

# Preservation of Archaeology and Heritage in Jordan: Conflicts between the Jordanian Legislation and Public Interest

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**Abstract:** *This article aimed to shed light on the preservation of archaeology and heritage in Jordan, and the contradictions between laws and public interest. This paper also presented a general overview of the history of Jordan's laws on heritage and an explanation of the principle contemporary laws in Jordan that affect cultural heritage.*

**Keywords:** *Jordan, preservation, heritage, Jordanian legislation.*

## Introduction

Scholarly literature of the past decade and a half has seen a surge in interest in both urban development and regeneration of historical sites in Jordan, combined with the rise of tourism<sup>(1)</sup>. There is crossover between development and tourism because both are deeply connected to the local material heritage. Cultural heritage is, as we shall discuss, an elusive concept, but one of great importance, not only for its own intrinsic merit but because of its relevance to development and tourism. This article will explore the concept of heritage, particularly as it relates to archaeology and how it is defined in international parlance and in the law.

## 1. Cultural Heritage

Generally speaking, tourism relies heavily on the concept of heritage, and vice versa, but it can be difficult to create a succinct definition for the latter. In fact, it is in this defiance of definition that the term should be understood, since something only possesses heritage by virtue of that label: heritage is essentially a non-intrinsic feature of that which is supposed to have it. Though difficult to define in abstraction, heritage is present all around us; we see it and designate it all the time. This

section proffers some thoughts on the nature of cultural heritage, showing ways in which governments, laws, and international agencies have attempted to interact with it. Cultural heritage can only exist contextually: that which constitutes cultural heritage in Jordan will not necessarily be considered heritage elsewhere. Nonetheless, it is useful to consider definitions of cultural heritage in a general sense, in order to define what should be considered heritage for the purposes of our study. The UNESCO has accepted a definition of heritage as: “*our legacy from the past, what we live with today and we pass on to future generations. Our cultural and natural heritage are both irreplaceable sources of life and inspiration, our touchstone, our reference point, our identity.*”<sup>(2)</sup> This description makes room for the fact that heritage is not a fossilized historical moment, but rather a shared idea of the past with material testimony that has been and continues to be shaped by the communities to which it has belonged and which currently encounter it. Individuals who see value in all that comprises heritage additionally shape it through customs, artefacts, language, and tradition of all varieties. In other words, “heritage” is interpreted and assigned meaning by both the professionals that

investigate and preserve its material remains and the communities that are descendant from the original “identity” or happen to inhabit the same space.

The UNESCO in this way embraces an understanding of heritage that includes both physical and conceptual aspects. In 1972, the World Heritage Convention set out three ‘forms’ of WORLD heritage in an attempt to articulate the tangible manifestation of that which is essentially ephemeral:

- i. **“Monuments:** architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value<sup>(3)</sup> from the point of view of history, art or science<sup>(4)</sup>;
- ii. **Groups of buildings:** groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
- iii. **Sites:** works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.”<sup>(5)</sup>

With these definitions in mind, it is easier to contextualize cultural heritage in contemporary Jordan. Under the current government, a certain homogenous Jordanian identity is being promulgated (Abu-Khafajah 2007: 40)<sup>(6)</sup>. However, Jordan has a very rich and variegated history of cultural influences that is evident in its material culture, both in archaeological and in “heritage” material. The past century represents

a time of significant political and territorial change for Jordan and the surrounding region: for Jordan in particular, there has been the transition out of Ottoman rule into the period of the British Mandate, and the subsequent change from the latter to nation state.

We do not currently know precisely what the needs of the local population are because any study would require significant grants and the municipality is unlikely to fund a project potentially critical of its work. In Jordan the meaning of “heritage” for the average person differs from the OED’s (Oxford English Dictionary) definition of heritage - “valued objects and qualities such as historic buildings and cultural traditions that have been passed down from previous generations”<sup>(7)</sup> - as indicative of what is commonly known that a community’s sense of heritage is tied up in its material culture.

Jordan has witnessed great interest in its material and intangible cultural heritage in recent history as governmental institutions have begun to be concerned with the documentation of primarily intangible heritage. The fact that four different World Heritage sites – Petra, Quseir Amra, Um er-Rasas (Kastrom Mefa’a) and the Wadi Rum Protected Area – already exist in Jordan, with fifteen more on the Tentative List<sup>(8)</sup>, shows that the recognition of heritage has been an important goal of the Jordanian government in recent years. The government went as far as to create a new Directorate of Intangible Cultural Heritage after the country was ratified in 2006 as a partner state at the Convention for the Safeguarding of the Intangible Cultural Heritage in Mediterranean<sup>(9)</sup>.

This interest in heritage was also a major reason for Jordan getting several loans from international institutions in order to create jobs

in the attempt to reduce unemployment amongst young people with the possibility of careers in heritage management and other professions associated with tourism. With an increase in the number of archaeology degrees granted in Jordan, there has been significant interest in creating opportunities and professions concerned with the management of heritage resources since the turn of this century.

In Jordanian academia, “heritage” is taught as being comprised of four components: “heritage” (*tūrat*), “history” (*tarīh*), “archaeology” (*aṭār*) and “antiquities” (*atīq*). The local population, however, does not distinguish between intangible heritage and material heritage: “heritage” is understood by the local population as its intangible inheritance such as songs, customs and traditions, while “history” is considered only to be written material that encompasses historical events recounted by generation after generation<sup>(10)</sup>. “Archaeology” is understood in Jordan to denote a desolate archaeological site or a place that has been occupied and is now deserted for more than a century, while “antiquities” are understood as old things regardless of their chronological age, which could be fifty or five hundred years. Heritage in this sense is often confused with history: we therefore find in many written sources in Jordan a confusion of the terms “heritage houses” and “historical houses”, which are used interchangeably by Jordanians and even in official state documents.

