



**The 4th International
Conference on
Architectural Cultural
Heritage**



**The Role of Legislation in an Architecture Conservation Strategy for
Gaza, Palestine**

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February 2019

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Abstract

Gaza used to have a reasonable number of built heritage that decreases day after day. The continual loss and neglect of historic buildings and areas in Gaza are due to many factors. Among the most important are the inadequacy of existing legislation and the inability of institutions to protect the built heritage. The aim of the research is to pave the way for the establishment of a legislative and administrative framework that would underpin a conservation strategy for Gaza, Palestine. The research starts by highlighting the different attitudes within the current conservation discourse. An analysis of the current Palestinian legislative and institutional systems is followed by an appraisal of the city itself and its built heritage. Two case studies of cities that are in some ways comparable to Gaza, the cities of Jeddah and Cairo, are analyzed. The study concludes an analysis of the deficits in legislation and implementation process behind the absence of serious conservation actions, and recommending comprehensive conservation legislation and an administrative framework capable of efficiently implementing conservation initiatives.

Keywords: Urban and architecture conservation; Historic buildings, Gaza; Conservation strategy; Conservation legislation.

1- INTRODUCTION

Palestine

Palestine has a long history that goes back more than four thousand years. Throughout history, Palestine has experienced political conflicts due to successive occupation campaigns. In 1994, after a long history of struggle, the Palestinian National Authority has been established in the Palestinian territories of the West Bank (about 5700 km² and 2,719,112 inhabitants in 2013) and Gaza Strip (360 km² and 1,701,437 inhabitants) (Palestinian Bureau of Statistics, 2014). Gaza Strip is located along the southern east coast of the Mediterranean Sea with Gaza as a major city (45 km² and 650,000 inhabitants). Gaza contains most of the historic heritage of the Strip. Palestinian resources are very limited and depend mostly on some natural resources like limestone and sand and on tourism. Architectural and urban conservation is of vital importance to Palestine in general and to Gaza in particular for two major reasons: the first is the cultural importance and the second is as a socioeconomic source of prosperity.



Fig 1 : Map of Palestine shows the West bank and Gaza Strip (Green color)

Research Objectives

There are two main objectives for the research. The first objective is a general one that aims to find out the role of conservation legislation in the initiation of architectural and urban conservation strategies. This is especially important where there is a continual loss and neglect of historic buildings and areas. The second objective aims to help the city of Gaza, Palestine to save its historic buildings and areas.

Research Problem

This research proposes to analyze the legislative and institutional systems in Gaza to identify the most appropriate legislative and administrative frameworks for a conservation strategy to save historic buildings and areas.

Methodology

Research methodology will be based on a case study method involving analytical studies for the written archives, individual and group interviews of conservation related subject's specialists, comparison study for the experience of countries with related circumstances. In the end, the conclusions will be juxtaposed, compared and defined to achieve final conclusions.

2- ASPECTS OF A CONSERVATION STRATEGY

There are many aspects which affect conservation strategies such as cultural, socio-economic, technical, legal and others. Therefore, conservation strategies should be guided by aspects appropriate to their context.

Cultural Aspects

In Gaza, as well as in other Palestinian territories, people face a strong cultural challenge and debate. The previous plans that were prepared by non-Palestinian planners under occupation didn't only ignore cultural values but rather they helped to destroy the remaining culture. Some buildings are undoubtedly of national importance and as such will also be respected for the role they play in portraying national identity (Orbasly, 2008).

Technical Aspects

Technical aspects in conservation are varied and they differ from one place to another. They include the causes of decay of historic buildings, historic building materials and preservation techniques. Because of the differences in these aspects; some countries have set out technical guidance for preservation works. Other countries follow the international standards set by UNESCO. The causes of decay of historic buildings and structures in Gaza seem to be varied. The most important factors are the damp and moisture, man-made causes and the lack of technical experience and craftsmen. One of the main causes of decay in Gaza is man. The way people and institutions intervene in buildings has bad effects on both their historic character and stability. In some places like Saida, Lebanon, the major cause of decay of the great mosque refers to inefficient preservation (Lamai, 1986).

Socio-economic Aspects

One of the major aims of a conservation strategy for Gaza is to improve the socio-economic prosperity of the city. Where resources are very limited it could be argued that architectural and urban conservation could be a beneficial resource to socio-economic concerns. This is because of two potentials of historic buildings and areas in Gaza: The first is the commercial value of the historic area and the second is tourism. These values, however, indirectly fulfill social values. Tourism, if well planned, can be an important stimulant for the economic and socio-cultural development in an area, it is important to plan create a mutual relationship between tourism and heritage conservation, and demonstrate how responsible tourism planning can contribute to the establishment of a rational degree for the commercialization of heritage as an income-generating tourism commodity at places of heritage significance (Yalmaz, 2011).

