

## ***Preserving Cultural Heritage in Algeria at the Local Level***

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### ***Abstract***

*Cultural heritage serves as a witness to human civilization across all its stages, embodying the essence of a nation's identity and influencing its past, present, and future. The diversity and uniqueness of cultural heritage within a country significantly contribute to its overall progress.*

*Algeria is one of the nations with a very diverse cultural heritage, which reflects the succession of civilizations throughout the ages on this earth, but this cultural heritage may face many risks to its survival and hinder its intergenerational transition, which calls for the succession of civilizations throughout the ages on this earth. To provide adequate protection of cultural heritage at the international and national levels to preserve its original image. The question is: what protection do local authorities provide for heritage protection at the local level?*

***Key words:*** Heritage, culture, protection, real estate, municipality, state.

### ***Introduction:***

*Introduction Algeria boasts a rich cultural heritage that extends across a vast land area, resembling a continent in size, and spanning thousands of years shaped by various civilizations that have inhabited this land. This heritage, with its values and meanings, serves as evidence of the nation's ancient roots and expressive authenticity of its national identity. It represents the link between the past of nations and their present, and today it is regarded as a fundamental pillar in the development of the economy of many countries. It is considered an important resource around which the tourism industry revolves.*

*Despite the significant importance of cultural heritage, it faces numerous risks that threaten its preservation and continuity as a witness to the various stages of human civilization. These risks can arise from natural causes such as earthquakes, floods, and humidity or they can be a result of human actions, including crimes committed against it, such as*

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*theft, looting, smuggling, and illegal trade of cultural property. Additionally, historical and archaeological sites are susceptible to vandalism and desecration.*

*In addition to the challenges posed by globalization, particularly to traditional intangible cultural heritage.*

*Since cultural heritage is a non-renewable resource, its preservation is not only essential for safeguarding history but also for the future, as it represents an economic asset and a factor for social balance that enhances national spirit. The protection of both tangible and intangible cultural heritage was enshrined for the first time through the constitutional amendment of 2016, as reaffirmed by Article 76 of the recent constitutional amendment of 2020<sup>1</sup>, which states: "The state is responsible for protecting the national cultural heritage, both tangible and intangible."<sup>2</sup>*

*This recognition highlights the importance of preserving cultural heritage as a valuable resource for the country, contributing to its economic growth, social harmony, and national identity.*

*Several legal and regulatory texts have been issued, establishing various administrative bodies to protect cultural heritage at both the central and local levels, including municipal and provincial authorities. These bodies have been granted numerous powers aimed at achieving the sustainability and continuity of cultural heritage, as well as its transmission to future generations and revitalization.*

*In light of the points mentioned above, we can raise the following question:*

*To what extent do local communities contribute to the preservation and valorization of cultural heritage?*

*To answer this question, we rely chosen to rely on the analytical approach in analyzing relevant legal texts and the descriptive approach to familiarize ourselves with the study subject and provide details on its key aspects. In order to achieve the set objectives, we have adopted a dual plan that includes two sections: The first section focuses on the concept of legal protection of cultural heritage at the local level. The second section will be dedicated to the organizations responsible for the preservation of cultural heritage at the local level.*

### ***I.The Concept of Legal Protection of Cultural Heritage at the Local Level***

#### ***1. The Concept of Cultural Heritage***

*To define the concept of cultural heritage, we will address the definition of cultural heritage (subsection one), followed by its components and elements (subsection two).*

### **1.1. Definition of cultural heritage**

There are multiple juristic definitions of cultural heritage, and one of the most important definitions is as follows:

*"Cultural heritage is the material urban remains, whether immovable or movable, including archaeological buildings and discoveries, as well as the artifacts represented in museums from various inherited civilizations. These artifacts possess religious, artistic, historical, or scientific value. It also includes intangible heritage created by individuals throughout ages, such as knowledge, skills, customs, arts, traditions, and others that continue to exist from ancient times until the present day, in a manner that does not contradict Islamic principles."<sup>3</sup> The Algerian legislator has defined cultural heritage in Article 2 of Law No. 98-04 on the Protection of Cultural Heritage as follows:*

