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From Ur to Masada:  
Antiquities Policy and State Building in Palestine/Israel and Iraq, 1919-1950

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## ABSTRACT

Antiquities were inextricable from state building projects in Palestine/Israel and Iraq both under the British Mandate and following Israeli independence in 1948 and Iraqi independence in 1932. Throughout the mandate era, Britain sought to legitimize its rule to Western archaeologists, the British public, and the League of Nations by implementing antiquities policies that prioritized Western interests over local ones. While direct rule in mandatory Palestine and indirect rule in mandatory Iraq created different government structures, British officials in both states wrote and enforced antiquities laws that allowed Western archaeologists and museums to keep most of the objects they excavated. As a result, Britain's attempts to prove itself a worthy guardian of antiquities to the local populations failed. After independence, the Israeli and Iraqi governments both utilized antiquities laws and archaeology to attempt to foster a sense of nationalism and identity among their citizens. In both countries, antiquities became central to the regimes' sense of power and how they presented themselves as the legitimate governments. Despite these similarities, the legal framework from which nationalist archaeology emerged differed between Israel and Iraq. While the legacy of mandate rule and its government structures led Israel to adopt mandate-era antiquities law, Iraq drafted and passed new legislation that eliminated the old law's privileges for Western archaeologists.

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## Chapter 1

### Introduction

Over twenty years after the initial invasion of Iraq in 2003, the Iraqi government is still working to recover artifacts looted from archaeological sites and museums during the war.<sup>1</sup> That Iraq, even in the face of massive loss of life and ongoing political and social unrest, has emphasized the importance of recovering stolen antiquities reveals their lasting importance to the nation. Antiquities – defined by Britain and other mandatory powers in the post-World War I era as human-made objects dating to before the year 1700 CE – are central to a nation’s sense of self. These objects, and the laws that govern them, are intertwined with state building, a process broadly defined as the construction and strengthening of state institutions in order to create legitimacy and trust and build a stable state-society relationship.<sup>2</sup> Facing such enormous destruction, the Iraqi government believes that fighting for the return of the state’s antiquities is something that will bring its citizenry together in favor of a common cause. As archaeologist Mark Altaweel (University College London) noted after a trip to Mosul in 2022, “there’s a real hunger by people to understand and preserve their heritage...they’re trying to merge this reconstruction with the opportunity to learn something about the deeper past as a way to potentially bring the population together.”<sup>3</sup>

State building in the Middle East is inextricable from the region’s colonial past, and thus antiquities policies too are linked to the period of British and French rule. For Palestine (the

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<sup>1</sup> Adel Fakhir, “Twenty Years After the US Invasion, Where Are Iraq’s Antiquities?,” Al Jazeera, April 7, 2023, <https://www.aljazeera.com/features/2023/4/7/20-years-after-the-us-invasion-where-are-iraqs-antiquities>.

<sup>2</sup> Christian Lotz, “International Norms in Statebuilding: Finding a Pragmatic Approach,” *Global Governance* 16, no. 2 (2010): 221-222, <http://www.jstor.org/stable/27800803>.

<sup>3</sup> Mark Altaweel, Jaafar Jotheri, Hannah Parsons-Morgan, “Interview-The Past, Present and Future of Iraq’s Cultural Heritage,” *Middle East Report* 306 (Spring 2023), <https://merip.org/2023/04/iraqs-cultural-heritage-between-2003-and-2023/>.

territory encompassed by the modern state of Israel and the occupied territories of the West Bank and the Gaza Strip) and Iraq, antiquities laws were established under British mandate rule. At the end of World War I, Britain occupied both Palestine and Iraq, and in 1922, the League of Nations formally granted Britain a “mandate” to rule them until the League determined that Palestinians and Iraqis were, in their view, ready for self-government. The mandate period lasted in Iraq until 1932 and in Palestine until 1947. The mandate system maintained the position of Britain and France as colonial powers but was distinct from nineteenth century modes of imperialism because it contained a provision for future self-governance, even if no timeline to grant independence was formally established.

Palestine/Israel and Iraq represent two different styles of British colonial rule during the mandate period, one direct and the other indirect. However, despite significant structural differences between the two mandatory governments, the British crafted and utilized antiquities policy similarly in both states to appease certain audiences. British officials in both Palestine and Iraq hoped that by writing antiquities policies in a way they believed balanced the interests of Western archaeologists, the League of Nations, and local populations, they would be viewed by all parties as a legitimate keeper of antiquities and government of the territories. Despite similarities in mandate-era antiquities laws, though, direct government in mandatory Palestine and indirect government in mandatory Iraq led to different antiquities policies in the aftermath of independence. Drawing upon British and pre-state Zionist institutions for much of their government, the early Israeli government adopted the prevailing British antiquities law, the 1929 Antiquities Ordinance. In the meantime, the Iraqi parliament that had protested the 1924 Antiquities Law and had been overruled by British officials celebrated independence with new antiquities legislation that overturned many of the existing regulations. Regardless of these

differences, both Israel and Iraq harnessed antiquities legislation as a nationalist tool. Even though the Israeli and Iraqi governments took different steps to foster a sense of nationalism, their goals were the same: first, to use antiquities policy to foster nationalism and patriotism among their people by creating a connection between the ‘glorious’ time of antiquity and the current government, and second, to a lesser extent, to use antiquities policy to gain legitimacy as rightful and fair keepers of antiquities within the international community.

Ultimately, the nuance and complexity involved in the writing and implementation of antiquities laws in Palestine/Israel and Iraq between 1919 and 1950 resulted from the different regimes’ desires to gain legitimacy with specific audiences. The British mandatory government in Palestine under High Commissioner Samuel and his successors, the British mandatory government in Iraq under King Faisal, the Israeli government during and immediately following the 1948 War, and the independent Hashemite Monarchy in Iraq between 1932 and 1940 all had the same target audiences. They hoped to gain legitimacy with the international archaeological community, the League of Nations, and various communities living within Palestine and Iraq. However, the mandatory governments cared much more about appealing to Western archaeologists and the League, while the independent governments prioritized the opinions of their citizens.

### **Historiography**

Historical research on antiquities and archaeology in the Middle East has received more scholarly attention in recent years, but the library of works focusing on comparative case studies of the mandate period and the period immediately following independence is still limited. For Iraq, the most thorough work is Magnus T. Bernhardsson’s book, *Reclaiming a Plundered Past: Archaeology and Nation Building in Modern Iraq*, which traces the connection between

archaeology, antiquities policy, and Iraqi state building from World War I until 1941.

Bernhardsson argues that the British officials overseeing mandate archaeology were more concerned with ensuring that Western archaeologists were pleased with antiquities law than they were with the rejections of the law by Iraqi politicians. He also argues that independent Iraq utilized antiquities laws and archaeology to try to cultivate a sense of Iraqi nationality and nationalism among its citizens in the decades following 1932.

Secondary literature focused on archaeology in Palestine and Israel is more expansive, and yet most studies are surprisingly narrow, focusing on either the mandate period or the period following Israeli independence, despite the continuities that exist between the mandate and independence. When examining the mandate period, scholars have observed that British antiquities policies alienated both the Zionist and Palestinian communities. Nadia Abu El-Haj's article, "Producing (Arti) Facts: Archaeology and Power during the British Mandate of Palestine," for example, argues this point. Israeli archaeology has received more attention than mandate-era archaeology, and many scholars have characterized archaeology as Israel's 'national sport.' El-Haj's book *Facts on the Ground*, Raz Kletter's *Just Past*, Meron Benvenisti's *Sacred Landscape*, and Yael Zerubavel's *Recovered Roots*, for example, make similar arguments about how archaeology was crucial to nationalist movements leading up to and following 1948 because antiquities provided evidence of historical Jewish presence in the land of Palestine. Nachman Ben-Yehuda's work on Masada, including *The Masada Myth: Collective Memory and Mythmaking in Israel* and *Sacrificing Truth: Archaeology and the Myth of Masada*, provides a case study of the importance of archaeology in Israeli society.

There are also a handful of comparative studies on antiquities policies in the Middle East, including James F. Goode's comparative study on Iran, Turkey, Egypt, and Iraq, *Negotiating for*



*the Past: Archaeology, Nationalism, and Diplomacy in the Middle East, 1919-1941*, and Billie Melman's recent work, *Empires of Antiquities: Modernity and the Rediscovery of the Ancient Near East, 1914-1950*, which compares Iraq, Palestine, and Egypt. Goode's book argues that archaeology became intertwined with the political agendas of nationalist elites in all four of his case study countries during the interwar period. Melman's book, on the other hand, is more concerned with the impacts of archaeology in Palestine, Iraq, and Egypt on Anglo-American questions of culture and modernity in the interwar period than on the political structures surrounding antiquities and archaeology within the mandates. For example, Melman's study of the excavations at Ur, Iraq, focuses primarily on how the excavators described objects to the Anglo-American public and how this impacted interwar culture in Britain and America. Melman's analysis of Agatha Christie's novels and the inspiration Christie drew from her husband Max Mallowan's work in the Middle East similarly examines the impact of Middle Eastern archaeology and antiquities on British culture, not on political ramifications within Iraq itself.

### **Antiquities Policy and State Building in Palestine/Israel and Iraq**

The papers of Western archaeologists, colonial officials, and nationalist politicians within Palestine/Israel and Iraq demonstrate the strong connection between antiquities law and the fight by the British, Israeli, and Iraqi governments to win legitimacy with Western archaeologists, the League of Nations/the international community, and local populations. Both state actors such as Gertrude Bell, John Garstang, and Sati' al-Husri, non-state actors such as the Penn Museum, and international actors such as the League of Nations are represented in the primary source material utilized in this analysis. Even though British mandate-era antiquities legislation in Palestine and Iraq contained fundamental provisions for division of finds between the excavator and the

mandatory government, in practice, the British held ultimate control over how artifacts were allocated, and Westerners received most of the share. Though indirect rule in mandatory Iraq allowed Iraqis to mobilize greater resistance against the new antiquities law, the final version of the legislation demonstrated a greater commitment to British interests than local ones by permitting the British a larger share of antiquities than was reserved for the mandatory government.

These division of finds provisions in the laws were written and implemented primarily to suit the interests of Western archaeologists and the League of Nations so as to help Britain gain international legitimacy and support for their colonial projects in the Middle East. By ensuring that British officials dominated and could oversee divisions in a way that ensured Western archaeologists would keep significant numbers of artifacts, Britain sought to make its mandate projects popular with Western archaeologists and the institutions that backed them. The shipment of artifacts to the West also helped make the mandates more popular with the British public, who could view these objects on display in various museums. At the same time, the division of finds ensured that some artifacts remained in the care of the mandatory governments, and thus upheld the League's expectation that Britain would prepare Palestine and Iraq for self-governance in the future.

However, the unevenness of object division between Westerners and the mandatory governments meant that Britain's antiquities policies were highly unpopular with the local communities living in the mandate states. In Palestine, the Zionists saw British archaeological activity as a threat to their own hopes to excavate proof of Jewish presence in historical Palestine and to use those objects to foster nationalism among Jews in Palestine. Palestinians, meanwhile, found themselves largely excluded from archaeological work, and archaeology became a source

of land disputes between the mandatory government and rural Palestinian landowners. In Iraq, politicians protested the initial antiquities law and its bias towards Western archaeologists and institutions. But despite this pushback, British officials succeeded in passing the legislation, allocating most of the artifacts found in Iraq to the excavators rather than to the Iraqi state.

When it came time for the transition from mandate to independence, Israel and Iraq handled the legal frameworks surrounding antiquities that they inherited from the British differently from one another. While Israel re-implemented the legislation passed by the British in 1929, Iraq replaced the existing law with one that erased many of the conditions that had made it favorable to Westerners. Israel and Iraq handled post-colonial antiquities law in such opposing manners in part because of their experiences with antiquities laws under British colonial government, but also because they both hoped to foster nationalism among the Jewish and Iraqi populations, respectively, and had different strategies to go about that process.

Analyzing antiquities laws in Palestine/Israel and Iraq reveals that state building is often rooted in how regimes connect with and present material pasts to various audiences. In both Palestine and Iraq, the British utilized a material past that was not theirs to appeal to Western audiences they believed could support their colonial projects in the Middle East. Successive nationalist governments in Israel and Iraq presented the material pasts of their territories in selective ways to foster a sense of nationalism and unity among their citizens. Throughout nearly half a century filled with regime change and conflict, antiquities policy remained central to state building projects in Palestine/Israel and Iraq. The process of constructing antiquities laws in the mandates begins before 1922, though, with British interest in Middle Eastern antiquities during the nineteenth century.

## Chapter 2

### The Roots of British Antiquities Policies in the Middle East

British interest in Middle Eastern antiquities began long before the First World War, but the occupation of large swaths of former Ottoman territory at the end of the war by the British and the French brought Eastern artifacts to the forefront of Western scholarship. Pre-war archaeological institutions provided a helpful framework, but were soon eclipsed by the more powerful and bureaucratized institutions of the mandates. Following the declaration of the British mandates for Palestine and Iraq, British officials began constructing antiquities legislation. In some ways, this process reflected the differences between direct British government in Palestine and indirect British control in Iraq, but thanks to the power of British influence, the antiquities laws established in early 1920s Palestine and Iraq ultimately looked quite similar to each other.

#### 19th Century Institutions: Western Archaeology in the Middle East Before World War I

Western archaeological interest in the Middle East during the nineteenth century resulted from a variety of societal interests, including scientific discovery, imperial needs, and religious fascination. The nineteenth century brought an era of greater diplomatic and economic connections with the Middle East, which meant that the British public was more aware of cultures, places, and events in the region.<sup>4</sup> Closer connections with the Ottoman Empire also allowed Western archaeologists to explore the area and carry out archaeological digs with permission from local administrators.<sup>5</sup> In Palestine, the efforts of Western archaeologists

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<sup>4</sup> Magnus T. Bernhardsson, *Reclaiming a Plundered Past: Archaeology and Nation Building in Modern Iraq* (Austin: University of Texas Press, 2005), 38.

<sup>5</sup> Bernhardsson, *Reclaiming a Plundered Past*, 38-39.

stemmed from a combination of scholarly curiosity, contemporary political and imperial issues, and religious interest in the biblical history of the Holy Land. In Mesopotamia, archaeological expeditions resulted from scholarly interest and imperial concerns more than religious motivations.

British archaeology in Palestine reflected a three-pronged agenda: scholarly, imperial, and religious. At least on paper, the primary interest of British archaeology in the Holy Land, led by the Palestine Exploration Fund (PEF), was scholarly. The PEF itself, composed of English volunteers educated in archaeology or related disciplines, declared, “We are not a religious Society. We are a Society in which we trust that every religious person takes an interest; but it was essential for our work, which is of a purely scientific character, that we should not hoist the banner of any religious body or fraternity whatsoever.”<sup>6</sup> The founders of the PEF wanted to map and chart Palestine and its archaeological sites as part of the emerging field of archaeology. However, this scientific interest was inherently tied to imperial conflicts of the day, for the founders felt it urgent to establish the PEF in part because they thought French academic interests in the region could threaten British scholarly interests in the same space.<sup>7</sup>

British archaeology in Palestine was also bound up in imperial issues, for the leaders of the British Empire utilized the establishment of the PEF to achieve their own goals. As established by Britain’s competition with France, particularly for territory in the Middle East, the mid-1800s were a time “when Britain was struggling to define its imperial purpose and secure its imperial frontiers.”<sup>8</sup> In the early 1860s, French construction of the Suez Canal began in Egypt,

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<sup>6</sup> *Palestine Exploration Fund Quarterly Statement for 1887* (London: Harrison and Sons, 1887), 5, <https://books.google.com/books?id=2WmSWGv-gYwC&printsec>.

<sup>7</sup> John James Moscrop, *Measuring Jerusalem: The Palestine Exploration Fund and British Interests in the Holy Land* (London: Leicester University Press, 2000), 63-66.

<sup>8</sup> Moscrop, *Measuring Jerusalem*, 1.

which made Britain desperate for an opportunity to gather intelligence on French activities in the Sinai Peninsula. Following the PEF's foundation in 1865, the British government began working with this volunteer society to collect information on French undertakings in Egypt and Sinai.<sup>9</sup> Thus, from its conception, the PEF served as a front for British intelligence operations.<sup>10</sup> The PEF continued to feed information to the British military up until 1884, when the Ottoman government fined Britain for undertaking an unauthorized survey.<sup>11</sup> After this incident, the PEF began to transition more heavily towards archaeological efforts rather than surveys and intelligence gathering. This lasted until the beginning of the First World War, when the War Department called on the PEF to create another detailed survey of Palestine and Sinai.<sup>12</sup> However, once the British army occupied Palestine in December of 1917, the PEF quickly became obsolete. With the installation of a British colonial government, the War Department and others no longer needed to rely on the volunteers of the PEF to conduct surveys, for the mandatory government established their own survey teams and antiquities department. Thus, the PEF was quickly replaced by the "ruthlessly efficient" archaeological institutions of the British Mandate.<sup>13</sup>

This emphasis on the scholarly and imperial motivations behind the PEF's activities is not to ignore the fact that religious interests played a central role in the PEF's foundation and work in Palestine. Though established as a non-religious organization, the leadership and membership of the PEF, like the leadership of the British Empire and its colonies, consisted primarily of Anglican Christians. Like most Protestant Christians of the nineteenth and twentieth

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<sup>9</sup> Moscrop, *Measuring Jerusalem*, 59.

<sup>10</sup> Moscrop, *Measuring Jerusalem*, 218.

<sup>11</sup> Moscrop, *Measuring Jerusalem*, 145-148

<sup>12</sup> Moscrop, *Measuring Jerusalem*, 221.

<sup>13</sup> Moscrop, *Measuring Jerusalem*, 210.

centuries, they desperately wanted to prove the historical accuracy of the Bible through excavations.<sup>14</sup> In effect, archaeological work in Palestine was “the work of a tight-knit group of English Christians working and searching for the good of the Protestant religion and the British Empire.”<sup>15</sup> Taken holistically, then, the archaeological project in Palestine was the result of a combination of scholarly, imperial, and religious motivations.

In Mesopotamia, British archaeological work also emerged from scientific and imperial pursuits, but religion was a less important factor. British archaeological interest in what would become Iraq began in the early 1840s, when British and French archaeologists began excavating and shipping Assyrian artifacts from Mesopotamia to the British Museum, the Louvre, and other prominent museums. British fascination with Assyrian artifacts was initially connected to biblical interests and the story of the Assyrians as ancient Christians, which was particularly popular among the Protestant public, but at the same time, British and French scholars began to investigate these artifacts from a secular perspective. In the mid-nineteenth century, religious interests gave way to “a more down-to-earth curiosity.” Elites became more concerned with filling their “cabinets of curiosities” than collecting religiously significant artifacts, and academics began to explore history through a material lens rather than a purely religious one.<sup>16</sup> This era, anthropologist Nadia Abu El-Haj writes, was when Western scholars created “the ‘artifact’ as a discrete scientific object and legal category that would make possible archaeology’s exclusive domain of expertise.”<sup>17</sup>

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<sup>14</sup> Billie Melman, *Empires of Antiquities: Modernity and the Rediscovery of the Ancient Near East, 1914-1950* (Oxford: Oxford University Press, 2020), 67, accessed April 11, 2023, <https://doi-org.ezaccess.libraries.psu.edu/10.1093/oso/9780198824558.001.0001>.

<sup>15</sup> Moscrop, *Measuring Jerusalem*, 3.

<sup>16</sup> Morag M. Kersel, “The Trade in Palestinian Antiquities,” *Jerusalem Quarterly* 33 (2008): 23, accessed October 10, 2023, <https://traffickingculture.org/app/uploads/2013/01/Kersel-2008-The-Trade-in-Palestinian-Artifacts-JQ.pdf>.

<sup>17</sup> Nadia Abu El-Haj, *Facts on the Ground: Archaeological Practice and Territorial Self-Fashioning in Israeli Society* (Chicago: The University of Chicago Press, 2001), 22.

In addition to the academic appeal, British archaeology in Mesopotamia proved popular because it represented a dimension of the imperial conflict between Britain and France. Since the turn of the nineteenth century, Britain and France had been competing for land in the Middle East. Napoleon's successful occupation of Egypt posed a threat to British interests in the region, especially considering that Britain's own attempt to conquer Alexandria in 1807 failed.<sup>18</sup> Establishing a British base in Mesopotamia at Baghdad, thus, provided a chance to secure Britain's presence between India and Egypt. However, this was soon threatened by French presence in Mosul.<sup>19</sup> Britain and France both began archaeological excavations in Mesopotamia, and collecting ancient artifacts (primarily Assyrian) became a dimension of nationalist and imperialist competition. British and French archaeologists intended artifacts to be sent home to "adorn" the national collections of their country as each attempted to best the other.<sup>20</sup> Thus, British archaeological interests in Mesopotamia during the nineteenth century resulted more from scientific curiosity and imperial struggle than religious interest.

Overall, nineteenth century British archaeological work in Palestine and Iraq demonstrated various vested interests in continued work in the region. Individual scholars explored the region in hopes of studying artifacts from a scientific perspective, and sometimes formed volunteer societies such as the PEF. Given that the desires of individual archaeologists drove many of these early archaeological expeditions, the scholarly community remained a key audience of the British Empire when it came to justifying Britain's rule of Palestine and Iraq. Likewise, archaeological exploration was inextricably bound up with British imperial hopes, a

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<sup>18</sup> Frederick N. Bohrer, "Inventing Assyria: Exoticism and Reception in Nineteenth-Century England and France," *The Art Bulletin* 80, no. 2 (1998): 341, <https://doi.org/10.2307/3051236>.

