

## Evaluation of the Rules Related to Monuments' Frontage and its Role in Protecting Cultural Monuments

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### Abstract

Privacy is one of the fundamental issues introduced in Iranian Civil Laws which has been formally codified since 1928. In 1930, the issue of cultural and historical monuments was specifically addressed in the law relating to preserving national monuments and the first sparks for the protection of cultural heritage were ignited. The question raised in this study was: "what factors are important in determining and preserving the frontage of valuable cultural spaces?" The purpose of this study was to determine the appropriate rules and how to develop frontage rules for national monuments. The results showed that some issues should be considered in the field of rules. It is better to consider this issue in the constitution like some countries and in the programs of long-term perspective, the cultural heritage organization change to the Ministry of Cultural Heritage and Tourism to handle the Cultural Affairs better. However, the administrative and subjective aspects and effective forces have an important role in enforcing the rules in this regard.

**Keywords:** law, rules, frontage, monuments, cultural heritage

### Introduction

Studies on the subject of monuments' frontage in the country is relatively limited and a few, while the problem, at least with regard to the monuments' frontage is very important and even small and poor mistakes in this regard could lead to irreparable injury and damage to the body of cultural heritage (movable or immovable). But in our country, the frontage rules are enshrined in the form of directions. In countries with precious monuments, the rules are available as the law and cultural heritage is considered as a national treasure and its conservation is a priority in all projects. But, the national and cultural wealth is increasingly at risk of extinction in our country and perhaps some of them will not last longer, so it is necessary to consider a suitable solution as soon as possible. In the present study, the causes leading to such problems were analyzed. Firstly, the laws relating to cultural heritage (particularly laws relating to frontage) inside and outside the country were studied in order to describe the issue. In order to analyze these laws, their impact and roles in protecting cultural monuments were investigated and finally, proper strategies were offered to improve domestic law (according to comparisons and describing the strengths and weaknesses) in order to protect the monuments better.

### Methodology

In this study, descriptive-analytical method was used and the type of reasoning was deductive.

### Review of literature

On the topic of monuments' frontage, the book "Making Frontage for Historical Treasures" was written by Dr. Mohamed Mansour Falamaki. The issue of frontage has been generally studied in this and finally, some cases of study were given as the examples of not considering of monuments' frontage.

### **Background of the study**

The legislation of law on cultural heritages was the most important done in 1963 in order to protect cultural heritages and make them effective. This law legislated in 1988, has not been criticized or analyzed by the experts of the country in order to identify its primacy and recency in compare to history, and sharing ideas and international theorization on making frontage for places characterized excellent from cultural and artistic, historical, social and environmental perspectives (Falamaki, 2005).

#### ***The literal meaning of the policy and its application***

In Iranian culture and literature privacy which is frontage here means “custody” and “forbidden” which is forbidden or not permissible to touch it (Dehkhoda, 1999). Its importance is so high that people fight each other to support it (ibid). The word Privacy is undoubtedly rooted in Quran and utilized eighty- three times in its various derivatives in twenty- five chapters of Quran (Abdulbaghi, 2005).

#### ***The meaning of privacy (frontage) from legal perspectives (some lawyers' views)***

Frontage is some parts of the land surrounding a building, canals, and streams, etc. which is needed to prevent any damages and to benefit it completely and it is called privacy because individuals should respect it and are not permitted to abuse it (Emami, 1983). One of the objective rights that can be considered as an easement right is privacy (Safai, 2010). Frontage is the amount of adjacent area normally necessary to determine the land which is done by experts ( Haeri Shahbagh, 2008). Privacy or frontage is important because any infringements are prohibited by law; this article was extracted from jurisprudence (Jafari Langroodi, 2009).

#### ***The rules to protect monuments***

The main criteria and rules to protect the monuments declared by cultural heritage organization are as follow:

- Registered monuments are not covered by the provisions of modification and reforming the streets;
- Constructing basement in the buildings adjacent to the monuments is prohibited;
- Mounting engines and vibration devices in places 20 meters from the outer sides of the monuments are prohibited;
- Construction of industries making smoke and dust influencing the sites and building materials of the monument is prohibited;
- Construction of wells, canals, aqueducts, or the like, which creates a vacuum in the vicinity of the monument are prohibited;
- The maximum height of buildings and architectural regulations on monuments' frontage require inquiry from Cultural Heritage Organization. (Regulations of detailed design with the latest amendments. Qazvin Municipality. Deputy for Mayor for architecture).