### 1.1. Heritage as defined by the Law

Not only have the laws surrounding heritage and antiquities changed, but also the institutions that have created and enacted those laws in the geographic area within contemporary Jordan have changed over time as well. Similarly, different groups have looked to the area’s

archaeology for different reasons. Hence, any historiographical account of the law and antiquities in Jordan must be alive to the possibility of both continuous and discontinuous legal regimes in relation to antiquities. The fact that the UNESCO has attempted to define heritage in what we might call practical terms means that heritage is made possible to legislate. The UNESCO has thus been able to produce *guidelines for the protection of the historic, cultural and environmental heritage* which form the basis for the relevant laws in Jordan. Essentially, it establishes the status of sites (as listed above) that are considered to have ‘heritage’, status. In Jordan this is called *heritage law* or *planning law* and is the most important law in Jordan governing the preservation of these buildings; it is consulted in all cases of archaeological protection or use of land for development (Hiyari 2012: 20). In the sections that follow, there will be a general overview of the history of Jordan’s laws on heritage, and then an explanation of the principle contemporary laws in Jordan that affect cultural heritage. It will begin by describing the late Ottoman Empire’s legal regime in terms of archaeology and antiquities in (what would become) Jordan. Subsequently, we will show how the British Empire sought to regulate archaeology and antiquities via the law, and finally discuss developments of these laws in post-Independence Jordan (Hitti 1974: 718; Al-Ush 1969: 4; Mustafa 1978: 9; Salamah 1980: 8<sup>(11)</sup>).

## 2. Laws governing antiquities in Jordan

### 2.1. The Ottoman Empire, the law, and antiquities

The first recognisably ‘modern’ law that was written in the attempt to govern the excavation and exchange of antiquities in Jordan was the

Ottoman Empire's 1874 Antiquities Law. This first law vested the Ottoman state, based in Constantinople, with ultimate power over the cultural heritage of the empire, though it also instantiated the rights of 'foreign archaeological teams' and 'landowners' over any antiquities discovered (Kersel 2010: 85)<sup>(12)</sup>.

This law was passed, in the words of Kersel (ibid) 'in response to increasing foreign interest in parts of the Middle East and the looting of archaeological material' from the empire. As Maffi (2009: 16) summarises<sup>(13)</sup>, there is a consensus today that much of the European archaeological work conducted in the *mashreq* between (roughly) 1850 and 1950 aimed to in/validate biblical and non-biblical histories of Judea-Christendom: in this period the west was looking for its roots in a predominately Muslim region, at the same time as increasing its political control over it. This Ottoman law was significantly reformulated ten years later with the enactment of the 1884 Antiquities Law, which established *a priori* imperial ownership over all artefacts within the Ottoman Empire, and demanded that all such artefacts if and when unearthed had to be sent to the Imperial Museum in Constantinople, where the Director would appraise the artefact and decide as to any dividing of funds that might be awarded. Just as the 1874 Antiquities Law was a response to European predations (Kersel 2008: 24)<sup>(14)</sup>, so was the 1884 law less concerned with 'local Turkish interest in cultural heritage' and more with the growing power and desire of European archaeologists to excavate, exchange and remove archaeology from the Empire's environs (see Maffi 2009: 5-6 on this point). The state also had a financial and symbolic incentive to gather antiquities. Kersel (ibid) also writes: The primary drafter of this legislation, Osman Hamdi Bey, the Director of the Imperial Museum, was concerned with filling

the coffers of the museum with the splendours of the empire, as well as sending a clear political message to the West, and potentially capitalizing on tourism in the area.

In other words, the 1884 Law was emblematic of the relative decline of the Ottoman Empire and the rise of European powers (Kersel 2008: 24), notably France, Britain, and Germany; it was the Ottoman Empire's swansong to the antiquities it might have controlled. As Kersel (ibid) notes, the 1884 Law was at once imperialist, and itself a means to further control the Ottoman Empire's peripheries.

The 1884 law demanded that foreign-managed excavators apply for licenses from Constantinople and that all artefacts unearthed be transferred to the Imperial Museum, from where bureaucrats would decide on whether the given article was 'non-essential to the cultural heritage of the Ottoman Empire'; if so, they would be returned to the excavator (ibid). This was an era when, as now, archaeology and antiquities could be used to express powers and interests in the present: cultural aspirations, stories of political continuity and discontinuity, and so on, were all articulated through archaeological material (ibid). Yet, for all its formal powers, practical enacting of the two laws was near impossible for the Empire's bureaucracy.

The lands it nominally controlled were too vast and varied, its power over them too fraught, and the work of the teams of European excavators was too important for them and their states to be disturbed as the laws demanded. For example, Chapter 1 Article 8 of the 1884 law stipulated that the exportation of artefacts without the express permission of the Imperial Museum was prohibited, yet such exportation continued nevertheless. Indeed, what was

now officially designated illicit exchange of antiquities may have increased in the period, due to a heightened awareness of their monetary value; and, since the laws in question for the first time introduced formal rights over artefacts, the non-scientific excavation of them may too have increased.

