

## MONUMENTS OR FUNCTIONING BUILDINGS: LEGAL PROTECTION OVER FIVE CASE-STUDY HISTORIC HAMMĀMS IN THE MEDITERRANEAN

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### Abstract

*Historic hammāms are not as frequented as they used to be. They are falling into an advanced state of disrepair and are located in dilapidated historic zones. In some cases, they are associated with bad reputations and socially unacceptable behaviours. Many historic hammāms' are therefore, being demolished to make use of their land plots. The few ones that have managed to still survive and operate, witness heavy modifications that not only diminish their historic values but also their operational efficiency. They are becoming rare, and therefore require legal protection either as a heritage building or as a historic monument. This relatively new protection is usually more concerned to preserve the physical existence of the building rather than to maintain its original function and social role. This paper is based on five case study hammāms' in five different countries, investigated as part of the EU funded HAMMAM project. It presents a comparison of the various protection frameworks of the five hammams, and explores the effects of such protection on their current status. It recommends establishing a coherent protection system that respects ethics of heritage conservation and emphasizes on the revitalization of the hammāms' social, financial and health roles in the society.*

### Keywords:

Historic hammāms; waqf; antiquities law; international heritage; heritage conservation.

### Introduction

Hammāms represent a particular building type, as they rely on the use of abundant amount of water, this latter being considered as the most detrimental element to building system and materials. However, removing the water element from the historic hammams, or limiting its circulation, is similar to taking the soul out of a living body. Furthermore, the building fabric, particularly of the hot and warm areas of the hammām, separates two very different environmental conditions: the constantly humid and hot interior of the building, and the weather conditions of the exterior. The environmental variation between the interior and the exterior accelerates the rate of vapor condensation, and thus material disintegration, threatening the structural stability of the building. This requires a high rate of building monitoring and check-ups to prevent sudden and unexpected collapses.

During the HAMMAM research project, a group of multidisciplinary researchers including the author studied and analyzed specific hammāms in five different Mediterranean countries: Egypt, Turkey, Morocco, Syria, and Algeria. The five studied hammams can be

categorized according their different system of legal protection as illustrated in table 1 that illustrates that the systems of protection fall into three categories:

- I) The Waqf Preservation system.
  - II) Local Legal Protection System,
  - III) International Heritage Protection.
- This research paper describes the level of

protection each of these systems provides for historic hammāms and investigates how each system envisions the hammām building to be in the future. It focuses on how the protection systems influence the way the hammam building functions, whether it allows for bathing activities to take place or not, and, how they highlight the historic and artistic values of the building that need protection.

Hammām	WAQF	Local Legal Protection			International
		Private	Governmental		
			Antiquities	Protected zone	
1) Tanbali, Egypt 2) Şengül, Turkey 3) Saffarin, Morocco 4) Ammouna, Syria 5) Al-Gazl, Algeria	Waqf Waqf Waqf Waqf -----	----- ----- ----- ----- Private	Antiquities Antiquities ----- ----- -----	----- (nearby) ----- Protected zone ----- (to be) -----	International ----- Interational ----- -----

Table 1: Type of Protection for Each of the Hammam Case Studies

### Waqf Preservation System

Because the Waqf system is particular to Islamic cultures, and has been abolished or reconfigured in modern times it has received little research attention, especially on its relationship to the built environment. Its essential and fundamental role in preserving the built heritage of the Islamic historic cities has been overlooked and ignored. For the purpose of this paper, a brief explanation on the relationship of the waqf system with the preservation of cultural heritage is presented. This is crucial for understanding of the five case study hammāms, as four of them are administered through a waqf system.

