

The Dilemma and Direction of Breakthroughs of Current Legislation on Conservation of Classical Chinese Gardens in Jiangnan Region

Yiyan Hu

University of Bath, Claverton Down, Bath, BA2 7AY, United Kingdom

YiyanHu@outlook.com

Abstract. Against the backdrop of the demands and challenges of economic development on classical gardens in Jiangnan, this study aims to investigate the deficiencies of the current laws on classical gardens in Jiangnan and identify solutions to improve them. It is found that there needs to be more specific laws to protect classical gardens in Jiangnan, an imbalance between public and private interests, and a need for regional characteristics in the local laws. The paper also explores ways to address these shortcomings through case studies. This paper will therefore analyse the conservation of classical gardens in Jiangnan from a different legislative perspective than the conventional one, namely the aesthetic value of these gardens.

Keywords: classical Chinese gardens; conservation legislation; Jiangnan region; property rights.

1. Introduction

Inevitably, the increasing rate of urbanisation over the past several decades has impacted urban heritage (ICOMOS, 2011). Conservation policies and laws for heritage sites need to be adapted to the pressures and challenges such as those related to the environment, social and human development and globalisation of development (ICOMOS, 2011). Gardens, as part of urban heritage, carry the history and memory of the region and are a common heritage of human culture (ICOMOS, 1964). Specifically, the classical gardens of Jiangnan, China, which constitute the essence of Chinese classical gardens, are emblematic of oriental gardens (Tong, 2014). Despite the improvement of policy and the growth of research on urban heritage conservation since becoming a member of ICOMOS, the conservation of classical gardens in Jiangnan is still insufficient due to the lack of specific heritage legislation, the inability to balance public and private interests, and the lack of regionally specific legislation.

According to Congzhou Chen (2012), 'Jiangnan gardens are the best in the world'. The Jiangnan region consists primarily of the southern portions of Jiangsu and Anhui, as well as the Taihu valley in northern Zhejiang (Li, B., 1998). Jiangnan gardens also refer to the historic private gardens in southern Suzhou and northern Zhejiang that are better preserved (Yang, 2022). The natural circumstances, history of economic development, and cultural history of this region have inspired a distinctive approach to garden design in this area (Yang, 2022). Jiangnan is located in hilly terrain, with a chain of mountains and a network of rivers, making it a natural element from which to draw inspiration for the design of gardens in Jiangnan. Since the completion of the Beijing-Hangzhou Grand Canal in the Sui Dynasty, China's economic centre of gravity has gradually shifted southwards, resulting in the gathering of dignitaries and wealthy merchants in the Jiangnan area, and the accumulation of wealth has driven the practice of numerous garden arts, resulting in an ever-improving standard of garden creation in Jiangnan. A profound cultural heritage contributed significantly to the singularity of Jiangnan's gardens. Consequently, even though the conservation of Western gardens is more developed and has been refined through trial and errors, it cannot be applied universally to the preservation of gardens in the Jiangnan region. (Figure 1)



Figure 1 The geographical extent of Jiangnan (Zheng, 2013)

The declining number of gardens in Jiangnan and the rising number of inferior imitations are indicators that China is not conserving its gardens adequately. “Liberty is a right of doing whatever the laws permit”(Cohler, Miller and Stone, 1989). Frequently, laws regulate behaviour, and similarly, laws and regulations can direct the preservation of gardens. Nevertheless, based on Scopus and Web of Science index records (generated by searching for: Historic or classical and garden and Chinese and not park), 102 papers and 93 papers reflect that research on classical gardens in Jiangnan and even Chinese classical gardens over the years has primarily centred on technical exploration and design aesthetics, with only one paper discussing laws and regulations and garden conservation. (Figure 2)

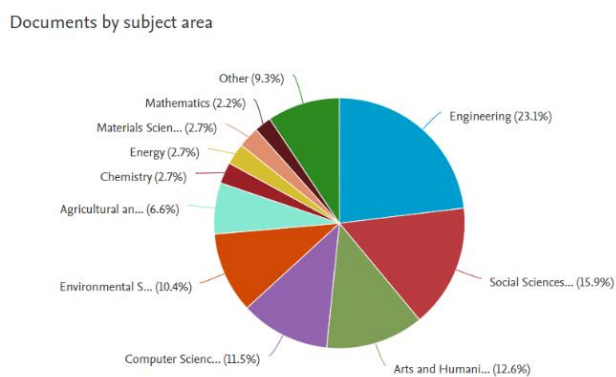


Figure 2 Pie chart of keyword search results by research area (Scopus)

This Essay begins with an observation of the current state of garden conservation in Jiangnan, analyses the reasons for the deficiencies of legislation on the preservation of gardens in Jiangnan, and, using case studies, seeks ways and methods to improve legislation on the conservation of classical gardens in Jiangnan.

