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Fractured oversight: The ABCs of cultural heritage in Palestine after the Oslo Accords

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Abstract

Palestine is a state in limbo—they lack full formal recognition as a sovereign land but possess a unique nation-state status that incorporates elements of a unified national consciousness and basic civil institutions albeit with limited autonomy. Palestine's ambiguous political status is starkly illustrated by its convoluted territorial control, and nowhere is this more clearly attested than in the jurisdiction of archaeological sites and the display of artifacts in museums. The legislative colonial legacies of the Ottoman, the British Mandate, the Jordanians, the Egyptians, Israeli military orders, and the 1995 Oslo II Accords, which carved the Occupied Territories into a complex mosaic of areas—A, B, and C—have resulted in fractured oversight of heritage sites and objects. A case study focused on Herodium provides a fascinating lens for examining the efficacy of law and the administration of archaeological and object management in a contested landscape.

Keywords

archaeology, cultural heritage, Palestine, Israel, museum display, occupation, law

Herod the Great: The King's Final Journey at the Israel Museum in West Jerusalem, the largest archaeological exhibit ever displayed in Israel, attracted more than 500,000 visitors in just over one year. Described as Israel's hottest ticket and

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showcasing the life and objects of the infamous King Herod, the centerpiece of the exhibit was a restored section of the mausoleum from Herodium; inside was the painstakingly restored sarcophagus reputed to be Herod's. Controversies associated with the legendary figure of Herod abound. In their presentation of the artifacts, the Israel Museum assiduously avoided judging the past deeds of Herod. They also dodged any discussion of the controversies surrounding the mausoleum and the so-called Herod's Tomb, claiming only to "look at history through artifacts" (Asa-El, 2013). Museums often sidestep sticky subjects in an effort to avoid controversy (Bennett, 1995; Boast, 2011; Brodie and Kersel, 2012; Clifford, 1997; Karp and Lavine, 1991; Macdonald and Fyfe, 1996). In this instance, the Israel Museum was no exception. Not only was there no discussion of the debate surrounding the tomb attribution, but there was no indication that the site of Herodium is located in occupied Palestine.¹

How is it possible that in the associated exhibition literature accompanying the Herodium show, the location of the site was only obliquely mentioned as situated in Judea and Samaria (the biblical names associated with the modern boundaries of the West Bank, often used by Israel when referring to this region), with no reference to Palestine? Shortly after the exhibit opened, the Palestinian Authority claimed that the display was "a violation of international law because much of its material was taken from near Bethlehem and Jericho, both in the Israeli occupied West Bank" (Rudoren, 2013). In a statement supporting the position of Palestine, founding member of Emek Shaveh² Yonathan Mizrachi claimed that the Israel Museum, by displaying the artifacts from Palestine without acknowledgement, reinforced the state's position that the West Bank is part of Israel. How does archaeology take place in Palestine? Does the relevant cultural authority issue permission to undertake projects? How is it that Israeli archaeologists are working at the site of Herodium located in Palestine?

The practice of archaeology in the West Bank is a direct result of a series of colonial and post-colonial international accords, conventions, national laws, and policies set in place ostensibly to protect the past for the future. In tandem with current policy and law, these legacies have resulted in an untenable situation of oversight, a continuation of the orientalist archaeology of the 19th and 20th centuries, which viewed indigenous people as incapable of understanding, protecting, and appreciating the past and which laid the foundations for the universalist paradigm of a common heritage for all.

Much has been written about archaeology, nationalism, and identity in Israel and Palestine (see Abu El-Haj, 2001; Baram, 2007; Benvenisti, 2002; De Cesari, 2010a; Feige, 2007; Gori, 2013; Hallote and Joffe, 2002; Scham and Yahya, 2003; Silberman, 1994, 2013; Starzmann, 2013; Yahya, 2010; Zerubavel, 1995; Ziadeh-Seely, 2007). It is not my intent to discuss those issues here; instead, I want to focus on how archaeological practice, the display of artifacts, and archaeological site protection are fractured as a result of law and policy. Under the current geopolitical and legal structure of occupation in Area C as designated by the Oslo Accords, Israeli archaeology in Palestine is accountable to no one. Greenberg

and Keinan (2007) suggest that this can be construed as the mobilization of culture for colonialism; opportunities for Israeli academics to carry out “scientific” programs of excavation with very little oversight and no collaboration with Palestinian academics and archaeologists. The present geography of archaeological administration in Palestine, divided into areas A, B, and C, has been deployed as part of the colonial project of alienation, dismemberment, and displacement (De Cesari, 2010c: 7). In the following examination of archaeology under occupation, I use the case study of Herodium to consider the effects of law and policy on the archaeological sites and objects of the Palestinian landscape.