#### **Guidelines and Criteria for Determining Cultural Heritage Policy**

Article 156 of the Third Development Law legislated in 2002: Cultural Heritage Organization of the country will declare the frontage, protective and applied regulations of the buildings, historical sites and collections of the cities or villages to the city or village council and provide services and technical expertise in all fields related to cultural heritage, including protection, research and presentation of cultural heritage.

Article 102 of the Municipality legislated in 1955: If during the design and implementation of programs related to the development of urban streets and meeting other urban requirements written in Article 96 of Amendment of the law, ancient and precious antiques and artifacts are

found, the municipality must ask the agreement Ministry of Culture and arts on how to preserve them, the frontage and landscape of surrounding buildings.

In relation to laws relating to monuments' frontage which is the subject of this study, it can be said that there is almost no constant number to determine the monuments' frontage and can vary based on the circumstances and considering location of the monument the value of the locations, while in some laws the numbers relating to determine the monuments' frontage are the same for all.

#### **Some other countries' regulations on frontage**

##### ***Italian cultural and natural heritage laws legislated in 2004***

Article 2, paragraph 2: Any object that represents the value of Italian culture is considered as Italian cultural heritage and will be supported.

Article 17, paragraph 3: The Ministry and regions can use universities' cooperation in order to achieve the same definition in listing and various ways to list.

Article 92, paragraph 1: Ministry should reward the individuals up to a quarter of the value of the objects discovered.

##### ***Law of protecting natural and cultural heritage of Turkey legislated in 2004***

Article 10: In order to evaluate and protect the areas under study of drilling and exploration, the implementation, monitoring and conservation office will be established by the Ministry in the municipality and governor of the section.

Article 17: the contractor of the protective projects should be an expert in urban planning.

Article 61: The decisions of Supreme Council of protection will be published in the Official newspapers.

##### ***Law for the Protection of Syrian Antiquities and monuments legislated in 1963***

Article 1: The Historical objects and Antiquities is said to those which date back to at least 200 years ago based on Gregorian calendar or 206 years ago based on lunar calendar.

Article 10: municipalities cannot issue a building permit or change in locations close to archaeological sites and monuments without the permission of the related authorities.

##### ***Law for the Protection of Egyptian Antiquities and monuments legislated in 1983***

Article 2: All movable and immovable properties with historical, scientific, religious, artistic or literary value may be called antiquities or monuments due to the request of Prime Minister or the Minister of Culture, even if it is date back not to the range of mentioned date.

Article 3: any antiquities or monuments can be removed from the list of archaeological sites due to the decision of Prime Minister and the request of Minister of Culture.

##### ***Law for the Protection of Greek Antiquities, monuments, and cultural heritage***

Article 24 of the constitution: The government is responsible to protect of all the memorials and cultural environments forever and develop the cities with regard to the health of the environment (the organization of renovation and development of Isfahan municipality, 2012).

Article 1: National cultural heritage are those from ancient times to the present.

Article 6, paragraph 10: Destruction of immovable monument dating back to a hundred years ago or performing tasks that require obtaining a building permit is not allowed without the permission of the Cultural Heritage Administration.

#### **Analysis of regulations in other countries**

Italy: As mentioned above, there is a Ministry of culture and Tourism in Italy like Greece, and Turkey, in spite of Iran in which there is Cultural Heritage Organization. The Minister is confined by parliament's members and can be questioned due to their performances. While the Head of the Iranian Cultural Heritage Organization is chosen by the president and his work is not questioned by parliament's members and the failure to address the violations increases the

probability of errors. It is mentioned in Italian constitution that the cooperation of universities should be used to list historic properties and in fact, young and energetic forces and potential capabilities of the country should be applied. As has been pointed out in this law, the time of creating antiques and cultural properties is not indicated and the value of the properties civilization as a matter of principle is effective in recognition of a cultural work, While in countries such as Egypt or Syria, at least 100 or 200 years old is needed to call a place or monument a historic sites. The protection of historical monuments have also been referred in the constitution of Italy and Greece indicating the importance and value of the countries' antiquities and monuments and shows the strength, validity and identity of a nation.

Turkey: The department of implementation and monitoring has been founded in Turkey's municipalities in order to protect and evaluate them which means like Iran it is not needed to inquire the heritage administration thus the probability of errors decreases and people go directly to the administration to learn about the frontage of their properties. While it is directly stated in the law that municipalities are not allowed to change the decisions of the regional council leads to prevent some problems and in fact the predictions will be correct and it is not possible to cancel the orders of municipalities. Also, when it is arranged to publish the decisions of Supreme Council of protection in the newspapers, it makes people informed of their decisions on monuments and even people can help the government by their effective criticisms and suggestions.

