



***A Privatized Heritage:
How the Israel Antiquities Authority
Relinquished Jerusalem's Past***

emek shaveh
למק שוה עמושיבי

2014

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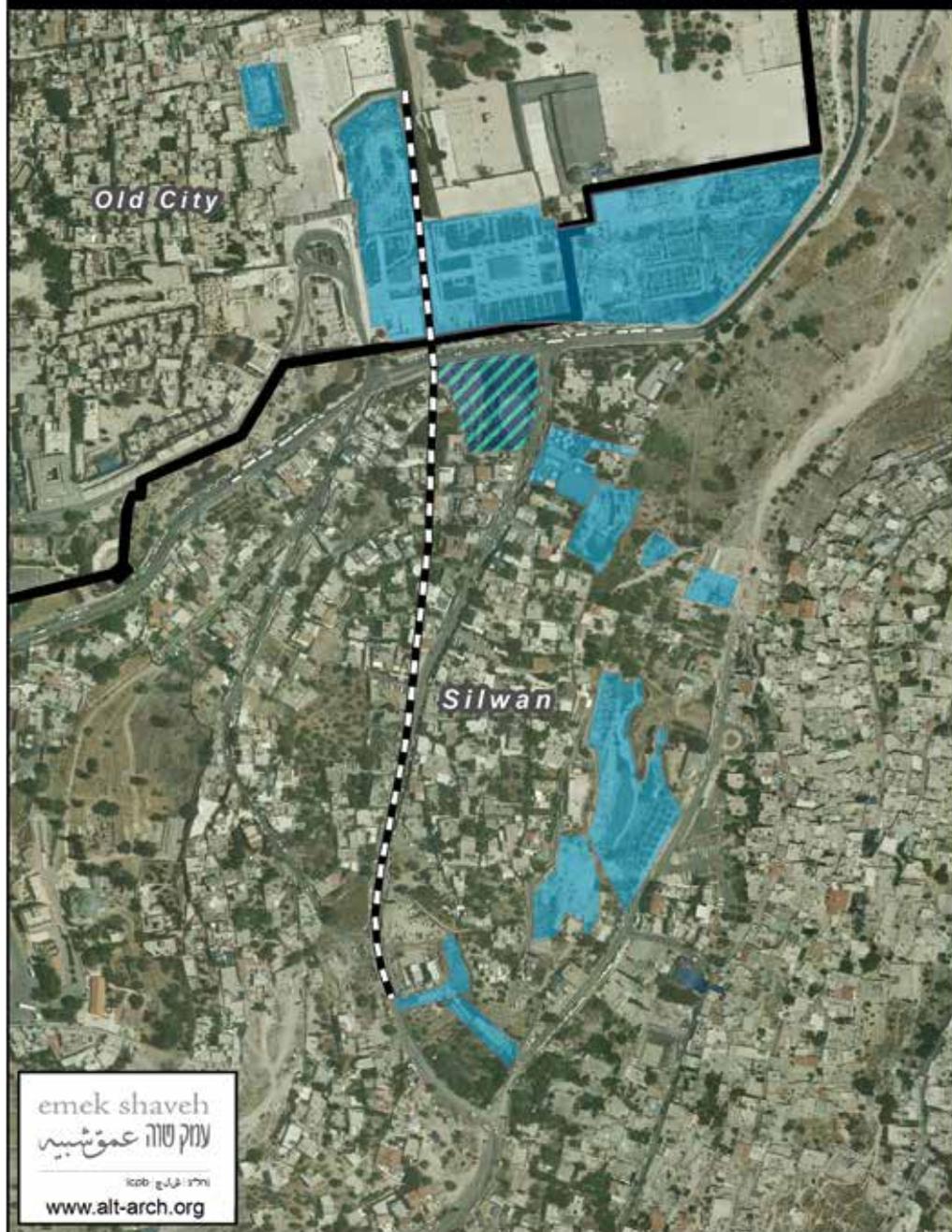
Emek Shaveh is an organization of archaeologists and heritage professionals focusing on the role of tangible cultural heritage in Israeli society and in the Israeli-Palestinian conflict. We view archaeology as resources for strengthening understanding between different peoples and cultures.

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Archaeological and Tourist Sites Surrounding Givati Parking Lot / 'Kedem' Center



Legend

-  Givati Parking Lot / 'Kedem' Center
-  Archaeological and Tourist Sites
-  Underground Tunnel
-  Old City Walls

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Preface: The Givati Parking Lot and the Kedem Center

The following is the first in a series of reports based on internal documents of the Israel Antiquities Authority (IAA) that chart the relationship between the IAA and the El'ad Association, an NGO with a religious-ideological mission to settle Jews in the village of Silwan. The documents, which Emek Shaveh has obtained from the IAA under the Freedom of Information Law, describe the joint activities undertaken by the Antiquities Authority and the El'ad Association in Jerusalem's historic basin.

As the El'ad Association is not publicly accountable, the information derived from the Antiquities Authority's documents represents only one side of the dialogue between the two parties. Moreover, the documents we have obtained are partial records, frequently consisting only of brief memoranda, rather than complete transcripts. Nevertheless, this information allows us to outline, in unprecedented detail, a process which began with overt disagreements between El'ad and the Antiquities Authority and evolved into a complex, almost symbiotic, relationship. Without the cooperation of the IAA in Silwan, El'ad's "City of David" would not be what it is today.

Introduction and Summary

The ridge extending south of the Temple Mount – termed the "Ophel" in old maps, "City of David" by archaeologists, and "Wadi Hilweh" (a neighborhood in the village of Silwan) by its residents – is the ancient core of Jerusalem. It is not an archaeological mound in the usual sense, with orderly, superimposed strata, but a jumbled mass of stones, soil deposits, tunnels, and cavities, constituting a uniquely fascinating, if enigmatic, archaeological challenge.

For most of the 20th century, including the first twenty years of Israeli rule in the area, a delicate equilibrium was preserved between village life, archaeological activity, and a steady, albeit small, presence of tourists who were prepared to make the effort to explore and investigate the ruins. In the late 1980s this equilibrium was disturbed due to the events of the first Palestinian Intifada, dense private construction (the result of a government policy that does not allow planning in Palestinian neighborhoods), a dramatic rise in the number of residents, and political tensions. The latter were exacerbated by the arrival in the neighborhood of a group of national-religious settlers determined to establish an outpost on the threshold of the Temple Mount.

In the early 1990s, at the end of the first Intifada, the authorities responsible for preserving antiquities came into conflict with the settlers and their political patrons led by Ariel Sharon, then Minister of Housing. The settlers wanted to build no less than 200

residential units on the ruins of the City of David, while the authorities did their best to protect the archaeological resources. The following appears in a document written by the IAA's legal advisor in 1997 (Document 1):

“The Antiquities Authority categorically maintains that it is vital to preserve the City of David, and that no construction whatsoever should be conducted at the site. Only archaeological excavations, works of conservation and reconstruction should be undertaken in the City of David area.”

Today, only a decade and a half later, that conflict is long forgotten. Plans to build on top of the antiquities of ancient Jerusalem in the “City of David” are now promoted collaboratively by the IAA, the Nature and Parks Authority, the Jerusalem Municipality, and the El’ad Association. The most egregious example of this is the Kedem Center, a seven story building spanning an area of 16,000 square meters (four times larger than the archaeology wing of the Israel Museum) which is due to be built in the heart of the City of David/Wadi Hilweh. “Underlying the project,” states a senior official of the IAA, “is an understanding by the Antiquities Authority and the Nature and Park Authority that the area south of the **Old City** [the City of David] **requires an urban and architectural approach. The Antiquities Authority, as a matter of principle and in practice, is in favor of the building plan and approves it as is,**” (transcript of the open session of the regional planning and building committee, 13 February 2012, p.75)

How did the IAA metamorphose from an agency that **protects** antiquities in Jerusalem in 1997 to one that **supports construction** on these same antiquities in 2014? Why did the IAA abandon the position formulated in its statement to the Attorney General in 1997, a position that categorically opposed any construction in the area of the City of David? How did the relationship evolve between the IAA and the El’ad Association, a body dedicated to Judaizing Silwan, even at the expense of damage to antiquities? And how is it that the IAA has handed over the reins of one of its most prestigious projects to the El’ad Association?

The transcripts, e-mail exchanges and financial balance sheets upon which this report is based tell an extraordinary tale of how a government agency becomes party to the agenda of a right wing association, of how this association's values are adopted by a public service, and of the manner in which the history of Jerusalem is recast as a marketable national (Israeli) commodity.

The core of this report is based on documentation of 34 meetings, 17 of them attended by the developers (representatives of the El’ad Association), which reveal every stage in the process, as well as official documents that accompanied these meetings. Although there are, doubtless, many gaps in the sequence, there is no doubting the veracity of the process and the chain of events described.

The main points of the story told by the Israel Antiquities Authority's internal documents are as follows:

- The IAA's policy underwent a complete about-face **from categorical opposition to construction in 1998, through conditional accommodation in 2002, to enthusiastic partnership** in planning a vast tourist hub in 2009.
- The IAA **did not disclose to the judges of the High Court of Justice** the fact that it had **agreed in advance to construction** on the archaeological site, and in so doing, it can be assumed, contributed to the High Court ruling that ultimately put the interests of the developers ahead of the welfare of the local residents.
- The IAA's interpretation of the antiquities laws, which has received the stamp of approval from the High Court of Justice, gives it complete authority to conduct excavations in the heart of Jerusalem, and to expose, dismantle, or rebury antiquities, in cooperation with a private political organization, **without any significant external oversight**. The IAA serves simultaneously in both a regulatory and executive role.
- The IAA, with all the means at its disposal, essentially acts **as a sub-contractor for the landowners and developers** (the El'ad Association) at the Givati Parking Lot site, putting archaeological research at the site at risk of being compromised by the developers' decisions or subordinated to their plans.
- Despite the knowledge that the Kedem Center will be built on unique remains of ancient Jerusalem, **a conservation policy for the site has not been laid out** and no conservation plan has been put forward in preparation for construction. The IAA maintains that a conservation policy will be established only at the licensing stage, after the excavations have been completed and the after the plan has been approved by the planning committees.
- In order to reach remains associated with Jewish history, **entire archaeological strata were dismantled**, including a Muslim (and possibly Jewish) cemetery that was removed without being appropriately documented.
- A flaw in the business model of the IAA means that its excavations in the Givati Parking Lot are funded by a politically and financially powerful agent (a fact that could lead it to a conflict of interest with its role as a regulator responsible for protecting antiquities). As it happens, the same developer is largely funded by the state. **Thus public funds are used to advance the political agenda of a private association.**
- The scope of funding for the Givati project rose moderately over the years, but following a series of decisions regarding national heritage sites and with the installation of the second Netanyahu government, **a leap in the level of government funding** injected

a sum of 27 million NIS into archaeological operations in the years 2011-2013. Most of this funding went to the El'ad Association from the Ministry of Industry and Commerce and the Ministry of Science, through the IAA.