2. Current state Existing legal achievements related to cultural preservation

The development of heritage conservation in China has achieved some positive results. In the 1980s, the Chinese Cultural Relics Protection Law was promulgated, the first regulation regarding the management of cultural relics in the legal sense in China. It mandates that cultural treasures such as ancient cultural sites, ancient tombs, and ancient buildings be preserved by the country by establishing various levels of historical and cultural sites. In 1985, China joined UNESCO and became a member of ICOMOS. During this period, a succession of 62 national historical and cultural

cities and 570 historical and cultural sites were established, providing support for later preservation efforts. As typical gardens of Jiangnan, the Garden of the Master of the Nets, the Lingering Garden, and the Humble Administrator's Garden have been included on the World Heritage List. (Figure 3)

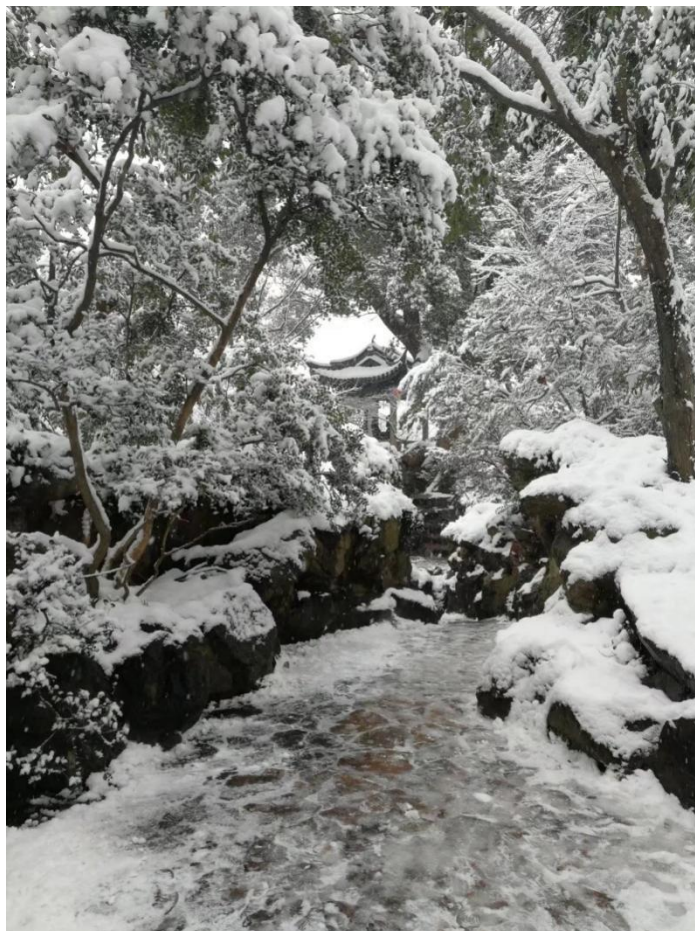


Figure 3 Jichang Garden (Wuxi), which is listed as a historical and cultural site (author).

As the pace of economic development accelerated at the turn of the 21st century, as did the necessity for historic protection, and the establishment of China's conservation principles became a consensus among practitioners. In 2002, the "Principles for the Conservation of Heritage Sites in China" document was issued, adopting the predominant international conservation philosophy.

China has gradually established a more comprehensive and detailed conservation system, including a three-level heritage conservation hierarchy at the world level, national level, and local level, and a three-level conservation planning system for historic and cultural cities, historic and cultural towns, and historical and cultural sites, as a result of continuous institutional improvement and practice (Xie, Gu and Zhang, 2020).

Nonetheless, the Jiangnan Gardens are still not adequately preserved by these steadily strengthening conservation regulations, as the number of gardens in Jiangnan has been declining in recent years, and unreasonable renovations have not been completely halted.

3. The dwindling number of gardens in Jiangnan

The number of Jiangnan gardens has been declining in recent centuries, even in Suzhou, the city synonymous with Jiangnan gardens. According to the "Suzhou Prefectural Records" of the Tongzhi Period (1862-1875), there were 271 private gardens in Suzhou's old town during the Ming Dynasty (1368-1644) and over 130 during the Qing Dynasty (1636-1912) (Zhang and Li, 2018). In 2009, according to the Suzhou Institute of Garden Heritage Conservation's Third Survey of Classical Gardens in Suzhou, there were 73 classical gardens in existence. According to the most recent

"Suzhou Garden List" produced by the Suzhou Garden Bureau, there are 59 well-preserved classical gardens in Suzhou (City Business News, 2015; Gusu Evening News, 2016). (Figure 4)

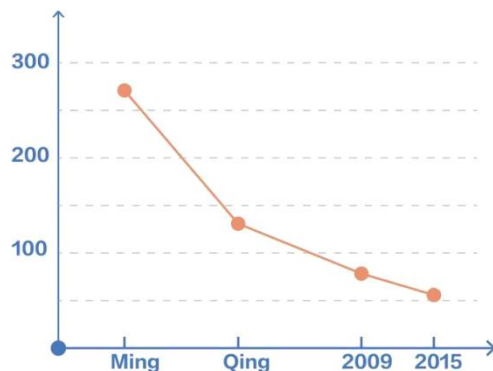


Figure 4 The dwindling number of gardens in Jiangnan (author)

4. Demolition of real ancient gardens to construct replicas

The Opinions on Strengthening Historical and Cultural Protection and Inheritance in Urban and Rural Construction issued by the General Office of the State Council of China in 2021 state that large-scale demolition, demolition of ancient gardens to construct replicas, and fakery should be prohibited in urban renewal, indicating that demolition of ancient gardens to construct replicas has become a widespread problem since China's economy began to pursue rapid growth. In some cases, the original historic gardens have been replaced by larger, commercially recreated reproductions, while some of the replicas may not suit the context, leaving these locations losing the original flavour and authenticity of the gardens (ICOMOS, 1994).