Egypt: while the Prime Minister's will and the request of Minister of Culture in recognition or non- recognition of the properties as a national historical and cultural monuments are written in the article 2 of the Law for the Protection of cultural heritage, it seems that this issue was not exactly dealt and it is better to assign the experts and even the universities' specialists to handle this issue. One good and useful thing in Egypt's law is that it clearly prohibits any changes and 3 kilometers frontage is considered which indicates how suitable and accurate the law is. Punishable by fines and imprisonment were also considered for offenders in this law.

Greece: in the cultural heritage law of Greece, having a minimum age for registration a place as a historic site or monument was not stated. In Article 2 of the Law on Cultural Heritage of Greece, the protection of cultural heritage was intangibly stated. In fact, since the knowledge of mythology, mysticism, oral traditions, rituals, music, songs, skills....do not have physical spaces, are the most endangered of extinction, so there are more sensitivity to protect them. In Iran, there are old customs and traditions needed protection and maintenance for example, reading the narration which are gradually being forgotten or rules relating to the Nooruz and its celebrations which are seriously being endangered in the absence of support from the public and authorities. When the building over a hundred years old was protected by the organization of cultural heritage, it would reduce the risk of problems and errors. When it was prohibited to establish the industrial enterprises and factories creating pollution near historical sites, there would be no deleterious effects on them. Sometimes the pollution gets quickly combined with the elements of monuments and historical sites and cause serious damage.

### **International law**

#### ***Charter Restoration of historic monuments (Charter of Athens 1931)***

Chapter 3, improving the aesthetics of ancient monuments: Conference recommends that new buildings must be created by following the characteristics needed to build them, particularly if they are adjacent to the ancient monuments it is needed to consider the surrounding areas (frontage) specifically.

***Conservation and Restoration of Monuments and sites (ICOMOS-The Venice Charter 1964)***

Article 6: Protection of monuments needs to protect the current surrounding status. If there is a traditional environment, it should also be protected. Any new construction, demolition or modification in relation to the size and color, are not be allowed.

***Charter of Bora: protecting important buildings (Australia – legislated in 1981)***

Article 8: Protection requires protecting appropriate visual position such as, scale, color, texture, and materials. Any new construction, demolition or modification which seriously affects such a position should not be neglected.

***Charter for the Protection of Historic Towns and Regions (ICOMOS - Washington, 1987)***

Article 10: When the construction of new buildings and existing buildings compatibility are necessary, the spatial arrangement should be respected, especially in terms of scale and size of the land.

Paragraph 15: A public awareness program should be arranged to encourage the residents participate and involve in it and to do this it is better to begin with school aged children.

Article 16: provision of specialized training for all businesses related to protection is essential.

***Convention for the Protection of Intangible Cultural Heritage legislated in 2003***

Article 1: The term " intangible cultural heritage " means actions, views, expressions, knowledge, skills and instruments, objects, artifacts and cultural spaces associated with them that communities, groups and, in some cases, individuals recognize them as part of their cultural heritage. The "intangible cultural heritage" will be transmitted from generation to generation.

***Analysis of the international law***

Recording historic sites, monuments, etc. in the World Heritage List during a time has become an issue to achieve fame for countries. At least in developed countries that do not hope to receive financial support from the international community, financial issues rarely play decisive role in registering their cultural heritage (Zacharias Diana, 2010). Compilation of international charters to issue public and official rules for all countries was officially and generally begun with Charter of Athens in 1931 and the Members of the United Nations Educational, Scientific and Cultural Organization (UNESCO), have applied the Charter, as well as the laws of their country, for better protection and preservation of tangible and intangible cultural heritage. The implementation of these rules for buildings registered in the World Heritage List is more necessary. Since the adoption of the UNESCO Convention on the World Cultural and Natural Heritage in 1972, most of the symbolic places in the countries are put in the World Heritage List. According to Pay Bern no country can claim to be a national state without a World Heritage Site. This could give the national heritage kind of international importance and attracts tourists' dollars to and international assets in order to keep themselves (Monteiro D Lyra, 2010). If in the case of a monument registered in the list of UNESCO, international laws get implemented, this organization after visiting the organization's historical collection and reporting that the monument (natural or manmade) is in danger of destruction, will insert its name on the list of endangered heritage. Removing the name of a monument from the List of World Heritage occurs gradually as the Arcs Castle in Oman. Although in some cases some countries are warned that failure to adhere to the commitments listed in the Convention leads to elimination of some monuments from the list (Zacharias Diana, 2010). In the third chapter of the Athens Charter, the issue of frontage around the historic buildings was particularly mentioned. In case of Jahannama tower, it was criticized by UNESCO for failing to respect the frontage of height and thus breaking the skyline of monuments which was luckily



