

ICOMOS

INTERNATIONAL COUNCIL ON MONUMENTS AND SITES
CONSEIL INTERNATIONAL DES MONUMENTS ET DES SITES
CONSEJO INTERNACIONAL DE MONUMENTOS Y SITIOS
МЕЖДУНАРОДНЫЙ СОВЕТ ПО ВОПРОСАМ ПАМЯТНИКОВ И ДОСТОПРИМЕЧАТЕЛЬНЫХ МЕСТ

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Charenton-le-Pont, 08 October 2018

Professor Mahmood Al-MullaKhalaf
Permanent Delegation of Iraq to UNESCO
Maison de l'UNESCO
1, rue Miollis
75732 Paris CEDEX 15

World Heritage List 2019
Babylon (Iraq)

Dear Sir,

ICOMOS is currently assessing the nomination of 'Babylon' to the World Heritage List, and an ICOMOS evaluation mission visited the property to consider matters related to protection, management, conservation and interpretation. ICOMOS is very grateful for the time, expertise and support given to the evaluation mission by the State Party, local experts and other involved in the nomination process.

In order to help with our overall nomination process, we would be grateful to receive further information to clarify several points and to augment the material that has already been submitted in the nomination dossier.

We would be grateful if the State Party could consider the following points and kindly provide additional information on these matters:

Proposed justification of Outstanding Universal Value

Based on the current formulation proposed under criterion (vi) the intentions of "20th century Iraqi leaders" are established as attributes of Outstanding Universal Value. The respective formulation we refer to reads "In the twentieth century – the age of nationalism and post-colonial independence –, it became the symbol of power and historical pride and was heavily invested by Iraqi leaders who strived to leave their mark on the site by reconstructing the grandiose monuments of Nebuchadnezzar."

Based on the Russell report submitted as an annex to the nomination, these interventions (as well as those of other powers) seem to have had a discernible impact on the contemporary State of Conservation of the site. ICOMOS would like to understand better, what "heavy investments" are considered by the State Party to document the 20th century addition to the Outstanding Universal Value as well as how these will affect the future conservation and interpretation policies.

Maps / aerial photos

ICOMOS would be pleased if the State Party could kindly indicate the date of the aerial photograph, which is used as a basis of the boundary identification? Are further contemporary aerial photographs of

the property or bird eye views of part of the property available? If yes, ICOMOS would sincerely appreciate if these could be shared to assist a better understanding of the many layers contained within the property.

Photographs

ICOMOS notes that photographs are very essential to allow ICOMOS Panel Members to understand the material features and setting of the property. The nomination contains currently only 14 photographs, most of which are focused on key monumental features. ICOMOS would sincerely appreciate receiving further images to understand the nature of the property, its setting, and landscape features as well as 20th century alterations and interventions.

ICOMOS appreciates that the timeframe for providing this additional information is short. Brief responses are required at this stage, and can be discussed further with the State Party if needed during the ICOMOS World Heritage Panel process.

We look forward to your responses to these points, which will be of great help in our evaluation process.

We would be grateful if you could provide **ICOMOS** and **the UNESCO World Heritage Centre** with the above information by **Friday 9 November 2018 at the latest**.

Please note that the State Party shall submit two copies of the additional information to the UNESCO World Heritage Centre so that it can be formally registered as part of the nomination.

We thank you in advance for your kind cooperation.

Yours faithfully,



Gwenaëlle Bourdin
Director
ICOMOS Evaluation Unit

Copy to Ministry of Culture, Tourism and Antiquities
 State Board of Antiquities and Heritage
 National Museum of Iraq
 Babil Directorate of Antiquities and Heritage
 UNESCO World Heritage Centre



Answer to ICOMOS's point regarding the proposed justification of Outstanding Universal Value for the site of 'Babylon' submitted to the World Heritage List.

Point raised by ICOMOS in its letter dated 8 October 2018

“Based on the current formulation proposed under criterion (vi) the intentions of ‘20th century Iraqi leaders’ are established as attributes of Outstanding Universal Value. The respective formulation we refer to reads « In the twentieth century – the age of nationalism and post-colonial independence –, it became the symbol of power and historical pride and was heavily invested by Iraqi leaders who strived to leave their mark on the site by reconstructing the grandiose monuments of Nebuchadnezzar.

Based on the Russell report submitted as an annex to the nomination, these interventions (as well as those of other powers) seem to have had a discernible impact on the contemporary State of Conservation of the site. ICOMOS would like to understand better, what « heavy investments » are considered by the State Party to document the 20th century addition to the Outstanding Universal Value as well as how these will affect the future conservation and interpretation policies.”