The popular garden called the Hu Family Garden suffered demolition in the 21st century. "The Hu Family Garden," popularly known as "Yuyuan Garden," is a renowned classical private garden constructed in 1899 in Nanjing, Jiangsu Province, Jiangnan region (Gu, 1990). The garden was originally modelled after the Lion Grove in Suzhou, as the owner had been an official in Suzhou in his early years and was a great admirer of Suzhou gardening techniques (Chen, C., 2008). Part of the structure was damaged in a fire in 2011, but the foundations and tiling remained relatively intact, and after restoration, it primarily existed as a public park (Wang, 2013). However, the renovation and reconstruction process did not adhere to the principle of respecting the originality of the garden, as the vegetation was altered, the remaining bricks and tiles were not fully utilised, and a portion of the original layout was discarded or changed based on the designer's subjective assessment (Chen, W., 2016).

5. Legal Gaps in Heritage Garden Conservation

In China, the loss of these heritage monuments is mainly attributable to the absence of rules about the conservation of classical gardens. The absence of explicit legislation makes it simpler for developers to unrestrictedly create and alter classical gardens.

In contrast to the protection of historic structures, which has received a great deal of attention and development since the Athens Charter (1931), the concept of conserving historic gardens is not well-developed. The first International Symposium on the conservation and restoration of historic gardens was held in Fontainebleau (1971) when the notion of historic gardens was formalised (Silva and Carvalho, 2022). The Florence-named Charter of the Conservation of Historic Gardens was adopted as the first official instrument on the conservation of historic gardens in 1982, bridging a gap in the World Heritage conservation system for historic gardens (ICOMOS, 1982).

To keep the classical garden alive, numerous countries have researched and documented ancient gardens and improved their conservation methods over time. To increase awareness of historic

gardens, Historic England established the Register of Parks and Gardens of Special Historic Interest in England in 1983, which has since grown to include almost 1600 sites (Historic England). In recent years, a database of approximately 17,000 European gardens in France, Portugal, Belgium, and the United Kingdom has been compiled by the Institut Européen des Jardins & Paysages (Institut Européen des Jardins & Paysages). The Law for the Protection of Cultural Properties of Japan, which was revised in 2011, defines and categorises the Landscape of Cultural Significance. In China, however, the administration of traditional gardens and the passage of legislation are still unclear. China declared the establishment of the first 180 national historical and cultural sites in 1961. China's fixed-location cultural property is categorised as revolutionary sites, cave temples, ancient buildings and historical monuments, stone carvings, ancient ruins, and ancient tombs (National Cultural Heritage Administration). Of a total of 77 ancient buildings and historic monumental buildings, only five historic gardens, including the classical gardens of Jiangnan, are listed. Included in the categories of ancient and historical structures are temples, pagodas, historical works, palaces, private mansions, and bridges, among other structures. According to the eighth batch (most recent) of national historical and cultural sites published in 2019, the classification for historical and cultural sites has changed little over the past 60 years, changing from ancient and historical monumental buildings to ancient buildings without further refining the types of buildings included (State Council, 2019). According to the classification of local records of cultural relics in different areas of Jiangnan (Wuxi, Hangzhou, Nanjing, Suzhou, and Ningbo) (Figure 5), there is no unique classification for classical gardens except in Nanjing and Suzhou, where specific records for classical gardens exist. Article 2 of Chapter 1 of the

Chinese Cultural Relics Protection Law states that ‘ancient cultural sites, ancient tombs, ancient buildings, cave temples, stone carvings and murals with historical, artistic, and scientific value’ are cultural relics under national protection, indicating that there is no specific classification for historical gardens in China at the legal level of cultural relics protection (Standing Committee of the National People's Congress, 2017). Regarding local legislation, while Suzhou has established legislation for the conservation and administration of classical gardens, such measures to establish specific types of conservation regulations to conserve classical gardens are uncommon in Jiangnan. Jiangsu and Zhejiang provinces' regulations on the protection of cultural relics have expanded the range of protection by adding county, municipal, and provincial protection sites, but the classification of protection has not been further refined. In terms of relevant legal regulations, Article 2 of Chapter 1 of Regulations on Scenic and Historic Areas defines scenic spots as ‘areas with ornamental, cultural or scientific value, with a relatively concentrated natural and humanistic landscape and a beautiful environment, which can be visited by people or used for scientific or cultural activities’, and Zhejiang and Jiangsu, the two provinces in the Jiangnan region, have included gardens in their local regulations on scenic spots (State Council, 2016).