adjusted and some of its floors were omitted before putting Naghsh e Jahan square in the UNESCO list of endangered monuments. The education of the people especially the children was mentioned in this charter, which is an important issue in relation to protection of historic places. People play a crucial role in the conservation of heritage, which can be positive and effective or negative and destructive. If people were properly trained, it would be effective certainly not only in keeping the historic places safer but also in recognition of the other countries and if the education begins in childhood, it will be much more effective (Homayoonfar, 2003). In 2003, after legislation of a series charter in relation to a series of movable and immovable properties (tangible), UNESCO adopted a resolution on the protection of indigenous customs of countries, including various articles. Protection of cultural diversity is protection of human's rights. Protection of cultural diversity is protection of nations' rights considered as human identity (Monteiro D Lyra, 2011). This international document respecting the sovereignty of nations, considers only those "intangible cultural heritage" countries presented by the Member States (Cheraghchi, 2004). Preserving the remaining from the past while maintaining their knowledge and skills to support historical and live traditions are really important. The humanitarian efforts are under the traditional technology and cultural knowledge (Fairchild Ruggles and et al, 2009). Therefore the protection of these works because of being in danger is more important and lack of attention to the works leads to their destruction.

#### **Reviewing the cases in which law have been violated by the countries in relation with UNESCO's cultural heritage and Solutions**

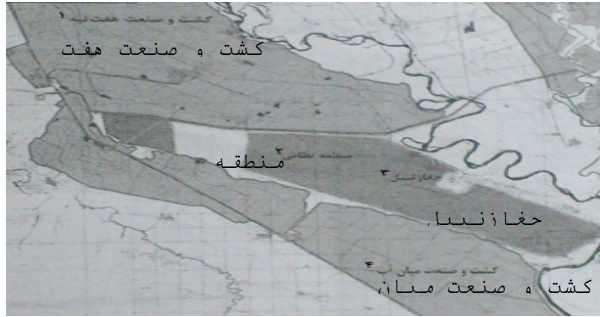
Naghsh e Jahan Square in Isfahan ( case of Jahannama Tower): Construction a 12 -story tower at 700 meters from Naghsh e Jahan Square and on the periphery of Chahar Bagh Abbasi Street (in 2001) registered in the national index (Figure 1), has made one of the most controversial issue of cultural heritage in the country. While the UNESCO World Organization, the President of that time, Interior Minister, former Minister of Culture and Cultural Heritage Organization, International World Heritage Committee, the media, cultural heritage activists, Governor of Isfahan, and former Chairman of the Administrative Justice Court explicitly called to stop the construction Jahannama Tower and cut in its height ( Azimi, 2011). In such circumstances, after the short period of UNESCO's deadline to put Naghsh e Jahan Square in the list of endangered places of the world, the court voted to moderate the tower and ordered to lessen some floors of this tower and again its historic frontage was switched back to the first place. However, the internal construction of the tower continued and lasted up to UNESCO's deadline and finally it was stopped after the serious threat of UNESCO and Naghsh e Jahan Square was saved from a serious risk.



**Figure 1: Naghsh e Jahan Square in Isfahan (Jahannama Tower)**



**Figure 2: Tagh e Bostan, Kermanshah,**



**Figure 3 : Persepolis , drilling in the collection’s frontag**



**Figure 4 : Change of Land Use in the ziggurat**

**Table 1 : Comparison of the sum of the privacy laws**

| Rules of countries with historical places   | International rules  | Rules of Iran  | General features                       |
|---|--|--|--|
| Ministry of Culture and Tourism ( Italy , Greece , etc.)  | United Nations Educational, Scientific and Cultural Organization ( UNESCO)   | Cultural Heritage and Tourism Organization   | 1. Supporting organizations            |
| Constitution- laws  | Convention - Charter   | Law, Constitution law - instructions , etc   | 2. Types of legislated laws            |
| with Government’s request and Parliament’s legislation + the ministry’s revenue through tourism   | Collected by Member States   | with Government’s request and Parliament’s legislation                             | 3. Appropriation                       |
| repairmen- archaeologists – universities’ colleagues , etc  | International experts  | repairmen- archaeologists – architects , etc.                                      | 4. professional colleagues             |
| - Italy : agreements to expand the knowledge and enjoyment of heritage and encourage the students to conclude should be made<br>-Greece : aesthetic enjoyment and education and public awareness of cultural heritage | Public awareness programs to encourage participation and involvement of residents , first from school children     | Planning and implementing educational programs to prepare qualified personnel, etc | 5. Teaching people                     |
| Italy: private sector initiatives to promote private property is protected by state   | Protection of the archaeological heritage must be based on cooperation and investment by private sector and public | -----  | 6. Participation of the private sector |
| - Cultural and natural heritage rules of Italy 2004<br>-The rules of protection of cultural and natural assets of Turkey 2004   | Convention for the Protection of Intangible Cultural Heritage of 2003  | - Statute of the Cultural Heritage law of 1988<br>- Islamic Criminal Law of 2013   | 7. The last set of legislated laws     |