- The events and decisions taken regarding Givati join those taken in the Southern Wall (The Davidson Center) and Western Wall areas, and amount to the complete **surrender of control over scientific and tourist activity in Jerusalem's historic basin to religious entities** with a clear agenda. For the government and the settlers, archaeology has become a political tool of the highest order.

The documents we have obtained indicate a very limited circle of decision-makers. Apart from a handful of external consultations, decisions pertaining to the Givati site and the Kedem Center (one of the most sensitive locations in Jerusalem, bordering the Temple Mount) were taken in meetings attended by the late Director-General of the Israel Antiquities Authority (henceforth, the Director) Shuka Dorfman; the archaeologists of the Jerusalem region Jon Seligman and Yuval Baruch; and representatives for the developers, David Be'eri, director-general of the El'ad Association, and Dvir Kahana, manager of the City of David site. A secondary role was played by Doron Ben-Ami who has led the excavations at the Givati Parking Lot; Ra'anana Kislev, director of conservation at the IAA; and representatives from the National Parks Authority, Ze'ev Margalit and Evyatar Cohen (formerly the director of the City of David for the El'ad Association).



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Chapter 1: From Opposition to Partnership: The Israel Antiquities Authority makes a Complete Policy U-turn Regarding Construction in Ancient Jerusalem

Archaeology as a limited and nonrenewable resource

Jerusalem lives on its past. Without the past, few would visit the city, its sites would not be considered holy, and the Jewish State would have been founded elsewhere. The past is both Jerusalem's blessing and its burden.

The Israel Antiquities Authority (IAA) was established in 1990, replacing the Ministry of Education's Department of Antiquities, its mission being to protect and preserve the country's historical treasures including those of Jerusalem. These assets are a limited, nonrenewable resource. Decades of intensive development have led to the destruction of hundreds of sites in the greater Jerusalem area, including large portions of the ancient core – the historic basin that includes the Old City and the ancient mound on the southeast ridge (the 'City of David'). One of the main responsibilities of the IAA is to protect Jerusalem's remaining archaeological resources.

About a century ago, scholars began to recognize the importance of the southeast ridge of ancient Jerusalem. In those days, which predated British rule in the area and modern antiquities legislation, there were many restrictions on archaeological research. Excavation was contingent on reaching an agreement with land-owners, compensating them for the loss of agricultural yields, and the restoration of the site to its previous state once the excavation was complete. In this context, the initiative of Baron Edmond de Rothschild to purchase most of the eastern slope of ancient Jerusalem from its Silwani landowners, and to designate it as an archaeological preserve for the excavation of the "City of David," was bold and far-sighted. This resource has indeed served many archaeologists, from 1913 to the present day, as a prime excavation venue. Various other plots on the hill were reserved for excavation through acquisition, expropriation or leasing. With time, however, the space reserved for future archaeological excavation gradually diminished due to, on the one hand, the expansion of the village of Silwan westward into Wadi Hilweh, and, on the other, the continuous archaeological activity itself. This is the basis for the IAA's clearly articulated policy against new construction – private and public - in the vicinity of the ancient site and for absolute conservation of the existing remains, including excavated sites and open space reserved for future research and public presentation.

1990-1998: The Israel Antiquities Authority Establishes the Principle of No Construction at the City of David Site

The most significant challenge to the IAA's policy was not mounted by the residents of Wadi Hilweh, but by the government of Israel, the El'ad Association, and the Ministry of Housing and Construction headed by Ariel Sharon. These three bodies proposed the construction of 200 housing units on top of the City of David excavations in the area purchased many years before by the Baron de Rothschild. In a letter sent in December 1997 (Document 1) from the legal advisor to the IAA, Yoram Bar-Sela, to the Attorney General, Elyakim Rubinstein, the situation was described thus:

“For several years an NGO called El'ad (an acronym for “To the City of David), whose goal is to increase Jewish settlement in the City of David, has been active in the area. **In 1992 El'ad initiated a zoning plan** according to which no less than 200 housing units would be built on state land within the City of David, in an area slated for archaeological preservation, part of which is a public national park. **There is no doubt that if this plan were to be implemented, the future of the City of David as a site of national and international importance and as a national archaeological park open to everyone would be destroyed,** and there would have been no possibility of preserving the city's past in a manner befitting to the eternal capital of the people of Israel.

In keeping with its role, and in accordance with the law, the IAA categorically opposed the said construction plan, and in the end, after countless efforts in the legal and public spheres, the plan was not approved and was taken off the agenda.”

But the El'ad Association did not give up, and continued to acquire land, build, and simultaneously lobby various government ministries. As a result, the responsibility of managing the national park in the City of David was handed over to the El'ad Association. The IAA, which on the one hand was deeply involved in excavating with the El'ad Association at the “Spring House” (Beit Hama'ayan) above the Gihon spring/Umm el Daraj*, and on the other was subject to public and professional pressure to prevent the El'ad Association from taking control of the City of David antiquities, expressed its unequivocal position in the following words (from Bar-Sela's 1997 letter to the Attorney General):

“In the last few years the El'ad Association has been directly responsible for criminal damage to antiquities and illegal construction as a result of which the IAA has had to call in the police [...] Persons associated with El'ad have

* For more information about the excavations at the “Spring House” (Beit Hama'ayan), see updates on our website and the publication titled “Remaking the City” (2013).

interfered and prevented the IAA from carrying out its legal duties.

Over the past few months, rumor has it that [the Israel Lands Authority] allocated state land in the City of David to the El'ad Association for safeguarding. It is possible that underlying this is the hidden intention to allow the association to initiate zoning plans for the City of David.

The idea of “handing over for safeguarding” to a private association whose actions in the recent past have been more than questionable when it comes to obeying the law is **particularly outrageous considering how extremely sensitive the City of David site is.”**

Bar-Sela described the principled position of the IAA as follows: “The Antiquities Authority’s unequivocal position is that it is vital to preserve the City of David, and no construction whatsoever should be conducted within its limits. Only archaeological excavations and conservation or reconstruction work should be undertaken in the City of David.”

Bar-Sela’s letter was written as part of an attempt, supported by the archaeological community as a whole, to preempt the transfer of the City of David national park to the El’ad Association. Following a petition on the matter to the High Court of Justice in 1998, the Israel Lands Authority withdrew its plan to hand over the area to the El’ad Association, and at the end of 2000, the site was placed under the auspices of the Nature and Parks Authority. However in practice, after a short while, the Nature and Parks Authority signed a contract with the El’ad Association, de facto authorizing it to manage and operate the site.

vital to preserve the City of David, and no construction whatsoever should be conducted within its limits.

2001-2003: The First Move at the Givati Parking Lot: Abandoning the Principle of ‘No Construction’

Up until 2002, archaeological activity in the City of David focused on the excavations led by Ronny Reich and Eli Shukron in the area of the Gihon Spring/Umm el-Daraj. At the same time, the role of El’ad as the de facto manager of the national park in the City of David became more formalized. Changes were also underway at the IAA: the hard-nosed Director of the Authority, Amir Drori, was replaced by Shuka Dorfman (who passed away during the writing of this report). The security situation at the time was

volatile, characterized by terror attacks and an economic recession, which contributed to the decline of archeological activity and tourism in Jerusalem.

Against this background, we first encounter El'ad's new plan to build on the antiquities of the City of David, this time in the area of the 4000 square meter "Givati Parking Lot". In the 1970s the Jerusalem Municipality built a public parking lot to serve residents and visitors to Silwan and the Western Wall. The area was expropriated from its owners by the Jerusalem Municipality for this purpose and a Town Planning Scheme (TPS No. 2422) which designated the area as a public parking lot was approved. In 2002, however, part of the area was registered in the name of the Ma'ale Beit David Company (a subsidiary of the El'ad Association). Later, in 2007, other sections were transferred to the El'ad Association.

The Givati excavation area is located at the northwestern edge of the mound and borders on, or partly overlaps with, several previous excavations conducted from British Mandate times to the time at which the lot was leveled for parking. Those excavations made it clear that the site contains significant archaeological layers and well-preserved structures from various periods.

One can trace the turning point in the IAA's position on construction in the City of David in general, and in the Givati Parking Lot in particular, to two meetings: In the first, which took place on June 7th 2001 (Document 2), representatives of the Nature and Parks Authority presented an ambitious plan for developing the City of David which was an "attempt to clearly articulate and define the ideas of many good people, chief among them David Be'eri (David'le), Yehuda Mali and Dvir Kahana [from the El'ad Association]"¹. The plan for a "multi-story parking lot and an additional entrance point to the City of David and the Western Wall" was met with doubt and disapproval by representatives of the IAA: "This plan will plunge the project into a complex conservation process, excavations, and a need for the kind of funding which we do not have". This attitude persisted in an internal meeting within the IAA (Document 3), in which all those present expressed dissatisfaction with the relationship with El'ad. About a year later, in the next documented meeting on [insert month and year] (Document 4), this time also attended by representatives of the Nature and Parks Authority and El'ad, the tone changed completely:

"Shuka Dorfman stressed that the Antiquities Authority is conducting a dialogue with the El'ad Association. The Antiquities Authority will hold an internal discussion about the construction plan [...]"

1 City of David (Jerusalem Walls) National Park, City of David Program, Israel Nature and Parks Authority, 2001, p. 4

David Bèeri: **‘For the most part, the building will serve as a parking lot but, in addition, there will be shops and a functions hall. I would like as a first step to excavate the whole area in order to embark on planning.’**”

On August 12, 2002 (Document 5), Dorfman presented to the IAA the site and the ideas of the El’ad Association and of architect Moshe Safdie for building at the site, including a parking lot and “a combination of shops and a functions hall,” to several archaeologists from Bar Ilan University. Although during that same meeting one of the planners noted that the plan is “based on the assumption that the archaeology discovered will not be important,” archaeologists David Adan, Hanan Eshel and apparently also Dan Bahat stated that they expected findings of “great archaeological importance”. That meeting was summarized by Director-General Dorfman in the following way:

“A. In the event that unique artifacts should be discovered, construction will not be allowed.

B. The archaeological finds will be integrated into the building.

C. The building will be integrated into the urban landscape, [...] general salvage excavations in the entire area of the parking lot” are to be conducted.

