PROCLAMATION NO. 209/2000

A PROCLAMATION TO PROVIDE FOR RESEARCH AND CONSERVATION OF CULTURAL HERITAGE

WHEREAS, Cultural Heritage constitutes the imprints of a people’s age-old way of life, labour and creativity;

WHEREAS, Cultural Heritage constitutes an indispensable source of information for the purpose of study and research regarding the origin and evolution of man and other forms of life and thereby for the better understanding of nature and environment;

WHEREAS, Cultural Heritage makes a major and universal contribution to the development of science and regarding the whole gamut of human knowledge generally;

WHEREAS, Ethiopia, a country of nations, nationalities and peoples with history and culture of their own, has through the course of its long history acquire numerous cultural heritage including those which have been registered in the World Cultural Heritage List;

WHEREAS, Cultural Heritage plays a major role in enabling the next generation to acquire profound and extensive awareness about its culture and history, which is the expression of its identity, and hence the protection and preservation of cultural heritage has been made the responsibility of each citizen, the society and the state;

WHEREAS, it has become necessary to devise ways and means for the full protection and preservation of cultural heritage and to ensure that the research of Cultural Heritage at all stages is carried out in a way consonant with the national interest and the rights of the people;
In this proclamation unless the context requires otherwise:

1) "Minister" means the Minister of Information and Culture;
2) "Authority" means the Authority for Research and Conservation of Cultural Heritage established under Article 2 of this Proclamation;
3) "Advisory Council" means the Council referred to in Article 8 of this Proclamation;
4) "Cultural Heritage" means anything tangible or intangible which is the product of creativity and labour of man in the pre-history and history times, that describes and witnesses to the evolution of nature and which has a major value in its scientific, historical, cultural, artistic and handicraft content;
5) "Intangible Cultural Heritage" means any Cultural Heritage that cannot be felt by hands but can be seen or heard and includes different kinds of performances and show, folklore, religious, belief, wedding and mourning ceremonies, music, drama, literature and similar other cultural values, traditions and customs of nations, nationalities and peoples;
6) "Tangible Cultural Heritage" means Cultural Heritage that can be seen and felt and includes immovable or movable historical, and man made cultural heritage;
7) "Immovable Cultural Heritage" means Cultural Heritage attached to the ground with a foundation and which can be moved only by dismantling and shall include:
   (a) sites where Cultural Heritage have been discovered, paleontological historic and pre-historic archeological places.
   (b) buildings, memorial places, monuments and palaces;
   (c) remains of ancient towns, burial places, cave paintings, and inscriptions;
   (d) church, monastery, mosque or any other places of worship.
8) "Moveable Cultural Heritage" means Cultural Heritage not attached to the foundation and that can be moved from place to place easily and which are handed down from the past generation and shall include:
4. Objectives
The Authority shall have the following objectives:
1) carry out a scientific registration and supervision of Cultural Heritage so that, Cultural Heritage, as bearing witnesses to history, may be handed down from generation to generation;
2) protect Cultural Heritage against man-made and natural disasters;
3) enable the benefits of Cultural Heritage assist in the economic and social development of the country; and
4) discover and study Cultural Heritage.

5. Head Office
The Authority shall have its head office in Addis Ababa and may have branch offices elsewhere, as may be necessary.

6. Powers and Duties of the Authority
The Authority shall have the following powers and duties:
1) registers Cultural Heritage in cooperation with the appropriate body;
2) protects and supervises Cultural Heritage; collects information on Cultural Heritage, define the nature and classify the standards of same.
3) give the necessary education and advice on the content, benefit and preservation of Cultural Heritage.
4) collects Cultural Heritage in museum and makes available same to visitors and researchers; organizes exhibition to be held and displayed in the country or abroad;
5) carries out study and research on cultural heritage, issues permit for study and research, and supervises same;
6) gives a professional qualification certificate for any person who establishes a museum and a certificate of registration of Cultural Heritage;
7) gives permission for Cultural Heritage restoration and conservation works;
8) controls illicit trafficking and looting of Cultural Heritage. Take all the necessary measures and devises, ways for the repatriation of Cultural Heritage which have been taken out illegally and held in foreign countries;
9) creates a system which warrants an efficient controlling mechanism with regard to clearance of souvenirs; grants permit for archaeological samples, and casts that are sent abroad for study and research; controls and forbids their use for commercial purposes.
10) provides professional and technical support for preservation and protection of Cultural Heritage as well as for study and research activities conducted on same in Regional Administrations;
11) trains experts for the accomplishment of the objectives of the Authority;
12) implements international agreements regarding Cultural Heritage which have been ratified by the country;
13) sets standards for exhibitions regarding Ethiopia to be staged at the international, national, and regional levels; issues permit for same;
14) ascertains that commercial and another marks that bear the names and pictures of Cultural Heritage do not damage its values.
15) charge fees for license it issues and service it renders;
16) owns property, enters into contract, sue and be sued in its own name;
17) performs such other activities to attain its objective.

