who participated in the struggle. Section 3 mentions the importance of preserving slave heritage. This represents the general ideology of the current government which is concerned with honouring the forgotten victims of colonialism and Apartheid (Worden 2009). Please note: the numbers used below are less clearly defined as the previous section because while SAHRIS has a category for Living Heritage, they do not have one for struggle heritage thus liberation heritage classification was based on my opinion.

Despite the concerted efforts of the government and the NHRA to preserve historical sites related to the liberation struggle and slavery in South Africa, the regions of North West, Limpopo, and Mpumalanga have yet to declare any such sites. The Northern Cape has only one site of this nature, which is the grave of Solomon T. Plaatje, the first secretary of the ANC. Meanwhile, the Free State has a total of nine sites dedicated to liberation heritage, primarily related to the ANC and consisting mostly of graves of Anti-Apartheid activists. Similarly, the Eastern Cape has only one ANC-related site, whereas KZN boasts seven sites related to the liberation struggle, including ANC buildings and locations of Zulu battles against British forces.

On the other hand, in terms of the provinces with the most significant progress in preserving historical sites related to the liberation struggle and postcolonial heritage, Gauteng and Western Cape stand out. Gauteng has a total of 32 declared sites, with the majority being related to the ANC and the struggle for liberation. These sites include the graves of anti-Apartheid activists, Nelson Mandela's house, locations of protests against Apartheid laws, and segregated areas like Soweto. Most of these sites were declared after 2010. Meanwhile, the Western Cape boasts 34 postcolonial sites that cover a wide range of historical events, including liberation heritage, Islamic heritage, and tributes to non-White accomplishments.

In general, there seems to be a greater emphasis on declaring liberation heritage sites compared to Living Heritage in South Africa. Gauteng and Western Cape provinces are leading the way

in this effort, with a significant number of declared liberation sites. However, there is still room for improvement in ensuring that all provinces give due attention and recognition to this type of heritage.

However, it is at least encouraging to see practical initiatives taking place in various provinces to raise awareness of liberation heritage in South Africa. For instance, the Chris Hani District Municipality Liberation Heritage Route project in the Eastern Cape allows tourists to visit various heritage sites related to the liberation struggle on a single route (Rassool 2000). Similarly, the Inanda Heritage Route in Kwa-Zulu- Natal features five major sites, including the Phoenix Settlement, Ohlange Institution, Inanda Seminary, and Ebuhleni, which all hold significant historical importance in the fight against Apartheid (Rassool 2000). The NMC has also launched a campaign to involve the public in identifying sites that hold personal or community significance in relation to the liberation struggle. Moreover, the Legacy Project, initiated by a section of the Ministry of Arts, Culture, Science, and Technology, has set up museums, trails, artwork, plaques, and other infrastructure to highlight heritage that was previously overlooked.

While the well-performing provinces have made commendable efforts in declaring and promoting liberation heritage sites, there is a need to ensure that all provinces have a balanced representation of such heritage. This would give greater recognition to those who struggled for liberation throughout the country and help to create a more comprehensive narrative of South Africa's history. Therefore, there is a need for more efforts in the low and mid-performing provinces to ensure that liberation heritage is given its due recognition and preserved for future generations.

5.1.6 OTHER HERITAGE

At first, I deliberated on including this heritage type within the context of my political dissertation, as the category of "other" sites seemed ill-equipped to make any substantial contributions to the debate. However, I realized that the NHRA (National Heritage Resources Act) does indeed recognize this site type, with the Definitions Section (on page 11) (xxix) explicitly mentioning paleontological and geological sites, and Section 3 on page 13 underscoring the importance of "landscapes and natural features of cultural significance".

Consequently, the site's designation aligns with the overarching objectives of the legislation and serves to augment the breadth and depth of the heritage list.

It is noteworthy that there are 287 sites listed under the 'other' category, which makes up 8% of the declared heritage list. While there may be under-declaration of such heritage, it may not be considered as significant an injustice as the under-declaration of postcolonial heritage. This is because there are other legislations in place, such as the National Environmental Management Act of 1998, the Environment Conservation Act, and the Geoscience Amendment Act 16 of 2010, among others, that operate to protect and manage natural heritage.

The one ‘other’ heritage type that does not have its own Act is palaeontological and this heritage type is dependent on SAHRA. As it stands, there are only 28 declared palaeontological sites in South Africa. In a paper by Almond & Pether (2009), the richness of Northern Cape’s paleontological heritage was discussed with them stating the province has heritage ranging from microbes to large mammals and paleontological remains that span several centuries. Despite this, not a single palaeontological site declared is in Northern Cape. This indicates that even other heritage is safe from under-representation and under-protection.