This summary is worthy of attention: At first glance it seems the IAA? does not grant permission to build, as it says: “In the event that unique artifacts should be discovered, construction will not be possible,” however immediately afterwards the opposite is said: “The finds will be integrated into the building”. Is this a contradiction? It all depends, apparently, on how one interprets the notion of “unique finds”. What are “unique finds”? If these are finds that are one-of-a-kind, then this is the case with most of the finds from Jerusalem excavations: each site and its own unique finds. If, however, the finds are “something of extreme importance” then we are left with a definition so broad that it can include everything or nothing at all. For this reason, we ought to give more weight to points B and C which speak about a building that will indeed be constructed at the site. What emerges from the Director’s statements, then, is that **unless an unprecedented find is discovered at the site, a building will indeed be constructed.**

The immediate import appears to be that the Director had already made up his mind, deciding to change the IAA policy which hitherto categorically opposed any construction at the City of David. This assumption seems even more plausible considering the statement that “general salvage excavations” should be undertaken at the site. As will be explained below, the Director’s authority to conduct salvage excavations is derived from his authority to approve changes at antiquities sites (such as reburial, dismantling or construction). Therefore, **the very act of defining an excavation as a “salvage excavation” assumes that construction will take place at the site.** The Director’s recommendation

to conduct overall salvage excavations echoed the position of the head of the El'ad Association, David Be'eri, that "he would like as a first step to excavate the whole area in order to embark on planning."

It is interesting to note that according to the documents, the change of policy at the IAA initiated by Director-General Dorfman did not, at first, trickle down to operational levels, as we find that on March 12th 2003 (Document 6) regional archaeologist Jon Seligman wrote in a comment on a request to revise a Town Planning Scheme to enable the construction of a private home:

"I would like to make it clear that the procedure which you are proposing [...] is not acceptable to us and contradicts the Antiquities Authority policy which opposes granting permits for constructing buildings on tels in general, and in the City of David in particular".

Another testimony to the change of attitude by Director-General Dorfman emerges from a discussion held in 2005 (Document 7), about a (Jewish) construction plan in another section of the City of David. While the archaeologists at the Antiquities Authority expressed their objection to the plan as presented and asked to limit its scope—"this constitutes a breach of policy that prohibits construction on the mound and prohibits housing extensions in the City of David [...]—we must insist on reducing the scope of construction and damage to the ruins. If these demands are met, the Antiquities Authority will support the plan". Director-General Dorfman says in his conclusion:

"The Authority's policy regarding construction on archaeological mounds and building in the City of David does not contradict the need to deal with each case individually [...] the Antiquities Authority will not oppose the plan though it will require that other options be explored."

contradicts the Antiquities Authority policy which opposes granting permits for constructing buildings on tels in general, and in the City of David in particular

2005-2006: The Antiquities Authority Supports a New Town Planning Scheme (TPS)

In the years 2002-3, a deep trench (defined by the IAA as a “sample salvage trial excavation”) was sunk to a depth of 15 meters in the south west corner of the Givati Parking Lot. The excavations exposed five layers of settlement, some of them quite substantial. All the layers, apart from the most ancient, were dismantled and removed by the IAA. Even if the Authority did not plan in advance to dismantle and destroy layers, it transpired that the depth of excavation corresponded to that required by the El’ad Association’s building plan. At the same time, the developers and planners went to work on revising the TPS so that they could build in the pit. Changing the TPS was a necessary step since the area was recognized as a national park, is located at the heart of a multi-layered antiquities site, and is only 20 meters away from the Old City walls. The planning laws do not allow for construction under such circumstances. For such a change to gain the approval that would enable construction, the developers needed the IAA’s permission.

During 2004-2005, discussions took place between the IAA and the developers about the wording of the archaeological stipulations that would accompany the proposed TPS. It is important to note that throughout these discussions, the construction of some kind of facility (be it a parking lot, commercial shopping center or functions hall) was presented as given. The discussion revolved around who would be responsible for conservation of the antiquities under the proposed building and for displaying these remains in the basement. Integrated in these discussions (Documents 8, 9) are a draft and a final wording of the stipulations added by the IAA to the plan (TPS No. 9030) prepared by architect Moshe Safdie. These stipulations refer to a future point when a building permit will be sought, after the plan will have been approved. The stipulations require a full excavation and conservation in accordance with the Director’s decision. The main point appears in the first line of the final document:

“The Israel Antiquities Authority will be prepared to allow the deposit of the plan.”

The IAA approval and stipulations for the plan did not satisfy the developers and they began lobbying for changes, as apparent from a discussion in January 2005 (Document 7), in which the Director, Shuka Dorfman says that the “developer is not willing to accept the [IAA’s] stipulations for the Givati Parking Lot. Uri Shetrit [the city engineer] convened a meeting today together with the developer and represented the developer’s position”. The disagreements persisted and seemed to result in a temporary freeze on excavations at the Givati Parking Lot. A document from the Jerusalem Municipality (Document 10), which contains a summary of the meeting with City Engineer Uri Shetrit, records his request to “create an evaluation whose sole purpose is to advance the plan”. This rare document from a source outside the IAA testifies to the kinds of pressures placed by

various interested parties in order to influence the IAA's professional conduct.

The disagreement regarding the management and preservation of the antiquities continued and in April 2005 (Document 11), during a consultation between the heads of the El'ad Association and the IAA, the Director concluded that the "responsibility for maintaining the site after the construction of the parking lot is completed" will be decided "before construction begins". By postponing the problem to a later date, the last obstacle to IAA's support for El'ad's construction plan was removed.

the IAA approved the plan that was deposited with the local committee; this was confirmed by the Director: "The Israel Antiquities Authority supports the plan.

In June 2005 the Jerusalem Municipality's local planning committee approved TPS No. 9030 for deposit. Initially the IAA responded with a letter (Document 12) to the chairman of the local planning committee in which it made it clear that so long as the IAA has not agreed to the plan, the approval by the planning committee would not be valid. However, after a while, in a summary from a meeting on October 5th 2006 (Document 13), Regional Archaeologist Jon Seligman stated that **the IAA approved the plan that was deposited with the local committee**; this was confirmed by the Director: **"The Israel Antiquities Authority supports the plan."**

By this point, in late 2005 or early 2006, the first phase in a total policy overhaul by the IAA regarding constructing on top of antiquities in the City of David was complete. The next stage in this transformation in which both organizations – El'ad and the IAA – began to work in partnership (a far cry from what was described in the letter from the legal advisor for the IAA, Yoram Bar-Sela, to the attorney general from 1997) begins with a response to the High Court petition by the residents of Wadi Hilweh and the Peace Now movement (High Court petition No. 9253/08) against the excavation and construction in the Givati Parking Lot in late 2008, and reaches its peak with the advancement of a new plan called "Kedem Center" at the site of the parking lot.

2007-2008 Givati petition to the High Court of Justice

“As the Antiquities Authority explained, conducting the excavation was the condition that would enable the Antiquities Authority to formulate its position to the landowner’s request to change the TPS.”

Once the disagreements regarding the TPS were resolved, the path was cleared to continue the “general salvage excavation,” which has been underway since 2007. It is, no doubt, one of the most prolonged and intensive excavations that has ever taken place in Jerusalem. The depth and extent of excavation has necessitated the construction of a concrete pylon casing around the entire excavation area. In a preparatory meeting (Document 14), one of the archeologists explained that “the frame would have to be anchored in the rock in order to support the buildings,” and the Director concluded the discussion saying “there is a need to create a line of concrete pylons” along the boundaries of the excavation. Such a structure contradicts the concept of an archeological cross-section, which provides a visual record of the layers of settlement removed during excavation.

The nature of the building due to be built there was, at this point, still uncertain: Was it to be a new parking lot? A commercial tourist center? Or would it be as Dvir Kahana (then an employee of El’ad and today director general of the office for Jerusalem and Diaspora Affairs headed by Naftali Bennet) said: “a museum ...with 400 parking spaces and another 8000 meters for other uses” (Document 15)?

The IAA’s consent to designate the lot for construction placed it in a bind: on the one hand, in order to enable construction the IAA had to demand the completion of the archaeological dig, on the other hand, because the lot was slated for construction, the IAA was forced to excavate the whole area to a great depth, and in so doing subordinate the archeological considerations to the ultimate goal of constructing a building. **Had this been a purely scientific excavation, without the need to accommodate a construction plan, the scope of the excavation could have been modest; parts of the excavation could have been reburied, and there would have been no need for the massive support walls.**

It is interesting to examine the IAA’s response to the High Court petition by the residents of Wadi Hilweh and Peace Now, in light of its recognition that a building would likely be constructed at the site and that therefore concrete support walls would be needed. In demanding to cease excavation the petitioners claimed that the excavation was conducted for the purpose of building at the site and that construction had not been approved as required. The petitioners also argued that without an approved construction plan, salvage excavations should not be permitted, but rather a licensed excavation with

purely scientific goals.

In its response, the El'ad Association denied the excavation was conducted for the purpose of construction and claimed this was indeed a scientific excavation. The IAA, for its part, responded that there was an intent to build on the site, but concealed the fact that a building plan had already been drawn up and had received its support.

The following appears in Section 7 of the IAA's response:

“The owners of the property [...] wished to build in the area belonging to them a building of some sort. For this purpose they initiated a TPS which would allow them to develop the property and build there. The IAA objected to the advancement of any TPS without first conducting a full archaeological excavation of the entire property. Only after all the finds in the area are revealed and discovered will the IAA be in a position to decide whether or not it agrees to construction and under what conditions. After some discussion [...] the developers accepted the IAA's position” (Document 16).

In a ruling from 17.9.2009 (Document 17) Judge Edna Arbel based her decision on the IAA's response saying that:

“As the Antiquities Authority explained, conducting the excavation was the condition that would enable the Antiquities Authority to formulate its position to the landowner's request to change the TPS.”

It is now clear that this was not in fact the case: the IAA had approved the change in the TPS prior to the discussion at the High Court, and regardless of the outcome of the excavation.

2009-2013: “We all have the same aspirations” – from consent in principle to partnership in planning

In late 2008, while the petition at the High Court of Justice was still pending, the plan for the “Kedem Center” drafted by architect Arie Rahamimov was first presented. For some reason unknown to us, work on TPS 9030 by Moshe Safdie was stopped and replaced by Rahamimov's TPS No. 13452. According to the construction plan presented to the public, this plan replaced the parking lot designed by Safdie with a massive, 7-floor, 16.000 m² building. Mainly, this plan was designed to combine a tourist entrance structure with an administrative and teaching facility. It included commercial areas totaling 400 m² and an administrative area of similar size; no less than 20 audiovisual screening rooms (2000m²), another 2000m² planned for teaching, showers, baggage storage (1000 personal lockers, according to one of the planners) etc. The fate of the antiquities remained unspecified.

At first, Antiquities Authority archaeologists expressed reservations about the plan, and even dismay: “a dramatic change from what we decided,” said Jon Seligman. “We are talking about a building with the attributes of a shopping mall,” echoed Yuval Baruch. El’ad, on the other hand, claimed that the building is no larger than the plan which had already been approved (Document 18). A month later, the new plan seemed less objectionable and in an internal meeting on January 26th 2009 (Document 19), Yuval Baruch set the tone of the discussion:

“We have to be honest with ourselves, since we have been in this project for several years, and there is no doubt that a building will be constructed in this place.”

