

# Between Cultural Diversity and Common Heritage

Legal and Religious Perspectives on the Sacred Places of the Mediterranean



EDITED BY

Silvio Ferrari and Andrea Benzo

This volume is an initiative of the Sovereign Order of Malta

BETWEEN CULTURAL DIVERSITY  
AND COMMON HERITAGE

# Cultural Diversity and Law

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Legal and Religious Perspectives on the  
Sacred Places of the Mediterranean

This volume is an initiative of the Sovereign Order of Malta

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# Preface

The Mediterranean is considered ‘the cradle of civilization’. At present, along its shores, one can find 20 countries and territories, more than 20 languages and all three monotheistic religions. If there is a place in the world where universal religious heritage matters enormously, it is the Mediterranean. This region has an historical and cultural richness unparalleled in the world.

The Sovereign Order of Malta believes in the necessity of safeguarding religious monuments and sacred places and preserving their outstanding cultural, historical and spiritual value, both for the communities with which they are associated and for all humankind. It believes that freedom of religion is essential to strengthen the inter-cultural dialogue.

However, in recent years, anti-religious violence has been on the rise. Shrines, sacred places and monuments of worship have come under attack, been damaged or destroyed. Thus, safeguarding religious heritage of outstanding universal value of the Mediterranean region, today and for future generations, requires new forms of action, among them continuity in educational, cultural and scientific advances. Governments and political authorities together with international organizations and civil society all have a political responsibility and the obligation to safeguard cultural heritage and contribute to the peaceful development of the whole region.

Considering the strong historical links with the Mediterranean region, the Sovereign Military Hospitaller Order of St John of Jerusalem of Rhodes and of Malta (also known as Sovereign Order of Malta) has endeavoured to help to protect such universal heritage with a view to maintaining the multi-cultural and multi-religious character of the Mediterranean while promoting peace and stability in the region.

In 2007, the Sovereign Order of Malta launched a project concerning ‘the protection of sacred places in the Mediterranean area’, inviting a group of experts under the direction of Professor Ferrari of the University of Milan with a view to establishing common principles and guidelines for access to and protection of sacred sites of the Mediterranean region with a universal cultural and social significance. In the following year, it approached the European Commission and proposed its project. Since then, the experts involved have studied indepth the historical and legal characteristics and have prepared papers on universal sacred places of the Mediterranean, which are collected in this publication.

In March 2012, the European Commission and the Sovereign Order of Malta jointly organized a seminar on ‘Protecting the Sacred Places of the Mediterranean – a Contribution to the Intercultural Dialogue’, which took place at the Berlaymont building in Brussels, under the chairmanship of President Barroso.

In November 2012, the Republic of Cyprus, during its term of the presidency of the Council of the European Union, and willing to contribute to a European Union that stands as a force of progress, peace, stability and social cohesion for its citizens, its neighbouring countries and the world, has kindly offered to host an international meeting on the 'Protection and Conservation of Cultural Heritage in the Mediterranean: A Common Responsibility' in Limassol, Cyprus, in collaboration with UNESCO and the European Commission.

I believe that this long-term project on the preservation of the cultural and religious heritage is relevant and timely for the future of the Mediterranean region which requires a renewed form of diplomacy, and I am confident that the exchange of thoughts and knowledge initiated with this project will be able to produce important outcomes for the Mediterranean communities and States that should adopt common principles and rules for protection and conservation of their cultural heritage.

Let me conclude by thanking Professor Silvio Ferrari of the University of Milan for the coordination of this ambitious project, all the experts who have contributed to the research, the European Commission and UNESCO for their valuable cooperation, as well as the French Foundation of the Order of Malta and the Foundation Baldi of the Order of Malta for their financial contribution.

*H.E. Jean-Pierre Mazery,  
Grand Chancellor  
Sovereign Military Hospitaller Order  
of St John of Jerusalem of Rhodes and of Malta*

# Chapter 1

## Introduction:

### The Legal Protection of the Sacred Places of the Mediterranean

Silvio Ferrari

#### **The Meaning of ‘sacred place’**

First of all, what do we mean here? The expression ‘sacred place’<sup>1</sup> by no means has a clear-cut and univocal significance. In Chapter 3, Yuri Stoyanov shows how complex the notion of sacred place is. It is at the crossroads of theological, anthropological, historical, sociological and legal research, each of these tending to define the object of its analysis in different terms. After describing the state of the art of the studies on sacred places, Stoyanov concludes that ‘the multiple religious, spiritual, social and political functions ascribed to’ sacred places in human societies and cultures are reflected in the ‘interpretative and methodological ambiguities’ that affect these studies, so that it remains uncertain how much helpful input they can provide to legal and political initiatives focused on the safeguarding of sacred places. Even leaving aside any ambitious attempt to formulate a theoretical definition and concentrating on the more modest task of elaborating a notion of sacred place through the examination of the places that are commonly qualified as sacred does not help. In Chapter 5, Peter Petkoff continually notes that ‘because of the inherent uniqueness of sacred places, developing a taxonomy of sacred places is virtually impossible [...]’. Sacred places range from those with very clearly defined borders and physical specifications, to geographical areas, national parks, processions, pilgrimages, sacramental places and places where the faithful congregate and their spiritual leaders teach’.

These remarks are enough to deter any reasonable person from attempting to provide a definition of a sacred place. However, it is necessary to clarify the meaning given to these words in this book.

The expression ‘sacred places’ is used here because it is currently employed to indicate places like the Wailing Wall, Mecca, the Basilica of the Holy Sepulchre and so on. However, the book is devoted to ‘religious places’ – that is, sacred

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1 On the meaning of ‘sacred places’ and ‘holy places’ see Chapter 2 by Andrea Benzo, ‘Towards a definition of sacred places. Introductory remarks’. However, in this book the two expressions are frequently used as synonyms.

places that have an explicit religious significance. Therefore the book does not deal with places that may have a spiritual significance but which are disconnected from clearly identifiable religious traditions and communities, nor does it deal with places whose (sometimes exclusively 'secular') sacredness depends on the historical or political events that took place there, like the birthplace of the father of a nation, or a battleground, for example.<sup>2</sup>

Even within this limited 'religious' sphere the expression 'sacred places' – as employed in this book – needs to be further circumscribed. Paraphrasing Orwell and without any intention of disrespect, it is possible to say that all places are sacred but some places are more sacred than others. The point is made by Yahya Pallavicini in Chapter 8: 'Although it is possible for the believer to participate in the presence and the communication with the Lord of the Worlds in all the mosques and in every corner of the earth where God has made a carpet upon which to worship Him, the Muslim knows that the very same Creator has chosen certain places above others to manifest some of His signs, like in Mecca, Jerusalem and Medina'. This remark applies equally well to the sacred places of Judaism and Christianity that share with Islam the faith in a God creator who manifested himself to human beings in specific times and places.<sup>3</sup>