The best of intentions? Law and policy to protect the past

From the 16th century onward, Palestinians were subject to Ottoman rule and to the numerous Ottoman laws of 1874, 1884, and 1906, which were aimed at controlling and protecting the archaeological sites and resources of the Empire (Kersel, 2008, 2010). With the dissolution of the Empire in 1917 and the subsequent division of territories under the League of Nations, Great Britain assumed control of the territory we now know as Israel, Palestine, and Jordan under the colonial British Mandate. In one of its first actions, the British Mandate government promulgated an antiquities proclamation noting the importance of cultural heritage in the region. A formal Department of Antiquities and the Antiquities Ordinance of 1929 followed shortly after—these efforts outlined procedures for excavation, interpretation, and museum acquisition, while at the same time regulating the trade in antiquities (for further discussion of the legal legacies in the Middle East, see Keane and Azarov, 2012–2013; Kersel, 2008, 2010).

In the period immediately following the establishment of the State of Israel in 1948, the West Bank was annexed as part of Jordan and under the law and jurisdiction of the Hashemite Kingdom, resulting in the bifurcation of cultural heritage oversight. Chatterjee (1993) hypothesizes that post-colonial states do not usually transform the basic institutional arrangement of colonial law and administration, opting instead to keep a continuity of law with the hope of greater stability. In Israel and Jordan (then including the West Bank), the various provisions and regulations of the British Mandate Antiquities Ordinance of 1929 remained in force, ensuring a continuous legal framework for cultural heritage oversight and management. In 1966, Jordan repealed the Mandate Antiquities Ordinance, replacing it with Jordanian Temporary Law no. 51 on Antiquities, which maintained many of the earlier Mandate provisions but became the new cultural heritage legislation for the West Bank.

From 1967 onward, legally and administratively, the West Bank was subject to an occupying Israeli military government, with military commanders in each area empowered with administrative, governmental, and legislative powers (Cavanaugh, 2002–2003: 942). These powers were executed through a series of Israeli military orders. “Orders codified Israel’s control of the Occupied Territories far beyond the concern of its military forces,” (Gordon, 2008: 31) which resulted in two of these

orders directly affecting cultural heritage (nos. 1166 and 1167), well beyond the mandate of the Israeli military. Military order no. 1166 specifically addressed the issue of cultural heritage in the West Bank, augmenting the Jordanian Temporary Law no. 51 on Antiquities of 1966 and authorizing an Israeli appointed Staff Officer (SO) for the West Bank tasked with the management and the protection of cultural heritage sites according to the regulations contained in the original Jordanian Law.

In the relative peace of the early 1990s, there were overtures toward a two-state solution, with a phased autonomy and self-rule for Palestine. Intended to be a road map for peace *The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip*, known more informally as the Oslo Accords, carved the Occupied Territories into a complex mosaic of areas—A, B, and C, allegedly presenting greater opportunities for Palestine to manage and administer some of the archaeological and cultural heritage sites in the West Bank and Gaza.³ The effects of the partitioning into areas A, B, and C were/are significant (Bshara, 2013: 298).

The West Bank was divided into three areas: Area A, under complete Palestinian civil and military control; Area B, under Palestinian civil control but Israeli military control; and Area C, under complete Israeli civil and military control (see Figure 1).⁴ In 1995, this division assigned the eight major Palestinian cities (Bethlehem, Hebron, Jenin, Jericho, Nablus, Qalqilya, Ramallah, and Tulkarem) to Area A, representing about 3% of the total area of the West Bank and approximately 26% of the population. Area B, which includes a buffer zone around Area A, covers about 24% of the West Bank but contains the majority of the Palestinian population (70%). Area C encompasses approximately 73% of the West Bank area and includes Palestinian villages (4% of the population) as well as Israeli settlements, outposts, and military installations. Israel retains full responsibility for security and public order as well as for civil issues relating to the area, which included archaeology (Gordon, 2008: 36). After the Wye Agreements of 2000, the distribution changed to Area A at 18%, Area B 22%, and Area C 64%, the current configuration in the West Bank. Originally, the Oslo Accords envisioned a gradual handover of civil and military responsibilities to the Palestinians over the course of 18 months after the inauguration of the Palestinian legislative council, first in Area B and later in Area C. However, to this day, the Israelis have retained full civil and military authority over Area C, the vast majority of Palestine.