To quote Kersel again:

“The general feeling amongst archaeologists was that the 1884 Ottoman Antiquities Law, sound in principle, practically gave free hand to the plunderers of ancient remains while at the same time placing serious impediments in the way of legitimate excavators” (ibid: 86).

In what were the final days of Empire, a further law was introduced in 1906, one that aimed to alter the practical consequences of the 1884 law as to the excavation and exchange of artefacts within the empire. Such laws did, in a sense, ‘outlive’ the state that birthed them (see ibid: 86). However, it was to be European law making that was to most effect the region in the subsequent period.

## 2.2. The rise of European power in Jordan

The British Empire’s takeover of Transjordan in 1918 following the collapse of the Ottoman Empire in the region entailed new regimes of control, including novel legalities in the excavation and exchange of antiquities. Palestine and Transjordan were separated, and the British Empire and its Arab proxies began to erect a state apparatus to control the latter, new nation (Robins 2004: 16)<sup>(15)</sup>. The first legal ordinance dealing with antiquities that the British-controlled state enacted was the Antiquities Proclamation of 1918; two years later, the government established the fledgling nation-state’s first institution dedicated to the management of archaeological activity,

the Department of archaeology, excavation, and exchange of antiquities was not without difficulties during this period (Ibrahim 1973: 4)<sup>(16)</sup>. Every society or culture looks backwards, to varying degrees and in varying ways that also change over time, and such retrospection often seems related to the present orientation. So, in order to better understand colonial power relations, the law, and archaeology in British Transjordan, we will now turn to ‘the Basilica Affair’ that occurred in British Transjordan in 1923 and which Maffi has claimed ‘reveals interesting cultural and political aspects strongly connected with the colonial situation’ (2009: 7).

## 2.3. The ‘Basilica Affair’ and the law

The ‘Basilica Affair’ was an incident in which King Abdullah used the stone from a basilica to build a mosque, still known today as the Hussein Mosque, in the modern city center. This episode became a conflict to the British representative in Jordan, Philby. King Abdullah saw the whole incident from a religious point of view, while Philby saw it from a European perspective, as a question of heritage preservation<sup>(17)</sup>.

It was during the struggle over the Byzantine basilica that the creation of the Department of Antiquities (DoA) occurred. Founded in 1923, and with a British archaeologist (another Director of Antiquities in Palestine, John Garstang) as its General Inspector, the department was an embodiment of colonial power, and a means to further the cultural-political goals of the British in the nascent, immanently unruly nation-state (Harding 1967: 24; Abazah 1981: 31; Mousa 1985: 109)<sup>(18)</sup>. Maffi is quite explicit: “The foundation of the DoA and the promulgation of the first law of antiquities in the Emirate marked the establishment of a new form of domination and was the beginning of a local history of

archaeology” (2009: 14).

And, indeed, all of the official archaeological excavations conducted in the Mandate period were ‘an entirely western affair’, with the DoA managed by a largely European and indeed British staff. So, the DoA, as a colonial institution, had a near-monopoly of decisions regarding official excavation work in Jordan until independence. The DoA was under the control of Europeans; this was reflected in its project, which aimed to uncover the cultural origins of ‘the West’ through an examination of both Hellenic and Judeo-Christian material culture. Archaeological investigations of the Islamic and Ottoman periods were not seen as relevant to this objective, and were systematically excluded. The project was ‘formal’ and ‘legal’, in that its framework was based on laws created by the British state and its proxies.

However, it should not be assumed that the DoA was a static, unchanging institution during the Mandate period. It was relocated from Jarash to Amman in 1928, five years after its establishment, (Abazah 1981: 31<sup>(19)</sup>) and Dr. Ridha Tawfiq was inducted as its First Director (Al-Abedi 1972: 9<sup>(20)</sup>), with Gerald Lancaster Harding as Director General<sup>(21)</sup>. However, all such appointments would later change, when in 1956 King Hussein dismissed many of the elite stratum of the government (and other areas of Jordanian life) that had been appointed during the colonial period. In terms of the law, the Mandate period saw much change to legislation subsequent to the first Law of Antiquities in 1925 (Abazah 1981: 31). These changes included the incorporation of new definitions, the addition of artefacts that had not been included in the original Law (both movable artefacts and immovable), and laws

that delineated best practice as to the searching and safeguarding for them. Moreover, laws have variously vested governmental institutions with powers over the nation-state’s archaeology in the post-independence periods. How, though, do the law and governmental institutions in Jordan today manage the archaeology? The second part of this chapter seeks to answer such questions (Alawneh *et al.*, 2012: 106<sup>(22)</sup>).

#### **2.4. The Jordanian state and archaeology in the post-Independence era**

In the post-Independence era, the DoA was reformulated as the Jordanian Ministry of Antiquities and Tourism (MoTA), which remains today the primary authority in the country in relation to archaeology and antiquities. The internal structure of the MoTA can be seen in the following visualization:

MoTA oversees the most prominent archaeological and tourist sites in the country (such as Petra), and is one of the governmental bodies that relates with larger, supranational organizations that seek to direct the heritage industry (UNESCO, for example, and also JICA), those organizations that seek to manage tourism (the WTO), and broad-scope bodies such as USAID and the World Bank.