Again, once it is accepted that some sacred places are deemed to be more important than others it is impossible to define precisely what elements differentiate the first from the second group. Sacred places are living entities and as such are in constant evolution. Politicians, diplomats and lawyers know very well how difficult it is to define them and for this reason they have frequently avoided any definition and have drawn up lists of sacred places, as happened with the sacred places of the Holy Land.<sup>4</sup> However, while it is useless to strive for a definition, it may be helpful to look for some signs that show the particular importance of a sacred place. This search has been performed in Chapter 2 by Andrea Benzo. After establishing that 'no universally accepted definition of *sacred place* exists' in international and domestic legal instruments, Benzo proposes a 'definition by induction' based on four features that recur in the sacred places considered in this book (the link to a manifestation of the sacred; the role played by a place as a historical landmark; the veneration of believers coming from different parts of the world; the consensus developed through history on its sacred character). It is interesting to note that similar features are recalled in the decision of the International Criminal Tribunal

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2 On the distinction between religious and sacred with specific reference to sacred places see the intervention of Catherine Colonna in Andrea Benzo (ed.), *Proceedings of the Seminar 'Protecting the Sacred places of the Mediterranean'* (Brussels, 6 March 2012, Order of Malta 2012) 74–6.

3 For these two features of sacred places – their religious nature and their outstanding importance – see Article 2 of the *Declaration on the Protection and Enhancement of Sacred Places in the Mediterranean Area* published as appendix to this book.

4 See H. Eugen Bovis, *The Jerusalem Question, 1917–1968* (Hoover Institution Press 1971).

for the Former Yugoslavia in the Kordic and Cerkez case.<sup>5</sup> The Appeal Chamber, reversing a judgment given three years before by the Trial Chamber, made a distinction between the general protection provided in international instruments for places of worship and the special protection granted to places of worship that ‘constitute the cultural or spiritual heritage of peoples’, specifying that ‘cultural or spiritual heritage covers objects whose value transcends geographical boundaries, and which are unique in character and are intimately associated with the history and culture of a people’.<sup>6</sup> Not always does a single sacred place possess all these features, but they all point in the same direction and give us some helpful indications for appraising the particular sacredness attributed to a specific place.

Starting with the four indicators identified by Benzo, a group of sacred places can be set apart that have a special significance in the religious traditions of the Mediterranean. They are the subject of the contributions collected in this book. The fact that there is no neat line separating these sacred places from other places of worship and veneration reflects the continuity between these two groups of places, and the wide grey zone between them should be regarded as the buffer area that unites instead of separating places that have different importance but the same quality, because in the end the sacredness of places ‘derives from the uses to which they are put’.<sup>7</sup>

There is also a geographical limitation that should be taken into account before concluding these introductory remarks: this book deals with the sacred places of the Mediterranean area.

It is a fact, recently reaffirmed by the Council of the European Union, that ‘Europe and the Mediterranean region share a common history and cultural heritage’<sup>8</sup> which also includes its religious and sacred legacy. Many sacred places of the Mediterranean are associated with three religions – Judaism, Christianity and Islam – which share a monotheistic creed and believe in a God who manifested himself to humans in specific times and *places*. These two elements – monotheism and revelation – constitute the foundation upon which these religions developed

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5 *Prosecutor v. Kordic & Cerkez*, ICTY Case No. IT-95-14/2-T (ICTY Judgment, Trial Chamber, 26 February 2001); *Prosecutor v. Kordic & Cerkez*, ICTY Case No. IT-95-14/2-T (ICTY Judgment, Appeals Chamber, 17 December 2004).

6 *Prosecutor v. Kordic & Cerkez*, ICTY Case No. IT-95-14/2-T (ICTY Judgment, Appeals Chamber, 17 December 2004), paras 90 and 91. The general and special protection mentioned by the Court is the protection granted by Articles 52 and 53 of the Protocol Additional to the Geneva Convention of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1), 8 June 1977. For a discussion of these decisions see Marco Ventura, ‘Global Laws on Holy Places after Bamiyan and the Twin Towers’, forthcoming in the *Oxford Journal of Law and Religion*.

7 The quotation is taken from Chapter 6 by Jack Bemporad in this book. The continuity between sacred places and places of worship is underlined in Chapter 5 by Peter Petkoff.

8 Council Conclusions on Developments in the Southern Neighbourhood, Brussels, 21 February 2011, available at <[www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/119420.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/119420.pdf)> accessed 7 April 2013.

their respective conceptions of sacred place. History of divine revelation offers a chain of events – all geographically located – that make a particular place sacred: the most important sacred places of Judaism, Christianity and Islam are connected to a divine manifestation or command, directly (when it is God himself who gets in touch with human beings) or indirectly (when the divine message is manifested by men and women of God, like saints, prophets, sages). Monotheism paves the way (better: should pave, as this point is too frequently forgotten) for respecting the ‘other’, as God is the same for all human beings,<sup>9</sup> and consequently for recognizing the universal openness of each sacred place. This historical and theological background – marked by the dialectics between the particular and universal dimension of sacred places – opens up the possibility of identifying a protection framework that takes into account the elements of commonality shared by the sacred places of the Mediterranean area and distinguishes them from the sacred sites revered in other parts of the world.

From a political point of view, the development of such a protection framework is required by another fact that marks the sacred places of the Mediterranean: they are so many and so close to each other that they are constantly in danger of becoming elements of conflict. The proximity of the sacred places is such that sometimes they physically overlap and the same place is sacred to two or more religions. This frequently gives rise to tensions that need to be prevented, or at least reduced, through an effective system of safeguards.

After many years of neglect, the European Union seems to have understood that peace and stability in the Mediterranean region cannot be attained without dealing with the issue of sacred places. In 2010 the EU President Manuel Barroso called upon all the interested parties to cooperate in the effort ‘de faire des grand sites religieux des espaces de paix et de culture’,<sup>10</sup> and two years later the EU Commissioner for Education affirmed that ‘the sacred places of the Mediterranean are an important part of our [European] identity’ and can give a relevant ‘contribution to intercultural dialogue’.<sup>11</sup> These statements show that there is a growing awareness that the European Union, together with the States of the Southern shore of the Mediterranean and other stakeholders, has a precise interest in taking the initiative to promote the recognition of some guidelines providing effective protection to sacred places and contributing to the peaceful development of the whole region.