City	Classification
Nanjing	Ancient cultural sites, cities and towns, buildings from the past (public buildings, residential buildings, religious buildings, monumental buildings, classical gardens and places of interest, military sites), tombs and stone carvings (inscriptions, workshop sites)
Suzhou	World Cultural Heritage, Intangible Cultural Heritage, Historical and Cultural Cities, Historical and Cultural Districts, Historical and Cultural Towns, Classical Gardens
Hangzhou	Ancient ruins, ancient kiln sites, ancient tombs, temples, pagodas, grottoes, inscriptions, buildings and tombs commemorating the popular struggles of the past and the modern revolution, historic buildings, the former residences of famous people and famous academies, ancient wells, ancient springs
Wuxi	Recent historical monuments and revolutionary memorial buildings, ancient tombs, ancient sites, ancient buildings and historical memorial buildings
Ningbo	Ancient sites and burials (kiln sites, ruins, burials), historical monuments (religious buildings, private buildings, historical memorial sites, other structures), former sites and memorial buildings (former sites, memorial pagodas and martyrs' graves), stone carvings (stone sculptures, inscriptions)

Figure 5 Classification of local records of cultural relics in different areas of Jiangnan (author)

Apart from the absence of a clear specific law for the protection of historic gardens, the laws and regulations mentioned above, except for the Law on the Protection of Cultural Relics, are all administrative norms formulated by various functional departments (Hu and Wang, 2010). Consequently, the legal norms formulated by different departments suffer from inconsistent protection standards and poor operability. The establishment of many ministries has resulted in overlaps of powers in cultural heritage management, making it impossible to create a united agency to enforce the law when classical gardens are damaged (Figure 6). In addition, certain legislation that has been enacted is insufficiently detailed, and some legislation does not have a clear mandate and attribution of responsibility, making it difficult for the law to serve as a significant aid in the preservation of classical gardens. Shanghai Regulations on the Protection of Historic Areas and Outstanding Historic Buildings, for instance, states that owners who fulfil their repair obligations may apply for financial assistance from the government; however, the sources and amounts of funding are not clearly defined, making it difficult to implement financial assistance and unable to fully protect the personal interests of garden owners, which is not conducive to the long-term maintenance of classical gardens.

Heritage Sites	Competent authorities	Main legal and regulatory basis
World Heritage	Construction, Heritage and Education Department	World Heritage Convention (1972)
Scenic and Historic Sites	Ministry of Housing and Urban-Rural Development	Regulations on Scenic and Historic Areas (2016)
Famous Historical and Cultural Cities, Towns and Villages	Construction and Heritage Department	Cultural Relics Protection Law (2017)
Cultural Relic Sites	Heritage Department	Cultural Relics Protection Law (2017)

Figure 6 Competent authorities and relevant laws and regulations for heritage sites in China (author)

The classification of heritage lists, local records of heritage, the definition of classical gardens in various statutes, and legal normative issues indicate that China lacks specific laws and regulations for the conservation of classical gardens.

6. The imbalance between public and private interests

The imbalance between public and private rights and interests in China's rules and regulations for Jiangnan's historic gardens is also one of the reasons why the heritage of gardens is not sufficiently protected.

Article 31 of the Urban and Rural Planning Law stipulates that for the renovation of old urban areas, the historical cultural heritage and traditional style shall be protected, and the scale of demolition and construction shall be determined reasonably, indicating that in urban planning and management, the law requires that the protection of historical and cultural heritage be emphasised in urban renewal and development (Standing Committee of the National People's Congress, 2019). Article 33 of the Regulation on the Protection of Famous Historical and Cultural Cities, Towns and Villages states that 'the owner of a historic building shall be responsible for the maintenance and repair of the historic building in accordance with the requirements of the protection plan, and no institutions or individual shall damage, relocate or demolish the historic building without permission,' a provision that limits the owner's obligations and places restrictions on the owner's alterations to the building. Local regulations for the preservation of historic structures impose further constraints on owners' actions (State Council, 2017). Article 24 of the Rules for the Implementation of the Regulations on the Protection of Historic Areas and Historic Buildings of Hangzhou stipulates that owners of representative historic buildings shall not alter their external appearance, main plan layout, characteristic structure, or construction; Article 28 stipulates that no new or expanded structures shall be built within the protection surrounding area; and Article 29 stipulates that the nature of the use of historic buildings shall not be altered; moreover, Article 36 requires that outdoor ads, signboards, external air-conditioning units, canopies, and other exterior facilities must be harmonised with the appearance of the historic cultural area when installed on historic buildings inside the historic cultural area (Municipal Housing Support and Building Administration Bureau, 2013). Article 36 of the Shanghai Regulations on the Protection of Historic Areas and Outstanding Historic Buildings stipulates that the owner of a historic building shall repair the building promptly by the specific conservation requirements of the building or the requirements set out in the census; and if the owner fails to fulfil the repair obligations and the circumstances are serious, the relevant authorities may take note of the building; as well as the owner shall be responsible for the restoration and maintenance of the historic building and shall bear the associated costs, and the owner who complies with the repair responsibilities may apply to the government for financial help. These restrictions have had a favourable impact on the preservation of historic structures, but they restrict the rights of property owners and disregard their interests.

