

*In the name of Allah the Most Gracious and the Most Merciful*

*In the name of people*

*The State Council*

*Administrative Judiciary Court in Alexandria*

*First Department - XXXIII – Beheira*

In the open session held on Monday the 7<sup>th</sup> of Rabie Alawal 1436 AH,  
corresponding to the 29<sup>th</sup> of December 2014 A.D., headed by:

Chancellor / Prof. Dr. Mohammed  
Ahmed Abdul Wahab Khafaji

Vice- President of the State  
Council and Court's president

And membership of:

Prof. Counselor/ Mohamed Fathy  
Ibrahim Haraz

Vice- President of the State  
Council

Prof. Counselor/ Wael El Maghawry Abdo  
Mohammed Shushah

Vice- President of the State  
Council

And in presence of:

Assistant Counselor / Moustafa Hamdi  
Ghali

The State Council  
Commissioner

Mr. / Gaber Mohammed Shehata

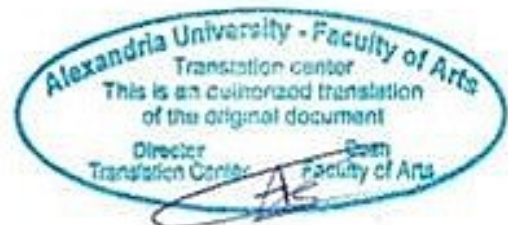
Secretariat

The court ruled the following judgment in the lawsuit No. 1920 of 55  
registered in the general record - Judicial- by

By:

Ahmed Mohamed Attia Hassan (the Plaintiff)

Against



1. President of the Arab Republic of Egypt

2- Prime Minister

3- Interior Minister

4. Governor of Beheira

5-Minister of Culture

(in their capacities)

**The facts:**

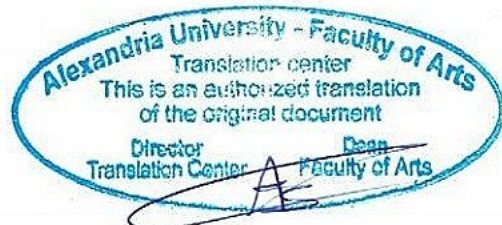
Upon the lawsuit has been deposited to the Department of the writer in this Court on 18.01.2001, the Plaintiff filed this lawsuit demanding in its conclusion to accept as soon as possible this lawsuit in its form; to stop the decision of the Beheira Governor that allows and approves holding a celebration day for Israeli rabbi "Abu Hasira" in Damanhur city, Beheira governorate and the consequences , specially moving his remains outside the Arab Republic of Egypt, and in its subject to cancel the said decision and demand the Defendants to incur the expenses.

Explaining his claim, the Plaintiff said that every year and at this time a group of Jews comes to Egypt to celebrate one of the most miserable occasions to say in Damanhur City. In the presence of Egyptians during the daytime and under security of honorable Egyptian police men, whose expenses are unwillingly being incurred by Egyptian taxes payers - some of his sons were killed in the wars with Jews in 1984, 1967 and 1973.

This city is witnessing a celebration day of unknown person, claiming that he had a carpet (his Hasirah), that flew from one country to another on the basis of fairy tales that people believed in and are still living with.

The Plaintiff claims that the contested decision to allow holding a celebration day for Israeli rabbi "Abu Hasira" violate the Islamic traditions as this group drinks alcohol and commits sins and taboos in the same time when the Israelis are violating Islamic sacrosanct places , specially Al-Aqsa Mosque, and brutal acts against unarmed Palestinians as well as killing children. This celebration hurts the feelings of Egyptians of various categories, especially when the local People's Assembly in Damanhur had recommended officials to prevent holding such ceremony this year and called for moving the remains of Abu Hasira body outside Egypt.

The Plaintiff added that holding a celebration day for Israeli rabbi "Abu Hasira" and consequent violations made against the Islamic traditions by Jews visiting





Egypt in this occasion through drinking alcohol and committing sins and taboos constitute abuse and grave damage to the feelings of the Egyptians, so that the Plaintiff filed his given lawsuit demanding the above mentioned requests.

The lawsuit is conferred in the courts' session to consider the urgent part thereon - as set forth in the minutes of sessions - as the Plaintiff has deposited a portfolio of documents included editions of some Egyptian newspapers illustrating the Israeli abuse against Palestinians.

**In the session dated 27/10/2014, the Plaintiff submitted a final brief in which he outlined his demands specifically** - in the light of developments since 2001 till now. In conclusion he demanded; first: to accept the form of the lawsuit; Second: regarding the subject:

- (1) To cancel the Minister of Culture decision No. 57 of 2001 considering the tomb of the Jewish rabbi "Abu Hasira" , surrounding Jewish cemeteries and the hill on which they are built in the f Damatiuh village, Damanhur city, Beheira governorate, as one of the Islamic and Coptic antiquities and the relevant consequences thereof.
- (2) Requiring the competent administrative authority to cancel the registration of this tomb and publish delisting decision in the Egyptian Gazette.
- (3) Requiring the competent administrative authority to notify the UNESCO of the given cancelation decision.
- (4) Requiring the competent administrative authority to move this tomb outside Egypt to the Zionist Entity and refuse the request of the Zionist Entity to transfer it to Jerusalem; the capital of Palestine.
- (5) To stop the annual celebration of "Abu-Hasirah" completely and compel the Defendants to pay the expenses and the attorney costs.

**The Plaintiff attached his final brief with two document portfolios**, the most important thereof revealed that Israel has requested on Monday the 8<sup>th</sup> of January 2012 AD from UNESCO to request from Egypt respecting the Jewish relics No.16 in Egypt based on the decision of the previous Egyptian minister of culture / Farouk Hosny who notified UNESCO that this tomb is one of the Islamic and Coptic antiquates in Egypt as a compliment to the Jewish Entity. Thereupon UNESCO registered this tomb as one of the relics owned to humanity.





In addition recommendation and undertaking letters were issued by the wife of the previous president Hosny Mubarak to protect this tomb. As for proofing the seek to the Conciliation Commission for requests No. 2, 3 & 4 and in the same session the state commissioner presented verbally his opinion and recorded it in the session's minute, stating that these five requests are based on the summary judgment of stopping the execution of the decision and the Plaintiff has all the rights except the tomb move.

In the session dated 27/10/2014, the Court concluded that the ruling shall be made in the session dated November 24, 2014 and submitting briefs within two weeks, but the period of the two weeks passed without presenting any documents. In this given session, the court decided to rule in this case in the session dated 29 December 2014 in order to complete the deliberation process. In this later session, the court sentenced and kept a draft of the judgment containing its reasons.

#### Court

**After reviewing the papers and hearing the explanations and after deliberation as legally prescribed:**

**In terms of the fact that the final five requests were presented by the Plaintiff - in the scope of the substantive part of the case - all are focus on one item, which is to judge the following:**

**First:** to cancel the decision of the Minister of culture No. 57/2001, issued to consider the tomb of the Jewish rabbi "Abu Hasira" and Jewish cemeteries located around it and the hill on which they are built in Damatiuh village, in Damanhur, Beheira governorate as one of the Islamic and Coptic antiquities and its relevant consequent effects.

**Second:** Requiring the competent administrative authority to cancel the registration of this tomb and to publish the delisting decision in the Egyptian Gazette.

**Third:** Requiring the competent administrative authority to notify UNESCO of its said delisting decision.





**Fourth:** Requiring the competent administrative authority to move this tomb remains outside Egypt to Israel and refuse the request of the Zionist Entity to move it to Jerusalem; the capital of Palestine.

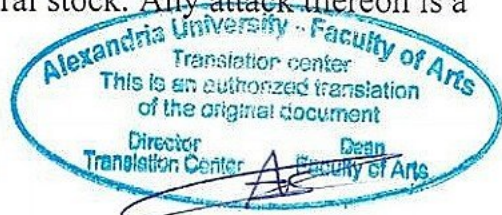
**Fifth:** To stop the annual celebration of “Abu-Hasirah” completely and compel the Defendants to pay the expenses and the attorney costs.

