

Conservation in Israel, Content and Practice

Ideals versus practice in Israel's
building preservation policy

עמק שווה
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Emek Shaveh is an Israeli NGO working for cultural and heritage rights, and for the preservation of antiquities sites as public assets belonging to all communities and peoples. We challenge the use of heritage sites and archaeological remains as political tools in the conflict between Israel and the Palestinians.



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Abstract

To date, Israel's conservation policy has been grounded in Ottoman and British sources – the original basis for legislating the conservation of local, physical heritage. Over time, this policy has undergone various incarnations. The legal approach to conservation vacillates between the Antiquities Law and the Planning and Building Law; in addition, Israel is committed to an international conservation treaty, which places additional demands. To this day, Israel lacks a comprehensive statutory policy for conservation, and at the institutional level archaeological work is carried out at various levels, both local and national, leading to a situation in which responsibility for conservation is dispersed among a number of agencies, including government offices, professional institutions, and voluntary bodies. This situation creates many obstacles for those tasked with preserving Israel's physical heritage, such as a lack of coordination between the various agencies responsible for ownership and enforcement issues, and mainly, a lack of commitment and professional backing.

However, the most significant obstacle appears to be the absence of uniform criteria for evaluating sites worthy of conservation. While UNESCO conventions stipulate overarching principles that are consistent with universal considerations, the essential roots of conservation in Israel lie in its being perceived as the Holy Land; the definition of antiquity that derives from this perception is thus problematic. The lists of buildings for conservation in Israel tend, in principle, to favor the country's national heritage. The discourse of Israeli conservation tends to focus clearly on ancient Jewish sites on the one hand, and Israeli settlement and commemoration sites on the other.

Conservation principles in Australia and Canada, countries with indigenous populations that have been absorbed into modern-day national life, are defined according to the different communities in these regions. In fact, there is an increase in worldwide engagement in the (archaeological and other) built heritage that respects the composite of communities and societies living together side-by-side.

The first part of this report reviews conservation in Israel from a legal standpoint, its statutory status and the bodies to which it is entrusted, starting from the

definition of what constitutes an ancient site and continuing with the threats to conservation posed by recent reform in the Planning and Building Law (2014). The second part of the report examines the challenges faced by conservation practitioners in Israel today by addressing the problems enumerated in the State Comptroller's Report of 2005. The final section presents the current dilemma of conservation for different populations, ending with an illustration of the practice of conservation in Australia, which offers an important lesson in the recognition of local heritage.

On February 21, 1884, the Ottoman authorities published the "Archeological Excavations Act", which was designed to regulate the excavations that had been carried out since the mid-19th century throughout the Ottoman Empire.¹ The first section of the law dealt with the nature of the antiquities in general, the government's ownership of them and the prohibition on harming them, the prohibition on excavation without obtaining a permit, the purchase of areas for excavation, and the recording of the finds unearthed in the excavations. Antiquities were described as "remnants left by ancient populations of the countries now under the control of the Ottoman Empire" and included coins, statues, weapons, and tools, as well as corpses, temples, palaces, fortresses and aqueducts.²

The main contribution of the Ottoman law, says geographer Yehoshua Ben-Arieh, was its recognition that preserving the antiquities and archaeological finds that are exposed by excavations was important, that the antiquities were the property and treasured objects of the state in which they were found, due to which the state was obligated to treat them with care and to preserve them.³ At the same time, argues Ben-Arieh, the law was deficient mainly because the date of creation of an antiquity was phrased in the most general terms. This shortcoming was very noticeable in Jerusalem, when historical buildings, including sections of the wall that surrounded the city, began to incur damages, and the authorities did not attend to their preservation. Thanks to the British conquest of the city in 1917 and the application of protective and conservationist laws es-

1) Yehoshua Ben-Arieh, "The Turkish Law regarding Archaeological Excavations in the Land of Israel – 1884," in A. Shiller and G. Barkai (eds.), *The Landscapes of the Land of Israel*. Ariel: Jerusalem, 2000, 277 [Hebrew].

2) *Ibid.*, 280.

3) *Ibid.*, 277-282.

established at the beginning of the British military rule, those same antiquities in the Old City and its environs were conserved.⁴

It should be noted that even before the beginning of British rule, in January 1900, an official copy of the Ottoman law was passed on to the Palestine Exploration Fund, which viewed Palestine as a holy place – the land of the Bible and the New Testament. In 1890, this foundation acted to obtain a firman (royal decree) that ordered the first archaeological excavation in Palestine. Shortly after General Allenby entered Jerusalem, the Palestine Exploration Fund met in London and decided to petition the British government to establish an antiquities service in Palestine, which would ensure the preservation of the country's antiquities and prevent damage to its ancient sites.⁵ The service would perform three main functions: the establishment of a British school of archaeology in Jerusalem, which would serve as a center for the study and research of the Holy Land; the establishment of an antiquities department that would officially oversee the antiquities of Palestine; and the enactment of the Antiquities Law – a governmental law for the preservation of the country's antiquities. These steps were soon taken.⁶

In the days of British military rule in Palestine, which lasted nearly three years, no organized archaeological activity took place, but as early as December 1918, the military administration issued an antiquities order to ensure protection of antiquities and proper handling of archaeological finds.⁷ The authority vested with the preservation of antiquities in Jerusalem and its environs was then the "Pro-Jerusalem Society," headed by the first military governor of the city, Ronald Storrs. Shortly thereafter, in February 1919, Storrs invited archaeologist John Garstang to serve as the first director of the British School of Archaeology in Jerusalem.

4) Ibid., 278-9.

5) 5 Ibid, p. 277.

6) 6 Yehoshua Ben-Arieh, "The Foreign Institutions of Archaeology and the Research of the Land of Israel during the Mandate Period, Part I," *Cathedra* 92 (1999), 139-141 [Hebrew].

7) C.R. Ashbee, ed., *Jerusalem, 1918-1920, Being the Records of the Pro-Jerusalem Council during the Period of the British Military Administration*, John Murray: London, 1921. See Appendix VI: Antiquities Proclamation, 78-79.

In June of that year, the appointed High Commissioner, Herbert Samuel, was present at the annual session of the Palestine Exploration Fund, held in London. Samuel spoke of the importance of Jerusalem and the Holy Land in the eyes of the entire world, and promised to establish a governmental antiquities department in Jerusalem, dedicated to the preservation and study of the antiquities of the Holy Land.⁸ This department was established on July 1, 1920, immediately with the creation of the civil administration in Palestine. Samuel asked Garstang, director of the British School of Archaeology, to undertake the establishment and management of the Government Department of Antiquities; at that same time, Samuel was elected vice president of the school.⁹

Garstang, who was primarily interested in the biblical period, coordinated the department's activities in this field until his retirement in 1926. Ernest Richmond and William Hamilton who succeeded him, studied the later Hellenistic and Roman periods, as well as the Christian and Muslim periods.¹⁰

On October 31, 1921, Garstang initiated a renovation of the Jerusalem Archaeological Museum (the old archeological museum had artifacts from excavations carried out at the end of the Ottoman period) in the building that housed the British School of Archaeology and the Government Antiquities Department. In 1938, the "Palestine Archaeological Museum" was inaugurated in a new building built with the help of John D. Rockefeller, outside the northeastern corner of the walls of the Old City.¹¹

8) Ben-Arieh, "The Foreign Institutions," 146.