From the provisions of various laws, the owners of historic buildings are restricted in their use of the buildings and cannot change the nature of the houses, such as converting them into commercial buildings. This makes it difficult for the owners of historic buildings to gain benefits from the historic buildings, and the loss of such benefits does not obtain sufficient legal attention or compensation. On the other hand, the law imposes on the owner the obligation to repair the historic building, which, while achieving the protection of the cultural heritage, results in the loss of the owner's fortune.

The classical gardens of the Jiangnan region, as historically private gardens, are still partly privately owned today. As a result of the private nature of the property, the owner desires to maximize the benefits of the property rights, while the government desires to preserve the historic building by limiting the exercise of the property rights, producing a conflict between public and private interests.

7. Lack of local distinctiveness in legislation

One reason why classical gardens in the Jiangnan region are not well taken care of is that there are not enough laws in the area that fit the needs of classical gardens there. Vertically, there are overlaps between superior laws in the selection of the categories of laws and regulations about the conservation of historic structures, as well as in the content of the laws. Horizontally, there is a great deal of overlap between the content of various local laws and regulations in the Jiangnan region and those of other

regions. However, as mentioned earlier, classical gardens in Jiangnan are unique among classical Chinese gardens, and legislation without distinguishing characteristics cannot adequately protect the characteristics of classical gardens in Jiangnan. (Figure 7)

Regulation topics	Zhejiang	Jiangsu	Anhui	Shanghai
Regulation of the Protection of Cultural Relics	√	√	√	√
Regulation on the Protection of Famous Historical and Cultural Cities, Towns and Villages	√			√
Regulation on Scenic and Historic Areas	√	√		

Figure 7 Choice of topics for laws relating to the conservation of classical gardens in the Jiangnan regions (author)

8. Case study The Law for the Protection of Cultural Properties

The Law for the Protection of Cultural Properties (hereinafter referred to as LPCP), a cultural heritage protection law enacted in Japan in 1950, has guided the formulation of the law on the protection of classical gardens in Jiangnan, as Japanese culture shares the same origin as Chinese culture and also possesses a rich heritage of classical garden culture, and this act better addresses the issues of management of garden heritage protection category and the balance between public and private interests, providing a The Act provides for more systematic protection of Japanese classical gardens. Japanese legislation on the protection of cultural heritage dates back to the 1871 Proclamation for the Protection of Antiques and Old Properties, but after World War II, the Japanese public gradually lost interest in traditional architecture due to the economic crisis and the negative emotions generated by Japan's defeat. In 1949, a fire at Horyuji Temple, the oldest wooden structure in Japan, sparked a revived awareness of the significance of cultural heritage protection and prompted the enactment of the LPCP (Kakiuchi, 2014).

The LCPC provides a specific classification for classical gardens. The LCPC classifies Japanese cultural heritage as tangible cultural property, intangible cultural property, folk cultural property, monuments, cultural landscapes, and traditional architectural ensembles, with classical gardens designated under Article 2 as monuments (Japan 204th Congress, 2021). It is worth mentioning that the LPCP also protects as folk cultural property the garden construction practices that have been passed down through generations. The explicit legal classification permits improved identification of authorized subjects when classical gardens are protected and avoids inconsistencies in enforcement standards resulting from cross-legislation.

The LCPC also maintains a reasonable balance between public and private interests. Article 111 of the Act stipulates that the conservation of monuments must be conducted with due regard for the property rights of the owners and in harmony with the public interest (Japan 204th Congress, 2021). Article 116 of the Act states that the costs of management and restoration will be borne by the management body when it is in place, and article 117 states that the owner shall be compensated for any damage caused by the management body's management or restoration efforts. When there is no management body, i.e. the owner does the management himself, if the cultural authorities feel that the monument needs to be restored, they will inform the owner, and the State Treasury will shoulder the upkeep costs(Japan 204th Congress, 2021). In terms of reuse adaptation, article 125 of the Act provides for the option of adaptation to the extent permitted by the cultural sector (Japan 204th Congress, 2021). With the support of these legal provisions, the owner's property and renovation rights are better protected, and guidance is provided regarding the extent to which classical gardens may be modified for reuse.

However, the LCPC is not without flaws. In the absence of a clear budget for the costs of cultural property protection, the state treasury is generally unable to provide sufficient funding for the protection of cultural property (Kakiuchi, 2014). Despite the fact that the LCPC already protects folk cultural property, such as classical garden construction techniques, the current approach of separating monuments and folk cultural property protection does not provide clearer guidance on this combination, as classical gardens are a type of cultural property that combines intangible and material culture.

LCPC protects classical gardens by precisely classifying gardens, safeguarding the owner's property interests, and preserving the owner's rights in rem in order to strike a balance between public and private interests.

