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Evolution of Pro-cultural Conservation Legislation in the U.S., France and Egypt (Comparative Study)

Ewolucja prokulturowego prawodawstwa konserwatorskiego w USA, we Francji i w Egipcie (badanie porównawcze)

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Conservation legislation in the United States of America

A quick review of the evolution of pro-preservation law in the U.S. showed its progression from supporting the conservation of national, singular monuments to supporting the conservation of ordinary historic monuments, whole settings and neighborhoods. The Antiquities Act of 1906 was the first legislation to tackle the historical resources of the country. It emphasized the preservation of American antiquities and declared national monuments.¹ The National Park System Organic Act of 1916 was the driving force behind the foundation of the National Park Service in the Department of the Interior. The government was involved at that time in nature conservation (scenery, natural resources, wildlife), and recreation was advocated as a counterbalance to the pace of modern urban life.² The emergence of outdoor museums (such as Colonial Williamsburg in Virginia and Greenfield Village at Dearborn, Michigan) in the 1920s and the designation of the first old historic district in downtown Charleston, South Carolina, in 1931 paved the way for the Historic Sites and Building Act of 1935. This act provided for the conservation of traditional American objects, buildings, sites and antiquities of national importance.³ What was significant

about this stage of preservation legislation in the U.S. was the fact that protection and preservation were not limited to antiquities; the act also affected sites and buildings on private properties. The 1935 act created a National Register of historic sites, which was expanded in the 1960s.⁴ In addition, with the designation of the first historic district in Charleston, preservation became a factor in planning activities that promoted the idea of preserving entire sites rather than singular monuments and that involved local citizens as well as governments.⁵

The national trust for historic preservation, founded in 1949, was a private organization with federal support that facilitated public participation in the preservation movement. The trust was patterned on the British National Trust and the San Antonio conservation society in Texas. The trust administered many educational preservation programs in addition to owning and running many historic properties in the country.⁶ The passing of the national historic preservation act on October 15, 1966 was a landmark for the preservation movement in the U.S. The act expanded the National Register to include districts in its listings of historic places. It also established the advisory council on historic preservation and created the position of a state-level appointee, the state historic preservation officer (SHPO). In 1969, the national environmental policy act was passed. The