**Regarding the subject of the first request of cancelling the decision of the Minister of Culture No. 57/2001 dated 24.01.2001 considering the tomb of the Jewish rabbi "Abu Hasira" and Jewish cemeteries located around it and the hill on which they are built in Damatiuh village, Damanhur, Beheira governorate, as one of the Islamic and Coptic antiquities and its relevant consequent effects**

**As the point of the first request is figure out whether the Jewish had a civilization existed and effected on the land of Egypt , or they had any effects on the Egyptian civilization or art, literature or religions that have been found in Egypt before ages and pre-history or even before hundred years age, or the Jewish affected on the ancient Egyptian civilization in the period of their stay in Pharaonic Egypt- as being the most ancient and greatest civilization has been witnessed by the humanity from the beginning of history –in order to consider their remains as one or not of Ancient Egyptian, Coptic or Islamic Antiquates?**

**As the Egyptian constitution modified and issued in 18<sup>th</sup> of January 2014 AD.-** published in a State-owned newspaper –edition 3 bis (A) in 18<sup>th</sup> of January 2014 AD – states on Article (47) that “The state is committed to protecting Egyptian cultural identity with its diverse civilizational origins” and article (49) The state commits to protecting and preserving antiquities ... Attacks upon them and trafficking in them is a crime for which there is no statute of limitations."

**Article (50) of the mentioned Constitution sets out that “Egypt’s material and moral civilizational and cultural heritage of all types and from all of the Pharaonic, Coptic, Islamic, and modern periods are a national and human heritage that the state commits to protect and maintain. The same applies to the modern architectural, literary and artistic cultural stock. Any attack thereon is a**





crime punishable by law. The state gives special attention to maintain the components of cultural diversity."

**The article (1) of the Law No. 117/1983 to issue the law of Antiquities**

**Protection– on which the contested judgment has been made-** states that "Any real-estate or movable was produced by various civilizations, sciences, arts, literature or religions in pre-history ages or during the respectively historic ages before one hundred years ago is to be considered as an antiquity, when it has an antique or historical value or importance as it is considered one of the features of different civilizations born on the land of Egypt or had a historical relationship therewith, in addition to the remains of the human descendants and all contemporary creatures".

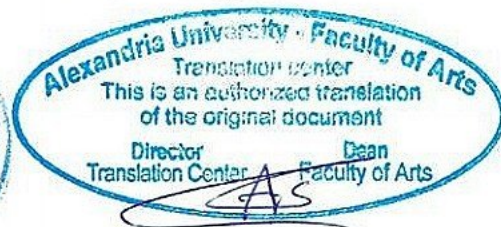
The article (1) in the Law No. 3/2010, stating with the modification of some regulations of the Antiques' law issued by the law no. 117/1983, sets out:

"In execution of the regulations of this law, any real-estate or movable is considered antique when the following provisions are applicable:

- 1- It has been produced by the Egyptian or subsequent civilizations or by arts, sciences, literature or religions existed in Egypt in pre-history ages and before one hundred years ago.
- 2- It has an artificial and antique value or historical importance as being one of the features of the Egyptian civilization or other civilizations born in the land of Egypt.
- 3- It has been produced, existed or historically related to the land of Egypt. The remains of the human descendants and contemporary creatures are considered antiques registered under the regulations of the law".

**The article (2) of the executive regulation of the Antiques Law attached to the decision of culture's minister No. 712/2010 in his capacity as being the head of the Supreme Council of Antiques –**

**published in the Egyptian Gazette, the edition No. 153 – bis (B) in 4<sup>th</sup> of June 2010 – sets out** "An antique is each real-estate, movable that has been produced by the ancient Egyptian or other subsequent civilizations which born on the land of Egypt since during pre-history, various stone ages and pharaonic





civilization located on the Nile valley, , Islamic, Roman and Greece civilizations and ages till the governing of Al-Alawya family and before one hundred years, the 100 years shall be calculated since the law has taken effect'.

**In terms of being made use of what mentioned above, the constitutional legislator kept its Egyptian features** in the ancient history and made the Egyptian material and moral cultural and civilization's heritage in all of its variations and great phases a national and human heritage and demanded the state to keep and maintain it. It expressly and clearly specified that the Egyptian civilization represented in the ancient Egypt, Coptic and Islamic civilization. This is also what the ordinary legislator repeated whether in its amended or old text, so it may not add any other phases to the Egyptian heritage other than what the **legislator** mentioned and referred to.

As the administrative judiciary is considered the legislation judge and the trusted custodian to achieve entitlement of administration's authorities of the provisions of the legislations in its text and spirit for maintaining the rules of law and achieving the requirements of the legal state as bidding to the law and expanding its sovereignty by the state is not only a guarantee for the freedom of the individual, but also an essential basis for the legitimacy of authority at the same time.

**As the origins of the Egyptian man linked to his land and mixed with the home' soil so a civilization brought up** Egyptians proud of over the centuries and decades. If the Egyptian has added his geniality in place and the land reflecting evidences of its population's geniality became one of the features and landmarks for those who are seeking reviewing its bright aspects, which are still till now creative and revealing modern civilization of the ancient Egyptian's life.

**As the said Egyptian Constitution declaration' document referred to its interest of maintaining the ancient man as Egyptian who lived in Egypt; the beginning of history and the symbol of religions, stating "in the beginning of history, the human conscience existed and manifested itself in the hearts of our great ancient Grandfathers as their good will united and founded the first**





centralized state that has organized and regulated the lives of the Egyptians on the both sides of the Nile and they built the greatest civilization and turned their hopes and hearts to heaven before the land knows the three monotheistic religions.

Egypt is considered the cradle of religion and the symbol of the glory of heavenly religions, in its land, the Prophet Moses, blessed by Allah, was grew and Allah talked to him revealed His message on Mount of Tor Sinai. Moreover, on Egyptian land, Egyptians welcomed the Virgin Mary and her newborn child and there were thousands of Egyptian martyrs in defense of the Church of Jesus Christ, blessed by Allah. When Allah sent Prophet Mohammed (peace be upon him) as the last messenger of Allah to all people across the world to complete morals, our hearts and our minds as Egyptian were pleased with the light of Islam. We were the best soldiers on the earth, seeking Jihad for Allah and spread the message of truth and the sciences of religion all over the world”.

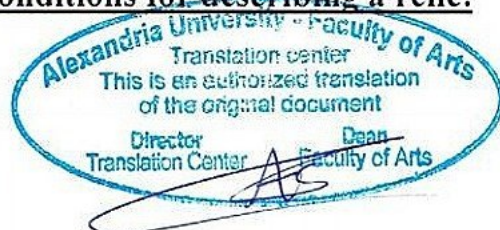
Whereas the Constitution Declaration’s document- as an introduction to the Constitution –has the nature and power of the constitutional texts as a bloc de constitutionnalité.

(Reference thereof: The Supreme Constitutional Court's ruling in Case No. 34/1913 judicial constitutional case – session: 20 /6/ 1994)

**As it can also take advantage of what have been mentioned above that the Egyptian legislator agreed to define the relic** - whether under the law No.

117/1983 regarding of the issuance of the relics protection Act upon which the first request contested decision has been made or under its amendments in the law No. 3/ 2010 or its executive regulation by the decision of the Minister of Culture No. 712/2010 on his capacity as head of the Supreme Council of Antiquities – as each property or immovable was produced by different civilizations or developed by arts, sciences and literatures of the pre-historic age and during successive eras passed to the ancient Egyptian state in various ancient ages which represents the bright flashes of humanity that indicate those civilizations and represents the best witness to the ancient history , which represents the core of the nation, its values and spirit amongst the nations who acknowledge and believe in the greatness of ancient Egyptian history.

**The legislator provided three fundamental conditions for describing a relic:**





**First condition:** The item shall be considered as a relic if it was produced by the Egyptian civilization, or successive civilizations or a result of the arts, science, literatures or religions that were born on the land of Egypt since pre-historic times and even a hundred years ago

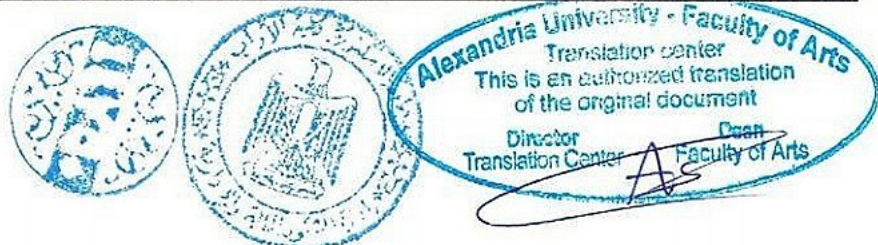
**Second condition:** to be with archaeological, artistic value or historical significance as being one of the manifestations of the Egyptian civilization or other civilizations which were born on the land of Egypt

**Third condition:** It should be built or grew up on the land of Egypt, or had a historical relation therewith.

**As there is a common element in these three conditions:** an item to be considered as a relic - of the ancient history even a hundred years ago – if it has a feature of different civilization’s features, which the Egyptian legislator stipulated to be established on the land of Egypt or it had historic relation with it, as well as the remains of human races and contemporary creatures. so if the said item has not been marked with one of the features of civilization born on the space spatial land of Egypt nor it had historic relation with it, it will not be considered as one of the relics in accordance with the Egyptian law and should not be described as a relic. That is because it was produced by civilizations representing a cultural entity of a people and must be relevant with history and culture of this people or its religious sanctities, which represents a certain value to the nation.