9. Suzhou Garden List

As an example of garden management in the Jiangnan region, the Suzhou Garden List is an additional case that could serve as a guide for legislation for the preservation of Jiangnan gardens. Suzhou is the city with the largest number of gardens in the Jiangnan region, and as can be seen from the above, the number of gardens in Suzhou has been decreasing over the past century (China Construction News, 2019). In order to begin a systematic conservation of gardens, the Suzhou government began compiling a list of gardens in Suzhou in 2015; to date, 108 have been included. The first and second batches of the list comprise a total of 59 classical gardens within Suzhou before the 20th century, while the third and fourth batches include modern gardens from the 20th century onwards (City Business News, 2015; Gusu Evening News, 2016).

Suzhou has preserved its classical gardens by increasing public participation, enhancing relevant laws, and offering financial support. In the nomination of the list, Suzhou not only organised professionals to undertake field study but also organised media campaigns and interviews to improve the list through recommendations and self-nominations from all sectors of society (Suzhou Justice Bureau). Jiangsu has also strengthened the management of the protection of classical gardens by revising the Regulations on the Protection and Management of Suzhou Gardens and enacting laws and regulations such as the Suzhou Garden Management Code. In terms of financial subsidies, Suzhou has created the Measures for the Use of Funds for the Conservation of Suzhou Gardens, under which the government would subsidise and reward the restoration and administration of classical gardens with financial resources (China Xinhua News, 2018). In addition, Suzhou promotes culture-driven tourism to enhance the garden's experiential offerings and revitalise its resources so as to preserve its culture.

The Suzhou Garden Inventory has achieved systematic management and conservation of classical gardens in the Jiangnan region by establishing a specific list of gardens, supplementing, and enhancing pertinent legislation, increasing financial expenditures on garden conservation and management, and boosting public participation.

10. Directions of breakthrough

10.1 Establishment of specific legislation

As mentioned previously, the gardens of Jiangnan, which are unique in the history of Chinese gardens, are distinct from other historical structures and, as such, special legislation should be set up for them. In China, there are no particular regulations for the gardens of Jiangnan; nonetheless, Regulations on Scenic and Historic Areas, Cultural Relics Protection Law, Regulation on the Protection of Famous Historical and Cultural Cities, Towns and Villages and other related laws advise each other and the conservation and reuse of the gardens of Jiangnan; however, these laws, which are not specific to classical gardens, do not provide sufficient protection for these gardens.

The classical garden is unique from other architectural spaces in that it combines natural and cultural heritage, biodiversity and cultural variety (Conan, 2009). The definition of historic gardens

as "living monuments" in the Florence Charter makes it hard to fully refer to the legislation governing the protection of historic buildings. In contrast to historic buildings, where time typically refers to the deterioration of materials and structures, in gardens with predominately biological colours, time reflects the non-anthropogenic transformation caused by the growth and evolution of life. The gardens of Jiangnan are characterised by elements that reflect literature and history, such as borrowed scenery, variations in light and shadow, aural landscapes, and landscaping. Based on these characteristics and the definition of intangible cultural heritage in the Convention for the Safeguarding of the Intangible Cultural Heritage (2003), classical gardens often place between tangible and intangible heritage, and regulations for the preservation of classical gardens should be developed separately from explicit tangible heritage, such as historical buildings or scenic sites (Dreijer, 2012).

The lack of legal protection for classical gardens in Jiangnan can be remedied by integrating legislative channels, unifying management organisations, and developing rules and regulations expressly for the protection of gardens. To address the overlap of laws and regulations, the overlapping powers of management bodies and the lack of clarity in the assignment of responsibilities, legislation on the conservation of classical gardens can be consolidated through the establishment of a single department or a single legal framework. This could be accomplished by incorporating classical gardens in a distinct conservation category and designating one or multiple departments to oversee them, as in the Japanese Law for the Protection of Cultural Properties, or by creating a specific statute for classical gardens, as in Suzhou.

10.2 Balancing public and private interests

Historically, the majority of classical gardens in Jiangnan were private gardens, and some of the buildings are still privately owned today. For instance, the first and second batches of the Suzhou Garden List show that five of the 59 classical gardens are privately held (City Business News, 2015; Gusu Evening News, 2016). Therefore, the preservation and administration of classical gardens in Jiangnan should take into account both their cultural and historical significance and the owners' interests.

The establishment of legislation on funding for the conservation of classical gardens and the rationalisation of funding for the maintenance and management of classical gardens will increase the motivation of owners to participate in the protection of classical gardens and lead to their preservation. The objective of the law on classical garden conservation funds is to explain the subsidies' purpose, scope, and source, clarify who is authorised to perform restoration work, and make it easier for owners or the general public to identify the responsible parties. Due to too many legislative bodies and cross-administration, the funding source cannot be adequately resolved under the current rules and regulations. Therefore, in the subsequent protection of classical gardens in Jiangnan, the head of funds should be clarified, as well as how the funds are allocated, such as what percentage of the funds come from social welfare organisations, what percentage of the government's financial support, what percentage of the funds are invested in the restoration of classical gardens, and what percentage is invested in the management of classical gardens.

However, while protecting the private interests of owners, a system of punishments should be implemented to deter vandalism in order to protect public cultural resources from destruction.