Legal Aspects

Legislation is one of the most important aspects of conservation strategies. Many countries around the world have established conservation legislation to protect their built historic heritage. "Society must conduct itself with laws that guarantee that public actions will be decided with the participation of all those who create that society ...Legal relationships and laws create a framework for this kind of behavior" (Denhez & Dennis, 1997, p.4). Conservation legislation differs from one place to another according to the degree of protection, the provision of incentives and the delegation of responsibilities.

A. Britain: The British legislation's philosophy is to protect as much as possible through the listing of buildings and the designation of conservation areas. At the same time, it allows consents for demolition, alterations or interventions throughout a specific process. "...if a person executes or causes to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorized under [subsection (2) of this section] he will be guilty of an offence" Town and Country Planning Act (TCPA 1971, 55(1)).

Conservation legislation in Britain delegates great responsibility to local authorities for doing urgent repair work. David Pearce highlights the positive powers local authorities have to preserve listed buildings in the United Kingdom (Pearce, 1989). Besides tax relief, the British legislation allows different sources of finance like grants and loans. Finance also may be available for other individual historic buildings by local authorities.

B. France: In France, the Law of 1913 consolidated the older procedures of listing monuments. Groups of buildings are eligible for protection under the law of 1930, but it was not until 1958 that finance was specifically allocated for the restoration of buildings. The 1962 "Malraux Act" was designed to protect older urban centers from the emerging urban development pressures. However, this law ensured only the survival, not necessarily the restoration of the historic urban fabric. The French conservation legislative system is characterized by its encouragement to the rehabilitation of historic buildings and areas.

C. The USA: The basic legislation in the USA is the 1966 National Historic Preservation Act. An analysis of the American conservation legislation shows that it consists of two aspects: The first is the flexibility of the legislation to adapt to socio-economic requirements. The second is the way this flexibility is applied through tax incentives.

3- ARCHITECTURE AND URBAN CONSERVATION IN GAZA

3.1- Brief History of the City of Gaza: The history of the city of Gaza is long and turbulent as throughout centuries the city has been attacked and destroyed, restored and reconstructed many times. The foundation of the city lies in the distant past. Because of its geographical position, the conquest and control of Gaza has always been of crucial importance to every leader in Middle East wars. Consequently, Gaza has been under the rule of different historic civilizations found in the area: Egyptian control (1700 BC), Assyrians (734 BC), Babylonians (603 BC), Persians (539 BC), Hellenistic (332 BC), Romans, Byzantine, Moslems, Crusaders (1100 AC), British Mandate, Egyptian Administration, Israeli Occupation. In 1994, Gaza had been under the Palestinian National Authority. From the Thirteenth to the Fifteenth century Gaza played a strategic role, especially under the

Mamluk Moslem rule, to which some of the surviving buildings are related. In 1516 AC, the city fell to the Ottoman Islamic Empire and was made the capital of the province of Palestine and once again became prosperous. Most of the historic buildings that exist in Gaza refer to this period.

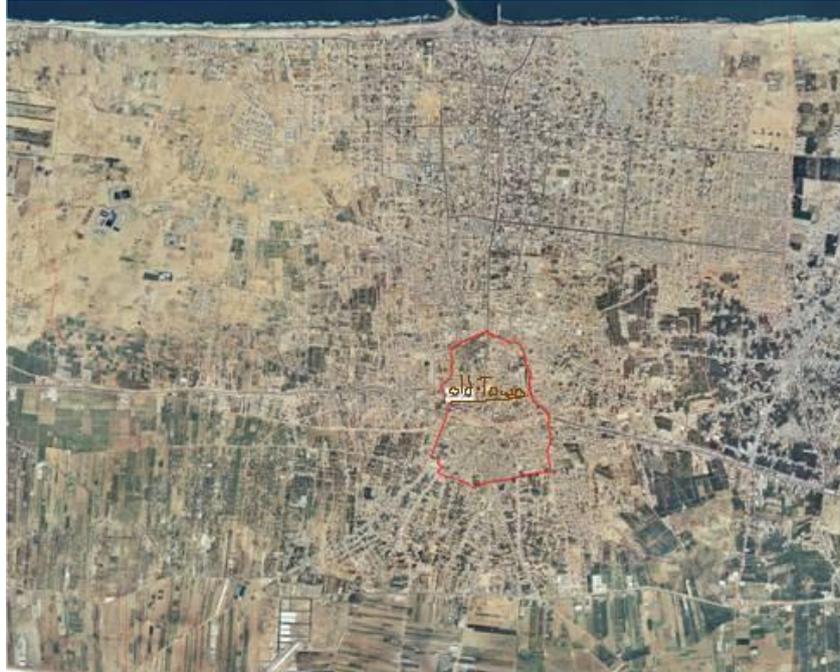


Figure 2: Aerial photo for the city Gaza showing the old town (Source: Almughany, 1998)

3.2- Conservation Legislation in Gaza

Legislation is considered one of the most important aspects in a conservation strategy for Gaza. However, the existence of legislation is not the only tool to save historic buildings and areas. The quality and content of legislation are also of vital importance.