The Waqf is a system that is based on pious endowments supporting perpetual charitable

activities through the periodical revenues generated from fixed assets such as buildings. Its root goes back to the time of the Prophet and his companions, and was briefly described in the Qurān and the Prophet's hadith (al-Khallaḥ, 1953). In fiqh, the waqf was interpreted and its principles were shaped. It is difficult to indicate when exactly the system was introduced as a matter to be judged upon in the Islamic Court, but we know that al-Khassaf, a judge in the Court of Baghdad during the 9th century A.D., wrote a manuscript where the system of waqf was legally structured. Al-Khassaf's *ahkām al-awqāf*, sentences on waqf, was written in such a way to list the rights, benefits and duties of all the parties included in the system (al-Khassaf,

1904). Many manuscripts and books were written to modify al-Khassaf's judgments if their applicability proved not suitable, and to add more judgments for the new legal cases that emerged. At the end of the nineteenth and the beginning of the twentieth century, when the Islamic State was subdivided into several political entities, a tendency to secularize internal matters, including issues on property ownership and waqf, prevailed. An extensive campaign of research took place attempting to put the waqf judgments into the shape of a secular law. These attempts utterly failed as there was nothing in the western laws, upon which local laws were shaped, that were similar or even parallel to waqf judgments. It is for that reason that, in the middle of the twentieth century, many countries of the Muslim World located the waqf system into shari'a Courts, courts that judges upon Islamic law, thus banning its development in secular contexts. In most of the Muslim countries, the waqf system is reshaped and totally reconfigured. It is generally given the role of managing religious internal matters, a task that the system never undertook before, and that replaced its previous role of a real-state institution that manages a significant amount of the wealth of the Islamic State. Moreover, some countries, such as Tunisia, abolished the waqf system in 1956 without proposing other alternatives that would manage and sustain the large number of its assets (Abu Nasr, 1987).

Since it was legally shaped as early as the ninth century, and being the responsible of sustaining perpetual charitable acts through fixed assets, the system developed tasks for the parties and the personnel involved in its framework to preserve those objects for the longest possible duration. In this aspect, the waqf can be

considered as a system that deals essentially with the preservation of objects, since they were the bases of the charity, and the producers and/or receiver of cyclic revenues.

It is therefore important to understand how the waqf system managed the preservation and protection of its assets through a set of rules and principles. In order to do that, the author investigated a large number of books (similar to the one of al-Khassaf) to extract those principles which are related to the preservation of buildings, among which hammams fall. (Khallaf, 1953; Qadri, 1870's and al-Sanhūri 1949) It is important to highlight that none of the consulted books, the principles related to the preservation of building assets were grouped in a specific chapter, or assigned to a specific party involved in the waqf system. Instead, those principles are usually scattered within the abundant number of regulations that are usually classified according to the responsibilities and rights of the different parties involved in the system, i.e. the founder, the beneficiaries, the overseer, and others. This fact indicates that all parties were concerned because they are beneficiaries.

The research process resulted in compiling a long list of preservation principles, which were clearly categorized according to the type of waqf buildings subject for preservation. For example, the waqf preservation methodologies and concepts in preserving a mosque were fundamentally different than those shaped to preserve other public or residential buildings. In this paper the principles which would have been directed to preserving the hammāms, as public buildings are presented. In order to prevent confusion between terminologies the terms related to preservation activities are

added between brackets in a transliterated mode following system of the International Journal of Middle East Studies (IJMES).

- All buildings subject or subjected to a waqf system should survive and should function in perpetuity in order to continuously support a charity.
- The beneficiaries should preserve (hifāz) the building, to maintain it (siyāna) in a good condition, but never modify it (ta'dīl). Use but not to abuse.
- The main responsibility of the waqf-overseer is to assure the good condition of the building by employing the revenues of the waqf to sponsor the necessary conservation measures (al-'imāra al-darūriyya).
- A "consumed maintenance" (maramma mustahlaka) is the all maintenance works that entail irreversible interventions, e.g. re-plastering (tatyīn or tagsīs).
- A waqf building is considered ruined (takharrib), if it is no longer in use, regardless of the physical condition of its structure and materials.
- If the revenues were insufficient to sponsor the necessary, or sometimes referred to as being "obligatory," maintenance (al-'imāra al-darūriyya), the building can be rented away, and can be used during its rental period to serve other functions than the original one. The rental could last for a specific duration (not to extend two revenue cycles) until all the necessary conservation work would be undertaken, then the building should return to serve its original function (Behrens-Abouseif, 1994: 156-158).
- The most important event in the history of the

hammām building is when it was devoted to charity, thus preservation should commemorate this state.