9) Ibid, 143.

10) Ibid, 156.

11) Ibid, 152.

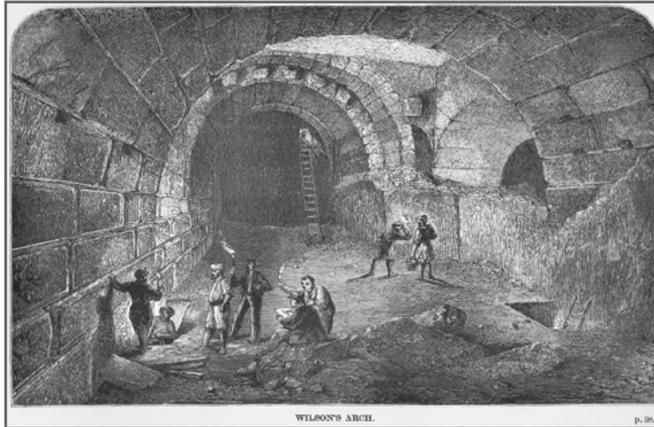


Image 1: Excavations by members of the British Palestine Exploration Fund
under Wilson's Arch

Part 1

The Law

Article 21 of the mandate that the League of Nations granted Britain for the control of Palestine, required the mandatory power to enact an antiquities law within one year of the mandate's proclamation. On October 15, 1920, the Government Antiquities Law was issued, which established the status of the Government Antiquities Department and its Archaeological Advisory Council. The Government Antiquities Law granted the Antiquities Department the authority to issue permits for trading in antiquities and for archaeological excavations, and even commissioned it to prepare a list of the historical sites (excluding religious buildings) in Palestine.

The British order from the period of military rule clearly stated that 1600 was the latest date of creation for an archaeological find to be considered ancient. This was later amended, as the British Mandate Antiquities Act (1920) discussed the essence of the find, defining it as an asset made by man prior to 1700, or as a biological or zoological remain from before 600 CE. The Act also authorized the Director of the Department of Antiquities to declare a later

object as an "archaeological find." This Act was revised in 1929 (Antiquities Ordinance, 1929),¹² with several amendments, and again, in 1934 (Antiquities Ordinance, Hatzerim, 1935).

Within the Mandatory framework, the treatment of buildings and sites from the 19th and 20th centuries was, in practice, for the most part given over to local planning institutions, without separate reference to the issue of conservation, which was neglected in favor of planning considerations.¹³ This created various contradictions in British policy: On the one hand, ancient Jerusalem, with all its historical strata, was preserved in the town plans of William McLean, Charles Robert Ashbee, and Patrick Geddes, in line with the British view of it as a biblical, or at least, a traditional holy city.¹⁴ Likewise, ancient Acre was preserved, though for somewhat different reasons.¹⁵ On the other hand, the historic sites outside the walls, and other ancient cities such as Tiberias and Jaffa, were destroyed.¹⁶ The preservation of the later urban fabric was subject yet? to other considerations.

Israeli Law: Antiquities

The mandatory Department of Antiquities, whose offices were located at the Rockefeller Museum, was replaced by the Israeli Department of Antiquities, which initially operated as part of the Public Works and Technical Services

12) Ben-Arieh, 1999, "The Foreign Institutions," 149, n. 67.

13) Gideon Koren. "Legislation for Preservation and Reform in the Planning and Building Law - Where to?" *Atarim – the Magazine* 2, 51 (2012) [Hebrew].

14) See for instance, Helen Meller. "Conservation and Evolution: The Pioneering Work of Sir Patrick Geddes in Jerusalem, 1919–1925," *Planning History Bulletin* 9 (1987), 42-9.

15) Stanley Waterman, "Pre-Israeli Planning in Palestine: The Example of Acre," *The Town Planning Review* 42(1) (1971), 85-99.

16) The distinction between the preservation of Jerusalem versus the non-preservation of other cities in the country was also made by Ben-Arieh (see note 1), and yet, he acknowledged that it was the British who first demonstrated conservation-awareness. For instance, Ben-Arieh claims that the Ottoman authorities did not take care to properly preserve historical buildings, including parts of the wall of Jerusalem, and noted that the last Turkish governor of Palestine, Jamal Pasha, "was not deterred even by the thought of destroying part of the Old City when he conceived the idea of breaking out a wide street... along the ancient market of the city on the streets of David and the Chain, which lead to the Temple Mount ... It was only the British occupation of the city ... that brought about the preservation and conservation of the Old City and its surroundings" (ibid., 279). But, as noted, what the British did not allow in Jerusalem, they did allow in other ancient cities.

Department of the Ministry of Labor and Construction. In August 1955, the department was transferred to the Ministry of Education and Culture as the Antiquities and Museums Department. After the Six-Day War in 1967, the documents of the Israel Antiquities and Museums Department were incorporated into the documents of the Mandatory Department of Antiquities at the Rockefeller Museum, which had been under Jordanian jurisdiction for 19 years. The concept of antiquities was preserved and was based in Israeli law according to the mandatory wording. In 1976, the Israeli government proposed a bill in the Knesset, which would create a modern law to regulate the issue. In early 1978, the Knesset passed the Antiquities Law, which established a legal framework for the unearthing, handling, and conservation of archaeological finds discovered within Israel, and obligated the state authorities to enforce its provisions. Under this law, an antiquity was defined as "an asset, whether detached or connected, made by man prior to the year 1700 CE, including something added to it later and that constitutes an inseparable part thereof," as well as "zoological and botanical remains from before the year 1300 CE." As already stated in the mandatory law, an antiquity can also be an item made by a person from 1700 CE onward, if it is considered "of historical value" and if the relevant minister has declared it ancient.¹⁷

On September 1, 1989, the Israel Antiquities Authority Law,¹⁸ which defines areas of responsibility of the Israel Antiquities Authority (IAA), was passed, and on April 1, 1990, the IAA was officially established to operate under the Ministry of Education (it later came under the auspices of the Ministry of Culture and Sport). The law defines the composition of the council of the Authority, which includes 16 members, among them government representatives, academics from the field, the head of a regional council, and the professional director of a museum. According to the law, the IAA is required to deal with all matters of antiquities in Israel, including underwater antiquities, and has the right to carry out any action necessary to fulfill its functions regarding antiquities and sites, including exposure, excavation, conservation, reconstruction, and the development of sites. The IAA is also responsible for supervising archaeological excavations, conducting and promoting archaeological research, collecting and recording archaeological data, cultivating international scientific relations in the

17) [Antiquities Law](#), 1978, Sefer Ha-Chukkim, 885.

18) [Antiquities Authority Law](#), 1989, Sefer Ha-Chukkim, 2331.

field of archaeology, and encouraging educational and public relations activities. To date, there are IAA governmental publications referring to approximately 17,500 declared ancient sites out of a total of 23,500 known sites. The law stipulates the following exception: The management, maintenance and preservation of an ancient site located within the boundaries of a national park or a nature reserve shall be carried out by the Nature Reserves and National Parks Authority "in coordination with the IAA" unless otherwise agreed.