Antiquities Act 51/1929:

The existing legislation until the year 2018 concerning the conservation of historic buildings and archaeological sites in Palestine comes through *Kanun Al Athar Al kadema* 51/1929 - Antiquities Act 51/1929-, and its amendments of 29/1934, 1/1937, 30/1943, 62/1946 (Driton, 1933). Most of the Act's articles are concerned with archaeological sites. Chapter 1 of this act is for the definition of terms. Article 2 of this chapter defines the inclusion of the term "Old Archaeology". According to the definition it includes three different elements: The first is any artifact, whether mobile or non-mobile, that was built before 1700 AC or any part added later (Act 51/1929, Article 2, a). The second is any human or animal remnants that date from before 600 AC (Act 51/1929, Article 2, b). The third is any building built after 1700 that the "Director" lists as an old artifact (Act 51/1929, Article 2, c). The "Director" here refers to the Director of Antiquities who heads the Department of Antiquities that relates to the administration of the British Sublime Envoy (Governor) in Palestine.

Old Archaeology Ordinance:

This ordinance is dated in 21/1/1930, 29/1/1932, 20/7/1932 and was amended in 14/7/1947, 25/1/1977. Most of the articles of this ordinance are for excavation and trading licenses. Relevant articles concern the establishment of the Old Archaeology Consultation Board (OACB). The OACB consists of a chairman, the "Director", and nine members appointed for a one-year period. They are appointed yearly by the Sublime Envoy (Part 5.30, 1 Feb 1930, Article 2(1), (2)). The "Director" has to consult the OACB for the proposed preservation projects and any amendments of the Act (part5, 14.7.1997, Article 2(7)). On the other hand, he does not have to be restricted by the OACB decisions (Act 51/1929, Amended by 29/1934, Article 23(2)).

The qualification of the OACB members is not described in the ordinance and this board does not exist since the British Mandate.

Antiquities "Sheds" Act (33/1935):

This Act is applied to each listed historic site and any place owned by the Department of Antiquities (Act 33/1935, Article 2 (A), (B)) (Alwaqa'a Alfilistinia, 1935). The aim of the act is to give authority to the Sublime Envoy to organize the use of the above mentioned places and the methods to protect them from being ignored or misused.

Act No. 11, 2018 for the Physical Cultural Heritage: This act was approved in the year 2018 to substitute the Antiquities Act 51/1929. It includes eleven sections with a total of eighty articles. The relevant sections are:

- Section 1: Definition and general rules – with exact definition of the cultural heritage.
- Section 2: The establishment of Heritage Consulting Council- the composition, role and duties of the council.
- Section 3: Fixed heritage protection – identification and protection measures.
- Section 4: Historic Areas protection- Protection measures.
- Section 6: Protection Plans- Protection plans and responsibilities.
- Section 10: Penalties – Different penalties for the act's violation crimes.

3.3- Evaluation of Existing Conservation Legislation in Gaza

A- Generality versus Particularity:

The conservation legislation is a general one. It combines both archaeological sites and historic buildings in one definition. The number of articles concerned with historic buildings and area conservation are very limited in comparison with the total number of articles in existing conservation Acts and Ordinances. The new Physical Cultural Heritage Act, however is more specific than the old acts and specified more articles about building and area conservation.

B- Criteria:

The only criterion to define historic buildings and areas is age. The historic building or artifact is any building built before 1700 AD (Act 51/1929, Article 2 (A)), or any building built after 1700 which the "Director" declares it as "old artifact" (Act 51/1929, Article 2 (c)). In 2018 new Act is any building or artifact that was built before 1917 or any building built after with cultural, natural or economic value and registered through a decision from the Minister (Act11/2018,Article 4). The exclusion of buildings after 1700, and then after

1917 and the absence of criteria to choose buildings of historic or artistic interest made the existing legislation incapable of protecting historic buildings and areas.

C- Exceptions:

A noticeable compromise in the old conservation legislation is the exclusion of religious buildings and the buildings owned by religious institutions. This exclusion has resulted into the absence of any compulsory maintenance for these buildings. This issue becomes more important because of the fact that most public historic buildings in Gaza are either religious or owned by religious institutions. The new conservation act does not except those buildings.

