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## SHARED HERITAGE RISK IN THE BLUE AMAZON. GAMBOA DE BAIXO PROJECT RETROFIT

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**Abstract:** This article refers to the study of the Historic Centre (CHS) of Salvador da Bahia, in Brazil, recognized as a World Heritage Site (criteria IV and V) by UNESCO, with special emphasis on the unprecedented discovery of the establishment of the LPM of 1831, for the demarcation of marine land in gamboa areas and the distinction between public and private use in Brazil. In the surrounding area, there are ruins of military fortifications with exceptional universal value in historic buildings donated to the Benedictine Order by the Portuguese settler Gabriel Soares de Sousa, which have become an area of real estate speculation, violent eviction for regional development projects aimed at high-end nautical tourism and gentrification. The Camboa fishing grounds were given by sesmaria to one of the first Portuguese to settle in Bahia, Diogo Álvares Correa, popularly known as Caramuru, who married the daughter of the Taparica Indian, named Catarina Paraguaçu, who would have been not only the first indigenous woman, but the first woman in Brazilian history to learn to read and write. This work was started when the 200th anniversary of Brazil's Independence was approaching and the importance of Gamboa de Baixo project in the CHS, which in the prism of this research was and as the theme is not exhausted in itself, it must also always be analyzed in a historical, legal and technical context, with the aim of rescuing memories, confronting studies and assumptions that influence decision-making in the safeguarding of UNESCO World Heritage. The methodology consisted of field research, bibliographical reviews (*sui generis*), secondary sources, legislation, magazines, topographies, state reports, manuscript referen-

1. I would like to thank the two anonymous reviewers, the first for their guidance in highlighting the historical, technical and bad practice context and avoiding subjectivity in the presentation, and the second for finding a certain political and speculative character in the text, which is only natural given the topic of contested heritage now emerging in the academic sphere. The work is based on my own research and has as its guiding thread cultural heritage institutions and policies and their "Complex Pasts: Diverse Futures", which was the theme I worked on for the International Day of Monuments and Sites in 2021, now annually promoted by ICOMOS International. The text is also supported by the lessons of the UNESCO Chair in Intercultural Dialogue in Heritage of Portuguese Influence at the University of Coimbra, the Contested Heritage course in which I participate.

ces, Tombo Books and more recent materials to search for historical contexts, theoretical, technical and strategic reasons, case law and sharing models. As a result, the aim is to fill in gaps and offer contributions to the scientific community by proposing a "retrofit" that transforms threats that reduce the degree of protection of what was determined in the decision with UNESCO.

**Keywords:** Shared heritage; Rubble; Gamboa; Retrofit; Blue Amazon; Portuguese influence; Marine land.

## INTRODUCTION

The aim of this article is to reflect on the relevance of assumptions that influence political decisions for projects to protect and promote Cultural and Natural Heritage. In order to make this reflection more coherent, it is important to mention, *prima facie*, some considerations about Cultural Heritage studies that are important for a better understanding of the project under study. From there, we will move on to the fundamental point: the technical analysis of the Gamboa de Baixo rehabilitation project and the cultural and legal assets that are being called into question, namely the Fort of São Paulo da Gamboa and the stone ruins of the Port of Gamboa, which are becoming extinct due to a lack of information, *expertise* and professional ethics. [1]

Between you and me, you can't talk about protecting Cultural Heritage without navigating through international and EU legal and political regimes<sup>1</sup>, whose principles have influenced Portuguese, Brazilian and international legislation, as well as a UNESCO agenda. It will be an expedition on the open seas, which swings back and forth between the com-

plex past and the conflicting present and will urgently need positive perspectives in order to anchor itself in a future full of challenges. This expedition will require a map of issues with culturally political, legal and challenging itineraries, drawn both by rules of conduct and by symbolic values and memories. The search for an answer is not for any traveler (*strictu sensu*), but above all, for your starting point, your heritage, your treasure, your history. First of all, you need a “one way” compass for this seemingly endless journey, because in Gamboa there is always a pier (BOMFIM/2013) [2] but not always calm waters (FERREIRA/2019) [3] and “considering the multiple scales of damage caused by the destruction of cultural heritage, providing a repair that offers some satisfaction in terms of remedying the past is not an easy task.” In this context, the priority of reparation would be to promote dignity (ROSE/2021) [4], the absence of which explains the emergence of a series of right-wing and left-wing protest movements with narratives of a more plural and less colonial space, aimed at promoting changes in historical paradigms and political situations, implying a process of “cleansing” from being or not being part of a heritage project (SCHWARCZ/2021) [5].

Gentrification is a problem intrinsic to Cultural Heritage, which urgently needs to be debated for a new technical, political, legal, administrative and even cultural awareness in the face of the threats of a new era. This brings with it the superimposition of the “financial” over the “productive” and the “social” over the “economic”,<sup>(2)</sup> “the privatization of profits and the socialization of costs and losses”, when the ideal would be the opposite. In this sense, there is a lot of talk about the protection of cultural assets, especially with an interest in future generations, but the future of this protection is still uncertain [6], especially for the complex memory of Portuguese-influenced

heritage in the world, which in this work will focus on the rehabilitation project around the World Heritage Historic Center of Salvador da Bahia/UNESCO, the areas known as Gamboa de Baixo and Solar do Unhão.