<sup>19</sup> Bohrer, "Inventing Assyria," 341.

<sup>20</sup> Bohrer, "Inventing Assyria," 342.



connection that would only deepen with the establishment of the mandates and more direct British control over the archaeological politics of the Middle East. Finally, the fact that archaeological pursuits in Palestine focused heavily on religion, while those in Mesopotamia did not, offers context for the various interests held by twentieth century archaeologists working in these two regions.

### **War, Occupation, and the Establishment of the Mandates**

In April of 1920, the Allied powers met at the San Remo Conference and decided how to partition the Arab provinces among themselves. The new League of Nations authorized the division of the Middle East into “mandates,” defined by the League as states “inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world.”<sup>21</sup> The League gave Britain the mandates for Palestine and Mesopotamia, which the British named Iraq, while it gave France the mandate for Syria. While in many ways, the mandate system was simply another name for colonialism, it was distinct from imperial efforts before the war for two main reasons. First, the mandatory powers were required to prepare their “charges” for independence, and second, mandate control had to at some point come to an end.<sup>22</sup>

Despite the fact that the mandates for Palestine and Iraq appeared quite similar on paper, Britain governed the two new countries very differently, which would have repercussions for how officials drafted antiquities policy in each. In Palestine, the British governed without significant input from the local population. When British civilian administration replaced military occupation in 1920, the British reaffirmed the commitment they had made in the 1917

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<sup>21</sup> “The Covenant of the League of Nations,” *The Avalon Project*, Yale Law School, accessed November 22, 2023, [https://avalon.law.yale.edu/20th\\_century/leagcov.asp#art22](https://avalon.law.yale.edu/20th_century/leagcov.asp#art22); William L. Cleveland and Martin Bunton, *A History of the Modern Middle East*, 6th ed. (New York: Routledge, 2018), 162.

<sup>22</sup> Cleveland and Bunton, *A History of the Modern Middle East*, 162.

Balfour Declaration that promised a “national home” in Palestine to the Jewish people. Despite this, their actual policy remained ambiguous throughout the mandate.<sup>23</sup> While most Zionists interpreted “national home” as a state, the British formally declared that this did not mean imposing Jewish nationality upon the indigenous Palestinian population, who also held certain limited rights. The policies of Sir Herbert Samuel, the first British High Commissioner of Palestine, reflected Britain’s uncertainty as to how to uphold their commitments to both the Zionists and the Palestinians. Himself Jewish, Samuel nonetheless believed that an integrated Jewish-Arab society would best balance competing interests in Palestine, and so attempted to establish governing bodies composed partly of Zionists and partly of local Arab leaders. The Arab leaders, unwilling to compromise on the issue of land, rejected all of Samuel’s proposals, and the idea of shared government was abandoned. Thus, for the entirety of the mandate, the British High Commissioner and his officials governed Palestine without local participation.<sup>24</sup>

In Iraq, indirect British rule resulted in a system in which the local population held greater representation in government. Britain’s military rule of Iraq between 1917 and 1920 attempted to establish a centralized government, fueling intense anti-British sentiments among the local Iraqi population. In 1920, anger boiled over into a full-scale revolt. British officials realized after the revolt that ruling Iraq directly (whether via military or civilian rule) would not be sustainable, so they decided to rule Iraq indirectly.<sup>25</sup> British officials chose Faisal Husain to become the king of Iraq. The British hoped that Faisal, the son of the Sharif of Mecca who Britain had assisted in rebelling against the Ottomans during the war, would be a pliable puppet

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<sup>23</sup> Arthur James Balfour to Lord Rothschild, November 2, 1917, *The Avalon Project*, Yale Law School, accessed 26 March 2024, [https://avalon.law.yale.edu/20th\\_century/balfour.asp](https://avalon.law.yale.edu/20th_century/balfour.asp); Cleveland and Bunton, *A History of the Modern Middle East*, 233.

<sup>24</sup> Cleveland and Bunton, *A History of the Modern Middle East*, 233-234.

<sup>25</sup> Cleveland and Bunton, *A History of the Modern Middle East*, 196.

ruler since he too was a foreigner in Iraq.<sup>26</sup> Iraq's new government was a constitutional monarchy with an elected legislature. Though Faisal himself was an outsider and the British oversaw everything, Iraqis made up most of the legislature and held some cabinet positions. In order for Faisal's regime to survive, Britain granted Iraq some degree of autonomy in their internal affairs, striking a delicate balance between their own interests and the practicalities of Iraq's existence.

### **Forging a Legal Relationship between Colonialism and Archaeology**

Antiquities laws in Palestine and Iraq emerged from a similar international conception of antiquities laws and their necessity. The legal language governing treatment of antiquities in the British mandates originated in the 1920 Treaty of Sèvres, which dictated the terms of Allied peace with the Ottoman Empire.<sup>27</sup> Sèvres dictated much of the West's policy towards the Middle East in the immediate aftermath of World War I, but in the end, the treaty was never ratified. After Ataturk's rise and the establishment of the Republic of Turkey, the Western powers and Turkey signed the Treaty of Lausanne instead in 1923. The Treaty of Sèvres was significant nonetheless because it demonstrated how Western powers believed the establishment of institutions surrounding antiquity was crucial to nation-building, nationalism, and modernity. As a result, Sèvres became the foundation of how antiquities were addressed in the text of the mandates for Palestine and Iraq.

The foundation of mandate-era antiquities laws in Palestine and Iraq emerged from Article 421 of the Treaty of Sèvres, which established the definition of antiquities that would be used in the mandates and established a chain of authority over antiquities. Sèvres required the

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<sup>26</sup> Arthur Goldschmidt Jr. and Ibrahim Al-Marashi, *A Concise History of the Middle East*, 12th ed. (New York: Routledge, 2019), 178, 208.

<sup>27</sup> Goldschmidt and Al-Marashi, *A Concise History of the Middle East*, 186-187.

Ottoman government to enact a new antiquities law according to the eight rules listed in the article's annex.<sup>28</sup> For the purpose of this discussion surrounding legitimization of British rule through antiquities legislation, there are four critical rules. Rule number one in the Annex defines antiquity as "any construction or any product of human activity earlier than the year 1700." Rule number three proclaims that "no antiquity may leave the country without an export license" granted by the Turkish Department of Antiquities, and rule number five declares that no excavations would be permitted without the approval of the Department. Lastly, rule number eight states that "the proceeds of excavations may be divided between the excavator and the competent Turkish Department in a proportion fixed by that Department."<sup>29</sup>

These rules would come to play a critical role in the impacts of antiquities policy in Iraq and Palestine, for they placed control over antiquities squarely in the hands of British officials in the mandates. Article 21 of the Mandate for Palestine and Article 14 of the Mandate for Iraq imposed the requirement for the passage of an antiquities law based on the articles in the Annex of Article 421 of the Treaty of Sèvres, thus setting the parameters for antiquities laws in Palestine and Iraq.<sup>30</sup> As in the Annex, the rules contained in the mandates dictated the authority of the Department of Antiquities in each country to determine who could excavate and export antiquities. Critically, in contrast to the Ottoman Empire, where the new government was to

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<sup>28</sup> Treaty of Peace with Turkey, the British Empire - France - Italy - Japan - Armenia - Belgium - Greece - the Hedjaz - Poland - Portugal - Roumania - the Serb-Croat-Slovene State - Czecho-Slovakia - Turkey, Aug. 10, 1920, 11 L.N.T.S., 96-97, <https://treaties.fcdo.gov.uk/awweb/pdfopener?md=1&did=63986>.

<sup>29</sup> Treaty of Peace with Turkey, 96-97.

<sup>30</sup> "Mandate for Mesopotamia - Mr. Balfour - Communicates the text of the British Mandate for Mesopotamia," 1921, R20Bis/1/9316/3800, United Nations Library & Archive Geneva, <https://archives.ungeneva.org/mandate-for-mesopotamia-mr-balfour-communicates-the-text-of-the-british-mandate-for-mesopotamia>; "The Mandate for Palestine," 1922, A/292, General Assembly Plenary Collection, United Nations Digital Library, <https://digitallibrary.un.org/record/829707?ln=en>; Treaty of Peace with Turkey.

administer its own Department of Antiquities, British officials headed the Antiquities Departments in both mandatory Palestine and Iraq.

In Palestine, the process of creating a legal regime around antiquities occurred rapidly after the transition to a civilian government, and the body that controlled antiquities reflected the fact that Britain ruled Palestine independent of any local participation. Palestine's first antiquities law, the Palestine Antiquities Ordinance of 1920, expanded on the requirements set forth in the Treaty of Sèvres, establishing a Department of Antiquities, a Director of Antiquities, and an Archaeological Advisory Board.<sup>31</sup> The duties of the Archaeological Advisory Board, headed by the Director of Antiquities, included reviewing "all applications for permits to excavate and the qualifications of the applicant," "proposed amendments and alterations of the law dealing with Antiquities," and "all archaeological questions in which differing international or other conflicting interests might be involved," among other responsibilities.<sup>32</sup> These significant decisions were made by a board comprised primarily of British officials. The Director of Antiquities and up to five other members of the board were chosen by the British High Commissioner of Palestine, at that time Sir Herbert Samuel. The next three members of the board were chosen by the American, French, and British Schools of Archaeology in Jerusalem, respectively. Lastly, the Antiquities Ordinance required that one member represent the Jewish interests and one member represent the Arab interests. As a result of this structure, the British government or its representatives controlled the selection of two-thirds of the board that

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<sup>31</sup> "Antiquities Ordinance," *Official Gazette of the Government of Palestine* No. 29 (Jerusalem), Oct. 15, 1920, 4-5, [https://findit.library.yale.edu/images\\_layout/fullviewnoocr?parentoid=15537409](https://findit.library.yale.edu/images_layout/fullviewnoocr?parentoid=15537409).

<sup>32</sup> "Antiquities Ordinance," 5.

authorized archaeological expeditions and the export of artifacts, meaning the input from the Jewish and Arab representatives could easily be overruled.<sup>33</sup>

Like the verdicts of the Archaeological Advisory Board, the Antiquities Ordinance of 1920 favored Western archaeologists, though it did ensure that some objects remained within Palestine. Britain needed to uphold the image that it was preparing Palestine for independence, so all artifacts found at an excavation were officially property of the government of Palestine. However, Article 30 of the Antiquities Ordinance stated that:

The Director of Antiquities shall after the close of the excavations choose such objects from among those found as are in his opinion needed for the scientific completeness of the Palestine Museum. He shall then make a fair division of all the other objects between the Museum and the person to whom the permit to excavate was granted aiming as far as possible at giving such person a representatives share of the whole result of the excavation. He may supplement the share of such person to this end by objects resulting from other excavations or otherwise the property of the Government.<sup>34</sup>

Thus, not only did British officials grant permits to Western archaeologists, but they also determined which objects could be allocated to them and their sponsoring institutions. Some objects remained in Palestine, but there were few, if any, checks and balances on the authority of the Director to give objects to Western excavators and the museums that sponsored their work. All in all, the British controlled antiquities policy and archaeological practice in Palestine with virtually no input from the local population, which meant that Western interests took priority.

In Iraq, too, antiquities legislation was primarily the work of British officials rather than the local population. Unlike in Palestine, where antiquities legislation passed almost immediately after the transition to civilian government, in Iraq, the 1920 revolt derailed any attempts to establish an antiquities law. After Britain established the Kingdom of Iraq and placed Faisal on

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<sup>33</sup> “Antiquities Ordinance,” 5.

<sup>34</sup> “Antiquities Ordinance,” 10.

the throne, antiquities became a priority once again. The Anglo-Iraqi Treaty of 1922, which laid out the terms for Faisal's rule under British authority, reiterated Iraq's responsibility to enact an antiquities law based on the Annex of Article 421 of the Treaty of Sèvres.<sup>35</sup> Antiquities legislation of the 1920s favored British interests more than other legislation in Iraq did at the time. In general, though the British oversaw everything, Faisal was not as 'puppet-like' as they had anticipated. In fact, many of his domestic politics contradicted British interests. For instance, Faisal appointed many of his close personal friends to powerful government positions and switched to universal conscription for the Iraqi military rather than continuing to rely on certain minority groups as a police force, as the British had during the occupation. However, "regarding archaeology, in contrast to most other matters of government, he allotted the British...the power and opportunity to, somewhat independently, deal with and organize archaeological matters for the new Iraqi nation"<sup>36</sup> This was due to a complex mixture of factors, most importantly Britain's belief that archaeology was "too important" to leave to the Iraqis, none of whom had formal European training in archaeology. The British thus made an extreme effort to conduct archaeological work without any input from the Iraqi people.<sup>37</sup> Faisal, born in Mecca and raised in Constantinople, was still unfamiliar with Iraq's ancient heritage and happy enough to defer to the British in this matter.<sup>38</sup>

However, as in Palestine, many British officials realized that the political reality of the mandate required a certain compromise in terms of antiquities law. It would need to legitimize Britain's colonial presence and protect the interests of British archaeologists, but also

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<sup>35</sup> Bernhardsson, *Reclaiming a Plundered Past*, 116.

<sup>36</sup> Bernhardsson, *Reclaiming a Plundered Past*, 109.

<sup>37</sup> Bernhardsson, *Reclaiming a Plundered Past*, 111.

<sup>38</sup> Bernhardsson, *Reclaiming a Plundered Past*, 117.

demonstrate some concern for the future Iraqi state.<sup>39</sup> Among these officials was Gertrude Bell, the first Director of Antiquities in Iraq. Gertrude Bell was born into a wealthy British family in 1868, and took unusual advantage of the educational opportunities provided to her. Her social status allowed her to fund her education and travels, and also to meet and discuss her work with prominent intellectuals of the day. Bell studied history at Lady Margaret Hall, one of two women's colleges in Oxford at the time.<sup>40</sup> Studying in Oxford also introduced Bell to a number of prominent archaeologists, including her mentor David G. Hogarth.<sup>41</sup> After finishing her formal education, Bell spent a significant number of years traveling in the Middle East, studying archaeology, photography, and Arabic while learning about the landscapes and communities of the region.<sup>42</sup>

Bell became well known in British power circles for her expertise on the Middle East. After the outbreak of World War I, the War Office contacted Bell and sent her on several missions in the Middle East alongside T.E. Lawrence and other British officials.<sup>43</sup> The War Office stationed Bell in Iraq over the course of the British occupation, and she became close with Faisal after he took the throne. Bell's knowledge of archaeology and Iraq's history impressed the new monarch, and in 1922 he appointed her the kingdom's first Director of Antiquities. In that role, Bell was responsible for constructing the antiquities law required by the mandate and the 1922 Anglo-Iraqi Treaty.<sup>44</sup> In many ways, Bell represents the struggle faced by the British in attempting to prepare Iraq for independence while serving their own interests. Her own writings

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<sup>39</sup> Bernhardsson, *Reclaiming a Plundered Past*, 111-112.

<sup>40</sup> Paul Collins and Charles Tripp, "Introduction," in *Gertrude Bell and Iraq: A Life and Legacy*, ed. Paul Collins and Charles Tripp (Oxford: Oxford University Press, 2017), 2-3.

<sup>41</sup> Collins and Tripp, "Introduction," 3-4.

<sup>42</sup> Collins and Tripp, "Introduction," 4-6, 9.

<sup>43</sup> Collins and Tripp, "Introduction," 9.

<sup>44</sup> Bernhardsson, *Reclaiming a Plundered Past*, 116-117.



demonstrate that she held great respect for Iraq, its people, and especially its antiquities, but nonetheless held the imperialist view that Iraq's people and artifacts needed to be incorporated into a centralized system of British control.<sup>45</sup> Bell also firmly believed that antiquities policy needed to be favorable to Western interests in order to attract archaeologists from Britain, America, France, and other Western countries.<sup>46</sup> Thus, the antiquities law she championed proposed a compromise between British and Iraqi interests, at least on paper.

As in Palestine, Iraq's law addressed the issue of dividing finds between the mandatory state and the excavator. Gertrude Bell first proposed a version of her antiquities law in 1922, but it did not pass until 1924 due to protests from Iraqi lawmakers about the law's unfairness. As required by the mandate text and the Anglo-Iraqi Treaty of 1922, the 1924 Antiquities Law based most of its provisions on the standard laid out in the Treaty of Sèvres. However, there was significant difference in the way that the 1924 Iraqi Antiquities Law allocated property between the Iraqi government and the excavators.<sup>47</sup> Under this law, expeditionary forces would keep "a representative share" of the antiquities found, which in practice usually meant that 50% of the antiquities would go to the excavators, while the Iraqi government would keep the other 50%.<sup>48</sup> When it came to deciding which objects went to which group, the law granted Gertrude Bell and her successors an immense amount of control, for they handpicked which objects were kept in the newly established Iraq Museum, another pet project of Gertrude Bell's, and which objects Western archaeologists could export back home to Britain and the United States.

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<sup>45</sup> Bernhardsson, *Reclaiming a Plundered Past*, 64-65; Collins and Tripp, "Introduction," 10.

<sup>46</sup> Bernhardsson, *Reclaiming a Plundered Past*, 120.

<sup>47</sup> Bernhardsson, *Reclaiming a Plundered Past*, 123.

<sup>48</sup> James F. Goode, *Negotiating for the Past: Archaeology, Nationalism, and Diplomacy in the Middle East, 1919-1941* (Austin: University of Texas Press, 2007), 192-193, <https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=3443187>; Article 22 of the Antiquities Law of 1924, quoted in Bernhardsson, *Reclaiming a Plundered Past*, 173.

The extent to which Gertrude Bell controlled antiquities in Iraq is demonstrated in a letter she sent to her father on June 24, 1924. In it, Gertrude Bell wrote, “I have got my Antiquities Law through - congratulate me! Under its provisions the Dept of Antiquities - i.e. me - has the right to give permission to any applicant to export antiquities and to charge a percentage on their value.”<sup>49</sup> Even though the law expected that at least 50% of the artifacts would remain in Iraq, the unilateral control exercised by the British-dominated Department of Antiquities meant that many artifacts ended up in the hands of the archaeologists, usually exported back to institutions such as the British Museum. This was in part due to the alleged inability of the Iraq Museum to care for the objects, which meant that most of them ended up back in the hands of the excavators “on the plea of the interest of science.”<sup>50</sup> So despite the intended fifty-fifty split and the attempts to honor Iraq’s interest in its antiquities, Britain nonetheless dominated antiquities policy and archaeological practice in Iraq.

Thus, though both the Palestine Antiquities Ordinance of 1920 and the Iraqi Antiquities Law of 1924 implemented division of finds to ensure that the mandate states owned some antiquities, in practice, the legal system allowed the British officials who held power to bend the rules in their favor. British officials dictated the granting of excavation permits, the division of objects, and the export of antiquities in both Palestine and Iraq. In Palestine, the exclusion of both the Zionists and the Palestinians from day-to-day government meant they were in no position to challenge British hegemony. The 1920 Antiquities Ordinance cemented the ability of British officials and representatives of other Western archaeological institutions to make

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<sup>49</sup> Gertrude Bell to Sir Hugh Bell, June 25, 1924, from the Gertrude Bell Archive, accessed October 11, 2023, <https://gertrudebell.ncl.ac.uk/l/gb-1-1-2-1-20-25>.

<sup>50</sup> Goode, *Negotiating for the Past*, 192.

decisions about antiquities without local input. Even in Iraq, where the Antiquities Law of 1924 faced greater resistance, Gertrude Bell held the final say on archaeological matters.

### Chapter 3

#### **Antiquities Policy and the Legitimation of British Mandate Control in Palestine and Iraq**

The fact that the British controlled the division of finds in both Palestine and Iraq was no accident, for John Garstang and his successors in Palestine and Gertrude Bell in Iraq designed antiquities policies with several audiences in mind. They hoped that these laws would allow the British mandates to gain legitimacy among an international audience, composed primarily of the Western archaeological community and the League of Nations. British officials also saw archaeology as an opportunity to appeal to the populations of both the metropole, Britain, and the mandatory states, Palestine and Iraq. Thus, archaeological officials drafted the Palestine Antiquities Ordinance of 1920 and the 1924 Antiquities Law in Iraq while thinking about the interests of all of these diverse groups, who of course held conflicting views on what antiquities policy and archaeological practice should have looked like in the interwar Middle East.

Unsurprisingly, the laws succeeded in gaining legitimacy with some groups and failed amongst others. Western archaeologists and museums wanted laws that would allow them to export artifacts from Palestine and Iraq back to Britain, the United States, and other places for academic study and display in museums. The British public appreciated museum displays and publications about archaeological work in the Middle Eastern mandates. The League of Nations hoped that the laws would allow access to archaeological sites for all states in the international system, but also that the laws would comply with the mandate system's goal of preparing Palestine and Iraq for independence. The Zionists hoped that the British would allow them equal access to archaeological sites, particularly those relevant to Jewish history and life in Palestine. Some Palestinians hoped for participation in a government entity, while others demanded fair usage of the land. Lastly, Iraqi politicians wanted a law that prevented Western archaeologists

and museums from taking so many antiquities out of the country. Broadly speaking, British antiquities laws earned favor with Western archaeologists, the British public, and the League of Nations, but failed to gain legitimacy with the Zionists, Palestinians, or Iraqis living in the mandates.