D- Lack of Other Regulations:

There is also an absence of any planning regulations which govern this concern. The only planning law which exists is the “Urban Planning Law 28/1936” (Alwaqa’a Alfilistinia, 1936). This Law refers to historic areas and buildings in only one article. Article 14 of this Law states that the master plans done for the city should conserve the “archaeological and beautiful sites” (Urban Planning Law 28/1936, Article 14(2j)). The Urban Planning Law, however, gives the local planning committees of the municipalities the right to establish any required regulations according to the articles of this law. In addition, there are no new regulations or bylaws matching the articles of the new act.

E- Responsibility:

The responsibility of applying the conservation legislation is committed to the “Director” of the “Department of Antiquities”. The “Director” was appointed by the British Sublime Envoy who also appoints a consultation council for old archaeology. According to 29/1934 Act the “Director” does not have to follow the consultation council. After the British Mandate and during the Egyptian Administration this post was ended and the duty was delegated to the Deputy Governor or District Commissioner. The responsibility was not posted to a specific institution and the post of the “Director” was not filled. The new 2018 act delegated the full responsibility to the Ministry of Tourism and Antiquities (Act 117/1983 Article 6). Also the act established a consultancy council (Act 11/2018, Article 10)

F- Penalties and Incentives:

The legislation for historic buildings has no serious incentives for the protection and conservation of these buildings. The only incentive comes through the “Old Archaeology Act” that gave the “Director” the right to negotiate with the owner to provide him with financial help to preserve or maintain any works he -the Director- sees necessary (Act 51/1929, Article 19 (A)). This article is subject to the acceptance of the owner and does not have any enforcement verification, whether for the “Director” or for the owner. The penalties for the violation of the law are not deterrent. On the other hand, the penalties in the new 2018 Act are varied and stronger than previous act (Act 11/2018, Section 10), and there are more incentives (Act 11/2018, Article 49).

3.4- Conservation Institutions in Gaza

Some of the existing institutions in Palestine are related to the subject of architectural and urban conservation. Some of them are at the national level such as the Ministry of Tourism and antiquities and the Ministry of Culture. Others are at the local level such as the

Municipality of Gaza. The following is an evaluation of the existing administrative framework in Gaza:

Capacity Building:

A detailed study for capacity building of the conservation related institutions shows many facts. The first is the absence of building and area conservation units in the structures of the institutions. Second, the lack of specialized personnel, equipment and of special programs for the conservation of historic buildings and areas.

Relationship among Institutions:

The current physical separation between the West bank and Gaza puts pressure in terms of co-ordination between the departments of the same Ministry that exist in both of them. It also restricts the co-ordination between different ministries.

Job Description:

Few sections in the institutions discussed have a job description which specifies the duties of each single department, unit or even a person. The lack of job descriptions and specialization has lead to vagueness in responsibilities. For example, the issue of architecture and urban conservation could not be directly classified under the duties of any existing institution. This results either in ignorance of issues by all institutions or the overlapping of each other's activities.

Lack of Non-government Conservation Institutions:

Conservation non government institutions are few, one in Gaza "Iwan" and the other in the West Bank "Riwaq". The analysis of existing institutions shows that there are no conservation trusts, associations, individuals or groups currently exist either at the national level or at the local level. This reflects the level of public awareness of this subject and also reflects the handicap of existing legislation to activate conservation initiatives.

4- CASE STUDIES

This section includes an analysis of two especially relevant case studies. The first is the conservation strategy in Saudi Arabia, especially Jeddah, and the second is in Egypt, especially Cairo due to relevant conditions to the case of Gaza. The aim of case study analysis is to evaluate the role that conservation legislation plays in their conservation strategies.

4.1- The Conservation Strategy of Jeddah

It is likely that Jeddah came into existence eight centuries before the advent of Islam. It came under the influence of the Persian and Mamluk civilizations that established Old Jeddah. The urban composition in some parts of Jeddah is still homogeneous. The basic conservation legislation in Saudi Arabia is the Archaeology System called "*Nizam Alathar*". This legislation was issued by the King's Ordinance M26 in 23.6.1392 AH (1971) (KSA, 1978).

Characteristics of Conservation Legislation in Saudi Arabia:

A- Building Conservation:

Historic buildings and structures are considered part of the fixed archaeological objects according to the basic conservation legislation "*Nizam Alathar*". This legislation includes

rules for the conservation of historic buildings and structures covering three aspects. The first is the criteria to define historic building as part of archaeological artifacts. The second is the acquisition rules and the third is the interventions and preservation procedures.