This book intends to be a step in this direction. After a few contributions that provide a general overview of the notion of sacred places in anthropological, sociological and legal studies (Part I), three chapters then examine this notion

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9 The link between monotheism and respect of the ‘other’ is highlighted in Chapter 6.

10 Addressed at the meeting with the Grand Master of the Order of Malta, Rome 22 May 2010.

11 Androulla Vassiliou, ‘Opening Remarks’, in Andrea Benzo (ed.), *Proceedings of the Seminar ‘Protecting the Sacred places of the Mediterranean’* (Brussels, 6 March 2012, Order of Malta 2012) 8, 10.

in the light of Jewish, Christian and Islamic theological and legal thought (Part II). Understanding the meaning of sacred places in these three religious traditions is the starting point for discussing how sacred places can be protected: Part III offers a detailed analysis of the legal status of the most important sacred places of the Mediterranean. This examination aims at identifying a set of legal principles (contained in the Declaration published at the end of the book) that can be applied to all of them and that can provide a general framework within which more specific legal measures (if needed) can find their place. However, before starting this long journey, it is necessary to address two other preliminary topics, discussing why and how sacred places should be protected.

### **The Importance of Sacred Places**

The importance of sacred places is widely recognized all over the world. They have valuable religious, cultural, political and economic significance: sacred places are a living testimony of the religious faith of a community, provide people with a sense of identity, play a vital role in safeguarding cultural diversity, help in fostering the social cohesion of a population and attract millions of pilgrims and visitors. To give an idea of the importance of the sacred places issue, suffice it to say that 20 per cent to 30 per cent of the properties inscribed on the UNESCO World Heritage List have been included specifically for their religious or spiritual association.<sup>12</sup>

On the other hand, sacred places are a catalyst for conflict, as clearly demonstrated by the wars in the Balkans after the collapse of Yugoslavia. Precisely because sacred places are important for building and maintaining the identity of a community, destroying them is a blow that weakens the strength of the people whose history, culture and religion are symbolized by these places.<sup>13</sup> Demolishing or desecrating the defeated enemy's sacred place or, worse, converting it into the conqueror's sacred place – the mosque into a church and vice versa – is one of the most common and age-old tactics aimed at demoralizing the enemy population and breaking its will to resist.

For these reasons, there is wide agreement about the need for adequate protection of sacred places. Recently UNESCO has underlined that religious and sacred sites require specific policies for protection and management that take into

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12 See the *Conclusions, Recommendations and Statement* of the 'International Seminar on The Role of Religious Communities in the Management of the World Heritage Properties', Kyiv, 2–5 November 2010, para III, 2, available at <[www.kplavra.kiev.ua/seminar/rap\\_en.pdf](http://www.kplavra.kiev.ua/seminar/rap_en.pdf)> accessed on 19 April 2013.

13 In the sentence of the International Criminal Tribunal for the Former Yugoslavia quoted at the footnote 2 (Trial Chamber) it is explicitly stated that the destruction of religious buildings 'when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of a people' (para 207).

account their distinct spiritual nature as a key factor in their conservation and that such policies cannot be sustainable without in-depth consultation with the appropriate stakeholders.<sup>14</sup> It has also been recognized that as the existing standard-setting instruments may not adequately address the matter, 'it is particularly timely to define an integrated strategy for the development of a World Heritage Thematic Programme for Religious Heritage in collaboration and close coordination between all stakeholders, and that this Programme should create an action plan for the protection of religious heritage worldwide aimed at enhancing the role of communities and the avoidance of misunderstandings, tensions, or stereotypes'.<sup>15</sup>

While this recent evolution is welcome, approaching the question of sacred places exclusively from the angle of their protection may be reductive as it limits the contribution they can provide to developing the traditions of the three monotheistic religions of the Mediterranean and, as a result, to encouraging the growth of a healthy civil society. Protecting sacred places is the precondition for enabling them to perform their religious and civil role and so the emphasis should not be placed on protection as preservation but on protection as enhancement of sacred places.<sup>16</sup>

The need to shift from the first to the second paradigm (from protection-preservation to protection-enhancement) can be better explained by looking at the Mediterranean area as a whole as well as at the three monotheistic religions that developed in this part of the world.

The concept of sacred space in the Jewish, Christian and Islamic tradition is based on the tension between two principles. These religions teach that the presence of God cannot be confined to a specific place, as God inhabits the whole universe.<sup>17</sup> This teaching, however, is not in contradiction with the belief that God manifested himself in specific places that are termed sacred because they are directly connected to divine revelation. As already said, the belief that God

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14 See *Initiative on Heritage of Religious Interest*, available at <[www.whc.unesco.org/en/religious-sacred-heritage](http://www.whc.unesco.org/en/religious-sacred-heritage)> accessed 7 April 2013.

15 *Kyiv Statement on the Protection of Religious Properties within the Framework of the World Heritage Convention*, n. 9 (November 5, 2010), available at the website listed in footnote 12.

16 In this perspective, when defining what should be preserved, the starting point is a correct understanding of 'the social-functional integrity of the place' and of 'the functions and elements that together form the heritage' (Jukka Jokilehto, 'Conservation of Living Religious Heritage', available at <[www.kplavra.kiev.ua/seminar/repo/7.pdf](http://www.kplavra.kiev.ua/seminar/repo/7.pdf)> accessed 19 April 2013).

17 In this book Yahya Pallavicini quotes the Koran verse, saying that 'God has made the earth like a carpet' to underline that every place on earth is a possible sacred space for the ritual worship of God. The same point (the divine presence cannot be limited to a specific place) is made by Pier Francesco Fumagalli who mentions a verse from a Jewish liturgical poem ('God is the Place of the Temple / and the Temple without a place') and the Gospel passage where Jesus tells the Samaritan woman that 'true worshippers will worship the Father in spirit and truth'.

revealed himself to human beings in specific places is central to the development of the notion of the sacred place in these religions. Sacred places, according to John Paul II in 1980, are the ‘geographical point of tangency between God and man, between the eternal and history’.<sup>18</sup> They enshrine God’s revelation, but the forms through which revelation is expressed are constantly reshaped, so that they remain able to reflect the growing understanding of the divine message on the part of the faithful and to answer the changing needs of the religious community. This is the meaning of the encounter between the eternal (representing God’s absoluteness and permanence) and history (symbolizing the relative and changeable elements that are part of human nature) evoked by John Paul II. The same idea can be expressed in the words of Martin Heidegger to define the nature of works of art: ‘creative custodianship of truth’. The truth of divine revelation is entrusted to the faithful community, which has the responsibility to guard it as a *living* heritage through a constant process of formulation and reformulation of the doctrines, practices and rituals that keep revelation alive in the believers’ life. In other words, the identity of the Jewish, Christian and Islamic communities is rooted in traditions that go back to God’s revelation: keeping these traditions alive means that their content is appropriated time and again by the community, through a continuous learning and adaptation process.<sup>19</sup> All these remarks point in the same direction: sacred places are a living heritage and should be protected and promoted as such.<sup>20</sup> Protecting sacred places then means enabling them to perform the function of communication between heaven and earth that is vital for the life of a religious community (as Stoyanov reminds us, sacred places are frequently defined as the meeting points between heaven and earth).