10.3 Enhancing public participation

Enhancing public participation is another way to improve the legislation with local features and achieve the preservation of Jiangnan's traditional gardens. Although Chinese laws, such as the Regulations on the Protection of Famous Historical and Cultural Towns and Villages, stipulate that every citizen has the right to know the scope and planning scheme for the protection of cultural heritage projects, and government would advocate public participation in or understanding of cultural heritage protection work, the current status of cultural heritage protection legislation throughout the country demonstrates that local governments are still unable to do so (Li, J. et al., 2020).

The city's residents have a greater understanding of the city than its managers, and incorporating citizens' thoughts and feedback will improve the law's fitness for the preservation of classical gardens in Jiangnan. The restoration of the Shi Family Garden, a classical garden of the Qing Dynasty that was included on the first list of Suzhou gardens, took full account of interviews with local inhabitants about the garden, demonstrating that long-term residents had a deeper grasp of classical gardens (Famous City Suzhou, 2020).

When the law on the conservation of classical gardens is implemented, the Jiangnan area will be able to promote the legislative process' publicity and stimulate public participation in the legislative process. When the law is enacted, public feedback should be considered, and the law should be modified as necessary.

11. Conclusion

In conclusion, adding to the research on conserving classical gardens in Jiangnan, this paper concludes by analysing the current condition of classical garden conservation in legislation and proposing numerous ways to improve the preservation of classical gardens in Jiangnan.

Firstly, the decrease in the number of classical gardens in Jiangnan over the years and the problem of unreasonable refurbishment without proper management indicate that the conservation of classical gardens in Jiangnan is deficient. Following this is an analysis of the laws relating to the preservation of classical gardens in Jiangnan. It reveals that the absence of specific legislation, the imbalance between public and private interests, and the lack of regional characteristics in local regulations have prevented the protection of classical gardens in Jiangnan from being adequately protected at the legislative level. Finally, via case studies of the Japanese Cultural Property Protection Act and the Suzhou Garden List, and in conjunction with the deficiencies identified earlier. It is advocated that clarifying the classification of classical gardens in conservation legislation, balancing public and private interests, and enhancing public participation are approaches to enhance legislation on the conservation of classical gardens in Jiangnan. These inferences suggest that the classification of classical gardens should involve not only the establishment of special laws and regulations for them, but also the integration of legislative approaches and the clarification of responsible subjects to ensure no overlap of management responsibilities and no conflicting laws and regulations. The balance between public and private interests should fully protect the property rights of owners while simultaneously establishing a clear system of fines to deter the destruction of classical gardens. In the process of creating legislation and its implementation after adoption, the government may also consider public comments and opinions to create a law for the protection of classical gardens in Jiangnan that is more appropriate.

Despite the abundance of international research on the aesthetic values and gardening techniques of classical gardens in Jiangnan, there is still a dearth of research on the use of legislation to conserve classical gardens. However, this research examines only the basic framework for the legal preservation of traditional gardens in Jiangnan and does not go into specific details.

References

- [1] Chen, C., 2008. *Chen Congzhou's Garden Essays*. People's Literature Publishing House.
- [2] Chen, C., 2012. *Suzhou Garden*. Shanghai People's Publishing House.
- [3] Chen, W., 2016. Evolution and Reconstruction: Notes on the Project of Yuyan Garden in Nanjing. *Architectural Journal*, (9), pp. 96-101.
- [4] China Construction News, 2019. Suzhou: Careful conservation and restoration to create a new "City of 100 Gardens" card [Online]. China Construction News. Available from: <https://web.archive.org/web/20211215121302/http://www.chinajsb.cn/html/201905/27/3198.html> [Accessed 05 February].