B- Area Conservation:

One of the distinguished characteristics of Saudi conservation legislation is its inclusion of historic area regulations. The Archaeology Directory has the right to list historic areas and neighborhoods and designate them as “conservation areas” (*Nizam Alathar*, M26/1392AH, Article 16). *Nizam Alathar* also states that historic areas must be conserved in any planning schemes put forward for the city (*Nizam Alathar*, M26/1392, Article 12). The municipalities must not license any new building or any preservation in the historic area except after the approval of the responsible body to guarantee proper preservation (*Nizam Alathar*, M26/1392AH, Article 13).

C- Management:

Nizam Alathar does not include management regulations for the conservation process. The parties involved in legislation are the Archaeology Directory, the High Archaeology Council, the municipalities and the owners. Although the duties of each party are precisely described, no clear relationships between parties are clarified.

D- Finance:

Nizam Alathar states that the Archaeology Directory has to finance maintenance and preservation works for listed buildings with no right of objection for the owner (*Nizam Alathar*, M26/1392AH, Article 22). In addition, the Archaeology Directory has the right to own any building after acquisition (*Nizam Alathar*, M26/1392AH, Article 21).

Local authorities had mostly granted the budgets needed to finance the conservation strategies in some parts of Saudi Arabia. There were also steps to encourage private sector participation in finance.

E- Penalties:

Saudi conservation legislation includes protective measures against historic buildings and areas’ demolition works. The penalty section of *Nizam Alathar* includes fines for each violation to the *Nizam*’s articles.

In conclusion, the case study of Jeddah could be evaluated as a positive one. It is a successful strategy in terms of being a comprehensive development that included the establishment of conservation legislation, appropriate judiciary system raising required finance and implementation programs. It is also a successful strategy in terms of the adoption of both a legislative framework and an administrative framework at the local level.

4.2- Architecture and Urban Conservation in Egypt

Conservation- Related Legislation in Egypt:

Earlier conservation legislation in Egypt concentrated on the protection of Egyptian archaeology. The increase of awareness towards historic buildings and antiques had led to the establishment of “Act 117/1983 for the Protection of Antiquities”.

The 1983 Act for the protection of antiquities is the current conservation legislation in Egypt. This Act is playing a central role in orienting all conservation policies. A group of secondary legislation was established afterwards based on the basic 1983 Act. Some secondary legislation, however, is derived from other relevant Acts like Urban Planning Act 3/1982. The characteristics of the conservation legislation in Egypt are as follows:

A- Structure: Both major and minor conservation legislation in Egypt are written in plain Arabic without illustrations. Act 117/1983 for the Protection of Antiques is divided into four chapters. The first chapter includes general rules while the second chapter is for listing, maintenance and the search of archaeological artifacts. The third chapter is for sanctions and the fourth is for general rules. The content of each chapter, however, is divided into articles and sub-articles.

B- Building Conservation: The 1983 Act is intended to provide protection for all archaeological artifacts. An archaeological artifact, according to the Act, is every mobile or static object produced by the different civilizations that inhabited Egypt. It could also be a product of art, science or religion since pre-history and until one hundred years ago, if it is of archaeological or historic value (Act 117/ 1983, Article 1) (ARE, 1996). Despite the age criteria mentioned, Article 2 of the Act gives the Prime Minister, upon the request of the Culture Minister, the right to consider any object of historic, scientific, religious, artistic or literal value as archaeological objects with no regard to age limitation.

B- Area Conservation: The first recognition of the importance of historic areas in Egypt was in 1993. The 1983 Act for the Protection of Antiques does not include any regulations for area conservation or historic area designation. Consequently, there is an absence of defined criteria for historic area designation. The only area that is designated as a “conservation area” in Cairo is what is called “the Fatimid Islamic Cairo”. The designation was issued through regulation no. 1481/1993 by the Supreme Council of Antiquities (SCA) and was approved by the Governor of Cairo. The designation decision only defines the borders of the conservation area.

C- Management of the Conservation Policy: Conservation legislation in Egypt does not include clear strategies for the management of conservation policies. It does not define the role of different institutions whether at public or private levels. Neither does it include methods of management and relationships between all levels involved in conservation. The only relevant inclusion is article 51 of 1983 Act. This article states that the SCA is authorized to co-ordinate conservation works with other relevant institutions in planning, housing, tourism and other councils (Act 117/1983, Article 51).

D- Finance: One of the most distinguished articles of the 1983 Act is the one that gives authority to the SCA to finance and implement any maintenance works required for listed buildings (Act 117/ 1983, Article 30). This is considered the major available source of finance for conservation to guarantee the survival of listed buildings.