7. Organization of the Authority
The Authority shall have:
1) Advisory Council;
2) a General manager; and
3) the necessary staff.

8. The Advisory Council
1) The Advisory council shall be composed of 13 members who are to be recommended by the minister and designated by the government.
2) The Advisory council shall be accountable to the minister.

9. Powers and Duties of the Advisory Council
The Advisory Council shall have the following powers and duties:
1) study and submit to the minister proposals relating to the powers and duties of the Authority;
2) provide advice to enable the Authority carry out its duties and responsibilities;
3) Evaluate periodically the activities on the study and conservation of Cultural Heritage;
4) Evaluate preservation projects and programme of Cultural Heritage undertaken by the Authority and provides advice.

10. Meetings of the Advisory Council
1) The Council shall meet twice a year; provided, however, that it may meet at any time at the request of the Chairperson or one third of its members.
2) There shall be a quorum where the majority of the members are present.
3) Decision of the Council shall be passed by majority vote; provided, however, that the Chairperson shall have a casting vote in case of a tie.
4) The Council shall draw up its own rules of procedure.

11. Powers and Duties of the General Manager
1) The General Manager shall, on recommendation of the Minister, be appointed by Government.
2) The General Manager shall be the Chief executive officer of the Authority and shall direct and administer the Authority.
3) Without prejudice to Sub-Article (2) of this Article, the General Manager shall:
   (a) implement the powers and duties of the Authority as provided for under Article 6 of this proclamation;
   (b) prepare the work plan and program as well as the annual budget proposal of the Authority: and implement same upon approval;
   (c) employ and administer the personnel of the Authority in accordance with Federal Civil Service laws;
   (d) Submit to the Minister the overall activities report and the work description of the Authority;
   (e) open bank accounts and effect expenditure on the basis of the approved budget and work program of the Authority;
   (f) represent the Authority in all its dealings with third parties.
4) The General Manager may delegate his powers and duties to officials and employees of the Authority to the extent necessary for the efficient management of the Authority.

12. Budget
   The budget of the Authority shall be drawn from the following sources:
   (a) Budget allocated to it by the Government;
   (b) Income from service and permit fees; and
   (c) Other sources.

13. Books of Account
   1) The Authority shall keep complete and accurate books of accounts and documents.
   2) The books of accounts and other financial documents of the Authority shall be audited annually by the Auditor General, or by other auditors designated by him.
PART TWO
Management of Cultural Heritage

14. Ownership of Cultural Heritage
1) Cultural Heritage may be owned by the state or by any person.
2) Notwithstanding the provisions of Sub-Article (1) of this Article, Cultural Heritage discovered in accordance with the provisions of Part Three herein may be held in ownership only of the state.

15. Establishment of Museums
Any person, whose professional qualification has been certified by the Authority may establish a museum. The implementation and execution of same shall be determined by the regulation and directives to be issued.

16. Classification of Cultural Heritage
The classification of Cultural Heritage at National and Regional level shall be determined by law.

17. Registration of Cultural Heritage
1) Any person who holds Cultural Heritage in ownership shall get registered same in accordance with the directives issued by the minister.
2) The Authority shall register Cultural Heritage using codes appropriate for their custody and preservation.
3) A certificate of registration shall be issued to the person for the Cultural Heritage he has got registered.
4) Expenses incurred in connection with the registration of Cultural Heritage pursuant to this Article shall be borne by the Authority.

18. Duties of Owners of Cultural Heritage
Any person who possesses a Cultural Heritage shall have the following duties:
1) to preserve and protect properly the Cultural Heritage on his own expense;
2) to allow, upon the request of the Authority, the use of Cultural Heritage for exhibition or public display;
3) respect the provisions of this proclamation dealing with the handling and use of the Cultural Heritage and of the regulations and directives issued pursuant to same proclamation.

19. Conservation and Restoration of Cultural Heritage
1) Any conservation and restoration work on Cultural Heritage shall be carried out with the prior approval of the Authority.
2) Where the expenses required for the conservation and restoration are beyond the means of the owner, the government may grant the necessary assistance to cover part of such expenses.

20. Preservation of Cultural Heritage Situated on Land Given in Usufruct
Any person shall ensure the preservation of Cultural Heritage situated on land which is given to him in usufruct.

21. Removal of Cultural Heritage
1) An immovable Cultural Heritage may not be removed from its original site without the prior written approval of the Authority.
2) Any person shall notify the Authority before removing registered movable Cultural Heritage from its original site.

