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## **Israel's 37th Government's Foreseen Policies for Heritage Sites in East Jerusalem and the West Bank**

### **Introduction**

Last week, Sunday, January 29th, a [government decision](#) formalized a coalition promise to Itamar Ben Gvir's party to transfer the Israel Antiquities Authority (IAA) from the Ministry of Culture to the Ministry of Heritage, headed by Jewish Power MK Amihai Eliyahu. The move is part of a strategy to consolidate heritage governance on both sides of the Green Line under the Ministry of Heritage.

After years of monitoring the process of weaponizing ancient sites in the service of the settlements in East Jerusalem and the West Bank, we are not surprised that the ultra-nationalist Jewish Power party demanded the heritage portfolio. An indication of the minister's intentions was offered in January, when Eliyahu took over from outgoing minister of Heritage and Jerusalem Affairs, Ze'ev Elkin. At the ceremony he [said](#) "Israel needs three pillars in order to stand strong: the security pillar, the economic pillar and a third pillar which is the pillar of significance." He added "The Ministry of Heritage will strengthen the third pillar. We will fortify our national resilience by encountering our heritage. We will protect the various heritage sites and devise programs to deepen Jewish identity..."

In keeping with various proposals to protect sites in the West Bank, the government also agreed last week that the minister will prepare an emergency plan for safeguarding antiquity sites in the West Bank to prevent the destruction of and theft at antiquity sites and "empower heritage infrastructure in the Judean Desert and in Judea, Samaria and the Jordan Valley". In the coalition agreement, such a plan was budgeted at NIS 150 million (over four years). In a [facebook](#) post following the decision

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Minister Amihai Eliyahu wrote: “Heritage on both sides of the Green Line will receive full protection..the pinnacle will be protection of heritage assets of the land of the bible and the eternal people.”

In addition to the Ministry of Heritage, ancient sites feature in plans put forward by the Minister for National Missions (Orit Struk) and the Minister of Public Diplomacy (Galit Distel Atbaryan) who [announced](#) her intention to launch a worldwide campaign that is based on a denial that Israel has ever conquered land and claiming that its people have simply returned to their original homeland.

These developments and others detailed below underscore the central importance of antiquity sites for Israel’s 37th government. It is the result of a process of two decades whereby ancient sites and historic monuments have been turned into one of the primary justifications for Jewish settlements and the concurrent dispossession of Palestinians from their land and heritage.

The following is an outline of the changes introduced by the 37th government to heritage governance and expected policy shifts and priorities. But first, a summary of the legal and statutory infrastructure for heritage preservation and development in Israel, East Jerusalem and the West Bank.

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## Background

### Antiquities and Heritage Governance in Israel

The authorities central to heritage governance in Israel are:

1. The Israel Antiquities Authority (IAA). Up until January 2023, the IAA was a governmental body within the Ministry of Culture and Sports. The IAA was

originally established in 1990 (in place of the Israel Department of Antiquities and Museums) under the 1989 Antiquities Authority Law to oversee the entirety of the country's antiquities, including East Jerusalem, and implement the 1978 Antiquities Law. According to the law, anything built before the year 1700 is considered an antiquity. The authority's [budget](#) comes primarily from private developers who pay the Authority to oversee their work to ensure that they do not destroy antiquities in the process. In practice this compromises professionalism and renders the IAA predisposed to economic and political considerations.

2. The Israel Nature and Parks Authority (INPA) - The role of the INPA is to regulate and manage the national parks and nature reserves in Israel. It was established following the enactment of the National Parks, Nature Reserves, National Sites and Memorial Sites Law (1998) and falls under the auspices of the Ministry of Environmental Protection.
3. The Council for the Conservation of Heritage Sites in Israel (CCHSI) - The Council for Conservation of Heritage Sites in Israel is mainly a state-funded non-profit organization established by the Society for the Protection of Nature in 1984 for the purpose of preserving sites which are not covered by Israel's antiquities law (i.e sites built after 1700).
4. The Ministry of Heritage - The ministry grew out of several programs for preservation and development of Jewish and Zionist heritage sites. Its main program was the "Heritage Plan" (established through a government decision (number 1412) in 2010 based on which the the Ministry for Heritage and Jerusalem was established five years later. The new government has split heritage and Jerusalem affairs into two different ministries (see below).