E- Penalties: Chapter 3 of 1983 Act deals with sanctions, which differ according to the extent of the violation of the Act’s articles. Sanctions range between prison and fines. Every single violation is included in the sanctions, whether it is a demolition, an intervention, painting, or others.

In conclusion, the conservation legislative system in Egypt does not represent a comprehensive conservation legislation model. The absence of major historic buildings and area conservation issues in legislation has caused a handicap and miscoordination in implementation. This absence is represented in five basic points: The first is the lack of conservation area legislation. The second is the lack of management schemes for conservation policy: this is mainly represented in the centralized system of conservation legislation. The third is the absence of local authority participation that causes severe deficit in the protection of historic artifacts and in the development of conservation activities. The fourth point is the dependence of conservation finance on the central government budget for the SCA, without encouraging any other means of finance of historic buildings and areas.

5- ARCHITECTURE AND URBAN CONSERVATION LEGISLATION FOR GAZA

The aim of this research is to help save historic structures and areas in the city of Gaza by means of outlining a legislative and administrative framework which could guide the implementation of conservation goals. An important consequence of this strategy is the contribution conservation can make to the cultural and socio-economic development of the city. Legislation is required to fulfill three major objectives: The first is to prevent the thoughtless destruction of the cultural heritage. This comes through the balance between the conservation of historic buildings and areas and new developments, prevent neglect of the built environment, fighting causes of decay and authenticity of conservation works. The second objective is to expect historic buildings and areas to contribute to the socio-economic development of the population and the city. The third objective is to establish a responsible authority to ensure appropriate initiation and implementation of the conservation strategy.

Legislative Framework

There are some options for a conservation legislative framework in Gaza: The first option, the amendment of existing acts and ordinances, and the second option is the establishment of new Acts and the establishment of Ordinances allowed by existing Acts. The third is the establishment of planning regulations within existing Acts.

According to existing legislative procedures, and because there is a new conservation act (No. 11/2018) the initiation of new Ordinances is a less complicated process. This process does not require a long time and it could be implemented by one relevant executive institution, the Ministry of Tourism and Antiquities. In addition, the Mayor has the authority to establish a specific ordinance within the limits of the city upon the Urban planning Law to control historic areas within the city limits. This ordinance becomes legal after approval by the Minister of Local Government. The ordinances, however, should be derived from an active Act that allows for such derivation and the acts are already there.

Consequently, one of the best options, according to the prevailing legislative framework in Gaza, is to establish two different but related pieces of legislation. The first is new bylaws and ordinances derived from the new conservation act to replace old one and the second piece of legislation is the new Ordinances “*Nuthom*” at the local level in Gaza. These ordinances could immediately be established to initiate a conservation strategy for the city of Gaza without a need for the Legislative Council approval.

Administrative Framework

The options for the establishment of a legal conservation administrative framework are varied. One of the options is to give responsibility to one of the existing institutions at the national level and this has been fulfilled through the new act. Another possible option is to give responsibility to authorities at the local level. The option of an existing institution at the national level can be excluded because of the lack of specialized personnel, equipment, administrative structure programs and the disengagement problems.

The designation of conservation responsibilities to local authorities also has some disadvantages. Local Authorities might work independently and follow their local priorities. Although it is not the case in Gaza, some local authorities are incapable of assuming such responsibilities in terms of an administrative structure, management or technical abilities. There are also some works common to all or some of them that could be undertaken by one institution, saving time and money.

Another option for the establishment of a legal administrative framework is to give responsibility to a specialized planning and executive institute, as happens in Egypt. The Supreme Council for Antiquities is an active specialized legal institute responsible for heritage conservation in Egypt.

According to the previous analysis and to the prevailing conditions in Gaza the system that seems suitable to be applied consists of an administrative framework with the Municipality at the local level and a specialized institution at the national level. The Municipality of Gaza could play an important role in initiating, directing, financing and implementing the required conservation strategy. This comes from the qualified administrative structure, the role of the municipality in the planning of the city, the ability in fund raising and service provision and from the positive degree of public participation.

Characteristics of the Conservation Legislation for Gaza

The characteristics of proposed conservation legislation for Gaza have six main aspects. It includes general characteristics, building conservation, area conservation, management of the conservation policy, finance and penalties.

A- General Characteristics:

Equitable Balance: Conservation legislation should contain an equitable balance between public and private interests. This is important for the understanding and respect of the people. There is an importance of respecting ownership rights in any suggested legislation. Any acquisition of historic property has to be compensated. Says: "It is essential to minimize conflicts between the interest of the public and the interest of the individual... the law for the preservation of monuments should work in a preventive way and in a positive way" (Denhez & Dennis, 1997, p. 5).