A recurring pattern is observed in the Western Cape, which has the highest number of "other" sites, whereas the North West has the lowest. This phenomenon of neglecting yet another type of heritage perpetuates the dominance of colonial heritage. Therefore, my suggestion is that SAHRIS, particularly the NCHRA, must prioritize the preservation of paleontological heritage. The preservation of natural and geological heritage can be deferred until after the declaration of postcolonial and paleontological heritage since these types are covered by other Acts.

5.1.7 THE CURIOUS CASE OF GAUTENG

Gauteng was found to be on par with the Western Cape, except for the declaration of intangible heritage, where Gauteng fell short. However, compared to provinces such as Eastern Cape and Kwa-Zulu- Natal, Gauteng performs better regarding postcolonial declarations and the promulgation of liberation heritage despite not being certified fully competent. The question arises as to why this is the case.

I postulate that it is due to the efforts of several different bodies and projects that work within the heritage arena of this province. The main one being the Gauteng Heritage Inventory Project

(GHIP) which is a project initiated by the PHRA (Nienaber 2013). The aim of the project is to identify and document all heritage resources in the province, including buildings, structures, sites, objects, and landscapes of cultural and historical significance.

The inventory created by the GHIP is an important tool for the management and conservation of heritage resources in Gauteng. It is used by the PHRA to assess the significance of heritage resources and to make decisions about their protection and management (Van der Merwe 2015). The inventory is also used by other organizations, such as local authorities, heritage trusts, and NGOs, to inform their work in heritage conservation and management.

Overall, the GHIP is an important initiative that contributes to the effective management and conservation of heritage resources in Gauteng. Through its work, the project helps to ensure that the province's rich cultural heritage is protected and preserved for future generations.

But above projects, there are helpful bodies as well. One such body is the Gauteng Heritage Trust, which is a non-profit organization that aims to promote heritage awareness, conservation, and management in the province (Maré 2007). The Trust works closely with the PHRA and GHIP to identify and conserve heritage resources in Gauteng, and to promote heritage tourism in the province.

Another important body is the Heritage Association of South Africa (HASA), which is a non-profit organization that advocates for the conservation and management of South Africa's heritage resources. HASA has a Gauteng chapter, which works with the PHRA and other organizations to promote the protection and management of heritage resources in the province (Robinson 2016).

Furthermore, there are various local heritage organizations, such as historical societies and heritage trusts, that work to identify and conserve heritage resources in their communities. These organizations often collaborate with the PHRA, GHIP, and other bodies to ensure that heritage resources are effectively managed and conserved.

Overall, there are many different bodies in Gauteng that work (and work well) to protect and promote the province's rich cultural heritage. I theorise that through their collaborative efforts is Gauteng performing so well.

5.1.8 NATIONAL SITES BREAKDOWN

The Western Cape and Gauteng have the highest number of National Sites, totalling 69 and 34, respectively, while the Northern Cape and Limpopo have the lowest number of National Sites. The provincial hierarchy of low and high performers is further emphasized in each category I cover, resulting in a widening divide. This uneven distribution of protection and preservation measures allows certain strong-performing provinces to declare their heritage to a higher degree with better protection, while others are left behind. Although the ratio of national to provincial protection does not have a direct correlation to the transformation of postcolonial heritage, it does influence the allocation of resources and funding among the provinces.

5.1.9 GENERAL REMARKS AND RECOMMENDATIONS

The factors mentioned earlier, including prolonged periods of inactivity in underperforming provinces, colonial disparities caused by Apartheid laws, incomplete declaration of heritage under the NHRA, and neglect of key heritage related to the NHRA's objectives, are not the root causes but rather the consequences of a larger issue in South Africa. The government does not prioritize heritage and fails to allocate sufficient funding towards it. Despite the intention of constructing a new identity that represents the previously marginalized after the end of Apartheid, heritage consistently takes a back seat to other government sectors. As a result, PHRAs lack the necessary resources to effectively implement the NHRA. Thus, the lack of transformation in the heritage list reflects the insufficient support from the government.

This dissertation, if anything, calls attention to how severely a reassessment is necessary. For one, the lists are overwhelmingly imbalanced towards prior legislation’s preferences. In relation to re-assessments, missing heritage needs to be assessed and included if significant and dates need to be confirmed on the present heritage available on SAHRIS. Further, PHRAs need to also declare more heritage of a diverse nature including, but not exclusive to, dark heritage, palaeontological heritage, and natural heritage.