- If a building is in good condition but not functioning, it is considered as a ruin (kharāba), therefore, a hammām building should always be utilized preferably to serve its original function.
- The function (wazīfa) of the hammām building can be temporarily substituted to guarantee utilization (manfa'a).
- Waqf preservation principles allow appropriate development, admitting technological evolution, if all the parties involved in the waqf system approve the associated changes.
- The preservation of the hammām building is not the goal in the waqf system but a medium through which revenues would be perpetually maintained or increased to sustain charity.
- The preservation of a hammām should assure, in the first place, a social interaction between various social classes, and sustain prospective charity.
- Under a waqf system, the preservation of a hammām building, should be supported by the system, to assure autonomy, and thus to prevent external interferences and controls.

### Local Legal Protection

Each of the five case study hammāms investigated in this study, is located in a different country, thus, subject to a set of a different set of local laws. The laws and orders influencing hammams in all the five cases could be one or more of the following ones: City Planning

Laws; Laws for the Protection of Historic Zones and/or Cities; Laws for the Protection and the Preservation of Heritage; Laws for the Protection of Antiquity; Laws and/or Orders for the Restoration of Ruined and Collapsing Structured; Laws of Property Confiscation for Public Benefit; Laws and/or Orders on Regulations on land-use; and others depending on each case study hammāms.

As shown in Table 1, Hammāms al-Tanbali, and Bab al-Bahr of Cairo and Şengül of Ankara are all protected under the local antiquities laws. Hammām Ammuna of Damascus is filed for monument classification, thus will be soon under the protection of the Syrian Antiquities law. As for hammām Souq al-Ghazl of Constantine, and hammām Saffarin of Fez, they are both located in protected zones, thus subject to the local laws for the protection of historic areas/cities. All the case study hammāms are under heritage protection, and this is considered to be the most powerful protection that a building can acquire in all the five countries. For this reason, the various local laws for the protection of Antiquities and/or historic areas in each of the case study countries are compared, and the implications on the hammāms are investigated. The analysis is however confined to those legal articles which list the local criteria for the selection of a monument, and those which identify buffer zones of protection around each selected monument, or protected area.

### **Antiquities Protection of Hammām al-Tanbali, Egypt**

The current Egyptian Antiquities Law was issued in 1983. Being a registered monument, hammām Tanbali is subjected to such law, which is based

on a series of previous laws that started to be issued around the year 1912. With very few modifications on increasing the penalties for antiquities looting, and on expanding the span of time required for an object to be registered, the current law provides a similar type of protection to those at the beginning of the twentieth century. In its first article, the 1983 Egyptian Antiquities Law determines an age of 100 years for an object to be subject for legal protection if this object meets other historic and artistic values. With the romanticism movement towards ruins and antiquities that started at the middle of the nineteenth century and that reached most influence in the early years of the twentieth century, historic registered buildings were perceived as “monuments,” and distinguished, or rather isolated, from their surrounding urban fabric. In fact, most of the buildings that existed in the immediate surrounding of a given monument were considered as “parasites”, and were subjected to legal “expropriation.” A zone around every monument where no development, construction or activities could take place was identified, despite the existence of important historic buildings that fell into these zones. The law states that “...the competent minister in cultural affairs may issue a decree to determine the beautifying lines around public antiquities and archaeological sites,... and which might “extend to 3 Kms distance in uninhabited areas or to the distance the Authority determines in a way to protect the environment of the antiquities.”



Figure 1: Hammām al-Tanbali in a Continuously Changing Urban Context. (Source: Author)

The consequences of applying such type of protection on hammām al-Tanbali are apparent today in different aspects. Since the function of the building is not of any value, it was not necessary to preserve it, and thus, hammām al-Tanbali is now locked without any sort of legal protection for its different particular spaces. It is not in the Antiquities Authorities interest to preserve the function, but on the contrary, it would be better if the activities are ceased so that the deterioration of the historic built fabric could be controlled. Certainly this approach is a misconception that was based on the romanticism of the nineteenth century, but proved with the time that it is utterly wrong. It is now understood that the best way to preserve the building is to use it appropriately. Unfortunately, the notion did not still find its way into the Egyptian legal protection system.