### **Antiquities and Heritage Governance in East Jerusalem**

Immediately after the 1967 War, Israel annexed approximately 70,000 dunams of land

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in the Historic Basin and outlying Palestinians villages and imposed Israeli law and jurisdiction over the area. [International law does not recognize the unilateral annexation](#), however, in a series of rulings, the High Court of Justice (HCJ) has continually upheld the position that East Jerusalem is not occupied territory. As a result, since 1967, East Jerusalem's heritage sites have been subject to Israeli domestic law and governed by national authorities such as the IAA, the INPA, the Jerusalem municipality and affiliated bodies.

The IAA is the authority which oversees excavations and site development. Over the past twenty years it has cooperated with the Elad Foundation, the settlers organization which operates the City of David Archaeological Park in the Palestinian neighborhood of Silwan, leading multiple excavations in the neighborhood. The INPA for its part has had a major role in approving, advancing and enabling tourism development within the Jerusalem Walls National park that surrounds the Old City and which includes the [City of David/Silwan and the Hinnom Valley](#).

Over the years, we have monitored the results of the tightening [cooperation](#) between the IAA and [INPA](#) and the settlers who are advancing heritage sites as a means to entrench Israeli settlements in Silwan and adjacent areas. Other bodies which play a role in the advancement of Judeo-centric tourism in Jerusalem are the Jerusalem Development Authority, the East Jerusalem Development Authority, the Western Wall Heritage Foundation, the Ministry of Jerusalem and Heritage, the Ministry of Tourism, the Prime Minister's office and the Jerusalem Municipality.

### **Antiquities and Heritage Governance in West Bank**

The West Bank is subject to Israeli military occupation and temporarily administered by the military commander, under the provisions of both international and domestic law. Following the 1967 war and the application of military rule to the West Bank, a

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Staff Officer for Archaeology (SOA) was appointed on behalf of the Israeli military to oversee all the antiquity sites in the West Bank. With the establishment of the Israeli Civil Administration (ICA) in 1981 the SOA unit was placed within the ICA.

The SOA is subject to international humanitarian law and international conventions concerning territories under a military occupation. The relevant international frameworks include article 43 from the 1907 Hague Convention which stipulates that an occupying power must uphold the system of laws in place prior to the occupation. Hence, according to international law, the relevant domestic law applicable to the West Bank is the Jordanian law (1966) in place prior to the occupation, as well as the Order Concerning the Antiquities Law (1986), and the Antiquities Regulations (1990). In addition, governance over heritage sites is also subject to the 1st Protocol of the [1954 Hague Convention](#), to which Israel is a signatory, which prohibits the removal of artifacts from the occupied territory, and which limits the range of action by the occupying power mostly to protect antiquities.<sup>[1]</sup> For these reasons the SOA unit is completely separate from the IAA and the offices of the SOA and storage facilities are located in the Occupied Territories.

The third annex to Oslo Accords' Interim Agreement which was applied to the West Bank by proclamation by the Military Commander in 1995, also [addressed archaeology](#) stipulating that in areas under Palestinian civil responsibility (Areas A and B), the authority for safeguarding antiquity sites would be transferred to the Palestinian Authority (PA), while the SOA would retain responsibility for sites in Area C. [Twelve specified sites](#), defined as important to the Israeli side in Areas A and B, required that any action at these sites would be subject to consultation by a joint committee. In practice, these sites became Israeli strongholds in Palestinian territory. According to the Oslo Accords, responsibility for ancient sites in area C were to be gradually transferred to the Palestinians as the final status negotiations progressed but

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would meanwhile be managed by the SOA. The SOA continues to be responsible for antiquity sites in Area C to the present day.

Since its establishment, the SOA staff positions have been paid for by the Ministry of Education and Culture. When these ministries split, the positions were transferred to the Ministry of Culture and Sports. This had no bearing on the fact that the SOA was subject entirely to the directives of the ICA. The SOA considers the IAA to be the primary professional authority and the employees of the SOA undertake professional training together with IAA employees.

In practice, since 1967, heritage sites in the West Bank have been utilized to justify political actions that violate international law. [Archaeology](#) was exploited to justify settlements as early as 1971 when Israel evicted and destroyed the village of [Nabi Samuel](#) which was situated on the archaeological site. This was followed a few years later by the eviction of the residents of [ancient Susya](#) when the remains of an ancient synagogue was discovered at the heart of the village. Other examples include the establishment of the settlement of Shiloh following an excavation of the site of [Tel Shiloh](#), [Sebastia](#), and [Jabel el -Fureidis](#) (Herodion), [Tel Rumeida](#) in Hebron, and most recently the increased archaeological activities at the [Hasmonite Palaces](#) on the outskirts of Jericho and [Tel Tibnah](#) in the vicinity of the village of Nebi Salah.