**To clear the fact of history - which includes people’s civilizations – it requires returning to the historical and archaeological studies carried out by scientists and historians in the world, especially in the West - and they are God’s means on earth for the fairness of history - especially the French and German, British and the Italian scientists specialized in the Pharaonic history and its impacts on knowing the period of the Jews stay in ancient Egypt to indicate whether their activities can be considered a product of civilizations established on the land of Egypt, or not?**

**As the court has deepened in the thought of specialized historians and archaeologists all over the world without getting bored - because identifying people’s civilizations and cultures is not easy matter – in order to reach the**

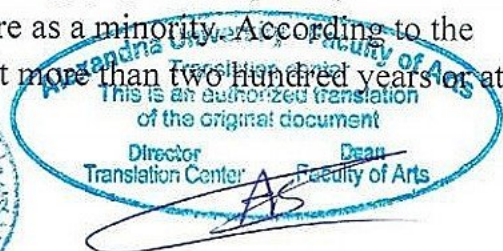




**most complicated and interesting search point for having a great legal and scientific knowledge on which the Court can take good steps. Accordingly the court can not bear reviewing all of such science but skipping some of its contents to keep itself within the framework of proof.** The court showed the findings of archaeological missions that have been carried out by elites from different nationalities in the world across Egypt. Through centuries of discovering, analyzing and interpreting the papyrus, Orchestra, inscriptions and classical texts which were found to discuss whether the Jews had a cultural value on the land of Egypt, or not? **The court trusts historians and archaeologists from France** such as: Jean-Ive Embraer, Brothers Andria Bernand & Ityan Bernand, Gaston Casanova, Jean Maspero, from German: Klaus Barlasca, Kurt Weitsman and Von Ranka, from Italy as: Joseph Poti, Aristide Caldrini, Giacomo Ambrozo and Achilles Adriana, and from UK: Alan Wais, Allan Rowe, Allan Gardiner, James Henry Brsteid, Sir Henry Wilkinson and Peter Marshall Fraser and others.

**As these historical and archaeological studies concluded - in fairness of history - that Jews were a very small minority in Egypt and did not have any effect on the Egyptian civilization,** because the Egyptian antiquities did not mention the Jews nor the walls of the temples have any evidence that the Jews have had any effect on the history of ancient Egypt. Moreover, the history of Bani- Israel started in 2000 BC after the migration of the Prophet Ibrahim- may Allah bless him- and his followers to Canaan, where they lived side by side with other Semitism peoples who inhabited there before them and have been living a nomadic life in the form of traveler tribes with affair tents and caring for pigs and sheep graze hence they move from one place to another. And they were only scattered tribes associated only with blood kinship. Jews did not have any worth mentioning significance in the civilization of Ancient Egypt. As they were just little group that had nothing to provide in comparison with great Pharaohs. This explains the absence of their effects in the Pharaohs' civilization.

**Whereas, these studies concluded** that when the accommodation of the Jews in Canaan faced a lot of risks and there were drought, poverty and famine, they left it to stay in the Pharaonic Egypt- not as invaders, but as refugees from the poverty - in Housh in El-Sharkia governorate and found in Egypt good hospitality and freedom and worked in Animals care. They were as a minority. According to the Torah (old Testament),they stayed in Egypt not more than two hundred years or at



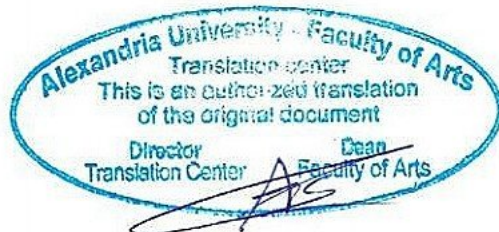


the most no more than four hundred years, according to the opinion of most historians and archaeologists, as they came to Egypt during Hyksos invaded Egypt in 1650 BC and left it - after they suffered from persecution and torture because they looted the Egyptian cities as they stole gold silver items and precious clothes of the Egyptians as stated in Exodus 12:25:26

- In two phases: first during the reign of Ramses I in 1250 BC; and, second led by Prophet Moses – may Allah bless him - in the reign of King Monfah 1 in 1225 BC.

They went to lose their way in the Sinai desert till they arrived to the outskirts of the eastern bank of the land of Canaan. **During their stay in Pharaonic Egypt, the history has not ever proven that the Jews had a civilization but they were travelers living in tents and caring of graze sheep and did not leave during their stay - as aforesaid - in ancient Egypt any effect in the Pharaonic era.** The famous philosopher Gustave Le Bon , French sociologist, described the Jews in his book's introduction "Jews in the history of the first civilizations", the most accurate expression when he said "The Jews have a vacuous civilization, there was not any Jewish arts or sciences, industry or anything establishing a civilization and they did not even provide any contribution no matter how small in the construction of human knowledge and they cannot contribute in the ancient Egyptian civilization". As a number of countries recognized Israel as a modern country founded in the fifth month of the year 1948 upon the declaration of Ben-Gurion. **Therefore, everything connected or associated with the Jews cannot be in any way considered one of the ancient Egyptian, Coptic or Islamic antiquities. Otherwise it will be regarded as a travesty of Pharaonic history, waste of the ancient Egyptian, Coptic and Islamic civilization, denial of humanitarian heritage, disrespect of human values,** underestimation of the greatness of ancient Egyptian history, and violation of its uniqueness, which is the evidence for greatness of Egyptian, and ignorance of the heritage of the Egyptian nation, which is the property of the previous, contemporary and future generations.

The court will be entitled – as the legislative body- to purify the Egyptian antiquities from this tomb and the Jewish cemeteries located around it, as the Egyptian antiquities are witness of the Egyptian civilization since the dawn of history.



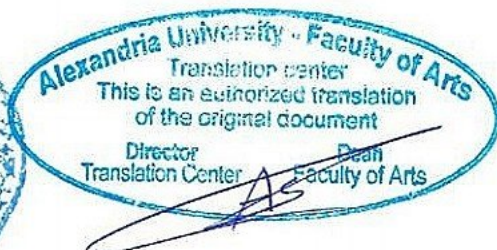


(for the aforesaid studies and researches, please refer to:

- 1- Pirenne”j.”: la société hébraïque d’apres” la bible, paris 1965,
- 2- Baron “S.W” A social and Religious History of the jews, 8 vol.New York 1952-1960;
- 3- Itrad francs par V.nikiprovetzky: Histoire d’israil. Vie sociale et religieuse, 5 vol paris 1955-1964.
- 4- A.Mounier: les institutions de l’etat d’israél, it is a doctoral thesis provided to faculty of law in Paris on May 1975.
- 5- Oscar kraines: “Israel”. New York 1961
- 6- Martin Noth: “the history of Israel”
- 7- Gardiner .A. “Egypt of the pharaohs”
- 8- J. Cerny” “Egypt from the death of ramesses”
- 9- Petrie, W.M.F, “Egypt and Israel”

Also with Reference to the following:

- 1) Theodore Robinson: Israel in the history "- the history of the world – Second Edition"
- 2) James Becky: "Egyptian antiquities in the Nile Valley"
- 3) Armand, Ranke: "Egypt and the Egyptian life in ancient times"
- 4) Jean Yobut: "Pharaonic Egypt."
- 5) Gustaf Lupon : “Jews in the history of first civilizations”.
- 6) Israel Wolfson: "History of the Jews in the Arab countries."
- 7) Alexander Scharf: "Egypt's history" translation of Abdel Moneim Abu Bakr
- 8) Ahmad Fakhri: "Studies in the history of the ancient Near East."
- 9) Hassan Zaza: "international Zionism and Israel and" The religious thought of Israel”
- 10) Mohamed Ali Alsavori: "Ancient Semitic laws of Arabs and Jews" Edition 1996/ 1997
- 11) Tharwat Anis Alassuity: "Primitive groups and Bani Israel," Dar Alktab Alaraby for printing and publishing.
- 12) Najib Ibrahim Mikhail: "Egypt and the ancient Near East," the third part- Cairo
- 13) Ahmed Susa: "Arabs and Jews in history," Edition 1972





**Upon the above mentioned and as it is stated in the documents that Egyptian Culture Minister, as the head of the Supreme Council of Antiquities, has issued the contested decision No. 57/2001** dated 24.01.2001 stating in its first article that " The tomb of Rabbi Abu-Hasirah and surrounding Jew tombs as well as the hill on which they are built in Damatiuh village, Damanhur city, Beheira governorate are as one of the Islamic and Coptic antiquities as described in the explanatory memorandum and surveying map annexed " even though it is just a grave for a normal person, whatever his religion. His tomb and surrounding Jewish cemeteries do not represent in any civilization, cultural or religious value for Egyptian people even they cannot be considered as part of the heritage of the Egyptian people, where the people's antiques are considered the property of their heritage. Furthermore, these tombs are not considered as Islamic and Coptic antiquities because they have no value nor archaeological or historical importance as they are not a manifestation of the different civilizations that developed on the land of Egypt or have historical relation therewith.

They could not be considered as a part of the remains of human strains, because their founders did not witness the Egyptian Civilization in its various historical eras as this tomb does not have historical roots in the Egyptian civilization. **Whereas the Jews, at religion and people level, did not have any significant influence on the Egyptian civilization in all its historic eras as well as the Jew civilization in general and the Jew religion in particular did not have any direct or indirect effect on the ancient and modern Egyptian civilization.**

Even Jew's presence in the ancient Egyptian civilization was no lesser than two hundred years nor more than four hundred years as mentioned above. They were a minority and did not have any effect on any aspect of the great Egyptian civilization, as they originally were tribes and travelers who did not have any relations with the arts of different cultures and we cannot say that the Jewish civilization has left any effects worth to be mentioned in Egypt. As the religious effect of any nation must be related to beliefs and religion of this people, or at least some of it, which has a considerable existence and obvious effect. This has not been proved historically or archaeologically as aforementioned. So that the tomb of Israeli rabbi "Abu Hasira" and surrounding Jew tombs as well as the hill on which they are built in Damatiuh village, Damanhur city, Beheira governorate are not





considered one of the Islamic and Coptic antiquities, but they are just ordinary graves of normal persons. Thus the decision of the Egyptian Minister of Culture on this regard is considered a material breach of the Constitution because it involves a big historic mistake that would affect the entity of the Egyptian peoples' heritage which belongs to the nation's generations not to the rulers. The decision also involves a fatal waste of the Egyptian legislator's methodology of not recognizing any significant impact of the Jews during their short stay in Egypt regarding any product of any various civilizations which born on the land of Egypt.

**In addition to what mentioned above, the court may notice that** the plaintiff filed his lawsuit on 18.01.2001 and the Minister of Culture issued the contested decision No. 75/2001 on 24.01.2001 at a later date of prosecution. This indicates that the Minister of culture at that time did not make his contested decision, based on his convection in the state he represents, to consider it as one of the real antiquities upon the Constitution and the law. If it so, the state has issued such a decision in the past because the tomb was built for a long time ago, but the minister waited for few days after filling the lawsuit to make his contested decision. He made his decision only to restrict the court from its judicial power granted by the Constitution and the law to evaluate equally and fairly the Minister's decision, which represents the administrative entity. The aim of his decision is to legitimize the tomb as a compliment to the Zionist entity. Accordingly the above mentioned decision lack the public interest that should be achieved by administrative decision, as it is issued for a motive not related with the mentioned interest, which can see this decision as a sort of deliberate breach of the law.

**It should be noted that it is not reasonable and logical to consider the tomb of Rabbi Jacob Abu-Hasirah and Jewish cemeteries around it as Islamic or Coptic antiques.** It is revealed from the text of the contested decision itself that the tomb and Jewish cemeteries around it, despite the fact that the owners of these tombs do not follow neither Islam nor Christianity. So that the description of the Islamic impact and Coptic on Jewish graves could spark a rift between those who belong to these three monotheistic religions, as the antique is Muslim and Coptic at the same time while the religion of the antique's owner is Jew. Seemingly, the Minister of Culture through his contested decision could not consider these tombs as Jewish antiquities, because the Egyptian legislator does not recognize any impact of Jews on Egyptian civilization in any aspect. In steed the Minister wanted





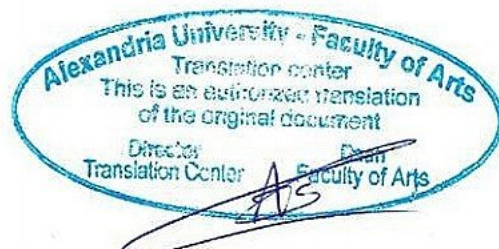
to add these tombs to Islamic or Christian antiquities in a violation of the ancient Egyptian history and ignore of the facts of Egyptian people's history and a great false in the humanity's heritage, contrary with public benefit of people, ignoring the philosophy of Ancient Egyptian Law philosophy in recognition of non-existence of any significant impact of the Jews on the Ancient Egyptian civilization as it is the oldest and greatest humanitarian civilizations since the dawn of history, which make this decision have no sense nor existence in the future. It does not have a basis on the ground, Constitution or law. So the judgment of cancellation of the contested decision of culture Minister No. 57/2001 considering the "Abu Hasira" tomb and surrounding Jew tombs as well as the hill on which they are built in Damatiuh village, Damanhur city, Beheira governorate, as one of the Islamic and Coptic antiquities should be executed.

**Concerning the second request to the Plaintiff on requesting from the competent administrative entity to delist the registration of the tomb of Rabbi Jacob Abu-Hasirah and surrounding Jewish cemeteries and the hill on which it is built from the Coptic and Islamic monuments and compel it to publish delisting decision in the Egyptian Gazette.**

**The third Article of the executive Regulation of the antiques' Law** attached with the decision of the Minister of Culture No. 712/2010 as being the head of the Supreme Council of Antiquities referred to states that "All conditions stated in the text of Article (1) of the Act jointly to consider any real estate or movable a relic and losing its properties, if any one of the conditions failed.

Article (36) of the aforementioned regulation sets out that "The real estate antique will be canceled, if it lost its archaeological characteristics completely according to what determined by the competent technical committee and the deregistration of the fixed antique or part thereof a decision issued from the Minister upon the proposal of the Board of Directors and in all cases the opinion of the competent Standing Committee should be recognized.

Article (37) of the same regulation sets out that "The decision of real-estate cancel should be published in the Egyptian Gazette, the individuals or institutions previously reported or registered the relics should be notified therewith and this





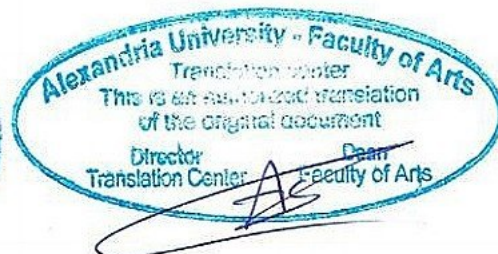
notice should prove the sidelines of recording the antique in the Antique's Council and also on the sidelines of recording property in real-estate administration. The relevant sector takes this action in coordination with the department of Legal Affairs in the Council".

It can make use thereof, the legislator required the availability of all conditions set forth in the first article of Antiquities Law – the above referred to - for considering any real estate or movable relics or remains with human strains and contemporary creations regarding the history and heritage of Egyptian people. If it does not meet one of these conditions, in return this item cannot be considered as an antiquity, as the legislator stated a certain rule in the event that it (tomb) has lost its archaeological characteristics completely, represented in Antiquities cancellation of registration. The legislator asked the culture Minister in his capacity as Chairman of the Supreme Council to cancel the Antiquities' registration upon the proposal of the Board of Directors after approving the opinion of the competent Standing Committee. The legislator entitled the Minister of Culture to publish the decision of removing the relic from the Egyptian Gazette. The individuals or entities previously notified with the tombs registration as a relic should be notified and prove this notice on the sidelines of recording the relic in the Council.