CHAPTER 6 - CONCLUSION

Two decades after the NHRA of 1999, are we there yet? This study has shown that we have not yet arrived at a balanced heritage list that represents all of South African heritage. What the statistics show, more surprisingly, is just how little progress has been made in this regard. As of 2022, 80% of declared heritage in South Africa are buildings often times in European architectural style and 83% of all declared heritage was declared during the Apartheid period.

The contributing factors that have led to the lack of transformation are:

(i) long periods of inactivity in which no declarations occurred subsequently causing certain provinces to fall behind; (ii) colonial buildings continuing to disproportionally dominate heritage lists to the extent that shifts in heritage foci cannot be properly analysed. This is directly a result of the intended reassessment of National Monuments in the post-Apartheid period, by SAHRA, not being performed; (iii) that there is very little living heritage declared – this in directly contradiction of the idealistic goals of the NHRA, that were to uplift this heritage type in particular; (iv) the uneven declaration of liberation and struggle heritage with Gauteng and Western Cape severely outperforming other provinces; and (v) the under-declaration of natural and palaeontological sites throughout all provinces and across the entire timescale. It was also found that due to the strain placed on SAHRA, very few sites (of any type) are being legitimised across the country, except for the Western Cape and Gauteng.

The statistical findings are that PHRA competency does not correlate to postcolonial heritage being declared in higher numbers. The heritage lists in most provinces are not progressing towards a postcolonial future. Thus, PHRA competency has no bearing on transformation in a statistically meaningful way. Arriving at a decolonized and inclusive list of declared heritage sites in post-Apartheid South Africa will require much more than just reforming legislation and putting in place implementation arrangements or strengthening the technical capacities of heritage professionals and technocrats at the PHRAs. The process transcends the purely technical to the attitudinal and calls for the political will of the decision-makers (i.e., ruling party that guides heritage policies to be implemented by the State) to fill the gap between the present policy statements (e.g., that call for community involvement in the identification and declaration of National heritage) and their actual implementation. It seems evident that the prioritization of state-sanctioned projects in the post-Apartheid dispensation, are more about

crafting political pageantry (see e.g., Meskell and Scheermeyer 2008) than redressing past inequities. It has proved much easier for the ANC to bolster state pageantry with new heritage monuments (mostly focusing on struggle against Apartheid) than to fulfil the promises of the National Heritage Resources Act (NHRA, no. 25 of 1999) of enabling and encouraging communities to nurture and conserve their legacy and facilitate healing and material and symbolic restitution' as promised in Preamble of the NHRA.

Future research to compare the declaration of heritage at the National level to that declared as 'World Heritage' in South Africa hopes to assess further the reasons for the inactivity in addressing the imbalances of the past in terms of heritage declared. South Africa has ten World Heritage sites inscribed since 1999. Of these, six are associated to cultural heritage that would be classified as 'postcolonial' by this study and these include Richtersveld Cultural and Botanical Landscape, Robben Island, uKhahlamba / Drakensberg Park, Mapungubwe Cultural Landscape, Maloti-Drakensberg Park and Khomani Cultural Landscape (the other four are properties of outstanding universal value in natural attributes) and these are Cape Floral Region Protected Area, Vredefort Dome, iSimangaliso Wetland Park and Barberton Makhonjwa Mountains. This requires further investigation – what are the motivations that has led to South Africa succeeding to recognise postcolonial heritage on the world stage but failing to do so at the National level?

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APPENDIX

Appendix A: Declared sites, date of declaration, heritage status, description, and classification for all declared sites across all nine provinces.

Appendix A

Appendix B: Pre-colonial, colonial, postcolonial and 'other' heritage present on the declared list of all nine provinces.

	Pre-colonial	Colonial	Postcolonial	Other
North West	2	54	0	1
Limpopo	7	17	4	4
Mpumalanga	3	51	0	6
Free State	6	213	12	8
Gauteng	15	203	32	16
Northern Cape	5	601	1	19
KZN	13	291	7	34
Eastern Cape	5	184	7	18
Western Cape	20	1231	34	185

Appendix C: Pre-colonial, colonial, postcolonial and 'other' heritage declared under the NHRA.

	Pre-colonial	Colonial	Postcolonial	Other
North West	0	2	0	0
Limpopo	0	3	4	0
Mpumalanga	1	3	0	0
Free State	0	0	12	1
Gauteng	0	14	32	3
Northern Cape	1	0	1	1
KZN	1	0	7	0
Eastern Cape	1	24	7	0
Western Cape	12	35	34	16