22. The Use of Cultural Heritage
1) Cultural Heritage shall be used for the purpose of promoting the development of science, education, culture and fine arts.
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<th>Requirement of Permit</th>
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<tr>
<td>1) No person may conduct exploration, discovery, and study of Cultural Heritage without obtaining a prior written permit from the Authority.</td>
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<th>PART THREE</th>
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<tr>
<td>Exploration, Discovery and Study of Cultural Heritage</td>
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<tr>
<td>Exploration discovery &amp; study of Cultural Heritage shall be conducted on Palaeontology, Archaeology, Anthropology and related fields.</td>
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<th>Transfer of Ownership of Cultural Heritage</th>
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<tr>
<td>1) Where any holder of Cultural Heritage transfers it to another, both parties shall submit, in advance, a written notification to the Authority.</td>
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<tr>
<th>Trading in Cultural Heritage</th>
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<td>1) No person may engage in the purchase and sale of Cultural Heritage for commercial purposes.</td>
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<th>Expropriation of Cultural Heritage</th>
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<td>1) which is not properly protected, repaired and restored; or, which is exposed to decay, contrary to the provisions of this proclamation, regulations and directives to be issued for the implementation of this proclamation; or, which is exposed to damage or decay due to its use contrary to the manner prescribed in Article 22(3); or</td>
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<th>Repatriation of Cultural Heritage</th>
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<td>1) Cultural Heritage illegally held in other countries shall be repatriated.</td>
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<th>Cultural Heritage Outside the Country</th>
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<td>Exporting Cultural Heritage is prohibited; however, it may be temporarily taken out of the country for scientific study, cultural exchange or exhibition upon the approval of the Minister.</td>
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<th>Foreign Cultural Heritage Brought into Ethiopia</th>
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<tr>
<td>Foreign Cultural Heritage, which is brought into Ethiopia for the purpose of cultural exchange, or exhibition, or other purposes shall be accorded government protection as necessary.</td>
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2) The Authority shall, before granting the permit, ensure that the applicant is professionally competent and has adequate financial resources to carry out the exploration, discovery, and study work.

31. Particulars of the Application

An application submitted to the Authority to conduct exploration, discovery and study of Cultural Heritage shall be prepared in accordance with the regulations or directives issued for the implementation of this proclamation.

32. Particulars of the Permit

The particulars of a permit granted for exploration, discovery, and study of Cultural Heritage shall be provided in the regulations and directives issued for the implementation of this proclamation.

33. Duration of Validity of the Permit

1) Cultural Heritage exploration, discovery, and study permit may be granted for a period not exceeding three years.

2) The Authority may renew the permit for a period of not more than two years where the period of its validity expires before the work is completed.

3) The Authority, upon reception of a new application, may grant the permit as necessary in addition to the time provided in Sub-Articles (1) and (2) of this Article.

34. Fees for the Issuance and Renewal of Permit

Fees for the issuance and renewal of permit shall be determined by the regulations to be issued for the implementation of this proclamation.

35. Duties of Permit Holder

Every permit holder shall have the following duties:

1) submit periodically, to the Authority, progress reports on the exploration, discovery and study works.

2) keep a special register with complete description of each exploration, discovery and study.

3) properly preserve every exploration, discovery and study and hand over same to the Authority.

4) keep every exploration, discovery and study in secret in accordance with the terms of the agreement concluded with the Authority;

5) not to explore or study beyond the kind of study and the site permitted;

6) carry out the study in a manner that may not damage the culture, belief and psychology of the peoples inhabiting in the area where the study is conducted.

7) restore the site to its original state at the completion of the exploration work.

8) ensure the participation and training of Ethiopians in the exploration, discovery and study of Cultural Heritage;

9) provide insurance coverage for Ethiopian participants in field activities;

10) fulfill such other duties as are required by the profession; and

11) respect and implement this proclamation and the regulations and directives to be issued thereunder.
36. Suspension and revocation of Permit

1) In the event a permit holder violates the provision of Article 35 of this Proclamation, the Authority may suspend the permit until it gives a decision on the case.

2) The Authority may revoke the permit where the holder fails to comply with the requirements of this proclamation, and the regulations and directives issued for the implementation of this proclamation.

3) Any person whose license is revoked pursuant to this Article may appeal to the Minister within 30 days of receipt of such decision. The Minister’s decision on the Case shall be final.

37. Supervision

1) The Authority shall assign an official to represent it in matters relating to the exploration project.

2) The official assigned pursuant to Sub-Article (1) of this Article shall supervise the proper carrying out of the exploration, discovery and study work in accordance with the provisions of this proclamation and regulations and directives issued for the implementation of this proclamation.

38. Publicizing Discoveries

Any field discovery shall be first publicized, through National media by the Authority.

39. Publication of Reports and Result of Studies

1) The permit holder shall have the exclusive right to publish the exploration reports and the results of these studies for five years period following the completion of the field work, provided; however, that, he shall give notice to the Authority prior to the publication of same.

