

## DEVELOPING LEGAL AND ADMINISTRATIVE TOOLS FOR PROTECTION OF THE MEANINGS OF CULTURAL PLACES

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**Abstract.** The users of a place are one of the main resources in defining the cultural identity and spirit of that place. The results of a field survey in Tarsus with the aim of assessing user-ascribed values revealed that some user-valued places and attributes were not covered by current legal and administrative rules and regulations in Turkey. In this context, this paper firstly identified the methodology of the field survey. Secondly, the current legal and administrative definitions of heritage and conservation tools in Turkey are assessed. Thirdly, the outcomes of the field survey are presented and the results in relation to legal and administrative aspects are evaluated. The paper concludes by suggesting new definitions and tools for the protection of the importance of the cultural places to the inhabitants.

### 1. Introduction

The soul of a place mostly depends on the significance, feelings and memory that users ascribe as being distinct from other places (Norberg-Schulz, 1980; Rossi, 1982). However, user-based identification is a complicated subject, as it changes in time from culture to culture, and even within the same culture. Protecting such a complicated structure necessitates new definitions and tools appropriate to its character. In this context, area-based studies can help

to identify the characters included in the spirit of place, and act as a guide in the development of new legal and administrative definitions and tools based on identified characters.

This paper aims to propose tools to protect the spirit of place based on a field survey held in Tarsus as a part of a Ph.D thesis, which was conducted by the author under the supervision of the co-author, and was completed in 2007.

The aim of the field survey held in Tarsus was to identify user-valued places and user-ascribed values. A Mixed method design was applied in the data collection process. The research was held in three phases. In the first phase, a preliminary research in the form of a literature review was carried out to understand the historical and cultural structure of the town, and to assist in the design of the survey to be applied in the following phases. In the second phase, three methods were used in order to understand user-defined cultural places and their attributed values and meanings. In this process, the historical and archival documentation method was used to collect data from local newspapers; the oral history method was used to collect data from individuals; and the focus group method was used to collect data from groups. In the third phase, a survey was carried out to identify public rankings on user-valued places and the user-ascribed values clarified in the second phase. The three-phase approach resulted in a record of the places valued by the users and the ascribed values, with their meanings and ranking.

The results revealed that some user-valued places are not covered by the legal and administrative conservation legislation in Turkey. The respondents valued places as a part of their cultural identity and the spirit of the town, based on their emotional connections and attributes. However, some of these places have no physical value, but rather only emotional attributes, and the current legal and administrative tools and definitions, which are mostly inclined towards physical aspects, are insufficient for their protection. In this respect, the study examined the scope of the legal and administrative tools in Turkey and the character of user-valued places, and then proposed new definitions and considerations for the protection of such places. The results of the study and the proposals for new legal definitions and tools are presented below.

## **2. Current Legal and Administrative Arrangements in Turkey**

The Law of Preservation of Cultural and Natural Properties (no: 2863), some articles of which were changed in 2004 with the Act no: 5226, is the main legislation related to conservation in Turkey. Based on the general definitions in the law, the Regulation Regarding the Inventory and Registration of Immovable Cultural and Natural Property define the criteria for the documentation and registration of immovable cultural property. Additionally, Principle Decision no: 660 of the High Council of Conservation<sup>1</sup> groups and defines immovable cultural properties to guide conservation interventions. These three main documents provide an understanding of the legal and administrative definitions for the identification and protection of cultural heritage in Turkey.

The law characterizes places that should be protected under the definitions of “cultural property”<sup>2</sup> and “site”<sup>3</sup>. In the both definitions, the law provides a flexibility that can embrace all tangible and intangible meanings by giving no limitation to time or place, and by embracing a wide range of attributes, including social, cultural, economic and physical aspects. However, these definitions have reached this extended scope with the changes made to the law with Act no: 5226 in 2004, before which the act characterized cultural properties mostly according to their physical aspects. Additionally, the registration criteria<sup>4</sup> and Principle Decision no: 660 still characterize cultural properties mostly according to their physical values and meanings. This limited definition of heritage cause problems in the registration and protection of cultural properties.

Today, most of the registered cultural properties are under protection due to their physical or historical values, and most of the urban site boundaries are determined based on physical aspects, such as the quantity of cultural properties. As a result, conservation plans mostly include precautions to protect physical aspects, such as architectural figuration, material use or construction systems, while there is no clear definition for the protection of the place’s emotional or spiritual aspects.

Moreover, the conservation plans manage only the areas within site boundaries. Act no: 5226 calls for the consideration of connected

places<sup>5</sup> together, however there is still no clear definition about how this may be achieved, and still conservation plans cover conservation cautions only for the places within the site boundary.