#### **2.5. The Antiquities Law**

Revised most recently in 2004, but first established in 1924 under the British Mandate, the Antiquities Law provides the following definition of antiquities:

Any object, whether movable or immovable, which has been constructed, shaped, inscribed, erected, excavated, or otherwise produced or modified by humankind, earlier than the year AD 1700, including caves, sculpture, coins, pottery, manuscripts and all sorts of artefact that indicate the rise and development of sciences,

arts, manufacturing, religions and traditions relating to previous cultures, or any part added thereto, reconstructed or restored at a later date;

Any object, movable or immovable, as defined in the previous subsection referring to a date subsequent to the year AD 1700, which the minister may declare to be antique by order of the Official Gazette; Human, plant and animal remains going back to a date earlier than 600 A.D.

It can be seen that such a description offers no legal protection to monuments, groups of buildings, or sites (to use the UNESCO classifications of heritage) built after 1700. On account of this deficiency, which was highlighted by scholars interested in architecture, the Heritage Law was subsequently introduced to provide legal protection to more recent buildings such as the Ottoman houses of the early twentieth century.

## 2.6. The Heritage Law

It was in 1966 that legislators in Jordan first introduced a law that recognized the need and indeed initiated their own power to protect the country's built heritage. With the Law of Cities, Villages and Buildings Planning (Law No.79; 1966), known as the *planning law*, the central state created a legal ordinance whereby both central and municipal authorities were vested with the authority (indeed, the obligation) to identify and to protect buildings that were considered as having architectural or historical merit or interest. The term "Built Heritage" is used in official situations to speak about traditional buildings or sites that represent a particular architectural type, embody a cultural moment, or are tied to some historical Jordanian event, post 1750 AD (thus distinguishing them from archaeological sites).<sup>(24)</sup> <sup>(25)</sup>

Unfortunately, however, this law was subsequently used far less than expected in the pursuit of the preservation of heritage buildings and became a formality to which no one adhered. Hiyari has shown that while it makes sense on a theoretical level, in practice the law has been undermined in cases of land use changes, where laws concerning planning have been rendered ineffective because they do not account for the protection of heritage sites.

It was not until 2005 with the *Law of Protecting Architectural and Urban Heritage* (Law no. 5) that the state renewed its interest in the passing of laws pertaining to heritage. Curiously, this second law makes a sharp distinction between 'heritage' and 'historic' sites, as based on the age of the given locale; in other words, the age of the site determines its type, according to the 2005 law<sup>(26)</sup>. This was a valuable step forward in the conservation of Jordanian heritage that should effectively facilitate the prevention of accidental destruction of heritage sites, or their destruction through negligence. It has been suggested however that further review of the contents of the *planning law* is required in order to include some detail in the management and uses of important heritage sites (Hiyari 2012: 19).

A special MoTA committee was convened in order to deliberate on how the state ought to legally define the sites that might fall within the ambit of laws concerned with heritage: what, they asked, is heritage, and how does it relate with history? The definition of heritage provided by the Heritage Law is:

Any location or building that is of importance either with regards to the structural technique, or its relation to a historically important personality, or its relationship to important national or religious events, and was constructed

after the year 1750<sup>(27)</sup>.

The heritage building: constructions and architectural structures with historical, cultural and architectural characteristics that are of specific importance; the urban area: architectural areas, public spaces and neighborhoods, and the landscape that represent the values on which the culture of the residents was built. The three categories set out in this legislation approximately correspond to the forms of heritage set out in the UNESCO conventions: sites, monuments (buildings) and groups of buildings, in that order.

The *Law for the Protection of Urban and Architectural Heritage* further states that its purpose is to ‘protect, preserve and maintain Jordan’s heritage sites’. To this end, it mandates the convocation of a committee, some of whose commitments are<sup>(28)</sup>:

- Set the basis and standards that will ensure the protection of architectural and urban heritage, and present them to the Cabinet of Ministers for ratification, and publication in the Official Gazette.
- Recommend to the Cabinet of Ministers the heritage sites, document them, and add them to the register of Urban and Architectural Heritage, after studying and assessing them, and preparing a list of all the heritage locations, and identifying their boundaries, and publishing the list in the Official gazette.
- Strive to provide the necessary finances for the restoration and restructuring of heritage sites and surrounding areas, and fairly compensate the owners of these sites in order to encourage them to protect the buildings they own.
- Follow-up the restoration works, by appointing experts in the field for this

purpose, as per the standard basis and criteria.

The Heritage Law thus introduced the legal possibility of the state recompensing property owners if they were to participate in the preservation of any architecture or artefact that MoTA considered as having heritage, as paid for via the Heritage Fund<sup>(29)</sup>, stating that the state must, “Strive to provide the necessary finances for the restoration and restructuring of Heritage sites and surrounding areas, and fairly compensate the owners of these sites in order to encourage them to protect the buildings they own”.

Several practical problems presented themselves to the MoTA committee during their inspection of the law. Firstly, it raised the possibility that the government (whether municipal or central) would have to inform landowners of the possibility of antiquities on their land, without the necessary funds to compensate them for their removal. In any possible interim period between initial discovery and the raising of such funds, the landowner would be disinclined to inform officials of the discovery of any artefacts in order to avoid what is known to be a very disruptive and lengthy process. In past cases, when people reported the discovery of artefacts, the government imposed a permanent ban on all activity involving the land. While the landowner would still technically own the land, in law he would not be permitted to sell or buy it or to build on it or carry out activities on it such as farming. This would in turn leave the landowner in potential legal trouble, since such disturbances are illegal. Subsequently, MoTA was forced to nullify the law that obligates the state to pay landowners for the maintenance of any material culture on property that the Ministry understands as having



heritage. Hence, currently, the inability of the state to recompense owners of heritage has meant that the same owners have little financial incentive to protect it, especially given that the ‘negative incentives’ for doing so (fines, etc.) are both low and typically unenforced.