### **Eastern Antiquities and Western Audiences**

Both the Antiquities Ordinance of 1920 in Palestine and the 1924 Antiquities Law in Iraq successfully legitimized the British presence in Palestine and Iraq to British and American archaeologists and to the British public, for they guaranteed more or less unrestricted colonial access to ever growing archaeological finds. When drafting the laws, British officials first considered how they would appeal to British archaeologists. The British leaders in Palestine and Iraq needed to ensure that antiquities legislation was favorable to archaeologists in large part because they depended upon income from expeditions launched by institutions such as the British Museum. In fact, the British Museum's opinion held so much weight that colonial officials asked the Joint Archaeological Committee of the British Museum to provide input on drafts of archaeological policy in Palestine and Iraq.<sup>51</sup> Unsurprisingly, the Museum recommended a policy that would allow it to grow its own collection through sponsored archaeological expeditions.<sup>52</sup> In turn, antiquities policy in Iraq and Palestine needed to be favorable to archaeologists from other Western countries, primarily the United States, for the British Museum relied on the financial resources of American institutions to launch many

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<sup>51</sup> Sir Frederic Kenyon to Dr. G. B. Gordon, Nov. 16, 1920, Box 1, Ur, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

<sup>52</sup> Magnus T. Bernhardsson, *Reclaiming a Plundered Past: Archaeology and Nation Building in Modern Iraq* (Austin: University of Texas Press, 2005), 114.

expeditions.<sup>53</sup> Finally, the British needed to justify their presence in Iraq and Palestine to the British public, who were generally wary about their country's attempts to build its empire further in the 1920s and 1930s.<sup>54</sup>

### *Archaeological Expeditions in Palestine*

In Palestine, British officials ensured that their policy pleased Western archaeologists by consulting Western archaeological institutions on the creation of the Department of Antiquities and the Antiquities Ordinance and subsequently hiring prominent British archaeologists to staff the Department. In 1920, High Commissioner Samuel called upon the British School of Archaeology in Jerusalem for their advice on organizing the new Department of Antiquities. Samuel appointed the Director of the British School of Archaeology, John Garstang, to be the first Director of Antiquities in Palestine.<sup>55</sup> Garstang trained as an archaeologist in Egypt under William Flinders Petrie, “the pioneer of field archaeology,” and worked as a professor of archaeology at Liverpool University before becoming the Director of the British School of Archaeology. Once appointed the new Director of Antiquities, Garstang was in charge of drafting the Antiquities Ordinance of 1920.<sup>56</sup>

Garstang's appointment and proposals for the Antiquities Ordinance demonstrate that in Palestine, the people authorizing excavations were frequently friendly with and biased towards

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<sup>53</sup> Billie Melman, *Empires of Antiquities: Modernity and the Rediscovery of the Ancient Near East, 1914-1950* (Oxford: Oxford University Press, 2020), 65, accessed April 11, 2023, <https://doi-org.ezaccess.libraries.psu.edu/10.1093/oso/9780198824558.001.0001>.

<sup>54</sup> Philip Murphy, “Britain as a Global Power in the Twentieth Century,” in *Britain's Experience of Empire in the Twentieth Century*, ed. Andrew Thompson (Oxford: Oxford Academic, 2011), 41, <https://doi-org.ezaccess.libraries.psu.edu/10.1093/acprof:oso/9780199236589.003.0002>.

<sup>55</sup> John Garstang, “Eighteen Months' Work of the Department of Antiquities for Palestine,” *Palestine Exploration Quarterly* 54, no. 2 (1922): 58-59, <https://zenodo.org/records/2374544>.

<sup>56</sup> Sarah Griswold, “Locating Archaeological Expertise: Debating Antiquities Norms in the A Mandates, 1918-1926,” in *Experts et Expertise dans les Mandats de la Société des Nations: Figures, Champs et Outils*, ed. Philippe Bourmaud et al. (Paris: Presses de L'Inalco, 2020), paragraphs 12 and 17, <https://books.openedition.org/pressesinalco/38328?lang=en>.

the people carrying out excavations. Working under orders from the British government, Garstang was the first to introduce the concept of “partage,” or division of antiquities, to the Palestine Antiquities Ordinance. Initially, he proposed that the excavator would have first choice in the division of finds between the mandate state and the foreign excavator, mediated by the mandatory Antiquities Department.<sup>57</sup> Though division of finds was included in the final draft of the law, Article 30 declared that the mandatory state would have first choice rather than the excavator.<sup>58</sup> Garstang seemed to agree with this final version, for he wrote in 1922 that the “paramount” principle in the Antiquities Ordinance of 1920 was that “the monuments and antiquities of Palestine belong to Palestine and to Palestinians.” Despite this sentiment, and despite Article 30, in practice, the artifacts usually ended up belonging to Western archaeologists. After all, in Garstang’s own words, the British Government in Palestine “reserved powers to share the fruits of excavations with organizations undertaking such work.”<sup>59</sup>

Between 1922 and 1925, Philip Langstaffe Ord Guy, a British archaeologist and former army officer known as P.L.O. Guy, served as Garstang’s second-in-command in the Department of Antiquities. As the Chief Inspector, he was responsible for keeping track of “all the immovable antiquities of Palestine.”<sup>60</sup> In 1925, though, he left this post after being appointed the director of the Oriental Institute of Chicago’s Megiddo Expedition.<sup>61</sup> In 1938, Guy became the Director of the British School of Archaeology, following in Garstang’s footsteps, and in 1939 returned to the British Army to fight in World War II. After the war, he rejoined the British

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<sup>57</sup> Griswold, “Locating Archaeological Expertise,” paragraph 19.

<sup>58</sup> “Antiquities Ordinance,” *Official Gazette of the Government of Palestine* No. 29 (Jerusalem), Oct. 15, 1920, 10, [https://findit.library.yale.edu/images\\_layout/fullviewnoocr?parentoid=15537409](https://findit.library.yale.edu/images_layout/fullviewnoocr?parentoid=15537409).

<sup>59</sup> Garstang, “Eighteen Months,” 58-59.

<sup>60</sup> Garstang, “Eighteen Months,” 58; “P.L.O. Guy 1885-1952: In Memoriam,” *Israel Exploration Journal* 3, no. 1 (1953): 1, <http://www.jstor.org/stable/27924500>.

<sup>61</sup> James Henry Breasted, *The Oriental Institute* (Chicago: The University of Chicago Press, 1933), 75-77, <https://archive.org/details/orientalinstitut00brea>.

Government in Palestine, first as a member of the Department of Agriculture and then again in the Department of Antiquities.<sup>62</sup>

As evidenced by the careers of Garstang and Guy, the highest ranks of the Palestine Department of Antiquities consisted of British archaeologists who worked closely with various British and American museums and expeditions. Due to their own close ties with these institutions, these officials encouraged the work of Western archaeologists, formulating and overseeing legislation that allowed Westerners to take ownership of many of their archaeological finds.<sup>63</sup> Predictably, then, Western excavations flourished under these favorable conditions. The Palestine Exploration Fund (PEF)'s map of excavations in Palestine in 1932 provides proof of this success. The map marked at least sixty-two different active archaeological sites being excavated by various combinations of forty-two different American and British institutions, and likely documented only a fraction of the archaeological work being done in mandatory Palestine in the early 1930s.<sup>64</sup>

#### *Archaeological Expeditions in Iraq*

In Iraq, archaeological policy privileged British and American archaeologists despite the provision of the 1924 Antiquities Law that required a roughly equal division of finds, largely due to the influence of Gertrude Bell. One case that demonstrates her power over matters of antiquities is that of the Joint Expedition of the Penn Museum (known in the 1920s as the University Museum of Philadelphia) and the British Museum to Ur, Iraq. Many scholars have examined this expedition, but it remains a valuable case study because of its thorough

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<sup>62</sup> "P.L.O. Guy," 2.

<sup>63</sup> Garstang, "Eighteen Months'," 58-59, 61-62.

<sup>64</sup> Melman, *Empires of Antiquities*, 64.



documentation and longevity. The joint expedition's first season ran in 1922, and it finally ended thirteen seasons later in 1934.<sup>65</sup>

The idea for the joint expedition originated in 1919, two years into Britain's occupation of Baghdad. Realizing that through its occupation of the city, Britain had "jurisdiction over the archaeological interests of Mesopotamia," Dr. George Byron Gordon, the Director of the University Museum of Philadelphia, contacted Sir Frederic Kenyon, the Director of the British Museum, to express his interest in pursuing archaeological work in Mesopotamia. In this letter, he proposed "a joint expedition on the part of the British Museum and of the University Museum to make excavations on the site of ancient Ur," from which the finds would be split between the two institutions.<sup>66</sup> Kenyon replied that "at present excavation is impossible, owing to the disturbed state of the country."<sup>67</sup> The two continued to correspond over the next few years, but no expedition could be formally planned until King Faisal appointed a Director of Antiquities in Iraq.<sup>68</sup>

Then, in 1922, Gertrude Bell became the new Director of Antiquities and approved the expedition. Though there was no antiquities law in place in 1922, and would not be until 1924, Gertrude Bell authorized this expedition and likewise ensured that the division of artifacts was favorable for the British and Americans. The fact that the approval occurred prior to the passage of the law was partly due to Bell's own sympathies towards the archaeological work done by Western museums, and partly due to the British Museum's influence on antiquities policy in

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<sup>65</sup> Bernhardsson, *Reclaiming a Plundered Past*, 132.

<sup>66</sup> Dr. G. B. Gordon to Sir Frederic Kenyon, June 2, 1919, Box 1, Ur, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

<sup>67</sup> Sir Frederic Kenyon to Dr. G. B. Gordon, Nov. 16, 1920.

<sup>68</sup> Sir Frederic Kenyon to Dr. G. B. Gordon, Nov. 18, 1921, Box 1, Ur, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

Iraq.<sup>69</sup> In 1920, Sir Kenyon assured Dr. Gordon that the British Museum's advisory committee had placed a caveat in Iraq's draft law to ensure that "delay in enacting the law is not made an excuse for postponing the resumption of excavations."<sup>70</sup> This caveat, combined with Bell's monopoly on granting expedition permits, meant that Gordon's proposed joint expedition quickly received a permit from Bell's new Department of Antiquities. The British Museum and the Penn Museum assembled a joint team of archaeologists, directed by British archaeologist Leonard Woolley, and began digging in Ur in the fall of 1922. Upon meeting with Gertrude Bell, Woolley wrote to Dr. Gordon that "in Miss Bell we shall of course have a most sympathetic director."<sup>71</sup>

Indeed, despite the fact that the excavation permit (and by 1924, the Antiquities Law) subjected Woolley's expedition to a fifty-fifty division of finds, the Penn Museum and the British Museum profited immensely from their sponsored expedition in Ur. Bell herself was repeatedly torn between her position as an Iraqi government official and her ties to Western archaeology, and often lamented having to choose between the two. On March 6, 1924, after presiding over the division of finds from Ur, Bell wrote in a letter to her father:

The really agonizing part was after lunch when I had to tell them that I must take the milking scene. I can't do otherwise. It's unique and it depicts the life of the country at an immensely early date. In my capacity as Director of Antiquities I'm an 'Iraqi official and bound by the terms on which we gave the permit for excavation...it broke Mr Woolley's heart, though he expected the decision.<sup>72</sup>

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<sup>69</sup> Bernhardsson, *Reclaiming a Plundered Past*, 141.

<sup>70</sup> Sir Frederic Kenyon to Dr. G. B. Gordon, Nov. 16, 1920.

<sup>71</sup> Leonard Woolley to Dr. G. B. Gordon, Nov. 2, 1922, Box 1, Ur, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

<sup>72</sup> Gertrude Bell to Sir Hugh Bell, March 6, 1924, from the Gertrude Bell Archive, accessed October 25, 2023, <https://gertrudebell.ncl.ac.uk/l/gb-1-1-2-1-20-8>.

Regardless of Bell's split interests, many objects went to the excavators, for she was often swayed by the complaints of Woolley and other excavators. In 1926, for instance, she wrote to her father that "I went to Ur last week... I had a very busy day dividing the things. Nor was it very easy...very reluctantly I relinquished two very early plaques showing sacrificial scenes. I think I really ought to have taken one, but Mr Woolley made a fuss and I thought after all that I had got a great deal for the Museum out of their labour, so I ended by giving both."<sup>73</sup> Woolley himself wrote that "the division of objects" was "painful in process," but admitted to Dr. Gordon that "actually, in the division we did very well and have no cause for complaint - though I would not say that to Miss Bell."<sup>74</sup> Woolley's perspective illustrates that even with the division of finds, Western archaeologists felt as though their work in Iraq was highly profitable.

Furthermore, even though the Iraqi government divided archaeological finds between themselves and the expeditions, additional antiquities ended up in British hands because the underfunded Iraq Museum lacked the resources to store and conserve the objects it was supposed to keep. To fund conservation and preservation projects for objects she viewed as essential pieces of Iraqi history, such as the milking scene described above, Gertrude Bell sold many objects originally claimed as property of the Iraqi government. Typically, she offered such objects first to the museums who sponsored the excavation that unearthed them. This trend held true for the Ur expedition: in 1924, Woolley wrote:

I have suggested to Miss Bell that as the Baghdad share of the finds will inevitably include delicate metal objects which they cannot possibly keep unless they first undertake the relatively heavy cost of giving them expert repair[s] and preservative treatment (which cannot be done in this country, and for which they have no funds available) they

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<sup>73</sup> Gertrude Bell to Sir Hugh Bell, March 16, 1926, from the Gertrude Bell Archive, accessed March 6, 2024, <https://gertrudebell.ncl.ac.uk/l/gb-1-1-2-1-22-10>.

<sup>74</sup> Letter of Leonard Woolley, March 8, 1924, Box 1, Ur, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023; Leonard Woolley to Dr. G. B. Gordon, May 24, 1924, Box 1, Ur, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

might, after the division, sell a part of their share to cover such cost, giving the right of pre-emption to the two museums financing the expedition.<sup>75</sup>

Thus, Gertrude Bell's sympathies towards Western excavators, as well as the weak museum infrastructure of the Iraqi state, meant that excavation teams and the institutions that sponsored them ended up with most of the objects, despite the fact that the Antiquities Law in Iraq demanded a more even division of finds between excavators and the government.

*Appeasing the British Public: Expedition News and Museums at Home*

The legal framework surrounding these expeditions supported the export of many artifacts back to major Western museums, which in turn made British archaeological work in Palestine and Iraq popular with the general public in Britain. Sponsors of major expeditions in both Britain and the United States, including the British Museum, the Louvre, the Penn Museum, and the Oriental Institute of Chicago's Museum, now known as the Institute for the Study of Ancient Cultures, West Asia & North Africa, collected thousands of artifacts through their work, and built major exhibitions from their most valuable finds. For Britain, these expedition exhibits offered a chance to counteract poor public opinion about its imperial and colonial activities overseas, which by the 1910s and 1920s had grown unpopular not only in the colonies but also at home.<sup>76</sup> As the British government had a vested interest in making sure the public supported its presence in Iraq and Palestine, the publicity campaign was more prominent and more successful in Britain than in the United States.

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<sup>75</sup> Leonard Woolley to Dr. G. B. Gordon, Feb. 3, 1924, Box 1, Ur, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

<sup>76</sup> Murphy, "Britain as a Global Power," 41.

Take once again the case of the British Museum and Penn Museum's joint expedition to Ur. In 1924, Dr. Gordon of the Penn Museum complained to Sir Kenyon, the director of the British Museum:

You are able to make in the British Museum each season an impressive exhibit of the finds at Ur ...thereby bringing the results of the work favourably before the public and demonstrating their value. I, on my part, can produce no such exhibition either for the information of my supporters, or for the information of the newspapers, or for the information of the general public. You are able to produce the evidence. I am not. Also Mr. Woolley's lectures in London after each season's work, taken in connection with the exhibition, give people something to think about and call favourable attention to the work. In these respects I am handicapped.<sup>77</sup>

Gordon's frustration about the lack of resources available to him in the United States for publishing news of archaeological work in Iraq demonstrates how Britain, conversely, chose to put a significant amount of time, money, and effort into gaining public approval for the work done at Ur and across the Middle East. Woolley did indeed produce a lot of good press on the work at Ur: he published monthly reports on the expedition as well as special articles on the upcoming exhibition at the British Museum in a number of major newspapers, including the "Times," "Illustrated London News," "Discovery," and "Radio Times." Woolley also gave lectures to fellow archaeologists and scholars, and appeared on public radio for the British Broadcasting Company to talk about his work.<sup>78</sup> This constant publicity brought the work being done by British archaeologists in Iraq into household conversation in Britain, creating a positive association with Britain's mandatory governments in the Middle East.

British archaeological work in Palestine had an additional opportunity to gain favor with the public, for it represented a continuation of the long Protestant tradition of attempting to prove

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<sup>77</sup> Dr. G. B. Gordon to Sir Frederic Kenyon, July 24, 1924, Box 1, Ur, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

<sup>78</sup> Letter of Leonard Woolley, March 8, 1924.

the historical accuracy of the Bible through archaeology. Following in the footsteps of the PEF, mandate-era archaeologists invoked biblical history by preserving artifacts, buildings, and monuments related to Bible stories, especially in Jerusalem.<sup>79</sup> After all, the British saw themselves as representatives of broader Christian interests in the Middle East, and thus pursuing biblical archaeology was another way to popularize their efforts with the Bible-reading public at home.<sup>80</sup>

### **Archaeological Policy for the Eyes of the League of Nations**

Another critical audience for the writers of antiquities laws in Palestine and Iraq was the League of Nations' oversight mechanism, the Permanent Mandates Commission (PMC). In addition to appeasing Western archaeologists, the creators of these laws also had to demonstrate at least surface-level compliance with two major demands of the League. First, Britain had to uphold the "open door" guarantee, or the commitment to preserving equal access to the markets of the mandates for all states in the international system.<sup>81</sup> Second, Britain had to demonstrate to the League of Nations and the international public that their work in Palestine and Iraq was preparing the states for independence, and was not the purely exploitative imperialism of the pre-World War I era. In order to ensure adherence to these objectives of the mandate system, the Covenant of the League of Nations established the PMC to "receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates."<sup>82</sup> With these considerations in mind, British officials wrote the Palestine

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<sup>79</sup> Nadia Abu El-Haj, "Producing (Arti) Facts: Archaeology and Power during the British Mandate of Palestine," *Israel Studies* 7, no. 2 (2002): 45, <http://www.jstor.org/stable/30245585>.

<sup>80</sup> El-Haj, "Producing (Arti) Facts," 45; Melman, *Empires of Antiquities*, 68.

<sup>81</sup> James L. Gelvin, "The Middle East Breasted Encountered, 1919-1920," in *Pioneers to the Past: American Archaeologists in the Middle East, 1919-1920*, ed. Geoff Emberling (Chicago: The Oriental Institute Museum Publications, 2010), 24, <https://isac.uchicago.edu/sites/default/files/uploads/shared/docs/oimp30.pdf>.

<sup>82</sup> "The Covenant of the League of Nations," *The Avalon Project*, Yale Law School, accessed November 22, 2023, [https://avalon.law.yale.edu/20th\\_century/leagcov.asp#art22](https://avalon.law.yale.edu/20th_century/leagcov.asp#art22).

Antiquities Ordinance of 1920 and Iraq's 1924 Antiquities Law to fulfill the League's desire to have both an "open door" archaeological policy and a policy that supported the goals of the mandate system.

Technically, the Council of the League of Nations appointed the representatives on the PMC. However, in reality, the Council usually deferred to the various Foreign Offices of the League's member states and accepted their choices for council members.<sup>83</sup> As a result, the PMC "was very much an imperialists' club."<sup>84</sup> The French, Italian, Belgian, Portuguese, and Dutch members, who made up five of the nine individuals on the PMC, had each served as former governors, ministers, or high officials in various colonies. Britain's first appointee, William Ormsby-Gore, had combat experience in Palestine and Egypt from the war, and brought actual knowledge of the Middle East to the table. However, Ormsby-Gore soon took a position in the British government and was replaced by the former Governor General of Nigeria.<sup>85</sup>

Yet, because of its membership, the PMC proved remarkably independent, for former colonial officials felt disinclined to take orders from their respective governments after having the autonomy to create some policies during their tenure as government officials.<sup>86</sup> Additionally, the League made all of the PMC's reports, meeting minutes, and findings on events in the mandates available to the public, which ensured a certain amount of pressure to maintain conformity with the terms of the mandate system.<sup>87</sup> Every year, each mandatory government submitted reports to the PMC, who reviewed them to ensure compliance with the terms of the

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<sup>83</sup> Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Empire* (Oxford: Oxford University Press, 2015), 60-61, <https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=2055006>.

<sup>84</sup> Pedersen, *The Guardians*, 61.

<sup>85</sup> Pedersen, *The Guardians*, 61-62.

<sup>86</sup> Pedersen, *The Guardians*, 62.