The second apparent result from applying the Antiquities law on hammām al-Tanbali is the large number of empty plots that surrounds the western and the southern sides of the building, including the vast property that was once occupied by the traditional furnace of the hammām (mustawqid). The vacant plots are the results of implementing the legal buffer zones that are applying to the surrounding



Figure 2: Hammām al-Tanbali, The Columns of the Bayt Awwal. (Source: Author).

areas of the hammām despite the pressure for land to develop much needed residential buildings. These plots are left empty, and have become a dumping ground for the residents of the surrounding buildings and the venue for small manufacturing activities.

The third consequence of applying the law of antiquities protection on hammām al-Tanbali is the focus on the valuable historic architectural

elements in the building and the apparent disregard to all other secondary elements. The marble columns of the changing room (maslakh) are of high value along with the marble mosaic floors, whereas all other elements are secondary, thus of no particular interest to the Antiquities Department. This attitude can be detected in the reports of the Supreme Council of Antiquities officials submitted regularly to the Ministry of Culture. Furthermore, the status of the collapsing domes or the accumulated garbage on the roof or in the interior spaces of the hammām, are rarely mentioned in these reports.

### Heritage Protection of Hammām Şengül in Ankara, Turkey

The current law of the protection of heritage buildings in Turkey dates back to 1983 (Tanaka; Özsunay, and Sibel Özel). The law has a long historic background of development which started in 1906. Since that time, Turkish antiques have been considered as state properties. In 1924, a new law was issued to protect historic sites in addition to archaeological remains (Vernoit, 1997). In the current 1983's law, the idea of protection does not simply mean safeguarding objects considered cultural property from destruction. The notion of protection is also used to denote protecting the owner's right to control cultural property. According to Article 5 of the current law, the Turkish state is the sole owner of cultural objects found in the country. (Law No. 2863) According to Özel, who, in her recent publication, points out the present legal situation and stresses the shortcomings of the old statutes and urges new legislation, "what is often at stake in cultural property debates (e.g. disputes over repatriation) is where and

by whom such objects should be protected, and who can decide where such objects are protected and displayed" (Sibel Özel, 1998:2). This provokes rivalry between different claimants for ownership of cultural property at various levels.

This rivalry is apparent in the case of Şengül hammām, where the responsibility of protection is shared by the Waqf administration, the overseer, and the Antiquities Department, the legal responsible body from the Ministry of Culture point of views. It is for that reason that recent efforts undertaken by the Waqf to conserve and restore the hammam are always criticized by the Ministry of Culture and vice versa.

### Zone Protection around Hammām Saffarin, Morocco

Unlike the two case study hammāms of Cairo and Ankara, hammam Saffarin of Fez is not a protected building. However, it is still under heritage protection because it is located in a registered world heritage city. The Moroccan law for heritage protection was issued in 1980, and was updated in 1994 to become the "Law for the protection of heritage and traditional crafts." (Dahir, 1980). Under this law, Fez is registered as a "Cultural Site", which is a site that, according to the law, "witnesses the work of human being and the work common between human being and nature, including the archaeological sites which have national and/or international value." It also includes "historic and traditional ensembles," which are groups of built or not built or separated or attached states from cities or villages or districts, whose grouping are of national or international value. Moroccan

law identifies a zone of protection surrounding "historic and traditional ensembles," which reaches 25 meters in the case of Fez. Unlike the Egyptian Antiquities law, the Moroccan's does not state however any buffer zone surrounding individual monuments.

Hammām Saffarin is then protected as an entity within the city fabric, but not as an individual monument. The type of legal protection from the Antiquities point of view, concerns solely its façades onto the public spaces, and the type of activities that is taking place in the building. Perhaps the immediate surrounding development is controlled under the heritage legal protection as well, but the extent of such protection is not clearly stated in the Law for Heritage Protection, and could be detailed in other related legislations; i.e. planning. It is important to note that under such protection and unlike the case of Cairo and Ankara, there is no consideration for how the internal spaces are used or conserved, and/or transformed.