Protecting sacred places as the living heritage of a particular religious community, however, is not enough. They need to be protected also as centres of interreligious dialogue. It is surprising how little is the role played by sacred places in this field. Sometimes one has the impression that the more a place is central for the life of a religious community, the less a community is ready to regard that place as a meeting point with the followers of other religions, in some cases going as far as to deny them access to it. In Chapter 7 Pier Francesco Fumagalli notes

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18 John Paul II, ‘Gerusalemme, quante immagini, quanta passione e quale grande mistero!’, in *L’Osservatore Romano* (19 September 1980) 1.

19 I am indebted for these remarks (including the reference to Heidegger) to Jukka Jokilehto’s text quoted at footnote 16.

20 Synthesizing the papers collected in Herb Stovel, Nicholas Stanley-Price and Robert Killick (eds), ‘Conservation of Living Religious Heritage’. In *Papers from the ICCROM 2003 Forum on Living Religious Heritage: conserving the Sacred*, Rome, ICCROM, 2005, available at <[www.iccrom.org/pdf/ICCROM\\_ICSO3\\_ReligiousHeritage\\_en.pdf](http://www.iccrom.org/pdf/ICCROM_ICSO3_ReligiousHeritage_en.pdf)> accessed 15 April 2013, Stovel underlines that ‘what distinguishes religious heritage from secular heritage is its inherent “livingness”’. In this perspective ‘the primary goal of conservation becomes continuity itself, based on processes of renewal that continually “revive the cultural meaning, significance [...] and symbolism attached to heritage’’, Herb Stovel, *Introduction*, 1.

that ‘contemporary experience and the historical experience of the past testifies that it is not easy to bestow holiness upon a place in an inclusive way. Indeed the most common trend is the opposite one, whereby a sacred place – or parts of it – is declared as one group’s exclusive possession instead of something that can be enjoyed together’. In this way the particular significance of a sacred place for the faith and identity of a specific religious community – something that surely deserves to be protected – does not become the starting point for reaching out to other communities – something that surely deserves to be promoted. Although this last step, which implies delicate theological questions, can be taken only by the involved religious communities and should not be forced upon them, a non-sectarian approach to the issue of sacred places should be based on the awareness that identity and dialogue are not mutually excluding. For this reason, as better explained in the following pages, the protection and enhancement of sacred places has to reflect a careful balance between their particular and universal significance: only if both dimensions are taken into account can the political and legal measures aimed at securing the status of sacred places enhance their role as centres of identity of a religious community and, at the same time, as centres of dialogue between different religious communities.<sup>21</sup>

Besides their religious significance (more exactly: because of their religious significance), sacred places can provide significant contributions to the development of a vital civil society. From this point of view, sacred places are not only a source of tension and conflict that endanger peaceful coexistence, they can also be an asset for fostering social plurality and diversity, two features that are frequently regarded as necessary conditions for democracy itself. Exactly because sacred places are a central component of the history, tradition and belief of a particular community, under certain conditions they can become a bridge towards other communities. Sacred places represent identity and diversity at the same time. Each is strictly associated with the history and culture of a community and, together, they manifest the variety of cultural traditions and belief systems of the populations living in the Mediterranean area. Like many works of art, this mosaic of diversities – where each tessera reflects the features of a particular community – is extremely delicate: both its single components and the overall pattern are constantly in danger of being lost, with the consequence that intercultural dialogue would become much poorer and would have a scant chance of rebuilding the Mediterranean as a space of peace and security. This explains why safeguarding sacred places is a matter of general interest, not the concern of the believers only. While religious communities have the primary responsibility to maintain the character of *living* religious heritage of sacred places, the potential role they can play in fostering intercultural dialogue goes beyond their strictly religious significance and is of interest for the building of a plural and democratic society.

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21 In Chapter 8 of this book, Yahya Pallavicini underlines that ‘*the holy places and cities display universal meanings that transcend local and religious specificities and therefore they cannot become vehicles for forms of exclusivity*’.

In this perspective a protection system of the sacred places should develop their capacity to function as centres of intercultural dialogue. Fortunately there is no insurmountable contradiction between the cultural and the religious dimension of sacred places: safeguarding the specificity and diversity of each is the best way to enable them to become elements of both interreligious and intercultural dialogue.

In any case, if sacred places have to play a role in the rapprochement of the two shores of the Mediterranean, conceiving their protection in terms of preserving their physical existence is not enough. Protection of the sacred places needs to be re-conceptualized in a much more positive and proactive form, stressing all the elements that enable them to become centres of reconciliation between different religious and cultural communities. This task involves responsibilities that by far exceed those of States and international organizations and requires the active participation of religious communities and, more generally, civil society actors.

These remarks help to understand part of the meaning to be given to 'protection of sacred places'. However, there is a second side to this expression that still has to be discussed.

While sacred places are reasonably well protected as part of cultural heritage, their religious significance is still underestimated. For this reason a sound political and legal framework for the protection and enhancement of sacred places has not been fully developed. In order to fill this gap, two questions need to be answered.