Response from the State Board of Antiquities and Heritage

The report submitted as an annex to the nomination (Report on Damage to the Site of Babylon, Iraq compiled by JM Russel, April 2010) is a compilation of damage assessments carried out between 2004 and 2009 that primarily addressed landscape alterations, modern buildings, other developments, infrastructural (roads, etc.) and military pre and post-2003 on the conservation statues of Babylon. Out of a 618-page report, the state of conservation archaeological structures restored or reconstructed before 2003 is addressed in a short section (pp. 595-618) on the basis of site visits Russell carried out between 21 and 27 June 2009, and cursory references to a 2006 report « Current Situation of the Babylon Archaeological Site, » prepared by Dr Maryam Umran Musa et al., on behalf of the State Board of Antiquities and Heritage, Ministry of Culture, Republic of Iraq. This report, whose original language is Arabic, focused primarily on the damages inflicted to the site by the presence of US and other coalition armed forces and only made superficial remarks about the state of conservation of archaeological buildings which had been the objects of conservation and reconstruction intervention in the previous decades. These physical investments were generally seen as contentious before they were evaluated in details in following years.

Since 2010, the conservation efforts, in-depth studies and assessments carried out in Babylon have led to a reassessment of the conservation status of these monuments and to a shift in the conservation and interpretation perspective adopted by the State Board of Antiquities and Heritage (SBAH) for Babylon.

The SBAH's conservation philosophy for Babylon, as reflected in the Management Plan, is to support: 1) conserving monuments in a ruined or partially ruined state for interpretation and presentation, and 2) where Babylon's monuments have been reconstructed with super-imposed modern masonry and other materials, the SBAH views future actions through risk management analysis and the reversible nature of those reconstructions.

Based on that evaluation, if modern interventions compromise a structure's integrity and/or interfere with the site's preservation, they will, if possible, be removed. Where the protection of fragile remains is a necessity, incompatible modern architecture and materials may be addressed through substitution, conservation or maintenance in a manner that best protects that archaeology. In all cases, these steps will be taken within international guidelines and charters.

As regards interpretation, SBAH's approach is that the modern layer of development and reconstruction of the site is an integral part of the history of and narrative about the site. These interventions have allowed the site to increase its symbolic value as an icon of Iraqi national identity, a role the site continues to play to this day despite political changes and shifts in conservation approaches in the country. The physical and symbolic investments performed by Saddam Hussein will be interpreted in their historical context.

Evaluating Babylon's existing reconstructions as attributes of the Outstanding Universal Value

That brings into question what about the irreversible modern reconstructions? The response is grounded in a larger perspective of Babylon's history as not only tangible and intangible evidence of exceptional ancient civilizations, but also seeing its importance and meaning through the chronology of Babylon as an archaeological site. In this thinking the late-twentieth century period of ambitious reconstruction, of which the interventions performed mostly in the 1980-1990s under the rule of Saddam Hussein are most pronounced, and its outcome are put into a larger timeline of not only explaining the site, but its place in modern Iraqi history as well.

Babylon reconstructions represent something larger than their relationship to an individual ancient monument, because as a group along with the palace of Saddam Hussein and other new constructions, they explain an important and undeniable layer of this modern history. The process of formulating Babylon's expanded definition of significance, encompassing the earliest archaeological remains up to the physical evidence of recent events validate Babylon's evolving meaning, whose modern interventions on historical monuments should *in some cases* factor into the site's management and interpretation alongside ancient ones. Like the Persian destruction, not all were welcomed, but together they form a unique story that has no parallels.

Babylon's temples: original parts and reconstructions

Since 2010, members of the SBAH have prioritized five sites for general maintenance and conservation actions with the Ishtar Gate, Nabu sha hare Temple, and the inner city walls between the palaces classified as highest priority. All are standing monuments with substantial amounts of original fabric, both unbaked mudbrick and baked brick that have preserved their authenticity and integrity despite the late twentieth interventions and subsequent years of neglect. Ninmakh and Ishtar temples were also selected and preventative conservation measures were undertaken, mainly those having to do with structural stabilization and lowering moisture levels. Lastly, although not a SBAH priority site for conservation, the South Palace exemplifies the same reconstruction approach, however, on an even grander scale so therefore cannot be overlooked when discussing the issues of Babylon's super-imposed modern reconstructions. Its condition is in marked contrast to the nearby North Palace, which beyond excavations has been left as a standing ruin.

Unbaked mudbrick

Unbaked mudbrick was the traditional building material for all types of constructions not in contact with water. Mud was used as mortar and plaster, but the plaster could sometimes be covered by additional lime plaster. Temples were still (mostly) built with unbaked mudbrick during the Neo-Babylonian period. Due to the raising of the floor or street levels by several meters many walls were under the new surface and protected. Mudbrick was of no interest for later brick miners and the walls were often standing several meters high at the excavations, only partially destroyed by nature. Reconstructed mudbrick buildings have original and newly built walls of varied material covered by modern mud (and lime) plaster. Mudbrick walls with mud plaster has to be maintained every year in order to remain in good quality. Unfortunately, the maintenance has not been executed as required and poor ground level drainage has contributed to a high concentration of humidity and salts at the base of temple walls causing erosion. A major step was taken in July 2018 to address the issue of humidity and salt: the Hawliyah Canal and the four artificial lakes dug in the 1990s as part of a new landscaping for the site were all permanently drained. The positive effects on the mudbrick walls were already visible during the visit of the ICOMOS expert in October 2018.