Archaeologically, the Oslo Accords were the intended replacements for the existing Israeli military orders in Area C, until such time that the Palestinian government passed relevant legislation regarding the protection and preservation of cultural heritage. In 2003, the government of Palestine introduced draft cultural heritage legislation aimed at protecting both the natural and cultural environment. It awaits approval and implementation (see Fahel, 2010; Kersel, 2008; Taha, 2010, 2014). As a result of a complex legal system comprising Ottoman, British Mandatory, Egyptian (the Gaza Strip), Jordanian (the West Bank), Israeli military orders, and international accords (Oslo), preservation and protection of cultural

Oslo II Map Outlining Areas A, B, and C



Figure 1. Map of Areas A, B, and C after Oslo II.

heritage in Palestine can only be considered fractured and inconsistent. Bshara (2013: 299) suggests that after over two decades since Oslo, there remains no real legal framework in place to protect cultural heritage and very few government initiatives to preserve and to protect Palestinian resources.

Road map to peace and archaeological site protection

Under Oslo, Israel and Palestine pledged to protect and safeguard the cultural heritage from looting, development, and the detrimental effects of tourism. As part of Appendix I, Article II the Israelis provided the Palestinians with a list of specific sites which were deemed by Israeli negotiators to have particular archaeological and historical importance—mostly synagogue remains and tombs, sites relating specifically to Judaism. Under the Oslo II provisions, a joint committee (comprising Palestinian and Israeli cultural heritage professionals) would be established to deal with archaeological issues of common interest. This committee would also keep each other abreast of archaeological discoveries and disseminate the results of excavations through publication, publications and online, ensuring access for all. Each agreed to respect sites holy to the various religions of the area. To date, few to none of these aims have been implemented.

The now largely aborted peace process and the complex legislative legacies leave cultural heritage sites caught in the middle of this failed agreement (Cavanaugh, 2002–2003; Rynhold, 2008). Since the phased handover of Area C has not occurred, the archaeological sites in this area (some 60% of cultural heritage sites in the West Bank, numbering in the thousands) are governed by the Civil Administration of Israel, the Jordanian Temporary Law no. 51, 1966, and the Israeli military order no. 1166 of 1986. Area C remains in the control of the Israeli Archaeological Department of the Civil Administration (ADCA). The oversight and management of cultural heritage in Palestine is truncated by the attempted post-colonial condition created by the Oslo agreements and current Israeli occupation (see Bshara, 2013; Pratt, 2013).

In an ideal world, Palestine should now be in control of the archaeological sites within its territorial boundaries. Since the Oslo Agreements, in Areas A and B the Palestinian Department of Antiquities and Cultural Heritage (DACH) has carried out over 600 salvage excavations and joint projects with North American and European partners at sites like Khirbet Bal'ama, Tell Balata, Tell el-Ajjul, Tell es-Sultan, and Khirbet el-Mafjar in Jericho. The DACH routinely issues permits to Palestinian archaeologists from Birzeit University and Al-Quds University to carry out archaeological investigations. At the national level, the government and its agents are focused on the acquisition of World Heritage status for the natural and cultural sites of Palestine, which may be to the detriment of smaller sites not deemed of "outstanding universal value" (Bshara, 2013; De Cesari, 2010c). At the same time, a series of initiatives implemented by local non-governmental organizations (NGOs) emphasize the production of knowledge, capacity building in the form of job training, and local site protection and preservation that are sometimes at odds with government schemes (Bshara, 2013; De Cesari, 2010a). With the Israelis in control of Area C and the Palestinian government focused predominantly on Eurocentric notions of value, cultural heritage protection remains fractured.