Image 2: Archaeological excavation

Protection of Assets that are not Antiquities

As during the Mandate period, the protection of assets created after 1700 falls largely under the jurisdiction of the planning authorities. In the framework of the Planning and Building Law, the allocation of conservation status to a site is to be initiated by the head of the local authority. In the framework of the Planning and Building Law of 1965,¹⁹ the allocation of conservation status to a site is to be initiated by the head of the local authority. Section 61 of the Law, under the "Goals of the Local Outline Plan," stipulates that, inter alia, the planning objectives will be "to protect any building and object of architectural, historical, archaeological, or other value." Likewise, Section 69, under "Instructions for Detailed Plans" determines the "preservation of places, structures, and other

19) [Plannning and Building Law](#), 1965, Sefer Ha-Chukkim, 307.

things of national, religious, historical, archaeological, scientific or aesthetic importance."

In practice, no statutory protection was given to such assets. In 1984, the Knesset Education Committee asked that the Society for the Protection of Nature in Israel (SPNI) be transformed into a public body that would act to preserve historic buildings and sites in Israel. This led to the birth of the Council for Conservation, which later emerged from the SPNI and began operating independently under the name of the "Council for Conservation of Heritage Sites in Israel."²⁰ Since then, this council has worked vigorously to identify sites that are worthy of conservation and to encourage their protection, but as stated, in the absence of any statutory framework.

Under Amendment No. 31 of the Planning and Building Law of 1991, a fourth amendment, entitled "Plan for the Conservation of Sites" (section 76A) was added.²¹ This amendment explicitly refers to a site as "a building or group of buildings or a part thereof, including their immediate surroundings, which in the opinion of a planning institution are of historical, national, architectural or archaeological importance." Thus, the local authority (or any authority that the Minister of the Interior has appointed for this purpose in general or in particular) may prescribe prohibitions and restrictions on actions that may harm the conservation goals of the site that is included in the plan or will be included in the plan in the future. It may also prescribe provisions regarding the permitted uses of the site, including building additions, and may establish rules regarding the relationship between these provisions and the provisions of the plans that apply to the site.

This fourth amendment further determined that each local authority would establish a committee for the conservation of sites that would consist of the head of the authority or the chairman of the planning and building subcommittee; three members of the council of the authority, to be chosen by the authority; an authority employee appointed by the head of the authority who is knowledgeable about planning and building matters, and a person familiar with the conservation of buildings and settlement sites, selected by the council to serve as consultant

20) Koren, 52.

21) Planning and Building Law, 1965, [Fourth Amendment - Plan for Conservation of Sites](#).

only. The local authority's engineer and the district planner in whose area the committee operates, or their representatives, would be invited to every discussion at the site conservation committee. Within two years of its establishment, this committee was to prepare a list of sites for conservation within its boundaries. According to the amendment, the list would specify the reasons for conserving the site, development options, the details of its owner and other rights holders, and other details as the committee deemed fit. This list would be used by the Council for Conservation of Heritage Sites in Israel (CCHSI) and the planning institutions, but the former could change it at any time.

The Council for Conservation was authorized by the amendment to determine that the site designated for conservation is in real danger or that the site's conservation will harm the objective of preserving it. Accordingly, the Council is authorized to require the owners to perform maintenance work at the site for a given period of time, and if they do not comply, the local authority may carry out the necessary work to prevent the demolition of the site, and obligate the owners to reimburse the expenses. Alternatively, it can cancel any building permits, expropriate the site, etc. In addition, it can advise the district committee, if the latter requests that it do so.

According to Adv. Gideon Koren, through the fourth amendment to the Planning and Building Law, the subject of conservation of the sites has joined other issues awarded a special status in the Planning and Building Law (such as agricultural lands and the coastal environment). The amendment, explains Koren, created a significant change both conceptually and practically, by introducing separate and detailed provisions for conservation of the sites and buildings in the planning and construction processes, - so that conservation considerations will be raised immediately in the initial stages of the planning and construction procedures, and conservation committees with planning and implementation authorities in the area of conservation will be established.²²

Additional statutory definitions for site conservation, added in 1974 to the National Parks, Nature Reserves and National Sites Law of 1963 (which was later amended to the National Parks, Nature Reserves, National Sites and Memorial

22) Koren, 53.

Sites Law in 1998) are discussed in a section dealing with "national sites".²³ This section permits the declaration of "a structure or group of buildings or some of them, including their immediate surroundings, which are of historical national importance in the development of the Yishuv [pre-state settlement] in Israel" as a national site, as well as the declaration of memorial sites, i.e., sites "commemorating the Israel Defense Forces and the security forces that gave their lives to ensure the existence of the State of Israel, commemorating the fighters of the Israeli forces who fell for the sake of the rebirth of Israel and commemorating the victims of hostile acts." As a result of this law, interior ministers from 1979-2000, by virtue of their authority, declared 18 national sites in order to ensure that they would not be harmed and that they should be preserved.

Following the State Comptroller's Report of 2005, which was devoted to examining the conservation of buildings and sites and found, among other things, that none of the declarations had been made according to clear criteria,²⁴ the Ministry of Environmental Protection set up a committee for national sites in 2011 with the aim of "formulating threshold conditions and professional and transparent criteria for their declaration", proposing a list of sites to be considered as national sites, and formulating general recommendations for the process of declaring National sites.²⁵ The Committee was based on the definitions of a "national site" as determined in the National Parks Law of 1998, as well as on worldwide discussions of heritage. Important background material for the Committee's discussions included the UNESCO World Heritage Convention (signed by Israel in 1999 – see below) and other conventions.

Moreover, over the years, a number of outline plans have initiated a sweeping declaration of sites for conservation and protection. The initiative for a national plan for settlement sites (National Outline Plan 9), which sought to impose restrictions on construction on and use of 206 sites and structures from the beginning of the 19th century until the establishment of the State, was not

23) [National Parks, Nature Reserves, National Sites and Memorial Sites Law, 1998](#), Sefer Ha-Chukkim, 1666.

24) State Comptroller's Report, "[Reports on the Audit of Local Authorities in 2005 in Conservation of Sites and Buildings](#)", 2.

25) "[National Sites in Israel: Threshold Conditions and Criteria for Declaration](#)", Ministry of Environmental Protection, 2013 (accessed: October 15, 2018).

approved. On the other hand, National Outline Plan 21 of 1980²⁶ – a plan for sites from the War of Independence, with 119 sites whose national importance was recognized and that were designated for conservation – was approved, but according to the 2005 State Comptroller's Report, none of them were declared by the Minister of the Interior as national sites.²⁷ In 2005, National Outline Plan 35 was approved – an integrated outline plan for construction, development and conservation, with a list of urban and rural spaces for conservation. This plan, as well, places responsibility for the sites on the local authorities.²⁸



Image 3: Conservation and restoration work at the Damascus Gate

Reform in the Planning and Building Law

In 2009, the government launched a wide-scale initiative to reform planning and building procedures in the State of Israel, with the aim of streamlining and improving existing procedures. An important element of this reform was the expansion of the powers of the local planning and building committees, through a new and more efficient system of comprehensive and individual outline plans. In this framework, the reform proposed to disband the conservation committee and transfer its powers to the local authority and its engineer.