In a brief bibliographical reference, several publications on Gamboa de Baixo were found, such as OLIVEIRA, M. M. de. (2004) *As fortificações Portuguesas de Salvador quando Cabeça do Brasil* [7]; the publication that comes closest to Gamboa de Baixo’s Universal Exceptional Value reinforced by ORG, Fortresses (2021), Forte de São Paulo da Gamboa [8]. From PERRY, K.-K. Y.; CAMINHA, A. C. da S. (2008) with *Daqui não saio, daqui ninguém me tira: poder e política das mulheres negras da Gamboa de Baixo* [9], establishes an academic chain with PORTELA, R. D. (2012) and *Pescadores na Bahia do Século XIX* [10]; SANT’ANNA. M. G. (2015) *Da cidade monumento à cidade documento* [11]; ZANOLI, F. O. (2015) with *Projetos De Realocação Dos Moradores Do Forte de São Paulo* [12] and *Projeto de Habitação de Interesse Social para a Gamboa de Baixo* [13]; JAC Araújo Neto (2015) *Regularização Fundiária: C.U.E.M. as an instrument of resistance and permanence in Gamboa de Baixo* [14]; FERREIRA, Tales Guimarães (2019) with *Study of micro-accessibility in Gamboa de Baixo and its area of influence* [3]; SAPUCAIA, Adriano de Jesus, et al (2018) with *Gamboa de Baixo from the perspective of multi-referentiality* [15] and; VITORINO, Roberto (2020). *Access Gamboa de Baixo* [16]. These studies focus on the themes of “Politics”, “Democracy” and “Right to the City”.

Of particular note is the work carried out jointly by the Common Place Research Group of the Graduate Program of the Faculty of Architecture of the Federal University of Bahia and the Master’s Degree in Social Development Practice, *The Bartlett Development Plan-*

2. Theory by researcher Carlos Pimenta, Professor of Economics at the Faculty of Economics of the University of Porto (FEUP), in [2]. p. 105.

ning Unit, which sought to respond to the identification of demands, claims and research on Gamboa as a traditional fishing community exploring the definitions of heritage for the state. The research intends to visualize possible paths that will lead to Gamboa being recognized as a cultural heritage site, starting, however, from the *Lefebvrian* understanding and concepts, concealing information about the history, memory and VUE of the site and what the guardianship of heritage in the form of IPHAN had to say [17]. Nevertheless, there is a vast bibliography on the area [18] and in this article the analysis will focus only on the studies by ZANOLI, F. O. (2015) [10] [11]; JAC Araújo Neto (2015) [14] and VITORINO, Roberto (2020) because they are references that have been transformed into projects that have been evaluated and contracted by the Salvador da Bahia City Council. The surrounding context of contestation, cultural violence and heritage violence, despite being on the table, needs more specific and in-depth space.

From this perspective and to start the debate, NUNES AVELÃS/2012 [19] already recalled that “[...] *today we are experiencing a totalizing crisis (economic, financial, social and political; Portuguese, European Union, global [...]) has to do with the public regulation of the economy and social relations [...]* advocated the abandonment of ‘liberal orthodoxy’ and increased state intervention”<sup>3</sup>. According to some members of the community contesting the site, the process of rehabilitating the area is being carried out with a mental reservation<sup>4</sup> regarding the value of cultural heritage in the development of the project, which

will be better addressed in sub-sections 2.1 and 2.2. on the heritage now being contested through community mobilization and the use of constitutional remedies and resistance in the process of gentrification and land regularization [3], while at the same time claiming its classification as intangible heritage and the right to remain in the Blue Amazon [20]. In this regard, MENDES, J. Amado explains that identity is transmitted and reinforced through memory, both individual and collective, by means of the testimonies that are part of it and constitute the fundamental foundation of the memory and memories that it invokes, transforming it into an element that we could classify as structuring identity itself. [21]:<sup>5</sup>

That said, it maximizes the concern with cultural assets of Portuguese influence that, even if complex, their collectivity is a “legal asset of stellar protection” due to its ramification and dimension in the constellation of Law and transcendentality (from the point of view of the unlimited relations between space and nations) that in the built context also translates as a “spiritual asset”. A philosophically new idea of the human being as a creative being<sup>6</sup>, whose creation no longer the exclusive preserve of divinity but a human work whose “degradation or disappearance of any element of cultural heritage, and especially natural heritage, constitutes a harmful impoverishment of the heritage of all the nations of the world” [22].

3. See Process, Order, Crisis and Regeneration: From the ultimatum to the military dictatorship in [16] p. 118.

4. Divergence between the will and the declaration, but with the particularity that the divergence is conscious, intentional and accompanied by the intention of deceiving the declarant (which is why we also sometimes speak of an “intentional and misleading” divergence) in [2] p. 116.

5. Heritage as an aspect of identity. See MENDES, J. Amado, “Estudos do Patrimônio: [18] p. 53.

6. In more general terms, “modern man/woman has ‘killed Job’: he/she did not have, nor did he/she recognize, we repeat, any order external and prior to (...) since broke with all the presupposed orders that were previously affirmed.” Bronze 2006 a, 333 *Apud*. PEREIRA, Alexandre Libório Dias. [2]. p. 71.