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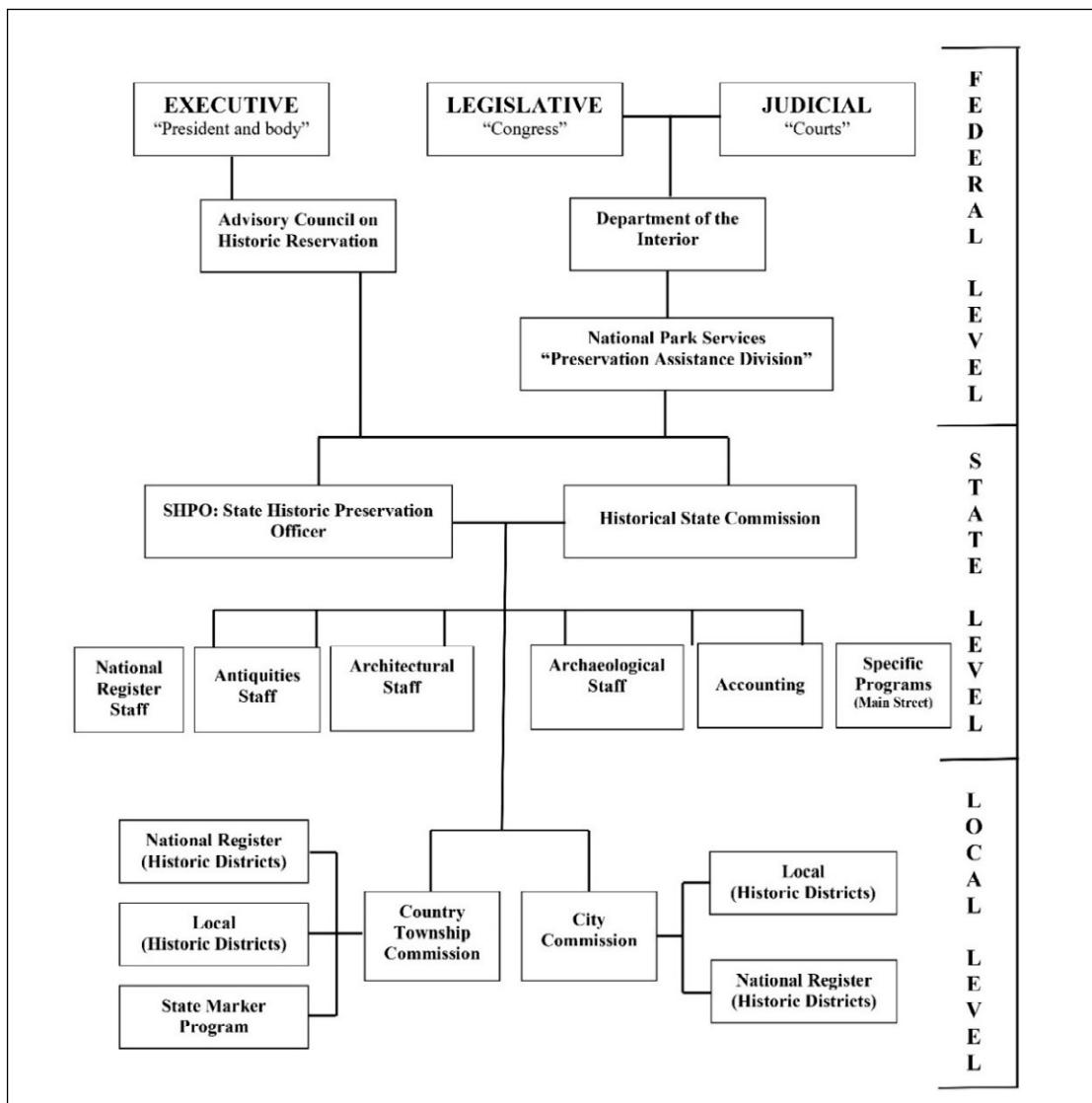


Fig. 1. Structure of governmental preservation agencies in the U.S.A.

Act triggered studies on environmental impact regarding the effect of federal projects on natural resources, wildlife and historical surroundings.⁷ In 1976, the tax reform act was passed; written specially for buildings and provided more incentives for certified preservation projects in the form of tax cuts. This act was followed by the 1981 Economic Recovery Tax Act, which provided a 25% tax cut on certified preservation projects. However, the 1986 Act of Tax Reform unfortunately, minimized the incentives to 20%.⁸

It is important to notice the trickle-down effect of legislation in the U.S., what the legislation signifies and the effects on the architectural heritage. The 1966 act had a tremendous positive effect on the preservation movement in the U.S. The decade which followed, witnessed many pro-preservation activities by both the government and the private sector. In the decade between 1966 and 1976, labeled the „Bicentennial Era,” many preservation organizations were founded, such as the Victorian Society in America, Friends of Cast Iron Architecture, The Association of Preservation

Technology (APT) and the Society for Commercial Archaeology.⁹ Besides architects and historians, other groups became interested in preservation, such as folklorists, cultural and urban geographers, planners and cultural anthropologists. In the U.S., preservation has apparently been established as a culture. In 2016, the United States of America enacted a new law „An Act to protect and preserve international cultural property at risk due to political instability, armed conflict, or natural or other disasters, and for other purposes.”¹⁰

Heritage laws and regulations in France

In France as well as in the U.S., pro-conservation legislation evolved from laws that supported the conservation of national-singular monuments to those that supported the conservation of ordinary monuments, whole settings and neighborhoods. The first public effort to conserve historic monuments was the 1792 creation of the National Education Committee for the preservation of national monuments.¹¹ This committee