In conclusion to this discussion, Director-General Dorfman put things even more explicitly:

“We are creating a modern architectural layer [...] Shazar Puni [the conservation architect] is responsible for meeting with Arie Rahamimov, in order to improve the architectural aspects.”

Who are “we”? Can we say that at this point that the IAA and El’ad have become full partners in the promotion of a building plan? We note that we do not have documents that can explain how the Authority changed its position from consent to a parking lot (which is ostensibly vital to the operation of the site, and can be considered an acceptable “price” when weighed against the “gain” of an excavation), to consent in principle, though with certain stipulations, to the construction of an enormous building atop the antiquities.

In any case, the next phase in the partnership between the IAA and the El’ad Association required the deposition of a new TPS, instead of the one submitted by Safdie, and towards the end of 2009 another meeting took place in which an amended plan for a slightly smaller Kedem Center building was presented. The plan received the blessing of IAA Director-General Dorfman who stated “the direction is a positive one and it can be approved subject to stipulations which would be integrated in the TPS,” and that “the El’ad Association is responsible for handing over the plan after amendments have been introduced for review by the IAA, so that it can give its blessing ahead of depositing the TPS” (Document 20). In light of the continuous work on building plans, it is surprising that the important question – perhaps the one most important and central to the IAA, the conservation of the archaeological finds – was relegated to the margins of the discussion (a detailed explanation about the conservation process is outlined in Chapter 3).

Following the automatic approval of the plan in the local committee (Document 21) it was sent to the regional committee where it met an obstacle in the form of the following demand:

“A condition for depositing the plan will be the completion of the conservation file, and the integration of its recommendations on conservation.”

At first glance this appears to be a marginal clause, but it becomes a central condition when talking about a building slated to be constructed on top of an archaeological site, especially when the central claim of the planners and the planning committees approving the plan is that it is intended to serve archaeology. The significance of the request is that before excavation is complete and a conservation file and plans have been drawn up, the planning process will not advance. This could seriously stall the process and perhaps even jeopardize the whole venture.

For this reason, Yonatan Tzahor, an architect from the El'ad Association, approached the IAA's Regional Archaeologist Dr. Yuval Baruch, with an urgent request for help:

“See the response of Ilana [Rudshevsky, from the planning office] regarding completing a documentation file for the Givati Parking Lot/Kedem Center for deposition (and not for a construction permit) – she and Dalit [Zilber, regional planner] are insisting on this. There is an urgent need to clarify their mistake” (Document 22).

The regional archaeologist indeed comes to their rescue. In a letter written by Dr. Yuval Baruch to the regional planner he asks to make a comment for the protocol:

“As far as I remember this was not my position [...] and if it was then it was an unintentional mistake. In order to clarify I would like to note again that the IAA approval for a construction permit will require the preparation of a detailed conservation plan [...] this does not constitute a stipulation appended to the plan itself (document 23).

In other words: the IAA approves the building, waives the need for a conservation file and strategy at the planning stage, and makes do with a demand that construction details be tailored to the needs of conservation at the permit stage, once the building as such has been approved and all that remains is to draw up a detailed plan for the basement.

In other words: the IAA approves the building, waives the need for a conservation file and strategy at the planning stage

However, the obstacle did not go away. The regional planning office insisted that the conservation file would be a condition for the deposit of the plan. In her response to El'ad architect Tzahor, architect Ilana Rudshevsky of the planning office rejected the position of the IAA and the developers, stipulating that the conservation file is necessary

for tendering the plan:

“Our demand is to present the file and to integrate its recommendations into the plan for deposit, so that it is available along with the deposit documents for public review. This is the committee’s decision and this is how it has always been in such cases. We are not talking about a misunderstanding of recommendations by Yuval Baruch” (Document 24).

This demand for a detailed conservation plan, as part of the TPS, would seem reasonable to an impartial observer who perceives the area as an antiquities site and the building as one that is intended to serve the antiquities site (as stated by the developers). However the IAA and El’ad wanted to move forward and this demand stood in their way. It would mean that first they would have to complete all the excavations, and only then hold discussions over the principles of conservation and public display. This could delay the completion of the building plan and the submission of a new TPS for many more years, not to mention delay the construction process itself. In order to “fix” this problem, El’ad and the IAA embarked on a dual process: on the one hand they would begin a more detailed discussion of the principles of conservation, on the other hand they would persuade the regional committee that it is possible to approve the deposit of the plan by depositing a “documentation file” (a collection of plans and description of the archaeological findings uncovered to date) without appending a conservation plan or affording the public the chance to weigh in about the future of the building and the antiquities revealed there.

Several meetings attended by representatives of the El’ad Association, the Israel Antiquities Authority and the Nature and Parks Authority were dedicated to this issue, and as David Be’eri, the founder and director general of the El’ad Association said: “We all share the same aspirations” (Document 25). In the end, added to the protocol of the meeting from 8.2.2013 (Document 26, 27) was a list of regulations which the IAA included as an addendum to its approval for depositing the plan. Among the stipulations included in the regulations were the following clauses:

“7. With the completion of the excavation at the site, the Antiquities Authority will prepare a detailed conservation plan [...]

8. A detailed conservation plan will be a precondition to granting a construction permit at the site.

11. The IAA is not under an obligation to approve construction on the site or in any part of it even after the archaeological excavations are completed.

12. In addition, and without prejudice to all the above, the following instructions are applicable:

A. A construction permit will be granted only after the salvage excavations or conservation and rehabilitation are completed [...]

- B. No preliminary construction permit will be granted prior to completion of all the necessary steps.
- C. Permission to build will be granted in parallel with development works and conservation of antiquities [...]"

It's hard to be persuaded by these stipulations. Some of them, and Section 11 in particular, are taken from standard formulas relating to salvage excavations. In reference to the Givati excavations these are empty words: there is no doubt that the "salvage excavations" in the area were undertaken in the first place because of an intention to build on the land. Moreover, it is to be assumed that the excavation would not have been conducted on such a large scale and at such significant cost were the developer not convinced that the construction of the building is assured. Therefore, it is important to pay attention to the details in these clauses: while construction is consented to in principle by the IAA, it seeks to guarantee that conservation will not be postponed to a future unknown date. The overall plan – the one outlined in the TPS – is approved in principle by the Antiquities Authority, whereas actual construction is subject to progress in the conservation process. Yet in the meantime, the remains slated for conservation are disappearing, as we shall see in Chapter 3 of this report.



XX

Chapter 2: Antiquities Laws, the Givati High Court Petition, and the IAA's Conflict of Interests

“A salvage excavation is an archaeological excavation at an antiquities site which has been damaged in the process of development or which is at risk of being damaged from such activity... it is the last resort for salvaging data in an ancient site, and salvaging the site itself.”

–IAA website – Salvage excavations, Yuval Baruch

From the legal perspective, two issues relating to the Givati excavation are worthy of attention. One concerns the designation of excavations in relation to the antiquities laws and the IAA procedures. The second is the IAA's claims in the Givati High Court petition case in late 2008. The two issues shed light on a structural problem within the antiquities law, a law which allows for a conflict of interests in the actions of an authority that is responsible for excavation, oversight, and conservation, while being largely funded by property developers and the tourism business. This problem is present in many excavations, and is particularly acute in the City of David.

What is a “salvage excavation”?

The Antiquities Law offers the state two important tools for managing the finite resources of antiquities in the country: the authority to license excavations in a process that includes consulting a public body (the Archaeological Council) (Antiquities Law 9), and the authority to approve changes in existing antiquities sites, in order to enable the release of land reserves which contain antiquities for the purposes of building, paving roads, etc. (Antiquities Law 29a). It is important to note that the legislator's intentions were clear: on the one hand, to prevent excavations on the part of unauthorized parties, and on the other hand, to take into account the need for development.

Today, when requesting an excavation license, the excavator is obliged to present to the IAA evidence of institutional support, scientific justification, financial feasibility, and a general research plan. S/he must also put aside a certain sum of money for protecting the site between excavation periods. The request is then examined by the Archaeological Council's Licensing Committee composed, in the main, of scientists from academic institutions and representatives of the IAA. In the Givati High Court petition (High Court Case 9253/08, 12), the court states that when the IAA carries out a salvage excavation without a licensing process it is acting according to 29a. This kind of excavation is called a “salvage excavation” and the IAA has the “right” to conduct it according to the

Antiquities Authority Law. The significance of conducting it according to 29a, which talks about “releasing” antiquities, is that it is clear to the Director of the IAA that the site is designated for development and will not retain its current status as an antiquities site. In such a case the excavation is not the goal but the means by which the IAA’s Director can determine the fate of the site. Apart from a few cases, salvage excavations (numbering on average 300 a year) conclude with the IAA’s consent to undertake construction at the antiquities site. Only in rare occasions will the developer be obliged to change the building plan following an excavation.

In general, the IAA refrains from conducting salvage excavations on tels (multi-layered sites) so as not to intentionally destroy highly important sites. In this, a salvage excavation is fundamentally different from a “standard” excavation” – where the objective is educational or scientific—and requires an excavation license from the Archaeological Council. A “salvage excavation” is therefore only one stage in transforming an antiquities site into one that is slated for re-designation. **The Givati? excavation is a method used to expose, dismantle and systematically destroy all or part of an antiquities site, in order to allow the Director to approve development at the site, alterations to it, or backfilling of the remains.** As IAA Director-General Dorfman put it: “We will not allow the destruction [of antiquities] until the finds from the excavation are revealed” (Document 13).

when Director-General Dorfman concluded the first documented meeting on the Givati Parking Lot (Document 5) by saying that a “general salvage excavation would take place in the whole area of the parking lot,” it was clear to all those familiar with the administrative and legal language that construction would indeed take place at the site

This interpretation corresponds to the actual situation where the IAA never initiates excavations for research purposes only, but only excavations at the initiative of an external party. Therefore, when Director-General Dorfman concluded the first documented meeting on the Givati Parking Lot (Document 5) by saying that a “general salvage excavation would take place in the whole area of the parking lot,” it was clear to all those familiar with the administrative and legal language that construction would indeed take place at the site (otherwise, there would be no justification for embarking on a salvage dig), **a position which contradicted the IAA’s declared policy prohibiting construction on tels.**

The mere initiation of a salvage dig indicates consent in principle to some form of construction and development, since the institution of the excavation ‘permit’ (as opposed to the excavation license) is based on an interpretation of the section of the Antiquities Law that relates to changes at an antiquities site (i.e. destruction, reburial, etc.) The permit is derived from the exclusive authority possessed by the Director to decide on such a change, whereas he does not have the exclusive right to grant an excavation license (see the interpretation given to the Givati High Court petition ruling, below).