## SHARED HERITAGE IN THE BLUE AMAZON. RETROFIT GAMBOA DE BAIXO PROJECT

Todos-os-Santos Bay was declared the headquarters of the “Blue Amazon”, an area that covers 4.5 million km<sup>2</sup> of Brazil’s 8.5 million km<sup>2</sup> coastline, by the “1st International Forum on Bay Management”. [20] and at its heart is the CHS, an area of 76 hectares geographically located in the central part of the western end of the city, where a natural wall of the so-called “Salvador fault” ends at the escarpment, which, with an average height of 64 meters, rises like an amphitheatre bordering the Bay. The center was classified by UNESCO on December 2, 1985, as a World Heritage Cultural Asset, bounded in a north-south direction following the hillside, starting from Largo de Santo Antônio de Além do Carmo to Sodré on July 2 [23] at a distance of one kilometer from the ruins of the Portos da Gamboa and Forte de São Paulo da Gamboa delimited as Special Zone of Social Interest 5 [24].

It is located between the face of the beach and the crest of the edge of the old quarry buried by the disorderly development of the uptown seafront (Trapiche Jaqueira - Forte São Diogo stretch) culminated by the LPM02 studies (contested by the Monastery of São Bento da Bahia, process no. 78.040/45) and mainly by the LMP18 layout, which irregularly demarcated the mean high tide line in the upper part of the city, since there is no record of the observation of the coastal dynamics of that stretch, nor is there any hermetic analysis of the tides of the time to extrapolate to the year 1831<sup>7</sup>. The architectural style is hybrid, because while the Fort of São Paulo da Gamboa is a monument of military architecture built stone on stone by enslaved people between 1714 and 1720, the neighboring buildings are monuments dating from 1809, with sugar trap architecture from the time of the order

7. Conclusion of Order of March 30, 2007, nº 0315132 SPU/BA CGPES Processes: SEI nº 5080.020282-15- SPU/BA and response by LAI - Law on Access to Information.

of the prince regent. The stone and lime buildings (or whale’s blood in the popular belief) are being replaced by hydraulic agglomerate (cement) and low-quality materials.

Finally, the Gamboa de Baixo area is in the strategic zone for the construction of public transport facilities in the city (UNESCO SHANKLAND id, ibid p.33) [25] for the transshipment of nautical tourism boats, where there is the idea of an inclined plane project by residents and owners of useful domains in the area of the Monastery of São Bento that aims, first of all, to benefit the access of fishermen and residents to the upper part of the city. [16]

### RETROFIT FROM A HISTORICAL PERSPECTIVE

In the year leading up to the 200th anniversary of Brazil’s independence, the Bay of All Saints (BTS) was the scene of major events in Salvador de Bahia, a city with a rich tangible and intangible heritage as a result of its history. They were the first places to be discovered by the Portuguese in Brazil, in 1500, and are the places where Afro-Brazilian culture began. The historical site analyzed in this article belonged to the explorer, farmer, historian, writer and botanist Gabriel Soares de Sousa (1540-1591). Between 1565 and 1569, he established himself as a wealthy agricultural settler and sugar mill owner. He was a councillor and died at the end of 1591, buried in the chancel of the church of the Monastery of São Bento. He donated his entire estate to that order. Among the properties donated in 1584 (which only came to the monks as vacant land on April 24, 1604 (hernández, 2000, p. 121) are the areas on the edge of the BTS, namely Vitória, Aflitos, Largo 2 de Julho, Gamboa de Baixo and the vicinity of the CHS [18]. As already mentioned and shown in figure 6, Gamboa de Baixo is home to the ruins of the São Paulo Fort (1720) and the Vacas and Gamboa Ports from 1835:



In that same year, the demarcation of public properties underwent a significant change in the coastal areas of Empire Brazil with the publication of Royal Order - Circular No. 219 of August 20, 1835, signed by Manoel do Nascimento Castro e Silva, *ex vi* in art. 203 of the Civil Code between 1899 -1916, it was determined that gamboas and igarapés are not understood as marine land, as long as the Legislative Power does not order otherwise. Let's see:

“(…) it also orders that the banks of freshwater rivers, even if they navigable, which are beyond the reach of the tides, and the banks of igarapés **and gamboas**, whether made up of fresh or salt water, whether or not subject to the tides that are introduced, shall not be included in the said lands, until the legislative power determines otherwise (...) in which case the measurement shall include only the length of the mouths of such igarapés **and gamboas**, which are at the edge of the tide or of the rivers that ordinarily reach the tide (...). In this case, the measurement for the lease should include the extension only **of the mouths of such igarapés and gamboas, which are on the shore or of the rivers to which the tide ordinarily reaches**”. (emphasis added)

From a legal point of view, Decree No. 4.105 of February 22, 1868 consolidated the sparse provisions that existed at the time, prevailing until 1940, without, however, making any contradiction to the Royal Order of 1835 unacceptable.

Decree-Law No. 2490 of August 16, 1940, however, considered as marine lands “those bathed by the waters of the sea and those of rivers and lagoons as far as the influence of the tides reaches”.