26) Ministry of Finance, Planning Director, *National Outline Plan 21 – Sites of the War of Independence*, 1980, 7-8.

27) State Comptroller's Report, 2005, 58.

28) *National Outline Plan for Construction, Development and Conservation No. 35, of the Planning and Building Law*, 1965, p. 40; 21.

According to Atty. Gidi Koren, transfer of the detailed planning procedures to the local authorities, and the encouragement of their professionalism and efficiency, are likely to be detrimental to the conservation process.²⁹ He claims that this move threatens to undermine the independent status of planning, diminishes the importance of conservation as an independent matter, and may lead to the cancellation of the distinct planning role of the conservation committees vis-à-vis the local planning and building committee. Moreover, the reform does not promote the integration of professionals among committee members. In the discussions on permit requests, which the reform transferred to "control institutes," there is no requirement to include experts.

Along with this sweeping reform, specific sites dealing with the heritage of Israel were specifically addressed. Within the framework of the "TAMAR" project – a set of guidelines for the rehabilitation and strengthening of national heritage infrastructures³⁰ – a plan was formulated to rehabilitate, upgrade and enhance "heritage assets" and ensure their conservation in future generations. The project has additional cultural and educational goals, including expanding the scope of economic activity in the areas of tourism and employment in the sites intended for conservation. The project, which operates under the auspices of the Prime Minister's Office, is promoted by an inter-ministerial committee comprising representatives of the local government and representatives of the Ministry of the Environment, and operates according to the Planning and Building Law and the Local Authorities Law. The initial project plan proposed the restoration of 150 heritage sites.³¹



Image 4: UNESCO emblem and flags of the member states

29) Koren, 55-6.

30) [The Prime minister office, TAMAR](#) - project guidelines for the rehabilitation and strengthening of national heritage

31) Tzvi Hauser, Feb. 17, 2010, *ibid.*

International influences

An additional source of influence on concepts of conservation in Israel is international conventions and agreements that reflect internationally accepted approaches and have been formulated by two central bodies: UNESCO and ICOMOS, an international non-governmental organization that advises UNESCO on the preservation of historic monuments and sites. According to Dr. Nili Shchori and Dr. Leah Shamir-Shnan,³² the various conventions form the basis of an international agreement on the guiding principles on the conservation, reconstruction, and restoration of historic buildings and sites, to which each country contributes its unique conservation practices.

In 1999, the Israeli government signed the international Convention Concerning the Protection of the World Cultural and Natural Heritage of 1972. The purpose of this convention is to protect cultural and natural heritage assets that are under constant threat and to establish universal rules governing their protection.³³ The sites or works are evaluated according to a standard of "outstanding universal value" from a historical, aesthetic, ethnological or universal perspective, according to clear and set criteria. The uniqueness of this convention derives in part from the requirement that each state establish a central mechanism for the conservation of its built, natural and cultural heritage. According to Shchori and Shamir-Shnan, these developments gave rise to local populations' awareness of their physical environment and to the understanding of the importance of the local populace in defining "the identity of the place" and ensuring its continuity in future generations.³⁴ By virtue of the convention, as of 2001, 16 international heritage sites have been registered in Israel, including "White City" buildings in Tel Aviv, Bahai sites in Haifa and the Galilee, biblical tels such as Megiddo, and more (the Old City of Jerusalem was included in the list of heritage sites recommended by Jordan).

Today, the "historic urban landscape" approach is based on the recognition of the values inherent in the historical locale and the diverse cultural contexts it comprises. According to this approach, urban heritage is an essential resource

32) Nili Shchori and Leah Shamir-Shnan, *Systemic Management of Conservation: Municipal management of local built heritage*. Mikve Israel: Yehuda Dekel Library, 2011, p. 16 [Hebrew].

33) [Convention Concerning the Protection of the World Cultural and Natural Heritage](#), UNESCO, 2005.

34) Nili Shchori and Leah Shamir-Shnan, 2011.

for promoting urban life, both in terms of economic development and as a tool for fostering social cohesion in a changing global environment.³⁵

Additional Actions

Moreover, in recent years there have been various responses to the partial conservation policy in Israel. Not all of them bore fruit, but they made a mark. In 1990, a convention was drafted creating categories for the conservation of buildings and sites of Jewish settlement by the Council for the Preservation of Heritage Sites in Israel, in the spirit of UNESCO's various conventions (which had not yet been adopted by the Israeli government): A site bearing a "seal of primacy"; a site specially marked to denote that it played a key role in the foundation of the state; a site related to the life or activity of a person or group of people that has influenced cultural and historical processes; a structure or a complex of buildings with an architectural character that reflects the distinctness of a particular culture and style of construction; a site that characterizes the culture and way of life of a certain period; a landscape of historical value; a site unique in its construction and use of materials that comprises an historical layer in the building heritage.

In 2005, the council proposed an amendment to the law (amendment regarding the interpretation of 'conservation and restoration'), with several objectives: to strengthen the status and professionalism of the conservation committees by introducing more professional and objective staff to the committees, and to increase the conservation committees' influence on the planning process; to ensure the completion of the preparation of conservation lists with the assistance of actors external to the conservation committee; to establish a standard procedure requiring consultation with professional bodies on the subject of conservation for plans involving a structure and/or site intended for conservation; to use tax incentives to encourage owners of properties slated for conservation to carry out conservation, reinforcement, and restoration activities; to restrict eligibility for compensation; and finally, to step-up enforcement and legislate harsher punishments for causing damage to buildings slated for conservation. This proposal was not accepted.³⁶

35) [Recommendation on the Historic Urban Landscape](#), UNESCO, 2011.

36) Koren, 54.

In 1988, the Israel Lands Council decided to establish a conservation committee in the Israel Lands Administration (ILA), whose members would include representatives from the Council for Conservation and the Jewish National Fund. The conservation committee was charged with formulating the ILA's position on the subject of the conservation of buildings and sites of settlement and recommending methods of action on the subject. The committee did not fulfill the functions assigned to it.³⁷

The Council for Conservation was more successful in its response to the proposal to reform the Planning and Building Law. Among other things, it succeeded in the following: expanding the definition of "public needs" to include conservation, so that conservation would receive a similar status to other public needs recognized by law; demanding the reinforcement of the fourth amendment (see p.8, above); determining that the national outline plan include sites of national importance for conservation; and ensuring that detailed local outline plans include provisions regarding conservation of sites. Finally, the council was able to reduce entitlements to compensation for those harmed by conservation plans and to condition the receipt of compensation on the conclusion of the conservation work on the relevant property.³⁸

37) Idem.

38) Koren, 56.

Part 2

Practical Issues and Dilemmas

A review of critical articles written over the years, interviews with professionals, and analysis of the State Comptroller's Report devoted to the state of conservation in Israel in 2005, raise a number of key issues.