*"Cultural heritage, in the context of this law, is considered as all cultural properties, whether immovable or movable, located on national property lands and within them, owned by natural or legal persons subject to private law. It also includes the subterranean layers of inland and territorial waters inherited from various civilizations since prehistoric times until the present day. Additionally, the material cultural properties resulting from social interactions and individual and collective creations throughout ages, which continue to express themselves from ancient times to the present day, are also considered part of the cultural heritage of the nation."<sup>4</sup>*

What is noticeable about this definition is that it is comprehensive and inclusive of all forms of cultural heritage, whether tangible such as real estate or intangible. The legislator uses the term "cultural heritage" at times and "cultural properties" as a synonym at other times. Furthermore, the term "archaeological sites and monuments," which was used in Order 67-281 concerning excavations and the protection of historical and natural sites and monuments (now repealed by Law 98-04)<sup>5</sup>, has been abandoned. This is a commendable decision because the concept of cultural heritage is broader and more comprehensive than that of archaeological sites and monuments. It encompasses both the tangible aspects such as properties and artifacts with historical and artistic value, as well as the intangible aspects such as traditions, myths, and governance. Therefore, Archaeological artifacts are considered a branch of cultural heritage and a part of its components

### **1.2. Components of cultural heritage**

Cultural heritage in Algeria includes both tangible cultural properties, which encompass both immovable cultural properties and movable cultural properties (firstly), and intangible cultural properties (secondly).<sup>6</sup>

### **1.2.1. Tangible Cultural Properties**

*Tangible cultural properties include immovable cultural properties and movable cultural properties, as follows:*

#### **1.2.1.1. Immovable Cultural Properties**

*According to Article 08 of Law No. 98-04 mentioned earlier, immovable cultural properties include the following:*

- **Historical Monuments:** *These are individual or grouped architectural structures that bear witness to a specific civilization, significant development, or historical event. The particular monuments covered include major architectural achievements, paintings, engravings, decorative arts, Arabic calligraphy, buildings or luxurious complexes of religious, military, civil, agricultural, or industrial nature. They also include prehistoric structures, funerary or burial sites, caves, rock paintings, memorial monuments, as well as isolated structures or elements related to major events in national history.<sup>7</sup>*
- **Archaeological Sites:** *These include protected archaeological reserves, cultural warehouses, as well as isolated structures or elements that are related to major events in national history.<sup>8</sup>*
- **Urban or Rural Complexes:** *These are urban or rural real estate complexes such as citadels, cities, palaces, villages, and traditional residential communities that are distinguished by the predominance of the residential area and their architectural and aesthetic unity. They hold historical, architectural, artistic, or traditional significance that justifies their protection, restoration, and rehabilitation.<sup>9</sup>*

#### **1.2.1.2 Moveable Cultural Properties:**

*Moveable cultural properties, particularly as stated in Article 50 of Law No. 98/04 concerning the protection of cultural heritage, include the following:*

*The results of archaeological explorations and research, whether on land or underwater. Ancient objects such as tools, pottery, writings, coins, seals, jewelry, traditional clothing, weapons, and remains of tombs. Elements resulting from the fragmentation of historical landmarks. Anthropological and ethnological equipment. Cultural properties related to religion, the history of sciences and technologies, and the history of social, economic, and political development. Cultural properties of artistic significance, such as oil paintings, hand-drawn artworks on any material, original drawings, posters, and photographic images as a means of authentic creativity. Settlements.*

*Original artistic compositions made from various materials, such as*

*sculptural and engraved artworks made from all materials, and applied art masterpieces in materials like glass, ceramics, metal, wood, etc. Manuscripts and printed materials, including illuminated manuscripts, books, documents, and publications of special importance. Numismatic artifacts (medals and coins) or postage stamps. Archive documents, including textual records, maps, photographs, films, audio recordings, and machine-readable documents.*

### **1.2.2 Intangible Cultural Properties**

*The most important types of intangible cultural properties, according to Article 67 of Law No. 98-04 for the Protection of Cultural Heritage, include:*