Decree-Law No. 3.438, of July 17, 1941, which clarified and expanded the aforementioned Decree-Law No. 2.490, (already prescribed) transferred to the following law that the “... influence of the tides is characterized

by the oscillation of at least five centimeters in the level of the waters (luni-solar attraction) that occurs at any time of the year”.

To replace these legal norms, Decree-Law no. 4.120, of February 21, 1942, supplemented by Decree-Law no. 5.660, of July 15, 1943, re-established new legislation in force prior to 1831, setting the maximum high tide as the origin of the marine land, the position of which would be fixed by the Directorate of the Union's Domain, in accordance with the observations and forecasts of tides (not verified by this study when it analyzed LPM02 and LPM18), made by the National Department of Ports and Navigation or by the Navigation Directorate of the Ministry of the Navy.

This method is still used for current demarcations of public properties under management of the federal entity SPU, which is based on a revoked law that conflicts with Decree-Law No. 9,760 of September 5, 1946 (virgente).

This law re-established the conceptualization previously established by the 1941 law - Decree-Law no. 3.438 - clarifying, however, that the “influence of the tides is characterized by the periodic oscillation of at least 5 (five) centimeters of the water level, occurring at any time of the year” (sole paragraph of art. 2 Law 9.760/46) from the point of the 1831 line to the point where this influence is felt.

According to the report in case no. 252.635-57<sup>8</sup>, the Brazilian government, the Federal Union of Brazil, faced with the difficulties involved in determining the position of the 1831 mean high tide line, consolidated technical precepts and administrative practices that had been in force until 1940, in order to establish a demarcation process for fixing the lines resulting from the LPM02 and LPM18 studies, without respecting the interests of the notified parties and only safeguarding those of the National Treasury.

8. Available at: <https://hml-bibliotecadigital.fgv.br/ojs/index.php/rda/article/download/20533/19269/37687>

In the case in point, there is a record that the Monastery of São Bento da Bahia disregarded the challenge when it published the non-technical study LPM02, in 1950, dealing with the Comércio and Jequitáia areas in Salvador.

In 1974, a technical study of the LPM18 was drawn up for the demarcation of the upper city, with the quota Zero for the CN and quota 2.16 for the presumed LPM of 1831, starting from the zero point of the front of the Trapiche Jaqueira, today the headquarters of the Captaincy of Ports, up to Fort São Diogo in the Barra district, based on plans from half a dozen noble families in the city who requested the leasing of these areas presumed to be marine land.

According to recent case law<sup>9</sup>, the management body of the Federal Union of Brazil, creates parameters with a variation of more than 100% to establish the LPM of 1831, throughout the Brazilian coastal zone: Where it reads:

“ (...) it is concluded that the navy lands located on the Brazilian coast are submerged due to the advance of the sea level, which is why the collection of rent, laudium or occupation tax in relation to such properties is spurious, especially since the difficulty caused by the use of the mean high tide line of the year 1831 ends in the use of illegitimate criteria, the consequence of which is the consideration as public of what is private. In order to support the conclusions on the subject, expert evidence was granted in the present case, which was conclusive in the sense that the SPU created parameters

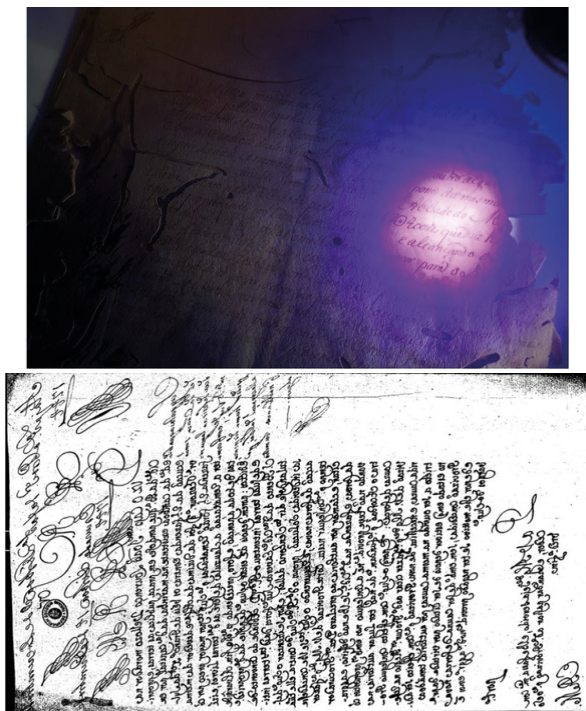
devoid of any scientific proof and did not take into account the provisions of Decree-Law No. 9,760/1946 when establishing requirements for setting the Mean High Water Mark of 1831, used as a criterion for delimiting the scope of marine land.

As for the Church's real estate assets in Bahia, these are buildings and land with Legitimate Titles, with immunity and guarantees of value reinforced in art. 7 of Decree Law no. 7.107/2010 and by the Vienna Convention on Diplomatic Relations of April 18, 1961, which, in addition to other international rules, are real estate in good faith, prior to any legal property regime in Brazil, and even legitimized by the Portuguese Crown at the time.