Strength: Another general characteristic of legislation for Gaza is its degree of protection. Legislation should be strong enough to protect historic property from destruction, ignorance and demolition. Strong in terms of the degree of protection and the ability for implementation.

Realism: The degree of realism is an important issue that could be raised for the characteristic of legislation. Conservation legislation has to be realistic so that people respect it. This is an important issue in the case of establishing a new legislation. Realism means that there should not be a tendency to list buildings that are severely dilapidated and

impossible to conserve. It means also that there should not be a tendency to freeze an area that has already lost its historic and artistic character.

Simplicity and Ease of Understanding: Another general feature of legislation is its editing and presentation. Conservation issues and legislation in Gaza will be a new phenomenon. Consequently, legislation should be clear and easy to understand. Both the employees who are applying legislation, architects and planners and the public have to understand clearly its articles. This could be achieved through different aspects like the writing, structure and categorizing of legislation.

Public Participation: The fifth and final general feature of the conservation legislation for Gaza relates to the public. Planning regulations have to be presented for a period of time to the public for consideration. Local and Central Planning Committees take the final decision that usually favors the public interest in cases of conflict with private interest. Public awareness and participation is a key factor in the acceptance of new strategies.

B- Building Conservation

Building conservation legislation has to be specific and it has to include the following regulation categories:

Listing of Historic Buildings: This includes regulations for the following items: Options for Listing Procedures whether to list as much as possible of the historic fabric or to list only a specific number of historic buildings according to a detailed survey, Criteria for Listing which could be Building age and Historic and artistic values, Categories of Listed Buildings in terms of the degree of protection, Listed Buildings Regulations for both listed and adjacent buildings and finally listed Building Consents.

Building Preservation: there are many attitudes towards historic building preservation. The most relevant attitudes to the situation of Gaza are: anti-restoration, adaptive reuse, authenticity of preservation works, flexibility and tradition.

C- Area Conservation

Categories of Historic Areas: the old town of Gaza could be classified into two categories: The first includes the few areas that still keep their original character. Those areas should be designated by the Local Authority as “Conservation areas”. Legislation should protect these areas from any destructive change. The second category is the rest of the old town that contains individual historic buildings. This area also needs to be distinguished from the new parts of the city. The Act 11/2018 gave the local authorities the responsibility to issue plans for historic areas protection (Act 117/1983, Article 35). This is not enough it does not talk about historic areas rehabilitation, development or revitalization.

The Old Town: The limits of the old town have to be designated through legislation. The definition of the old town’s limits could be undertaken through the development schemes done at the local level. Development schemes must also include regulations for buildings and areas within the limits of the old town. The legislation for the old town should include listed historic buildings, unlisted buildings and new buildings proposed within the area.

Conservation Areas: Conservation areas mean “protected areas” in which buildings, landscapes and streetscapes are all protected from unauthorized demolition and change. This does not mean, as happened in some countries, the freezing of the area development. Rather it means the establishment of development schemes and regulations as a basis to initiating the conservation of the area. Selected areas could be designated as conservation areas in

Gaza (about five) which still keep their historic character. Regardless of the sizes, which are relatively small, these areas still fulfill special criteria. Conservation areas could be classified according to the degree of involvement of historic character. Possible grades are A and B. Special regulations could be applied to each conservation area grade. The following table indicates proposed aspects of conservation area legislation at Gaza:

Table 1: Legislative Measures for Area Conservation in Gaza (Source: The author).