- **Only the protection of “antiquities” is anchored in law**

Since the establishment of the State, Israeli archaeology has been protected by the Antiquities Law, starting with sites established prior to 1700. While specific laws protect some Israeli sites from later periods, including memorial sites and settlement sites (see above), most of sites that were founded after 1700 are not protected by any legal definition. Among these sites are the Ottoman buildings of Acre and Jerusalem, Ottoman public buildings (khans – caravanserais, and sabils – public water fountains), the construction projects of Daher al-Umar in the Galilee, remains that are evidence of Napoleon's journey to the Land of Israel, the walls of Tiberias from the Ottoman period, and more.³⁹ In practice, the Antiquities Law applies to these sites only if they are built on a site that was extant prior to 1700. In fact, argues archaeologist Gideon Avni, this legal situation does not allow for proper protection of sites that undoubtedly belong to the cultural heritage of the State of Israel and leaves no legal recourse for the protection of ancient monuments of cultural value.⁴⁰

Since the conservation of such sites is not anchored in the law, it is subject to the considerations of government ministers, policymakers and decision-makers. Thus, for example, in 2005, the State Comptroller found that in 1998 and between 2001 and 2005, the Israeli government decided to rehabilitate 50 settlement sites at a cost of NIS 75 million, but the decisions were not implemented in full; by the end of June 2005, only about 40% of the promised budget had been transferred to bodies responsible for conservation and rehabilitation.⁴¹ In addition, the State Housing Administration (part of the Finance Ministry) and

39) Gideon Avni, "Should the Antiquities Law be Applied to Cultural Assets Made Since 1700?" *Ba-Academia*, November, 2001, 18 [Hebrew].

40) *Ibid.*

41) State Comptroller's report, 2005.

the local authorities have no information regarding buildings designated for conservation by the State.

- **Lack of state vision and placing the authority at the local level**

A unique problem at the local level, explain Shchori and Shamir-Shnan, is a structural conflict of interest. The fact that the conservation committees are subject to and sponsored by the local authorities has created an internal contradiction, an absurd situation in which "the mice are left in charge of the cheese." One aspect is related to the interest of the local authority in development and construction undertaken in its jurisdiction, a matter of economic and social significance. This significantly jeopardizes the possibility that a conservation committee will be appointed as a counterweight to the policies of the local authority.⁴²

The fact that the compensation paid to property owners affected by a conservation plan comes from the pockets of the same local committee vested with declaring the need for conservation (par. 197 of the law) further undermines decision making.⁴³ The Planning and Building Law grants affected owners broad compensation rights, which are imposed on the local authority. The cost of the conservation project is thus increased by the substantial compensation awarded to the owners. These costs, claim the researchers, have often led local authorities to forgo the conservation of sites.⁴⁴

On this point, the fourth amendment also protected the local authorities beyond the requirements of the law and to the detriment of conservation aims, stipulating in par. 8 that if the local authority is required to pay compensation under par. 197 in cases where a conservation plan is prepared and validated, that authority may initiate a change to the plan or cancel the conservation plan altogether, in order to avoid the burden of compensation.

Added to this is the fact that, contrary to the directive of the fourth amendment, professionals are absent from the composition of the conservation committees. In fact, the conservation committees are obligated to appoint

42) Shchori and Shamir-Shnan, 39-42.

43) Koren, 54.

44) Idem.

only one professional, whose sole capacity is as an advisor. The presence of professionals in conservation committees could balance conflicts of interest and give greater weight to considerations of conservation.

In general, claim Shchori and Shamir-Shnan, the economic aspect is one of the main weaknesses in the conservation process. Since the preserved site is a hybrid urban product, it is unclear who pays for it, who benefits from it and when, and it is very difficult to determine its future value. Moreover, conservation is still perceived as a luxury – an unnecessary act whose value is purely aesthetic. Since the importance of preserving the built heritage is not widely valued as an important goal in spatial planning, the result is the exertion of pressures for accelerated development, which is expressed mainly at the local level.⁴⁵

Adv. Gidi Koren argues that emphasizing the role of the local authority in all matters related to conservation completely ignores the need for an overarching conservation policy and a principled approach to important issues (such as high-rise construction in historical compounds).⁴⁶ Therefore, the nature of site and building conservation in Israel will continue to be a function of local considerations. Shchori and Shamir-Shnan believe that diverting the discussion from the local to the regional and even the national level, or granting authority to a professional and objective body in the field of conservation that is detached from local interests, can contribute to the quality of the procedures in the planning institutions.⁴⁷ Further improvement can be achieved through clear policies and a statutory infrastructure.

- **The Fourth Amendment to the Planning and Building Law is inadequately implemented**

These and other difficulties create a situation in which the fourth amendment – the central statutory tool in the conservation of sites (that are not defined as "antiquities") – is largely ignored. In 2005, the State Comptroller found that, contrary to the law, conservation committees had not been established in all local authorities. Moreover, some of the committees established were not active

45) Shchori and Shamir-Shnan, 39-42.

46) Koren, 56.

47) Shchori and Shamir-Shnan.

and their composition did not conform to the provisions of the law. The Interior Ministry, for its part, did not play its required supervisory role. Only 58 local authorities prepared a list of sites designated for conservation, and only in 18 of them did the list include all the details required by law. In addition, it was found that only 50 local authorities set criteria for preparing the list, and the conservation committee approved the list of sites in only 35 local authorities. The local Planning and Building Committees approved the lists in only ten municipalities. In general, few authorities are working to raise adequate financial resources to the conservation of buildings and sites.⁴⁸

According to Adv. Koren, the fourth amendment determined that each committee must prepare a list of sites for conservation within two years, but set no date for the establishment of the committee itself. Furthermore, a local planning institution that wished to conserve a site could have done so prior to the passing of the amendment. On the other hand, an institution that did not wish to engage in conservation was exempt from any obligation even after the amendment was enacted. Moreover, despite the provision regarding the establishment of the conservation committees, there was no legal obligation to consult with them, and they were given no special enforcement powers vis-à-vis the sites included in the conservation list. The amended law also did not grant sufficient powers to prevent damage to sites designated for conservation, which of course further detracts from their already limited ability to enforce the law.⁴⁹

The State Comptroller's Report performed an in-depth examination of the activities of nine authorities; in all of them, it was found that the conservation potential was far greater than its realization. Despite the numerous lacunae in the law, there are some positive trends to cite in the development of conservation in Israel. In Jerusalem there are more than 3000 sites of national and international importance worthy of preservation (not including sites in the Old City). However, in the absence of an approved list of sites zoned for preservation and anchored in municipal city building plans, most of these sites remain without statutory protection. In Be'er Sheva there are about 110 sites slated for preservation and approximately 300 additional sites that have been classified as worthy of preservation, most of them located in the Old City. However, the

48) Report of the State Comptroller, 3.

49) Koren, 53.

longtime neglect of sites such as the national sites of the Turkish railway station and Beit Eshel, has led to damages whose repair would be quite costly. In other cases, neglect has resulted in damages so severe that complete demolition and reconstruction were required. In Haifa, for example, while some conservation projects have been carried out in a timely manner and with great success, the neglect of other sites, such as the Emile Touma house and the Najada house, which were designated for conservation, has led to considerable damage. In some cases of neglect, changes are required including building additions and other alterations that affect the fabric of the buildings and detract from their unique character.