In the specific case of the land in Gamboa de Baixo, there are permits and certificates of a final and unappealable judgment in 1746 against the Federal Treasury and a third party who, through a public auction, bought part of the customs wharf built on the grounds of the Monastery of São Bento da Bahia, according to old transcripts from the Torre do Tombo collection in Lisbon.<sup>10</sup>

9. Expert report of Case No. 0021238-84.2007.4.05.8300 of the 3rd Court of the Federal Justice of Brazil with a final judgment on June 20, 2024.

10. *On-site* consultation with ultra-red light in the ultramarine collection - Portugal carried out by **Pedro Pinto**. Degree in History (1995) from FCSH-UNL. He has been a member of the Center for Historical Studies at Universidade Nova de Lisboa since 1999, where he is working on the project to publish the full texts of the Portuguese Medieval Chancelleries and the Portuguese Medieval and Modern Cortes (1325-1699). As part of these projects, he has visited more than 120 archives throughout Portugal. She has been a member of the CHAM-Humanities Center since 2015. She is a member of the scientific team of projects to publish Portuguese sources on various countries in Africa, Asia and the Middle East, such as Madagascar, Singapore, Oman and the United Arab Emirates, which involves bibliographical and archival research, transcription and translation documentation from the 16th-20th centuries with a view to publication. She has worked on the development of documentary description tools for archives and libraries. E-mailed: [pedroacpinto@yahoo.com.br](mailto:pedroacpinto@yahoo.com.br)



Figures 1 - Consultation (*in loco*) made on 20.02.2024 with ultra-red light on the document crumbling due to the effect of salt water, copy available in the Torre do Tombo ultramarina collection in Lisbon.

In 2007, in the act of opening mat. 15.608, which was canceled due to defects by official letter 14/2022 filed at the 4th Real Estate Registry Office in the capital of Bahia, the study of LPM18 was questioned by the Ministry of Planning and Management of the Brazilian government, SPU's controlling body, ordering that LPM02 be applied to open the registration in question, because LPM18 invaded an allodial area (private land marginal to the navy land).

The navy area, as defined in article 20 of Law 9.760/1946, is a strip of land located along the Brazilian coast, considered to be the property of the Union, with limits that extend 33 meters horizontally inland from the mainland, from the point where the high tide regularly reaches. This demarcation has its origins in Decree-Law No. 9,760/1946, which

establishes the criteria for delimiting these areas, with a view to protecting public assets and controlling land use in the coastal zone. The characterization of these lands is linked to the special legal regime, subjecting them to specific occupation rules, such as the need for authorization or concession from the public authorities. In addition, the navy strip can be extended in cases of natural or artificial additions, as provided for in the legislation.

On the other hand, the **gamboa** area is a distinct concept *ex vi* the provisions of art. 203 of the Civil Code (1899-1916, Circular da Fazenda no. 219/1835), related to low, swampy and rocky land, often located in mangrove regions or near estuaries. These areas are characterized by their flooding dynamics, influenced by tides and brackish water, and are ecologically sensitive and important for coastal biodiversity. Unlike marine areas, gamboas are not necessarily owned by the Federal Government, but may be subject to environmental restrictions due to their ecological fragility, as established in the Forest Code (Law 12.651/2012) and in mangrove protection rules. The occupation of these spaces often requires environmental licensing, given their importance for coastal ecosystems.

According to legal operators<sup>11</sup>, the fundamental difference between the two areas lies in the legal regime and the purpose of protection. While the marina area is a federal asset, with clearly defined boundaries and linked to control of the seafront, the **gamboa** is more associated with natural flooding characteristics and environmental protection. The former has an administrative and patrimonial focus, while the latter is more linked to ecological criteria and sustainable use. In addition, occupation in navy areas requires a concession or federal authorization, while in gamboas the restrictions derive mainly from municipal and environmental legislation.

11. Arguments by Lawyer Daniel Alves, responsible for the lawsuits in Gamboa de Baixo and Ilha do Urubu, Trancoso/BA. Case no. 100686-44.2025.4.01.3300, at the 10th Federal Court of the SJBA.





Figure 2. Gamboa Port and São Paulo Fort in 1835. Watercolor by Willian Gore Ousedey (1797- 1866) ;

Some authors claim that Forte de São Paulo da Gamboa dates back to a battery built in 1646 over a gamboa or ditch and its artillery was the first to greet the arrival of the Portuguese Royal Family in Brazil on January 22, 1808. Between 1837-38 the fort joined the Sabinada (SOUZA 1938:172) and visited in 1859 by Emperor Pedro II (1840-1889), who recorded the visit in his diary [6]. However, the BTS was also the scene of the struggle against the Portuguese in the Brazilian War of Independence [26] and despite having been proclaimed by Dom Pedro I on September 7, 1822 on the banks of the Ipiranga River (a fact that many also dispute), the armed struggle continued in Bahia with the confrontation of the Portuguese resistance known as the Battle of Itaparica. In this vein, it is important to highlight the memory of the female protagonist in the Brazilian triumph, where there is a record of Maria Felipa de Oliveira (Itaparica Island, date uncertain - July 4, 1873), a shellfish gatherer, fisherwoman and manual laborer who participated in the Independence struggle alongside Maria Quitéria, the current patron of the Brazilian Army's Complementary Board of Officers [27].



Figure 3: Buildings in the former Gamboa de Baixo in 1870. Photograph by Guilherme Gaensly (source GOOGLE/2021).