The realities of archaeological site management in Area C

In their research report, Greenberg and Keinan (2007) provide an unprecedented examination of Israeli archaeology in the West Bank between 1967 and 2007. For the present discussion what is most relevant is their discovery regarding the duties of the Civil Administration Staff Officer (SO), whose primary responsibilities include the protection and salvage of cultural heritage threatened with destruction due to construction, development, looting, and military operations. Greenberg and Keinan (2007: 17) come to the conclusion that the SO has been given not only a free hand in excavations in this area, but further, has not been subject to any oversight from an advisory council (Israeli or Palestinian), nor has there been any cooperation with Palestinian colleagues or authorities. In addition, stipulations about excavation licenses and publication of results are absent. Theoretically, this free rein could have afforded the SO a unique opportunity to join forces with Palestinian archaeologists to carry out projects in order to preserve and protect the cultural heritage of the region without the interference of the Israeli government. In practice, however, the SO became increasingly autonomous in carrying out the duties of this unit—collaborating with neither Palestinians nor Israelis, and neither publishing nor disseminating the research results (Greenberg and Keinan, 2007; Sauders, 2009). The SO is not answerable to anyone in the Civil Administration or in the Israeli government, a rogue element in the archaeological frontier of Palestine. The various accords, conventions, laws, and military orders legitimize the actions of this agent of occupation—who works alone and unchecked. At the same time, the state is absolved of any accountability and responsibility, with the ability to place responsibility on the SO and the salvage exception.

The ADCA and the salvage exception

Perhaps in direct response to the Greenberg and Keinan report, a 2011 publication *Archaeology in the West Bank: Inside the Archaeology Department of the Civil Administration* [ADCA] (Hizmi, 2011) sought to explain and defend the work of the ADCA in Palestine. The ADCA publication states:

It shall be the task of the Department of Antiquities to formulate the antiquities policy of the State, to act on behalf of the implementation of excavations to discover antiquities, to protect what exists in them, to beautify the vicinities thereof, to propagate antiquities culture, to establish archaeological, historical, artistic, and popular museums; to assist in the organization of the various museums attached to governmental activities in the Kingdom [Jordan] and to cooperate with foreign historical institutions. (Hizmi, 2011: 10)

The ADCA, the Israeli entity with cultural heritage jurisdictional oversight of Area C (Oslo Accords legacy), is using the Jordanian Law no. 51 of 1966 in order to

justify their actions in Palestine. Applying the framework of this law (based on the earlier colonial British Mandate Antiquities Ordinance of 1929), the ADCA is

granting permits and approvals to any person or organization [but not Palestinian – author added] proposing to modify the landscape, protecting archaeological sites and antiquities against theft, looting, and illegal trade and developing archaeological sites for research and for the public. (Hizmi, 2011: 13)

These actions have resulted in Israeli academic institutions and the ADCA carrying out excavation and survey projects in the occupied West Bank, which further the geopolitical agendas and research goals of particular state ideologies (see Feige, 2007; Greenberg and Keinan, 2007 for specific case studies).

Paradoxically, while Israel has never formally accepted its designation as an occupying force in Palestine, when its authority over the sites and objects in Area C is challenged the ADCA often invokes elements of the UNESCO *Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954* [1954 Hague Convention] and the salvage exception to bolster its position. The 1954 Hague Convention is the basic international treaty originating a set of best practices to protect cultural heritage during armed conflicts and the occupation of one state by another. The 1954 Hague Convention establishes the conduct of nations during war and military occupation in order to assure the protection of cultural sites, monuments, and repositories, including museums, libraries, and archives (<http://www.ancbs.org/cms/index.php/en/about-us/hague-convention>). Israel and Jordan both ratified the Convention in 1957 and Palestine in 2012 (Palestine was formally recognized as a sovereign state by the United Nations in November 2012).

Article 5. Occupation

1. Any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible *support the competent national authorities of the occupied country in safeguarding and preserving its cultural property*.
2. The obligations mentioned in paragraph 1 of the present Article may be waived only in cases where military necessity imperatively requires such a waiver.
3. The High Contracting Parties further undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage, or misappropriation of, and any acts of vandalism directed against, cultural property. *They shall refrain from requisitioning movable cultural property situated in the territory of another High Contracting Party.*

(Emphasis added, 1954 Hague Convention Article 5(1-3))

The ADCA's justification in investigating the past is through the invocation of military necessity and salvage. If a monument, object, or site is threatened as a result of development, military action, or natural disaster, the occupying nation can carry out salvage work in order to protect heritage. Employing the western notion of "caretakers of heritage," the ADCA are absolved of any wrongdoing. By invoking law to protect the past (the justification used by the SO and the ADCA), Israel can and does "legitimately" excavate, interpret, and exhibit parts of Palestine. The use of law as a weapon to pursue a particular objective is an excellent example of lawfare, a concept first introduced by Dunlap (2001, 2007, 2009). Lawfare, the strategy of using—or misusing—law in asymmetrical situations, has resulted in Israel invoking law (Israeli Military Orders, the Oslo Accords, and the UNESCO Hague Convention in Area C) to control cultural heritage in order to capitalize on potential tourism revenues and to cultivate support from varied constituencies (i.e., evangelical Christians). At the same time, Israel is concerned with controlling the histories and narratives being presented at the various sites in Palestine. Narratives at the site of Herodium concentrate solely on the life and death of the ancient King of Judea, no displays of the pre- and post-Herodian period.