To summarize, the revisions and developments in the legal and administrative base provide for wide considerations, including both the physical and emotional aspects, in the definition and protection of cultural properties. However, recently imposed site boundaries and registrations of buildings have been based on physical values, and thus conservation decisions on the whole provide protection to the physical aspects of the site, and impose rigid prohibitions to protect physical figuration, while neglecting the emotional aspects and spirit of places, which are yet to be clarified.

### **3. The Outcomes of the Field Survey in Tarsus**

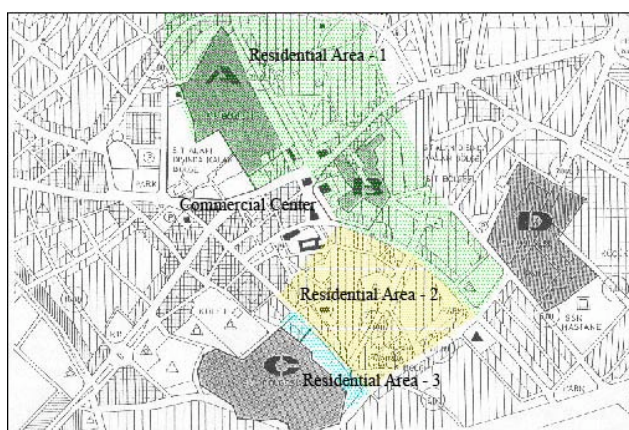
Tarsus is a historic city located in the southern of Turkey. The town has a multi-layered cultural heritage as a result of its rich history, which goes back to Neolithic period, and bears the effects of the different civilizations and cultures that lived in the area. Currently, the town contains traditional residential areas, monumental buildings, historical open areas and archaeological sites belonging to the different cultures and periods of Tarsus.

The historic tissue is at the center of the city where there are two registered urban sites (A and B in Figure 1), one archeological site (D in Figure 1) and one mixed site (archeological and natural) (C in Figure 1) in the tissue (Figure 1).

The field survey identified a number of places and values that were stated by users as being a part of their cultural identity and the spirit of the town, but which were not under protection, and also were not covered by the legal and administrative conservation legislation. The user-valued places did not necessarily follow those protected by legislation, neither at the area, nor individual building scale.

In area scale, the current site boundaries did not cover all the user-valued areas, disregarding historical places with emotional connections. The collected data indicated that users identified the historical residential areas of the town into three main parts based on the ethnic differences of the inhabitants that used to live there. Although, there is no such ethnic difference today, the people living in Tarsus identified these places according to the inhabitants that used to

live there (Figure 1). However, current site boundaries are not matching with the area separation which users stated, and separating the semantic relations of the historical tissue.



*Figure 1.* Overlap of registered urban sites and user- identified areas in the historic center of Tarsus (Source: Tarsus Kentsel, Arkeolojik, Do\_ al Sit Alanları Koruma Amaçlı \_mar Planı)

In some cases, users attributed the same significance to different types of places based on their connections to the same meaning or event that is important in their cultural life. For example, the Cave of Eshab-ı Keyf and the Ulu Mosque are two places that people visit before making their pilgrimage to Mecca, and hence there is an emotional connection between these two places because of that event. Although these two places have neither a physical nor functional connection, the users value them as being connected to the pilgrimage. In such cases, the cultural spirit was not in connection with a single building, but in connection with the totality of connected places. As mentioned in the previous part, although the recent changes in the law require places that are connected to be evaluated together, no clear definition has yet been made.

On the individual building scale, buildings under protection did not cover all user-valued places. The case study revealed that some user-valued buildings had no physical-based value, with the value being

based rather on emotional connections to the building. However, such places have not been taken under protection, as recent criteria for registration are inclined more towards the physical aspects.

Furthermore, the users in Tarsus valued not only the places that are still standing, but also places that had been demolished but still hold a place in their memories. For example, the \_ar Cinema and Theater building, which has been demolished, was valued as being a social place for the people of Tarsus, and as a symbol of the celebrations of the 10<sup>th</sup> anniversary of the establishment of Republic. Such valued places were stated to be a part of the culture and history of the town, and were an important aspect of life in the city in the recent past. However, current legislation is insufficient in providing protection or presentation statute for places that were not registered before demolition, and that are still of spiritual significance for the inhabitants.

The spirit of place lies in the meaning given to it by the users. In the Tarsus case, the users valued places not based on building type, period or function, but rather on their connection with their cultural life. All the identified building-based and area-based valuations and meanings are important in providing an understanding and characterization of the cultural identity and the spirit of the town. However, some user- valued places are not under protection, and even if they were registered, the current legal and administrative definitions and tools are insufficient to provide protection of their emotional significance. Moreover, the current legal arrangements, which are inclined more towards providing protection for the physical aspects of cultural properties, are too rigid and sometimes invalid for places without physical attributes. In this context, there is a need to develop new definitions and tools to identify and protect buildings and areas with emotional connections.