The stipulation mentioned by IAA Director-General Dorfman, according to which construction at the site will not be allowed if “unique antiquities” are discovered, was apparently never put to the test. We are not familiar with any definition of the term “unique antiquities,” and we have not found in any of the discussions any documentation indicating a possibility that construction would not be allowed at the site in the event that even the most important discoveries would be made. We did find a slight hint of such a possibility in the fact that a roundtable was convened in the IAA to discuss the designation of a structure from the Second Temple period as the “palace of the Queen Helena of Adiabene” (Document 28), during which it was decided to desist from further publicizing the discovery.

Our assumption that the consent to a salvage excavation is tantamount to conceding construction, gains further credence in light of the IAA’s consent to support the TPS prepared by architect Moshe Safdie (TPS No. 9030). The documents recording this consent are missing from the papers obtained by Emek Shaveh, but it is mentioned in two places, once in Document 13 citing Jon Seligman (“The IAA approved the plan [Safdie’s] presented to the local committee”) and Dorfman (“The Antiquities Authority supports the plan”); and once more by a representative of the El’ad Association (Document 29) confirming that such consent had indeed been granted.

The High Court process

As far as we can tell, Bar-Sela did not mention the fact that the IAA had in fact supported the advancement of the TPS already in 2006, regardless of the outcome of the excavation

In light of all this, the IAA’s position as it was presented to the High Court of Justice hearing of the Givati case (Document 16) from year 20xx? is quite surprising. In Paragraph 7 of his response to the petition, legal advisor Bar-Sela says this:

The owners of the property [...] wished to build on their plot a building of some sort. For this purpose they initiated a TPS which would allow them to

develop the property and build there. The IAA objected to the advancement of any TPS without first conducting a full archaeological excavation of the entire property. Only after all the finds in the area are revealed and discovered will the IAA be in a position to decide whether or not it agrees to construction and under what conditions. After some discussion [...] the developers accepted the IAA's position.”

As far as we can tell, Bar-Sela did not mention the fact that the IAA had in fact supported the advancement of the TPS already in 2006, regardless of the outcome of the excavation (which resumed only in 2007). Completing the excavation was merely a condition for allowing construction, after the building plan had already been approved.

Further along in the document Bar-Sela states that:

“It might appear as if this is a salvage excavation that has been undertaken in the context of the developers' intention to build on the site, or more accurately their intention of advancing a TPS for the site, whereas in fact this is a scientific excavation in its own right [...] Any salvage excavation is conducted like any other scientific excavation.”

This argument blurs the distinction between **scientific means**, which characterize any professional archaeological dig, and **scientific goals**, which characterize only research excavations, and not salvage excavations initiated through a contractual agreement with an external party. “Exposing everything there is to uncover” is not a scientific objective, it is an administrative-technical objective. A scientific objective is derived from the existence of an overall research program, which is absent in contractual salvage excavations (we will expand on this below). We must note that Judge Arbel wrote in her ruling from 17.9.2009 (Document 17) that:

“My impression is that all the parties [...] did not do what was necessary and expected from them in order to aid the court in its work”. (Section 22)

In these circumstances, Judge Arbel could not know about the partnership of the IAA in TPS No. 9030, which explains why she could repeat Bar-Sela's claim (Section 14) that “the Israel Antiquities Authority explained that it objected to any change in the plan governing the plot so long as an archaeological excavation of the property has not been carried out”. In her words: **“Only once all the finds in the site are revealed will it be able to determine whether it agrees to the planned construction and under what conditions”**. And later on (section 21a) again: **“As has been explained by the Antiquities Authority, carrying out the excavation was a necessary condition for the Antiquities Authority to determine its position regarding the landowner's request to change the TPS which applies to their plot.”**

As far as the High Court was concerned, an approval for any kind of building had yet to be given and the future of the lot – whether for conservation or construction – would only be decided once the excavations were completed and the finds assessed. This assumption persuaded the High Court that there was no conflict of interest between the IAA's role as an authority which protects the antiquities on the one hand, and its reliance on external parties to initiate excavations of its own:

“Against this background [linking the TPS to the results of the excavation] a salvage excavation was begun on the lot. It seems then, in this case, that as this is a salvage excavation carried out because the landowner wished to change the scheme which applies to their plot, it is the landowners who are, to a large extent, dependent on the Antiquities Authority and its position regarding their request to change the scheme. In such a situation, any concern that pressures would be exerted on the Antiquities Authority diminishes” (Document 17, Section 14).

Why did the IAA refrain from presenting to the High Court the fact that it had already agreed to revise the TPS in 2006? What was the reason it concealed its contribution to El'ad's building venture? Based on the importance that the judges of the High Court attributed to the scientific aspect of the excavation project and its future outcomes, one may surmise that the IAA realized that if the High Court were to realize that the excavation at Givati was the result of its prior consent to construction, and that it, as the regulator charged with protecting the State's antiquities, had agreed initially to partner with developers in a venture that could endanger antiquities, then the court would take pains to discover the true nature of the relationship between the IAA and the developers. It is often the case that the High Court offers governmental actors the benefit of the doubt, insofar as proper conduct, upholding the law and the common good are concerned. A situation where a government authority of any kind enters into a financial and ideological partnership with a party ostensibly under its oversight could, in the eyes of the High Court, constitute a conflict of interest.

Chapter 3: The Fate of the Antiquities in the Givati Parking Lot – Value-Based and Scientific Considerations

The excavations at the Givati Parking Lot revealed remains, some of them quite well preserved, from several periods, beginning with the Iron Age (the period of the Judean Kings) and ending with the Islamic period (7th-11th centuries CE). Some of the structural remains were dismantled during the excavation, while others were left at the site. Who made the decisions about what should be dismantled and what should be preserved? What were the criteria which guided these decisions? Did the needs of the planned construction inform decisions regarding the scope of the excavation, its methods, pace and objectives? And, in general, what do we know about the conservation policy for the Givati Parking Lot excavations? Was it subject to a proper process of professional consultation? And what about public consultation? Can we confirm the claim by representatives of the Nature and Parks Authority and the IAA that the Kedem Center is to serve as an “entry point” to the City of David National Park, and a kind of open museum displaying the antiquities of the site itself? In other words, is the building intended to serve the finds from the excavation rather than the other way around? In this chapter we will try to answer these questions and more.

What is conservation?

Sub-surface antiquities sites are usually in a state of equilibrium because most of the damage and erosion occurs during the initial centuries after the site is abandoned, after which the pace of change slows down considerably. For this reason, the best way to preserve an archaeological site is to leave it alone. Once archaeological finds are exposed to air and sunlight, the process of degradation is renewed. Conservation is the attempt to slow down the inevitable decay. Sometimes, the most effective way to preserve antiquities is to backfill and rebury the site. However, when the goal is to integrate remains into a modern setting for educational or aesthetic reasons, a more complex strategy of conservation is required, one which highlights the elements designated for display in a manner that is conducive to imagining the ruins as they were in the past. Highlighting some of the remains will always be at the expense of others, which is why the act of conservation is always shaped by values: what do we wish to preserve? What will be dismantled to make this possible? How do we tell the story of the ruins? How do we illustrate the relationship between the different ruins?

The destruction and dismantling of antiquities at the Givati Parking Lot

“We will not approve destruction until the finds of the excavation are revealed.”
(Shuka Dorfman, Document 13)

Unfortunately, in salvage excavations, the dismantling of structures and layers is subject to the needs of the developer. A large, deep pit requires that extensive dismantling be carried out speedily. Time pressures and other constraints lead to the destruction of antiquities either without documenting them first, or with inadequate documentation. In practice, the excavation at the Givati Parking Lot comprises a huge foundation pit. According to the plan for the Kedem Center, some of the finds will be preserved and integrated into the basement level of the building (Dvir Kahana: “As a developer I prefer greater depth and a rich archaeological level”; Document 30). From this we understand that according to the plan, anything that will be found above the basement level is destined to be dismantled.

Moreover, as far as we know – since the area of the parking lot was divided into quarters, and each was excavated from the surface to bedrock - many local decisions were taken to dismantle remains. That is, decisions to dismantle finds in the first quarter excavated were taken without any knowledge of the finds from the neighboring quarters. Decisions in the second quarter were derived from decisions already taken in the first quarter, without knowledge of future finds in the third quarter, and so on. Limited but significant information regarding these decisions exists in the documents that were obtained by Emek Shaveh. These documents reveal instances of **the destruction of antiquities, a hastily dismantled cemetery and other structures, and pressure by the developers to reach the earliest layers, representing the Jewish past.**

Undocumented destruction of antiquities was caused as a result of the engineering requirement to reinforce the interior of the excavation pit by constructing a concrete casing composed of joined pylons (Document 15). The pylons were made by pouring concrete into shafts bored from the surface down to bedrock. **One can assume that these boreholes destroyed any archaeological artifact in their way**, while the pylons created a concrete wall approximately one meter thick, which intervenes between the excavated structures and the remains beyond the edges of the pit and conceals the excavation balk (sidewall), with its cross-section of excavated archaeological layers. The destruction caused by the concrete pylons did not escape the attention of representatives of the IAA, and in meetings they expressed reservations about the idea:

“The solution of using pylons is not suited to the present stage of the excavations. The excavation should be continued before we can approve the use of pylons” (Gideon Avni, Document 14).

“It has an effect on the finds located on the margins, therefore I recommend consulting a wider forum. The wall of pylons will entail destruction in a large area...I request that we hear some alternatives, so that we can formulate our response” (Jon Seligman, Document 15).

We do not know whether a further consultation took place or if additional recommendations were made. In the end, posts were used at the site.

One case of a **summary dismantling of an archaeological layer** took place in February 2008 when a cemetery, probably from the 11th century CE, was removed from the excavation site. As it appears, IAA management did not know about the existence or size of the cemetery until May of that year at which time Yuval Baruch reported “about 100 boxes” of human bones which had been collected at the site (Document 31). The excavator, Doron Ben-Ami added details:

“In February [...] a scattering of human bones was discovered in a significant portion of the site. The bones were discovered within a soil layer of the Medieval and Mamluk periods [...] in total, fragments of bones from a number of individuals were discovered, it is not possible to assess their exact number but it runs to several dozen (in my opinion alone which is not based on a knowledge of physical anthropology).”

The rest of the sections of that same cemetery were apparently discovered in 2013, as we can conclude from a report by Ben-Ami from 6.5.2013 (Document 32):

”Jewish graves were found in the area, and I believe we will find graves in the section we have begun to excavate now.”

These reports are found only in internal minutes, and are completely absent from the documentation files and the public reports of the excavation, meaning that the discoveries have been kept from the public and the scientific community.

”Jewish graves were found in the area, and I believe we will find graves in the section we have begun to excavate now.”