- *Traditional music and folk songs;*
- *Chants, melodies, and religious celebrations;*
- *Theater and oral literary expressions;*
- *Dance and rhythmic movements;*
- *Religious celebrations;*
- *Culinary arts;*
- *Oral literary expressions, historical stories, and folk tales;*
- *Proverbs, myths, riddles, sayings, moral teachings, and traditional games.*

## **2. Legal mechanisms for the protection of cultural heritage at the national level**

*The administrative methods and mechanisms for the protection of cultural properties vary depending on their nature, whether they are immovable, movable, or intangible.*

### **2.1. Regarding tangible cultural properties**

#### **2.1.1. Registration in the supplementary inventory list**

*Registration in the supplementary inventory list is considered the first legal mechanism established by Algerian legislation to protect cultural properties.<sup>10</sup>*

*Cultural properties that do not require immediate classification but hold historical, archaeological, scientific, ethnographic, anthropological, artistic, or cultural significance can be registered in the supplementary inventory list. The purpose is to ensure their preservation.<sup>11</sup>*

*The importance of this mechanism lies in:*

- *Creating special inventory cards or technical cards for each cultural property;*
- *Establishing statistical lists for each cultural property that can be easily located.<sup>12</sup>*

*The registration in the supplementary inventory list is carried out through a decision issued by the Wali (Governor) regarding the cultural properties of a real estate nature that hold local significance, following consultation*

with the Cultural Properties Committee affiliated with the concerned province.

The registration decision in the supplementary inventory list includes the following information:

- The nature and description of the cultural property;
- Its geographical location;
- Documentary and historical sources related to the property;
- The significance that highlights the need for its registration;
- The scope of the registration, whether it is comprehensive or partial;
- The legal nature of the property;
- The identity of the owners, assignees, or any other legitimate occupant;
- Attachments and obligations.

The registration decision in the supplementary inventory list, issued by the Wali (Governor), is published in the Official Gazette of the People's Democratic Republic of Algeria. It is also publicly announced at the municipality where the property is located for a consecutive period of two months. The Wali is responsible for notifying the owner of the concerned cultural property. However, if the registration decision is issued by the Minister responsible for culture, it is communicated to the Wali of the province where the property is located for the purpose of publication in the property register. This process does not entail any deduction for the benefit of the treasury.<sup>13</sup>

Furthermore, the owner of a registered cultural property listed in the supplementary inventory is not allowed to make any modifications mentioned above without obtaining prior authorization from the Minister responsible for culture. The authorization is granted according to the procedures stipulated in Article 23 of this law.

Cultural properties that are registered in the supplementary inventory and have not been classified definitively in the mentioned inventory list within a period of ten (10) years shall be removed. This is confirmed by Article 10/02 of Law No. 9804 concerning the protection of cultural heritage.

If a movable cultural property holds significant historical, artistic, or cultural value at the local level, it can be registered in the supplementary inventory by a decision of the governor (Wali) following consultation with the Cultural Properties Committee of the respective province. The governor shall notify the owner, whether public or private, who possesses the property, of the decision to register it in the supplementary inventory.

### **2.1.2. Preparation of a plan for the protection and development of archaeological sites**

*The plan for the protection and development of archaeological sites and their associated protected areas establishes general regulations for organization, construction, architectural design, and urban development. It also determines the consequences of land use and utilization, particularly regarding the activities that can be carried out within the boundaries of the classified site or protected area.<sup>14</sup>*

*The process of preparing the plan for the protection and development of archaeological sites involves several stages. In the first stage, the decision to prepare the plan is made through discussions in the Provincial People's Council, upon the request of the Governor and after notifying the Minister responsible for culture.*

*Then, the discussion report on the preparation of the plan is published by the President of the Municipal People's Council, or the heads of the relevant Municipal People's Councils, at the municipality's headquarters, for a period of one month. The Governor sends a copy of the approved discussion report from the Provincial People's Council to the Minister responsible for culture.<sup>15</sup>*