From the 20th century onwards, the Fort was occupied as shown in figure 6 and in 1938 it was listed by IPHAN (National Historic-Artistic Heritage Institute). In 1962, the community was segregated by the construction of Avenida Contorno, burying the buildings with symbolic, historical and memory value. In 2008, the Gamboa area became ZEIS 5 in the Urban Development Master Plan (PDDU). In 2016, Law 9.069 was published to reform the zone. In 2017, Law 13.465 on Land Regularization was passed, which will continue until 2021/2022, with significant losses of VUE due to a lack of information, as well as irregular constructions and projects by public bodies, as shown in figure 6.



Figure 4 - Current images of the ruins of Gamboa Port between 2018 and 2019 (Photos: Vaneza Narciso and VW Multimidia, respectively).

The concept of heritage is essential to identity politics and involves struggle and resistance in entire societies as well as its deliberate use to construct narratives and in the case of power the question that arises in the case of the Gamboa de Baixo project is based on the reflections of (SCHWARCZ/2021 pp. 42-43), which is whether the projects express the will of the welfare state or whether they constitute central elements in the logic of the elites who are also the ones who turn them into heritage, causing the dates and origins of the symbolic value that can populate European heritage with other stories, traumas and interpretations be lost, means “to occupy” and “to take possession” [5] because according to the CHS’s UNESCO candidacy dossier, 95% of the population was expelled through the renovation and recovery project promoted by the managers of the Brazilian State Party, namely IPHAN, the State Government through the Artistic and Cultural Heritage Institute of Bahia (IPAC) and the Municipal Government of Salvador Bahia through the Municipal Department of Urban Development, successor to SUCOM (Superintendence of Control and Planning of the Municipality’s Soil) when funded by UNESCO in 1992.

### **RETROFIT UFBA PROJECT (ZANOLI/2015 & VITORINO/2021)**

It is well known that Article 4 of the UNESCO World Heritage Convention. states that “Each of the States Parties to this Convention shall recognize that the obligation to ensure the identification, protection, conservation, enhancement and transmission to future generations of the cultural and natural heritage located in its territory constitutes a primary obligation...” and in the case of Gamboa de Baixo there is no presence of IPAC as a guardian body raising significant sums of money from the IDB/BNDS/PNUD in the name of the importance of cultural heritage peoples,

heritage education and respect for the CHS World Heritage label.

Under strong pressure from development and public civil action, the Brazilian government is speeding up the regularization and gentrification of the deprived CHS community in order to develop high-end tourism for the wealthy, and among all the actions, the ZANOLI/2012 and VITORINO/2020 projects stand out as a milestone in the struggle of the traditional community of Gamboa de Baixo in the context of social inclusion. It arises from community mobilization and Public Civil Action No. 2009.33.00.011447-9 filed by the Federal Public Prosecutor’s Office against the Federal Union, Salvador City Hall and IPHAN, as set out in Ordinance No. 383 of August 20, 2013, with the aim of regularizing land ownership and restoring the Forte de São Paulo da Gamboa to ensure the right to housing in order to control the process of gentrification of the site. However, in the view of this study, several points of the projects need to be improved because there are inconsistencies, dangers of damage to legal assets, invasion of private property, litigation and nullity of administrative acts. Starting with the inclusion of a surface area of 21,218.40 m<sup>2</sup> in the Buffer Zone approved at the 9th session of the UNESCO World Heritage Committee (1985), without an impact report and prior authorization from UNESCO, since according to the Brazilian architects’ association, the ETELF (Technical Office for Licensing and Inspection of IPHAN-BA) was “strangely” abolished in 2014. [28]



Figure 5 - Location plan of the ruins of the Port of Gamboa for redevelopment works.

At the same time, the displacement of the 1.145.28m from the Vitória Subdistrict (1st RI) to the Sodré Subdistrict 2 de Julho (5th RI) adds value to the area belonging to the São Bento Monastery and registered as Navy land (which, according to documents, is not all of it) the City Hall is once again relegating the history, memory and, above all, the residents of Gamboa de Baixo to the community, as can be seen from the georeferencing resulting from the calculations and prenotations of the polygonals. [3] when it moved the name and cultural identity of Gamboa de Baixo to the area of the high-standard nautical development Bahia Marina and Solar do Unhão with the implementation of a new mooring by the Prodetur Program - IDB [29].

In this regard, there is a public record under registration number 15,608 of the Federal Union (5th office) corresponding to a perimeter of 1,320m² of marine area around the São Marcelo Fort (high seas) that extends as far as Avenida Lafayette Coutinho, exactly in the Bahia Marina development. From this point onwards, according to residents, there are notations indicating violent dispossession of the estate donated to the Benedictine Order of Bahia in the 17th century [25] (see case no. TJ- ADM-2020/42697) With the exception of Solar do Unão, which was expropriated by the

Bahia State Government and never registered as a deed using registration no. 15.608, according to information from the Brazilian Navy's Sea and War Captain. SPU/BA process no. 5080.020282-15.