was created as a reaction to the massive destruction to historic monuments during and after the French Revolution of 1789. This committee was not effective in protecting historic monuments because, during a period of only 10 years (1789–1799), more buildings were destroyed than had been in centuries.¹² One of the positive effects of the Revolution, though, was the evoking of national pride in national historic monuments of the country. The Commission of Historic Monuments (Commission des Monuments Historiques) was established in 1837. Considered the first national organization for conservation in France, the Commission administered, educated and trained architects, artists including historians for conservation.¹³ The first conservation law, passed in 1887, was empowered by the Minister of Public Instructions and Fine Arts (Ministre de l'Instruction Publique et des Beaux Arts) to list whole or parts of buildings that were of national benefit from the viewpoint of art or history.¹⁴ With this law, the Commission of Historic Monuments acquired the power to supervise work on historic buildings. The law also restricted private ownership in the name of public interest. At this stage in the evolution of the conservation movement in France, the selection criteria were based on art, architecture and history with the concern still for individual monuments. As far as significance was concerned, much emphasis was given to architectural and artistic merits when selecting historic monuments in France.¹⁵ The reason might be attributed to the fact that government employed architects and artists with a major influence on the conservation movement in France, embodied in art and architecture rather than history and genealogy.

In 1913, a law for protecting and conserving of historic monuments was ratified. This law only addressed individual buildings and introduced a classification system of monuments, dividing them into two categories, Classified monuments (monuments classé) which represented the best of French architecture and registered monuments (monuments inscrits) which were of a lesser grade.¹⁶ The 1913 law was considered the basis of all French legislation affecting the conservation of architectural heritage in the country. A bill was passed in 1914 to create a National Treasury of Historic Monuments (Caisse Nationale des Monuments Historiques). Its job was to supervise the budget allocated to the Ministry of Fine Arts and to facilitate financial aid for protection and conservation of the cultural heritage.¹⁷ Protection of the natural monuments and sites occurred late in the 20th century. In 1930, the Natural Monuments and Sites Law was passed, considered as the first law to address natural sites (compared to the U.S., conservation of nature was a latecomer in France). This law signaled the beginning of integrated conservation, but urban settings were still not incorporated.¹⁸ A buffer zone (zone de protection) was devised to protect settlements of historical, artistic, scenic or scientific interest. The Law of 1943 addressed the protection of immediate surroundings of protected

monuments. The law called for the protection of the built and rural areas within a 50-meter radius of architectural heritage.¹⁹

The 1940s and 1950s was a period of destruction to the historic urban environment due to large scale planning projects and slum clearance. Destruction in the name of planning was a common reality in French history. During the urban renewal period of the 1950s and 1960s, many of France's historic monuments were demolished and bulldozed.²⁰ This evoked public concern for the physical and visual aspects of urban as well as rural life in most French cities, especially Paris. Such concerns were culminated with the passing of the 1962 Malraux Law.²¹ Andrée Malraux, Minister of Cultural Affairs under De Gaulle during the 1960s, lobbied for this law. The law addressed the protection and conservation of historic quarters, neighborhoods and expanded the concept of protected sectors (secteurs sauvegardés) to urban housing and quarters possessing architectural value.²² This law contributed to the maturation of the concept of integrated conservation rather than the protection of singular monuments²³. Urban renewal before 1962 tended to destroy those areas considered unhealthy, building in their place modern living quarters. After the 1962 law, the funds allocated to urban renewal for those areas were applied instead to restoration, rehabilitation and adaptive use of existing historic monuments and settings.²⁴ One of the first protected sectors (secteurs sauvegardés) was the Marais historic area in Paris, selected as a result of a national survey. The district of Marais hosts 176 classified monuments and 526 registered monuments. The most significant of all historic resources in the Marais area is the Place des Vogues plaza completed under Henri XIV in 1605.²⁵

Participation by the Parisians in particular and the French in general in choosing the historic districts demonstrated the importance of local participation in the overall process of conserving the cultural heritage. What began as the Commission of Historic Monuments (Commission des Monuments Historiques) in the 1830s is now called the National Organization for Historic Monuments and Sites (Caisse Nationale des Monuments Historiques et des Sites). It represents the perfect example of a national organization protecting historic monuments, promoting adaptive use and rehabilitation of the cultural heritage. Emergency interventions owing to the destruction of potential sites were still not expedited, and such measures only emerged thanks to pressure on 17 January 2001 from Association pour les Fouilles Archéologiques Nationales (AFAN).²⁶ This law has European legal basis in the Malta Convention signed on early 1992. In France, the convention's outcome was the setting up of a charge to finance evaluation and rescue excavations. In 2002, National Institute for Preventive Archaeological Research (Institut National de Recherches Archéologiques Préventives) was born to administrate research and take over the AFAN's obligations and rights.²⁷ In 1980s, archaeology