Whereas the Court has decided to cancel the contested decision of the Minister of Culture No. 57/ 2001, and as the court clearly found that the contested decision does not have ground and the said tomb lacks archeological characteristics completely as mentioned above, this relic should be delisted from the Islamic and Coptic antiquities. Such delisting should be published in the Egyptian Gazette.

**Concerning identifying which is the competent body entitled to delist this tomb from the Islamic and Coptic antiquities' records and publish this decision in the Egyptian Gazette, whether it is the culture's Minister in his capacity as Chairman of the Supreme Council of Antiquities or the minister of antiques' affairs?**

Administrative judiciary has decided that competence is an essential part of the administrative work in general and of the administrative decision in particular. Jurisdiction is the authority granted by law –in general- for administrative to





perform a specific administrative work and a legal capacity do so through using management tools which include making administrative decisions necessary for administrative action. The administrative jurisdiction may be determined in the Constitution, ordinary legislation or regulations. Originally there was no jurisdiction without code and each has its limits. Thus the administrative is determined by the subject, place and the capacity of the person responsible for. Each administrative entity should comply with its limits of not to arrogate a jurisdiction has not been granted by the law or to rob any other jurisdiction from its competence.

The commitment to the competence will add on the assigned entity the responsibility to carry out such duty. Then jurisdiction's entitlement became the principle that may not be ignored. Any administrative entity must not violate the competence of others. Accordingly any ministry must not infringe on the competence of other ministry neither a public body can infringe on the others' competence. Respecting the jurisdiction became the basis for any action that administrative official may take whatever his position in the executive authority.

(With Reference to: Cairo Administrative Court's judgment – first department issued in the lawsuit No. 56998/ 1986 judicial, session dated 25.11.2014)

**Accordingly, Culture Minister, as chairman of the Supreme Council of Antiquities, shall be entitled to remove "Abu-Hasirah" tomb from the Islamic and Coptic antiques and publish this removal decision in the Egyptian Gazette. However the court found out that the Supreme Council of the Armed Forces (SCAF) made its decision No. 283/2012 dated 16<sup>th</sup> May 2012 and published in the state newspaper, edition No. 22 on 31<sup>st</sup> May 2012- after 25<sup>th</sup> January revolution- states in the first article that: (Both items "Archeological Affairs Minister" and "The Archeological Affairs Ministry" shall be replaced with "Minister of Culture" and "Ministry of Culture" wherever they appeared in the Presidential Decree No. 82/1994 for establishing the Supreme Council of Antiquities).**

Thus, the jurisdiction was entitled to Minister of Culture, as head of the Supreme Council of Antiquities, has moved granted to Antiques Affairs Minister. The presidency of the Supreme Council of Antiquities all the rights and obligations contained in the law on the Supreme Council of Antiquities has assigned to the later.



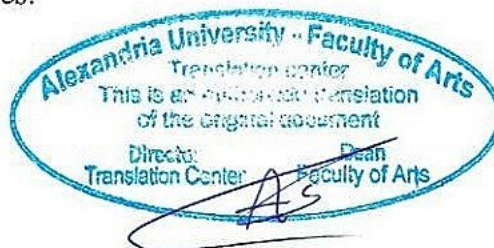


As SCAF decision remained in place, a Presidential decision No. 189/2014 dated June 16, 2014 has been issued to form a government and appoint the cabinet, including the appointment of the Minister of Antiquities & Heritage then the President made the decision No. 193/2014 stats in its first article: (The following item replaced "the Minister of Antiquities," with the words "Minister of Antiquities and Heritage" in the Presidential Decree No. 189/2014).

**Based on the transfer of this jurisdiction under law from the Minister of Culture, as head of the Supreme Council of Antiquities, to the competent minister of antiquities,** hence a judgment to be made requesting the competent minister of antiques' affairs to remove the tomb of Rabbi Abu-Hasirah and surrounding Jewish cemeteries from Islamic and Coptic records and publish the removal decision in the Egyptian Gazette.

**As for the third demand of the Plaintiff requesting from the competent administrative authority to notify UNESCO with the decision of deregistration of the Rabbi Jacob Abu-Hasirah, this requires reviewing the provisions of the International Convention for the Protection of the World Cultural and Natural Heritage in this regard?**

**A presidential decision No. 1965/1973 on the World Heritage Convention - which was approved in UNESCO General Conference at its seventh session, held in Paris on November 16, 1972 -was made by Egypt President for approval on December 30, 1973 and ratification on 2<sup>nd</sup>, January 1974 and a decision of the Egyptian Foreign Minister was issued in October 1978 to publish the convention in the state newspaper,** provided that it will be effective in December 18, 1978. It was published in the Official Gazette, edition No.45 dated November 14, 1978. Therefore, the Convention became effective since its introduction into the national legislations pursuant to Article 151 of the Egyptian constitution issued in 1971, which was in force at approving the said convention. The subsequent Egyptian constitutions even recently amended constitution that has been approved on January 18, 2014 stipulates in Article 93 that *"The state is committed to the agreements, covenants, and international conventions of human rights that were ratified by Egypt. They have the force of law after publication in accordance with the specified circumstances."*





**The first Article of the Convention sets forth** *"For the purposes of this Convention, the following shall be considered as "cultural heritage":*

*Monuments: architectural works, works of monumental sculpture and painting, elements of structures of an archeological nature, inscriptions, cave, dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science; -----"*

Article 3 of this Convention states that *"It is for each State Party to this Convention to identify and delineate the different properties situated on its territory mentioned in Articles 1 and 2 above."*

in Para 1 of Article 6 of the same Convention provides that *" Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated; and without prejudice to property rights provided by national legislation, the States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.*

In Para 1 of Article 8 of the same Convention provides that: *"An Intergovernmental Committee for the Protection of the Cultural and Natural Heritage of Outstanding Universal Value, called "The World Heritage Committee", is hereby established within the United Nations Educational, scientific and Cultural Organization. It shall be composed of 15 States Parties to the Convention, elected by States Parties to ----2-----3-----"*

**Article (11) of the above mentioned Convention states that:**

- 1- *Every State Party to this Convention shall, in so far as possible, submit to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion in the list provided for in paragraph 2 of this Article. This inventory, which shall not be considered exhaustive, shall include documentation about the location of the property in question and its significance.*
- 2- *On the basis of the inventories submitted by States in accordance with paragraph 1, the Committee shall establish, keep up to date and publish, under the title of World Heritage List, a list of properties forming part of the cultural and natural heritage, as defined in Articles 1 and 2 of this*



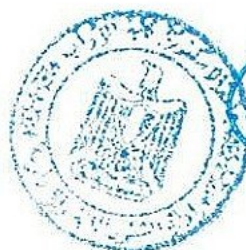


*Convention, which it considers as having outstanding universal value in terms of such criteria as it shall have established. An updated list shall be distributed at least every two years."*

Article (37) of the regulation of the antiques Law attached to the decision of the Minister of Culture No. 712/2010 on his capacity as chairmen of the Supreme Council of the antiques states "Decision of deregistration of relics shall be published in the Egyptian Gazette and to notify those individuals or entities that previously have been notified with the deregistration. This notification shall be mentioned in the sidelines of antique's registration in the Council and on the margin of property's registration in the public notary. The concerned sector shall perform this action in coordination with the department of Legal Affairs of the Council. "

**As the constitutional legislator cares of the cultural roots in the depth of history produced the equal antique protection. In fact they are considered the affixed evidences of the ancient history of this country and proofs of human ingenuity and the place. The Egyptian legislator was not isolated from the archeological movement in the world, represented in the beginning of the world's interest of heritage,** when member states concluded the said World Heritage Convention as it has been approved and ratified under the Presidential Decree No. 1965 of 1973 as mentioned above. Foreign Affairs Minister decided in October 1978 to publish in the Governmental Gazette. Thus Convention became part of national legislations that cannot be separated by the court. The court is committed to these provisions.

**An advantage could be made from the above mentioned facts, as the Egyptian legislator adopts the provisions of the same Convention, which became by ratification and publication part of the national legislation and source of the legality, which the administrative entity shall comply with its provisions and implementation.** Needless to say, the given Convention was issued upon the desire of the international community to face what threaten the cultural and natural heritage referred to in articles (1, 2), situated on its territory this heritage by protecting and preserving it. Member States are also committed to take legal,





scientific, technical, administrative and financial measures appropriate to identify, protect, preserve, display and revive it.