In the past decade, ancient sites have been given an increasingly significant role in efforts to entrench Israeli control over Area C. A joint Emek Shaveh and Yesh Din [report from 2017](#) outlines these processes including the rezoning of settlements to include heritage sites within their boundaries. Heritage development programs funded by the Ministry of Heritage and Jerusalem included sites in the [West Bank](#). A particular point of concern are [recent efforts](#) by lawmakers to expand the jurisdiction of the IAA into the West Bank at the expense of the SOA. This followed a sharp increase in

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citations of archaeology as a [justification](#) for strengthening Israeli control over Area C. In parallel [increased allocations](#) have been made towards protecting ancient sites in Area C, of which a significant portion is earmarked for tourism development. Over the past decade, settler councils and private organizations in the West Bank have replicated the model devised by the Elad Foundation for the “City of David” site in Jerusalem, investing in touristic development of archaeological sites as well as research institutions which lend “academic authority” to the claim of exclusive Jewish rights to sites in the West Bank now popularly referred to as the “land of the bible”.

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<sup>[1]</sup> Israel has not joined as a signatory to other conventions such as the [2nd protocol of 1954 Hague](#) Convention from 1999 and the [1970 Paris convention](#).

## **Changes in Heritage Governance in the 37th Government**

### **The Ministry of Heritage**

Last week’s government decision [split](#) the Ministry of Jerusalem and Heritage in two. The Minister of Heritage is now Amihai Eliyahu from Itamar Ben Gvir’s Jewish Power (Otzma Yehudit) party. The Minister of Jerusalem is Meir Porush from United Torah Judaism. According to the [coalition agreement](#), the purpose of the Ministry of Heritage “is to care for national heritage assets, engage in the exposure, conservation and reconstruction of these assets alongside entrenching Jewish and Zionist heritage.”

As mentioned earlier, under the new government, the IAA, once under the Ministry of Culture will be transferred to the Ministry of Heritage. Recent attempts to [expand the jurisdiction of the IAA into Area C](#) and now its transition to a ministry headed by a member of the ultra-right Jewish Power party signifies another step towards extreme politicization of the authority. The CCHSI, a mainly state-funded non-profit organization in Israel will also come under the auspices of the Ministry of Heritage as will support for nonprofits and public institutions engaged in heritage development.

Last year, in response to a petition by Emek Shaveh and the Arab Culture Association, the HCJ issued its stamp of approval for the Ministry of Heritage's declaration that it is [exclusively invested in Jewish heritage sites](#).

Last week's government decision also began to process clause 97 in the coalition agreement with the Jewish Power party stipulating that the government will budget a national program to the sum of NIS 150 million (over four years) aimed at safeguarding antiquity sites from destruction and theft and "empowering heritage infrastructure" in the Judean Desert and in Judea, Samaria and the Jordan Valley. The organization "Guardians of Eternity", a self appointed watchdog of archaeological sites in the West Bank and offshoot of Regavim [congratulated](#) the minister for the program and added that they had submitted to the coalition a proposal for the national emergency program for heritage sites which would "revolutionize the field of protecting heritage sites in Judea and Samaria".

Minister Eliyahu announced several other structural changes under the heading "Israel's heritage on both sides of the Green Line will receive full protection according to international standards." One change is assuming bureaucratic responsibility for the Civil Administration's SOA from the Ministry of Culture. The decision was described by the minister as part of an effort to "strengthen activities to prevent antiquity destruction in Judea and Samaria". Formally, however, this is a technical decision to transfer staff positions from one ministry to another and in practice for now, the SOA continues to operate solely under orders of the ICA. On a declarative level, however, it is clearly intended to challenge the limits imposed by international law and together with steps such as the as the transfer of the IAA from the Ministry of Culture to the Ministry of Heritage represents attempts to consolidate heritage governance on both sides of the Green Line under the authority and agenda of the Jewish Power party.

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Another cause for concern is the Minister's stated plans to take action in Area B of the West Bank where the Palestinians possess authority over antiquity sites. In November, prior to the establishment of the new government, the ICA [demolished Palestinian structures at an archaeological site in Area B](#), in violation of the Oslo Accords. In response to an article published about the incident, Minister Amihai Eliyahu [said](#) "the mistake called the Oslo Accords which resulted in the forsaking of many archaeological sites will come to an end on our watch. Every heritage site, regardless of its location, will be protected, regardless of the identity of those who do the damage."