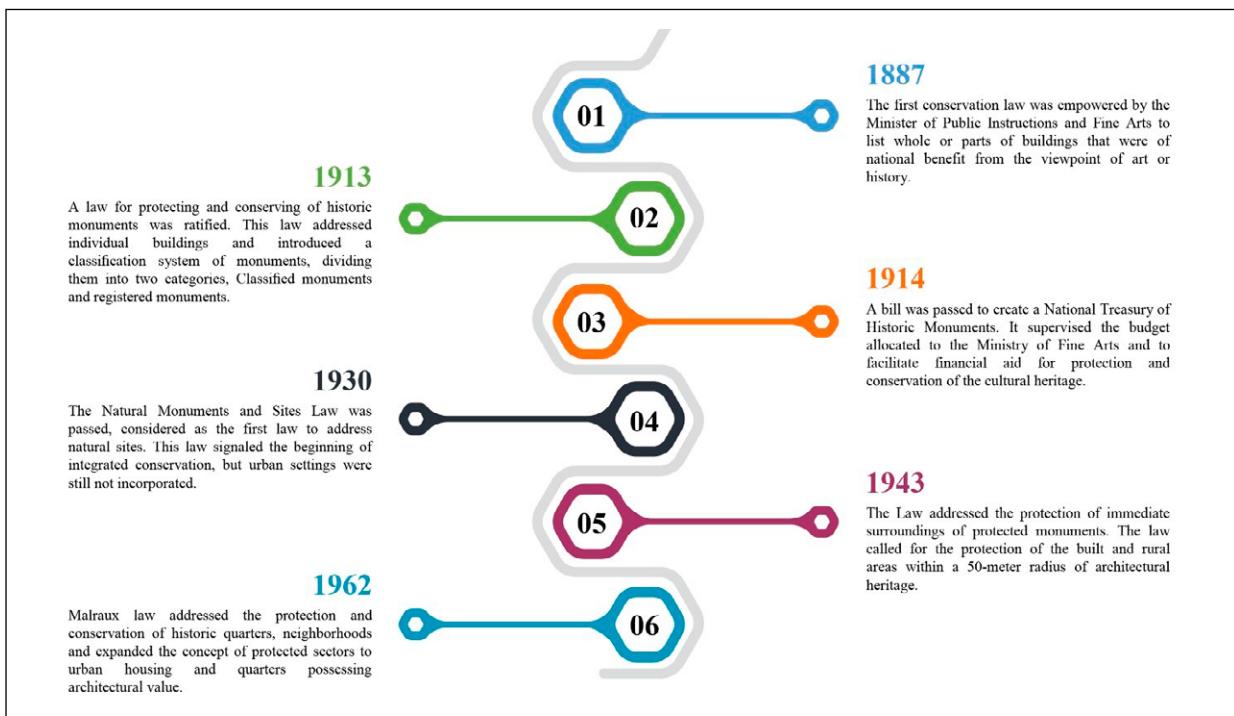


Fig. 2. Timeline infographic of the heritage laws in France.

dealt with invisible remains just as much as visible ones until 2004 when this article was revised. The Heritage Code (Code du Patrimoine) that takes into consideration the underwater remains were established too, keeping these distinctions contributes to maintaining confusion both within the scientific community and also for students and public.²⁸

Antiquities laws in Egypt

During the reign of Muhammad Ali (1805-1848), antiquities protection was extremely modest and inefficient. Egyptian antiquities were plundered by foreigners, treasures and monuments were smuggled abroad.²⁹ In addition, the decline in the popularity of the medieval Islamic architecture led to a break in its evolution. Due to political reasons, European styles (mainly Renaissance and Neo-Classical) became very popular and widely used. Mohammad Ali chose European architects for his new building program (palaces, apartments and public buildings). The protection of Pharaonic antiquities' was started by foreign (mainly European) archaeologists and orientalists who came to Egypt with several expeditions.³⁰ The nineteenth century brought the intellectual tradition of the European method of documentation and analysis to Egypt through the work done on its ancient monuments, arts, traditional life and Islamic architecture. The work of the Orientalists is very valuable to future research and deserves high recognition. They were mainly concerned with documenting traditional and social life but also documented ancient and historic monuments.