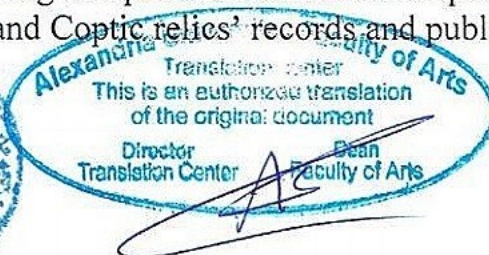
The international Convention did not ignore an important judgment and basic principle in international jurisprudence; recognition of member states in this Convention that whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated; and without prejudice to property rights provided by national legislation, the States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to cooperate.

*Every State Party to this Convention shall, in so far as possible, submit to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion in the list provided for in paragraph 2 of Article 11. This inventory, which shall not be considered exhaustive, shall include documentation about the location of the property in question and its significance.*

**Based on the foregoing, the ruling principle laid down by UNESCO in the international Convention referred to is that the state, in which the cultural and natural heritage is located by virtue of its sovereignty, is entitled to decide which is or is not considered as one of its relics.** If it considers an item as an antique, it must be protected not only by the state, which is located within its borders on its territory, but rather is the duty of other countries that respect and appreciate the antiques, which is considered a human heritage. But if the state considered that this is not a relic, the international organization and other members 'the parties' acknowledged its deregistration and non-recognition of it, as respect of the basic principle of international law, which is respecting the States' sovereignty .

**Accordingly,** and as the court's ruling issued in the first request to cancel the contested decision of the Minister of Culture No. 57/2001 as one of the Islamic and Coptic antiquities.

In the second request sentenced with demanding competent minister of antiquities' affairs to deregister the tomb of the Islamic and Coptic relics' records and publish

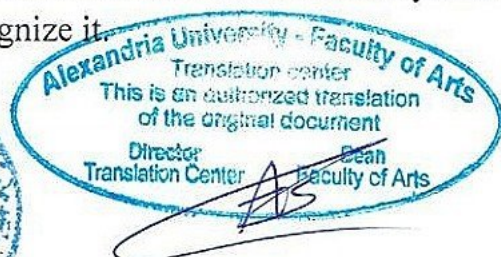




the deregistration decision in the Official Gazette. The World Cultural Convention grants the member states, under its sovereignty, the right to decide whether an item located in its territory as an antiquity or not, and notify the World Heritage Committee with its decision. Upon the regulations of the antiques' Law, the competent minister of antiques' affairs – as mentioned above - after publishing the deregistration decision in the Egyptian Gazette is compelled to inform the individuals or entities that have been previously informed with this deregistration, and record this notification in the sidelines of the council's registration book. The Plaintiff mentioned that the Minister of Culture, who issued the contested decision, has reported UNESCO that the tomb is one of the Islamic and Coptic relics, and then UNESCO registered it as one of the Jewish Antiquities No. 16 because of the relative relation between the owner of the tomb and Judaism. This registration was not denied or confuted by the competent administration. According, a judgment shall be issued on compelling the competent minister of antiques' affairs to inform the World Heritage Committee at UNESCO to deregister this tomb from the Islamic and Coptic antiques' records, in implementation of the World Cultural convention and applying the principle of the sovereignty in the Egyptian territory where this tomb locates. This report will be annexed with a translation of the official copy of the judgment of this court as a document and bond in this report.

**As for the fourth request on compelling the competent administrative entity to move this tomb outside the Arab Republic of Egypt to Israel and without response to the Israeli request from UNESCO regarding to move it to Jerusalem:**

Under article 2 of the amended Constitution issued on January 18, 2014 referred to that, "*Islam is the religion of the state and Arabic is its official language. The principles of Islamic Sharia are the principle source of legislation.*" As Islam put up with other religions in order to consolidate the principles of justice, equality and social solidarity among people as Islam respects the holy books and the Prophets. As non-Muslim communities who believe in other religions enjoy staying in Egypt with respect for their religious entity, and they achieved a significance position regarding rights, public freedoms and freedom of religion within the framework of the Egyptian public system. This level of freedom they did not in other state or nations, nor even those Europe civilized nations that have most democratic systems in the world and the most nations who can recognize it.





**Therefore, and as Egypt was the cradle of religion and the banner of the monotheistic religions.** Islam, the religion of the Egyptian state with the principles of the great Sharia that the constitutional legislator considered as the main source of legislation, respects the divine religions and their dead bodies and discards digging their tombs, including tolerance and peace established by the humanitarian Messenger Mohammed ‘peace be upon him”, who was sent for all people to perfect morals, as in Islam the lives of the practitioners of other religions in the Muslim society was also given protective status. The Prophet said:

**“Whoever kills a person who has a truce with the Muslims will never smell the fragrance of Paradise.” (Saheeh Muslim)**

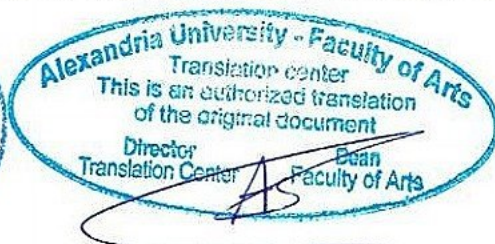
He said also:

**“Beware! Whoever is cruel and hard on a non-Muslim minority, or curtails their rights, or burdens them with more than they can bear, or takes anything from them against their free will; I (Prophet Muhammad) will complain against the person on the Day of Judgment.” (Abu Dawud)**

When a funeral by passing, the Prophet stood up to respect it and one of his companions said: "it is a funeral of Jewish" and the prophet answered “Is not it a human being”; this has a significant proof that Islam ordered Muslims to respect the dead and see all humans equal, as the prophet Mohamed stood when he saw the funeral of Jewish person passing by and the spirit of a non-Muslim is stepping up to the sky to its Creator, notwithstanding the kind of his religion.

Islam entitles Muslims with good treatment of non-Muslim communities believing in other religions and not to harm them, not be harmed in themselves or their assets. As a proof thereof in the Islamic reign that Muslim Leader Farouk Omar Ibn Al-Khattab when he opened "Jerusalem" granted the non-Muslims safety for themselves, their crosses and churches, no one can live therein.

**After comparing jurisprudence and judiciary in both France and Egypt in connection with the legal system of cemeteries and tombs and related rights,** the jurisprudence in France looks to cemeteries and tombs as licenses that have the status of administrative contracts and characterized with the nature of stability of





the licenses for using limited areas of the cemeteries territory to set up vaults or graves therein.

French law stipulates that the licensee has the right to use a portion of the territory of cemeteries as his relative right of a real estate to benefit from it in the dedicated purposes specified in the licensing, upon considering that the desire of the family is settling their dead in the place allocated to them. In Egypt, the licenses of this kind of utilization associated with considerations and religious beliefs and sacred norms with deep roots in the hearts of all people since the beginning of history, considering that the grave is a persons' shelter construction after his death and his home where he is hiding after the end of his mundane journey. All this allowed the licenses to have the Lands of cemeteries in Egypt since its existence, a sense of stability and fixed continuity, cancelled only after the end of the allocation of the place for burring, and is rarely done only in respect of which the burials did not used and with hidden landmarks.

(Reference in this sense: The Supreme Administrative Court's ruling on the appeal No. 1362/2010 lawsuit session dated 26/111966).

**As a result of the above**, Islam asks for tolerance and peace with the non-Muslim communities and other heavenly religions' believers in Egypt who enjoy all the rights and public freedoms, including freedom of religion. Upon the second article of the Egyptian constitution, Islam is the state's religion, and claim for the transfer of the remains of the Jewish Rabbi Abu-Hasirah from Egypt to Israel is inconsistent with the tolerance of the Islamic religion or its precious consideration to the non-Muslim people and respect of the graves of their dead shelter, whatever his religion is after his death and disappears therein after the end of his mundane life.

If the papers are free of any legal proof of the need for requiring the transfer of the remains, then this request has not any correct basis, which shall be rejected.