<sup>87</sup> Pedersen, *The Guardians*, 65-66.

mandate. Palestine became a particular focus of the PMC: despite it being a small territory and only one of many mandates, the members spent roughly 17% of their time discussing issues at hand in Palestine. Iraq took less of a focus, but in times of conflict and change, such as Britain's preparations for Iraqi independence in the early 1930s, Iraq too consumed much of the PMC's time and energy. Annual reports to the PMC became a way to highlight the strengths of a mandatory government, and attempt to hide their weaknesses.<sup>88</sup>

Thus, the League's PMC and the public it answered to became an important audience for the mandatory powers, and antiquities policies had to show at least some commitment to the interests of the League and the mandate project. At the same time, the League also preserved the imperial privileges of Britain and France through its policies. On one hand, the League – at the demands of the Americans, mostly – required that the new laws preserve “open door” access to the mandate territories. Though Britain and France would exert governmental authority and hold certain privileges in their respective mandates, markets (including the antiquities market) were to remain open to all countries in the international system without discrimination.<sup>89</sup> Despite this, the League was a forum for the Great Powers of the time, and it approved of laws that allowed imperial privileges to continue in ways only slightly more discreet than those of the nineteenth century. For example, the antiquities laws of the mandates offered equal access to all, so long as excavators were deemed to have ‘sufficient technical expertise.’ The British and French mandatory governments, of course, determined who had such ‘expertise.’ As a result, the Great Powers found ways to use the seemingly apolitical question of expertise and scientific

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<sup>88</sup> Pedersen, *The Guardians*, 67-69.

<sup>89</sup> Gelvin, “The Middle East Breasted Encountered,” 24.



knowledge to determine the highly political issue of who could conduct archaeological expeditions in the mandates.

The Palestine Antiquities Ordinance of 1920 and the Iraqi Antiquities Law of 1924 reflected this “open door” policy and its inherent contradictions. The 1920 Antiquities Ordinance, for example, guaranteed the right to excavate to anyone, regardless of nationality, so long as they were “of proved scientific competence.”<sup>90</sup> In Iraq, too, the law opened archaeology to anyone with a Department-granted permit, meaning that Gertrude Bell and her successors determined who could and could not excavate. In practice, despite the promise of equal access to all, American and British institutions dominated excavations on the ground in both mandates.<sup>91</sup> Thus, the League’s oversight, like Western archaeological interests, helped ensure that the laws provided Westerners access to the Middle East’s archaeological riches.

At the same time, the PMC existed to ensure compliance with the expectations of the mandate system, and the officials writing archaeological policy needed to ensure that their laws could conceivably support future independence for the mandatory states. The creation of antiquities laws in both Palestine and Iraq demonstrates the struggle between the interests of Western museums and archaeologists and mandatory officials who answered to the League. In Palestine, John Garstang’s original proposal that the excavators have first choice during the division of finds was altered due to concerns about compliance with the mandate mission. Garstang’s counterpart in Syria, Joseph Charmonard, expressed these concerns in a letter he wrote to his supervisors. He explained, “in our mandate, having...the object of helping the country to organize itself, it would be surprising if we appeared to agree amongst ourselves to

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<sup>90</sup> “Antiquities Ordinance,” 9.

<sup>91</sup> Bernhardsson, *Reclaiming a Plundered Past*, 128-129.

dispossess it of a part of the archaeological riches.”<sup>92</sup> Charmonard’s point of view eventually swayed Garstang, leading to the final version of the law in which the Palestine Antiquities Department received first choice.<sup>93</sup>

In Iraq, though Gertrude Bell demonstrated significant bias towards Western archaeologists, she was also a politician, and had an affinity for Iraq and its people. As a result, she believed that antiquities policy needed to demonstrate a commitment to the future Iraqi state as well as to British interests. Even though her initial fifty-fifty proposal angered Iraqis, for her and other British officials, it represented a compromise, a way to profit from the mandate but also demonstrate commitment to Iraq’s future.<sup>94</sup>

In both Palestine and Iraq, mandate officials writing antiquities laws fought against the powerful voices of major Western museums, who wanted to use the mandates as a way to grow their collections.<sup>95</sup> However, to agree to more generous terms of antiquities division would have been to challenge the purpose of the mandate system and risk the condemnation of the PMC and the international public to which it answered.<sup>96</sup> It is unlikely, of course, that the League would have had the interest or capacity to punish any violators, but adhering to the mandate mission allowed Britain and France an air of legitimacy that blatant violation would have cost them. Thus, the terms of the mandate and the PMC’s oversight were key reasons why mandatory governments in both Palestine and Iraq established a system of division of finds where the mandatory state’s antiquities department received first choice of the objects.

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<sup>92</sup> Chamonard to Gouraud, 20 June 1920, quoted in Griswold, “Locating Archaeological Expertise,” paragraph 19.

<sup>93</sup> Griswold, “Locating Archaeological Expertise,” paragraph 20.

<sup>94</sup> Bernhardsson, *Reclaiming a Plundered Past*, 111-112.

<sup>95</sup> Griswold, “Locating Archaeological Expertise,” paragraph 21; Geoff Emberling, “Archaeology in the Middle East Before 1920: Political Contexts, Historical Results,” in *Pioneers to the Past: American Archaeologists in the Middle East, 1919-1920*, ed. Geoff Emberling (Chicago: The Oriental Institute Museum Publications, 2010), 20, <https://isac.uchicago.edu/sites/default/files/uploads/shared/docs/oimp30.pdf>.

<sup>96</sup> Griswold, “Locating Archaeological Expertise,” paragraphs 21-22; Pedersen, *The Guardians*, 65.

## Legal Frameworks at Home: The Failure of Legitimization

The mandate system created an inherent conflict, for even as the British attempted to exert colonial control over the resources of the country (including cultural resources such as antiquities), they also committed to ‘prepare the states for independence’ under the guidance of the League.<sup>97</sup> British officials walked a fine line in attempting to balance these two missions, and in addition to using antiquities policy to legitimize their presence in Palestine and Iraq to Western archaeologists and the League of Nations, also tried to use antiquities policy to appeal to the local populations in Palestine and Iraq. Of course, the diversity of local populations, especially in Palestine, meant that British policy was often more successful with certain groups in society compared to others. In general, though antiquities policy in both Palestine and Iraq represented attempts to legitimize their presence to local groups, British policy regarding archaeology and antiquities alienated Zionists, Palestinians, and Iraqis alike.

### *Frustration and Resentment in Palestine*

In Palestine, the British had to contend with legitimizing its rule to both Zionists and Palestinians. The British expressed commitment to the creation of a Jewish ‘national home’ in the Balfour Declaration, but in practice, British officials in Palestine wavered between supporting the Zionist interest and the Arab interest.<sup>98</sup> In fact, British policies often seemed to go against the Empire’s promises to the Jewish community. For instance, the White Paper of 1939 limited Jewish immigration to Palestine right at the outbreak of World War II in Europe, causing an uproar among the Zionist community. Amidst all of the policy debates and intercommunal violence, the British established antiquities laws that ultimately served neither Zionist nor Arab

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<sup>97</sup> Bernhardsson, *Reclaiming a Plundered Past*, 121-122.

<sup>98</sup> Melman, *Empires of Antiquities*, 64.

Palestinian interests. In this particular domain, according to historian Billie Melman, “the lack of local legislative institutions and representation...gave leeway to the mandatory power to develop, apparently undisturbed, the new system of monitoring and controlling access to Palestine’s ancient past.”<sup>99</sup> As will be explored, different religious and socioeconomic groups viewed British archaeology during the mandate period differently, but by and large, British officials tried and failed to use antiquities policy to gain favor with the Zionists and the Palestinians.

From the start of the mandate, the Zionists clashed with the British over issues of land, names, history, and archaeology. Maps, for example, were a high point of contention between the two groups. The British printed their first map of Palestine in 1915. The information and names it contained had been gathered by the PEF’s surveyors and famous British archaeologists T.E. Lawrence and Charles Woolley, who felt that the local Arabic names needed to be preserved since they could serve as valuable clues in identifying ancient archaeological sites.<sup>100</sup> After the mandate began, the Survey Division of the mandate government redrew the PEF’s original map, though the Arabic names gathered by Lawrence and Woolley (albeit distorted by being transliterated into English) continued to be used as official place-names.<sup>101</sup> As scholar Meron Benvenisti wrote, the British, “reluctant to open an additional front in the Jewish-Arab conflict,” refused to utilize Hebrew place-names on official maps, with the exception of newly founded Jewish communities. The Zionists resented this policy “and regarded it as a reflection of

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<sup>99</sup> Melman, *Empires of Antiquities*, 64.

<sup>100</sup> Meron Benvenisti, *Sacred Landscape: The Buried History of the Holy Land Since 1948*, trans. Maxine Kaufman-Lacusta (Berkeley: University of California Press, 2000), 16.

<sup>101</sup> Benvenisti, *Sacred Landscape*, 17.

a hostile attitude.”<sup>102</sup> Ultimately, Zionist leaders saw the British refusal to utilize Hebrew place-names on the map as detrimental to their national project.

The Zionists felt similarly about British archaeological activity during the mandate, for they saw both British maps and British-led archaeology as a threat to their ability to construct a new Jewish nation. British archaeology in Palestine focused primarily on solving scholarly debates on the locations of biblical sites, such as Zion.<sup>103</sup> The Zionists, meanwhile, viewed archaeology as “essential to establishing their identity with the land,” and British control over the Antiquities Department as an obstacle to their success.<sup>104</sup> The Zionists believed that they needed to perform their own archaeological digs in order to tell their own history. For instance, many Zionists sought to create a map of Jewish archaeological sites across Palestine to give “concrete and visible form” to the land’s Jewish past.<sup>105</sup>

This desire to use archaeology as a tool of nationalism led to the creation of a separate set of institutions to support Jewish archaeology. Most notable among these institutions was the Jewish Palestine Exploration Society (JPES), originally founded in 1913 by archaeological leaders in the Zionist community with the intent of claiming the land of Palestine by studying its cultural history.<sup>106</sup> Little is known about this first iteration of the JPES, and it seems as though it failed to carry out many expeditions under the restrictive antiquities policies of the Ottoman

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<sup>102</sup> Benvenisti, *Sacred Landscape*, 24-25.

<sup>103</sup> Shimon Gibson, “British Archaeological Work in Jerusalem between 1865 and 1967: An Assessment,” in *Unearthing Jerusalem: 150 Years of Archaeological Research in the Holy City*, ed. Katharina Galor and Gideon Avni (Winona Lake: Eisenbrauns, 2011), 49, [https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=3155634&query=.](https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=3155634&query=)

<sup>104</sup> Albert Glock, “Archaeology as Cultural Survival: The Future of the Palestinian Past,” *Journal of Palestine Studies* 23, no. 3 (1994): 74, <https://doi.org/10.2307/2537961>; Nadia Abu El-Haj, *Facts on the Ground: Archaeological Practice and Territorial Self-Fashioning in Israeli Society* (Chicago: The University of Chicago Press, 2001), 47-48.

<sup>105</sup> El-Haj, “Producing (Arti) Facts,” 51.

<sup>106</sup> Ronny Reich, “The Israel Exploration Society (IES),” in *Unearthing Jerusalem: 150 Years of Archaeological Research in the Holy City*, ed. Katharina Galor and Gideon Avni (Winona Lake: Eisenbrauns, 2011), 117, [https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=3155634&query=.](https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=3155634&query=)

Empire, which at that time still controlled Palestine. The Society slowly faded, and by the outbreak of World War I had disappeared entirely.<sup>107</sup> However, Britain's establishment of the Palestine Antiquities Department in 1920 reawakened Zionist fears about archaeological competition, and they re-founded the Society the same year. This time, it was known in Hebrew as the Hebrew Society for the Exploration of Eretz-Israel and its Antiquities, though English-speakers continued to refer to it as the Jewish Palestine Exploration Society. The JPES's first scientific journal declared that:

Establishing a Hebrew institution is a desired thing not only from a cultural-Hebrew point of view, but also for national-political reasons. When we are set to build our national home and make it a center for the culture of Israel, we cannot stand aside facing the industrious and useful competition of the world's nations and their scholars over the study of our forefathers' land.<sup>108</sup>

Thus, fears about colonial archaeological activities preventing the Zionists' access to historical Jewish sites motivated Zionist archaeological activities in the early mandate period.

While Western archaeologists in Palestine during the interwar period focused on biblical sites, the JPES and other Jewish archaeologists focused primarily on synagogues and Jewish tombs. Funding constraints limited the work that the JPES could carry out, but they executed numerous small trial digs at several synagogues and burial sites dating from the Roman period to the Byzantine period. The JPES also dedicated significant energy to exploring and preserving buildings in Jewish cities that survived the Roman destruction of the Second Temple, for the Zionists used them as proof of continued Jewish presence in Palestine.<sup>109</sup> Overall, the Zionist community viewed British archaeological activity during the mandate period as a source of competition for their own archaeological work. While the British set out to prove the accuracy of

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<sup>107</sup> Reich, "The Israel Exploration Society," 118-119.

<sup>108</sup> I. Press, 1921, quoted in Reich, "The Israel Exploration Society," 119.

<sup>109</sup> El-Haj, "Producing (Arti) Facts," 46, 50-51.

biblical texts, the Zionists planned to use archaeology to demonstrate the history of the Jewish people in the Holy Land and justify the creation of a homeland for the Jews in Palestine.

Ironically, British attempts to legitimize their archaeological activities to the Palestinians proved more successful, at least among the Palestinian upper class. As in the other mandates, the Department of Antiquities established by the British in Palestine was staffed by a mixture of British officials and local residents, including Jews, Christian Palestinians, and Muslim Palestinians. At the end of March 1947, seventy-three of the ninety-four people employed by the Department of Antiquities were Palestinians.<sup>110</sup> Though Jews were better represented in high level positions, Palestinians also served in prestigious positions within the Antiquities Department. Most of these high-ranking Palestinians were Christian, which scholars like Sarah Irving have suggested is in large part a reflection of socio-economic divisions within early twentieth century Palestine. Many Palestinian Christians resided in urban centers such as Jerusalem, were middle- or upper-class, and could afford to seek higher education either in the Middle East or in Europe.<sup>111</sup> However, the absence of Muslim Palestinians in high-ranking departmental positions may also reflect a religious bias on the part of the British officials who hired them. In other governmental bodies, the British did not view Muslim Palestinians as stakeholders, and their absence from the Antiquities Department continues that pattern.

Stephan Hanna Stephan, Na'im Shehadi Makhoul, and Dimitri Baramki provide proof that there were sometimes opportunities for Palestinian Christians in the higher levels of the Antiquities Department, and that they held some influence over archaeological practice. Stephan

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<sup>110</sup> Glock, "Archaeology as Cultural Survival," 75.

<sup>111</sup> Sarah Irving, "Palestinian Christians in the Mandate Department of Antiquities: History and Archeology in a Colonial Space," in *European Cultural Diplomacy and Arab Christians in Palestine, 1918-1948*, ed. Karène Sanchez Summerer and Sary Zananiri (Cham, Switzerland: Springer Nature, 2021), 167-169, <https://library.oapen.org/handle/20.500.12657/43284>.

Stephan, born just outside of the city of Bethlehem in 1894, began work as a civil servant in the early 1920s. After a few years at the Treasury, he transferred to the Department of Antiquities, where he became the assistant librarian. In this role, he served primarily as a translator of various texts, and published a number of guidebooks and influential articles.<sup>112</sup> Stephan also wrote extensively on Palestinian culture and the uses of Arabic as a language that unified Christian and Muslim Palestinians.<sup>113</sup> Na'im Shehadi Makhoully trained at the British School of Archaeology in Jerusalem under John Garstang (who was also the Director of Antiquities at the time), though Makhoully's name never appeared on any official student lists.<sup>114</sup> In 1922, the Department appointed Makhoully to the role of Assistant Inspector of Antiquities for the north of Palestine. In this role, he inspected buildings, objects, and sites to see if they warranted the protection and involvement of the Department. Thus, Makhoully played a key role in deciding how Department resources would be allocated, exploring some cultural heritage sites in Palestine while allowing others to remain unexcavated.<sup>115</sup> Dimitri Baramki began as a student inspector in the Antiquities Department. In 1929, the British promoted him to Inspector of Antiquities. Like Makhoully, Baramki's role involved investigating sites and determining whether or not the Department would step in to protect them.<sup>116</sup>

Stephan Stephan, Na'im Makhoully, and Dimitri Baramki demonstrate that some Palestinians had a voice in the upper levels of the Palestine Antiquities Department, and yet, as upper-class Christians, they did not represent the interests of most Palestinians. Statistically

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<sup>112</sup> Irving, "Palestinian Christians," 171-172.

<sup>113</sup> Irving, "Palestinian Christians," 170.

<sup>114</sup> Irving, "Palestinian Christians," 173.

<sup>115</sup> Irving, "Palestinian Christians," 173-174.

<sup>116</sup> Donald Whitcomb, "Dimitri Baramki: Discovering Qasr Hisham," *Jerusalem Quarterly* 55 (2013): 79, [https://www.palestine-studies.org/sites/default/files/jq-articles/JQ\\_55\\_Dimitri\\_Baramki\\_0.pdf](https://www.palestine-studies.org/sites/default/files/jq-articles/JQ_55_Dimitri_Baramki_0.pdf).



speaking, few of the Palestinians in the Department of Antiquities held supervisory positions or had been educated in archaeology or a related discipline. The lower ranks of the Antiquities Department tended to be filled by Muslim Palestinians, who “served as guardians at sites around the country, museum guards and attendants, messengers, and cleaners.”<sup>117</sup> Additionally, the selection of archaeological sites often intentionally excluded the history of indigenous Palestinians. When looking at the excavations conducted under the British mandate holistically, archaeologist Albert Glock noted that the 600 or so locations mentioned in the Bible received most of the attention and resources, as the destinations for archaeological expeditions were selected by scholars from Britain, the United States, or elsewhere in Western Europe. Though these sites were chosen because of their connection to Christianity, “they can hardly be said to have represented the Arab Christians (10 percent of the population in 1922), though perhaps they did represent a very small fraction of the Jewish population.”<sup>118</sup>

This is not to say that there were no exceptions to the rule; however, the only instance of a Department-led excavation focused on a Muslim site occurred mostly on accident, rather than as an intentional dedication of resources to the site. Though the Department and Western archaeologists focused primarily on biblical sites, there was one significant case in which the Department of Antiquities excavated a site of Islamic heritage, Khirbat al-Mafjar (sometimes spelled Khirbet el-Mafjar, and often known as Qasr Hisham).<sup>119</sup> However, this excavation was a special case. Dimitri Baramki discovered the site in 1932 and initially believed it to be the site

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<sup>117</sup> Glock, “Archaeology as Cultural Survival,” 75.

<sup>118</sup> Albert Glock, “Cultural Bias in the Archaeology of Palestine,” *Journal of Palestine Studies* 24, no. 2 (1995): 50, <https://doi.org/10.2307/2537733>.

<sup>119</sup> Myriam Rosen-Ayalon, “Archaeological Research on the Islamic Period,” in *Recent Archaeology in the Land of Israel*, ed. Hershel Shanks and Benjamin Mazar, trans. Aryeh Finklestein (Washington, D.C.: Biblical Archaeology Society, 1984), 109.

of an ancient monastery. He submitted a report to the Department, who granted him the authority and resources to run an excavation starting in 1935. As the dig progressed, Baramki and others realized that the ruins were in fact part of an Umayyad-era palace.<sup>120</sup> Thus, the British made the decision to excavate believing the site was a monastery, not because they intended to use excavation of an Islamic site to appeal to the Palestinian population.

Even though the British-led Antiquities Department tended to exclude Palestinian history from archaeology as a national project, land-owning Palestinians were still involved in the physical excavations through agreements and disputes about land usage. While upper-class, urban-dwelling Palestinians took advantage of the opportunities offered by the Department, Palestinians living in more rural areas began to express their frustration with the archaeological status quo. In fact, excavations turned out to be the place where Palestinian resistance to British activities manifested most strongly. Despite Britain's control over all things archaeological, as historian Billie Melman writes, "the language and narratives of modernization and development through the recovery of the past were in tune with the mandatory project, but they were constantly challenged from below."<sup>121</sup> While there was some degree of cooperation between the Department of Antiquities, Western archaeologists, and Palestinian landowners in terms of excavations, there were constant disputes between Western archaeologists, British officials, and Palestinian landowners over the ownership of the land and the rights to the archaeological finds in the soil.<sup>122</sup> The central question was, as it had been and would continue to be, "who owned Palestine's past and how was its value assessed?"<sup>123</sup>

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<sup>120</sup> Whitcomb, "Dimitri Baramki," 79-80.

<sup>121</sup> Melman, *Empires of Antiquities*, 149.

<sup>122</sup> Melman, *Empires of Antiquities*, 149.

<sup>123</sup> Melman, *Empires of Antiquities*, 150.