In 1946, after the Egyptian government decision to construct the Aswan Dam, the water of the river flew in the valley housed the Abu Simbel and Fila temples which were the rich heritage of ancient Egyptian civilization. In 1959, UNESCO after the demand for help from Egypt and Sudan launched an international conservation campaign facilitating the relocation of the temples and placing them in a dry place and reassembling them. The effort cost about 80 million dollars offered only by 50 countries which indicates the importance of common responsibility of countries in preserving prominent places. The success of this process led to several other conservation campaigns as well as to preserve Venice and its heritage in Italy and archaeological ruins of Mohenjo-Daro in Pakistan as well as the reconstruction of the Borobudur Temple in Indonesia (Zacharias Diana, 2010). In Iran there are also the monuments registered in the World Heritage List but are not still in good condition and are not properly preserved in compare to their actual frontage like Persepolis, ziggurat and recently Inscription in Kermanshah (Figures 2, 3, and 4).

### **Conclusion and Recommendations**

- According to surveys conducted on the issue of frontage, the topic can be viewed from two perspectives:
- Codifying short-term plan that will work periodically
- Codifying a comprehensive long-term plan that will have a significant and deep effect in long time.

It seems that to constitute laws and regulations is not the only way to avoid violating the monuments and it is needed to consider a comprehensive long-term look to avoid committing the crime in this regard which of course is not only about the monuments' frontage but also involves all issues relating to cultural heritage. Some suggestions, which can prevent the destruction of the items in the field of the immediate and short term plans, are presented as follow:

- Municipalities should have a particular concern about the preservation of their historical places and make it a priority in their work and even the observation and implication Office associated to cultural heritage can be established in the municipalities. In fact cultural heritage can directly monitor the construction of any building operations that occurs within the boundaries of historic monuments.
- The frontage of any environments with buried artifacts should be determined before any actions in order to prevent any violation on them.
- Today, with the installation of CCTV cameras around the location and their frontages, closer and more direct control will be achieved so that any actions causing damages to the monuments will be prevented.
- In the case of natural cultural heritage, for example trees over 50 years old, bilateral and proper cooperation and of course specialized one between the Cultural Heritage Organization and the Environment Organization seems essential.
- Using the experiences of successful countries in protecting the frontage (such as Italy, Turkey, etc.) which led to attract tourists is also appropriate.

A program responsive for a long time is mentioned as follows:

- There is Ministry of Culture and Tourism in countries with ancient monuments while in our country there is Cultural Heritage Organization. Surely, there would be less possible problems if Cultural Heritage were managed by Ministry of Cultural Heritage.
- Any countries' ministries and organizations get their budget through the government's suggestion in the form of a bill and legislation in the parliaments. While the cultural heritage of our country almost has no income. However, if the Ministry of Culture and Tourism were managed independently and with the participation of experts, finally, the Ministry with respect to high potential of our country to attract tourists would be one of the beneficial and positive.



- Participation of qualified and experienced individuals anywhere can largely guarantee forward progress. It is what stated in the law of countries with historical places and antiquities (Greek, Article 50). Presence and activities of universities in promoting and protecting the cultural heritage are also noted in the countries' laws (Italy Article 17 and 118).
- Training people is one of the fundamental tasks and has a significant impact on the protection of cultural heritage. When you start the training from an early age and thus its impact will be far more effective.
- Supporting and encouraging the private sector to participate actively and effectively in supporting the country's historical places and antiquities is very important issue which can solve lots of cultural and economic problems of cultural heritage. With a proper and comprehensive look to the problem a big step can be taken in this way.
- The rules of countries with historical places and also international rules in this regard are newer than those in our country. The newer rules lead to more compatibility with modern science in which more preparations are considered to deal with the problems caused by the invasion to the monuments' frontage.

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