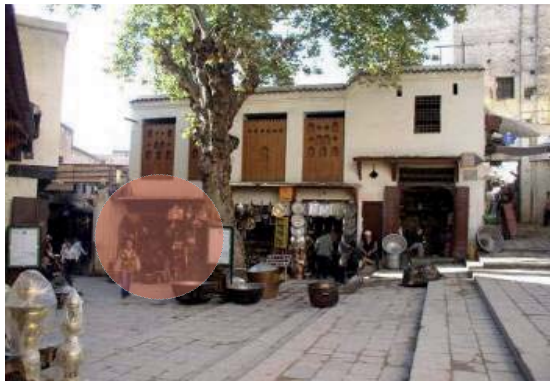


Figure 3: Entrance to Hammām Saffarin in the Urban Context of Fez (Source: Kamal Raftani).

### Prospective Protection Zone around hammām Ammuna, Damascus- Syria

Hammām Ammuna is situated in the district of 'Uqayba in Damascus. The hammām itself is not yet under any heritage protection. It is not registered as a protected building, nor does it fall within an identified heritage ensemble. According to a high official in the Department of Old Damascus City, the hammām Ammuna is being considered for monument's registration, and the district of 'Uqbiyya is currently under revision to be designated as a protected zone. (al-Barry, 2007) A brief description on the implications of both type of future protection is provided below.

In 1950's the Syrian Government started to register historic buildings, but had no law of protection to embrace listed buildings. In 1978 the UNESCO registered the Old City of Damascus in its protection list as a world heritage city. After 1984 selected buildings and districts from outside the wall were registered under a local antiquities law that was issued in 1963. A group of local experts selected the borders of each of the selected districts. In the year 2000, the Syrian antiquities law was updated. The latest law states that all remains of previous civilizations or all of previous generations that are 200 years old or more are to be considered for protection. Identifying the object's age as one of the selection criteria appears only in the Egyptian and the Syrian laws among the five case studies. However, the Egyptian law limits the age of an object to only 100 years. The Syrian case seems to be more flexible as it offers the possibility to register newer objects under special circumstances and special considerations. In Syria, like in Turkey, heritage

buildings are considered a State property unless private ownership is proved. Similar to the Egyptian law, the Syrian's law identifies a "buffer zone," where development is not authorized. The concerned local authorities are responsible for identifying the areas of the buffer zones according to cases. The Syrian antiquities law limits the use of privately owned monuments to their original function whereas authorities can determine other functions for cultural purposes.

If hammām Ammuna is registered as a monument, the bathing activities might not be ceased, as was the case in hammām al-Tanbali of Egypt. Also, the waqf, as an overseer of the hammām, would continue to administer the building. A buffer zone would then be identified around the building were no development would be allowed. This buffer zone might reach the extreme case of hammām Qarama'ni which has become a free standing structure in a garden in downtown Damascus, deprived from its historic urban context which was an old market that has been fairly recently demolished.



Figure 4: Hammām Qarama'ni as it Survives Today in Damascus, 2007. (Source: Author).

If the 'Uqayba district, where hammām Ammuna is located, is designated as a protected historic area, a whole system of powers and implementation procedures would be introduced and will be similar to this applying to the Old Damascus world heritage area. In this case, the Antiquities Department which operates under the Ministry of Culture, would have an advisory authority, and the Ministry of Municipalities would possess the implementation means. The Documentation and Studies Department, which belongs to the Municipality, would have a crucial role in revising the conservation specifications and following up the implementation of the conservation works. It would also revise the infrastructure of the area including the hard and soft landscaping for the public squares and streets. This Department would also revise and evaluate requests to restore or develop any of the private buildings in the historic zone, and would issue permission to undertake the work if the proposal is approved. It would also monitor the implementation process to make sure that is in accordance with the approved plans. An example of this type of involvement is apparent in Bayt Jabri, one of the first historic houses located in Old Damascus that is currently being used as restaurant. Finally, this Department would coordinate with all other governmental departments, including the Antiquities Department and the Awaqaf, to restore their buildings. An example of this case is Bayt al-'Azam, which, with the collaboration of the Antiquities Department, was turned into an ethnographic museum. The Department would attempt, as it does in the Old Damascus zone, to enforce to undertake the conservation and restoration works using traditional building techniques and materials.