Baked brick

The South and North Palaces and the Ishtar Gate were completely built or rebuilt during Nebuchadnezzar II in baked brick of good quality. Before this time, baked brick had been reserved mainly for constructions in contact with water. Brick miners had before excavations taken away most of the baked brick walls above the surface and partly below surface inside the walls. Due to the raising of the floor or the street levels by several meters during Nebuchadnezzar, many walls were under the new surface and protected. The difference between the original parts of the walls and the new reconstructed parts can usually be seen on the surface of the walls, which are never covered by any modern plaster.

Ninmakh Temple

The temple dedicated to the goddess Ninmakh was rebuilt several times on always several meters higher levels during the reigns of Esarhaddon, Assurbanipal and Nebuchadnezzar. The raising of the walls preserved the below walls and the white lime

plaster. It was excavated by German archaeologists and later re-excavated and restored by Iraqi archaeologists. The reconstructed Ninmakh Temple uses the lowest exposed floor level for the reconstruction and original walls have been completed with modern walls in old style up to the roof. Original sections of the walls are on several places still standing up to three meters. A modern mud plaster covers both the original and the reconstructed part of the walls. The modern roof, modified in the 1990s protects the walls. The reconstructed temple gives a good idea about the architecture and construction of a typical Babylonian temple and protects the original remains of walls inside it.

Ishtar Temple

The temple dedicated to the goddess Ishtar of Akkad was rebuilt at higher levels during the reigns of Nabopolassar, Nebuchadnezzar and Nabonidus. The raising of the floor resulted in the preservation of the wall decoration similar to the Nabu temple. It was excavated by the Koldewey Expedition and later re-excavated and restored by Iraqi archaeologists. The reconstructed Ishtar Temple seen today uses the lowest exposed floor level for the reconstruction. Lower parts of the exposed walls in the reconstruction have an original mudbrick core, but the mudbrick facades were exchanged with new ones and all higher parts are in an old style following the German excavators' interpretations. We therefore have basically an old structure recreated, but all surfaces that can be seen are modern and the original white walls with black decoration have not been restored.

Nabu Temple

The temple dedicated to the god Nabu sha hare (Nabu of the storage jars). It was constructed during the reign of Esarhaddon in traditional unbaked mudbrick and later Nebuchadnezzar raised the level of the temple some four meters, surrounded it by a *kisû* of baked brick and rebuilt the walls in baked brick. This resulted in the preservation of the white lime plaster with black decorations under the new floor level. The temple was excavated and reconstructed by Iraqi archaeologists. The present reconstruction of the Nabu temple that can be seen in Babylon consists of the remains of the unbaked mudbrick walls of Esarhaddon's temple, surrounded by the lower parts of Nebuchadnezzar's baked brick *kisû*. The mud brick walls have been completed upwards with modern material, both unbaked mudbrick and baked brick, and covered with a roof, the baked brick *kisû* have been raised to a middle level. The whitish lime wall plaster with black bitumen decoration recorded on remains of the preserved walls have been completed on the reconstructed walls.

Current condition of temple reconstructions

The reconstruction approach for Babylon's temples derives from Ninmakh Temple. As the first Babylon monument to be reconstructed, it served as a model for the 1980-1990s reconstructions. This was an attempt at a faithful reconstruction of one of the temple's historic manifestations using, more or less, materials sympathetic to the surviving archaeological fabric. Subsequent work at Ninmakh and the other temples deviated in the appropriateness of materials, methods and their expedient execution. It is this work that appears most obvious. The temples are mainly in poor condition, because of a combination of material incompatibilities, improper water drainage, rising groundwater, and importantly, a lack of maintenance. After the Ishtar Gate, the SBAH plans to undertake conservation of the Nabu Temple as an example intervention for this kind of reconstruction both at Babylon and elsewhere in Iraq.

Other Babylon sites

South Palace

Nabopolassar had a palace in the NW corner of the east part of Babylon, possibly on the site of an older palace. Nebuchadnezzar completely rebuilt it in baked brick and several times raised the floor level with several meters. The lowest floor level secured by the Koldewey excavations was used by Iraqi archaeologists for a reconstruction of large parts of the palace walls following the interpretations of the German archaeologists, which were based partly on Assyrian wall reliefs. Original walls are under the reconstructed walls below the surface of the reconstructed floor, and sections of original walls can at several places also be seen some four meters high above the floor always distinguishable from the reconstructed parts of the same brick walls.

Inner City Walls

The walls around the inner traditional city consist of a double unbaked mudbrick wall, 6.5 m wide and at a distance another 3.7 m wide wall. Outside thereof was a quay wall of baked brick surrounded by an 80 m wide moat with water. The baked brick quay wall has been exposed west of the Ishtar Gate where it was strengthened with an additional quay wall. The unbaked mudbrick walls are excavated west of the Ishtar Gate, north of the Marduk Gate and east of the Urash Gate. Due to the filling in of the wall area west of the Ishtar Gate in connection with the expansion of the Nebuchadnezzar's palace there, the city wall was well preserved. The south mudbrick façade was exposed during Iraqi excavations and partly repaired and reconstructed in the 1970s.