This joins a [dubious archaeological project in Mt. Ebal](#) (Tel Burnat) in Area B by Israeli settlers and American Evangelist archaeologists who are promoting the site as Joshua's altar. Recently, the Palestinians announced a plan to build a neighborhood adjacent to the Mt Ebal site. In response the Minister said "the Palestinians are carrying out a national attack and are working to erase the Jewish heritage and identity at Mt. Ebal." Blurring the lines between Areas C and B are a central element in collapsing the Oslo Accords and this example shows once again the strategic role reserved for archaeology in this effort.

In a separate development, the Minister issued a statement last week in response to the [US's repatriation](#) of an Iron Age spoon from Khirbet el Kum to the Palestinian Authority saying he would examine the legality of the repatriation of the artifact to the Palestinian Authority.

#### **Other relevant Ministries and Appointments:**

- Another change which will no doubt have an impact on the situation at antiquity sites in the West Bank is the creation of an additional ministerial position within the Ministry of Defense to assume power over the ICA. The

position is held Bezael Smotrich from the Religious Zionist party. While the full ramifications of the appointment are not yet clear, we are deeply concerned that it will result in placing the SOA in the hands of a right-wing extremist who expressed a willingness to dismantle the ICA and promote the [de-facto annexation of the West Bank](#).

- Ministry for National Missions - According to [clause 103](#) in the coalition agreement with the Religious Zionist party, the Ministry will work through the Jewish Identity Administration to create a national program to deepen Jewish identity for a variety of populations (including university students and public servants). Part of the program calls for the establishment of centers for the study of “heritage and identity”. According to the coalition agreement the program will be funded to the amount of NIS 700 million in 2023, NIS 800 million in 2024, and NIS 950 million in 2025. Orit Struk from Religious Zionism is the Minister for National Missions.
- Ministry for Public Diplomacy - held by Likud MK Galit Distel Atbaryan. In a [radio interview](#) (Hebrew at 9.04 minutes) she explained she plans to use heritage sites to show how Israel is not an occupier in the West Bank.

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## Conclusion

In conclusion, under the 37th government, most of the bodies charged with the routine oversight and protection of antiquity sites and historic monuments are, for the first time, consolidated within one ministry. In theory this could be seen as a positive step towards streamlining the approach to heritage preservation and development. However its consolidation under the far-right Jewish Power party suggests it is intended to scale up the process of weaponizing heritage in the service of disinherit the Palestinians of their historic ties, displacing them

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from their land and advancing steps towards de facto annexation of Areas C and B. More specifically, the coalition agreements and latest statements by the Minister of Heritage, the structural changes in the government, and the growing involvement of right-wing NGOs (such as Shiloh Forum, Regavim and “Guardians of the Eternity”) in policy making, strongly indicate that we should expect to see the following:

- The initiation of an “emergency” program for the safeguarding of ancient sites associated with Jewish history in the West Bank. This plan will entail budgeting for additional resources for archaeological activity in the West Bank designated for:
  - Increased archaeological activities by SOA, the IAA and academic institutions (separately or as collaborations) in sites located in area C.
  - Accelerated development of tourism oriented infrastructure and public campaigns which encourage visits to heritage sites in Area C. Building upon Jewish sentiment, this will be used as a normalizing process for Israeli claims over ownership.
- Increase in the use of antiquity sites as the basis for employing statutory mechanisms for expropriations, demolitions and stop work orders as well as limiting land use and access by Palestinian land owners. This will entail:
  - Increase in land expropriations based on “site declarations” and re-drawing site polygons (site boundaries) that will include Palestinian development.
  - Increased SOA enforcement of punitive measures against alleged violations (mainly construction) in area C.

- Increased SOA violations of the Oslo Accords through the initiation of civilian (not security) actions in Area B and possibly even A.
- Expansion of the IAA and subordinate units into the West Bank. This is likely to focus mainly on the IAA's anti-theft unit in the West Bank. Likely results could include:
  - Increase in IAA excavations and preservation work in the West Bank.
  - Increased enforcement of punitive measures against alleged violations of antiquity theft and illegal antiquity trade. This will be intensified by settler organizations as part of a public smear campaign against Palestinian society and the PA.
- Increase in the utilization of antiquity/heritage sites as mechanisms for shaping a historic narrative that tells an exclusive Jewish story of sites while omitting or underplaying other historic narratives
- A public campaign and lobbying for weakening the SOA's authority and expanding the IAA into the West Bank, as part of a larger campaign for the dismantling of the ICA and subjugating area C to Israeli law.

It is important for us to emphasize that while we recognize that destruction, robbery and vandalization of antiquity sites is a serious problem across the Middle East and specifically in Israel and the Palestinian Territories, it cannot serve as a justification for annexation. Moreover, our long-standing position is that archaeology cannot be considered an unbiased scientific endeavor while it relies on military force for enabling it.