This constitutes a serious breach of good archaeological practice, especially in view of the paucity of archaeological evidence concerning Jerusalem’s population in the Fatimid or Mamluk periods and the possibility of investigating an ethnically mixed, Muslim and Jewish, population. According to the excavator and the regional archaeologist quoted

above, the graves and the bones were summarily removed, without the appropriate documentation and in the absence of a physical anthropologist, as required in a proper excavation. One may assume that the developer understood the scientific and public implications of excavating in an ancient cemetery (the excavation may have been put on hold for an unknown period of time).

Many Islamic period remains, including a residential area that features houses and a street, were dismantled and removed from the excavation site. We have concluded this from an analysis of a sequence of finds discovered in the various quarters of the excavation, all of which reached the Roman period or earlier (thus requiring the dismantling of the later strata above them), and from the minutes of a meeting in 2007 (Document 33) when it was decided that:

“(1) The Byzantine layer (the cistern) will be dismantled all the way down to its lowest course.

(2) The areas will be linked [referring to excavation areas from 2003 and 2007], **the purpose, at this stage, is to expose the layer from Second Temple times** [...]

(3) Upon completion of the excavation of the Second Temple layer, another meeting will be held to discuss the continuation of the excavation before it is dismantled (if it is dismantled).”

In a planning meeting with the El'ad Association, an end date for excavating the “Roman layer” was set (El'ad summary page, Document 34) and pressure was exerted to dig even deeper to Biblical strata (“we would like to display finds from the First Temple period,” says Evyatar Cohen of the Nature and Parks Authority; Document 35). In this context, the summary of the meeting of May 6th 2013 (Document 32) is most instructive:

Shuka Dorfman: “I would like to know how we **move forward with the dismantling process**...so that the excavation will be completed within nine months.”

Doron Ben-Ami: “From the standpoint of the excavation, no significant remains from the Biblical periods have been uncovered yet.”

Shuka Dorfman: “What makes you think that they will be discovered?”

Doron Ben-Ami: “Because we already found remains from the Biblical period.”

Yuval Baruch: “**There are remains which are no longer on-site**, but will still be displayed and therefore, the Roman period can be displayed in a different way.”

Even towards the final stages of the excavation, in the years 2012-2013, the dismantling and destruction of archaeological remains (euphemistically termed “removal of finds”) continued, as is apparent from summaries of discussions which took place in June 2012

(Document 36), August 2012 (Document 34), and March 2013 (Document 37).

We can gain insight into the impact of the planned structure on the antiquities and the doubts surrounding the ability to preserve and protect them from a discussion which took place in May 2013 (Document 32), when the building plan (TPS No. 13542 prepared by the architect Rahamimov) had already been approved for deposit by the local and regional committees:

Shuka Dorfman: How many parking spaces have already been planned for the Givati Parking Lot?”

Yuval Baruch: In my estimation, about 260.”

Ra’anan Kislev (director of the conservation department at the IAA): “According to an up-to date plan, the parking lot is planned to run under the road at the northeastern corner of the building. At the moment, there is no relation between the new building and the archaeology and there is no dialogue between the new construction and the archaeological remains.”

Shuka Dorfman: “What impact does the archaeology have on the volume?”

Yuval Baruch: “According to the submitted TPS, the bottom floor is the archaeological level.”

The documents paint the following picture: the structures surviving to date at the site for future conservation constitute only a part – perhaps even a minority – of the total number of structures discovered there. Moreover, the fate of these structures in the plan remains unknown, as we show below.

All talk but no work on conservation

From the start, conservation is showcased in the rhetoric used by the IAA in relation to construction at the Givati Parking Lot, as when Director Shuka Dorfman says that

“A. In the event that unique artifacts should be discovered, construction will not be possible.

B. The archaeological finds will be integrated into the building.

C. The building will be integrated into the urban landscape” (Document 5).

We have already explained how, according to the documents we have obtained, no discussions took place concerning the definition of the antiquities discovered in the excavations. Now it appears that conservation of the surviving remains was never a priority. The theme of conservation – or lack of it – is present in many of the documents in our possession. Repeatedly, the picture that emerges is that clear principles for

conservation have never been formulated, and that actual conservation of prominent structures (“in-excavation conservation”) was used to a very limited extent. Considering that conservation was presented to the regional planning and building committee as one of the central reasons for building the Kedem Center, the absence of conservation plans is surprising. On the other hand, conservation in a “salvage excavation” is not commonplace, since ordinarily such an excavation ends with the “release” of the plot for construction.

Conservation – by whom?

From the beginning of the process the IAA made it clear that once construction is completed, it will not be responsible for the antiquities and their conservation: “this matter will be taken care of by El’ad and the East Jerusalem Development Company ...” (Jon Seligman, Document 38). And so it was determined in an agreement between the IAA and El’ad over TPS No. 9030 (Document 11), which includes the stipulation that:

“Conservation of the antiquities and maintaining it as an area open to the public will be a condition without which it will not be allowed to carry out any form of construction at the site” (Document 9).

However, throughout the process, we have no documentation for any kind of preliminary work by the developers for preserving the antiquities at the site. On the 19th of September 2012, about half a year **after** approval for the deposit of the plan for the Kedem Center, discussions were still taking place within the IAA over conservation principles (Document 39):

Ra’anan Kislev (director of the conservation department at the IAA): “The El’ad Association has yet to approve the commissioning of a survey and planning for conservation. There is a need for creating a mechanism to carry out documentation, surveying and conservation as is the practice in sites of such importance.”

Ben-Ami: “There is no site this large, where conservation work is not carried out on a regular basis. During the excavation at the Givati Parking Lot, conservation work was carried out only for a few days. Our demands for conservation were not met by El’ad.”

Ra’anan Kislev: “A decision must be made about who determines the values of the site.”

Shuka Dorfman (in conclusion): “Decisions must be made immediately regarding what shall be removed and what should remain in place, and in accordance there is a need to establish a policy and rules with the objective of delineating the different periods.”

In November 2012 (Document 40) Ra'anan Kislev notes once again that El'ad is opposed to conservation work at Givati "until decisions are made". Ra'anan Kislev repeats this in 2013: "There is no description of the link between the new building and the archaeology" (Document 37). "At the moment, there is no relation between the new building and the archaeology and there is no dialogue between the new construction and the archaeological remains" (Document 32). And Yuval Baruch confirms: "We have not yet touched on the valuation of the finds in the excavation" (Document 37).

"There is no site this large, where conservation work is not carried out on a regular basis. During the excavation at the Givati Parking Lot, conservation work was carried out only for a few days."

What is being preserved?

As we explained above, the request to conduct "in-excavation conservation" is unusual for a salvage excavation, and it appears that the developers were in no hurry to respond. Repeated requests by the director of conservation at the IAA were met with rejection, with the claim that only once a decision will be made as to what will be preserved, will there be a point in commencing conservation (Document 39). Of course, this was convenient from the developers' point of view: clearly their interest is to attain as large a volume of construction as possible (Dvir Kahana, Document 20: "today the uncertainty is great and we do not yet know what will be exposed, what will be preserved and what will be destroyed. A large volume should be approved...it is important to give expression to our period [the Kedem Center] as well"), and "in-excavation conservation" could create facts on the ground that would be difficult to change in the future (it is much easier to decide to "remove" a destroyed and crumbling wall than to decide to dismantle a wall that has been conserved and renovated).

The IAA did not speak with a single voice: On the one hand, the director of the conservation department and the excavator at the site protested the absence of in-excavation conservation (Document 36, see also Document 41). On the other hand, it was said, "it would be a shame to stabilize ruins that will later be dismantled" (Shahar Puni, Document 42). The following exchange (Document 43) clearly demonstrates the dilemma and the developers' objectives:

Shuka Dorfman: "When can we make decisions regarding what will be removed and what will be preserved?"

Doron Ben-Ami: "When we arrive at the relevant layers we can form decisions about what is to be removed and what preserved."

David Be'eri: "Can we think about the possibility of the Roman structure being suspended in the air, for example?"

So too in the discussion of the final roster of structures slated for conservation, the archaeologists' approach is clearly different from that of the developers:

Shuka Dorfman (in summary): "We must develop it in such a way that all the periods are appropriately represented; Doron Ben-Ami should determine when it is time to take decisions regarding removals (Document 36).

Evyatar Cohen (Nature and Parks Authority): "Our preference is to display First Temple period remains."

Doron Ben-Ami: "[We should preserve Helena's palace and the Roman structure]...It is already possible to determine what we can display and what we can dismantle (Document 35)."

Z'ev Margalit (Nature and Parks Authority): "The Nature and Parks Authority agrees with the position of the Antiquities Authority that each one of the periods should be adequately represented either through conservation and presentation or by way of simulation."

David Be'eri: It is necessary to present as much evidence linked to Biblical periods as possible" (Document 26).

Shuka Dorfman: "From now on a decision regarding removal of findings at the excavation will be made only by the director [of the IAA?; i.e. himself?] and not by Doron Ben-Ami" (Document 37).

The statement by the representative from the Nature and Parks Authority that it has been agreed that some of the periods will be displayed at the site through "simulation," gives a green light to extensive dismantling of structures, for example the late Roman "Courtyard Building," a unique structure rich in finds, which has been a highlight of the Givati Parking Lot excavations. If the Roman structure is "simulated" (or suspended in the air, as David Be'eri suggested), it will be possible to excavate beneath it, expose earlier periods, and thus expand the volume of the building.

Conservation – for whom?

The Givati Parking Lot is not located on Mars. It is in the middle of historic Jerusalem, at a distance of about one-hundred meters from the Al Aqsa Mosque and the Western Wall. It is surrounded by the Palestinian neighborhood of Wad Hilweh which numbers about 5000 residents, located within Silwan, a poor East Jerusalem neighborhood with close to 40,000 residents. The archaeological remains in the Givati Parking Lot constitute a multicultural heritage. They have the potential to contribute to the collective memory

and identity of Muslims, Christians and Jews in Wadi Hilweh, in Jerusalem, in Israel and around the world. The archaeological finds beneath the parking lot contribute chapters to the history of Jerusalem under the rule of Rome and Byzantium, the Caliphates of Damascus and Baghdad, and the Kings of Judea.

The values associated with archaeological conservation are expressed in principles that guide the IAA:

The following obligations are mentioned there:

- Respect for the existence of different, often contradictory values at a given site.
- Respect for the contribution of every period to history and equal treatment of each period.
- Encouragement for continuity of traditional functions of sites.
- Faithful presentation of history.
- Encouragement of participation of communities with a particular cultural, spiritual or social bond to a site.