Additional findings from around the country reinforce the concern that there is a wide discrepancy between the number of conservation-worthy sites and the number actually conserved. According to estimates of the conservation committee and the local authority of the Petah Tikva municipality, of approximately 60 sites worthy of conservation in the city, only two have been conserved. Some 86 buildings and sites are designated for conservation in Tiberias, but the municipality has not taken care of them, even though in 1988 it was a partner in preparing a municipal conservation master plan. In cooperation with the Council for Conservation, the council in Kfar Kama began restoration and conservation works on one site as a world center for the heritage of the Circassian community, and conservation work on the nucleus of the village; other sites remained abandoned and destroyed. In the Lower Galilee Regional Council there are 110 sites designated for conservation, but few have actually been conserved. Safed has about 350 historic sites and structures, but the municipality has neither maintained nor conserved the buildings and sites, and some have suffered irreparable damage. The city of Shfar'am has historical sites, the most prominent of which is the Shfar'am fortress, where partial renovations were carried out, but it remains desolate and neglected, its walls are collapsing, and it poses a hazard to the public.⁵⁰

50) Following the report, the Ministry of the Interior conducted in-depth work in order to encourage the establishment of conservation committees in many local authorities, with considerable success. Conversation with architect Lenre Lankin, June 2018.



- **Responsibility for conservation is split among many agencies, resulting in conflicts of interest**

The State Comptroller's Report listed the many ministries and authorities responsible for conservation in Israel.⁵¹ Unfortunately, the large number of bodies does not guarantee the quality or quantity of the conservation projects. To the contrary: the multiplicity of laws and bodies involved in the preservation of buildings and sites makes it difficult for the various parties to coordinate and implement conservation. Moreover, despite their number, they do not address all aspects of conservation.

The situation on the ground, claims Koren, is the result of the sporadic reference to international conventions, laws and regulations of government ministries and government authorities, and the proliferation of associations and public bodies with an interest in conservation. In fact, in many ways, the decision to establish the Council for Conservation lay the groundwork for the difficulties facing the Council to this day, since transfer of the handling of the matter to an essentially private body was also a complete renunciation of the need for state responsibility for the issue. Thus, for example, the Israeli Committee for World Heritage –composed of representatives of government ministries,

51) State Comptroller's Report, 4.

public bodies and authorities, and academic institutions – is responsible for the implementation of the international convention to which Israel is signatory, and for promoting conservation. However, its activities are carried out without the government or ministers charged with conservation determining or defining any operative principles, nor have the duties and powers of any of the aforementioned bodies been determined.⁵² In principle, the universal criteria of international conventions must be adapted to the local context; from a practical standpoint, its conditions must be anchored in law.

The Israel Antiquities Authority, claims architect Giora Solar, operates within an internal conflict of interests, since by definition it is responsible for identifying and documenting sites intended for conservation, for implementing conservation, and also for planning for the future. In addition, many of the national sites in nature reserves, which the Nature and Parks Authority is legally mandated to cultivate, are antiquities sites, and if they were not located in a national park, they would be subject to the authority of the IAA; on the other hand, the Nature and Parks Authority has no professional council for conservation matters. Since antiquities are discovered by archaeological means, and what is intended for conservation and protection can only be an "ancient find," every element with a later date found in a given excavation gets lost along the way.⁵³

In fact, argues Adv. Koren, a considerable proportion of the difficulties stems from the fact that the preservation of heritage in recent years is not dealt with from a state perspective, and its implementation in the field of planning and construction makes it a local issue; therefore it lacks a statutory basis. In the framework of the original law, the planning authorities are required to consider not only the physical development of the state, but also the issue of the conservation and safeguarding of structures worthy of preservation.

That being the case, the subject of conservation does not always stand on its own and thus ends up being marginalized. For example, the planned reform in the realm of planning and construction, whose main concern is the streamlining of planning, directly affects conservation considerations. As can be seen from the planning laws that have been enacted over the years, the conservation

52) Report of the State Comptroller, 57-8.

53) Interview with architect Giora Solar, May 2018.

concept is subject to the considerations of the current government's agenda and is determined according to its transient considerations.

- **Lack of professional criteria for conservation**

There are quite a few barriers to conservation in the State of Israel. But the lack of clear criteria is a significant barrier that is not sufficiently addressed, especially with regard to sites built after 1700, the year of the arbitrary cutoff. This shortage causes a continuous failure to properly care for the built heritage of the Land of Israel throughout the ages and a randomness and lack of context in how sites are treated. The immediate result of the absence of a clear conservation policy is that many sites are lost forever. However, no less problematic is the fact that the sites chosen for conservation by the relevant authorities are determined from a narrow point-of-view, which serves a very small segment of stakeholders in particular sites and in the greater surrounding space.

Conservation in Jerusalem is based on a conservation catalog of index cards that was prepared in the Master Plan of 1968.⁵⁴ The catalog includes the description of each site and its "cultural value."⁵⁵ In 2014 the catalog was updated. The description of the site evaluation process states that the goal is to "create a uniform and dynamic format for the evaluation of conservation sites in the city" and to enable "the classification of sites according to agreed and international principles." The principles are: value of the neighborhood fabric, social and communal value, historical value, landscape/scenic value, flora and fauna, authenticity and integrity, cultural and spiritual value, aesthetic value and scientific value. But the interpretation of universal values in relation to the local context was problematic. The sites identified in the historic city and throughout Jerusalem are located in various neighborhoods, including Mevor Baruch, Arnona and Mevor Chaim, as well as in Beit Hanina and Shu'afat, and even the nuclei of Arab villages in East and West Jerusalem. It should be emphasized, however, that all the architectural firms selected for the survey were from the western part of the city, and that the ad published in the press that invited residents to "take part in the preparation of a list of buildings and historical sites for conservation in the city of Jerusalem" was published in Hebrew only. According to the new method,

54) [Conservation Catalog](#), Master Plan, Jerusalem, 1968.

55) Aviya Hashimshoni, Tzion Hashimshoni and Yosef Schweid, 1972. Jerusalem Master Plan 1968, Volume I, Jerusalem Municipality, 140-1 [Hebrew].

there are about 4,000 sites designated for conservation in Jerusalem (according to the State Comptroller's Report, there is no legal protection for the sites listed in either the old or revised card index).⁵⁶

At the same time, structures for conservation are identified and selected during the preparation of neighborhood master plans. The decision regarding the structures themselves, claims Giora Solar, is not made according to clear criteria, and the result is therefore usually arbitrary. Sometimes the lists of sites for conservation are prepared by residents of the neighborhood; sometimes prominent buildings are marked on historical maps from selected years.⁵⁷ Thus, the quantity and quality of the buildings listed for preservation vary from neighborhood to neighborhood, since in some neighborhoods the knowledge of the buildings' inventory is very sparse, and in any case, the level of awareness of the local residents and their use of historical buildings directly affect the survey itself.