The year 1912 saw the passing of the first antiquities law (Law # 4: Defining Ancient Monuments). This

law defined monuments as „...all that was revealed and created by the arts, sciences (...) manufactured in Egypt since the days of the pharaohs, the kings of Greece, the Romans in the occidental, oriental states including Coptic monuments, including deserted churches, monasteries, fortresses, walls, towns, houses, baths etc.”³¹ This law carried a clear alignment for the benefit of historical Egyptian antiquities, not Islamic or other antiquities dating to later periods of Egypt history. The law addressed singular monuments rather than integrated areas. Other laws that followed, such as the 1918 law (Law # 8: Protecting Monuments of the Arab Era) called for the protection of everything fixed or movable of artistic or historical value dating back to the period between the conquest of Egypt by the Arabs and the death of M. Ali in 1848.³² Unfortunately, this law was not properly implemented by the Egyptian authorities due to the nature of the Department of Antiquities.

The year 1951 was the year when the first general legislation was passed in Egypt regulating various kinds of antiquities as well as protecting the ancient Egyptian, Coptic and Arabic monuments till the end of the Khedive Ismail era in the 1880s.³³ The law in 1951 was enacted to fix the dilemma of smuggling antiquities. Implementation of the law was restricted to ensure that ancient monuments and treasures stayed in Egypt, conserved in respect of global tourism. The complexity of that mission did not allow the Department of Antiquities to properly deal with the conservation of cultural heritage in the later periods. The main bias in the law, in addition to its static turning point (1880), was that it did not address the maintenance issue of a cultural environment and integrated historic; but it addressed historic monuments as separate isolated entities, un-



Fig. 3. Aqmar Mosque is one of the Islamic architectural heritage in Egypt built in 1125.

derscoring those of great artistic value and ignoring the rest.³⁴ The law did not lay down controls and principles governing the size, form and height of modern buildings erected near historic monuments.

In 1983, The government ratified a law for protection the monuments (No. 117). Regulations were issued and the law was updated in 2010. It was enforced heritage conservation law until 2006. This law re-defined the artifacts to be „Artifacts produced by different cultures or caused by arts, sciences, literature or religion of the pre historic era and during consecutive historic periods till a hundred years ago when it held value or had archaeological or historic importance is considered one of the manifestation of different cultures.”³⁵ A new Law to conserve the architectural heritage (No.144) was enacted in 2006. The law focused on protecting the buildings of high heritage and distinctive value. The law mentioned to „Buildings and structures of distinctive architectural order or related to national history or a historic personality or those representing a historic era or considered a touristic destination; those are protected against demolition or modification.”³⁶ The latest law in Egypt was the Urban Harmony Law (No. 119) which was ratified in 2008. The law, in addition to the regulations, was responsible of the conservation of the areas that possess an urban character and distinctive architectural value besides buildings and natural components. The law includes „The areas characterized by richness of contents of heritage, architectural, physical symbolic, aesthetic or natural value; and need to be dealt with as an integrated unit for conservation.”³⁷ This law differs from the other laws; the 2008 law is interested in the monu-