The website of the conservation department within the IAA refers to a series of UNESCO conventions on the subject of excavations (http://www.international.icomos.org/charters/arch_e.pdf) and heritage preservation (http://www.international.icomos.org/charters/interpretation_e.pdf), from which we learn that these are recognized by the IAA as binding documents. All the principles and documents mentioned above emphasize that when it comes to archaeological heritage there are many stakeholders, however in almost every process of conservation and display there is an obligation, first and foremost, to serve the communities who live near the remains. This is explained in the Quebec Charter of the International Council for on Monuments and Sites (ICOMOS), ratified by the general assembly (including the Israeli representative) in 2008:

“The objectives of this Charter are to:

1. Facilitate understanding and appreciation of cultural heritage sites and foster public awareness and engagement in the need for their protection and conservation.
2. Communicate the meaning of cultural heritage sites to a range of audiences through careful, documented recognition of significance, through accepted scientific and scholarly methods as well as from living cultural traditions.
3. Safeguard the tangible and intangible values of cultural heritage sites in their natural and cultural settings and social contexts.
4. Respect the authenticity of cultural heritage sites, by communicating the significance of their historic fabric and cultural values and protecting them from the adverse impact of intrusive interpretive infrastructure, visitor

pressure, inaccurate or inappropriate interpretation.

5. Contribute to the sustainable conservation of cultural heritage sites, through promoting public understanding of, and participation in, ongoing conservation efforts, ensuring long-term maintenance of the interpretive infrastructure and regular review of its interpretive contents.

6. Encourage inclusiveness in the interpretation of cultural heritage sites, by facilitating the involvement of stakeholders and associated communities in the development and implementation of interpretive programmes.”

Judging by the documents we obtained from the IAA, the main parties involved in decisions relating to archaeological conservation at the Givati Parking Lot are the IAA and the developers. **Only two documents** out of dozens which deal with the Kedem Center relate to other stakeholders.

The first is a letter by Jon Seligman written in response to the Givati High Court petition (Document 44), which was adapted slightly to serve as a response to a letter of protest by the residents of Silwan, in January 2009 (Document 45). In this document, reference is made to the demand by the residents to be considered stakeholders in the Givati excavations (emphasis added):

“The letter [from the residents of Silwan] refers to the ethical requirement to consult with the human environment. It makes selective use of a quote and demonstrates a misunderstanding of the ICOMOS charters. **These charters do not refer to the inclusion of the public in an urban setting such as that of the Givati Parking Lot, but to archaeology in the environment of ‘indigenous peoples’.** This usually means ‘native’ residents such as the Indians in North America, the Maori in New Zealand and the Aboriginal peoples in Australia. This does not apply to our case since the owner of the land is the developer and the funder of the archaeological excavations on the plot which he owns. Therefore, the Antiquities Authority supplied the landowner with all the necessary information for understanding the built cultural heritage in the excavation area, has publicized information about the excavation in the media and also on the Israel Antiquities Authority’s website.”

These charters... means ‘native’ residents such as the Indians in North America, the Maori in New Zealand and the Aboriginal peoples in Australia.

This document, which was not, to our knowledge, circulated outside the IAA, attests to several fundamental concepts: first of all, the local residents who must be taken into consideration can only be those who are identified as “natives,” in the manner conceived by the colonial powers of the 19th century. From this we can understand that the Palestinian residents of Wadi Hilweh are not natives, whether because, in Seligman’s opinion, the Israeli presence is not colonial in nature, or because the Palestinians are not really indigenous (as supporters of the El’ad Association have often argued). According to this letter, the power to define the residents of Silwan is not given to the residents themselves but to an official of an Israeli authority, who apparently has no regard for their opinion.

The second part of the quoted statement is no less revealing: the presence of “private” landowners renders the site a bubble detached from its environment, and as such does away with the need to inform, consult, or coordinate with the people who live next door to the excavation. Moreover, the obligation to report the finds applies only with regard to the owner. This tells us that the rights of ownership are sanctified and upheld over any other consideration, a factor which clearly highlights the apparent conflict of interests that the IAA finds itself in: their obligation to the developer is greater than their obligation to the local residents and the wider public.

The subordination of the state to a private developer is demonstrated once again in the response by the Nature and Parks Authority to a request by the residents of Silwan to be allowed to visit the excavations (Document 46): “One should remember that sites located on a privately owned plot require consent by the owners, regardless of the fact that it is in a national park or the like.”

If this is the case, then in the future Kedem Center it will be permissible to limit visitation to the site according to the owners’ considerations, and the Kedem Center will primarily promote the owners’ private interests.

The conduct of the IAA and the Nature and Parks Authority clearly reflects the position of the El’ad Association (Document 15), according to which “the Ben David Company represents the commercial aspect of the project while the El’ad Association represents its public goals”. When project entrepreneurs are considered to be representatives of the public interest, then clearly the IAA’s progressive principles of conservation become irrelevant.

Who's the boss at the Givati Parking Lot?

The formal relations between the two organizations, the IAA and the El'ad Association, were clarified in a statement made by the Director of the Authority Shuka Dorfman, in reference to excavations conducted between the existing visitors' center and the Givati Parking Lot (Document 42).

“The following is the chain of project management: The El'ad Association [...], the Moriya Company **and the Israel Antiquities Authority as a sub-contractor carrying out the archaeological excavations.**”

This hierarchy, which places the developer at the top of the pyramid, the IAA as an excavation contractor, and the director of excavations as an employee of the IAA who is subordinate to the chain of command within the IAA as well as to the developer, is glaringly evident in Givati Parking Lot documents and underlines the main difference between a research excavation and a contractual salvage excavation. In a contractual salvage excavation, the developer attempts to influence many aspects of the excavation:

- **Schedule of excavations:** The excavations at the Givati Parking Lot have been carried out continuously since 2007, throughout the year. When a recommendation was made to suspend the excavations in the winter in order to process and study its results, the developer David Be'eri said “**We should take advantage of winter as a low season for tourism and expedite the pace of excavation**” (Document 47). And this is indeed what happened.
- **The pace of excavations:** In July 2012 (Document 41), Director-General Dorfman stated that “David Be'eri intends to complete the excavations within a year”. Doron Ben-Ami, the archaeologist heading the dig, objected: “This is an unrealistic statement. Continuing the excavation demands conservation, even prior to a decision regarding what will or what won't be exhibited [...] We have to gather more information; at this stage it is too early to make decisions about what will be preserved, and what not, what will be displayed and what not”. A month later, David Be'eri stated that from the point of view of the El'ad Association, work can be conducted in two shifts in order to expedite the pace, and Doron Ben-Ami responded: “We can complete the salvage excavation within a year” (Document 44).
- **Excavation methodology:** In an El'ad memorandum (Document 34), there is a reference to the digging of a tunnel close to the Western Wall as a “**horizontal + vertical excavation**”. And on the 25.11.2012 (Document 35) David Be'eri requested to “make progress on excavating the ancient remains including exploring the possibility of a physical underground link between Givati and the Ophel”. Be'eri's recommendations are not merely wishful thinking: as we will show in detail in a report based on the “Spring House” and Siloam Pool excavation documents, “horizontal excavation” means excavating in tunnels, a method which was most recently used in the archaeology of

ancient Jerusalem during the Turkish period and which characterizes projects conducted by El'ad in the City of David. This is poor archaeological practice, which requires massive investment in building steel and concrete supports and endangers both the nearby ancient remains and the modern buildings.²

- **Managing the excavation team (laborers):** According to the latest agreement between the IAA and El'ad, “[A representative of the association] will serve as a foreman and the human resources manager at the excavation, and will be responsible for [recruiting], work absences, leave taking [...] placement of workers in the various excavation sites in the City of David and more. **It should be made clear that the Antiquities Authority team will not deal with these issues** and will not intervene in the association's decisions in all things related to these matters” (Document 48).

In light of these work relations, the content of the tense email exchanges between the head of excavations and the director of the department for development and public relations at the El'ad Association (Document 49) is not surprising:

El'ad rep: **I don't understand why work has been stopped for the three days between Yom Kippur and Sukkot. Don't you understand the urgency of completing the works??** Is there something that I am missing here??

Archaeologist: “Although I don't owe you any explanations, I will tell you that I decided that those three days would not be work days when we discovered that most of the workers will not show up to work. As you know it is not possible to convey the soil out with so few workers so that the efficacy of those days would have been close to zero...”

El'ad rep: “You don't owe me any explanations? Even your bosses from the Antiquities Authority did not know about this holiday...**what kind of tone is that 'I do not owe you any explanations'??!!** Is this the line that you're taking with the El'ad Association? I'd like to understand...**There's no reason to celebrate 6 years of excavation. A few years too many – years during which those 'you don't owe explanations to' are running around to make sure you get paid!**”

I don't understand why work has been stopped for the three days between Yom Kippur and Sukkot. Don't you understand the urgency of completing the works??

2 For an explanation about why excavating horizontally is problematic see: Y Mizrahi, “Underground Jerusalem: The excavation of tunnels, chambers and underground spaces in the Holy Basin,” Emek Shaveh, 2011.

So, the cat is out of the bag! In the next chapter we will explore this statement in depth, and try to understand who is leeching on to whom in Givati Parking Lot and historical Jerusalem.

“...There’s no reason to celebrate 6 years of excavation. A few years too many – years during which those ‘you don’t owe explanations to’ are running around to make sure you get paid!”

Chapter 4: Money and Politics: Funding the Givati Excavations

Almost from its inception, the bulk of the IAA budget comes from contract work – salvage excavations and conservation projects. The scope of these rises from year to year, while government funding remains slim; as result, many of the positions at the IAA are linked to specific projects. Currently, Finance Ministry allocations come to only a quarter of the IAA's budget; any significant decrease in contracts (particularly in salvage excavations) could result in massive layoffs. For example, the IAA budget for 2012 was 185 million NIS, of which 132 million came from archaeological projects. During that year the IAA conducted almost 300 excavations, many of which were limited in scope, with five-figure budgets.

Against this background, a project the size of the Givati Parking Lot is extremely important for the IAA. Based on documented estimates, the eight excavation seasons in the Givati parking Lot comprised 2000 excavation days over 12 years, a nearly incomprehensible number as excavations go. For comparison's sake, an average number of excavation days in an academic research excavation is 20-30 work days per year. Therefore, 2000 days are equivalent to 65-100 academic excavation seasons. Yigael Yadin's excavations in Masada comprised about 350 work days. Even if we assume that Yadin had a much larger team at his disposal, the Givati dig surpasses Masada. It is, therefore, a tremendous operation which employs not only the excavators and their managers, but many other professionals who process the excavation findings.