Touring the past in Area C: Herodium

A recent issue of *Near Eastern Archaeology* (Volume 77 Issue 2) devoted entirely to Herod the Great provides insights into the life and times of the King of Judea. Articles in the volume describe Herod's influence on architecture, interior décor, artifacts, and coins in the region of present day Israel and Palestine. Herod's rule was characterized by a period of unprecedented growth and construction. Textual references to Herod, tales of his tyranny and daring in the writing of the historian Josephus and in the New Testament, created a legendary figure. Grand architectural programs at Caesarea, Herodium, Jericho, Masada, and the Second Temple expansion in Jerusalem leave an indelible mark on the landscape of the region, piquing the curiosity of archaeologists and visitors for generations. In 2004, I made my first visit to Herodium, the site thought to be Herod's final resting place. I went with representatives from the Palestinian DACH. We parked at the side of the road and visited the lower city (see Figure 2). Herodium is a round artificial mound of successive layers of human occupation. At the top are the remains of a fortified palace from the first century BCE and the so-called mausoleum and proposed burial spot of Herod. Along the sides and in the lower city structures are the offices of the district capital, palace rooms for visitors and family, a garden, and the remains of a lake. About halfway up the hill is an Israeli military outpost, which you have to pass in order to reach the parking lot and visitor's center where people pay the entrance fee to see the upper part of the site. The Palestinians in the group I was with were concerned that they would not be allowed to pass the checkpoint, so we remained at the bottom of the hill, visiting the lower structures. Even though Herodium is in Palestine a mere 5 km from Bethlehem, it is in Area C and under the



Figure 2. Lower Herodium, Area C.

jurisdiction of the ADCA. Land on either side of Herodium is designated Area A, but the lower and upper areas of the site are in Area C (see Figure 3), and it was included in the list of sites of national importance to the Israeli state (Oslo Accords, Appendix I Annex II). The site is also part of the Israel National Park system and as such is managed by the Israel Nature and Parks Authority (INPA), a governmental organization (for further discussion of the INPA and archaeology see Stritch, 2007, 2013). A stated aim of the INPA is the protection of nature, landscape, and heritage *in Israel*. The lure of Herod is great and the establishment of the national park at Herodium seizes this aspect of the past for economic and nationalistic gains. Simultaneously, the Palestinian people are alienated from their heritage through dispossession, land appropriation, and cultural annexation of this important archaeological site. Both Greenberg (2009) and Corbett (2011) have investigated how the past is used to disenfranchise and displace Palestinians in the Silwan neighborhood (the City of David) in the name of archaeology, nationalism, and tourism. The situation at the City of David National Park in Jerusalem parallels Herodium—Palestinians estranged from their past.

I visited Herodium again some 10 years later in January of 2014 with a group of foreign (Chinese, European, and North American) scholars. For most, this was their first visit to the site. It was my first visit to the upper site. We were guided around Herodium by one of the long-time Israeli excavators whose main concern was making the case for the legitimacy of the mausoleum as the final resting place of Herod, a hotly debated subject in archaeological circles (Shanks, 2014). When I queried my fellow visitors about the archaeological investigations and the authority for carrying out such excavations, they seemed mystified. To the visitor (scholarly



Figure 3. Herodium Area C and a neighboring village Area A.

or otherwise), whether the site is in Israel, in “Judea and Samaria,” in Area C, or in Palestine was of little consequence; it is the historicity of the site stretching back thousands of years that is of importance. Nowhere at the site is there any mention of the fractured oversight and the jurisdictional issues associated with excavating Herodium or the dislocated local populations. Archaeological excavations at the site (by Ehud Netzer until his untimely death in 2010 and continuing with Roi Porat) have been carried out under the Israeli military orders, the Jordanian Temporary Law no. 51, 1966, and the Oslo Accords. None of the work was/is carried out with Palestinian collaboration or consultation (as is suggested in Article 5-1 of the Hague Convention). When asked about the difficulties of working in the occupied West Bank (twice excavations had to be suspended during Palestinian uprisings in the 1980s and the early 2000s), Netzer was adamant that he was working within frameworks that allowed him to excavate legally: “I start with the facts. Most of the excavations in Jericho and Herodium are in Area C and according to those agreements [Oslo] I can work there” (Associated Foreign Press, 2008).