CONSERVATION AREA LEGISLATION	THE OLD CITY	CONSERVATION AREAS
ZONING, BULK AND HEIGHT	<ul style="list-style-type: none"> - Different zones and land uses depend on existing situation. - Restricted height in the area and more restricted near historic buildings. -Restriction of traffic and encourage the availability of parking in the surrounding areas. 	<ul style="list-style-type: none"> - Same land use as before. Allow change according to area development policy. -Very restricted height and massing. - Pedestrianisation and very restricted traffic interference.
LISTED BUILDINGS WITHIN THE AREA	<ul style="list-style-type: none"> -Same listed building legislation - New uses are allowed. -Flexible listed building consents. 	<ul style="list-style-type: none"> -Same listed building legislation -Restricted new uses (functions relevant to tradition). -Restricted listed building consents.
NON-LISTED BUILDINGS WITHIN THE AREA	<ul style="list-style-type: none"> -Need permission for major alterations. -Any alterations should be sympathetic with the historic buildings in the area. 	<ul style="list-style-type: none"> -Need permission for any alterations. -Any alterations should be sympathetic with the overall character of the area.
VACANT LAND AND NEW DEVELOPMENTS	<ul style="list-style-type: none"> -New buildings' designs should be sympathetic with the historic ones and the overall character that the area used to have. -Preferred to be used as parking spaces and other service facilities required for the area. -If adjacent to a historic building, great care should be taken according to building's setting. 	<ul style="list-style-type: none"> -New buildings' designs should be sympathetic with the overall character of the area. -Where it is needed to be cleared or landscaped in order to improve the character or appearance of the area or the setting of a listed building, landscape elements should be sympathetic with streetscape and traditional ones.
STREETSCAPE	<ul style="list-style-type: none"> -Being a commercial and administrative area, an advertisement regulation needed: Dimension, appearance, colors and location. -Special lighting units sympathetic with the area. -Tree protection and conservation. -Other original streetscape elements should be conserved and ensure new ones are sympathetic with the area. 	<ul style="list-style-type: none"> -Restricted advertisement regulation needed: Dimension, appearance, colors and location. -Special lighting units according to the originals. -Tree protection and conservation. -Other original streetscape elements should be conserved and new ones are sympathetic with the overall character of the area.
AREA REVITALISATION	<ul style="list-style-type: none"> -Provision of infrastructure required. - Provision of social facilities needed: Schools, cultural centers, libraries, healthcare, kindergartens, children's playgrounds, sports facilities, social clubs, etc. -Tourism attraction developments and activities. 	

D- Management of the Conservation Policy

Legislative measures have to be established to overcome the conflict between different institutions. One way to minimize the conflict is to have appropriate management programs that have to be established to guide both initiation, development and implementation processes of the conservation strategy. Management programs, however, have to be at both national and local levels.

Another aspect that helps to minimize contradiction and conflict has to do with responsibility. Conservation legislation has to involve a detailed description for the administrative framework. This includes the composition of this framework and the duties of every individual member. Job descriptions are also required for different positions involved within the administrative framework. Not only do management programs have to minimize contradiction and conflict, but they also have to encourage co-operation between different parties.

E- Finance:

Legislation should give flexibility for attracting different sources of finance. Where there is limited source of finance, this could be utilized according to priorities. It is the role of the management of the conservation policy to define such priorities. The survival of historic buildings is the first priority until there are further funds for development. The sources of finance that should be adopted through legislation are national and international donations, conservation self-finance capable people, government funds and others.

F- Penalties:

The characteristics of conservation legislation mentioned earlier have shown that legislation should be protective and preventive. To fulfill this feature, sanctions against offenders have to be applied. A variety of sanctions have been applied in Palestine and elsewhere. These are fines, imprisonment, enforcement and direct action to repair.

6- SUMMARY AND CONCLUSION

The initiation of a conservation strategy for Gaza requires the establishment of an appropriate legislation to guide and govern conservation initiatives. The conservation legislation, however, requires the establishment of both appropriate legislative and administrative frameworks. The establishment of the new Physical Cultural Heritage Act in 2018 is a productive step but needs to be followed by many steps to encounter all legislative measures required for actual conservation activities.

The aims of the comprehensive conservation legislation have to fulfill the objectives of the conservation strategy of Gaza. This strategy aims to protect the historic heritage and at the same time, encourage its contribution to the socio-economic prosperity. Consequently, the aims of the legislative strategy for Gaza consist of three aspects: To prevent the destruction of historic buildings and areas, to motivate their contribution to cultural and socio-economic development and to enable the intervention of a responsible authority to guide the conservation strategy.

The conservation legislative and administrative frameworks for Gaza require the initiation of secondary legislation that authorizes the Local Authority to intervene. At the same time, basic conservation legislation bylaws and ordinances are required to be established at the

national level. A specialized and independent institution is proposed to be responsible for the initiation of basic legislation and to guide conservation strategies in Palestine.

Legislation has to designate duties and responsibilities of institutions at different levels. It also has to set in place appropriate management of conservation programs. The management of conservation programs in Gaza has to organize complementary relationship between different partners. At the same time, management should minimize contradictions and overlapping of decisions and duties.

Conservation legislation for Gaza should have features that are easily understood and respected. No law is of much value if it does not have public understanding and respect. Nor is it of much value without finance to carry out its positive provisions. It has to be written in plain and original Arabic language and contains illustrations especially the bylaws and ordinances. Simply written and categorized according to the different aspects of the conservation strategy, for example, categories such as rules for building conservation, area conservation, management, finance and penalties.

Finally, the mechanisms of legislative and administrative framework require assessment after a period of implementation. The public has to participate in the assessment of both policy decisions and implementation procedures. The attitudes of the public together with the experience of the administrative framework involved will be a good database for amendment and evolution of conservation legislation at the local level. The whole process, however, will be an expanded experience for further conservation legislation at any level in Palestine.

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