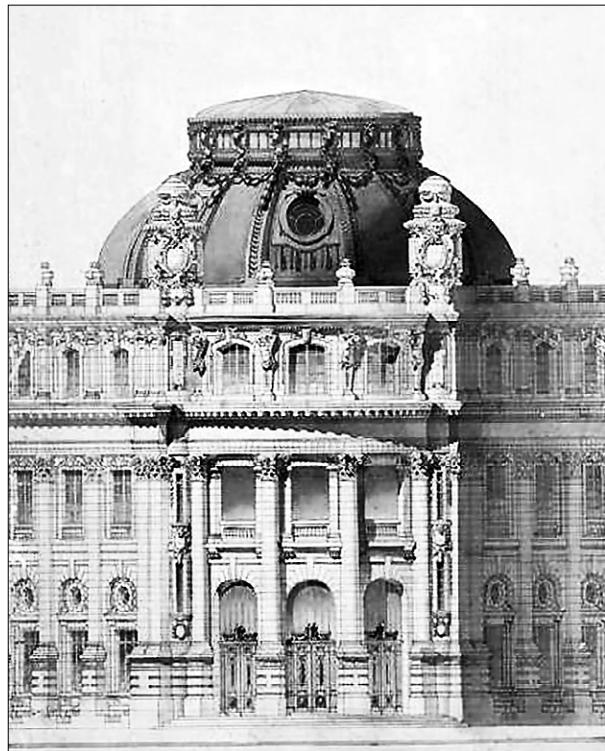


Fig. 4. Egypt's Belle Époque architecture, The Khedivial Bourse of Egypt in 1850.

ment context and urban area rather than the monument structure itself. The law describes the monument's buffer zone, boundaries, and frontiers. Thus, it works like complementary law to conserve the full context in a comprehensive process.

Conclusion

The article focused on three countries in various cultural and geographic contexts. The evolutionary study of these countries was incorporated in the research to help the researcher to deeply understand the Evolution of Pro-Cultural Conservation Legislation in those countries. The evolutionary study of these countries provides a broader and deeper understanding of the conservation mechanism which will reflect appropriately on the development of the cultural heritage in the other countries. The research found that the Evolution of Pro-Cultural Conservation Legislation in U.S. and France progressed from those that support the conservation of national, singular monuments to those that support the conservation of ordinary historic monuments, whole settings and neighborhoods. The 1960s could be considered the time for the development of „integrated conservation” in both France and the U.S.A. in addition, the maturation of the concept of conserving whole sites rather than singular monuments. In Egypt, the provisions for the effects of registration and intervention in historic settings are ambiguous. In addition, the Egyptian antiquities law carries an archaeological bias in their definition of „antiquity.”

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Abstract

Conservation of cultural heritage is significant as it provides identification and continuity for the next generations. However, the degree of interest differs from country to country. While developed countries have come a long way in this field, developing countries are still struggling to catch up with them. The objective of this paper is to investigate and analyze the evolution of pro-cultural conservation legislation in various cultural and geographic contexts. The researcher selected United States of America, France, and Egypt after reviewing different conservation movements in several countries. The selection criteria took into consideration countries that have established an advanced and mature conservation process, have wide experience in the field of heritage conservation, and possess contrasting examples in conserving the cultural heritage. The evolutionary study of these countries provides a broader and deeply understanding of the conservation legislation which will reflect appropriately on the development of the cultural heritage in the other countries.

Streszczenie

Konserwacja dziedzictwa kulturowego jest ważna i pozwala przyszłym pokoleniom na identyfikację i ciągłość. Natomiast stopień zainteresowania różni się między krajami. O ile kraje rozwinięte zaszły daleko na tym polu, o tyle kraje rozwijające się wciąż starają się za nimi nadążać. Celem niniejszego artykułu jest zbadanie i przeanalizowanie ewolucji prokulturowego prawodawstwa konserwatorskiego w różnych kontekstach kulturowych i geograficznych. Badacz wybrał Stany Zjednoczone, Francję i Egipt po przeglądzie różnych ruchów konserwatorskich w wielu krajach. Kryteria wyboru brały pod uwagę kraje, które ustano-wiły zaawansowany i dojrzały proces konserwatorski, posiadają szerokie doświadczenie w dziedzinie konserwacji dziedzictwa oraz prezentują kontrastujące przykłady w konserwacji dziedzictwa kulturowego. Badanie ewolucyjne tych krajów pozwala lepiej zrozumieć prawodawstwo konserwatorskie, które odpowiadło odciśnie się na rozwoju dziedzictwa kulturowego w innych państwach.