Across the site informative signs and materials assert Israel’s connection to the land. A notice in the visitors’ center encourages tourists to combine a trip to Herodium with a visit to the desert and the Dead Sea or to the winery and art gallery in Tekoa, an Israeli settlement in Palestine. The Gush Etzion council, which administers the Jewish settlements in the region of Herodium (Tekoa is one of the settlements) happily uses the site and the archaeological artifacts recovered to boost the economy of the settlements and to reinforce the colonial narratives of an ancient Israeli tie to the land. Gush Etzion settlers believe that this land is divinely theirs and employ archaeology to substantiate claims regarding Jewish

ownership of the land in order to ensure a future claim to the space (Feige, 2007: 281). The site is significant to the residents of Gush Etzion in order to maintain a historical connection to place (Emek Shaveh, 2012) and the designation of the site as an Israeli national park and its location in Area C enable archaeology to reinforce political claims through the pretext of science and knowledge acquisition and the universalist notion of caretaking the past. “The location of Herod’s tomb in Herodium, one of the most fascinating structures of the ancient world, is further proof of the direct connection of Gush Etzion to the history of the Jewish people and Jerusalem...” stated the former head of the Gush Etzion regional council, Shaul Goldstein, now the Director General of the INPA (Purkiss, 2014). This quote serves to buttress the Israeli connection to the land at the same as valorizing the tomb as the final resting place of Herod—there is no room for discussion or debate over who “owns” this land or who is “buried” there or should be allowed to access the site in the future. Visitors, almost exclusively non-Palestinian, are exposed to the narrative of the unbroken lineage of Jews since the time of Herod occupying the site, what Peteet (2005: 39) refers to as the telescoping of time. There is no treatment of the dissonance associated with the Palestinians and their historical, present, and future relationship (or lack thereof) to Herodium.

Tourism to archaeological sites in Palestine that are of interest to Christian and Jewish tourists has the potential to generate significant future income for whatever nation-state “owns” and “operates” them. In his discussion of the second stage of national archaeology in Israel, Feige (2007: 280–281) suggests that in their support of heritage sites and excavations, the Gush Emunim settlers (located in the West Bank) want to “capitalize on a well-established discursive pattern that pay large dividends, thanks to its association with the consecrated national narrative.” These dividends are not only linked to national and political paradigms but also to the economic benefits associated with tourism to a site connected to Herod the Great.

While the philosophical ties to the land are the stated driving force behind expansion and land seizure for the Israeli settler movement, there is a large financial incentive to “owning” sites of cultural heritage. When pressed, Goldstein (head of the Gush Etzion Council) stated “of course tourism is a leverage for the economy”—by boosting tourist numbers to Herodium and the associated sites in the Gush Etzion region, there is the hope for new restaurants and hotels in the nearby settlements (quoted in Purkiss, 2014); there is no benefit for the nearby Palestinian residents. Tourists use the bypass⁵ road to access the site and do not pass through any local villages or towns where they might spend money on food, drinks, or local handicrafts. “One can drive along [in the West Bank] and never see an Arab” (Hass, 2003), remarked journalist Amira Hass in her discussion of the tactical importance of road and networks in the West Bank. The strategic control of sites and corridors by the Israelis has resulted in an archipelago that disrupts the contiguity of Palestine (Gordon, 2008: 36); a key weapon used against the Palestinians as villages and people are isolated from one another and from their sites of heritage. The systematic annexation and confiscation of cultural heritage sites, what Iwais et al. (2010) term Israelization, has turned Palestine into a

collection of sites owned and operated by Israel, surrounded by Arab villages. At Herodium, there is no national narrative of historical continuity for the Palestinians, which in turn creates a further dislocation for Palestinian from their past. Palestinians view the site as exclusively Israeli or part of a universalist language—discourses of common global heritage where the past belongs to *everyone* (see Bshara, 2013; Butler, 2010; Curtis, 2006; De Cesari, 2010a, 2010b, 2010c; Silberman, 2013; Starzmann, 2008, 2010, 2013). The current Israeli tourism development plan does not include the Palestinian villages of al-Fureidis, Khirbet al-Deir, Za'atara, and others near Herodium. Palestinians have complained that Israel's continuing stranglehold on archaeological sites in the West Bank undermines the Palestinian economy, but these protests fall on deaf ears locally and in many international spheres. Unfortunately, Palestinians are not just separated from cultural heritage sites but also from the material manifestations of the past—objects that can also generate both a connection to the past and at the same time meaningful income through exhibition and display. Against the backdrop of the history of archaeological oversight in Palestine and the ongoing excavations at Herodium as a result of its annexation into Area C, I want to finish by examining the presentation of the site and its associated artifacts in a recent exhibit at the Israel Museum.