The registration was used in another act carried out by the Federal Government for Contract BOOK BA 012- PN, registered with the 5th RI (process no. 10154.119903/2019-81/04941.000717/2005-03), which amounts to R\$20 million in favour of Salvador City Hall, which registered RIP (public property registration) in another national registry of individuals (CNPJ), which characterizes a multiplicity of contracts. In effect, the São Paulo da Gamboa Fort, which today has no teleological basis and is intended to be used as a community museum and fish market, whose process is being kept secret by IPHAN, is excluded. According to IPHAN, the Fort is an individually classified monument under process no. 0155-T-80, inscribed in the Fine Arts Book under no. 90 and no. 50 in the Historical Book, both on 24.02.1938.

In the end, the Captaincy of the Ports of Bahia, an agency of the Brazilian Navy, promoted a retrofit with examination and blocking of the project for section 01 on Av. Lafayette Coutinho, s/nº Gamboa of the Solar do Unhão Historical Monument, after registrations 15.608 and 39.956 (4th and 5th Offices) were closed by court decision of the Capital's Public Registry Court.

As for the Bateria de São Paulo da Gamboa Fort Monument, which is characterized as an open fortification with a polygonal layout, built of stone and lime masonry, with an irregular quadrilateral shape that is not very wide and is quite long, it is under the guardianship of the Brazilian Army (TECHNICAL NOTE No. 563/2019 COTEC IPHAN BA/IPHAN BA and Dispatches No. 526 SEI1390962 and No. 54360/2019 SEI 1378208). [30].



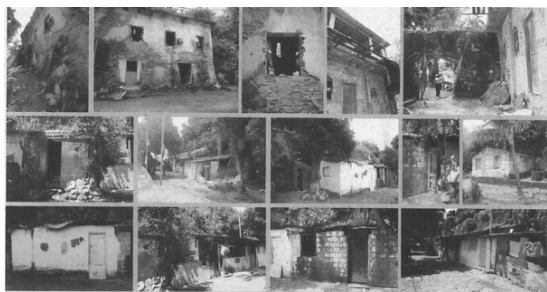


Figure 6 - Illustrative mosaic of the Fort in 2014  
(Source: Zanolli UFBA, 2014 - SEI0042082)

The gentrification of the residents of Forte de São Paulo was the main reason for the Public Prosecutor's action, which was the basis for waiving the call for tenders, according to Technical Note 563/2019/COTEC IPHAN-BA/IPHAN-BA. However, they were excluded from the ZEIS 5 regularization contract signed between the Federal Government and Salvador City Hall to carry out a preliminary project donated by the Federal University of Bahia in an area not belonging to the government, according to document analysis (case no. TJ-ADM-2020/42697 and Official Letter 265/219 GABIN) [30]. In , a social housing project entitled anteprojeto UFBA proposes the decatization of the Heritage and could promote the definitive disappearance of the stone and lime buildings from the ruins, in conflict with § 4 of Art. 216 of the Brazilian Federal Constitution and international diplomas.

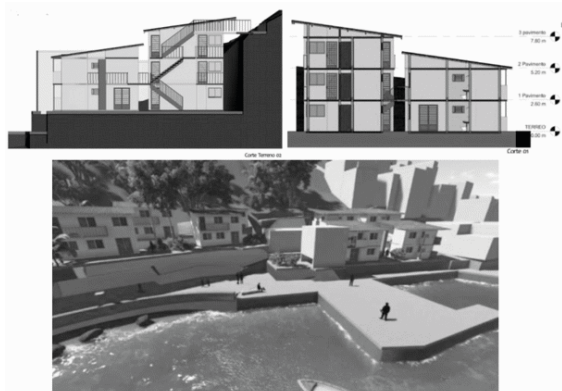


Figure 7. Perspective of the ZANOLI/2015 project to the detriment of the stone walls of the Port of Gamboa

In the center figure 7 you can see a concrete structure to serve as the base of an inclined plane [16], the design of which was donated to the residents' association. The *animus donandi* is an important point in retrofitting projects because it reinforces the concept of social inclusion, but it brings with it many responsibilities and legal and social problems that must be observed in the light of Brazilian law and finance [31] where associations of protest movements need to have legitimacy and transparency. [32]

Still on the subject of social responsibility, the last ten years have seen huge investments from the CHS World Heritage site and the BTS Bay protection zone, namely R\$900,000 reais (proposal 63 PAC) for the requalification of the pedestrian path between the Museum of Modern Art and Solar do Unhão; R\$5 million reais (proposal 64 PAC) for the restoration of the Forte de São Paulo da Gamboa, according to Ministerial Order 383 of 20.08.2013. In addition to these, the Inter-American Development Bank's Prodetur Program is worth around R\$400 million, as well as USD\$1.9 million from the United Nations Program - UNDP for studies of the heritage of the CHS which, however, it was not possible to find bibliographical references resulting from the application of resources Project BRA/12/008 [33].<sup>12</sup>

Finally, with regard to the Public-Private Partnership (PPP) for the construction of the Salvador Ilha de Itaparica Bridge, with resources in the order of R\$7.3 billion from the Chinese consortium, there are no social responsibility actions for local communities in need, nor is there an impact assessment report for the Cultural Heritage in the UNESCO protected area. And although the Inter-American Development Bank has financed feasibility studies, implementation and the requalification of nautical infrastructures in Todos os Santos Bay through loans granted to the state, China has gone ahead and made agreements with the

12. As of the publication of this study, the competent authorities have not sent the research and evidence requested.



local government for land purchases, the construction of a sustainable city (Ponta dos Gacez) and construction and exploitation the longest bridge over water in Latin America (12.4 km long), with an investment of around 10.4 billion reais by the same company that built the Hong Long-Macau-Zhuhai bridge in Macau<sup>13</sup>.