*The Director of Culture informs the various heads of chambers of commerce and crafts, professional organizations as well as the associations concerned with the protection of cultural property, about the preparation of the scheme, so that they can express their desire within 15 days from the date of the receipt of the letter to participate in an advisory capacity in the preparation of the draft plan.<sup>16</sup>*

*The governor then notifies the different administrations and public services mentioned in Article 08, giving them a period of 30 days to express their opinions and provide any comments on the draft plan. If no response is received after the expiration of the deadline, their silence is considered as approval.<sup>17</sup>*

*In a later stage, the project of the archaeological sites protection plan is announced by a decision from the Wali (governor). According to Article 11 of Executive Decree 03-323, this decision must include the following: Location for accessing the project /Appointment of the investigating conservator / the Start and end dates of the public survey period /Procedures for conducting the public survey.*

*The project of the plan undergoes a public survey period of 60 days. During this period, the decision is published at the headquarters of the concerned province and municipality. If there are any comments or observations, they are recorded in a special register numbered and marked by the Wali. Written comments can also be submitted. After the 60-day period, the register of the public survey is closed by the investigating conservator, who prepares a report on the closure of the*

survey within the following 15 days. This report is then sent to the Wali, who must provide their opinion within 15 days upon receiving the file.

The project of the plan, accompanied by the register of the public survey, the report on the closure of the survey, the conclusions of the investigating conservator, and the opinion of the Wali, is sent in its entirety to the People's Provincial Council for approval. The complete file is then forwarded to the Minister responsible for culture, who is responsible for publishing the plan in the Official Gazette by their decision.

In the final stage, the Directorate of Culture for the concerned province is entrusted with implementing the plan in consultation with the President of the Municipal People's Council.

### **2.1.3. Urban permits**

It is not permitted to carry out any construction or demolition that could affect the natural, historical, cultural heritage or pose a threat without consulting and obtaining approval from the relevant authorities in this field, in accordance with the existing laws and regulations<sup>18</sup>. Only land plots within appropriate boundaries for the protection of archaeological and cultural sites are eligible for construction<sup>19</sup>.

The height of buildings in the preserved parts of the municipality should not exceed the average height of adjacent buildings, in compliance with the provisions of the applicable legislation, particularly regarding the protection of historical landmarks<sup>20</sup>. If the proposed buildings or structures require a height that would obscure or conceal the landmarks, the building permit may be rejected if it exceeds the height of neighboring buildings<sup>21</sup>.

The building permit can be refused or granted with conditions if the proposed buildings or structures affect their location, the external appearance, the significance of neighboring sites, and the preservation of the views of archaeological landmarks<sup>22</sup>.

Therefore, when a building falls under the legislation governing the protection of archaeological sites and historical places, the mayor of the municipal council cannot order its restoration or demolition except within the limits of the conditions specified in the applicable legislation and regulations<sup>23</sup>. It should be noted that the building permit is initially issued by the mayor of the municipal council, acting as a representative of the municipality, in the presence of a land development plan. In the absence of such a plan, the permit is issued by the competent regional governor.<sup>24</sup>

## **2.2. Intangible Cultural Heritage**

The preservation and maintenance of intangible cultural heritage are

carried out through the following methods:

### **2.2.1. Establishing databases and repositories to store intangible cultural heritage**

The Algerian legislator stated in Article 69 of Law No. 98-04 the establishment of databases and data banks as a mechanism to protect intangible cultural heritage. These databases are created at the national level by a decision issued by the Minister of Culture, based on an initiative from the Minister, the Governor, the President of the Municipal People's Council, accredited cultural associations, specialized cultural institutions, or any other qualified person.

In implementation of the above-mentioned provision, Executive Decree No. 03/325 was issued, which defines the procedures for storing intangible cultural heritage in the National Data Bank<sup>25</sup>. At the local level, the Directorate of Culture for each province is responsible for identifying intangible cultural heritage using the methods specified in Article 68 of Law 98-04 on the protection of cultural heritage. They coordinate the work carried out by specialized institutions and organizations in cultural heritage and send the collected data to the Ministry of Culture for utilization according to the procedures specified by the Minister of Culture.