#### **4. Proposals and Conclusion**

To sustain the protection of the spirit of place, new tools and definitions based on the results of the Tarsus case study are proposed as follows;

- Areas that are formed with emotional boundaries: For the places that need to be taken under protection based on emotional values rather than physical values, there is a need for a definition of a new status that provides for area-based interventions, but does not necessitate rigid physical precautions. This should take into account the following issues:
  - The boundaries of protection areas should be established considering emotional attributes
  - Areas with emotional significance should be conserved, along with their attributes
  - Buildings and places in these areas should be evaluated together in planning decisions in order to protect the spirit of the area
  - The owners of buildings which are not registered and are not taken under protection based on their relations to the spirit of place should be free to make changes to their buildings
  - It is necessary to provide precautions for the presentation of the cultural significance of the area in the management process
  
- Places that have emotional connections: Conservation principles should be established for places that have emotional connections, taking note of the following issues:
  - Places which have emotional connections should be conserved following a holistic approach in relation with each other
  - Any interventions into a place which has emotional connections with other places should be evaluated in terms of its effects on the other connected places
  
- Buildings that have been demolished: There is a need for a new definition and decision for buildings that have been demolished, but still hold a place in the identification of the spirit of the town. To protect the cultural identity and transform this identity for the next generations, a new status needs to be established, apart from registration, including the following issues:
  - The place of the building should be taken under protection with the aim of protecting its spiritual attributes
  - The cultural significance of the place should be presented

- The owners should be free to make any interventions or changes to the new building
- When the existing building has been demolished and the owners want to construct a new building, the Local Conservation Councils should be consulted
  - Buildings without physical value: There is a need for a new status for the places that are important in terms of their place in cultural life, rather than for physical aspects. For the protection of such places, some soft rules, including the following issues, should be established:
    - The cultural meaning and function that is of value should be protected
    - If the valued attribute has physical connections, this physical aspect should be conserved
    - The owners should be free to make interventions or changes to the buildings, unless the changes go against the above statements

To conclude, the spirit of place lays in the emotional significance that users sense and identify with. To protect the spiritual integrity of a settlement, first of all it is necessary to understand how users divide and identify the parts of the settlement. This division and the emotional attributes of the settlement should be at the forefront of any determination of protection areas and intervention types. The results of the Tarsus case indicate that when determining a protection area, consideration of only the physical data is insufficient as the spiritual tissue should be considered to an equal extent. Secondly, at the scale of individual buildings, spiritual attributes should be considered in the registration of buildings and places.

Additionally, the protection cautions, which are based on the protection of the physical aspects of cultural properties, are insufficient and sometimes fall short of protecting the emotional attributes. There is a need to formulate new definitions to identify cultural properties of both areas and individual buildings, and new statutes and tools are required to protect the soul of these places. Protection of the spirit of places necessitates softer definitions and



tools that can provide changes and developments. The establishment of such a legal and administrative base can sustain the conservation of cultural identity and the spirit of place, and, at the same time, provide continuity in cultural changes and developments

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## Endnotes:

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<sup>1</sup> The “High Council for the Conservation of Natural and Cultural Properties”, responsible for making the principles decisions towards the conservation of immovable cultural and natural properties. The High Council oversees the Regional Councils for the Conservation of Cultural and Natural Properties, and guides the Ministry of Culture and Tourism in the general problems of implementation.

<sup>2</sup> “Cultural property” can be defined as all movable and immovable property on the ground, below ground or under water that are of interest from a scientific, cultural or fine arts perspective, or wich are related to the social life of prehistoric and historic times, or have originality value in terms of scientific and cultural issues.” (Preservation of Cultural and Natural Heritage Act No: 5226; sec.1; art. 3-a-1)

<sup>3</sup> “Site” can be defined as the places, which are the products of various civilizations from prehistoric times to today, the urban areas or remaining reflecting social, economic, architectural and so on specialties of its period, the places having homogeneous cultural properties reflecting social life or places where important historical events happened and places need to be protected with natural specialties.” (Preservation of Cultural and Natural Heritage Act No: 5226; sec.1; art. 3-a-3)

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<sup>4</sup> The regulation states the criteria to define a property as an immovable cultural property with following statements:

- For single buildings: having structural, decorative, constructional, material, construction technological specialties within artistic, architectural, historical, aesthetic, local, archeological values (sec.2; art.4; f).
- For urban sites; single buildings having density, architectural and historical unity (sec.2; art.4; g).

<sup>5</sup> Connection point: cultural properties which do not locate within the management area but should be plugged into for archaeological, geographical, cultural and historical reasons or to provide management and development within the same vision and theme. (Preservation of Cultural and Natural Heritage Act No: 5226; sec.1; art.12)