First, are the sacred places to be protected because of their cultural or their religious significance? As already said, in many cases the two go together, but it is easy to imagine a different scenario. Preserving a sacred place as a museum can save most of its cultural value but it can be utterly useless for safeguarding its religious significance. The sacred places we are speaking of are living entities and as such both their religious and cultural meaning is largely lost if they are disconnected from the life of their community of faithful, the pilgrimages, festivals, religious ceremonies and devotional activities that are the living expressions of their sacredness. In other words, protecting the Karnak temples is not exactly the same thing as protecting the Holy Sepulchre or the Wailing Wall: in the first case, the cultural dimension is prevailing, while in the second the centre stage is taken by the religious dimension. Consequently, also the protection system may be partially different and give more importance both to the human component of the religious heritage and to its link with the needs of religious practice. From the first point of view, attention should be paid not only to the conservation of buildings, but also to the protection of spatial structures, environmental areas, human activities and settlements that surround the sacred places and constitute their habitat, in compliance with the 1976 UNESCO Recommendations Concerning the Safeguarding and Contemporary Role of Historic Areas. From the second point of view, the interest by religious communities for the continuing use and renewal of their sacred places should be taken into account. Such an approach would foster, on the one hand, the search for and development of conservation strategies and instruments that respect the religious character of the place and, on the other, the involvement of the concerned religious communities in the conservation of

their own sacred places. As stated in the conclusion of the ICCROM 2003 Forum 'Conserving the Sacred', sometimes the risks to living religious heritage 'may reflect well-meant efforts to preserve physical testimonies of faith within broad conservation policies which do not, however, recognize the specificity of religious values'.<sup>22</sup> Strengthening the dialogue between conservation professionals and religious communities is the best way to overcome this danger.

Second, is freedom of religion to be taken into account when envisaging a protection system of sacred places? Freedom of religion is not only a matter that concerns conscience and beliefs: it also regards visible and external manifestations of religion. For this reason the right to establish and maintain a place for worship and assembly – including the right to visit it and to perform ritual and ceremonial acts in it – is generally considered to be part of the right to religious freedom, as stated in Article 6 of the UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief and in n. 4 of the UN Human Rights Committee General Comment No. 22 (48).<sup>23</sup> However, freedom of religion is conspicuously absent from the debate on sacred places, which is dominated by an approach that has magnified their cultural significance and downplayed their religious meaning. Historically, offences to sacred places have been understood as a sub-section of the offences to the cultural heritage of a people or of the whole of humankind, while their character of offences to the religious freedom of these subjects has remained in the shadows. This approach has led to building the protection system of sacred places into the framework of the rules concerning cultural heritage. As freedom of religion has little significance in this area, no use was found for the whole set of legal provisions safeguarding it at the national and international level. As a consequence, the level of protection granted to sacred places was weakened and, more importantly, their meaning in the religious traditions of the Mediterranean was obscured. In the legal systems of the three main Mediterranean religions, sacred places mean something more than places of worship: praying in the place where God manifested himself, directly or through men and women who acted in his name, is deemed by millions of people to be a religious obligation or at least a recommended practice. Although Judaism, Christianity and Islam teach that God can be worshipped in every place, the practice of pilgrimages to sacred places goes

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22 Herb Stovel, *Introduction*, in Herb Stovel, Nicholas Stanley-Price and Robert Killick (eds), 'Conservation of Living Religious Heritage', 9.

23 See Cornelius D. de Jong, *The Freedom of Thought, Conscience and Religion or Belief in the United Nations (1946–1992)* (Intersentia-Hart 2000) 359–422; Noel G. Villaroman, 'The Right to Establish and Maintain Places of Worship: The Development of its Normative Content under International Human Rights Law', in Silvio Ferrari and Sabrina Pastorelli (eds), *Religion in Public Spaces. A European Perspective* (Ashgate 2012) 295–322. The link between protection of religious freedom and security of sacred places is also underlined by some religious communities. See Protecting religious freedom and holy sites, a Declaration of the International Catholic-Jewish Liaison Committee, New York, 4 May 2001, available at <[www.vatican.va/roman\\_curia/pontifical\\_councils/chrstuni/relations-jews-docs/rc\\_pc\\_chrstuni\\_doc\\_20010504\\_new-york-meeting\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/chrstuni/relations-jews-docs/rc_pc_chrstuni_doc_20010504_new-york-meeting_en.html)> accessed 15 April 2013.

back to the origins of these religions and continues to be widespread in our times. This uninterrupted stream of pilgrims is the best proof that sacred places have much to do with religious freedom, which would be hampered if a place is destroyed or made inaccessible to people who want to visit it not (only) as a cultural attraction, but as a religious practice. An effective legal system cannot avoid recognizing the link between manifestations of religious faith and sacred places and looking at their protection through the lenses provided by the provisions that safeguard the individual and collective rights of religious freedom.

When the legal status of sacred places is discussed, these two characteristics – their religious significance and their connection with religious freedom – are frequently ignored, downplayed or misunderstood. As a consequence, the protection of sacred places has not yet attained a level that is adequate for the new importance that religion has acquired in international and domestic politics. After 1989 the process of de-privatization of religion and its forceful re-establishment in the public sphere has added a new dimension to the conflicts around sacred places. The destruction of the Buddhas of Bamiyan in 2001 and of the shrines of Timbuktu in 2012 signals that they have become the target of efforts to cleanse whole regions from the presence of symbols that challenge the dominant religion. Sacred places are not destroyed to weaken the military or political strength of the enemy, as was the case in the Balkan Wars of the 1990s: no Buddhists lived in Afghanistan in 2001. Sacred places are destroyed because a place must be purified from any impious sign.<sup>24</sup> This transformation challenges old legal patterns of protection and requires a fresh approach to the whole issue of sacred places. First of all, it requires a better understanding of what are the features and functions of the sacred places that need to be protected in this new scenario, where the religious significance of the sacred places has gained an unexpected and sometimes threatening importance.

## The Protection of Sacred Places

A recently published UNESCO document underlines that ‘collectively, the religious and sacred properties capture a range of cultural and natural diversity, and each can singularly demonstrate the spirit of a particular place’.<sup>25</sup> This statement correctly identifies the two dimensions – particular and universal – which should be kept in mind when approaching the issue of sacred places.<sup>26</sup>

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24 This new profile of the sacred places issue is underlined by Marco Ventura, ‘Global Laws on Holy Places’.

25 UNESCO Executive Board, Report by the Director General on the Follow-Up to Decisions and Resolutions Adopted by the Executive Board and the General Conference at Their Previous Sessions, Paris, 18 April 2011, available at <<http://unesdoc.unesco.org/images/0019/001920/192094e.pdf>> accessed on 8 April 2013.

26 Bemporad writes that a ‘key issue in recognizing the sacred is the relationship between the particular and the universal’, so that ‘on the one hand, we must give proper

Sacred places (and this is particularly true for the sacred places of the Mediterranean, as it has already been noted) are frequently connected to a particular manifestation of the 'sacred' (God, a prophet, a supernatural event and so on) which took place at a specific place and time: the sacredness of the place is a consequence of this manifestation. The fact that God manifested himself in that place makes the sacred place irreplaceable: therefore each sacred place (giving this expression the meaning that has already been discussed) possesses a unique dimension which makes that place an essential component of the constitutive narrative of a specific religious group.