**The lack of response to the Israeli request submitted by UNESCO requires the transfer of the remains of the Jewish Rabbi Abu-Hasirah from Egypt to Jerusalem** - this is not denied by the Egyptian government or provide what refuted





or ignore it –so the Court has decided to reject the request regarding transfer the remains of Abu-Hasirah remains outside of the Arab Republic of Egypt, according to Islam that respects religions and dead and discarded digging their graves. Egypt is the cradle of monotheism and Gods’ messages, because of the tolerance of Islam towards other religions upon the above mentioned information.

**Evaluating the legality of the response to the Israeli request submitted to UNESCO to transfer the remains to Jerusalem, required from the court to initially identify the rules of international law and international humanitarian law and relevant international conventions to discuss whether the land required the transfer of the remains of Rabbi mentioned above from Egypt, it is the land owned to the State of Israel or it is occupied land under the influence of the occupation?**

It is internationally agreed, that since the Israeli occupation of the Palestinian Jerusalem's west side in 1948 and the eastern part of it in 1967 that the Israeli occupation authority used to settle out and Judaize in violation of the principles of international law and international humanitarian, human rights and the proof is the law that most members of the international community decided that the Israeli settlements in the occupied Palestinian territories - especially East Jerusalem represent a breach of the rules of international law. UN Organization also decided that the construction of Israel to those settlements is a violation of the provisions of Article 49 in the sixth paragraph of the "Fourth Geneva Convention" which prohibits the occupying power from transferring parts of its own civilian population into the territory that it occupies. The Security Council adopted at the United Nations Resolution No. 448 in March 1979 and considered illegal, the International Court of Justice issued an advisory opinion in 2004 ruled that the construction of the illegal settlements and UN Secretary-General Ban Ki-Moon announced in April 2012 regarding the settlement activity to the authorities of the Israeli occupation, as well as a violation of the rules of international law humanitarian particularly in Article (53) of the Fourth Geneva Convention, which prohibits the destruction of private property unless considered necessary for military operations and a violation of Article (46) of the regulation related with the laws and rules of the war in Haag stating that: “ people’s honour and rights should





be respected, persons' life and private property, as well as beliefs and religious rites and cannot confiscate private property". Article (55) states that "The state of occupation does consider itself only administrator and beneficiary of institutions, public buildings, forests and agricultural land belonging to the hostile State, which exist in the country under the influence of occupation and should maintain these properties and manage them in accordance with the rules of beneficitation" .

**Based on the provisions of the abovementioned conventions** and what were issued by the United Nations agencies, it is clear that Jerusalem is the land of Palestine and Israel's authority on this land is mere an occupier's authority. Thus the intent beyond Israel's demand to transfer the remains of Jewish rabbi is to judaize Arab Palestine land "Jerusalem" and giving an international legitimacy to that Jerusalem is the capital of Israel, while in fact it is in accordance with the rules of international law – upon the previous facts – the capital of Palestine. There is no doubt that these settlements violate the right of a future Palestinian state respecting the sovereignty and political, economic and social independence and self-determination for Palestinians.

Thereupon the land -Jerusalem- to which Israeli request demands transferring the remains of the Jewish rabbi is occupied by Israeli occupation authority which has no action on such occupied territories and shall not effect on its sovereignty, these acts shall not have right, no matter how long it remains, including transfer the remains there.

Accordingly, based on Islam that respects religions and their dead and discards digging out their graves, the court is to reject the demand requiring the competent administrative authority to transfer this tomb outside the Arab Republic of Egypt to Israel and to reject also the Israeli request submitted to UNESCO to transfer its remains to Jerusalem in accordance with the international humanitarian law, the Fourth Geneva Convention and Regulations respecting the laws and customs of war on land; Hague convention, considering Jerusalem as a land occupied by Israeli occupation authority which has no action on such occupied territories and shall not effect on its sovereignty, these acts shall not have right, no matter how long it remains, including transfer the remains there.





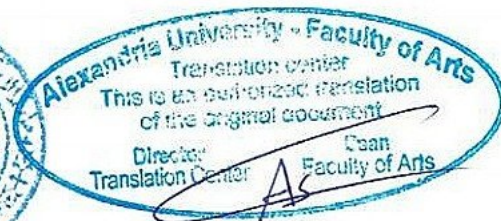
**(for the international trend of the illegality of the Israeli settlements on the occupied Palestinian territories in light of the Geneva Convention and the rules of International law and international humanitarian law, kindly see the following:**

Daphane Barak- Erez (2006). "Israel: the security barrier between international law, constitutional law and domestic judicial review". International Journal of constitutional Law (Oxford University Press)4 (3) " 548. "The real controversy hovering over all the litigation on the security barrier concerns the fate of the Israeli settlements in the occupied territories. Since 1967, Israel has allowed and even encouraged its citizens to live in the new settlements established in the territories, motivated by the religious and national sentiments attached to the history of the Jewish nation in the land of Israel. This policy has also been justified in terms of security interests, taking in to consideration the dangerous geographic circumstances of Israel before 1967 (where Israeli areas on the Mediterranean coast were potentially threatened by Jordanian control off the West Bank ridge). The international community, for its part, has viewed this policy as patently illegal, populations to or from territories under occupation".

Catriona (1997). Human rights, self-determination and political change in, Drew the occupied Palestinian territories. Martinus Nijhoff Publishers. P151, 152, ISBN 978-90-411-0502-8.

International Labour organization (2005). "The Situation of workers of occupied Arab territories". P14. "The international community considers Israeli settlements within the occupied territories illegal and in breach of, inter alia, United Nations Security Council resolution 465 of 1 march 1980 calling on Israel "to dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment , construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem".

Civilian and military presence as strategies of territorial control: The Arab- Israel conflict, David Newman, Political Geography Quarterly Volume 8, Issue 3, July 1989, Pages 215-227.





**Whereas the Court will not forget to point out that the Israeli occupation authority has and still follows ethnic cleansing in areas it seizes from the Palestinians in order to create a harmonious ethnically society restricted to the Jews on the basis of consolidating and justifying the racist exclusive ideology and to eras the Palestinian presence and take it out of the context of the History.** Neither was UN nor the major countries in the world able to find a just solution till now for such occupation. If the rules of international law do not find due respect from the organization applies its terms; there will be a contradiction in activating international law principles throughout the International League. So the framework of the joint human law has been expanded and surpassed UN law circle. Seemingly, peoples` confidence, however, in the feasibility of such international law and its effectiveness in solving problems is declining day after day. The proof on this is what is made by the Israeli occupation authority on the occupied Palestinian territories that are still effect on the prestige of international law which deteriorating moral values over the world. While the unity of humanity in peace and brotherhood and freedom requires strong ethics pillar and the world should get rid of its religious disputes and put an end to its racism problems. Without any fair application of the rules of international law to Palestine, the entire international community will be eventually threatened with a moral fateful crisis that cannot be solved but though a fair and true application of the international law rules. Even if UN and major urbanized countries have not applied the rules of justice and fairness for the people of Palestine, the efforts of this international humanitarian organization will not achieve as much of freedom as far as further restrictions of slavery!

There is no doubt that the request for transferring the remains of the Jewish Rabbi Jacob Abu-Hasirah from Egypt to Jerusalem provided to UNESCO - an unilateral Israeli action – and ignoring the official Egyptian competent authorities are considered as a bypass Israel's international obligations and the use of an international organization for the transfer of the remains of Jew Abu-Hasirah to promote in order to the concept of a Jewish state on the historical land of Palestine aiming to be a witness. Hence the court has realized the illegal purpose which is to approve the request for transferring remains of the Jewish Rabbi Abu-Hasirah to Jerusalem.



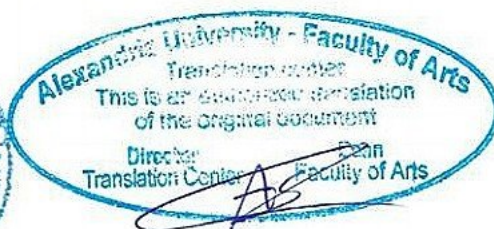


**In addition accepting Israel's request to transfer the remains of the Jewish Rabbi Jacob Abu-Hasirah from Egypt to Jerusalem** to be a religious site on the Arab land of Palestine, Israel will consider itself as the sole official spokesperson of the Jewish religion; turning it from a political into religious state and this is banned internationally. the aim beyond its request submitted to UNESCO is to achieve a moral victory over Egypt to respond to the October 1973 defeat because it wants to evoke a conflict of a new kind in the region which is called a "civilization conflict" after it failed to resolve the conflict using military forces.