### Protection Zone around Hammām Souq al-Ghazl, Algeria

Hammām Souq al-Gazl of Algeria is not a registered monument. However, being in the old city of Constantine, one of the most picturesque sites that is protected as a heritage zone, the hammam falls under the 1988 Algerian law for the “protection of cultural heritage”. This law defines the cultural heritage as being all products of civilization until the present time, and divides them into three categories: mobile cultural goods, immobile cultural goods, and intangible cultural goods. It gives the State the rights to confiscate the immobile cultural goods (historic monuments, archaeological sites, and urban or rural ensembles). Urban or rural ensembles under protection are exemplified by: Kasbah, ksours, villages and traditional agglomerations presenting historic, architectural, artistic, or traditional interest. The law identifies a “buffer zone of 200 meters” around the historic monuments that is called the “visibility field,” or “champs de visibilité”. This zone should be applied around the rock of Constantine. Unlike the Turkish and the Syrian laws which encourage the confiscation of cultural heritage properties, the Algerian law draws different regulations to deal with waqf or private buildings, or any other cultural goods.

In December 2003, the Minister of Cultural Heritage issued administrative regulations, and explanations of the 1988 Algerian law, where he underlines that there is no such a thing that is called “shameful history,” and all the past traces which were responsible to made Algerians as they currently are, are worthy of protection, preservation, exhibition, and transmission at their best states to the future generations. The

Minister was pointing in his notion to colonial remains, which were not appreciated by some extremists, and thus were subjects of constant assaults.



Figure 5: Rock of Constantine as Depicted in 1840. (Source: [www.answers.com/topic/algeria](http://www.answers.com/topic/algeria)).



Figure 6: Columns and Walls of the Changing Room, with Color Changes. (Source: Author).

The fabric of hammām of Souq al-Ghazl itself is not under any type of protection but its context

is part of the historic zone of Constantine. Being a private building, the current owner has not problem to constantly changing the interior, by painting the marble columns using different colours, an activity that would be considered as criminal if it was taking place in hammām al-Tanbali or in hammām Şengül of Cairo and Ankara, both registered as monuments.

### International Protection

Two of the five hammām cases are under surveillance of an international heritage organization, the UNESCO. Historic Cairo and Fez are two cities which are registered in the World Heritage List, therefore, all modifications and conservation interventions that are taking place within the urban fabric of the two registered historic cities are monitored. In many instances, when the conservation interventions are not of international qualities, the UNESCO intervenes to criticize and impose its own working specifications and perspectives.

The most important documents that specify the permitted levels of interventions are international charters, which started to be issued since 1904, though what is called Recommendations of the Madrid Conference. The Venice Charter of 1964, despite being almost half a century old, is still the most recognized document that conservation projects should abide to. In this charter, "conservation", and "restoration" are permitted levels, each with different set of specifications and regulations. The Burra Charter of 1979 emphasizes the means by which cultural sites are managed. Both charters brought the preservation activities to an international level, and thus provide basic background for

international organization, such as UNESCO, to regulate the "international heritage." The international preservation movement has been going recently through some recognizable phases. In the 1980's and early 90's an apparent phase of heritage preservation based on the different types of heritage surfaced. This is obvious when different charters were approved for the preservation of towns and districts, another for archaeological sites, and a third for historic gardens. From the late 1990's onwards, the local context became a much more important consideration in detailing the means of preservation than the type of the heritage subject for conservation. The Nara Document and the Declaration of San Antonio are two examples of this current on-going movement that can be described as contextualization of heritage (Getty, 2007). Through those two charters, the "authenticity" of heritage started to acquire qualities which are merely local.