In Tel Aviv, a municipal conservation plan is currently being prepared (2650b). The sites slated for preservation were chosen according to five criteria determined by the authorities: location, architectural quality, identity of the architect or the designer, physical condition, and historical value. Each category received a value score.⁵⁸ But as municipal conservation architect Jeremie Hoffman explains, an attempt has been made to adapt the relevant criteria to the cultural context of the part of the city where the building is located. For example, the historical-national importance of the Neve Tzedek complex is high, but the names of the architects of the original houses in the neighborhood are unknown; thus, this criterion is irrelevant. Hoffman explains that in order to avoid imposing national and other narratives, there is an attempt to relate to each structure according to the context in which it is situated. Sometimes the identity of the architect is removed from consideration (for example, an architect who contributed to a Templar neighborhood, but is not highlighted because he identified with the values of the Nazi movement in order to not distract the spectator's objective assessment of the structure's contribution to the city's history.

56) Department of Conservation, Jerusalem Municipality, [List of Sites for the Preservation of Jerusalem: Methodology for Examination and Evaluation of the Site](#) [Hebrew].

57) Interview with Giora Solar.

58) Conversation with Jeremie Hoffman.

Evidence of the changing cultural context can be found in Hoffman's explanation for the selection of the buildings of the White City, declared in 2003 as a World Heritage Site. According to Hoffman, UNESCO's requirement was to define a coherent and concentrated heritage site, and therefore the declaration was focused on Tel Aviv, as part of the story of the establishment of the new city. Today, says Hoffman, it can be argued that the development of the new city cannot be understood without the background of the old city [of Jaffa] to its south, and therefore the boundaries of the declaration should have been broadened.⁵⁹ In any case, there is no doubt that the lack of congruence between international criteria and local conservation priorities is worthy of discussion.



Image 6: "The Ship House" in the White City, designed by architect Shimon Hamadi-Levy

59) Ibid.

Part 3

"The Tyranny of the Narrative"⁶⁰

- **The problematic nature of the Israeli conservation narrative**

From the outset, planning laws in Palestine were formulated according to the viewpoint of individuals who saw its antiquities as expressions of the Holy Land, the land of the Bible. The arbitrary cutoff year of 1700 chosen by the Ottoman authorities was adopted by the British, who were primarily interested in local archaeology. The original definitions of the mandatory Antiquities Law concerned the exposure of the Holy Land and the preservation of its relevant antiquities. The interest of the Palestine Exploration Fund made an impact on the three main components of conservation at that time – the law, the Department of Antiquities in Mandatory Palestine, and the museum.

The State of Israel adopted the British law, which enabled the strengthening of the ancient Jewish connection to the land, and, on the other hand, obscured the connection to sites from later periods. The few conservation laws that were added to protect later sites also deal explicitly with the history of Jewish settlement in Israel (sites of settlement and commemoration). A review of the finds in buildings designated for conservation in Israel indicates that the criteria for their preservation are very local, relate to the same cultural-historical identity, and represent one narrative of settlement and revival in the Land of Israel. The discourse that mourns the loss of sites that are not protected by law also operates largely according to the same criteria; Koren characterizes the awakened conservation discourse in 1984 as focusing on "the destruction and neglect of heritage sites from the period of Jewish settlement."⁶¹ This discourse also prevails in the State Comptroller's Report, and as a result of this conservation practice, objective and normative evaluation of sites worthy of conservation is prevented, because of their ties to the many local, non-Jewish local authorities and their communities.

60) The term derives from Neil A. Silberman, "[The Tyranny of Narrative: History, Heritage, and Hatred in the Modern Middle East](#)," *Journal of Eastern Mediterranean Archaeology and Heritage Studies* 1(2), 2013. Silberman's fear is that a preferred national narrative causes arbitrary selection of the facts (and sites) that support it.

61) Koren, 51.

- **Calls for change in the world**

At the same time, it seems that the aforementioned problem is not unique to Israel. In recent years, increasing studies worldwide have claimed that conservation discourse is a sedentary discourse, based on selective narratives and identified with a limited part of society in a particular area. New studies deal with the cultural heritage of indigenous populations and gaps between memorializing the built heritage of the majority of the population and ignoring other traditions, some belonging to persecuted populations.⁶²

Canada's heritage sites are clearly identified with the national heritage. They include national sites chosen by the Minister of the Environment as sites of national historical significance; heritage sites related to the railroad; historic lighthouses; and buildings belonging to the federal government, chosen because they have historical or architectural value. Parallel programs help identify sites related to persons and events of national historic significance.⁶³ The exceptional reference to indigenous culture appears in relation to objects and materials.⁶⁴

The preoccupation with the built heritage in the various provinces follows these guidelines. Exceptionally, in the province of British Columbia, it was determined that "historical places" are essential for understanding the identity and character of local communities and for contributing to their future, and that heritage conservation deals with the past of the community for the benefit of its present and of its future generations. Among the advantages to the identification of cultural and historical sites is the strengthening of the tie with the First Nations.⁶⁵

The First People's Cultural Council, a state organization in British Columbia, is intended to support the revival of indigenous languages, arts, cultures, and heritage. Among other things, a "toolkit" was created by the organization to

62) Silberman; Hyojung Cho. "Conservation of Indigenous Heritage in the United States: Issues and Policy Development," *Journal of Arts Management, Law, and Society* 38(3), (2008), 187-204; Marcus Colchester, "Conservation Policy and Indigenous Peoples," *Cultural Survival Quarterly Magazine*, (2004).

63) Government of Canada, [Care of Objects and Collections](#).

64) *Ibid.*

65) [Heritage BC](#).

assist in the identification and preservation of historical places in the indigenous heritage, according to the view that although most of these places tend to be archaeological sites, there are exceptions.⁶⁶

Among other things, the "toolkit" discusses failures in the British Columbia Heritage Conservation Act (HCA) regarding indigenous heritage. First, according to this law, the heritage site will be a site with archaeological finds, and therefore sites whose essence is purely spiritual or religious are not heritage sites. The law also requires all heritage sites to be earlier than 1846 – the year chosen to represent Canadian sovereignty in the province by the Canadian courts. From an indigenous point of view, however, many sites have ongoing use and meaning, and the initial date of use does not apply to them.⁶⁷

It seems, then, that in contrast to the laconic attitude found in Canadian laws, many informal organizations that deal with the unofficial built heritage, strive to expand the concepts of "heritage" and "national heritage" to create a broader discourse that involves the communities that make up the local identity. For example, the organization Heritage BC explicitly refers to the heritage of "First Peoples" in asking professionals to "reframe the familiar and comfortable contexts of our work [...] Heritage BC is committed to heritage in all its forms. We recognize there is much to learn from each other, as we start to more fully appreciate the diversity of experiences and the multiplicity of perspectives that form the richness of Canada's heritage."⁶⁸

In 2017, a state report was published on the preservation of Canadian heritage,⁶⁹ which claims that in comparison with other countries, Canada suffers from a bad reputation in terms of protection and preservation of its built heritage. It argued that Canada is the only G7 country to have no comprehensive legislation relating to its built heritage and/or protection of archaeological sources. Specifically, it argued that indigenous history is not properly represented in Canada and that the various communities should be invited to recommend sites for declaration

66) First People Cultural Council, Heritage Toolkit, <http://www.fpcc.ca/culture/heritage-toolkit>.