### **2.2.2. The dissemination of intangible cultural heritage**

It is carried out through various means, such as organizing exhibitions and different events that highlight all traditions. This includes holding exhibitions and salons for cultural exchange between different regions of the country. Additionally, support is provided for cultural weeks held at various national levels by mobilizing the necessary resources to ensure their success. Furthermore, intangible cultural heritage is given the recognition it deserves in the cultural dimension and contributes to the cultural enrichment aimed at promoting this cultural heritage.

## **II .Local Authorities Responsible for Preserving Cultural Heritage**

The Algerian legislature grants local authorities, represented by both the Wilaya (province) and the municipality, various powers to undertake actions aimed at preserving cultural heritage and ensuring its development in their respective areas.

### **1. The protection of cultural heritage at the regional level**

In addition to the powers of the governor (Wali) in preserving cultural heritage as mentioned in the first part of this research paper, there are other institutions that play an important role in this field, namely:

#### **1.1.The role of the Provincial People's Council in the protection of cultural heritage**

Article 77 of Law No. 12-07 on the province states that the Provincial

*People's Council deals with several areas, including tangible, intangible, and historical cultural heritage. It also states in Article 75 that "the Provincial People's Council, according to the capabilities, nature, and characteristics of each province, takes the initiative to establish commemorative landmarks in collaboration with municipalities."*<sup>26</sup>

*Furthermore, Article 97 states that "the Provincial People's Council contributes to the establishment of cultural, sports, recreational, and youth infrastructure, as well as the protection and preservation of cultural heritage, through consultation with municipalities and all bodies responsible for promoting these activities."*

*The Provincial People's Council also contributes to the protection and preservation of cultural, artistic, and historical heritage through the participation of technical departments and coordination with the municipalities of the province and relevant organizations and associations. It proposes all necessary measures in this regard to valorize and preserve cultural heritage, as stated in Article 98 of the provincial law.*

## ***1.2. Protecting cultural heritage through the Provincial Committee for Cultural Properties***

*At the level of each province, a committee for cultural properties is established, tasked with studying any requests for classification, establishing protected sectors, or registering cultural properties in the supplementary inventory list and proposing them to the National Committee for Cultural Properties. The committee expresses its opinion and deliberates on requests for the registration of culturally significant properties at the local level in the supplementary inventory list, as stipulated in Article 80 of Law 98-04 on the protection of cultural heritage.*

*Articles 13 and 14 of Executive Decree No. 01/104, which includes the formation, organization, and work of the National Committee and the Provincial Committee for Cultural Properties, specify the composition of the Provincial Committee for Cultural Properties. The committee operates under a simple administrative structure to preserve its flexible artistic nature, with the Directorate responsible for culture in the province providing technical secretariat services to the Provincial Committee for Cultural Properties.*<sup>27</sup>

*The Provincial Committee meets upon the request of the Director of Culture in the province, based on the invitation of its chairman. The invitations, accompanied by the agenda, are sent at least fifteen (15) days before the meeting, although this period may be shortened to no less than eight days for extraordinary sessions. Minutes of the proceedings of the*

*Provincial Committee for Cultural Properties concerning registered cultural properties in the supplementary inventory list are sent to the Minister responsible for culture within fifteen (15) days following the committee meeting.*

*The Provincial Committees for Cultural Properties also send their opinions on the files they have examined to the National Committee for Cultural Properties. However, files related to requests for registration in the supplementary inventory list of culturally significant properties at the local level of the respective province are exempted from this procedure and are subject to the deliberations of the Provincial Committee.*<sup>28</sup>

### ***1.3. Protecting cultural heritage at the municipal level***

#### ***1.3.1. The role of the President of the Municipal People's Council in protecting cultural heritage***

*Article 95 of Act No. 11-10 on the Municipality provides for the powers of the President of the Municipal People's Assembly as the representative of the Municipality to protect the archives. Article 89 stipulates: "... It also orders, in the same forms, the demolition of walls, buildings and buildings that are falling, while respecting the applicable legislation and regulations, particularly those relating to the protection of cultural heritage".*<sup>29</sup>