Area C on display

Scholars have explored the idea of museums as a venue for the presentation of multiple views, voices, and experiences for the past few decades (see Bennett, 1995; Butler, 2010; Curtis, 2006; Goldstein, 2005; Kirshenblatt-Gimblett, 2006; Macdonald, 1996). Others emphasize that museums and exhibits have become places where dominant ideologies can be challenged especially as museums become contact zones (Boast, 2011; Clifford, 1997) providing for input from the disenfranchised and the marginalized. In the museum, the minority can have its say (Boast, 2011; Karp and Lavine, 1991). In the *Herod the Great: The King's Final Journey* exhibit (Figure 4) at the Israel Museum the subaltern was silenced, demonstrating that not everyone has a voice in the exhibit space.

Located in West Jerusalem, the Israel Museum opened its doors in 1965 (predating the annexation of East Jerusalem in 1967) as a showcase of the art and archaeology representing Jews and the Jewish state. "The collection is seen as an expression of the unity of the Jewish people—a nation newly come together from all parts of the world" (Hendy, 1968: 3). While perhaps unified in objects and nationalistic sentiment, the museum was/is exclusionary and alienating in other aspects of public display. By choosing to focus on Israeli historical connections to the land and particular national narratives in the display, Palestinians were further distanced from their objects and their history.

The exhibit traces the 24-mile path of Herod's funeral procession from the throne room in the winter palace in Jericho to his mausoleum in Herodium. Visitors first encounter a larger than life size image of the desert near Jericho, a



Figure 4. Entrance to the exhibit *Herod the Great: The King's Final Journey* at the Israel Museum.

view similar to what Herod would have experienced at the winter palace. Museum-goers move from room to room experiencing the reconstructed throne room where Herod was thought to have died, artwork, busts, coins, cooking vessels, frescoes, models, mosaics, ossuaries, sarcophagi, and computer-generated models of Herod's other building projects. The centerpiece of the exhibit is the restored section from the mausoleum at Herodium with the reconstructed, hotly contested, sarcophagus sitting in the center. Is this modest burial box really the final resting place of Herod? The viewer is left to decide. The viewer is also left to determine where Herodium is located as there is no map indicating that the site is within the boundaries of Palestine or that some of the objects being exhibited are from Palestine.

When challenged about the Palestinian protests regarding the material on display as part of the Herod exhibit, James Snyder, director of the Israel Museum, noted that a "huge" sum of money had been spent to restore and make available for public consumption artifacts that might otherwise have been lost, like many of the antiquities in Iraq and Egypt. "We're not about geopolitics, we're not about minefields, we're about trying to do the best and the right thing for the long term for material cultural heritage," said Mr Snyder (quoted in Rudoren, 2013). Implicit in this statement is that places like Egypt, Iraq, and Palestine cannot adequately protect their own material culture, reinforcing the colonial notion of indigenous people as incapable of caring for their culture and setting up the defense of the universalist model of shared values and an appreciation for the common heritage of humankind (see Cuno, 2011; Silberman, 2013; Starzmann, 2013). "Our goal was to invest in the preservation of this material and return it to the sites. We are but custodians, and

we are always ready for it to be where it belongs” (Snyder quoted in Rudoren, 2013). A correction printed two days later in *The New York Times* made it clear that when Mr Snyder suggested a return of the items he did not mean to the Palestinians:

An article on Thursday about the Israel Museum’s new archaeological exhibition devoted to King Herod and the controversy generated because many artifacts were taken from West Bank territories occupied by Israel since 1967 referred incompletely to plans for returning the items. The Oslo Accords signed by the Israelis and Palestinians in the 1990s provide for Israeli involvement in archaeology in the territories until the resolution of the overall conflict, and the museum director, James S. Snyder, said that at the end of the exhibition, it plans to return the artifacts to the West Bank, to Israel’s *civil administration*, which he said would arrange for their return to the sites from which they were taken or store the material until “the site can be prepared for its care and/or display.” There are no plans to hand the items over to the Palestinians at the end of the exhibition.