All the information in this article was obtained and taken from official reports and documents provided by the Access to Information Law, No. 12.527, of November 18, 2011, and the Electronic Government Information System for external users. [30]

## CONCLUSIONS

In times when there is a global call for greater inclusion and recognition of diversity and a critical examination of the past and planning practices for the future of cultural heritage, in addition to the omission of certain narratives that privilege certain stories over others [21] This work aims to address controversial stories and complex situations, avoiding biased views, interpretations and assumptions that could manipulate protest movements and reduce the degree of protection of Cultural Heritage, whose academic currents should not be a “string of crabs” without confronting narratives tied, because the truth can only be seen by connecting the sources and documents researched.

Today, there is a “*collective dimension and private or public-private management accompanied by obligations of healthy informational transparency, with accountability practices embodied in annual Activity Reports, shared with everyone and for everyone*” [31] and there should be no more room for violent bulldozing and abusive gentrification very much based on the complex past of Portuguese influence in Bahia, especially in areas of symbolic value and memory such as the UNESCO World Heritage CHS.

13. Interview the governor Governor State Jerônimo Rôdrigues. Available at: [para-construcao-de-equipamento-entendahttps://www.bahianoticias.com.br/noticia/303109-consorcio-responsavel-por-ponte-salvador-itaparica-muda-empresa-](https://www.bahianoticias.com.br/noticia/303109-consorcio-responsavel-por-ponte-salvador-itaparica-muda-empresa-). Accessed on 15.04.2025.

14. Available at: <http://mapa.onr.org.br>

It is the responsibility of the state to promote policies of transparency, education and equity, innovation, digitalization and *accountability* in the context of cultural heritage, whether by the state (central and local administration) in the supervision and monitoring of compliance with the standards proposed by international conventions and compliance with sharing through the management and enjoyment of cultural heritage, or by the actions of the representative community, in charging governments, welcoming tourists, the enjoyment of society in general and respect for public and private heritage.

It's no coincidence that Law No. 13,465/2017 created a National Land Registry Operator, offering a digital map<sup>14</sup> that distinguishes between the areas under the jurisdiction of land registry offices and the areas managed by the Federal Government (SPU). These are clearly identifiable on the official maps of the Real Estate Registry, as they are duly marked with the Brazilian flag, which facilitates their delimitation and identification, such as the Solar do Unhão property, RIP no. 3849000048356, whose mooring is in the process of being retrofitted by the Brazilian Navy due to the lack of documentation and registration expropriation by the Bahia State Government, according to Process no. 5080.020282-15 (NUP/AGU 00432.005871/2014-43).

The economic and tourist development of the city of Salvador and the Blue Amazon is very important. However, unless there is a better judgment, violating rights, freedoms and guarantees and promoting the de-characterization of what had been determined in the inscription on the Cultural Heritage List (Decision 39 COM 11), constitutes a potential danger when the CHS World Heritage Site and its community is facing serious threats that could have a detrimental effect on its essential

characteristics and therefore constitute threats to its World Heritage status because there are concrete management problems, tacit modification of the statute and legal norms that could reduce the degree of protection of the classified property involving imbroglia in the buffer zone (land grabbing) and threats arising from regional development projects and urbanization plans with deviating objectives, in addition, there are armed conflicts, expropriation and land regularization without financial compensation, climatic and geological factors such as floods and high tides. These problems are clearly perceived and experienced in the locality of Gamboa de Baixo in the sub-district of Vitória in the CHS of Bahia, due to the lack of basic infrastructure, good practices and effective public policies.

What can be gleaned from this study is that the management of these spaces also follows different logics and that the Royal Order leaves no room for doubt that gamboas and igarapés do not comprise navy land, such areas (of navy) are assets administered by the Union Patrimony Secretariat (SPU), which oversees their occupation and charges fees such as *laudemium* in cases of transfer of rights. Gamboas, on the other hand, when they fall within

Permanent Preservation Areas (APPs), are regulated by environmental and municipal bodies such as IBAMA, INEMA and the city hall.

In the specific case of the area of gamboas “buried” by the construction of the Avenida Contorno road, which in 1962 defined the boundaries of the neighborhood between Gamboa de Baixo and Gamboa de Cima, the plots were demarcated back in 1544, with the social function of the Charters granted by the King under the Sesmarias system for planting, cultivation and fishing [35]. These practices are rarely practiced in the area today as a result of fishing bureaucracy, real estate speculation and the unbridled development of tourism in the Blue Amazon.

Finally, from the point of view of this study, it is necessary to make good use of the increasingly scarce natural and financial resources, with special care in the preparation of projects and studies that could lead to decisions that reduce the degree of protection of cultural and natural heritage and violate rights, freedoms and guarantees, and in this regard, society and protest movements should harmoniously promote debates drawing UNESCO’s attention to any loss of essence, violence and destruction of heritage.

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