- [5] China Xinhua News, 2018. 108 Suzhou gardens are listed and protected [Online]. China Xinhua News. Available from: https://web.archive.org/web/20211215122841/http://www.xinhuanet.com/politics/2018-08/08/c_129928940.htm [Accessed 05 February].
- [6] City Business News, 2015. The first 33 gardens were selected for the 'Suzhou Garden List' [Online]. City Business News. Available from: <https://web.archive.org/web/20211215121302/https://js.qq.com/a/20150815/010012.htm> [Accessed 05 February].
- [7] Cohler, A.M., Miller, B.C. and Stone, H.S., 1989. *Montesquieu: The spirit of the laws*. Cambridge University Press.
- [8] Conan, M., 2009. Gardens and landscapes: at the hinge of tangible and intangible heritage. *Intangible heritage embodied*, pp. 53-78.
- [9] Dreija, K., 2012. Historic gardens and parks: challenges of development in the context of relevant regulations, definitions and terminology. *Mokslas: Lietuvos Ateitis*, 4(2), p. 167.
- [10] Famous City Suzhou, 2020. The construction of the "City of 100 Gardens" will be completed and two new gardens will be opened to the public during the year! [Online]. Famous City Suzhou. Available from: <https://web.archive.org/web/20211215121253/http://news.2500sz.com/doc/2020/08/20/622249.shtml> [Accessed 05 February].
- [11] Gu, M., 1990. Exploration of Baixia Yuyuan. *Chinese Landscape Architecture*, (03), pp. 2-7+36.
- [12] Gusu Evening News, 2016. The second batch of Suzhou gardens list was officially released and 26 gardens were selected [Online]. Gusu Evening News. Available from: <https://web.archive.org/web/20211215122805/https://js.qq.com/a/20160527/029231.htm> [Accessed 05 February].
- [13] Historic England, Registered Parks & Gardens [Online]. Historic England. Available from: <https://historicengland.org.uk/listing/what-is-designation/registered-parks-and-gardens/> [Accessed 3 February].
- [14] Hu, B. and Wang, T., 2010. Stakeholder Analysis of Heritage Tourism Sites in China - Based on the Perspective of Management System Reform. *Guizhou Social Sciences*, (05), pp. 74-79.
- [15] ICOMOS, 1964. *The Venice Charter for the Conservation and Restoration of Monuments and Sites*. Venice: ICOMOS.
- [16] ICOMOS, 1982. *HISTORIC GARDENS (THE FLORENCE CHARTER 1981)* Florence: ICOMOS.
- [17] ICOMOS, 1994. *The NARA document on authenticity*. Nara: ICOMOS.
- [18] ICOMOS, 2011. *Recommendation on the Historic Urban Landscape, including a glossary of definitions*. Paris: ICOMOS.
- [19] Institut Européen des Jardins & Paysages, *EUROPEAN INVENTORIES* [Online]. Institut Européen des Jardins & Paysages. Available from: <https://europeangardens.eu/en/european-inventories-2/european-inventories/> [Accessed 03 February].
- [20] Japan 204th Congress of Law for the Protection of Cultural Properties (2021 Revision) [2021].
- [21] Kakiuchi, E., 2014. Cultural heritage protection system in Japan: current issues and prospects for the future.
- [22] Li, B., 1998. *Agricultural development in Jiangnan, 1620-1850*. Springer.
- [23] Li, J., Krishnamurthy, S., Roders, A.P. and Van Wesemael, P., 2020. State-of-the-practice: Assessing community participation within Chinese cultural World Heritage properties. *Habitat International*, 96, p. 102107.
- [24] Municipal Housing Support and Building Administration Bureau of the Implementation of the Regulations on the Protection of Historic Areas and Historic Buildings of Hangzhou [2013].
- [25] National Cultural Heritage Administration, Notice of the State Council on Announcing the List of the First Batch of National Key Cultural Relics Protection Sites [Online]. National Cultural Heritage Administration. Available from: http://www.gov.cn/guoqing/2014-07/21/content_2721152.htm [Accessed 4 February].
- [26] Scopus, Analyze search results. Available from: <https://www.scopus.com/term/analyzer.uri?sid=4afd15d654095dcfed6a2da462c1013c&origin=resultslist>

t&src=s&s=TITLE-ABS-KEY%28historic+or+classical+and+garden+and+chinese+and+not+park+%29&sort=plf-f&sdt=a&sot=a&sl=73&count=102&analyzeResults=Analyze+results&txGid=a5f54776e0beb46af9115c8e711f88ac.

- [27] Silva, S. and Carvalho, P., 2022. Historic Gardens Heritage in Portugal: From the Originality of an Art to the Inventory Process. *Sustainability*, 14(10), p. 5978.
- [28] Standing Committee of the National People's Congress of Cultural Relics Protection Law of the People's Republic of China (2017Revision) [Effective] [2017].
- [29] Standing Committee of the National People's Congress of Urban and Rural Planning Law of the People's Republic of China (2019 Amendment) [Effective] [2019].
- [30] State Council of Regulations on Scenic and Historic Areas (2016 Revision) [2016].
- [31] State Council of Regulation on the Protection of Famous Historical and Cultural Cities, Towns and Villages (2017 Revision) [Effective] [2017].
- [32] State Council, 2019. Notice of the State Council on Approving and Announcing the Eighth Batch of major historical and cultural sites protected at the national level. State Council.
- [33] Suzhou Justice Bureau, Announcing the fifth batch of Suzhou Garden List [Online]. Suzhou Justice Bureau. Available from: <http://sfj.suzhou.gov.cn/policy/policy/SZPolicyDetail/4da01049-7a85-4bf6-b015-fdb323db9351> [Accessed 05 February].
- [34] Tong, J., 2014. *Annals of Gardens in the South of the Yangtze River*. China Architecture & Building Press.
- [35] Wang, M., 2013. The Study of Renovation on Urban House Garden: Taking the Hu Family Garden as Example. *Art & Design*, (11), pp. 78-79.
- [36] Xie, S., Gu, K. and Zhang, X., 2020. Urban conservation in China in an international context: Retrospect and prospects. *Habitat International*, 95, p. 102098.
- [37] Yang, H., 2022. *A Treatise on the Garden of Jiangnan: A study on the Art of Chinese Classical Garden*. Springer Nature.
- [38] Zhang, Q. and Li, X., 2018. Study on the Cultural Heritage Protection of Gardens on the Yangtze Delta Based on the Construction of Database. *Architecture & Culture* (1), pp. 65-67.
- [39] Zheng, J., 2013. Art and the shift in garden culture in the Jiangnan Area in China (16th-17th Century). *Asian Culture and History*, 5(2), p. 1.