(Emphasis added, Correction February 15, 2013, Rudoren, 2013)

Both *The New York Times* correction and Snyder suggested that the Oslo Accords provided the necessary legal framework for the curation and display of the archaeological artifacts from Herodium. But Hamdan Taha, director of the Palestinian DACH, alleged that while Oslo may provide for Israel’s excavation in the West Bank, exhibiting the material was another story. Taha (2014) complained that the Palestinians were never consulted about the exhibit at the Israel Museum, which he called “an aggression against Palestinian cultural rights in their own land,” asserting that this action would “not help to reconstruct peace between the Palestinians and Israel” (Taha quoted in Rudoren, 2013). Declaring Israeli national parks within the borders of Palestine, excavating and displaying artifacts from Palestinian sites without any collaboration or consultation with Palestinian archaeological and museum professionals, undermines efforts to foster mutual understanding, which might augment the peace process. Recent research (Luke, 2012; Luke and Kersel, 2013; Scham, 2009) demonstrated the efficacy of archaeology and cultural heritage as tools of diplomacy and peace making.

Palestinian ABCs

Museum exhibitions and cultural heritage sites tell stories: implicit and explicit stories about power, national narratives, ancient legacies, and future directions. In many instances, exhibits are conceptualized in an attempt to appeal to the greatest number of individuals, regardless of religion, race, or socioeconomic background through the aura of secular, universal, and apolitical narratives (Goldstein, 2005). There are also instances, however, in which the appeal is targeted at specific groups, chronicles, and historical vestiges. The site of Herodium and the exhibition of associated artifacts tell/told the story of Herod—his life and death.

But the stories are incomplete, misleading, and confusing—Palestine and Palestinians are missing.

The archaeological site of Herodium is physically located within the territorial borders of Palestine but is declared part of the Israel National Parks Authority, and under the Oslo II Accords archaeology is carried out by Israel because the site is designated as Area C. Artifacts from that same site were recently displayed at the national museum in Israel with no mention of the jurisdictional issues raised above and in direct contravention of Article 5.3 of the 1954 Hague Convention. Rather than objects and sites deployed as agents of diplomacy, they are used to further ideologies and political movements associated with settlements in Palestine and establishing an Israeli presence and legitimacy of “ownership” in the occupied West Bank. The current model of cultural heritage oversight in the West Bank has co-opted the universalist mantra of “saving the past” using existing accords, conventions, law, and policy to excavate, to exhibit, and to interpret evidence from the ancient past with little or no regard for the indigenous population. Lawfare in action.

The indefensible situation of archaeological oversight in Palestine is the direct result of a long history of law and policy in the region, which harkens back to the colonial position of indigenous populations and their putative inability to care for their heritage. The division of Palestine into Areas A, B, and C allows Israel to carry out archaeology with the imprimatur of an international convention (1954 Hague Convention) and under the guise of negotiated policy through the implementation of the Oslo Accords (see Figure 5). Occupation projects at sites like



Figure 5. Area A sign.

Herodium segregate Palestinians from their heritage and conflate time, where the recovered archaeological manifestations are related to confirming a Jewish/Christian past in order to capitalize on tourism to the region. Exhibitions such as *Herod the Great: The King's Final Journey* further erase Palestinians from the tourist gaze by eliding the geopolitical landscape referring to the area as Judea and Samaria and not Palestine. Archaeology and objects are used to strengthen particular national Israeli narratives at the expense of Palestinian pasts, presents, and futures.

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Notes

1. Palestine, the West Bank, and the Occupied Territories are used interchangeably to refer the area outlined Figure 1.
2. Emek Shaveh is an organization of Israeli and Palestinian archaeologists and community activists focusing on the role of archaeology in Israeli society and the Israel-Palestine conflict. Available at: <http://alt-arch.org/en/>
3. Israel's 1967 annexation of East Jerusalem, while not recognized internationally, has resulted in archaeological activity in the area being governed by the Israel Law of Antiquities of 1978, administered by the Israel Antiquities Authority. This paper will not consider East Jerusalem (see Corbett, 2011; Greenberg, 2009 for a discussion of Jerusalem).
4. In 1997, Hebron was divided into two parts: H1, under the nominal control of the Palestinians and H2, under the control of the Israeli military. The Old City of Hebron and the highly contested Tomb of the Patriarchs are both located in H2 (Gordon, 2008: footnote 35).
5. The bypass road plan for the West Bank became part of the Oslo "peace" package and was intended to increase settlers' sense of security.

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