By the mid-1930s, land ownership had become a particularly critical issue in disputes between the Palestinians, Jewish settlers, and British leadership. The sale of Arab land to Jewish settlers had devastated Palestinian peasantry by 1936, and British tax law placed further burdens on small landowners, creating greater pressure to sell but leaving Arab Palestinians with no source of income and confined to smaller areas of Palestine.<sup>124</sup> Thus, disputes over land used for archaeological purposes became more heated. When the Arab Revolt broke out in 1936, local rebel groups occasionally targeted Western archaeological camps. In the Hebron area, for example, a group of Palestinians raided an expedition camp in 1936 and set another on fire in 1938.<sup>125</sup>

Thus, even though some Palestinians, such as Stephan Stephan, Na'im Makhoul, and Dimitri Baramki, served in high-level positions in the Department of Antiquities, the overall British project of legitimizing their presence to Arab Palestinians failed. While some upper-class, urban (and mostly Christian) Palestinians took job opportunities offered by the Department, their work did little to change the reality of archaeological work on the ground. For instance, the British excavation of Khirbat al-Mafjar occurred at least in part due to incorrect information about the site's origins, not due to intentional focus on Islamic heritage. Simultaneously, Arab Palestinians living outside of the big cities began to protest British use of land for archaeological activities. Throughout the 1930s, excavations proved a key point of contention and conflict between Arab Palestinians, Western archaeologists, and British mandate officials.

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<sup>124</sup> William L. Cleveland and Martin Bunton, *A History of the Modern Middle East*, 6th ed. (New York: Routledge, 2018), 240-241.

<sup>125</sup> Melman, *Empires of Antiquities*, 152-153.

*Protests in Iraq: Pushback from Iraqi Politicians*

In Iraq, British attempts to legitimize rule through antiquities policy to Iraqis was met with more cohesive resistance, but British interests ultimately prevailed. Beginning early in the mandate period, there were significant efforts by the British officials and archaeologists to educate the Arab Iraqi public and gain local support for archaeological work. These efforts often centered around the Iraq Museum, where archaeologists gave tours and public lectures. Frequent announcements were made about the progress of archaeological excavations in Iraqi newspapers. These efforts “institutionalized archaeology in the Iraqi cultural scene,” but had the unexpected effect of producing a stronger, more unified opposition to Western archaeological efforts in Iraq.<sup>126</sup>

In Iraqi newspapers, “the perception prevailed that Western archaeologists had in the past plundered the country and were continuing to do so.”<sup>127</sup> In the 1920s, most Iraqis agreed that Iraq should control its own cultural heritage and prevent Westerners from taking many of Iraq’s artifacts to museums abroad. These sentiments soon appeared at the legislative level. Though the British held almost complete control over Iraqi politics due to the constitutional monarchy established under the mandate, Iraqis made up most of the Parliament and held a majority of the cabinet positions. Many of these Iraqi politicians pushed back against British control, protesting British policy and putting forth their own recommendations. This was particularly true in the realm of antiquities, where various factions in Iraqi politics could unite over the issue of Western monopolization of archaeology.<sup>128</sup> In 1922, for example, when Gertrude Bell proposed her first

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<sup>126</sup> Bernhardsson, *Reclaiming a Plundered Past*, 178-179.

<sup>127</sup> Bernhardsson, *Reclaiming a Plundered Past*, 179.

<sup>128</sup> Bernhardsson, *Reclaiming a Plundered Past*, 166.

draft of the antiquities law, it faced extensive opposition from Iraqi representatives in government who felt its fifty-fifty split policy was far too generous to Western expeditions.<sup>129</sup>

Many politicians in Iraq's government opposed Bell's draft law, including those not originally from Iraq. For example, Sati' al-Husri, one of the most prominent Arab nationalists and pan-Arab thinkers of the time, became one of Bell's greatest critics during the mandate period. Sati' al-Husri was born in Sana'a, the capital of the Ottoman vilayet of Yemen, to Muhammad Hilal ibn al-Sayyid Mustafa al-Husri, an Ottoman civil servant. His father's work meant that Sati' spent much of his childhood traveling the Ottoman Empire. Once Sati' al-Husri was older, his father enrolled him as a student at a prominent secular school in Istanbul designed to prepare young men for careers in the Ottoman bureaucracy.<sup>130</sup> Al-Husri graduated and went on to become a prominent Ottoman official and educator as well as a strong proponent of Ottomanism. However, with the collapse of the empire at the end of World War I, Sati' al-Husri adopted Arab nationalism instead, and became one of the premier pan-Arab thinkers in the region.<sup>131</sup> At the end of the war, al-Husri was living in Syria, where he became close friends with Faisal Husain during Faisal's brief tenure as King of an independent Syria, before the French military arrived to claim their new mandate. During the short existence of this kingdom, al-Husri served as the Minister of Education.<sup>132</sup> When the French took control of Syria and the British

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<sup>129</sup> James F. Goode, *Negotiating for the Past: Archaeology, Nationalism, and Diplomacy in the Middle East, 1919-1941* (Austin: University of Texas Press, 2007), 193, <https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=3443187>.

<sup>130</sup> William L. Cleveland, *The Making of an Arab Nationalist: Ottomanism and Arabism in the Life and Thought of Sati' al-Husri* (Princeton: Princeton University Press, 1971), 12-15, accessed November 29, 2023, <https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=3031448>.

<sup>131</sup> Cleveland, *The Making of an Arab Nationalist*, x.

<sup>132</sup> Cleveland, *The Making of an Arab Nationalist*, 51-52.

made Faisal the King of Iraq, Faisal appointed a number of his close friends to various cabinet positions, including al-Husri, who became Iraq's first Director General of Education in 1921.<sup>133</sup>

When Bell introduced her Antiquities Law in 1922, al-Husri was outraged. He argued that foreign archaeologists should only be allowed to keep artifacts if they were duplicates.<sup>134</sup> In May of 1924, al-Husri and other key politicians, including Prime Minister Yasin al-Hashimi, attempted to pass an antiquities law of their own. Al-Husri's proposed law differed from Bell's in that it more closely resembled the laws of Western countries, declaring that foreign excavators would only receive duplicates of objects, while the rest would go to the Iraqi government. This proposed law recognized Iraq's political sovereignty under the mandate in a way that Bell's law did not.<sup>135</sup> Upon returning to Iraq after a trip, Bell found that al-Hashimi had made an attempt to pass his and al-Husri's version of the law "by assuring the Cabinet that the version he presented after fundamental alterations was the one I had approved" and declared the act a "piece of treachery."<sup>136</sup>

Bell and al-Husri's feud continued, this time in the form of a structural and administrative struggle. Bell placed her new Department of Antiquities under the Ministry of Public Works, a departure from the international custom of placing Antiquities under the Ministry of Education. Ostensibly, this was due to the Iraq Museum's association with historic architecture, but personal relationships seem to have played a significant role. Bell wrote to her father that, "the department, to my great satisfaction, has been placed in the Ministry of Public Works, so that I

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<sup>133</sup> Bernhardsson, *Reclaiming a Plundered Past*, 119.

<sup>134</sup> Goode, *Negotiating for the Past*, 193-194.

<sup>135</sup> Bernhardsson, *Reclaiming a Plundered Past*, 11; 121.

<sup>136</sup> Gertrude Bell to Sir Hugh Bell, May 21, 1924, from the Gertrude Bell Archive, accessed January 10, 2024, <https://gertrudebell.ncl.ac.uk/l/gb-1-1-2-1-20-20>.

am directly under my friend Sabih Beg.”<sup>137</sup> She certainly had no love for al-Husri, who she once described as “a dry little stick of a man and I think very prejudiced.”<sup>138</sup> According to historian Magnus Bernhardsson, al-Husri’s writings demonstrate his belief that Bell “wanted to avoid working under the Ministry of Education, which, from her perspective, contained too many fervent Iraqi nationalists.”<sup>139</sup> However, despite their personal conflict and al-Husri and al-Hashimi’s alternate law, Bell’s law finally passed in June of 1924. It was the product of two long years of deliberation, and a testament to the influence of Gertrude Bell and other British officials over archaeology in Iraq.<sup>140</sup> Despite their positions of power, even politicians such as Sati’ al-Husri and Prime Minister Yasin al-Hashimi could not prevent the passage of a law that blatantly favored Western archaeologists over the Iraqi state. Overall, antiquities policy in the 1920s generated a unified Iraqi opposition to the work of Western archaeologists and sowed the seeds for a massive restructuring of antiquities policy upon Iraqi independence in 1932.

### **Overarching Patterns: British Hegemony and Western Appeasement**

Overall, the British successfully utilized antiquities policy to legitimize their mandate project to an audience of Western archaeologists, to the general public in England, and to the League of Nations. Britain maintained access to the region for Westerners by constructing laws that gave great freedom to archaeologists to conduct digs and export many artifacts back to Western museums. In publications about archaeology and museums in the Middle East, the British emphasized the importance of biblical archaeology to appeal to a Christian audience at

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<sup>137</sup> Gertrude Bell to Sir Hugh Bell, October 24, 1922, from the Gertrude Bell Archive, accessed March 2, 2024, <https://gertrudebell.ncl.ac.uk/l/gb-1-1-2-1-18-20>.

<sup>138</sup> Gertrude Bell to Sir Hugh Bell, December 4, 1921, from the Gertrude Bell Archive, accessed March 2, 2024, <https://gertrudebell.ncl.ac.uk/l/gb-1-1-2-1-17-37>.

<sup>139</sup> Bernhardsson, *Reclaiming a Plundered Past*, 126.

<sup>140</sup> Bernhardsson, *Reclaiming a Plundered Past*, 121; Goode, *Negotiating for the Past*, 192-194.

home in the West. Britain also pacified the League of Nations by allowing an “open door” in terms of archaeological access that, in reality, granted privileges to the Great Powers. Britain also appealed to the League by instituting archaeological laws that allowed some antiquities to remain in mandates. In doing so, Britain used antiquities law and archaeological practice to showcase adherence to the ‘preparation for independence’ policy that Britain had promised to promote when it accepted the mandates for Palestine and Iraq.

Domestically, the British project of legitimization through antiquities policy was less successful. In Palestine, the British struggled to balance the interests of both Zionists and Palestinians. The Zionists saw British archaeological activity as competition for their own archaeological national project, and constructed their own archaeological institutions that operated in parallel with the Antiquities Department. That being said, the Department employed a number of Jews, whose influence played a large part in Israel’s post-independence antiquities policies. The British also struggled with the diverse interests of the Palestinian community. While some, mostly upper-class Christian Palestinians such as Stephan Stephan, Na’im Makhoul, and Dimitri Baramki, worked within the Department of Antiquities, others turned to violence to protest archaeologists’ use of their land. In Iraq, the mandate period “marked a distinct transitional phase in Iraqi archaeology.”<sup>141</sup> Even though Bell’s 1924 Antiquities Law built on a legacy of colonial practices by privileging Western archaeologists, the response among Iraqi politicians signaled the growing desire of Iraqis to control their antiquities.<sup>142</sup>

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<sup>141</sup> Bernhardsson, *Reclaiming a Plundered Past*, 122.

<sup>142</sup> Bernhardsson, *Reclaiming a Plundered Past*, 122.



## Chapter 4

### **Moments of Transition: From Mandatory to Independent Archaeology**

The mandate period demonstrated how direct British control in the settler colonial space of Palestine and indirect British control in its client state of Iraq both generated a system where British officials dictated antiquities policy and controlled archaeological practice. British antiquities policy looked different in Palestine and Iraq, but in the end, whether through direct or indirect control, British interests prevailed. Antiquities policy in both Palestine and Iraq served to support British officials' goals of appeasing American and British archaeologists, the British public, and the League of Nations. At the same time, antiquities law in Palestine alienated the Zionist settlers as well as Palestinian Arabs just as antiquities law in Iraq alienated Iraqi politicians and their constituents.

However, the settler colonial society built by the Zionists in Palestine and the client state constitutional monarchy established by the British in Iraq responded in dramatically different ways to independence. In Palestine, the 1948 War and the *Nakba* meant the establishment of an Israeli state with the desire to control the entirety of the land within their new territory, including the objects buried within that land. Succeeding a British government who held complete control, Israeli leaders utilized the existing legal framework surrounding antiquities to support their own interests. In Iraq, on the other hand, antiquities policy provided a space where Iraqi politicians could protest continued British influence in Iraq's foreign affairs, and so began the effort to overturn Gertrude Bell's unfavorable 1924 Antiquities Law.

## From Palestine to Israel: 1948 and the 1929 Antiquities Ordinance

As anthropologist Nadia Abu El-Haj argues, archaeology in independent Israel and its significance in Israeli nation building cannot be divorced from the Zionist settler-colonial project or the legacies of the British mandate.<sup>143</sup> Though the violence of the 1948 war brought new challenges for archaeology in the territory now recognized as Israel, the institutional, legal, and practical frameworks surrounding archaeology during the British mandate continued to shape the discipline. The new Israeli antiquities department kept much of the same staff as the mandatory Antiquities Department, and adopted the antiquities laws of the British Mandate. Meanwhile, the Jewish Palestine Exploration Society continued its work on the ground under the new designation of the Israel Exploration Society (IES).<sup>144</sup>

Calls for partition generated discussion among Zionists about whether antiquities would be handled separately from or jointly with a proposed Palestinian state. In December of 1947, after the UN proposed its most recent partition plan for Palestine involving the creation of separate Jewish and Arab states, Zionist archaeologists gathered to debate how antiquities and archaeology would be handled under the proposed two-state system. All agreed that the Rockefeller Museum (also known as the Palestine Archaeological Museum), the repository for all objects owned by the Palestine Department of Antiquities, needed to remain shared between the proposed new states, for it held valuable collections that could not easily be relocated. However, most of the gathered scholars believed the new Hebrew state should establish a separate antiquities department to protect the historical sites they described as an “immeasurable

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<sup>143</sup> Nadia Abu El-Haj, “Producing (Arti) Facts: Archaeology and Power during the British Mandate of Palestine,” *Israel Studies* 7, no. 2 (2002): 34, <http://www.jstor.org/stable/30245585>.

<sup>144</sup> “The Israel Exploration Society: 100 Years of Archaeological Activity,” *Israel Exploration Journal* 63, no. 1 (2013): 1, <http://www.jstor.org/stable/43855633>.

national asset.”<sup>145</sup> Four of the thirteen individuals present at the meeting, on the other hand, believed that the antiquities department should be shared by both states, as the UN had dictated that the postal system and customs office would. They felt that this would be better from a financial perspective, since it would require less resources from the Jewish state, and worried that splitting the department would mean that the Jewish state would lose access to Jewish heritage located within the boundaries of the Arab state.<sup>146</sup> Ultimately, though, this debate about if and how antiquities would be partitioned became void.

The announcement of Israel’s independence and the outbreak of the 1948 War temporarily halted archaeological activity, though not for long. Archaeologists, alarmed by the impact of the war’s violence and destruction on historical sites, began writing to the army, asking them to establish safeguards to protect antiquities. In early June 1948, the army appointed three archaeological officers to oversee the handling of antiquities during the fighting.<sup>147</sup> In July of 1948, the Israeli government established the Antiquities Unit, which in 1955 they renamed the Israel Department of Antiquities and Museums (IDAM). This acronym is most commonly used to refer to the Antiquities Unit before 1955 as well as the renamed IDAM.<sup>148</sup> The government appointed Shemuel Yeivin, the director of the IES, to be the first Director. Previously, Yeivin served as the head translator in the mandatory Antiquities Department.<sup>149</sup> The government appointed Immanuel Ben-Dor, another previous member of the mandatory Department of Antiquities, to be Yeivin’s Deputy Director. Alongside Yeivin and Ben-Dor, eight other

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<sup>145</sup> IDAM Records, GL44868/7, quoted in Raz Kletter, *Just Past?: The Making of Israeli Archaeology* (London: Equinox, 2006), 1.

<sup>146</sup> Kletter, *Just Past?*, 1-2.

<sup>147</sup> Kletter, *Just Past?*, 3-5.

<sup>148</sup> Kletter, *Just Past?*, 5.

<sup>149</sup> Kletter, *Just Past?*, 1, 5, 11.

members of the IDAM's fifteen-person staff had been employees of the mandatory Antiquities Department.<sup>150</sup> Thus, the Israeli government kept much of the structure and staff of the mandatory Antiquities Department when establishing their own agency for cultural heritage protection.

Despite this, any representation of Palestinians that existed within the mandatory Antiquities Department, however limited, was lost within the new IDAM. The lives and career trajectories of Stephan Hanna Stephan, Na'im Shehadi Makhoully, and Dimitri Baramki, three of the Palestinian Christians in relatively high positions within the mandatory Department, illustrate this point. Stephan, who served as the assistant librarian in Jerusalem, his wife, and their two children became refugees during the Nakba and fled to Lebanon.<sup>151</sup> Stephan ultimately migrated to Cyprus, where the British-run department of antiquities hired him to analyze historical texts as he had done in Palestine.<sup>152</sup> Makhoully, who before 1948 served as the Inspector of Antiquities in the Galilee, also fled to Lebanon with his family. In the short term, refugee status took a significant financial toll on the Makhoully family.<sup>153</sup> In late 1951, Makhoully wrote multiple letters to his former colleague Ben-Dor, asking that he be allowed to return and work for the new IDAM. Ben-Dor curtly denied his request, responding with a letter that stated "nothing can be done at present."<sup>154</sup>

Baramki maintained a career in archaeology after the war, but like Stephan and Makhoully, was no longer welcome in the territory that had become Israel. During the Nakba,

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<sup>150</sup> Kletter, *Just Past?*, 1, 11.

<sup>151</sup> Sarah Irving, "Palestinian Christians in the Mandate Department of Antiquities: History and Archeology in a Colonial Space," in *European Cultural Diplomacy and Arab Christians in Palestine, 1918-1948*, ed. Karène Sanchez Summerer and Sary Zananiri (Cham, Switzerland: Springer Nature, 2021), 171, <https://library.oapen.org/handle/20.500.12657/43284>.

<sup>152</sup> Irving, "Palestinian Christians," 177.

<sup>153</sup> Irving, "Palestinian Christians," 177; Kletter, *Just Past?*, 46.

<sup>154</sup> Ben-Dor to Makhoully, November 22, 1952, GL44880/19, in Kletter, *Just Past?*, 51.

Baramki fled to Amman, Jordan. At the end of the war of 1948, the Jordanian government took control of the West Bank and East Jerusalem, including the Rockefeller Museum. The museum was briefly administered by an international council, but as it did with the West Bank itself, the Jordanian government soon annexed the museum.<sup>155</sup> Baramki served as the Acting Curator at the museum from 1948 until 1949, at which point he moved on to working for the American School of Oriental Research as the associate director of the school's expedition of New Testament Jericho. In 1951, Baramki moved to Lebanon to continue his career as a professor of archaeology at the American University of Beirut. He never returned to work in Palestine.<sup>156</sup> Thus, as evidenced by the experiences of Stephan Stephan, Na'im Makhoul, and Dimitri Baramki, even though the new IDAM drew upon the Jewish staff of the mandatory Antiquities Department, the limited diversity that had existed within the mandatory department was lost as the Israeli government denied Palestinian refugees the right of return.

The Israeli government likewise relied upon the laws established by the British Mandate officials when determining how to govern antiquities in the new state of Israel. Israel's 1948 Law and Administration Ordinance (No. 1 of 5708-1948) stated that the most recent antiquities law passed by the British, the Antiquities Ordinance of 1929, would continue to cover antiquities and cultural heritage in Israel. In fact, the Antiquities Ordinance of 1929 governed archaeological practice in Israel until 1978.<sup>157</sup> Though this law replaced the 1920 Antiquities Ordinance, it

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<sup>155</sup> "Museums in Jerusalem: The Rockefeller Archaeological Museum," Jewish Virtual Library, American-Israeli Cooperative Enterprise, accessed Jan. 28, 2024, <https://www.jewishvirtuallibrary.org/the-rockefeller-archaeological-museum>.

<sup>156</sup> Donald Whitcomb, "Dimitri Baramki: Discovering Qasr Hisham," *Jerusalem Quarterly* 55 (2013): 79, [https://www.palestine-studies.org/sites/default/files/jq-articles/JQ\\_55\\_Dimitri\\_Baramki\\_0.pdf](https://www.palestine-studies.org/sites/default/files/jq-articles/JQ_55_Dimitri_Baramki_0.pdf); James L. Kelso and Dimitri C. Baramki, "Excavations at New Testament Jericho and Khirbet En-Nitla," *The Annual of the American Schools of Oriental Research* 29/30 (1949): 1, <https://doi.org/10.2307/3768542>.

<sup>157</sup> Morag M. Kersel, "The Trade in Palestinian Antiquities," *Jerusalem Quarterly* 33 (2008): 27, accessed October 10, 2023, <https://traffickingculture.org/app/uploads/2013/01/Kersel-2008-The-Trade-in-Palestinian-Artifacts-JQ.pdf>.

reiterated many of the same regulations on excavations and handling of antiquities, and maintained that only objects created “earlier than the year 1700 A.D.” qualified as antiquities.<sup>158</sup> That being said, the 1929 Ordinance also granted the British authorities a greater ability to define what qualified as ‘antiquities.’<sup>159</sup>

In some ways, keeping the existing British law in place was a matter of pure convenience for the new Israeli government. It was easier to simply keep the British laws rather than worry about writing new ones, especially since the Zionists were facing war with the neighboring Arab states.<sup>160</sup> The war also generated a sense of urgency to adopt legal measures to protect antiquities because of the destruction it caused to historically significant sites, and permitted Israeli confiscation of antiquities owned by Palestinian Arabs.<sup>161</sup> When the Israeli government decided not to allow Palestinian refugees to return, Palestinian-owned antiquities, just like land, became seen as “abandoned” and “deserted,” and thus now the property of the Israeli government. Throughout 1948 and 1948, the IDAM collected artifacts left behind in homes and antique shops by Palestinian families who fled.<sup>162</sup>

Besides convenience, though, there was another key reason that the Israelis did not write new antiquities legislation: the laws suited Zionist interests, for the way they defined antiquities placed emphasis on ancient and biblical artifacts rather than artifacts of Palestinian origin. The temporal limit on the definition of antiquities included in the British laws allowed the Israel Defense Forces (IDF) to continue their destruction of Palestinian villages. Scholars debate

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<sup>158</sup> “Antiquities Ordinance,” *Official Gazette of the Government of Palestine* No. 29 (Jerusalem), Oct. 15, 1920, 5, [https://findit.library.yale.edu/images\\_layout/fullviewnoocr?parentoid=15537409](https://findit.library.yale.edu/images_layout/fullviewnoocr?parentoid=15537409); “Antiquities Ordinance, 1929,” *Official Gazette of the Government of Palestine* No. 236 (Jerusalem), June 1, 1929, 548, [https://findit.library.yale.edu/images\\_layout/view?parentoid=15537420&increment=423](https://findit.library.yale.edu/images_layout/view?parentoid=15537420&increment=423).