So-UNESCO should be aware thereof and reject it. There is no doubt that the claim of intimidation of anti-Semitism - a kind of new intellectual intimidation- is rejected by the international norms and traditions.

**Concerning the fifth request of stopping the annual celebration planned for the Rabbi Jacob Abu-Hasirah in Demituah village, Damanhur, Beheira governorate because it involves actions provoke the feelings of Muslims and Copts** and contradicts with the Islamic religion, as the Plaintiff mentioned in his brief, including revelers drink wine and wear obscene clothes and do unethical practices. The court, based on its sentence in this lawsuit to cancel the decision that considered the tomb of Abu-Hasirah as one of the Islamic and Coptic antiques and publishing the deregistration decision in the Official Gazette and notifying UNESCO World Heritage Committee with such deregistration decision, considers **the annual celebration is being hold on a tomb of a normal individual without any archeological value and the celebration depends on whether this celebrations comply with the Egyptian public system and morals?**

Whereas article (64) of the amended Egyptian Constitution issued on January 18, 2014 states that: "*Freedom of belief is absolute. Freedom of practicing religious rituals and the establishing places for worship for the believers of the revealed religions is a right organized by law*" and Article 46 of the Egyptian Constitution issued in 1971 – thereupon the contested decision was issued – stipulates that: "the State shall guarantee freedom of religion and freedom of practicing the religious rituals." This means that the constitutional legislator ensures freedom of religion, as well as freedom of practicing religious rituals, and protects them as long as they do not disturb public order and are not contrary to morals.





As the constitutional legislator has not stated explicitly in both constitutions approved in 2014 and 1971 regarding the freedom of religious practice the phrase (without violating the public order or morals) in contrary to what was provided for in Constitutions of 1923, 1956, 1958 and 1964. This does not mean allowing belief and religious rituals practice even if it violates the public order and in contrary to the morals, because the constitutional legislator believes that this was evidentiary and explicitly stated as obvious and original matter in the constitution, that should be implemented even it was not stipulated. Therefore, the freedom of religious practice should not be contrary to public order and morals or restricted. Everyone has the right to celebrate whatever his/her religious rituals. However he/she should not affect by his/her celebration on others than him/herself to express freedom of practice of religious rituals, if manifestations of this celebration contrary to public order and morals.

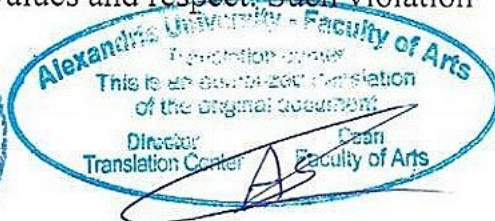
**Whereas the non-Muslim communities have the freedom to practice their own religion in accordance with the rules of Islam and its teachings of tolerance**

and the Egyptian constitution, this is due to the tolerance of the Islamic religion and good understanding of freedom of religion which the Arab Republic of Egypt is keen to insure and declare in every occasion. So enjoying the celebration needs to be held in respectful environment consistent with the dignity and purity of religious rituals and not to be the cause of friction between the different religious communities and create disorder among them.

**According to the above and herein, the annual celebration of Rabbi Jacob Abu-Hasirah and the relative rituals and practices,**

the Plaintiff has highlighted in his lawsuit and it has become known for all - without denial from the administrative entity-, are represented in Jewish celebrants` acts visiting the tomb of Abu- Hasirah and Jewish cemeteries surrounding it by drinking wine and appearing in indecent clothes and their immoral practices and commitment of sins and taboos contrary to Islamic traditions. There is no doubt that thus celebrations violate the public safety and security of the country and the religious rites and the purity of religions as well as violate the Egyptian traditions and morals.

In addition they hart feelings of both Muslims and Copts alike, especially those who watch their sanctities are being violated in Jerusalem without taking into account what reveal religions contain from values and respect. Such violation





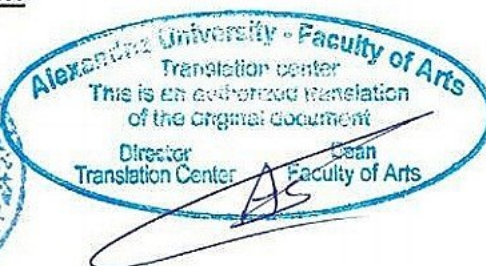
represented in the permanent attack of the Israeli occupation forces to Jerusalem “The blessed Mosque” and the previous acts of the Jewish extremists (Temple Mount and Eretz Yisrael Faithful Movement) by groundbreaking symbolically to build a third alleged Jewish structure near the Mughrabah Gate under the ruling of the Israeli Supreme Court in violation of what has been set forth by the international Court of Justice and stated in the international legitimacy and relevant international conventions. Although Jerusalem is occupied territory and - in accordance with the rules of international law - the legitimacy of any Israeli disposition is not recognized, this hurts the feelings of Muslims when they see violence being committed on the holiest Islamic sanctities; Al Aqsa Mosque, the first of two Qebalah and the third holiest sanctities and the ascension of the Prophet Muhammad “May Allah bless him”. The expansion of settlements and the demolition of Palestinian homes as well as the massacre committed by Israeli forces in October 1990 through shooting worshipers and attempted burning of Al-Aqsa Mosque in 1996, in addition what is being happened in Jerusalem, Bethlehem, Beit Jala and Beit Jahoud does not only provoke the feelings of Muslims, but also the feelings of Christians. This unprecedented brutal attack represented in killing children and civilians by using tank shells, missiles, Apache helicopters, F-16 and F-15, demolishing houses on its inhabitants, uprooting olive trees, destructing infrastructure projects, despite efforts made by Egypt in patience as advocate for peace and security not war, destruction, conquer nor colonization. Thus this celebration in those conditions and circumstances affects public order and tranquility.

As a result it should be sentenced to cancel the annual celebration of the Jewish Rabbi Jacob Abu-Hasirah permanently because it is violating public order and morals and incompatible with the dignity of rituals and religious purity.

The party losing the lawsuit shall pay the expenses pursuant to Article 184 of the Procedure Law.

**And for these reasons:**

**The Court issued the following judgment:**





**First:** cancel the Culture Minister's Decision No. 57/2001 issued on 24.01.2001 regarding the consideration of the tomb of Rabbi Jacob Abu-Hasirah and surrounding Jewish cemeteries and the hill on which it was built in Demituah village, Damanhur, Beheira as one of Islamic and Coptic antiquities because it contains a great historical mistake affecting the entity of the Egyptian peoples' heritage with its consequent effects.

**Second,** compel the competent minister of antiquities' affairs to cancel the registration of the tomb of the Jewish Rabbi Jacob Abu-Hasirah and surrounding Jewish cemeteries and the hill on which it was built in Demituah village, Damanhur, Beheira from the Islamic and Coptic antiquities records because it is loosing the entire archeological properties and he shall be obligated to publish the deregistration decision in the Egyptian Gazette.

**Third,** compel the competent minister of antiquities' affairs to inform the governmental international committee with, "the World Heritage Committee" at UNESCO to delist this tomb from the relics of the Islamic and Coptic records for the application of international protection of the World Cultural and Natural and Egyptian law and the Heritage Convention, as implementation of the principle of the sovereignty of the Egyptian territory where the tomb located. This reported cancellation should be accompanied with a certified translation of the official judgment of this court.

**Fourth,** reject the request for entitling the administrative entity to transfer this tomb to Israel on the basis that Islam respects religions and renounces digging up graves without responding to the Israeli request submitted to UNESCO to transfer the grave to Jerusalem upon the international law rules, the humanitarian law and the Fourth Geneva Convention and the Regulations relating to the laws and customs of war in The Hague, considering that Jerusalem as an occupied territory and does not respond to the actions of usurping state and violates its sovereignty, ignoring the legitimate application in Jewish state to devote the Israeli occupation authority of the presence of this tomb on the Arab land of Palestine.





**Fifth:** Cancel the annual celebration of the Jewish Rabbi Jacob Abu-Hasirah permanently because it is violating public order and morals and incompatible with the dignity of religious rites and purity.

This judgment has been made upon the aforesaid reasons and the administrative entity is entitled to pay expenses.

**Secretary of the Court:**

*Signature*

**President of the Court:**

*Signature*

(Counselor Dr. Mohamed  
Abdul Wahab Khafaji)