Ishtar Gate

Ishtar Gate is a double gate connected to the two mudbrick inner city walls. Even if the gate according to cuneiform texts is 1000 years older, all visible remains date to the reign of Nebuchadnezzar, who rebuilt the gate with baked bricks several times in connection with a raised level of the Street of Procession. Before any excavations started, brick miners had taken away all parts of the gate above the uppermost street level. German excavations in 1902 unearthed the lower parts of north front gate some 18 m deep, but only traced to the main south gate on the surface. They collected 10,000s of glazed brick fragments from the destroyed uppermost gate. In the 1920s, the façade of the front gate was reconstructed in Berlin, using modern blue glazed brick for all flat and upper parts. The lowest sections and the animals were put together of original fragments. Iraqi excavations in 1938 unearthed the larger south main gate and in 1959 retaining walls and staircases for visitors were constructed. Partial reconstructions of the gate in the 1980s included filling in gaps created by brick miners, replacing bricks in the facade due to water damage and installation of a concrete floor (now partially removed).

Street of Procession and North Palace

The North Palace and the walls beside the Street of Procession north of the Ishtar Gate were new constructions during the latter parts of the reign of Nebuchadnezzar in areas previously outside the city walls of Babylon. Good baked bricks were used for all constructions. The Street of Procession was raised several meters in the area. Some four meters higher than the exposed, well preserved street was an upper street level going to the Ishtar Gate of blue glazed brick taken away by brick miners long

before excavations started. The walls along the street on the west side are the east wall of the North Palace and a similar wall east of the street. The lower parts of them were exposed during German excavations, the street level during later Iraqi investigations. The preserved sections of the walls belong together with the preserved street level. The reconstructed walls of modern commercial brick masonry are standing on the old walls with a clear difference between the original parts and the modern reconstructions. The Iraqi reconstructed upper parts of the walls follow the interpretations by the German excavators. The North Palace with exception of its eastern wall already referred to was spared the massive reconstructions of the South Palace and is the relatively untouched archaeological ruin in the area. The Iraqi antiquities performed limited re-excavations to better understand the site.

Other alterations

Archaeologists who have most recently worked at the site concur with Dr John Russell in that "The most archaeologically destructive of these interventions were the digging projects (the canal, lakes, and trenches) and areas of extensive bulldozing (landing zone and parking lots)" (Russell, 2010: 8). Some alterations are reversible, and work is already being conducted to this effect.

The 4 Lakes (*idem*: 51-58) have been drained in July 2018 together with the Hawliya Canal (*idem*: 49) that surrounds the city of Babylon of the east and partially on the north and south. Surveys are being performed to assess how much these developments have affected the archaeological layers underneath them. So far, findings are that the canal was lined with concrete which protected the archaeological layers from infiltration, however there was not such lining in the lakes. Parking lots scattered across the site (*idem*: 67) and parks have only affected the surface areas and are currently being removed to keep one single parking which is now open. Defensive trenches dug prior to the 2003 war, of a depth of about 2 m, (*idem*: 95-125) have been filled, and the archaeological material contained in the surrounding dirt is being studied and conserved.

Some alterations, albeit also reversible, will however not be removed but have been integrated in the comprehensive management plan for the site.

This is the case with the huge artificial mounds, that have a major impact on the landscape, but little archaeological impact (*idem*: 59-66). Mt Saddam, where a presidential palace was built, covers a part of the western bastion of the Neo-Babylonian palace (*idem*: 66). Salvage excavations were performed by Dr Mu'ayyad Saeed before that mound was erected. It is unfortunate that the report of these excavations burnt in 2003. However, SBAH recently interviewed Dr Saeed to make up for the loss of the report. Current plans for the Saddam Palace is to transform it into Babylon National Museum. The context of its construction, together with its decorative features (including frescoes glorifying Saddam Hussein as the heir of Nebuchadnezzar) will be part of the interpretation plan. However, the narrative will not revolve around the dictator but about the outstanding value of the site.

As regards other modern buildings (such as the conference center and modern villas mentioned by Russell's 2010: 8 as being less intrusive), they are being restored to be used as visitors' facilities, as detailed in the nomination dossier and Management Plan.



Answers to the points raised by the ICOMOS Panel in its interim report on the nomination of Babylon for inscription on the World Heritage List.

Delimitation of boundaries to encompass attributes

The attached map showing the boundaries and buffer zone of the property was developed to answer the request of the Panel to exclude modern alterations from the proposed World Heritage property. We opted for two shades of blue to make apparent different levels of protection. Areas delineated by a lighter shade of blue follow the contours of modern alterations (mounds and buildings) erected above archaeological layers of ancient civilisations which are attributes of the property's Outstanding Universal Value. The modern alterations are in the buffer zone whereas the underground layers are inside the boundaries of the proposed property and protected under the Iraqi Antiquity and Heritage Law n°55 of 2002. The area delineated in darker blue constitutes a buffer zone where neither the above-ground nor the underground layers encompass attributes of the property's Outstanding Universal Value. It is anticipated that the number of areas included in the ground-level buffer zone (in lighter blue) will be reduced in stages as solutions are found to relocate villagers who have been dwelling inside the property, and to remove some other modern alterations. Proposals for the modification of the ground-level buffer zone will be submitted to ICOMOS in due time.