<sup>159</sup> “Antiquities Ordinance, 1929,” 548.

<sup>160</sup> Kersel, “The Trade in Palestinian Antiquities,” 27.

<sup>161</sup> Kletter, *Just Past?*, 4.

<sup>162</sup> Kletter, *Just Past?*, 32.

whether the choice of 1700 C.E. as the date limit for defining antiquities was simply a product of the time or an intentional choice by the British to exclude Ottoman heritage from mandatory archaeology.<sup>163</sup> Regardless of why the British chose that date, the Israelis saw utility in this definition. By limiting what was considered ‘antiquity’ to objects created before 1700, the law protected the biblical, crusader-era, and otherwise ancient objects that interested Western scientists and Zionist settlers while allowing evidence of Palestinian presence to be destroyed. Palestinian villages and towns did not fit this law’s definition of antiquity, and in many cases were destroyed in favor of excavating and restoring buildings from the era of the Crusades.<sup>164</sup>

Interestingly, the IDAM actually protested the wholesale destruction of Palestinian villages, though not because of sympathy for the displaced Palestinians, but rather concern for the antiquities that might be located within or underneath those homes. In September of 1948, Yeivin wrote a letter to the Minister of Public Works complaining that “an ancient three-thousand-year-old relief that depicts two lions...was blasted to pieces last week,” and that “in Caesarea, the major second temple period port, the army blows up various buildings without consideration for the ancient remains found everywhere there.”<sup>165</sup> However, the IDAM’s resources were limited, and the IDF did not typically inform them of planned demolitions. Either way, even the IDAM expressed no concern about the Palestinian heritage located in the villages that were destroyed. As scholar Meron Benvenisti writes, the material heritage of indigenous Palestinians “was not considered worthy of being investigated, recorded, preserved, or protected,

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<sup>163</sup> See, for example, Dotan Halevy, "Ottoman Ruins Captured: Antiquities, Preservation, and Waqf in Mandatory Palestine," *Journal of the Ottoman and Turkish Studies Association* 5, no. 1 (2018): 91, <https://doi.org/10.2979/jotturstuass.5.1.06>; Raz Kletter, “The 1920 Antiquities Ordinance of Palestine and the Year 1700 for Antiquities: New Discoveries,” *Advances in Ancient, Biblical, and Near Eastern Research* 2, no. 1 (2022): 39, <https://doi.org/10.35068/aabner.v2i1.997>.

<sup>164</sup> Meron Benvenisti, *Sacred Landscape: The Buried History of the Holy Land Since 1948*, trans. Maxine Kaufman-Lacusta (Berkeley: University of California Press, 2000), 302-303.

<sup>165</sup> Yeivin to the Minister of Public Works, September 16, 1948, in Kletter, *Just Past?*, 52.

since it was regarded as ‘recent’ or ‘primitive,’ and in the eyes of the Zionists also as superfluous ‘background noise,’ which obstructed their national narrative.”<sup>166</sup> Thus, adopting the Antiquities Ordinance of 1929 and its definition of antiquities allowed the Israeli government and military to continue to carry out demolitions and supported Israeli archaeologists’ focus on Jewish and ancient heritage rather than the evidence of Arab Palestinian history and presence.

One way that continuity in the law led to change in practice was in regard to foreign expeditions. The Antiquities Ordinance of 1929 declared that only those with a license to excavate granted by the Director would be permitted to dig, and that only those with a “sufficient” budget and those “whose scientific competence is reasonably assured” could qualify for a license.<sup>167</sup> Additionally, the law prohibited trade in and export of antiquities without a permit from the Director of Antiquities.<sup>168</sup> During the mandate period, this law had allowed foreign expeditions from prominent museums, including the British Museum, the Penn Museum, and others, to lead many expeditions throughout Palestine. However, the 1948 war meant that the number of active foreign expeditions in the land now known as Israel plummeted to zero. It was not until 1952 that the IDAM granted its first official excavation license to foreign excavators, for most of the work that resumed in the few years after the war occurred in East Jerusalem, at that time under the control of the Jordanian government.<sup>169</sup>

Yeivin and the IDAM worked hard to incentivize foreign expeditions, going so far as to encourage the Israeli government to finance two-thirds of the labor costs for foreign-led expeditions. The IDAM did this for many reasons. For one, they feared international judgement

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<sup>166</sup> Benvenisti, *Sacred Landscape*, 304.

<sup>167</sup> “Antiquities Ordinance, 1929,” 550.

<sup>168</sup> Kersel, “The Trade in Palestinian Antiquities,” 27.

<sup>169</sup> Kletter, *Just Past?*, 82.



by foreign archaeologists comparing the cost of work in Israel to the cost of work in the Arab states. In 1948, when petitioning the Israeli government to provide subsidies to archaeological expeditions, Yeivin wrote that he worried people would “acquire the impression that Jews do not allow foreign teams to work in their region,” while “the work in the Arab region will continue and thrive.”<sup>170</sup> Secondly, Yeivin and his colleagues wanted to collaborate with foreign scientists, in part to have the manpower to undertake large-scale expeditions that the IDAM could not do alone. In the same letter, Yeivin explained, “all are keen to participate with scientists from other nations in large-scale researches of the antiquity of the land,” for “no governmental budget can support the general activities of excavation on its own.”<sup>171</sup> And thirdly, and perhaps most importantly to the Israeli government, there was a financial incentive. In effect, subsidizing the labor costs was a lure to get foreign expeditions into Israel, for, as Yeivin wrote in 1952, “foreign teams that come to work in Israel bring with them considerable sums in foreign currency to cover their other expenses (apart from the cost of work) and to pay their part of the cost of work.”<sup>172</sup> Thus, once in the state, these foreign expedition teams spent significant money that helped fund the Israeli government and supported the state’s economy. Even with the incentive of subsidized labor, though, foreign expeditions tended to be smaller than expected, and the 1956 war further decreased interest among Western archaeologists in undertaking archaeological work in Israel.<sup>173</sup>

Though Jordan annexed the West Bank and Egypt controlled Gaza from 1948 to 1967, archaeological conditions in these territories remained relatively similar to those within Israel itself. Both the Jordanian government in the West Bank and the Egyptian military forces

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<sup>170</sup> Shemuel Yeivin, *Letter*, September 27, 1948, IDAM Records, GL44864/14, quoted in Kletter, *Just Past?*, 83.

<sup>171</sup> Yeivin, *Letter*, September 27, 1948, quoted in Kletter, *Just Past?*, 83.

<sup>172</sup> Shemuel Yeivin, *Letter*, November 18, 1952, IDAM Records, GL1430/14, quoted in Kletter, *Just Past?*, 84.

<sup>173</sup> Kletter, *Just Past?*, 82-85.

controlling Gaza adopted Antiquities Ordinance 1929 as the antiquities legislation that would govern these territories.<sup>174</sup> East Jerusalem saw some foreign archaeological work done in the years following the war, but even this was mainly the continuation of existing excavations rather than the initiation of new work.<sup>175</sup>

Israeli archaeological activity during the years immediately post-1948, then, was primarily promoted to Israeli citizens as the Israeli government turned archaeological activity into a tool of nation building. With an Israeli Director at the head of the IDAM, Zionist-led archaeological expeditions took center stage during the first decade of the Israeli state, rather than being sidelined as they had been by the British administration. In the first ten years of Israel's existence, the IDAM by itself undertook roughly thirty salvage excavations per year. Comparatively, the number of excavations carried out by the IES and the Hebrew University were much lower, but typically these institutions undertook larger-scale projects that lasted for a number of years.<sup>176</sup> The Israeli regime took advantage of this fact, turning archaeology into a national activity. This was in part due to the personal involvement of many Israeli leaders in archaeological activities - for example, the first President of Israel, Itzhak Ben-Zvi, was also the president of the IES - but also because archaeology provided evidence to support the way the government portrayed the identity of the state and Israeli society.<sup>177</sup> As an official of the IDAM wrote to a schoolboy in 1961, in the minds of Israeli leaders, the IDAM's objects belonged "not to the government, which only keeps these vessels and antiquities as a servant of the public," but "to our state and people."<sup>178</sup>

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<sup>174</sup> Kersel, "The Trade in Palestinian Antiquities," 27.

<sup>175</sup> Kletter, *Just Past?*, 82.

<sup>176</sup> Kletter, *Just Past?*, 305.

<sup>177</sup> Kletter, *Just Past?*, 1, 314.

<sup>178</sup> IDAM Records, GL44873/12, quoted in Kletter, *Just Past?*, 323.

For the Israeli government, archaeology provided material proof of the history of Jews in the Holy Land, deepening the connection between Israeli nationalism and the state's desired territorial boundaries. By excavating material proof of Jewish presence in the Holy Land, archaeology supported Zionists' claims to Palestine as their national home.<sup>179</sup> For Israeli leaders, providing proof of historical presence was also important for visualizing and materializing the borders of the new Israeli state. As anthropologist Nadia Abu El-Haj writes, "archaeological practice...rendered *visible* the land's identity as Jewish, *by definition*, often prior to (and in anticipation of) the actual settlement or seizure of specific places."<sup>180</sup> In other words, one way that Israel claimed sovereignty over parcels of land was by establishing "facts" of Jewish presence there, and sometimes these facts were of an archaeological nature.<sup>181</sup>

In providing material proof of claims to the land, Israeli archaeology also provided evidence of the lives of the ancient Israelites whose story was so central to Israeli nationalism and its contrast between antiquity, exile, and statehood.<sup>182</sup> For Zionist leaders who wanted to generate an imagined community among Jewish settlers in the new state of Israel, it was necessary to create a highly negative idea of the period of "exile." Historian Yael Zerubavel defines exile as "the many centuries when Jews lived as a religious minority dispersed among other peoples," or the time between Jewish expulsion from the Holy Land and Israeli independence in 1948.<sup>183</sup> The idea of forced exile could be contrasted with the present, which

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<sup>179</sup> Nadia Abu El-Haj, *Facts on the Ground: Archaeological Practice and Territorial Self-Fashioning in Israeli Society* (Chicago: The University of Chicago Press, 2001), 18.

<sup>180</sup> El-Haj, *Facts on the Ground*, 18 [emphasis in original].

<sup>181</sup> Baruch Kimmerling, "Sovereignty, Ownerships, and "Presence" in the Jewish-Arab Territorial Conflict," *Comparative Political Studies* 10, no. 2 (1977): 157, accessed November 10, 2023, <https://journals-sagepub-com.ezaccess.libraries.psu.edu/doi/epdf/10.1177/001041407701000201>; El-Haj, *Facts on the Ground*, 18.

<sup>182</sup> El-Haj, *Facts on the Ground*, 15-16.

<sup>183</sup> Yael Zerubavel, *Recovered Roots: Collective Memory and the Making of Israeli National Tradition* (Chicago: University of Chicago Press, 1995), 16.

was in turn portrayed as a return to the “golden age” of Jewish society: the age of antiquity. In this Zionist version of history, which contrasted antiquity and exile so sharply, antiquity represented a positive era of political independence and flourishing cultural life that modern-day Israel should aspire to recreate.<sup>184</sup> The return of Jews to the Holy Land and the excavation of objects from the time of the ancient Israelites was critical in creating a bridge between antiquity and the modern state.<sup>185</sup>

Key to the success of these two missions of the Israeli state – emphasizing connection to the land through archaeology and contrasting exile with the present through parallels with antiquity – was actually involving the Israeli public in archaeological work. The Jewish Palestine Exploration Society from its outset had declared the importance of having a Hebrew archaeological society for “national-political reasons,” and the renamed IES declared its mission as education of the Jewish public.<sup>186</sup> The IDAM, too, hoped that education of the general public on the importance of archaeological matters would help prevent the vandalism, robbery, and looting that had been so prominent during the war.<sup>187</sup> Their mission of inspiring public involvement was highly successful, considering almost every group in Israeli society participated in archaeology in one way or another. Through military involvement in excavations, school visits to archaeological sites and museums, publications about archaeological finds in popular newspapers, opportunities to volunteer at archaeological digs, and more, archaeology in Israel became a “national sport.”<sup>188</sup>

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<sup>184</sup> Zerubavel, *Recovered Roots*, 17, 22.

<sup>185</sup> Zerubavel, *Recovered Roots*, 32.

<sup>186</sup> I. Press, 1921, quoted in Ronny Reich, “The Israel Exploration Society (IES),” in *Unearthing Jerusalem: 150 Years of Archaeological Research in the Holy City*, ed. Katharina Galor and Gideon Avni (Winona Lake: Eisenbrauns, 2011), 119, <https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=3155634&query=>; Reich, “The Israel Exploration Society,” 2-3.

<sup>187</sup> Kletter, *Just Past?*, 299.

<sup>188</sup> Amos Elon, *The Israelis: Founders and Sons* (New York: Holt, Rinehart and Winston, 1971), 280.

One of the most famous cases of this mass mobilization of Israeli society in archaeological activities was the expedition at Masada during the 1950s and 1960s. The story of Masada began in the first century, when during the Jewish Great Revolt against the Roman Empire, observer Josephus Flavius recorded an account of the Roman siege of Masada. Flavius wrote of a drawn-out siege that ended in the Romans breaching the fortress, but not before the Jewish occupants of Masada committed mass suicide rather than surrender to the Roman army.<sup>189</sup> Flavius's account leaves uncertainty as to whether some of the inhabitants of Masada were forced into committing suicide (or were simply murdered by those who advocated collective suicide). In the story that began to be told by Zionist leaders in the mandate period, however, the occupants of Masada willingly killed themselves to avoid enslavement by the Romans.<sup>190</sup> This version of the story, which became known as the 'Masada myth,' emphasizes the actions of Masada's defenders as a "heroic last stand," and became critical to secular Zionist ideology in late mandate-era Palestine and early Israel.<sup>191</sup> The myth became a prominent symbol of Jewish heroism in the fight for Zionist control in Palestine during the mandate period.<sup>192</sup>

Soon, Zionist leaders began investing in the archaeological exploration of Masada with the goal of making the physical site more accessible to the population, which in turn would create a stronger sense of Jewish nationalism. Throughout the 1940s, both amateur and professional archaeologists became increasingly interested in excavating the fortress, and by the 1950s demand was significant enough that the IDAM authorized excavation and survey work at

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<sup>189</sup> Nachman Ben-Yehuda, *Sacrificing Truth: Archaeology and the Myth of Masada* (Amherst: Humanity Books, 2002), 35-40.

<sup>190</sup> Ben-Yehuda, *Sacrificing Truth*, 39-40, 46.

<sup>191</sup> Ben-Yehuda, *Sacrificing Truth*, 47, 49.

<sup>192</sup> Ben-Yehuda, *Sacrificing Truth*, 51.

Masada.<sup>193</sup> The excavation was carried out by the IDAM in cooperation with the Israel Exploration Society and the Hebrew University, and required significant assistance from other national institutions, including the IDF.

The excavation also called for the assistance of volunteers, which was instrumental in generating popular knowledge of and appreciation for archaeology within Israeli society. Throughout the 1950s, Israeli volunteers conducted most of the work at Masada. By the 1960s, realizing the scale of the project and hoping to gain greater international publicity, manpower, and financial support, the IDAM decided to follow the advice of Israel's department of tourism, the Government Tourist Corporation (GTC), and open Masada to foreign volunteers as well.<sup>194</sup> Prior to the start of the 1963 season, the lead archaeologist, Yigael Yadin, published a call for volunteers that spread both in Israel and abroad, and as scholar Yael Zerubavel writes, "the response...was overwhelming."<sup>195</sup> As a result, foreign newspapers began publishing accounts of the work at Masada in the early 1960s. One in particular, the *Observer* (London, England), became a critical financier of the Masada expedition and provided extensive coverage of the expedition.<sup>196</sup> It also issued calls for volunteers. Patrick O'Donovan, a journalist with the *Observer*, published an article in October of 1963 explaining that the labor done at Masada was to be "provided by detachments of volunteers from the Israeli Army and groups from Israeli youth clubs and from countries that include England."<sup>197</sup>

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<sup>193</sup> Nachman Ben-Yehuda, *The Masada Myth: Collective Memory and Mythmaking in Israel* (Madison: University of Wisconsin Press, 1995), 50-52.

<sup>194</sup> Kletter, *Just Past?*, 308.

<sup>195</sup> Zerubavel, *Recovered Roots*, 65.

<sup>196</sup> Yigael Yadin, *Masada: Herod's Fortress and the Zealots' Last Stand*, paperback ed. (London: Phoenix Illustrated, 1997), 7.

<sup>197</sup> Patrick O'Donovan, "Treasure Hunt at Desert Tomb of 960 Heroes," *Observer* (London, England), Oct. 13, 1963, 12, <https://www.newspapers.com/image/257878866/>.

And yet despite high numbers of foreigners participating, the work done at Masada remained centered on Zionist ideology and the spread of Israeli nationalism. Involvement of Israeli soldiers and youth was central to the project. As Yadin explained, “In addition to individuals from Israel and abroad, we also received groups of Israeli volunteers from the Defense Forces, who were changed every two weeks; from *Gadna* – a form of Junior O.T.C. composed of senior secondary school pupils; and from the youth of our *kibbutzim*.”<sup>198</sup> When discussing the immense enthusiasm over the work at Masada, O’Donovan explained to readers that “Masada has become a sacred place to Israelis...For Israel, then, this expedition is more than an archaeological dig: it is an act of piety. In its own terrible right, Masada presents a challenge to the present that Israel could not refuse.”<sup>199</sup>

Even for people who did not participate directly in the work done at Masada, archaeological finds there became a household topic due to immense coverage in both national and international news as well as opportunities to hear about Masada through lectures and in-person events.<sup>200</sup> In his own reflections on the work at Masada, published in 1966, Yadin wrote that he wrote his book as a result of the “unprecedented interest of the general public in the Masada discoveries – as evidenced by the many thousands who have flocked to hear illustrated lectures on the subject in the past two years.”<sup>201</sup> At the close of the expedition in 1965, Ronald Harker of the *Observer* wrote that “the expedition has enriched world knowledge of a time and place which saw the beginning of Christianity as well as the start of the national homelessness of

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<sup>198</sup> Yadin, *Masada*, 14.

<sup>199</sup> O’Donovan, “Treasure Hunt at Desert Tomb,” 15.

<sup>200</sup> Zerubavel, *Recovered Roots*, 66.

<sup>201</sup> Yadin, *Masada*, 8.

Jewry.”<sup>202</sup> Thus, not only did the archaeological work at Masada serve to verify the ‘Masada myth’ of Jewish heroism, but it also brought full circle the idea of Jewish return to the Holy Land after exile. In doing so, Yadin’s work “grounded the nation's collective memory in excavated ruins and objects” and “became a cause for national celebration.”<sup>203</sup>

Overall, making archaeology an activity that individual Israelis could participate in and read about reinforced archaeology’s role as a tool that solidified the Jewish connection to the land of Palestine and the idea that the Israeli state was a rebirth of the glorious ancient past. Israeli archaeology justified the existence of the state and allowed for territorial expansion by providing visual proof of a historical Jewish presence, and likewise offered material evidence of the civilization of the ancient Israelites that was so frequently referenced in Zionist ideology’s representations of history. It would not have been possible for the Israeli state to focus so much energy on archaeological excavations in the immediate post-independence years, though, without the pre-existing antiquities legislation inherited from the British Mandate. By adopting the Antiquities Ordinance of 1929, the Israeli government not only avoided spending time and energy on devising and implementing a new law, but also remained free to focus on the archaeology of Jewish history and continue to ignore and destroy Palestinian heritage.

### **Iraq: Sati’ al-Husri, the Antiquities Law of 1936, and Western Outcry**

Gertrude Bell’s death in 1926, two years after the passage of the Antiquities Law, did little to change the way Iraq’s Department of Antiquities handled foreign expeditions. In her tenure as Director, Bell formalized a system that allowed her successors to continue her work in

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<sup>202</sup> Ronald Harker, “Now Masada Prepares for the Tourists,” *Observer* (London, England), April 4, 1965, 4, <https://www.newspapers.com/image/257987214/>.