At the same time, sacred places have a significance that cannot be confined within the borders of a single community, as they are the manifestation of a transcendent dimension which is constitutive of the human experience. Every religion has its own sacred places and this fact indicates that the connection of the 'sacred' to a particular place is something that is shared by all religions. But also people who are not members of any religion have their own sacred places: war memorials, national historical landmarks, outstanding works of art, mausoleums and cemeteries are visited and revered by men and women who – independently of the fact that they believe or not in religion – sense that in those places there is something that goes beyond their individual lives and has to do with the fundamental meaning of human existence. This helps to understand that each sacred place is the particular manifestation of an experience of the 'sacred' that is shared in different forms by all human beings, because all of them (including those who are inappropriately called 'non-believers') need a 'sacred' centre that gives sense and direction to their lives. In other words, each particular sacred place has a universal significance which is relevant also for people who are not members of the specific religion connected to the events which made that place sacred or even for people who are not members of a religion at all.<sup>27</sup>

This interplay between the particular and the universal dimensions of sacred places – more precisely, the fact that the universal can be apprehended only through the experience of the particular<sup>28</sup> – must be taken into account when reflecting on the best way to protect them. The specific character of each sacred place – its unique way to manifest the 'sacred' through the faith, creed and ritual of a community of believers – should be protected because it is irreplaceable: its loss would affect not only the particular religious community that is connected to it but the whole of humankind, because the experience of the sacred – which is a central

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due to and strengthen the universal, while on the other, we must not minimize the radical particularity of a religious tradition' (*Sharing Sacred Spaces*, in this book).

27 This point is underlined in Herb Stovel, *Introduction*, where it is written that 'efforts to conserve tangible and intangible living religious heritage deserve particular support for their role in supporting and testifying to the nature of our search for the fundamental meaning of human existence', 9.

28 In Chapter 6 Jack Bemporad underlines that the particular 'often contains the universal element'.

element of the human experience – would be impoverished. In this perspective, the destruction of the Wailing Wall, or of the Basilica of the Holy Sepulchre or of the Dome of the Rock would make every human being poorer because one of the paths that connect man to the transcendent dimension of life would be forever lost.

In the last decades, the balance between the particular and the universal dimension of sacred places has shifted dramatically. All over the world sacred places are increasingly perceived as the symbol of religious identity of a specific group. This is part of a broader transformation affecting religions in many parts of the world and stressing their character of identity providers (sometimes in connection with other identity markers such as nationality or ethnicity). As a consequence, the particular dimension of a sacred place – its connection to a specific culture, religion, community – has been brought to the forefront and the universal profile which is inherent to the sacred places has been largely forgotten, with the risk that an excessive ‘assertion of identity, fed by fundamentalism, may lead to the destruction of religious symbols’.<sup>29</sup>

This change of role played by religion on the national and international stage is a challenge that – as far as sacred places are concerned – should be dealt with primarily on the grounds of international law. The sacred places of the majority religion are usually given some protection by national laws and the increasing significance of religion as identity provider is likely to increase the level of this protection; on the other hand, national legislation is unlikely to protect the places sacred to minority religions or, at least, to protect them to the same degree. In this last case the best chance for safeguarding the sacred places of minority religions is provided by international law that, in the present situation, is better placed to provide adequate guarantees for the universal dimension of sacred places.

This universal-particular interplay can also be helpful in reflecting on the legal status of sacred places. The framework aimed at granting their protection and enhancement ought to be based on the balance between these two dimensions, respecting and reflecting both the particular and the universal profiles presented by the sacred places.

On the one hand there are the particular rights of a specific community in respect of its sacred places: the right to own, control and manage them, the right to gather for religious purposes in that place, the right to perform religious ceremonies and so on. These rights are manifestations of individual and collective religious freedom and should be considered in the light of the provisions devoted to the protection of religious liberty in international and domestic law. At the same time they reflect the responsibility of religious communities, upon which rests the burden to maintain the character of *living* heritage of a sacred place, and provide them with the tools required to effectively manage these places.

However, as already underlined, sacred places are not significant for the members of a religious community only: they have a value that goes beyond the limits of a specific community. Therefore they should be respected and protected

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29 Jean-Louis Luxen, quoted by Herb Stovel, *Introduction*, 2.

as a 'common good', a heritage of general interest, and not only as the property of a particular group. That could mean, for example, granting them some kind of public support (even in cases where they are the sacred places of a minority religion), giving them enhanced protection in the case of conflict or making them accessible to all people who wish to visit them (respecting, of course, their nature of the sacred place of a specific religion).

These two sets of rights need to be harmonized through a careful process aimed at minimizing the potential clashes between the rights of the particular community on the one hand and the expectations of the universal community on the other. The reconciliation of these potentially conflicting interests could be particularly challenging because each sacred place is part of a specific historical, cultural and political context. It is therefore necessary to approach the sacred places issue through a process that recognizes the different roles of the parties concerned and offers each of them the possibility to contribute to the definition of a satisfactory strategy for the protection and enhancement of sacred places. This is the contribution that the authors of this book hope to offer to the debate on the sacred places of the Mediterranean.

# PART I

## What is a Sacred Place?

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## Chapter 2

# Towards a Definition of Sacred Places: Introductory Remarks

Andrea Benzo

Whereas the expression ‘holy places’ is used to refer in particular to the most notable Israeli and Palestinian religious sites, the term ‘sacred places’ seems more apt in embracing all the sites covered by this research, which are different in origins, history and geographical location. At the same time, the religious sites this research will focus on enjoy a more prominent status than other common ‘places of worship’, such as churches, synagogues and mosques.

Nevertheless, international law does not provide any definition for ‘sacred places’. Against this backdrop, one may argue that no definition is needed in order to protect sacred places. Whereas this assumption might hold true for conventions or laws dealing with specific sites, it becomes less sustainable if the objective is the drafting of a legal tool with a broader scope and focusing on the protection of sacred places in general which, in turn, stems from freedom of religion as a human right. In this case, providing a clear, though flexible definition of the subject of such protection can help make legal provisions more effective and focused, as a clear link is established between these provisions and those features that make a place sacred and therefore deserving of special protection.

### **Sacred Places in International Materials**

Devotion to the protection of sacred places by international law and intergovernmental organizations is not a recent phenomenon. For instance, since the Congress of Berlin in 1878 the question of the sacred places in the Holy Land has ceased to be settled by the Sultan’s unilateral decisions and has become the object of international agreements between the main European Powers.