Protection of the property

Since the property was nominated in February 2018, authorities concerned with its protection have taken pro-active steps to enforce the Antiquity and Heritage Law. The Antiquity and Heritage Police now patrol the property and its buffer zone on a daily basis. Any breach of the Antiquity and Heritage Law and buffer zone regulations is reported to the Babil Department of Antiquities and Heritage whose lawyer has been filing complaints in court. To date, 25 complaints concerning buildings erected illegally inside the property have been filed. This has resulted in 11 court orders for removal of the buildings of which 4 are attached as examples. Failure to abide by such orders carries a financial penalty. Better enforcement of the law is already bearing fruits by acting as a deterrent against the illegal erection of additional buildings.

Conservation challenges

In the short and medium-term, planned conservation interventions are as follows:

1/ The Iraqi State Board of Antiquities and Heritage (SBAH) has allocated the responsibility for conserving the Ishtar Gate to the World Monument Fund (WMF) as per the Management Plan. The agreement was signed and the WMF has launched Stage 1 of the conservation plan running over 2019-2020 with a budget of US\$ 750,000.

2/ Following a decision by the Prime Ministry, the SBAH has received the equivalent of US\$ 600,000 from the Ministry of Finance for the budgetary year 2018-2019. These funds have been used to: clear military remains, start work on the new visitor centre , and undertake urgent restoration work at Ninmakh, Nabu-sha-Hare and Ishtar Temple. As regards the latter intervention, 5 different samples of mud have been applied on portions of Ninmakh Temple's walls to check their suitability for restoring the entire building and the two other temples prioritised for conservation. The work is being performed by a dedicated team of conservation specialists from the Babil Department of Antiquities and Heritage. Furthermore, the Iraqi Council of Ministers has slated the allocation of US\$ 20 Million for the archaeological site of Babylon over the next 5 years. These funds will be entirely managed by the Babil Department of Antiquities and Heritage to implement Babylon Management Plan.

Archaeological research

For the next 5 to 10 years, the SBAH does not intend to conduct excavations nor grant excavation permits to Iraqi teams or foreign agencies. All research to be undertaken will have to be based on non-invasive and non-damaging survey techniques, particularly GPR for geophysical surveys. Only after a better understanding of the site is gained will SBAH decide on priority areas for excavations with compulsory integrated conservation plans.



Qahtan Al-Abeed
National Focal Point for Culture with UNESCO



جمهورية العراق
مجلس القضاء الاعلى
محكمة جنايات بابل ٢٥

العدد ٢٦٢/ج/٢٠١٨

تشكلت محكمة جنايات بابل ٢٥ بتاريخ ٢٦/٦/٢٠١٨ برئاسة القاضي السيد د. حبيب ابراهيم حمادة وعضويه القاضيين السيدين عماد حسن الفتلاوي وخضير عطية حمزة الماذونين بالقضاء باسم الشعب وأصدرت المحكمة قرارها الاتي:-

المشتكى / الحق العام
المتهم / صدام مجيد زامل

خلاصة اجراءات الدعوى

-----/أحال السيد قاضي محكمة تحقيق الحلة بقراره المرقم/٣٤٢ والمؤرخ ٢٨/١/٢٠١٨ المتهم المذكور أعلاه مكفلاً على هذه المحكمة لاجراء محاكمته وفق المادة/٤٣/اولا وببدلالة المادة ١٥/ثانيا من قانون الآثار والتراث المرقم ٥٥ لسنة ٢٠٠٢ ولدى ورود الاضبارة من دائرة المدعي العام في بابل سجلت بالعدد اعلاه وعين موعداً للمحاكمة فيها وفي اليوم المعين للمحاكمة تشكلت المحكمة وبحضور السيد المدعي العام رحيق ضياء فاحضر المتهم وحضر وكيله المحامي علي نايف النافعي وبوشر بالمحاكمة الوجاهية العلنية دونت المحكمة هوية المتهم وتلي قرار الإحالة وسير التحقيق ودونت وتلت اقوال الممثل القانوني للهيئة العامة للآثار والتراث فاتن نايف هجول والممثل القانوني لمفتشية آثار بابل حيدر حسين راضي وتلت اقوال الممثل القانوني لمديرية الآثار أسعد ابراهيم عبد الامير كما تلت المحكمة محضر كشف تجاوز من مفتشية آثار بابل والكشف والمخطط المنظم من الهيئة العامة للآثار والتراث وتقرير الخبير القضائي المنظم في ٦/٦/٢٠١٦ وتقرير اللجنة المشكلة من ثلاثة خبراء ولاحظت المحكمة سوابق المتهم ودونت اقوال المتهم ووجهت له التهمة وفق المادة/٤٣/اولا من قانون الآثار والتراث رقم ٥٥ لسنة ٢٠٠٢ واستمعت الى جوابه عنها واستمعت الى مطالعة المدعي العام ولائحة دفاع تلي المتهم واخر اقوال المتهم واختلت المحكمة للمذاكره وأصدرت قرارها الاتي :-

القرار

-----/لدى التدقيق والمداولة وملاحظة سير التحقيق والمحاكمة الجارية تبين ان خلاصة هذه القضية انه بتاريخ الحادث ٢٨/١/٢٠١٤ قام المتهم صدام مجيد زامل ببناء دار سكن بمساحة ٢٠٠م جزء من القطعة ٣٣ مقاطعة ٢٨ زوير الغربي وهي ضمن آثار مدينة بابل الاثرية (سور مدينة بابل الغربي) متجاوز على الموقع الاثري . دونت اقوال الممثل القانوني لدائرة الآثار واكد حصول الحادث وان المتهم المذكور قام بالبناء تجاوزاً على الموقع الاثري وبمساحة ٢٠٠م وطلب الشكوى والتعويض ضده ورفع التجاوز الحاصل على الموقع الاثري المذكور (سور بابل) وان المتهم المذكور لم يحصل على استثناء في بناء العقار العائد له وهو موقع اثري اطلعت المحكمة على محاضر التحقيق والكشف على محل الحادث والخرائط المنظمة من قبل الخبير المساح بموقع الحادث وتقرير خبراء الآثار بحادث التجاوز والامر الاداري للهيئة العامة للآثار رقم ٨٠١٢ في ٣١/٧/٢٠١٢ حول موقع مدينة بابل الاثرية دونت اقوال

رئيس المحكمة

د. حبيب ابراهيم حمادة

عضو

عماد حسن الفتلاوي

((تابع رجاءاً ص ١))

عضو

خضير عطية حمزة



تشكلت محكمة جنايات بابل ٢٥ بتاريخ ٢٠١٨/٦/٢٦ برئاسة القاضي السيد د. حبيب ابراهيم حمادة وعضويه القاضيين السيدين عماد حسن الفتلاوي وخضير عطية حمزة الماذونين بالقضاء باسم الشعب واصدرت المحكمة قرارها الاتي:-

(١) حكمت المحكمة على المدان صدام مجيد زامل بالحبس البسيط لمدة سنة واحدة وفق المادة ٤٣/اولا من قانون الآثار والتراث رقم ٥٥ لسنة ٢٠٠٢ وبدلالة المادة ٣/١٣٢ عقوبات مع احتساب موقوفته للفترة من ٢٠١٦/٧/٩ ولغاية ٢٠١٦/٧/١١ .

(٢) لكونه المحكوم شاب وفي مقتبل العمر وغير محكوم سابقا وبغية اعطائه الفرصة لاصلاح نفسه قرر ايقاف تنفيذ عقوبه الحبس الصادرة بحقه في الفقره اعلاه ولمدة ثلاث سنوات لقاء تعهده بحسن السلوك والسيره وعدم ارتكاب جريمة عمديه خلالها والزامه بايداع تامينات في صندوق المحكمة مبلغ قدره مائتي دينار تعاد له بعد انتهاء فترة ايقاف التنفيذ استناداً للمواد ١٤٤/٥، ١٤٤/٦ عقوبات .

(٣) الزام المحكوم اعلاه بتعويض قدره مائه وعشرون مليون دينار عراقي وهو ضعف قيمة الضرر الحاصل حصل منه وفق الطرق التنفيذية اصوليا والزامه بازالة التجاوز على القطعة ٣٣ مقاطعة ٢٨ زوير الغربي داخل حدود مدينة بابل الاثرية وبمساحة ٢٠٠م٢ على نفقته الخاصة بعد اكتساب القرار الدرجة قطعية . تدفع للهيئة العامة للآثار والتراث .

صدر القرار بالاتفاق استنادا لاحكام المادة ١٨٢/أ الاصوليه حكماً وجاهياً قابلاً للتمييز وافهم علناً في ٢٠١٨/٦/٢٦ .

رئيس المحكمة
حبيب ابراهيم حمادة



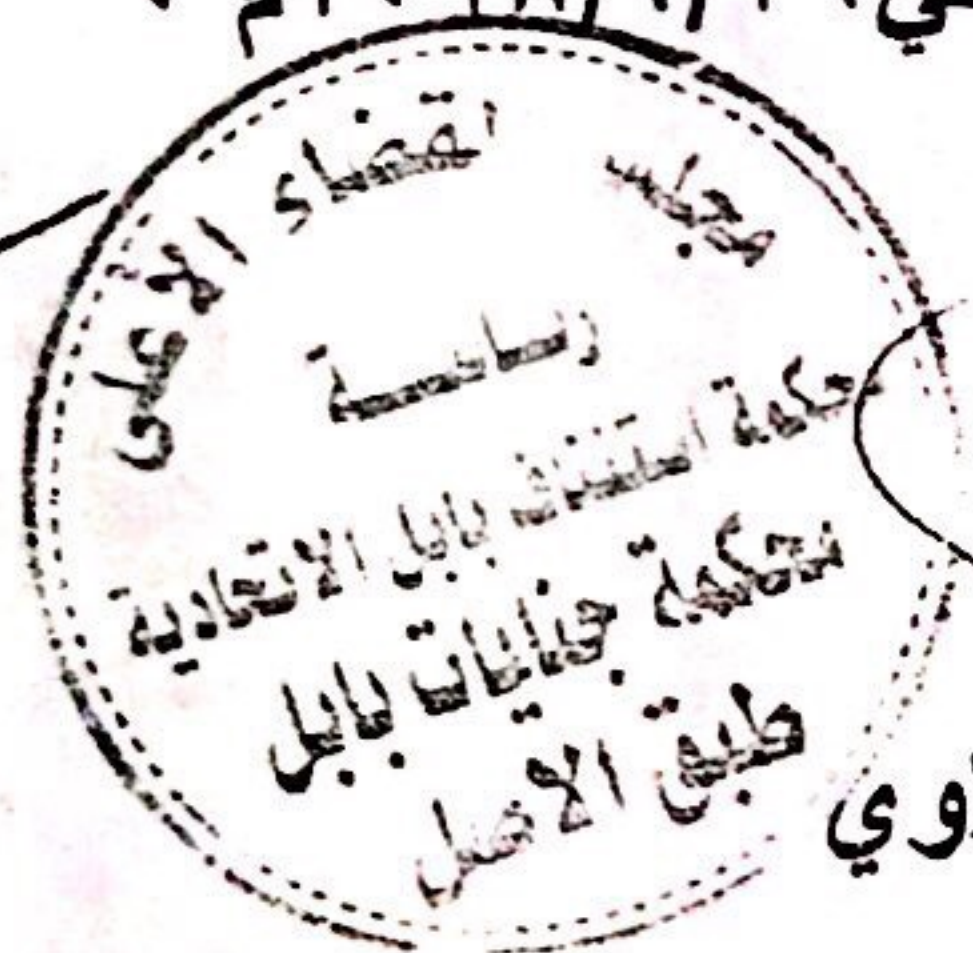
عضو
عماد حسن الفتلاوي

عضو
خضير عطية حمزة

((يتبع للقرار المرقم ٢٦٢/ج/٢٠١٨ ص ٢))

المذكور وقد اعترف تفصيلاً بالحادث وذكر بانه قام ببناء دار سكن له ولم يحصل على اجازة بناء
لم يكن يعلم بان الارض تعود ملكيتها لدائرة الآثار حيث انه يسكن المنطقة منذ سنين طوال وانه قام
ببناء دار كبيره وبكلفه عالية ولايستطيع رفع التجاوز الحاصل من قبله وقد اطلعت المحكمة على تقرير
الخبراء لان الضرر ستون مليون دينار قيمة الضرر على مساحه (٢٠٠) م^٢ . لذا فان هذه المحكمة ترى
ان الادله المتحصله في هذه القضية هي اقوال الممثل القانوني للآثار الذي ذكر بان ما قام به المتهم هو
خلاف للقانون وان تحديد الضروره القصوى يكون من قبل لجنة تشكل من الهيئه العامه للآثار والتراث
وهي لجنة فنيه مختصه وان المتهم المذكور لم يبادر الى تقديم اي طلب من اجل الحصول على استثناء في
بناء دار له على العقار المذكور والذي جاء معزز بالخرائط المنظمه من قبل الخبير المختص حول موقع
البناء الذي قام به المتهم المذكور ضمن مدينة بابل الاثرية وقد تعزز ذلك بالاعتراف المفصل للمتهم كونه
عام بالبناء دون الحصول على موافقه رسميه بذلك كونه يسكن في المنطقة منذ مده طويله وقام بالبناء ولم
يستطيع رفعه وبذلك فان هذه المحكمة ترى ان الادله المتحصله في هذه القضية تكفي لادانة المتهم صدام
مجيد زامل وفق الماده ٤٣/اولا من قانون الآثار والتراث رقم ٥٥ لسنة ٢٠٠٢ قررت المحكمة ادانة
بموجبها وتحديد عقوبته بمقتضاها ولكونه شاب وفي مقتبل العمر وغير محكوم سابقا قررت المحكمة
الاستدلال باحكام الماده ٣/١٣٢ عقوبات عند فرض العقوبه بحقه وصدر القرار بالاتفاق استنادا لاحكام الماده
١٨٢/أ الاصوليه حكماً وجاهياً قابلاً للتمييز وافهم علناً في ٢٦/٦/٢٠١٨ م .

رئيس المحكمة
د. حبيب ابراهيم حمادة



عضو
عبدالحسن الفتلاوي

عضو
خضير عطية حمزة

ياس خضير جابر / بناء دار سكن في القطعة ٢٥ م ٢٧ سنجار	مكتب تحقيق الثورة	نفس الاجراءات
هادي كريم ناجي / بناء دار سكن في القطعة المرقمة ٢٥ م ٢٧ سنجان	مكتب تحقيق الثورة	اغلقت الدعوى بحقه لثبات وفاته منذ فترة طويلة وادعاء المختار بعدم وجوده في القطعة المذكورة
كاظم عبدالحسين كريم / بناء دار سكن في القطعة ٣٢ م ٢٨ زوير الغربي	مكتب تحقيق الثورة	١. تم اقامة الشكوى بتاريخ ٢٠١٨/٧/٣ ٢. تم اجراء كشف بصحة المحكمة ومساح من التسجيل العقاري ٣. صدر امر استقدام بحقه ٤. تم الطعن من قبله بالكشف وانتخاب ثلاث خبراء ومساحين من الطابو
احمد خليل حمزة / بناء دار سكن في القطعة ٢١ م ٢٨ زوير الغربي	مكتب تحقيق الثورة	تم اقامة الشكوى بتاريخ ٢٠١٩/١/٣٠
كرار علي مالك / بناء دار سكن في القطعة ٤٠ م ٢٧ سنجان	مكتب تحقيق الثورة	تم اقامة الشكوى بتاريخ ٢٠١٩/١/٢٧
نجية فرحان مهنه / تجاوز بيع قطع وتجريف اشجار النخيل وفتح شوارع بمادة السبيس في القطعة ٣١ و ٣٤ مقاطعة ٢٨ زوير الغربي	مكتب تحقيق الثورة	تم تزويد المحكمة / مكتب تحقيق الثورة بكتاب دائرة التسجيل العقاري يبين عدد سهام المشكو منه في القطعة ٣١ و ٣٤ م ٢٨ زوير الغربي بالكتاب المرقم ٢٩٨٢ في ٢٠١٩/٢/١١
صباح هادي رحيم / انشاء ملعب في القطعة ٣ مقاطعة ١٩ الجمجمة الشمالية	مكتب تحقيق بابل	بتاريخ ٢٠١٩/١/١١ تم تزويد المحكمة بصورة من العقار ونسخة من التعهد الخطي بازالة التجاوز

ت	المشتكى	المشكو منه ونوع التجاوز	اسم المحكمة المقامة امامها الدعوى	الاجراءات المتخذة
١	مفتشية اثار بابل	حسن جابر علوان / بناء دار سكن في القطعة ٣٣ مقاطعة ٢٨ زوير الغربي	مكتب تحقيق الثورة	١. تم احوالها الى محكمة جنائيات بابل ٢. تم اعادتها الى التحقيق لاجراء كشف بصحة ثلاث خبراء مساحين نفس الاجراءات
٢	مفتشية اثار بابل	باسم محمد جواد / بناء دار سكن في القطعة ٣١ م ٢٨ زوير الغربي	مكتب تحقيق الثورة	نفس الاجراءات
٣	مفتشية اثار بابل	سلام مهدي زيدان / بناء دار سكن في القطعة ٢٤ م ٢٧ سنجار	مكتب تحقيق الثورة	نفس الاجراءات
٤	مفتشية اثار بابل	ياس خضير جابر هادي / بناء دار سكن في القطعة ٢٥ م ٢٧ سنجار	مكتب تحقيق الثورة	نفس الاجراءات
٥	مفتشية اثار بابل	سرمد خضير عذاب / بناء دار سكن في القطعة ٢٨ م ٢٧ سنجار	مكتب تحقيق الثورة	نفس الاجراءات
٦	الهيئة العامة للآثار والتراث / مفتشية اثار بابل	حسنين حفطي عبود	مكتب تحقيق الثورة	نفس الاجراءات
٧	مفتشية اثار بابل	حسين اياد جواد / بناء دار سكن في القطعة المرقمة ٧٩ م ٢٧ سنجار	مكتب تحقيق الثورة	نفس الاجراءات
٨	مفتشية اثار بابل	شامل علاوي هادي / بناء دار سكن في القطعة المرقمة ٢٤ م ٢٧ سنجار	مكتب تحقيق الثورة	نفس الاجراءات
٩	مفتشية اثار بابل	صدام مجيد زامل / بناء دار سكن في القطعة المرقمة ٣٣ م ٢٨ زوير الغربي	مكتب تحقيق الثورة	صدر قرار بحقه بالحبس البسيط لمدة سنة وغرامة مقدارها مائة وعشرون مليون دينار بتاريخ ٢٠١٨/٦/٢٦ وتم تمييزه من قبل المشكو منه
١٠	مفتشية اثار بابل	يقضان راضي محمد / بناء دار سكن في القطعة المرقمة ٣٣ م ٢٨ زوير الغربي	مكتب تحقيق الثورة	نفس الاجراءات
١١		هيثم مردان جفيل / بناء دار سكن في القطعة ٤١ م ٢٧ سنجار	مكتب تحقيق الثورة	نفس الاجراءات
١٢		علاء ناصر هادي / بناء دار سكن في القطعة ٢٥ م ٢٧ سنجار	مكتب تحقيق الثورة	نفس الاجراءات

44°25'30"E

44°27'0"E

32°34'30"N

32°34'30"N

32°33'0"N

32°33'0"N

32°31'30"N

32°31'30"N

44°25'30"E

44°27'0"E

Legend

- Nominated area(1054.3 hectares)
- Buffer zone with protection of underground archaeological layers
- Buffer zone(154.5 hectares)



0 250 500 1,000 1,500 2,000 Meters

1:25,000

UTM 38N World Geodetic System 1984