Most of those current issued charters agree on certain code, ethics, and standards that govern the preservation field in the World. The following are some codes of ethics and standards of practice based on these charters:

- 1- Knowing the object; its history and its context,
- 2- Emphasizing on minimum intervention,
- 3- Emphasizing on the selection of appropriate technology
- 4- Emphasizing on reversibility
- 5- Respecting all historical phases the object witnessed
- 6- Emphasizing on maintenance in early phases of r remedies design / interventions
- 7- Establishing a management plan for conservation, upkeep, and reuse.

The different levels of intervention that the international preservation charters permit can be exemplified in terms of Doing nothing, maintenance, conservation, repair, anastylosis, restoration, rehabilitation, modifications (transfer and re-use). It is, however, understood that the minimum intervention is the most preferred option, an attitude that in most of the cases is in contradiction with local prospects and the needs of the owners whose main concern is to find means for development, and financial gains.

Cultural manifestations both tangible and intangible are often considered to belong to two collective or communal entities "near" and "far," i.e. "local heritage" of a particular community and "world heritage". While as "world heritage" cultural manifestations are accessible to a much wider community, it restricts the use or, more precisely, the commodification of cultural property by the community nearby as "its" own resource. Objects labeled "cultural property" are implicated in general in the constitution of a nation or an ethnicity. Through this notion hammams can be considered as a manifestation of a world heritage, where the Roman thermae were the seed of a building that developed in consideration of the specificities and the special characters of local communities.

## Conclusion

This paper presented the different types of heritage protection each of the case study hammāms is subject to. Hammām al-Tanbali of Cairo and hammām Saffarin of Fez are under protection of three different legal systems (waqf, local, and international). While hammām Şengül of Ankara is under the protection

of waqf and local legal systems, hammām Souq al-Gazl of Constantine is subject of the protection of two different local legal systems. Although hammām Ammuna of Damascus is only administered through the waqf system, but the prospects of designating the building and its surrounding areas in the local heritage list will soon put it under other systems of protection. This paper has highlighted that that not all heritage protection systems have the same prospects and visions on how the historic hammām would be in the future, on the contrary there are fundamental differences between the various systems resulting in conflicts between them. For example, the paper demonstrated that the primary focus of the waqf is to preserve the working framework of the hammām in order to guarantee perpetual revenue, whereas international conservation charters are more concerned with the authenticity concealed into the built fabric. The economic framework of the hammam is none of these charters' considerations unless the "waqf" system is considered in the future on the international list of intangible world heritage.

This paper recommends that the concerned authorities and institutions responsible for the preservation of hammāms should consider new concepts of protection that accepts that the historic hammām building with its systems and materials cannot but sustained without it being in direct contact with water and operating under different levels of heat and humidity. However this requires regular monitoring of the building in order to prevent its deterioration and guarantee its adequate performance for the longest possible duration of time. There is also the need for concepts of protection that not only respect ethics and charters of heritage

conservation, but also take into consideration the necessity to revitalize the hammāms with its social, financial and health roles in the society.

The paper has explored a new type of problem that hammāms are facing in historic cities, a problem of inadequate heritage protection. Further investigations are needed to include a larger sample of countries in order to develop a comprehensive overview of the protection of hammams as heritage buildings. The results presented in this paper are relevant to five countries around the Mediterranean basin. There might be other cases outside the scope of this study (for example the case of the hammāms in Yemen) which would provide different perspectives and results. It is important to highlight the significance of studying historic documents that list and give details of the historic framework under which hammāms were managed. For Example the researcher Brigitte Marino has been working on this research with the IFPO. (Marino, 2008) There is also an urgent need to conduct a comprehensive comparative study between the heritage protection laws in the various countries where hammāms exist so that the implications of their applications would be explored. In this paper a first attempt has been made that is still at a preliminary stage. Finally research into the traditional building techniques, materials and finishing materials of historic hammāms is needed in order to base new conservation interventions on readapting such vernacular materials and techniques using appropriate contemporary technologies. There are already some efforts that have been made in such a research domain, (el-Habashi, 2008) but the scope needs to be widened.

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