67) Alexa Walker, New First Nations Heritage Planning Toolkit Released in British Columbia, [Intellectual Property Issues in Cultural Heritage: Theory, Practice, Policy, Ethics](#).

68) Heritage BC, [First Peoples' Heritage](#).

69) Deborah Schulte, Chair, 2017. Preserving Canada's Heritage: The Foundation for Tomorrow Report of the Standing Committee on Environment and Sustainable Development.

in order to rectify the situation.⁷⁰ As part of the discussions, it was proposed that the communities be allowed to act to defend their sites on their own,⁷¹ and that conditions must be created whereby “the Indigenous community sees themselves reflected back to them in what is recognized as Canadian heritage.”⁷²

Among the recommendations of the report was that the Canadian federal government must support indigenous community initiatives for determining the nature of protection and preservation of sites important to them, to enhance their ability to preserve important places, and to present their perspectives to the Historic Sites and Monuments Board of Canada.⁷³ The report also recommended amending the Law on Historic Sites by adding First Nations representatives to the Board of Canada, and requiring the Board to conduct a comprehensive revision of the “policies, criteria, and practices of the National Program of Historical Commemoration to integrate indigenous history, heritage values, and memory practices into Canada's national heritage and history.”⁷⁴ The report concludes that Canada's historic places are a source of pride for its residents and that they aid in telling the story of Canada and its peoples, and therefore they must be supported by proper legislation.

70) Ibid, 156.

71) Ibid., 160.

72) Ibid, 162.

73) Ibid, recommendation 15.

74) Ibid, recommendation 17.

- **Conservation Policy in Australia**



Image 7: Aboriginal sacred site in Australia

One of the countries leading a sweeping change in conservation policy is Australia. Australia's central conservation law, the Environment Protection and Biodiversity Conservation Act of 1999, provides protection to global sites in Australia, to national sites, including national heritage sites, and to Commonwealth heritage sites.⁷⁵ By virtue of the law, a National Heritage List was formed "to identify, protect, and manage places of outstanding heritage significance to the nation," as was the Commonwealth Heritage List, which lists places of importance to indigenous heritage.

At the same time, the category "indigenous heritage" is described as "an important part of the Australian heritage." Australia's native heritage sites include sacred and/or spiritual places, places where contact was made with other cultures, and places of contemporary significance. These sites are defined by a separate law, the Aboriginal and Torres Strait Islander Heritage Protection Act of 1984, which allows the Australian government to act on demands to protect important sites and indigenous objects if the laws of the country do not protect them properly.⁷⁶

75) [The Environment Protection and Biodiversity Conservation Act 1999](#) (EPBC Act), The Australian Government, Department of the Energy

76) [Aboriginal and Torres Strait Islander Heritage Protection Act 1984](#), [Aboriginal and Torres Strait Islander Heritage Protection Act](#).

Australia also has separate conservation laws in different states and territories. In Western Australia, the primary legislation dealing with indigenous sites is the Aboriginal Heritage Act of 1972. This law refers to relics and archaeological sites, as well as to places and objects currently used.⁷⁷ The purpose of legislation in the state of New South Wales is to preserve cultural heritage and promote public awareness of significant places, objects, and properties to indigenous peoples in the county through the National Parks and Wildlife Act 1974.⁷⁸ In Queensland, the Aboriginal Cultural Heritage Act was passed in 2003 to provide statutory protection for indigenous heritage throughout the province, even if the heritage was not previously identified by other laws.⁷⁹ In South Australia, the Aboriginal Heritage Act of 1988 seeks to protect and preserve the indigenous heritage, having created the Register of Aboriginal Sites and Objects to provide overall protection for all indigenous heritage, even if not included in the Register. A State Aboriginal Heritage Committee was also established on behalf of the law.⁸⁰ In Victoria, the indigenous heritage is protected by the Victoria Aboriginal Heritage Act of 2006. In addition, an indigenous heritage council was established to advise the provincial government.⁸¹

Australia's Northern Territory defines sacred sites through the Northern Territory Aboriginal Sacred Sites Act of 1989, which relates the meaning of the site to the natives themselves; this is the deciding factor.⁸² In the Australian Capital Territory, indigenous cultural heritage is protected by general legislation with specific accommodations, including the Land (Planning and Environment) Act of 1991⁸³ and the Heritage Objects Act of 1991.⁸⁴

In Tasmania, the Historic Cultural Heritage Act of 1995 promotes the protection and preservation of places of historical cultural value. The law has an archaeological emphasis, and there is almost no recognition of the role of

77) [Aboriginal Heritage Act, 1972.](#)

78) [National Parks and Wildlife Act, SECT 2A Objects of Act, 1974 \(Australia\).](#)

79) [Aboriginal Cultural Heritage Act, 2003.](#)

80) [Aboriginal Heritage Act, 1988.](#)

81) [Aboriginal Heritage Act, 2006 \(Australia\)](#)

82) [Northern Territory Aboriginal Sacred Sites Act, 2003.](#)

83) [Land \(Planning and Environment\) Act, 1991 \(Australia\)](#)

84) [The Heritage Objects Act, 1991](#)

the Aboriginal people in protecting its cultural heritage.⁸⁵ Recently, a number of changes have been made in order to involve citizens and consult with them on matters of heritage.

In spite of the specific points of difference in the treatment of indigenous (often referred to as Aboriginal) heritage in different territories and states, it is evident that Australia places great emphasis on its identification and preservation. At the national level, the indigenous heritage is included in the general registers. The distinction among various forms of heritage is made in order to protect sites that may have been omitted from the general definition. In addition, emphasis is placed on committees of indigenous representatives for the purpose of identifying and protecting their sites. The values attached to the sites themselves are varied as tangible and intangible, historical, religious or spiritual. Although it is possible to easily identify the period in which contact was made between the natives and settlers, there is no attempt to set a date on the site's creation, the beginning of its use or its termination. In fact, there is no time limit on the formation of the value of the various sites or the period of their use.

85) [Historic Cultural Heritage Act, 1995.](#)

Conclusion

From the Ottoman period until today, there are many stakeholders in the field of conservation of the built heritage in Israel, as evidenced by the description of the development of local conservation laws. The short legacy of Israeli planning has been affected by the temporal influences in the local mood, as well as by the concept of conservation and its principles throughout the world. However, today it seems that despite the inclusion of universal criteria and general progress in the field, the State of Israel uses planning and conservation laws (or their absence) as an extension of its national goals.

As the work of researchers, professionals and legislators shows, conservation in Israel is a significant issue that necessitates a variety of improvements. This review has emphasized the need for improvements in three main areas: legislation, implementation, and most importantly, defining comprehensive criteria for all residents of the country, past and present. The field of conservation is changing around the world and it is increasingly becoming recognized that it must make the effort to address the heritage of a wide range of populations, by adapting the criteria to their unique characteristics and their uses of the landscape and the built environment. It is fitting that here as well, in Israel, that this change will finally come to pass.