2) The permit holder shall provide the Authority, free of charge, with five copies of each such publication.

3) In case of failure by the permit holder to publish the reports and results of his studies within the period specified under Sub-Article (1) hereof, the Authority may itself publish them fully or partly or authorize their publication by any other person.

40. Ownership over Result of Studies

Without prejudice to the provisions of Sub-Article (3) of Article 35, the ownership right of the permit holder over documents bearing the results of his studies shall be protected in accordance with the relevant provisions of the Ethiopian Civil Code.

41. Fortuitous Discovery of Cultural Heritage

1) Any person who discovers any Cultural Heritage in the course of an excavation connected with mining explorations, building works, road construction or other similar activities or in the course of any other fortuitous event, shall forthwith report same to the Authority, and shall protect and keep same intact, until the Authority takes delivery thereof.

2) The Authority shall, upon receipt of a report submitted pursuant to Sub-Article (1) hereof, take all appropriate measures to examine, take delivery of, and register the Cultural Heritage so discovered.
3) Where the Authority fails to take an appropriate measures within six month in accordance with Sub-Article(2) of this Article, the person who has discovered the Cultural Heritage may be released from his responsibility by submitting, a written notification with a full description of the situation, to the Regional government official.

4) The Authority shall ensure that the appropriate reward is granted to the person who has handed over a Cultural Heritage discovered fortuitously in accordance with sub-Articles(1) and (2) of this Article. And such person shall be entitled to reimbursement of expenses, if any, incurred in the course of discharging his duties under this Article.

PART FOUR

Miscellaneous Provisions

42. Reserved Areas

1) The Council of Ministers may, upon the recommendation of the Minister, declare any area as a reserved area and publish same in the Negarit Gazeta, where an assemblage of immoveable Cultural Heritage is situated or where such an area is deemed to be an archaeological site.

2) Unless otherwise specifically decided by the Council of Ministers, no person may, without a permit issued by the Authority, carry out building or road construction, excavations of any type or any operation that may cause ground disturbance in an area declared reserved pursuant to Sub-Article (1) of this Article.

3) Any person who holds permit to conduct construction works in a reserved area and who discovers Cultural Heritage in the course of construction activities shall stop construction and shall forthwith report same in writing to the Authority.

43. Inspection

1) An inspector authorized by the Authority may, in accordance with the directives issued by the Minister, enter at reasonable hours, any place where there is any Cultural Heritage and conduct inspection to ensure that the Cultural Heritage is properly maintained and protected.

2) The owner of Cultural Heritage shall have the duty to allow any inspector of the Authority carrying proper identification to enter any place where the Cultural Heritage is found and to inspect same in accordance with Sub-Article (1) of this Article.

44. Duty to Cooperate

Every person shall have the duty to cooperate in matters relating to the regulations and directives issued for the implementation of this proclamation.

45. Penalty

1) Unless the Penal Code provides for a more severe penalty, any person who:
(a) violates the provisions of Articles 18, 20, 23 (1) or 44 (2) of this proclamation shall be punished with imprisonment of not exceeding six months or with fine of up to Birr 1500 or with both;
A) Violates the provisions of Articles 19(1), 21, 22(2) or 35 of this proclamation shall be punished with imprisonment of not exceeding one year or with fine not exceeding Birr 3,000 or both;

(b) violates Articles 24 or 27 or 30(1) 42(1) or 43(2) of this proclamation shall be punished with rigorous imprisonment from three to five years or with fine from Birr 10,000 to 15,000 or with both.

2) Unless the Penal Code provides for a more severe penalty, any person who:

(a) commits theft on Cultural Heritage shall be punished with rigorous imprisonment of not less than seven years and not exceeding ten years;

(b) destroys or damages Cultural Heritage intentionally shall be punished with rigorous imprisonment not less than ten years and not exceeding twenty years;

(c) in the exercise of his official duty destroys, or damages or abstracts Cultural Heritage or causes them to be abstracted, in order to obtain an unlawful enrichment shall be punished with rigorous imprisonment of not less than fifteen years and not exceeding twenty years.

46. Power to Issue Regulations and Directives

1) The Council of Ministers has the power to issue Regulations for the implementation of this proclamation.

2) The Minister shall have the power to issue directives for the implementation of this proclamation.

47. Repealed and Inapplicable laws

1) Study and Protection of Cultural Heritage proclamation No. 36/1989 is hereby repealed.

2) Any law or practice shall, in so far as it is inconsistent with the provisions of this proclamation, have no force or effect in relation to matters provided for in this proclamation.

48. Effective Date

This Proclamation shall enter into force as of the 27th day of June, 2000.

Done at Addis Ababa this 27th day of June, 2000.

NEGASO GIDADA (DR.)
PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA