

Annex 1 – AFFIDAVIT
Secretary of the Committee of the Uprooted Residents of Kafr Bir'im (CUB)

AFFIDAVIT OF AFIF IBRAHIM ABDALLA

District of Haifa
 State of Israel

BEFORE ME, the undersigned licensed Israeli Attorney,

Ahmad Khatib, on this 9th
 day of April, 2005, personally appeared Afif Ibrahim Abdalla, with
 the Israeli Identification Number 021294343, born on 4/18/46, and
 currently residing at Haifa, Israel, known to me to be a credible person and of
 lawful age, who being by me first duly sworn, on 4/9/05 his oath, deposes and
 says:

Section 1: Identification of the Affiant

1 My name is Afif Ibrahim Abdalla. I was born in 1946 in Haifa, Palestine. I am 58 years
 2 old. I was born to Elyas Ibrahim of Kafr Bir'im and Latifa Haddad of Tibneen, Lebanon.
 3 My parents were married in 1936 in Kafr Bir'im. Prior to 1948, my parents moved to
 4 Haifa for work though my father maintained his residence and property holdings in Kafr
 5 Bir'im. My uncle Qaisar Ibrahim was mukhtar¹ of the village of Kafr Bir'im. All my
 6 father's land in Kafr Bir'im was placed in my uncle's name since my uncle was
 7 responsible for the family's and the village's land affairs. After the occupation of Haifa in
 8 May 1948, my parents moved back to Kafr Bir'im with me and my siblings where we
 9 lived together until November 1948.

¹ "Mukhtar" is the name for the village elder with responsibilities and status similar to a village mayor.

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2 I currently work as an accountant in Haifa, Israel. I am also the secretary of the
3 Committee of the Uprooted Residents of Kafr Bir'im ("CUB"). CUB was founded in
4 1987 with the objective of obtaining the restitution of the confiscated properties of the
5 residents of the village of Kafr Bir'im. As the secretary of the Committee for 18
6 years and as a result of my long history of legal and advocacy activities in support of
7 the return of the people to Kafr Bir'im and the restitution of their lands, I have
8 extensive knowledge of the history behind the confiscation of the lands of Kafr
9 Bir'im and what efforts the former residents of the village have exerted in their
10 attempt to compel the Israeli government to return the land.

11 **Section 2: Background to the Confiscation of the Lands of the Village of Kafr**
12 **Bir'im**

13 Kafr Bir'im was a Palestinian Christian village established over 400 years ago.
14 The village sat atop a hill four kilometers from the Lebanese border. See attached
15 Exhibit 1. The homes in Kafr Bir'im were built in concentric circles around the hill with
16 the community church and the school located in the center of the village, on its highest
17 point. Prior to October 1948, there were over 1000 persons residing in Kafr Bir'im. The
18 inhabitants hold deeds for the property they own in Kafr Bir'im. These documents go
19 back to the time of the Ottoman Administration in Palestine. The region including Kafr
20 Bir'im was supposed to become part of the Palestinian Arab state called for under the
21 United Nations Partition Plan.

22 The land area of Kafr Bir'im is 12,250 dunams. The village church owns in its
23 name 997 dunams of land in the town. See attached Exhibit 2. Approximately 200
24 dunams of land were registered in the name of village residents on behalf of the church in
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the Tabu Registration Office in Safad in 1949. The use of the land of Kafr Bir'im was divided as follows: the built up area constituted 96 dunams, plantations and vineyards were on 1,100 dunams of land, 4,170 dunams were used for grazing, and 6,880 dunams were forest or uncultivated land owned collectively by the village members. Two hundred and sixty persons own land in Kafr Bir'im. See attached Exhibit 3. Data regarding population and property in pre-1948 Kafr Bir'im are generally not contested. See attached Exhibit 4.

On October 29, 1948, after the end of hostilities between the Arab and the Zionist militias, the successor to the Zionist militias, the Israeli Defense Forces (“IDF”), entered and occupied the village of Kafr Bir'im. The IDF instructed all the villagers to assemble in the community church where they were asked to surrender any weaponry they owned. The villagers complied with the IDF requests and did not resist the occupation of their town. Over one week later, on November 7, 1948, the military took a census of all the inhabitants of the village and registered their names. This census was filed with the Ministry of Minorities in Safad, Israel. The census found that 1050 persons lived in the village of Kafr Bir'im. Most Kafr Bir'im residents inside Israel were eventually issued Israeli identification cards by the Military Governor of Galilee. See attached Exhibit 5.

On November 13th, 1948, the Israeli military ordered all the residents of Kafr Bir'im to evacuate their village and to move across to the Lebanese border. Some of the residents did leave the village for Lebanon. Others refused to leave and stayed in the olive orchards and waited for the Israeli military to allow them to return. After seven children died due to the winter cold, some of the villagers attempted to return to their homes. The Israeli military permitted some of the villagers to return for short periods at a

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time. However, by November 20, 1948, all of the residents of Kafr Bir'im who did not evacuate to Lebanon were ordered to leave for the neighboring village of Al Jish, located only four kilometers southeast of Kafr Bir'im. Some of the inhabitants of Al Jish had fled their town earlier. Those who fled Al Jish currently reside as refugees outside of Israel's borders. The inhabitants of Kafr Bir'im moved into the homes of the refugees of Al Jish.

The Minister of Minorities, Mr. Bechor Shitrit, the Military Commander for the Galilee District, Elisha' Sultz, and the Liaison Officer, Emanuel Friedman, promised the residents of Kafr Bir'im that they would be able to return to their homes and property within two weeks and that their temporary relocation was necessary for their own safety until the security conditions in the region stabilized. At the time of the order, there were no hostilities near Kafr Bir'im.

During the supposed temporary relocation, the Israeli army permitted the residents of Kafr Bir'im to choose some persons from among them who would stand guard over the homes and property for the residents. However, on June 5th, 1949, the Israeli police ordered the guards to leave the village. In June 1949, the residents of Kafr Bir'im met and maintained active correspondence with various Israeli government authorities and renewed their request to be permitted to return to their village. The residents were informed that the current situation did not permit their return. They were assured however that the government was not planning to permanently uproot them from their village. See attached Exhibit 6.

Between 1949 and 1950, representatives of Kafr Bir'im frequently requested permission from the Ministry of Religious Affairs to use their agricultural and grazing

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2 land in order to make a living and feed their families. Their request was only partially
3 approved with respect to their ability to use grazing land. See attached Exhibit 7. In
4 October 1949, Father Yousef Estafan, the village priest of Kafr Bir'im, requested a
5 permit from Israeli authorities to use the lands of the church. The Israeli authorities
6 denied his request although the authorities did permit the priests to lease the church
7 property to Jews.

8 In August 1951, the Israeli government Liaison Officer for Christian Ethnic
9 Groups, David Anat, informed Father Estafan that compensation would be offered to
10 Kafr Bir'im residents for their inability to work their agricultural land for the entire
11 period of their evacuation. See attached Exhibit 8. However, to my knowledge no
12 resident of the village ever received such compensation from the Israeli government.

13 In April 1951, the Israeli government leased the lands and crops to a Jewish
14 agricultural company. The employees hired to work the land for the Jewish company
15 were other Palestinian Arabs from the Northern Galilee. The fact that the Israeli
16 government permitted the Jewish company to employ Palestinian Arabs to work the land
17 of the village of Kafr Bir'im contradicted statements of some Israeli government officials
18 who claimed that the evacuation of the area of Kafr Bir'im was related to the security risk
19 associated with having Palestinian Arabs living and working so close to the Israel-
20 Lebanon border.

21 In May, 1951, ten residents of Kafr Bir'im filed a petition in the Israeli Supreme
22 Court against the Prime Minister as Minister of Defense, the Minister of Agriculture, the
23 Custodian of Absentee Properties, and the Military Commander of the Galilee requesting
24 that the court compel the above listed authorities to order the Israeli government to permit
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1 them to regain possession of their homes and properties. The
2 Israeli Supreme Court responded in July 1951 by holding that Kafr Bir'im residents had the
3 right to return to the village, and that this right would apply as long as no evacuation orders
4 were issued.

5 The Military Governor refused to permit the residents of Kafr Bir'im to return to
6 their homes and property, therefore, the residents filed another petition with the Israeli
7 Supreme Court. On October 8, 1951, the Israeli Supreme Court issued an order nisi to
8 the government to explain why the residents of Kafr Bir'im continued to be prevented
9 from returning to their village and to their lands and provided the appropriate Israeli
10 officials 16 days to reply. On October 31, 1951, the Military Command in Galilee
11 requested to extend this period, in order to enable gathering of relevant information filed
12 with various government departments. See attached Exhibit 9. The Minister of
13 Agriculture responded to the Israeli Supreme Court's order by confirming that it had
14 received Kafr Bir'im lands under his guardianship according to the Emergency
15 Regulations 1949 and that this fact did not affect the title of the owners to their land. See
16 attached Exhibit 10.

17 However, parallel to the events taking place in the Supreme Court, the Israeli
18 army prepared a strategy aimed at preventing the return of the residents of Kafr Bir'im to
19 their village. On August 2, 1951, the military legal advisor sent a secret memo to the
20 Head of the Department of Operations in the Military Governate of Galilee informing
21 him that after examining the Supreme Court decision the only way to prevent the return
22 of the uprooted villagers was to issue evacuation orders. See attached Exhibit 11.

23 Between October and November 1951, after the Supreme Court order requesting the
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1 government to state why it had not let the villagers return to their homes and property, the
2 IDF announced that the region of Kafr Bir'im was a “closed military area” and that all
3 persons would have to evacuate the village. See attached Exhibit 12. At the time of the
4 order, there were no residents residing in Kafr Bir'im since they had been evacuated by
5 the Israeli military three years earlier. The apparent purpose of the order was to legalize
6 the initial evacuation. See attached Exhibit 13.

7 On January 18th, 1952, the Israeli Supreme Court decided that the residents of Kafr
8 Bir'im were entitled to return to their village but only after obtaining special permits from
9 the military commander. The military commander refused to issue any such permits. On
10 August 14th, 1953, the Ministry of the Finance ordered the confiscation of the lands of
11 Kafr Bir'im under the Land Acquisition (Validation of Acts and Compensation) Law
12 1953. The Minister of Finance declared that the lands of Kafr Bir'im were not in the
13 possession of its owners on April 1, 1952 and that it was abandoned and left uncultivated.
14 He also declared that the land was assigned during the requisite time period for essential
15 purposes and that the confiscation is still required for these purposes. At the time of the
16 Minister of Finance's declaration, Kibbutz Bar'am was the only settlement on Kafr
17 Bir'im land. Kibbutz Bar'am only occupied a fraction of the total area of the land
18 confiscated under the Minister of Finance's order yet the entire land area of the village
19 was confiscated.

20 In a meeting between government and army representatives on September 16,
21 1953, it was decided that: 1) the residents of Kafr Bir'im would not be allowed to return;
22 2) they would be resettled and rehabilitated in Al Jish; 3) alternative land given to them
23 would not extend beyond the security line determined by the Military Governor of
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1 Galilee; and 4) title to the land would be transferred to them in exchange for the land in
2 Kafr Bir'im. See attached Exhibit 14.

3 On September 16th and 17th, 1953, the IDF dynamited and aerielly bombed the
4 homes of Kafr Bir'im destroying them while the former residents of the village looked on
5 from a hilltop in Al Jish today known as Al Mabka or "The Wailing Place." Only the
6 church was spared from destruction. After the bombing, looters were permitted to enter
7 the village to cart off building materials and the church bell.

8 Although the Israeli government ended military rule in the country in 1966, the
9 residents of Kafr Bir'im were not allowed to return to their village. In fact, the Israeli
10 Defense Minister Moshe Dayan reinstated military rule in the village of Kafr Bir'im. In
11 the same year, Prime Minister Golda Meir stated that the displaced residents of Kafr
12 Bir'im would not be allowed to return to their homes and properties because this would
13 set a bad precedent for other Palestinian Arab displaced persons and refugees who may
14 attempt to return to their property inside Israel.

15 Since their forced evacuation from their village, the residents of Kafr Bir'im have
16 persisted in trying to obtain the return of their properties through the offices of the Israeli
17 President, the Prime Minister, members of parliament, and other public officials.

18 **Section Three: Current Status of the Former Residents of Kafr Bir'im and Their** 19 **Property**

20 Approximately 500 inhabitants of Kafr Bir'im now live in southern Lebanon as
21 refugees. The lands lost by the refugees constitutes 1,800 dunams. Most of the former
22 inhabitants of Kafr Bir'im are currently living in Al Jish. Others reside in Acre, Haifa,
23 and Ijdeidi Al Makar. The former inhabitants of Kafr Bir'im and their children currently
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1 living inside Israel number over 2000 persons. Their property constitutes 4,235 dunams,
2 not including 191 dunams of land owned by heirs of the deceased former residents.
3 Lands under the name of the village mukhtar who held land in trust for others, 5,988
4 dunams, has been claimed by Israel as state land.

5 Approximately 1,360 dunams of Kafr Bir'im property is either being used as
6 agricultural land or is built up town land for the settlements of Moshav Dovev,
7 established in 1963, and Kibbutz Bar'am, established in 1949. Although the Israeli Land
8 Administration claimed that almost 7,000 dunams of Kafr Bir'im land was being used as
9 grazing land by the same settlements and Kibbutz Sasa, see Exhibit 4, no more than 50
10 head of cattle from the settlements were located on Kafr Bir'im lands by March 28, 1993.
11 A national park is located on 95 dunams and the Yitzhak Rabin Forest is on 1,933
12 dunams. The Israeli government has designated Kafr Bir'im land adjacent to the formerly
13 built up area of the village as a nature reserve. A sign sits in the entrance to the former
14 village that describes the area as the site of a former Jewish village going back thousands
15 of years. Despite the visible remains of the bombed out homes of the former villagers of
16 Kafr Bir'im, no mention is made on public signs that a Palestinian Christian village
17 hundreds of years old once stood on the site just decades ago.

18 In 1967, the Israeli government began to permit the former residents of Kafr
19 Bir'im to bury their dead in the Church cemetery. Later, in 1972, the former residents of
20 Kafr Bir'im were allowed to hold Church services at the Church building on Christian
21 holidays and once a month. See attached Exhibit 15. Every Easter, over 1500 people,
22 former Kafr Bir'im residents, their children, and grandchildren, attend services in the
23 church. During the summer months, the children of Kafr Bir'im attend summer camp in
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1 the church. The families of Kafr Bir'im continue to teach their children about their village
2 and about their hope to return to their former community.

3 **Section Four: Efforts of the Villagers to Seek Return of their Properties**

4 Since the Israeli Supreme Court decision concerning Kafr Bir'im in 1951, the
5 former residents of Kafr Bir'im have not sought Supreme Court review of the
6 continuation of the closure of their village. The former residents have determined that it
7 would be futile to refile their claim in light of the Israeli Supreme Court's treatment of
8 the evacuation, closure, and destruction of another Palestinian Christian village under the
9 same factual circumstances. In the 1981 decision of *The Committee of the Iqrit*
10 *Displaced v. State of Israel*, the Israeli Supreme Court refused to examine the validity of
11 the confiscation of the land of Iqrit because of the passage of time—30 years. The Court
12 also refused to reexamine the legal basis for the original closure and stated that it would
13 not second guess the military's decision to maintain the closure of Iqrit today.

14 In 1993, the former residents of Kafr Bir'im and Iqrit succeeded in having a
15 committee within the Knesset, the Constitution, Law and Justice Committee, discuss the
16 possibility of the return of the residents of the two villages to their properties. A law that
17 would permit the return of the villagers was proposed by the Committee, however, the
18 Prime Minister opposed it.

19 After the failure of the Knesset to resolve the issue of the displaced of Kafr Bir'im
20 and Iqrit, in 1993, the Rabin Government formed a ministerial committee called the Libai
21 Committee, to devise a solution. In its findings, the Libai Committee determined that
22 there was no state security reason to continue to prevent the villagers from returning to
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1 their homes and property. It stated that it would be possible to return to a limited area
2 without harming the rights of those who subsequently were permitted to settle in the area.

3 The former residents of Kafr Bir'im were permitted to present submissions to the
4 ministerial committee. In their third and fourth submission, the former residents included
5 various proposals for their return to the village of Kafr Bir'im which would not disrupt
6 the Jewish settlements that currently exist or any of the Jewish agricultural areas. See
7 attached Exhibit 16. Despite these proposals, the Libai Committee decided that only
8 those villagers who owned a home in Kafr Bir'im in November 1948 and two
9 descendants of the owners would be permitted to return to the village land. Title to the
10 property would remain with the State of Israel. The Libai Committee also decided that
11 those choosing to return may rent only one half dunam in order to build a home. A total
12 of 600 dunams were to be allocated to the village for its use so long as it was only used
13 for residential purposes.

14 The former residents of Kafr Bir'im rejected the Libai Committee's decision
15 because (1) it did not permit all the former residents of Kafr Bir'im and their descendants
16 to return to their homes and property; (2) it required those allowed to return to rent and
17 not own their property; (3) it required residents to renounce their claims to their original
18 lands; and (4) it did not permit their community to expand and develop in the future
19 beyond a residential community. While the former residents of Kafr Bir'im had agreed to
20 permit the Jewish settlements and agricultural concerns to use their property, the former
21 residents sought their right to restitution of and return to all their land.

22 On October 10, 2001, after reviewing the recommendations of the Libai
23 Committee, the Israeli Cabinet issued a decision saying that the villagers should not be

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1 allowed to return to their former village and property because it would set a bad
2 precedent. In December 2001, the Israeli Supreme Court ordered that compensation
3 should be paid to the residents of Kafr Bir'im and Iqrit. The residents of both villages
4 rejected this.

5 In June 2003, the Israeli Supreme Court decided *Sbit et al. v. State of Israel* in
6 which the Court refused to order the restitution of even some part of the former village of
7 Iqrit unused by the neighboring Jewish settlements. The Supreme Court ignored the Libai
8 Committee's findings regarding the possibility of rebuilding the village on the unused
9 portion of the village land and accepted as true the state's claim that all the village land is
10 occupied. The Supreme Court reiterated the argument of other Israeli government
11 officials that to resettle the villagers of Iqrit back to their former village would set a bad
12 precedent with respect to the continuing demand of Palestinian refugees and internally
13 displaced to their right to return to their homes and property inside Israel.

14 To date, no serious attempt has been made by the Israeli government to resolve the
15 issue of the confiscation of the lands of the former residents of Kafr Bir'im. It is clear to
16 the Committee of the Uprooted Residents of Kafr Bir'im that the Israeli government has
17 no intention of ever returning the lands of Kafr Bir'im to their owners. Therefore, the
18 Committee seeks now the intervention of the UN Human Rights Council.

I, the undersigned, hereby declare that to the best of my knowledge and belief that the above statement is true and correct and I herein sign after having the same translated to my native Arabic language by the attorney whose signature occurs below.

[Signature]
Signature of the Affiant

9/4/05
Date

AFIF IBRAHIM ABDULLA
Name of Affiant

HAIFA, P.O. Box 446-3, ISRAEL 31445
Address of Affiant

Subscribed and sworn to before me, this 9th day of April month, 2005

אחמד חטיב
Signature of Attorney
25908/ג.ב.

AHMAD KHATIB, Adv.
Name of Attorney

25908
Israeli Bar No.