Among recent international documents concerning sacred places in general, we could mention the ‘Projet de régime juridique pour les Lieux Saints en Terre Sainte – Patrimoine Commun de l’Humanité’ (2006) by the ‘Groupe de La Laguna’, the ‘Principles and Guidelines for the Management of Sacred Natural Sites Located in Legally Recognised Protected Areas’ (2008) by UNESCO (United Nations Educational, Scientific and Cultural Organization) and IUCN (International Union

For Conservation of Nature and Natural Resources)<sup>1</sup> and the ‘Universal Code on Holy Sites’ by the ‘Holy Sites Conference’ (Oslo 2009).<sup>2</sup>

The first instrument was drawn up and adopted by a group of experts headed by Federico Mayor, Former Director-General of UNESCO, and it has not obtained any binding legal status yet. In light of the universal value of sacred sites, this document draws an interesting parallel between the concept of a holy place and that of common heritage of mankind outlined in the well-known UNESCO Convention of 1972. The notion of common heritage of mankind made its first appearance in a legal document in the 1966 ‘Declaration on the principles of international cultural cooperation’ by the UNESCO General Assembly, but a similar rationale lies at the root of the 1959 Antarctic Treaty. By the same token, sovereignty claims on the Holy Land should be ‘frozen’ – according to the Laguna project – and protecting holy places should become a common concern of humankind, given their universal value. To attain this objective, the drafters have proposed a new legal regime. Although it does not aim at replacing the UNESCO World Heritage Convention system, this has clearly been taken into account as a relevant model. In order to define a specific site as a sacred place, this draft makes reference to the fact that it is considered as such by history, or tradition or by the religious community (or communities) concerned. Whereas these communities can propose the inclusion of a certain site in the ‘Register of common heritage of mankind’ to the committee thereby established, a list of the most notable holy places in the Holy Land was to be added to the final version of the project, in order for them to enjoy the status granted by this regime once it entered into force, with no need for a proposal of inclusion. It was added that, ‘... Le régime du patrimoine commun de l’humanité pourra également être appliqué aux Lieux Saints qui ne sont pas situés sur les territoires d’Israël et de Palestine, à condition que l’accord y relatif soit donné par l’État sur le territoire duquel les dits Lieux Saints sont situés’. The final decision on the inclusion of additional sites is to be taken by the ‘International Authority of the common heritage of mankind’ thereby established. This committee is appointed by the United Nations Security Council and consists of no more than seven members, including representatives of the State of Israel and Palestine and nationals of those states having historical ties with the Holy Land. Representatives of religious communities enjoy observer status. The members of the Authority can also propose a site for inclusion but the consent of the religious communities is required. These are responsible for the administration of holy places whereas the Authority is primarily charged with applying the whole regime. As for protection, basic principles include non-expropriation, peaceful use, conservation in the interest of future generations and freedom of access. Territorial states are responsible for the maintenance of public order and security within holy places. Disputes between

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1 This document is available at <<http://data.iucn.org/dbtw-wpd/edocs/PAG-016.pdf>> accessed 24 May 2013.

2 This document is available at <[www.sfcg.org/programmes/jerusalem/Universal%20Code%20on%20Holy%20Sites.pdf](http://www.sfcg.org/programmes/jerusalem/Universal%20Code%20on%20Holy%20Sites.pdf)> accessed 24 May 2013.

states parties and religious communities shall be settled by the Authority. No legal status is explicitly foreseen for the document; although, as the drafters argue in their explanatory note, a bilateral treaty between Israel and Palestine under the aegis of the Security Council would be the most suitable solution.

The UNESCO/IUCN guidelines are aimed at helping protected area managers in guaranteeing an adequate degree of protection to areas of land or water which are the object of worship by local and indigenous communities – and also by mainstream faiths – given their peculiarities. Here, a *sacred site* is defined as ‘an area of special spiritual significance to peoples and communities’; they are deemed as deserving urgent support since they ‘remain outstanding assets of the whole of humanity’. The need for continuous cooperation with the religious communities concerned is also stressed. The primacy of traditional custodians is recognized with a view to promoting cooperation between them and protected area managers as a prerequisite for the enhanced conservation of these special places. Mount Athos is mentioned as an example of a sacred natural site according to the IUCN categories.

A ‘Code on Holy Sites’ was drawn up in 2009 by the ‘Holy Sites conference’, assembling religious leaders and academics and organized by ‘One World in Dialogue’ and the ‘Oslo Center for Peace and Human Rights’. The Code has been endorsed by interfaith networks, religious communities and leaders such as the ‘Religions for Peace World Council’, the ‘World Sikh Leadership’, the President of the ‘All India Imam Organization’, the ‘World Council of Churches’ and the Russian Orthodox Church – Moscow Patriarchate. As a first implementation of this Code, a two-year pilot project has been launched in Bosnia Herzegovina, in partnership with the Inter-religious Council (IRC) of Bosnia and Herzegovina, an independent NGO.<sup>3</sup>

In the preamble, the drafters acknowledge the great value attached to holy sites by people all over the world, irrespective of their religious affiliations. They also recall international conventions on freedom of religion and belief, cultural heritage and protection of civilians in armed conflicts. Holy sites are broadly defined as ‘places of religious significance to particular religious communities’, such as places of worship, cemeteries and shrines, incorporating their immediate surroundings when these form an integral part of the site. They are designated as such by each religious community according to its customs. Communities enjoy the right to establish and maintain their holy sites and shall be consulted regarding the public promotion of such places for tourist, scientific, educational and other purposes. Regarding protection, the document calls for the preservation of holy sites, freedom of access, reconstruction and ‘memorialization’ of destroyed sacred places as well as protection from desecration. Expropriation and nationalization of parts of a holy site are permitted, provided that the religious communities concerned are equally represented and consulted on all aspects of the process. Their agreement is required in the case of archaeological excavations. As far as

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3 See <[www.sfcg.org/programmes/jerusalem/holysites.html](http://www.sfcg.org/programmes/jerusalem/holysites.html)> accessed 24 May 2013.

the duties of territorial states are concerned, public authorities shall not arbitrarily prohibit the residence of foreign personnel connected with the sites. When sacred sites are shared among different communities, national authorities shall provide for arrangements whereby all members are granted equal access. Education and public speech shall be oriented towards the acknowledgement and promotion of the significance of holy sites.

The draft foresees the creation of monitoring bodies endowed with an advisory role for its implementation at the local, regional and national level. Such committees shall consist of representatives of religious communities, public authorities and other relevant institutions. They shall draw up a list of holy sites to fall under the provisions of the code, advise national authorities and settle, through their good offices, any dispute over the status of a sacred place. Besides monitoring bodies, an international committee is provided for which is charged, *inter alia*, with monitoring the implementation of the guidelines, promoting the adoption of the code in all relevant fora and reporting on violations of its provisions. Nothing is foreseen about its membership. The Code follows the soft-law model and it seems to have been conceived particularly for war-torn regions and occupied territories, since there are various references to the duties of an occupying power, damaged sites and the need for stressing the spiritual value rather than any strategic, territorial or military significance of sacred places.