<sup>203</sup> Zerubavel, *Recovered Roots*, 67.



a way that prioritized the interests of Western archaeologists over those of the Iraqi state.<sup>204</sup>

British and American archaeologists initially worried that Bell's death would lead to unfavorable conditions for excavation in Iraq, but their fears dissipated with the appointment of another British official, Richard Cooke, to be Bell's successor as Director of Antiquities. Cooke served in the role from 1927 to 1928, after which Sydney Smith, another British scholar, took the position until 1931.<sup>205</sup>

Cooke and Smith continued Bell's practice of dividing antiquities between foreign archaeologists and the Iraqi state in a way that prioritized the satisfaction of the archaeologists and the institutions that backed their expeditions. Throughout the late 1920s and early 1930s, lead archaeologists such as Leonard Woolley (Director of the joint expedition between the Penn Museum and the British Museum at Ur) and Edward Chiera (Director of Harvard University's expedition at Kirkuk) continued to express their satisfaction with the objects they received in the divisions at the end of each season.<sup>206</sup> Additionally, the Iraq Museum remained critically underfunded and lacked the ability to store or care for the objects claimed for the Iraqi state. As a result, Bell's successors continued to send many of the artifacts that 'belonged' to the Iraqi state to London for conservation and preservation treatment, to be returned to Iraq at a later date.<sup>207</sup>

At the same time, though, resistance to British archaeological policy continued to grow amongst Iraqi politicians. The anger sparked by Bell's 1924 antiquities law festered and spread, especially as Western expeditions continued to profit immensely from their work. In 1927, for

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<sup>204</sup> Magnus T. Bernhardsson, *Reclaiming a Plundered Past: Archaeology and Nation Building in Modern Iraq* (Austin: University of Texas Press, 2005), 146.

<sup>205</sup> James F. Goode, *Negotiating for the Past: Archaeology, Nationalism, and Diplomacy in the Middle East, 1919-1941* (Austin: University of Texas Press, 2007), 193, <https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=3443187>.

<sup>206</sup> Bernhardsson, *Reclaiming a Plundered Past*, 147; Goode, *Negotiating for the Past*, 194.

<sup>207</sup> Goode, *Negotiating for the Past*, 194-195.

example, Woolley's discovery of a large collection of gold artifacts at Ur captured attention around the world, and Iraq's politicians began to pay closer attention to exactly how objects were divided by Iraq's British Director of Antiquities.<sup>208</sup> The Department of Antiquities and Western archaeologists began to sense a tenuous political atmosphere, and yet Cooke and Smith changed little in how they divided the spoils of archaeological excavations.

Preparation for independence did little to alter how the Director carried out antiquities divisions. In September of 1929, Britain announced its intention to end the mandate and grant Iraq nominal independence in 1932, meaning it could become a member of the League of Nations and formulate its own domestic and foreign policies (albeit with an extensive amount of British oversight).<sup>209</sup> Antiquities Director Sydney Smith convened a conference of Western archaeologists in January of 1930, admitting that the strong anti-British sentiment among Iraq's legislature made him fear for the future of excavations in Iraq. However, once again, the practicalities of division and export remained quite similar to how Gertrude Bell had handled things in the early 1920s.<sup>210</sup> The appointment of German archaeologist Julius Jordan to the position of Antiquities Director in 1931 actually seemed to ease some of the fears of British and American archaeologists in the region, for Jordan, too, maintained Bell's practices despite the changed political climate.<sup>211</sup> Jordan continued to grant foreign expeditions their permits to excavate and export items, and divided finds in a way that privileged Western archaeologists.

During his tenure as Antiquities Director, Jordan continued Bell's legacy by maintaining close relationships with various Western archaeologists. Professor Gilbert Murphy, a prominent

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<sup>208</sup> Bernhardtsson, *Reclaiming a Plundered Past*, 147.

<sup>209</sup> Goode, *Negotiating for the Past*, 196.

<sup>210</sup> Goode, *Negotiating for the Past*, 197.

<sup>211</sup> Goode, *Negotiating for the Past*, 193; 197.

British scholar of Greek language and history at Oxford and chairman of the League of Nations Union (a British society aimed at increasing public support for the League of Nations by educating people about its activities), described Jordan as “a good scientific man, who has shown perfect good will to the French and English.”<sup>212</sup> Another account of relations between Jordan and the British comes from Ephraim Avigdor Speiser, the Director of the 1930-1931, 1931-1932, and 1936-1937 seasons of the expedition at Tepe Gawra and Tell Billa, funded by the Penn Museum, the American School of Oriental Research in Baghdad, and Dropsie College in Philadelphia. In 1932, Speiser expressed concern that due to increased tensions between Western archaeologists and the Iraqi government, the Iraq Museum might refuse to house the books of the American School of Oriental Research in Baghdad after its planned expansion the following year. Jordan thus went out of his way to reassure Speiser that his need for library space would be met. Speiser wrote that “Dr. Jordan, the present Director of Antiquities, assured me repeatedly that Iraq will always find a nook for our books.”<sup>213</sup>

Iraq became formally independent from Great Britain in October of 1932, though in many ways it remained a client state of the British Empire until after World War II. Throughout the 1930s, British officials stayed in their positions, serving as key advisors to the King, and the British military presence in the country remained strong. In the same years, though, changes did occur in the Iraqi parliament: King Faisal appointed a Prime Minister, and the state held new

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<sup>212</sup> "Gilbert Murray," *Oxford Reference*, accessed Dec. 7, 2023, <https://www.oxfordreference.com/view/10.1093/oi/authority.20110810105440386>; “Historical Note,” *League of Nations Union Collected Records*, TriCollege Libraries Archives & Manuscripts: Bryn Mawr, Haverford, Swarthmore Colleges, [https://archives.tricolib.brynmawr.edu/resources/scpc-cdg-b-great\\_britain-league\\_of\\_nations\\_union](https://archives.tricolib.brynmawr.edu/resources/scpc-cdg-b-great_britain-league_of_nations_union); Gilbert Murray to Monténach, October 28, 1833 in "Archaeology - Excavations in Iraq - Various Correspondence," R4031/5B/7897/7897, League of Nations Archives (LNA), 1933, United Nations Archives, Geneva, Switzerland, <https://archives.ungeneva.org/archaeology-excavations-in-iraq-various-correspondence>, 8.

<sup>213</sup> Ephraim Avigdor Speiser to Professor George A. Barton, June 1, 1932, Box 1, Tepe Gawra, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

elections in February of 1933.<sup>214</sup> So by October of 1933, about a year after Iraq's independence and entry into the League of Nations, it was clear that Iraq had begun to shift dramatically away from the influence of Great Britain. For instance, the Iraqi military grew stronger as a nationalist force, carrying out a massacre of the Assyrian population that had long been seen as "willing partners of the British."<sup>215</sup> This general shift towards stronger anti-British attitudes stemmed in part from the death of King Faisal and the ascension of his son, Ghazi, to the throne in September of 1933. Ghazi, like other young Iraqis raised during the British mandate, resented the British Empire's influence in Iraq and leaned towards pan-Arabism as a national identity.<sup>216</sup>

Debates surrounding antiquities law in Iraq reflected these broader Arab nationalist and anti-British trends in Iraqi politics, but it took time for the political shift to have practical ramifications on archaeology. As the interaction between Jordan and Speiser suggests, little changed in the first year of Iraq's independence. The seven Western expeditions planned for the 1932-1933 season continued as planned, even as popular Iraqi newspapers such as *Sawt al-'Iraq* (The Voice of Iraq) and *al-Ahali* (The People) published articles urging the Iraqi government to stop Western archaeologists from taking what they saw as artifacts rightfully belonging to the Iraqi people by abolishing the 1924 Antiquities Law.<sup>217</sup> Already, Western archaeologists feared the changing political tide in Iraq. In October of 1933, Leonard Woolley wrote to Horace H. F. Jayne, at that time the Director of the Penn Museum, explaining that "The position in Iraq is certainly the reverse of promising and if the Government [*sic.*] act at all on the lines which are cautiously predicted by [Antiquities Director] Jordan it will be useless for anyone to try to dig

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<sup>214</sup> Charles Tripp, *A History of Iraq* (Cambridge: Cambridge University Press, 2007), 75-77.

<sup>215</sup> Soren Scholvin, "The Failure of Nation-Building In Iraq," *World Affairs: The Journal of International Issues* 15, no. 3 (2011): 53, <https://www.jstor.org/stable/48504828>.

<sup>216</sup> Tripp, *A History of Iraq*, 79; Goode, *Negotiating for the Past*, 203.

<sup>217</sup> Bernhardsson, *Reclaiming a Plundered Past*, 169-172.

there.” In fact, Woolley made the case to Jayne that if the Iraqi government decided to pass the law despite pushback from Western scholars, then he would be “entirely in favour of closing down the expedition at once for good and all.”<sup>218</sup>

This feeling of unease about the future of antiquities law in Iraq was exacerbated by what later became known as the Mallowan affair. In May of 1933, with all of the negative press surrounding Western archaeological work, Antiquities Director Jordan decided to conduct the division of finds from Tell Arpachiyah in Baghdad rather than at the excavation site, as was custom. The lead excavator at Tell Arpachiyah was British archaeologist Max Mallowan (who some may know as the husband of Agatha Christie).<sup>219</sup> At the same time as Jordan made this decision, the negative press surrounding antiquities divisions also caused Iraq’s Ministry of Education, which at that time controlled the Antiquities Department, to consider making changes to the division process. The Iraqi Minister of Education, Abbas Mahdi, instructed Jordan that in Mallowan’s division and all future divisions, excavators would only be granted duplicates of what Iraq already possessed in the Iraq Museum.<sup>220</sup> Jordan, however, felt it was his duty to adhere first and foremost to the Antiquities Legislation, which of course demanded that archaeologists be given “a representative share,” traditionally interpreted as 50% of the finds. Thus, Jordan continued with the division of Mallowan’s finds as usual.<sup>221</sup> However, when Mallowan went to ship his artifacts back to the British Museum, he found that the Minister of Education had refused to grant his export permit.<sup>222</sup>

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<sup>218</sup> Leonard Woolley to Horace H. F. Jayne, Oct. 7, 1933, Box 2, Ur, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

<sup>219</sup> Bernhardsson, *Reclaiming a Plundered Past*, 172; Goode, *Negotiating for the Past*, 203.

<sup>220</sup> Bernhardsson, *Reclaiming a Plundered Past*, 172.

<sup>221</sup> Bernhardsson, *Reclaiming a Plundered Past*, 173.

<sup>222</sup> “Archaeology in Iraq: Proposed New Laws - Trouble over Export of Finds,” *The Times (London)*, October 11, 1933 in “Archaeology - Excavations in Iraq - Various Correspondence,” 16.

The Mallowan affair caused much fear among Western archaeologists, though in the end, successful lobbying by the British Museum and the British Foreign Office as well as protests from other Western archaeological institutions prevented any immediate changes. After a few months, the Iraqi Council of Ministers approved Jordan's original division, and the Iraqi Prime Minister approved Mallowan's export permit.<sup>223</sup> In the wake of the Mallowan affair, Western archaeologists were hesitant to plan future expeditions, but the Iraqi government promised that archaeological work would continue unhindered and be subject only to the original 1924 law.<sup>224</sup> Many nonetheless decided to cancel or relocate their expeditions, but others persisted, Leonard Woolley among them. In a letter to Jayne, Director of the Penn Museum, Woolley wrote:

I have just received your letter from December 6, and gather from it that you when you wrote it had not received either my letter of November 16 or Sir George Hill's letter of about that date, the letter explaining how it is that the field work of the Expedition can be resumed after the alarms and excursions of the past. The reason was, as you presumably know by now, that the Iraq Government, faced with the (almost) united front of the archaeological world against the proposed changes of the law and the illegal action of the Minister of Education in the past summer, climbed down completely and reverted to the old position and so made excavation possible and profitable.<sup>225</sup>

Thus, some archaeological work continued in Iraq despite the political instability and rising tide of nationalist sentiment.

But expedition and export conditions did not stay stable for long, for in the fall of 1933, the Ministry of Education began to put together a potential new antiquities law. The Ministry brought a draft of the law to Iraq's Parliament, indicating that the law would be in force by the start of the 1934-1935 expedition season.<sup>226</sup> In July of 1934, Julius Jordan wrote to Charles

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<sup>223</sup> Bernhardsson, *Reclaiming a Plundered Past*, 181; "Archaeology in Iraq: Proposed New Laws" in "Archaeology - Excavations in Iraq - Various Correspondence," 16.

<sup>224</sup> Bernhardsson, *Reclaiming a Plundered Past*, 182.

<sup>225</sup> Leonard Wooley to Horace H. F. Jayne, Dec. 13, 1933, Box 2, Ur, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

<sup>226</sup> Julius Jordan to Charles Bache, Memorandum No. 660/8/1, July 1, 1934, Box 1, Tepe Gawra, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

Bache, the Field Director of the Penn Museum and the American School of Oriental Research and Baghdad's Tell Billa-Tepe Gawra Expedition. In his letter, Jordan explained the proposed law and how it differed from the 1924 legislation. The most significant change included in the proposed law affected the division of finds. Jordan's explanation stated that "all distinguished objects which have no parallel, are to be assigned to the Iraq Museum...Only objects can be allotted to the excavator of which the Iraq Museum possesses duplicates, i.e. objects of the same kind and type and of the same material historic and artistic value." Any objects deemed duplicates by the division committee, formed of the Director of Antiquities and two other officials, would then be split fifty-fifty between the Iraq Museum and the excavators randomly "by ballot."<sup>227</sup>

The law confirmed what British and American archaeologists and museums had worried about for the last few years: that the changing political situation in Iraq would mean a drastic decline in the spoils they could reap from archaeological expeditions. Professor Gilbert Murray described archaeologists' feelings well when he wrote to a member of the League of Nations that, "Roughly, the situation is that in the nationalist ferment which is taking place in Iraq there is a wish to pinprick or humiliate foreign excavators or even to make the expedition impossible."<sup>228</sup> However, Iraqi national elections and a series of cabinet changes in Iraq prevented the parliament from meeting in 1934, so they never voted on the proposed law. As a result, the Iraqi government permitted Western archaeologists to continue with proposed digs in 1934-1935 under the original 1924 law.<sup>229</sup> The Iraqi government did decide, though, to replace

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<sup>227</sup> Julius Jordan to Charles Bache, Memorandum No. 660/8/1, July 1, 1934.

<sup>228</sup> Gilbert Murray to Montenach, October 28, 1833 in "Archaeology - Excavations in Iraq - Various Correspondence," 8.

<sup>229</sup> Bernhardsson, *Reclaiming a Plundered Past*, 185.

Jordan with an Iraqi Director of Antiquities in 1934. Jordan remained in the Department as the Technical Adviser, but he held no power in his new role.<sup>230</sup> After being relieved of his position as Director, Jordan wrote to a friend, “Maybe you’ve already heard my sad news, or even my tears may have run all the way to Anselma.”<sup>231</sup>

The Iraqi government selected for Jordan’s replacement prominent pan-Arab nationalist Sati’ al-Husri, the former Director General of Education who had vehemently opposed Gertrude Bell’s antiquities policy and its clear pro-British stance.<sup>232</sup> When al-Husri became Director of Antiquities in 1934, a post he would hold until 1941, he began to change the policies of Gertrude Bell and her successors by drafting a new antiquities law and, in the meantime, enforcing previously ignored sections of Gertrude Bell’s 1924 law. For instance, al-Husri reliably enforced Article 19 of the 1924 Antiquities Law, which required that all foreign excavations be observed by an Iraqi inspector during each season, a rule that had long been ignored under previous directors Bell, Cooke, Smith, and Jordan. Moreover, the expeditions had to pay the wages of the inspectors.<sup>233</sup> He notified each expedition by mail. His letter to the Director of the American School of Oriental Research in Baghdad and the Director of the Penn Museum read, “Under the authority invested in me in item (E) of Article nineteen of the Antiquities Law 1924, it was decided to depute Ahmad Hakki Effendi to Tal Billa and Tepe Gawra to represent the Department of Antiquities with your expedition during the period of digging season at Tal Billa and Tepe Gawra.”<sup>234</sup>

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<sup>230</sup> Bernhardsson, *Reclaiming a Plundered Past*, 185-186.

<sup>231</sup> Julius Jordan to unknown, August 28, 1934, Box 1, Tepe Gawra, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

<sup>232</sup> Goode, *Negotiating for the Past*, 192.

<sup>233</sup> Goode, *Negotiating for the Past*, 208-209.

<sup>234</sup> Sati’ al-Husri to The Director of the American School of Oriental Research in Baghdad and the Director of the University of Pennsylvania Museum Philadelphia, n.d., Box 1, Tepe Gawra, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.



The decision to enforce inspections caused uproar among the British and American archaeologists. In a letter to Charles Bache, the Field Director of the Tell Billa and Tepe Gawra expedition during the 1934-1935 season, previous Field Director Ephraim “Fred” Speiser wrote “The news about the current results at Gawra is as cheering as the information concerning the Inspector (!) is depressing. To dispose of the unpleasant matter first, I agree with you that something must be done about it.” He believed that al-Husri’s enforcement of the inspections rule was a violation of “certain basic principles of scientific decency.”<sup>235</sup> Even more dramatically, now-Technical Advisor Jordan complained to a fellow archaeologist:

Ain’t we got one swell new antiquities law!! How about building jointly a shack half way between our respective sites and let our inspectors live together out there? Or shall we go on a pork diet for the winter - I’ll rush right down to Swift’s and order a boatload of hogs sent out. Or do you know of some slow - well not too slow - poison?<sup>236</sup>

Al-Husri also dramatically altered the division of finds by enforcing previously ignored provisions of the 1924 law. Though Gertrude Bell and her successors generally divided items fifty-fifty between the Iraq Museum and the excavators, this ‘rule’ was simply a custom carried on from Bell’s original 1922 draft legislation. The actual 1924 law never explicitly stated that finds had to be divided fifty-fifty, only that a “representative share” needed to go to the archaeologists. There was also a clause in the original law that the Director of Antiquities should keep for the Iraq Museum any objects necessary to create a complete collection, which al-Husri used frequently during the division process. Thus, al-Husri began only permitting foreign archaeologists to take a portion of what remained after he selected specific objects for the

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<sup>235</sup> Ephraim Speiser to Charles Bache, Jan. 10, 1934/5(?), Box 1, Tepe Gawra, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023; James B. Pritchard, A. Henry Detweiler, and W. F. Albright, “Ephraim A. Speiser,” *Bulletin of the American Schools of Oriental Research*, no. 179 (1965): 4, <http://www.jstor.org/stable/1356345>.

<sup>236</sup> Julius Jordan to unknown, August 28, 1934.

collection of the Iraq Museum, which was much less than the fifty percent they were accustomed to receiving.<sup>237</sup>

After three years of proposals, delays, debate, and revisions, al-Husri's new antiquities law passed the Iraqi parliament in May of 1936. The new law aimed to erase the ambiguity that had characterized Gertrude Bell's 1924 law, and thus was much longer and more detailed: the 1924 law contained thirty-three articles, while the 1936 law was seventy-three.<sup>238</sup> The most significant changes, as expected by Western archaeologists, came in the section that referred to excavations and the division of finds. Most notably, Article 49 stated:

All antiquities discovered by the excavators shall be the property of the State. The excavator shall, however, be granted as a reward for his work:

- (i) The right of taking casts of the discovered antiquities.
- (ii) Half of the duplicated objects.
- (iii) Any of the antiquities which the 'Iraq Government may dispense with owing to the existence in the 'Iraq Museum of similar objects in type, style, material, workmanship, historical indication and artistic value.<sup>239</sup>

For ongoing excavations more than two years old, Article 49 would not enter into force until two years later, but for all other excavations, the law's provisions for dividing objects entered into force immediately.<sup>240</sup> This marked a significant change from the 1924's "representative share" provision even in its strictest interpretation, for now foreign archaeologists were limited not only to the objects that the Iraq Museum identified as duplicates, but to half of those unclaimed items.

In some ways, Iraqi officials were more concerned with the opinion of Western audiences and the League of Nations about their new antiquities law than Israeli leaders. Iraq's new law followed trends set by other newly independent states, and fit into the broader international

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<sup>237</sup> Goode, *Negotiating for the Past*, 209.

<sup>238</sup> Goode, *Negotiating for the Past*, 214; Antiquities Law No. 59 of 1936, Box 1, Tepe Gawra, Iraq expedition records, Penn Museum Archives, accessed November 21, 2023.

<sup>239</sup> Antiquities Law No. 59 of 1936, 10-11.

<sup>240</sup> Antiquities Law No. 59 of 1936, 14.

community's understanding of how antiquities should be handled in the mid-1930s.<sup>241</sup> For one, the fact that it defined "Antiquities" as "anything made or formed by the hand of man before 1700 A.D." matched other mandate and post-mandate states of the time.<sup>242</sup> When deciding how the new law would handle the division of finds, al-Husri studied the cases of other recently independent states in the Middle East and Mediterranean basin, including Turkey, Egypt, and Greece.<sup>243</sup> Al-Husri's new law, like those of the aforementioned states, relied upon the declaration that all objects found belonged to the Iraqi government.<sup>244</sup>

In terms of relations with foreign archaeologists, Iraq's new law did provide some evidence of a desire for continued foreign excavation, especially for 'scientific' expeditions rather than collection-bolstering ones. Al-Husri tended to prefer university-led expeditions that were more explicitly collecting objects for scientific research, rather than museum-led expeditions who wanted objects only for display. Of course, many expeditions were both at the same time, such as those of the University of Pennsylvania and the University of Chicago.<sup>245</sup> In addition to a certain sympathy among al-Husri and others towards scientific archaeological work, foreign expeditions also brought money, which Iraq needed desperately.<sup>246</sup> Thus, al-Husri and other Iraqi Ministers attempted to ensure that foreign excavators at least received a small share of objects. Iraq could have chosen a stricter division of finds, as in Greek and Turkish practice, but instead devised a slightly more favorable system. This unique feature of the Iraqi law allowed the Antiquities Director to create a "suspense account," under which some unique objects were held

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<sup>241</sup> Bernhardsson, *Reclaiming a Plundered Past*, 195.

<sup>242</sup> Antiquities Law No. 59 of 1936, 1.

<sup>243</sup> Goode, *Negotiating for the Past*, 208; Bernhardsson, *Reclaiming a Plundered Past*, 187, 195.

<sup>244</sup> Bernhardsson, *Reclaiming a Plundered Past*, 195.

<sup>245</sup> Goode, *Negotiating for the Past*, 212-213; Bernhardsson, *Reclaiming a Plundered Past*, 195-196.

<sup>246</sup> Bernhardsson, *Reclaiming a Plundered Past*, 179.

by the Iraq Museum for a year, and if the excavator found a similar object the following year, would be allowed to keep one of the duplicates. This provision made the Iraq law more favorable to foreign excavators than the laws of Greece and Turkey, which only allowed expeditions a set number of duplicate objects.<sup>247</sup> Despite this, foreign expeditions who relocated during the years of turmoil were reluctant to return under less favorable conditions. Most found work in Syria, where the French Mandate government continued to ensure that the division of finds favored Western archaeologists.<sup>248</sup>

Al-Husri also hoped that his law would gain favor and legitimacy with the League of Nations, and it did. Iraq's law proved noteworthy enough at the international level that various archaeological leaders singled it out for discussion at a conference of archaeologists hosted by the League of Nations in Cairo in 1937. At first, al-Husri heard rumors that his law was to be critiqued harshly, but his attendance of the conference and defense of the law won it much favor for its lack of ambiguity regarding division of finds.<sup>249</sup> Al-Husri's successful defense of his law at the Cairo Conference also won him an appointment to the League's International Consultative Committee on Museums.<sup>250</sup> Iraq's 1936 law was popular in part because it fit into prevailing international way of thinking about antiquities and archaeological practice. This is evidenced by the International Statute for Antiquities and Excavations, published by the League of Nations following the recommendations of the 1937 Cairo conference. Many of the principles included in al-Husri's law are reflected in the Statute's language. Article 13 states:

The Conference considers it highly desirable that Governments should recognis[z]e and embody in the laws of their country the following principles calculated to further the true interests of archaeology and the international collaboration necessary to those interests:

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<sup>247</sup> Bernhardsson, *Reclaiming a Plundered Past*, 195.

<sup>248</sup> Goode, *Negotiating for the Past*, 219-220.

<sup>249</sup> Goode, *Negotiating for the Past*, 216.

<sup>250</sup> Goode, *Negotiating for the Past*, 216.

(a) It is essential that the objects found in the course of excavations should be set apart, in the first place, for the formation, in the museums of the country where the excavations are carried out, of complete collections fully representative of the civilis[z]ation, history and art of that country.

(b) In order to encourage archaeological studies in other countries by the distribution of original remains, the national authorities may present the excavator with a share of his finds. This share shall consist of duplicates or, generally, of objects or groups of objects which the authorities are able to relinquish because of their similarity to those already in the possession of the national museums. The said share shall likewise, as far as possible, be representative of the civilis[z]ation, history and art of the country.<sup>251</sup>

The Statute had no ability to enforce any of these provisions, but nonetheless demonstrates how leading scholars and politicians thought about antiquities at the time. The emphasis on the fact that objects belong first and foremost to the state and the provision about allocation of duplicates read remarkably similar to Article 49 of Iraq's 1936 law, passed only a year before this conference. It is of course impossible to know whether or not the trends in international thought that led to this conference influenced al-Husri's writing of the law, or if al-Husri's law influenced the way this statute was written, though both seem possible.

However, even though al-Husri considered the Western and international reception of his law to be important, his main goal was to earn legitimacy with Iraq's population. Iraq's decision to rewrite the antiquities law coupled with the decline in foreign expeditions made space for archaeological expeditions focused on the Islamic heritage of the land. Western archaeologists' continual neglect of Islamic heritage was a source of anger and resentment among Iraqi government ministers and the public alike, and something that al-Husri was determined to

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<sup>251</sup> "International Statute for Antiquities and Excavations Adopted by the Conference Held at Cairo, March 1937 - Measures Taken by Governments - Union of South Africa," R4045/5B/33075/31135, League of Nations Archives (LNA), 1937-8, United Nations Archives, Geneva, Switzerland, 3, <https://archives.ungeneva.org/international-statute-for-antiquities-and-excavations-adopted-by-the-cairo-conference-march-1937-measures-taken-by-governments-union-of-south-africa>.

change after becoming Antiquities Director.<sup>252</sup> As one of the premier pan-Arab thinkers at the time, al-Husri was also convinced that by focusing on Islamic heritage, particularly the ‘golden age’ of the Abbasid Empire, he could foster and strengthen pan-Arab nationalism among the Iraqi people.<sup>253</sup> Focusing on Arab antiquities also had its practical advantages: since they were from a more recent time, they required less digging (and thus less technical training, expensive equipment, and labor) to extract, and any inscriptions would be in the Arabic language, as opposed to ancient languages more commonly studied by European scholars than Iraqi academics.<sup>254</sup>

Thus, al-Husri began investing time and money into Iraqi-led expeditions of Islamic heritage as well as a new Museum of Arab Antiquities. In February of 1936, a few months before the passage of the new law, the Antiquities Department announced the first official Iraqi-led expedition.<sup>255</sup> The excavation took place at Samarra, once the location of the Abbasids’ capital. Work soon expanded to Abbasid monuments in Baghdad as well as other significant Muslim sites, such as the great mosque at Kufa.<sup>256</sup> The Museum of Arab Antiquities, which opened in 1937, collected objects only from the Islamic periods and was located in a famous covered market in Baghdad, the Khan Murjan, which dated back to the medieval period.<sup>257</sup> Just as Gertrude Bell’s pet project had been the Iraq Museum, dedicated to pre-Islamic civilization, the Museum of Arab Antiquities was al-Husri’s pride and joy.<sup>258</sup>

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<sup>252</sup> Goode, *Negotiating for the Past*, 208.

<sup>253</sup> Goode, *Negotiating for the Past*, 216.

<sup>254</sup> Goode, *Negotiating for the Past*, 216-217.

<sup>255</sup> Bernhardsson, *Reclaiming a Plundered Past*, 202.

<sup>256</sup> Goode, *Negotiating for the Past*, 217.

<sup>257</sup> Bernhardsson, *Reclaiming a Plundered Past*, 202; Goode, *Negotiating for the Past*, 217.

<sup>258</sup> Bernhardsson, *Reclaiming a Plundered Past*, 202.

Overall, the transition to independence in Iraq allowed pan-Arab nationalists to reclaim antiquities for their own agenda. At first, the institutions of Gertrude Bell proved hard to overturn, but by 1936, al-Husri's new law ensured that the majority of antiquities found by foreign excavators remained in the ownership of the Iraqi government. Meanwhile, al-Husri invested time, manpower, and resources into conducting archaeological expeditions led by teams of Iraqi archaeologists, focused on Arab and Islamic heritage. The Museum of Arab Antiquities offered Iraqi citizens a chance to explore their own heritage in a museum setting and helped promote the pan-Arab ideology of al-Husri and other prominent government officials of the 1930s.

### **Overarching Patterns: Independence and Nationalist Archaeology**

In both Israel in the decade following 1948 and in Iraq during the 1930s, then, archaeology took on a distinctly nationalist tone as Israeli and Iraqi citizens respectively came to be the target audience for experiencing, viewing, and reading about archaeological work. Even as Israel maintained the British Antiquities Ordinance of 1920 and Iraq replaced Gertrude Bell's 1924 Antiquities Law, both the Zionist leaders of the Israeli government and the pan-Arab forces in the Iraqi parliament used archaeology as a vehicle of political ideology in the post-independence years. As Israel and Iraq struggled to define themselves as new states on the international scene and to unite their people under a cohesive ideology, both governments turned to the land for physical proof of their people's history. The Israeli and Iraqi governments used antiquities to craft myths and stories about their past, each hoping to use antiquities to successfully craft a new state and a new sense of identity. In some ways, with Israeli and Iraqi officials heading the antiquities departments of the new states and with the drop in foreign expeditions, much had changed since the mandate period. And yet the fight for legitimacy at

both the local and the international level remained a key part of antiquities policy and archaeological practice in both Israel and Iraq.



## Chapter 5

### Conclusion

In post-colonial states such as Israel and Iraq, antiquities policy and its enforcement is deeply entangled with the struggle for national legitimacy. Beginning in the mandate period and continuing to the present, governments have used antiquities laws to appeal to particular constituencies that keep them in power, building a more stable state-society relationship. In colonial relationships, antiquities policies appealed primarily to Western and international constituencies, whereas in nation-states, antiquities policies appealed to the citizenry and attempted to spread nationalist ideology. The British Mandate in Palestine, the British Mandate in Iraq, the early Israeli government, and the independent Hashemite Monarchy in Iraq all used antiquities policy to establish their legitimacy both domestically and abroad.

British Mandatory governments in both Palestine and Iraq concerned themselves primarily with the opinions of Western archaeologists, the British public, and the League of Nations. In practice, political differences between Palestine and Iraq during the mandate mattered little in the ways that the British wrote and implemented antiquities laws. They constructed antiquities laws that granted British officials authority over archaeological digs and the division of artifacts. Yet, to adhere to the League's requirement that the mandatory powers 'prepare the states for independence,' Britain needed a modicum of support from the local population to stay in power without widespread protests and violence. Both the Palestine Antiquities Ordinances of 1920 and 1929 and Iraq's Antiquities Law of 1924 ostensibly balanced Western, League, and local interests. However, the laws divided artifacts between Western archaeologists and the governments of Palestine and Iraq in a way that clearly favored

Westerners, causing local populations to protest the laws that they correctly believed prioritized outsiders' interest over their own.

In the post-colonial era, the legacy of and differences between direct British control in Palestine and indirect British control in Iraq had more significant impact. The Israeli government adopted the Antiquities Ordinance of 1929, utilizing its definition of antiquities (man-made objects dating to before 1700 CE) to suit its own interest in continuing to expel Palestinians and destroy Palestinian villages, which were generally of more recent construction. In Iraq, Director of Antiquities Sati' al-Husri was finally able to overturn Gertrude Bell's law that he and others had so vehemently protested in the early 1920s. Thus, immediately following independence, Israel's antiquities law maintained the same mandate-era provisions for division of finds, while Iraq created a system much less favorable to Western archaeologists. These responses reflected broader trends in Israeli and Iraqi political history. Israel, of course, adopted many of its laws and institutions from the British, or utilized pre-state Zionist institutions to construct the Israeli government. In Iraq, the 1930s represented an era of struggle between Iraqi interests and the continuing influence of the British in Iraqi political affairs. Most notably, parallels exist between debates over antiquities policy and debates over oil concessions in the late mandate and early years of independence: in both cases, the Iraqi government moved to take greater control over their resources, cultural or natural, in an attempt to move away from its British colonial past.

Despite the differences in their post-independence antiquities laws, both Israel and Iraq dedicated significant resources towards nationally oriented archaeology. In Israel, archaeology became a national project by which the Israeli government could mobilize its people and help generate a feeling of connection between Palestine's ancient Jewish past and the new state of Israel. In Iraq, al-Husri combined his championship of pan-Arabism and Arab nationalism with

his interest in archaeology and museums, focusing the Department of Antiquities' resources on Arab and Muslim sites. As the British had during the mandates, the Israeli and Iraq governments concerned themselves with archaeology and antiquities laws because they were a mechanism for achieving legitimacy, though this time, the prime audience was the citizenry of their states, not foreigners abroad or the international community.

Even as governments and laws changed in Israel and Iraq throughout the rest of the twentieth century, the strategy of using antiquities policy as a vehicle for legitimacy remained. In 1978, an Israeli government led by the right-wing Likud Party replaced the Antiquities Ordinance of 1929 with a new antiquities law that sought to curb illegal trade in artifacts. In addition, the 1978 antiquities law reflected the Likud Party's nationalist ideology and its view on how antiquities fit into the national story, for the law authorized the Antiquities Director to confiscate from any owner an antiquity deemed to be of "national value."<sup>259</sup> However, the 1978 law did not apply to antiquities in the West Bank and Gaza Strip, which Israel occupied in 1967. As with other trade in the occupied territories, antiquities trade was and is governed by Israeli military law, not civilian law, and all exports or transfers of antiquities from Gaza and the West Bank must be approved by the Israeli Department of Antiquities.<sup>260</sup> Antiquities, then, are primarily under the control of the Israeli military, allowing Israelis to access sites in the West Bank and Gaza indiscriminately while barring Palestinians from accessing their own archaeological heritage.

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<sup>259</sup> Morag M. Kersel, "The Trade in Palestinian Antiquities," *Jerusalem Quarterly* 33 (2008): 29, accessed February 28, 2024, <https://traffickingculture.org/app/uploads/2013/01/Kersel-2008-The-Trade-in-Palestinian-Artifacts-JQ.pdf>; The Antiquities Law of 1978, *Israel Antiquities Authority*, accessed March 9, 2024, [https://www.antiquities.org.il/Article\\_eng.aspx?sec\\_id=42&subj\\_id=228&id=450](https://www.antiquities.org.il/Article_eng.aspx?sec_id=42&subj_id=228&id=450).

<sup>260</sup> Kersel, "The Trade in Palestinian Antiquities," 28.

Later Israeli laws reaffirmed state control over antiquities in both Israel and the occupied territories, demonstrating the Israeli government's dedication to national archaeology. Israel's 1989 Antiquities Law reestablished the Israel Department of Antiquities and Museums (IDAM) as the Israel Antiquities Authority (IAA).<sup>261</sup> The law declared the IAA a "State-controlled body" responsible for "all antiquities affairs in Israel, including underwater antiquities."<sup>262</sup> In 1995, following the Oslo Accords and the transition of select powers from Israel's administration to the Palestinian Authority (PA), the PA gained control over archaeological sites and cultural heritage within certain portions of the West Bank. The Oslo II agreement required that the PA maintain universal access to these cultural heritage sites, but no equivalent restriction exists on the Israeli side, meaning that Israelis are able to access PA-controlled sites, while Palestinians are often barred from Israeli-controlled sites in the West Bank.<sup>263</sup> As it was during the mandate period, the question of "technical expertise" is often used as a weapon against Palestinian archaeologists hoping to access Israeli-controlled archaeological sites both within the occupied territories and within Israel.

Meanwhile, archaeology and cultural heritage continue to be critical tools of Israeli political parties and governments in gaining legitimacy and spreading their ideal form of nationalism. In 2010, Israel created a new Heritage Plan that was heavily influenced by conservative Zionists' fears that Israeli society was losing its connection to the land and the Jewish history of the land. A reconnection to Jewish cultural heritage through this Heritage Plan, politicians believed, would help curtail the spread of the post-Zionist intellectual and cultural

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<sup>261</sup> Raz Kletter, *Just Past?: The Making of Israeli Archaeology* (London: Equinox, 2006), 319-320; Kersel, "The Trade in Palestinian Antiquities," 29.

<sup>262</sup> Antiquities Authority Law, 5749-1989, *UNESCO Cultural Heritage Laws Database*, 1, accessed March 10, 2024, [https://en.unesco.org/sites/default/files/isr\\_antiquities\\_authority\\_law\\_engtno.pdf](https://en.unesco.org/sites/default/files/isr_antiquities_authority_law_engtno.pdf).

<sup>263</sup> Kersel, "The Trade in Palestinian Antiquities," 30-31.

movement that challenged conservative histories of the 1948 and 1967 wars.<sup>264</sup> The 2010 Heritage Plan, thus, provides an additional example of how Israeli governments have used archaeology and cultural heritage as a tool to spread their ideology. Overall, state-led archaeology in Israel in the decades after 1950 maintained the early state's focus on Jewish heritage and the project of national archaeology, while antiquities in the occupied Palestinian territories remained sidelined unless they were of importance to Jewish history.

In Iraq, repeated conflict and political change led to the rise and fall of many different governments and ideologies, but antiquities remained a powerful tool for each of them. Sati' al-Husri was forced to flee Iraq in 1941 after supporting a failed anti-British, pro-German coup.<sup>265</sup> In the early 1940s, as pan-Arabism began to wane in Iraq and British influence and presence increased during World War II, Western-educated Iraqi archaeologists focused on Sumerian remains near Baghdad, hoping to attract interest and economic activity among the city's elite as well as Allied soldiers stationed there.<sup>266</sup> The republic established under Brigadier Abd al-Karim Qasim after the 1958 revolution continued this emphasis on pre-Islamic heritage: its new Iraqi flag portrayed the symbols of ancient Mesopotamian civilizations. The 1963 coup and the rise of the Ba'ath in 1968 led to a resurgence in Iraqi archaeology that focused on Iraq's Arab and Islamic past, though Saddam Hussein's Ba'ath regime returned to focusing on a pre-Islamic history.<sup>267</sup> In 1979, Saddam Hussein declared that "Antiquities are the most precious relics the Iraqis possess, showing the world that our country...is the legitimate offspring of previous

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<sup>264</sup> Rudy Kisler, "The Political Ideology Underlying Israel's National Cultural Heritage Policy," *International Journal of Cultural Policy* (2023): 1-14, accessed March 6, 2024, <https://www.tandfonline-com.ezaccess.libraries.psu.edu/doi/full/10.1080/10286632.2023.2221268>.

<sup>265</sup> Magnus T. Bernhardsson, *Reclaiming a Plundered Past: Archaeology and Nation Building in Modern Iraq* (Austin: University of Texas Press, 2005), 207-208.

<sup>266</sup> Bernhardsson, *Reclaiming a Plundered Past*, 212-213.

<sup>267</sup> Bernhardsson, *Reclaiming a Plundered Past*, 214-215.

civilizations which offered a great contribution to humanity.”<sup>268</sup> These trends demonstrate that despite the almost constant change in the patterns of Iraqi archaeology and policy, all of the various leaders sought to use it to unify the country, whether under the banner of ancient civilizational heritage or under the banner of pan-Arabism and Islam.

Archaeology and state legitimacy remain intertwined in Iraq today, even after the 1991 Gulf War and the 2003 War ravaged Iraq’s antiquities. Bombings during the Gulf War devastated Iraq’s archaeological sites, and economic hardships of the 1990s led to widespread looting of and illegal trade in antiquities that the Iraqi government was powerless to stop.<sup>269</sup> The U.S.’s 2003 invasion and the ensuing war further destroyed archaeological sites and encouraged pillaging. Faced with devastating population loss and destruction, the current Iraqi government is struggling to rebuild and gain political legitimacy and power. Following in the footsteps of past leaders, current Iraqi officials have emphasized the importance of retaining or recovering antiquities. Since his election in 2022, Iraqi President Abdul Latif Rashid has insisted that repatriating stolen Iraqi artifacts from around the world “must be one of our highest priorities.” His wife, First Lady Shanaz Ibrahim Ahmed, noted that the destruction of archaeological and cultural heritage sites during the war “touched a nerve among all Iraqis.”<sup>270</sup> The President and his wife hope that by fighting for the return of Iraq’s antiquities, they can bolster a sense of Iraqi unity and strengthen the connection between state and society in Iraq.

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<sup>268</sup> Saddam Hussein, *Sumer: A Journal of Archaeology and History in Iraq* (Baghdad, 1979), quoted in Bernhardsson, *Reclaiming a Plundered Past*, 215.

<sup>269</sup> Bernhardsson, *Reclaiming a Plundered Past*, 216; James F. Goode, *Negotiating for the Past: Archaeology, Nationalism, and Diplomacy in the Middle East, 1919-1941* (Austin: University of Texas Press, 2007), 233, <https://ebookcentral.proquest.com/lib/pensu/reader.action?docID=3443187>.

<sup>270</sup> Tanya Goudsouzian, “Can Iraq’s Antiquities Bolster National Unity?” *Newsweek*, Jun. 29, 2023, <https://www.newsweek.com/can-iraqs-antiquities-bolster-national-unity-opinion-1810000>.

Colonial and post-colonial legacies and the fight over antiquities policy continue to characterize politics in today's Middle East. Palestine/Israel and Iraq demonstrate that, regardless of the government and its ideology, antiquities are routinely utilized as a tool to gain legitimacy and support. In an era of nation-states, antiquities fuel stories of homeland and heritage, drawing nations together even as they exclude others from their political system. Whether British, Zionist, Palestinian, pan-Arabist, or Iraqi, individuals and governments of the twentieth century utilized antiquities to prove their authenticity on both the local and the international stage. And yet despite these extensive attempts to use antiquities policy to gain legitimacy, neither the British mandate officials nor Israeli and Iraqi governments succeeded at building a stable state-society relationship that resonated with a variety of audiences both abroad and at home. While Israel and Iraq have not yet given up using antiquities policy as a tool of state building, its utility as a strategy has yet to be proven.

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