The cost of the excavation

The exact cost of the excavation at Givati is not known to us. Emek Shaveh possesses estimates prepared by the IAA before each stage of the excavation (18 four-month estimates, as well as several other estimates from the first years). Apart from 2012-2013, the estimates do not include the salaries for excavation workers, but only for the professional team, and total about 10 million NIS. In order to assess the real cost of the excavation we will assume that there were an average of 30 workers per day over 2000 work days, and with an estimate of 250 shekels per day per worker we arrive at an additional sum of 15 million NIS over eight excavation seasons (the number of laborers is reported sporadically, ranging from 12-100). We are therefore talking about a project whose average cost for the developer over the years is a little over 3 million NIS per year. However, we must remember that this is only one of several projects in which the IAA and El'ad are working together, so that in the years 2012-2013 the scope of El'ad's commitments to archaeological projects in Jerusalem reached sums totaling up to 10% of the archaeological projects conducted by the Antiquities Authority per year.

Ostensibly, this could be viewed as a huge success for the IAA, recruiting a private

organization to serve public interest. However we have already seen that the reverse is true: it looks more like a private association has enlisted a public institution to serve its economic-ideological mission. This is because in the final analysis, the El'ad Association receives a plot that has been "released" for construction and tourist development, whereas the IAA is left with the obligation to process and publish the excavation-activities which most probably will continue many years after El'ad will have ceased payments. According to the Antiquities Law, the possessor of the excavation license, that is the IAA, is responsible for processing the finds from the Givati excavations and publishing scientific reports. So long as excavations continue in the City of David, the El'ad Association funds several positions for archaeologists, artifact processing and pottery reconstruction staff, draftsmen and other professionals in various areas. But this is a short-term gain, as the process of processing and publishing is bound to continue for many years (unremitted?).

And the El'ad Association – Is It Their Own Money?

There is evidence to suggest that El'ad receives a substantial amount of public funding. As the association is not required by the registrar of non-profit organizations to report its sources of income we can only report those which we know about, and continue to investigate those which it conceals from the public eye.

The Givati Parking Lot excavations were funded from the beginning, in 2002, by a public establishment – the East Jerusalem Development Company (a government-owned company), as emerges from a series of estimates and exchanges (Documents 50, 51, 52, 53, 54, 55). In these estimates the developer, the East Jerusalem Development Company, is classified as "governmental."

From 2007 to the end of 2011 estimates were prepared for a developer identified as El'ad, however, the IAA's classification for that developer remained "governmental" (Documents 56, 57). We do not know the source of the money paid by the El'ad Association during these years for the Givati excavations – approximately 15 million NIS, according to the estimate made above (including the cost of laborers). However, classifying the developer as "governmental," which indicates a form of accounting used in contracts with organizations such as the Public Works Department, the Electric Company or the municipality, requires an explanation (according the High Court case "Kfar Shemaryahu," when the developer is a governmental organization, it bears the onus of payments, whereas private developers are invoiced at a lower rate). It is possible that the IAA knew that the funding for the excavations in those years did not come out of the association's private funds, but consisted of public funding, which is why it classified the association as "governmental". In any case we do not possess documents that can corroborate this assumption.

During 2011, the El'ad Association stopped direct payment for excavation workers. At the same time, sums of money were transferred to the IAA to cover costs of the excavation as a whole – the professional team and hired workers. In the debit-credit accounts from the end of 2011 to the end of 2013, we find continuously growing sums – **approximately 2.5 million NIS at the end of 2011, approximately 8 million NIS in 2012, and 16 million in 2013**, sums which were intended to cover mainly the cost of laborers on all the El'ad projects, including the Givati Parking Lot. The information in our possession for 2014 includes money transfers until the 18th of February. In this short period, less than two months, El'ad was charged and credited with a sum of about 8 million NIS. The transfers are from government offices – the Ministry of Industry and Commerce, Ministry of Science, and an additional unknown source. In addition we know that in 2012 the pace of work at Givati was significantly expedited (Document 43) and therefore we must assume that a major part of these sums were in fact invested in this excavation. This means that the overall costs of the Givati excavations are larger than assumed – perhaps around 30 million NIS over 12 years of excavations (8 seasons). Now we know for certain that a large portion of this was funded by public money – the Company for the Development of East Jerusalem and various government ministries.³

3 We do not possess information regarding the source of the payments made in 2007-2010 and which portion of that funding for the excavations during that period came from government ministries

Money transfers to El'ad's debit/credit account at the Antiquities Authority from Government Ministries and other external sources – 2011-2013

Money transfers from the Ministry of Industry and Commerce

Date	Details	Sum (NIS?)
01/01/2012	El'ad debts	1,025,000.00
28/07/2013	Channel transfer from Ministry of Industry and Commerce	567,884.00
08/09/2013	Channel transfer from Ministry of Industry and Commerce	828,504.85
14/10/2013	Channel transfer from Ministry of Industry and Commerce	21,037.91
14/10/2013	Channel transfer from Ministry of Industry and Commerce	611,442.35
14/11/2013	Transfer from Ministry of Industry and Commerce	4,911.47
14/11/2013	Channel transfer to El'ad	2,386.00
20/11/2013	Channel transfer to El'ad	26,349.70
20/11/2013	Channel transfer to El'ad	100,000.00
20/11/2013	Channel transfer to El'ad	245,839.13
20/11/2013	Channel transfer to El'ad	500,000.00
20/11/2013	Channel transfer to El'ad	759,315.59
20/11/2013	Channel transfer to El'ad	765,692.04
25/11/2013	Channel transfer to El'ad	522,860.70
05/12/2013	Channel transfer from Ministry of Industry and Commerce	750,097.41
11/12/2013	Transfer from Ministry of Industry and Commerce – excavations	615,222.92
	Total from the Ministry of Industry and Commerce	7,346,544.07

Transfers from the ministry of Science

Date	Details	Sum (NIS)
31/12/2011	Ministry of Science to El'ad	2,500,000.00
14/11/2013	Ministry of Science to El'ad	5,000,000.00
30/12/2013	For Ir David 20	4,000,000.00
	Total from Ministry of Science	11,500,000.00

Transfers from and unknown source

Date	Details	Sum (NIS)
01/01/2012	El'ad debts	1,025,000.00
12/11/2012	Covering El'ad debts	1,000,000.00
12/11/2012	Covering El'ad debts	2,003,773.00
18/12/2012	Payment to City of David	3,500,000.00
	Total from unknown source	7,528,773.00

Total transfers to El'ad's account 26,375,317.07

* The details of the office transferring the money do not always appear in the accounts ledger. Yet it is still possible to identify a large part of the transfers using the details of the "contra account" which appears in every line of the accounts ledger, as long as one of the lines could be clearly identified by the details column. The transfers indicated with an asterisk were identified in this way.

Indirect government funding:

El'ad's terms of payment with the IAA are usually end of month plus 60 days, in other words the Antiquities Authority gives El'ad credit for two months (despite the fact that in the estimates it is explicitly stated that El'ad is obligated to make a down payment before work begins). If the ledger is viewed according to date of payment, it becomes clear that in addition to these convenient terms of payment, El'ad is often behind in making payments and at times falls into arrears, sometimes with sums totaling over a million or two million NIS. This situation is manifested in statements by the IAA treasurer, Beni Harpaz, who at one point (Document 58) declared that "the El'ad Association owes us about 4 million NIS for archaeological excavations". This debt constitutes a very generous credit by a governmental body to a private association.

El'ad is often behind in making payments and at times falls into arrears, sometimes with sums totaling over a million or two million NIS

Money, privatization, and influence

What can we learn from the money route in the Givati project? The El'ad Association receives public funding. This funding comes from the government, passes through the association where it is colored by its agenda, and returns, in part, to the government through the IAA, which has become a sub-contractor for excavations. Channeling the money through the association turns transparent public funds into “private” funds, and their use subsequently lacks sufficient public oversight. For the IAA, which craves projects because of its limited statutory budget, the El'ad Association constitutes a dependable source of funding, with resources that include tourism, generous donors, and open channels to people in government.

Conclusion

This report has focused on a test case – the construction of the Kedem Center on the antiquities of the City of David – and sheds light on the processes that take place within governmental organizations once they partner with non-governmental organizations with a strong economic and political support base. This report, which is based on internal IAA documents, demonstrates how a government agency is at risk of capitulating to political conditions and extraneous considerations, making a complete policy U-turn and in the process abandoning basic professional principles.

During the planning of the Kedem Center, to which it was a partner, the IAA changed its declared policy and abdicated its responsibility to protect cultural remains, in favor of a politically and professionally controversial partnership in the construction of a building on an antiquities site. This partnership granted and continues to grant the IAA political and financial rewards which take the shape of government funding for big budget projects.

From the scientific perspective, the IAA has taken a subordinate role in a highly important archaeological site – perhaps the most important site it has been responsible for in the past few years. As a sub-contractor for the developers, it should have defended the interests of science at all costs against dictates arising from the developer's ideological priorities. The degree to which the IAA has defended the site should be a matter of urgent discussion, since the IAA has already dismantled archaeological layers, concealed findings and structures, and generally succumbed to pressures which risk determining and redefining fundamental research values. During this process it seems as though the employees of the IAA internalized the developer's priorities in their search for the finds associated with the Jewish past in an historically multicultural site. It would seem as though this process of internalization has found its way even into the language of the documents, where "removal" replaces "dismantling," tunnels are termed "horizontal excavation," and destructive interventions around the excavation are defined as "dealing with engineering issues."

From the public perspective, the IAA is seen in all its indifference, not only towards the Palestinians of Wadi Hilweh, but also towards the archaeological community. The IAA takes upon itself full responsibility for determining the future of the built heritage in ancient Jerusalem, while excluding most of the academic community, belittling the Archaeological Council's influence, and avoiding any discussion about the exposure, preservation, and display of this heritage. The documents reveal an extremely centralized organization: the Director, through a secondary clause in the antiquities law, grants himself the authority to shape terrestrial Jerusalem, without adequate scientific or public oversight.

The history of the excavation in the Givati Parking Lot is a test case for a larger phenomenon, showing how the treasures of Jerusalem – a limited resource of ancient remains – have been handed over to a private association which, as far as one can conclude from its public statements and its conduct in practice, is pursuing an ideology of strengthening the Jewish hold in Palestinian neighborhoods in East Jerusalem and reviving the ancient/biblical pilgrimage to the Temple Mount. This vision is apparent at the Givati Parking Lot. Antiquities that do not contribute to it are “removed” (dismantled or destroyed) or covered by a vast building referred to “as an architectural expression of our times”. The archaeologists are busy mainly with documenting the destruction and publishing reports that only few will have the chance to read about the evidence which has disappeared. As we watch, Jerusalem is flattened. It is literally losing layers of culture and history.

The IAA, whose central responsibility is the protection of archaeological resources, enjoys the benefits of access to political and financial capital that accompanies excavation and construction in Jerusalem’s historic basin. The modus operandi in the Givati Parking Lot is not much different from that used in the Western Wall Plaza (“Beit Haliba”) and its tunnels. The partnership between the IAA and El’ad in “rebuilding Jerusalem” is swiftly shaping a city which is one-dimensional, uni-national, and eternally conflicted.



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