Among the international legal instruments dealing with some particular sacred places, Resolution 181/1947 of the United Nations General Assembly on the Palestinian Question and some resolutions of the European Parliament on Mount Athos deserve special attention. In the first document, even though no official definition is given, 'the unique spiritual and religious interests located in the city of the three great monotheistic faiths throughout the world, Christian, Jewish and Moslem' is stressed.

Whereas in the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage we can only find a reference to 'sites which are of outstanding universal value from the ... ethnological or anthropological point of view', the 2005 Operational Guidelines on the selection of World Heritage sites explicitly refer to a direct and tangible association 'with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance' although 'the Committee considers that this criterion should preferably be used in conjunction with other criteria'.

On the 7th of May 1981 the European Parliament passed a resolution<sup>4</sup> calling for initiatives in support of Mount Athos, taking into consideration '... la tradition culturelle, religieuse et historique du Mont Athos, ensemble unique dans le monde chrétien d'une Communauté vivante et active, dont l'histoire et la vie couvrent près de 11 siècles', and the fact that 'le problème de la conservation et du développement indispensable de cette Communauté monastique relève non seulement de la Grèce, mais aussi de toute la Communauté et du monde civil

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4 J.O./C.E., C-144/15-06-1981.

en général, comme il relève autant de tout les chrétiens que des orthodoxes'. Likewise, another resolution,<sup>5</sup> following the fires which broke out on Mount Athos, was approved by the European Parliament after considering that 'le Mont Athos constitue un monument religieux et archéologique unique et sans équivalent dans toute l'Europe, ainsi qu'un symbole représentatif de la spiritualité et des valeurs incarnant les idéaux européens'.

### Sacred Places in Literature and Religious Traditions

Even though most of the existing works on sacred places have been written with special attention to the Christian sites in the Holy Land, the definitions they provide also aim at embracing sacred places of different religions located in diverse areas. According to Bernardin Collin,<sup>6</sup> 'sacred places' are 'monuments or sites specially and perpetually worshipped by faithfuls for an event linked to them, in general the memory of the founder or an event in his life' [my translation]. In Jean-Dominique Montois's<sup>7</sup> definition a 'sacred place' is '... a well defined sanctuary, the spiritual interest of which has been historically entrenched by the members of one or more religions and which commemorates an event linked to these religions' [my translation]. In the same fashion, according to Reiter/Eordegian/Abu Khalaf, a holy site is 'a place, whether or not it is enclosed within a building, which is venerated by most of the followers of a religion because of its association with a founding figure of that religion'.<sup>8</sup> Paolo Pieraccini,<sup>9</sup> while providing no particular definition, mentions the frequent relations with European history and the central role played in international politics as main features of some Christian sacred places in the Holy Land. These definitions show how crucial is the role played by religious communities, through the centuries, in providing a place with a sacred character: this sacredness 'is the inherited value that makes religious heritage different from other types of heritage'.<sup>10</sup> Such spiritual meaning pre-exists secular law on the protection of sacred places and has to be taken into account when

5 *Procès Verbaux 28 II* (pe 144.654) 13-09-1990.

6 Bernardin Collin, *Pour une solution au problème des Lieux Saints* (G.P. Maisonneuve et Larose 1974) 43.

7 Jean-Dominique Montois, *Le Vatican et le problème des Lieux Saints* (Franciscan Printing Press 1984) 8.

8 Y Reiter, M Eordegian and M Abu Khalaf, 'Between Divine and Human: The Complexity of Holy Places in Jerusalem', in Moshe Ma'oz and Sari Nusseibeh (eds), *Jerusalem: Points of Friction, and Beyond* (Kluwer Law International 2000) 109–10.

9 Paolo Pieraccini, *Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale* (Edizioni Dehoniane 1996) 3–6.

10 Gamini Wijesuriya, 'The past is in the present. Perspectives in caring for buddhist heritage sites in Sri Lanka', in Herb Stovel, Nicholas Stanley-Price and Robert Killic (eds), 'Conservation of Living Religious Heritage', *Papers from the ICCROM 2003 Forum on Living Religious Heritage: conserving the sacred* (ICCROM 2005) 31.

drafting international or municipal norms on this matter since ‘a holy place is distinguished from any other, its significance based on a unique character that no human action can confer’.<sup>11</sup>

In the Jewish view, the concept of holiness is connected more with land than with specific sites, as highlighted in the *Encyclopedia Judaica*.<sup>12</sup> According to the *Mishnah*, it is the land of Israel that enjoys the highest degree of holiness. However, history provides strong evidence showing that Jews, as well as Christians and Muslims with their holy cities and places, have always seen some particular sites as deserving special worship because of their crucial role in religious history. In addition to this, according to Jewish scholars a ‘sacred place’ is a well-defined physical space, having a particular identity which renders it distinguishable from the surrounding environment. By the same token, Islam also acknowledges that some places have been chosen by God to manifest himself to mankind and therefore enjoy a higher degree of sanctity.

### A Definition by Induction

Since no universally accepted definition of ‘sacred place’ exists, the only solution to overcome any problem of terminology could be found by shaping a ‘definition by induction’. From the abovementioned examples it is possible to draw up a list of particular features characterizing a ‘sacred place’. The presence of one or more of them allows us to speak of a ‘sacred place’, instead of a more common place of worship:

1. a link to a manifestation of the ‘sacred’ (God, a prophet, a supernatural event and so on) which took place there: that is the case of some sacred places in the Holy Land and Mecca;
2. an important role played in the history of a religion as a permanent landmark and which makes it unique: that is the case, among others, of Mount Athos;
3. the fact that it is the object of veneration and interest not only for local communities but also for believers from different parts of the world and even for members of different religions. Such a status gives it a universal dimension: that is the case, for instance, of the Orthodox Sanctuaries in Kosovo;
4. the fact that a general consensus within the religious community (or communities) concerned, or throughout history and tradition has developed to consider it as such.

Such a definition, focused on history and religious tradition, is meant to be comprehensive enough to cover all those sites that deserve special protection, even

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<sup>11</sup> See *supra*, footnote 8.

<sup>12</sup> *Encyclopedia Judaica* (Keter Publishing House 1971) vol. 8, 921.