There were plans for a Heritage Fund, which was supposed to assist private owners with the maintenance of Ottoman-era buildings<sup>(30)</sup>. The funding was to be administered by the GSM and intended to allow the CRP to support owners of historic houses with specific financial incentives for the restoration of their properties, all carried out in accordance with the Heritage Law. Although supported by the government, it was hoped that further money for the fund could be raised by voluntary donations; this has not however been the case.

It is important to notice that while these laws<sup>(31)</sup> and departments extend the protection afforded to antiquities from pre-1750 to heritage sites built post-1750, they also reinforce the divide between them; this legal distinction, and the corresponding states of the sites on account of their different treatments, may explain why it is still practical to speak of archaeological sites and heritage sites in Jordan today as separate categories, as opposed to combining them as a continuum of material of the past. This distinction between “antiquities” and “heritage” has roots in the Law No. (5) from 2005 for the Protection of Urban and Architectural Heritage, in which the government created a definition of heritage within the law. Since that time, there has been a division between the two terms dependent upon that arbitrary date (1750 AD) and considered important to the official narrative of “Jordanian history”.

There has also been an increase in Jordan in discussion and writing from bureaucrats,

journalists, and academics about heritage. Since 2003, a further distinction between “material” and “intangible” heritage has also been part of the official language in line with the UNESCO. This distinction is unworkable because it confuses the responsibilities of the people who interact with these items and locations; it does not insist upon expertise in either category, and furthermore the lack of integration is not helpful to the overall conservation project.

The Law of Antiquities empowers the Department of Antiquities (DoA) to implement its policies (according to its 2004 amendment, Law no. 23). This is in contrast to the Law No. 5 from 2005 for the Protection of Urban and Architectural Heritage that empowers the Ministry of Tourism and Antiquities (MoTA) to implement these policies, leading to confusion and dysfunction. The laws in fact have little specificity when it comes to dictating managerial authority in antiquities and heritage cases, which leads to further confusion about roles at local, regional and even national levels. The relationship between DoA and MoTA is completely vague and unstandardized, and neither department has a well-outlined relationship with the bodies concerned with land use and planning on a national level, leading to further complications and inevitable conflicts. Finally, there is little indication in any of the laws of what processes might be involved in conservation and management.

## 2.7. Heritage in Context

Heritage does not exist in a vacuum: it lives through local communities and continues because of them. This section will consider the interplay between cultural heritage with the related field of archaeology, the tourism industry, and its relationship with local communities as a whole.

### 2.7.1. Archaeology and Cultural Heritage - Approaches

As discussed in the section on heritage as defined by the law, Jordan has since 1988 established legal protection for buildings built prior to 1700, and since 2004 this has been expanded to buildings from after 1750. Abu-Khafajah discusses the ways in which this definition has suited the interests of western archaeologists and historians who have traditionally viewed Jordan as being “culturally empty” for the intervening three hundred years between the 18<sup>th</sup> century AD and the present (2007: 227)<sup>(30)</sup>.

This view has been little contested outside of Jordan and consequently the law remained unchanged since the establishment of the first antiquity laws in 1923 until 2004, when the law changed to distinguish between heritage and antiquities from the year 1700 up to 1750. Furthermore it is possible that this definition, which effectively erases Jordanian material culture after 1750 from the record has served the interests of the Jordanian elite who can therefore write their own political narratives about this time, with the government attempting to present a strong and coherent cultural narrative based in the built and material heritage, suggesting that Jordan was already an independent political entity before being occupied by the Ottomans and highlighting the Arab Revolt, the Hashemites’ role in it and that Jordan gained its independence from the Ottomans thanks to Hashemite efforts at leading the liberation movement, with the help of Britain. This narrative is generally accepted by the population at large (Al-Mahadin 2007: 318)<sup>(33)</sup>.

### 3. Heritage and Tourism

The question of “heritage” in Jordan is tied

up with the question of tourism. This is in many regards a practical concern, since the promotion of tourism is an economic necessity for the redevelopment and protection of “heritage” areas and tourism is one of the main sources of income for Jordan. As we shall discuss, this fact can have either positive or negative outcomes—tourism provides a useful catalyst for the protection of heritage, but the focus becomes the accommodation of foreign visitors rather than local communities.

As we have seen, Jordan’s rich archaeological heritage has been afforded some legal protection. Even this, however, has not been uncontroversial: for example, in Abu-Khafajah’s description of the case of Al-Qastal palace, he demonstrates that “the Government values the aesthetic aspects of archaeological sites over any other ones, mainly because of its positive impact on tourism” (2007: 239)<sup>(34)</sup>. Tourism is therefore seen as the motivating factor for the protection of both archaeological and heritage remains, with aesthetic considerations foremost for both, although for slightly different reasons. Archaeology is still regarded as a science but its historical sites are developed with a focus on the aesthetic in order to make them into attractions which could bring in tourists and therefore generate money; any historical or heritage buildings are also judged based on their aesthetic value and ability to become what al-Asad says will “look pretty in posters, tourist brochures, and coffee table books”<sup>(35)</sup>. In fact, much of the development of heritage buildings has taken place in order to transform them into hotels and cafes (Abu-Khafajah 2007: 230-231), an aim that directly benefits the tourism industry; in neither case is the importance of the archaeology and heritage for local communities considered (Daher 2000: 105ff)<sup>(36)</sup>.

Tourism is today one of the most significant resources for many economies internationally, and has come about as a direct result of globalization. If it is of key national interest to Jordan to continue to expand its tourism industry and market itself as a destination, the question must be, then, how Jordan can best protect its cultural heritage while simultaneously developing its tourism sector. This is a global question, and the reason why in 1999 an International Agreement for Cultural Tourism was established. The 1999 agreement replaces the 1976 ICOMOS (the International Council on Monuments and Sites) Charter of Cultural Tourism and is significant because of the focus it places on the relationship between tourism and heritage conservation, and updates the previous document's focus on the tourist as a threat to an attempt to produce a healthy symbiosis between tourism and heritage. It comes with an acknowledgement that the *enjoyment* the tourist receives from the heritage is one of the primary motivations for conservation, rather than the importance of heritage outside of the economics of tourism. It also acknowledges that without the economic benefits of tourism, the work of conservation would likely be impossible. On account of the conservation industry's admittance that it cannot function without tourism and the recognition of the tourism sector that heritage requires conservation since it is both attractive and irreplaceable, the charter encourages much stronger co-operation between the two parties.

ICOMOS has published several other charters with some bearing on this matter, as for example the 1987 Charter for the Conservation of Historic Towns and Urban Areas that stresses the importance of conservation and the necessity for careful planning to preserve this heritage. The 1999 Charter on the Built

Vernacular Heritage establishes the principles by which the management and conservation of traditional buildings should be carried out.

Tourism is a complex industry that relies on many variables for its continued existence; these may be social, economic, political, cultural, aesthetic or educational in nature. Of all these variables, it remains true that cultural heritage has the most potential to be tapped into. It ought to be presented in such a way as to stress how, by encouraging the visits of tourists; cultural heritage helps all of these areas, which can in turn alleviate poverty by boosting local economies. Beyond the less tangible effect of pride in a shared identity, tourism has an economic effect on local populations through the very real direct benefit of a growing job market, as well as an indirect influence on the country's infrastructure, from improved roads and hospitals to schools, as well as on related industries, like retail and food production. It is through successful development of heritage sites that mutual benefit can be achieved for both the tourist and local communities, which acquire economic gains from tourism and also the protection and development of cultural heritage. Historically and globally, however, the development of tourism has in many ways been a double-edged sword as the over-development of historical spaces for tourism has contributed to the destruction of these sites and the loss of authentic and original aspects of many edifices. Arguably the protection of heritage and tourism linked to sustainable development requires a locally-based workforce that is properly trained and provided with continuous material and technical support, economic development, and the will to find material and financial resources within the country<sup>(37)</sup>. It is clear that the development of heritage areas and their conservation could be

a way of promoting sustainable development in Jordan, through the creation of job opportunities which would contribute to local social and economic stability. It has also been proven that the tourism development process, when properly carried out, can affect rapid economic development in heritage sites and play a role in the revitalization of both tangible and intangible cultural heritage (Al-Matarneh 2015: 48)<sup>(38)</sup>. Tourism can potentially contribute to the preservation of cultural heritage through increased interest in the non-material heritage of the local population, such as songs, stories and traditional industries. Although local peoples could enjoy economic benefits by using their cultural heritage to provide much needed employment, this ought only to be done

on the terms of those local peoples, and could even then carry the risk of misappropriation or commodification of cultural heritage. The process of heritage conservation necessitates the implementation of standards that are accepted by local communities. This requires a combination of plans that the community considers acceptable in relation to its cultural heritage, and plans which are possible to implement with the local communities, in terms of their own ability to carry out planning, building, and maintaining sites. Community involvement is therefore crucial: both to ensure that their cultural heritage can continue to play a meaningful role in their lives, and more practically to ensure that the community is engaged with the process of preservation.

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**ملخص:** هدف هذا البحث إلى إلقاء الضوء على القوانين المتعلقة بالمحافظة على الآثار والتراث في الأردن، والتناقضات بين هذه القوانين والمصلحة العامة. إضافة إلى ذلك، قدم البحث لمحة عامة عن تاريخ هذه القوانين، وشرحا للقوانين المعاصرة الرئيسة التي تؤثر على التراث الثقافي.

## Notes

- (1) On urban development: Rami Farouk Daher (1999; 2000; 2000b; 2005; 2007) and more recently, Na'amneh's 2009 essay, and Hiyari's unpublished 2012 PhD thesis. On the rise of tourism: Tanaka, Nami, et al, 2005. 'The Regional Resources and Tourism Development in Developing Countries – A Case Study of Salt and Karak, Jordan', WTO World Tourism Barometer, 3 (3): 1-10. For an essay with a non-urban focus, see Al Haija, Ahmed Abu. 2011. 'Jordan: Tourism and conflict with local communities', Habitat International, 35, 93-100. Al Hammad, Fawwaz. 2012. 'Residents' Attitudes to Tourism Development in Al-Salt City, Jordan', Canadian Social Science, 8, 1: 152-163.
- (2) <http://www.unesco.org/new/en/brasil/culture/world-heritage/heritage-legacy-from-past-to-the-future/> (accessed September 1, 2016).
- (3) "In 1976, the expert meeting invited by UNESCO discussed the concept of the outstanding universal value (OUV). In the discussion, the definition of "universal" was given particular attention. It was considered that this could be interpreted as "meaning that a property submitted for inclusion in the WHL should represent or symbolise a set of ideas or values which are universally recognized as important, or as having influenced the evolution of mankind as a whole at one time or another". It is noted that this was the starting point for the ICOMOS analysis of the World Heritage List and the thematic framework presented to the Committee in 2004". [http://www.icomos.org/publications/monuments\\_and\\_sites/16/pdf/Monuments\\_and\\_Sites\\_16\\_What\\_is\\_OUV.pdf](http://www.icomos.org/publications/monuments_and_sites/16/pdf/Monuments_and_Sites_16_What_is_OUV.pdf). Pp 11-12 Monuments and Sites, (2008), p11, 'The World Heritage List: What is OUV? Defining the Outstanding Universal Value of Cultural World Heritage Properties, ICOMOS (accessed September 1, 2016).
- (4) The World Heritage List What is OUV? Defining the Outstanding Universal Value of Cultural World Heritage Properties: An ICOMOS study compiled by Jukka Jokilehto, with contributions from Christina Cameron, Michel Parent and Michael Petzet. [http://www.icomos.org/publications/monuments\\_and\\_sites/16/pdf/Monuments\\_and\\_Sites\\_16\\_What\\_is\\_OUV.pdf](http://www.icomos.org/publications/monuments_and_sites/16/pdf/Monuments_and_Sites_16_What_is_OUV.pdf). Pp 20-21. (accessed September 1, 2016).
- (5) <http://whc.unesco.org/en/conventiontext/> I. Definition of the Cultural and Natural Heritage Article 1/ Convention Concerning the Protection of the World Cultural and Natural Heritage The General Conference of UNESCO adopted on 16 November 1972 the Recommendation concerning the Protection at National Level, of the Cultural and Natural Heritage.
- (6) Abu-Khafajah, Shatha. 2007. Meaning and Use of Cultural Heritage in Jordan: Towards a Sustainable Approach. PhD diss., Newcastle.
- (7) Oxford English Dictionary, Third Edition, (2010), Oxford University Press. <http://www.oxforddictionaries.com/definition/english/heritage> (accessed September 1, 2016).
- (8) <http://www.unesco.org/new/en/amman/culture-sector-activities-at-the-amman-office/world-heritage-locations-in-jordan-and-the-activities-of-the-amman-office-in-preserving-our-common-heritage/>
- (9) <http://www.unesco.org/culture/ich/doc/src/07950-EN.pdf>
- (10) "...buildings provide historic evidence in stone and mortar from which social history is interpreted. 'Historians operate as agents of society and produce histories to service that society' (Kavanagh 1996: 4) "
- (11) Hitti, P. (1974). History of the Arabs from the Earliest Times to the Present (10th ed.). The Macmillan Press Ltd, London and Basingstoke. Al-Ush, M. (1969). The National Museum of Damascus. Directorate General of Antiquities and Museums, Damascus. (In Arabic), Mustafa, M. (1978). Catalogue of Museum of Islamic Art. Cairo. (In Arabic), Salamah, Kh. (1980). Catalogue of Arab Manuscripts in Al-Aqsa Mosque Library. Al-Awqaf Administration in Jerusalem, Jerusalem. (In Arabic).
- (12) Kersel, Morag, 2010, 'The Changing Legal Landscape for Middle Eastern Archaeology in the Colonial Era, 1800-1930' in Pioneers to the Past: American Archaeologists in the Middle East, 1919-1920. Ed. G. Emberling. Chicago: Oriental Institute.
- (13) Kersel, Morag, 2010, 'The Changing Legal Landscape for Middle Eastern Archaeology in the Colonial Era, 1800-

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- (14) Maffi, Irene. 2009. The Emergence of Cultural Heritage in Jordan: The Itinerary of a Colonial Invention. *Journal of Social Archeology*. Feb 2009. No. 1. Pgs. 5-34.
- (14) Kersel, M. 2008. 'The trade in Palestinian antiquities', *Jerusalem Quarterly* 33, 21-38. Gibson, Shimon. 1999. *British Archaeological Institutions in Mandatory Palestine, 1917–1948*. In: *Palestine Exploration Quarterly*, 131:2, 115-143.
- (15) Robins, Philip. 2004. *A History of Jordan*, Cambridge University Press: London.
- (16) Ibrahim, M. 1973. *History of Jordan archaeology*. In Ibrahim, M. (Ed.), *The Archaeology Heritage of Jordan*. DoA, Amman.
- (17) For more discussion of the Basilica Affair, see Maffi, I. "The emergence of cultural heritage in Jordan: The itinerary of a colonial". *Journal of Social Archaeology* 2009 9: 5- 34.
- (18) Harding, L. 1967. *The Antiquities of Jordan*. Lutter Worth Press, London. Abazah, H. 1981. *Legislation Relating to the Protection of Cultural Property with Particular Reference to the Arab States*. DoA. Mousa, S. 1985. *Amman the Capital of Jordan*. Municipality of the Capital's Publications, Amman. (In Arabic)
- (19) Abazah, H. 1981. *Legislation Relating to the Protection of Cultural Property with Particular Reference to the Arab States*. DoA.
- (20) Al-Abedi, M. 1972. *We and the Antiquities*. Association of Prints Workers, Amman. (In Arabic)
- (21) Harding, L. 1967. *The Antiquities of Jordan*. Lutter Worth Press, London.
- (22) Alawneh, Firas; Raed Alghazawi and Fadi Balaawi. 2012. *Culture Heritage and the Idea of Jordan Museums*. *Asian Social Science* Vol. 8, No. 7; June 2012. <http://www.ccsenet.org/journal/index.php/ass/article/viewFile/17610/11793>. (accessed September 1, 2016).
- (23) Al-Rabady, Rama, Shaher Rababeh, Shatha Abu-Khafajah. 2010. 'Urban heritage governance within the context of emerging decentralization discourses in Jordan', *Habitat International*, 42, 1: 253-263.
- (24) [http://modernheritage.com.au/mhm/understand\\_heritage/what-is-built-heritage/http://www.icomos.org/publications/93econom3.pdf](http://modernheritage.com.au/mhm/understand_heritage/what-is-built-heritage/http://www.icomos.org/publications/93econom3.pdf).
- (25) Article (2)
- The Heritage Site: Any location or building that is of importance either with regards to the structural technique, or its relation to a historically. Important personality, or its relationship to important national or religious events and was constructed after the year 1750. As per the provisions of this law and this includes the following:
  - The Heritage Building: Constructions and architectural structures with historical, cultural and architectural characteristics that are of specific importance.
  - The Urban Location: Architectural areas, Public spaces and neighbourhoods, and the landscape that represent the values on which the culture of the residents was built.
- (26) Article 2 in the Law of Protecting Architectural and Urban Heritage (Law No. 5, 2005) states that 'any location or building that is of importance either with regards to the structural technique, or its relation to a historically important personality, or its relationship to important national or religious events and was constructed after the year 1750.' that's a repeat, cut
- (27) The law treats everything until 1700 AD as antiquities and everything from 1750 AD as Heritage and so I submitted a question to the Department of Antiquities to ask how 1700 to 1750 is regarded. They replied that this date range also comes under the antiquities law. However, this does not appear to be covered by any actual laws.
- (28) Law No. (5) for the year 2005 For the Protection of Urban and Architectural Heritage, Article (2)
- (29) COTECNO, 2005. *Third Tourism Development Project. Secondary Cities Revitalization Project. Main Report*.

- Ministry of Tourism and Antiquities, the Hashemite Kingdom of Jordan. Pp. 16.
- (30) The managing mechanisms of the Heritage Fund will be designed within the framework of the Interim Law No. 49/2003 for the Protection of Urban and Architectural Heritage.
- (31) Law No. (5) for the year 2005 For the Protection of Urban and Architectural Heritage and The Law No. 21 for the year 1988 promulgated in the Official Gazette, issue No. 3540 dated 17/3/1988. - The amending Law No. 23 for the year 2004 promulgated in the Official Gazette, issue NO. 4662 dated 1/6/2004. (This Law called the Law of Antiquities No. 21 for the year 1988 as amended by Law No. 23 for the year 2004)
- (32) Abu-Khafajah, Shatha. 2007. Meaning and Use of Cultural Heritage in Jordan: Towards a Sustainable Approach. PhD diss., Newcastle, Pp. 227-229.
- (33) Al-Mahadin, S. 2007 'Tourism and the Power Relations in Jordan: Contested Discourses and Semiotic Shifts', in R. Daher (ed.) *Tourism in the Middle East: Continuity, Change and Transformation*. Clevedon: Channel View Publications: 308-325.
- (34) «An Umayyad, 25 kilometres south of the Capital d complex (settlement) at the modern village of Qastal (Amman) and 100 metres west of the airport Highway « (<http://whc.unesco.org/en/tentativelists/1550/>) (accessed September 1, 2016).
- (35) Al-Asad, M. 2001. The Socio-economic Dimensions of Conserving an Architectural Heritage - online document: [www.worldarchitecture.org/articles/alasad05.htm](http://www.worldarchitecture.org/articles/alasad05.htm) (accessed September 1, 2016).
- (36) Daher, Rami. 2000. Dismantling a community's heritage: Heritage tourism: Conflict, inequality, and a search for social justice in the age of globalization. In M. Robinson et al. (eds) *Tourism and Heritage Relationships: Global, National, and Local Perspectives* (pp. 105–28). Conference organized by the University of Northumbria at Newcastle and Sheffield Hallam University, Sheffield, UK, September 2–7, 2000.
- (37) I summarize the contents of the 1999 International Agreement for Cultural Tourism by reference: Since the local and international tourism are one of the most important tools for cultural exchanges, so conservation must provide an effective management opportunity to communities and to provide experience for visitors to understand the heritage of these communities and cultures. Relations between heritage and tourism sites are a dynamic relation might cause conflict of values, and these sites should be managed in a sustainable way for current and next generations. Conservation planning process and tourism of heritage sites must assure that the visitor gets a valuable experience during his visit at the same time. Engage communities that host visitors and locals in conservation and tourism planning processes. The communities that host visitors should benefit from tourism and conservation activities. Tourism promotional programs must protect and confirm the natural and cultural heritage features (<http://www.gdrc.org/uem/eco-tour/principles.html>: Sustainable Tourism Global Codes of Ethics for Tourism) (accessed September 1, 2016).
- (38) Al-Matarneh, Rana. 2015. Sustainable Urban Development in Historical Cities using the Heritage Trail Approach: A Case Study of the Old City of Karak, Jordan. *Journal of Culture, Society and Development* Vol.12, 2015: 48-60.

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