*As for the functions of the President of the Municipal People's Assembly as the representative of the State, article 94 of Law 11.10 refers to the protection of the cultural and historical heritage and the symbols of the National Liberation Revolution, in addition to the observance of standards and instructions in real estate, housing and construction, the protection of cultural and architectural heritage, while respecting the legislation and regulation related to real estate, housing and construction, and the protection of architectural cultural heritage throughout the municipal territory, as stipulated in article 95.*

*Furthermore, Article 116 of the same law states: "Within the framework of protecting architectural heritage and in accordance with the applicable legislation and regulations regarding housing and urban development, as well as the preservation and protection of cultural heritage, the municipality, with the contribution of qualified technical services, is responsible for the preservation and protection of cultural property and the preservation of the architectural coherence of population settlements".*

*Additionally, Article 121 of the same law adds: "The municipality, alongside the state, contributes to the preparation and celebration of national holidays as defined by the effective legislation, as well as commemorating historical events, particularly those associated with the liberation revolution". Moreover, Articles 160 and 162 of the same law*

*stipulate the respect for guiding plans, as well as the conduct of inventory and survey operations for immovable and movable cultural properties.*

## ***2. The contribution of permanent municipal committees in the preservation and valorization of cultural heritage***

*The law grants the Municipal People's Council the authority to form specialized committees from among its members to study issues related to local affairs. Among these permanent committees, as stated in Article 31 of Municipal Law 11-10, are:*

### ***2.1. The Committee for Social, Cultural, Sports, and Youth Affairs***

*The Committee for Social, Cultural, Sports, and Youth Affairs plays a significant role in the cultural domain, which is evident through the following:*

- Maintenance of cultural structures and facilities;*
- Protection of cultural heritage;*
- Establishment and maintenance of cultural centers;*
- Preservation of local cultural heritage and revival;*
- Encouragement of associations in cultural fields;*
- Proposal of necessary actions to revive social and cultural activities;*
- Participation in the maintenance of mosques and Quranic schools.*

### ***2.2. Committee for Regional Development, Urban Planning, Tourism, and Traditional Industries***

*The Municipal People's Council is responsible for the sector of development, planning, and urban preparation by monitoring the construction activities taking place within the municipality. It ensures compliance with technical permits and property legislation. The council is also responsible for protecting heritage and archaeological sites.<sup>30</sup>*

*The municipality, through the Committee for Regional Development and Urban Planning, is entrusted with the protection of urban and historical heritage, as well as sites of natural, historical, or aesthetic value. It also preserves the architectural coherence of residential areas. Additionally, the municipality safeguards its real estate assets and gives priority to public infrastructure programs and economic investment. It also ensures the preservation of properties belonging to state public assets.<sup>31</sup>*

*Encouraging investment, including foreign and domestic investment, in heritage tourism is a crucial aspect that cannot be overlooked. It is considered an important economic sector in the pursuit of genuine solutions for its development, provided that the cultural specificities of the region are respected and its heritage character is preserved. This can be achieved by establishing tourism structures in archaeological areas*

*according to criteria set by local authorities to protect this heritage.*

*In summary, the Municipal People's Council and the Committee for Regional Development, Urban Planning, Tourism, and Traditional Industries play significant roles in monitoring construction activities, protecting heritage and archaeological sites, providing road networks connected to heritage sites, preserving architectural coherence, safeguarding real estate assets, prioritizing public infrastructure and economic investment programs, and promoting investment in heritage tourism while respecting cultural specificities and heritage character.*

### **Conclusion**

*In conclusion, local authorities represented by the governorate and the municipality are primarily responsible for preserving and valorizing their cultural heritage within the framework provided by legal and regulatory texts. They have extensive powers to impose and implement various administrative protection measures and mechanisms, whether preventive or corrective. However, the lack of experience among local officials, their limited awareness of the importance of cultural heritage, and the failure to take necessary measures before and after its discovery, such as activating laws, inadequate funding, and financial constraints faced by some municipalities, have all led to the neglect of cultural heritage, particularly in terms of real estate assets.*

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