



## Destruction of Property, history and culture: The Case of LIFTA Village

### Historical Background:

- Lifta, located on the northwest edge of Jerusalem, is an historic Palestinian village which has been continuously inhabited for over 2,00 years. In the 1940s, there were approximately 3,000 Palestinian residents in the village.
- During the 1948 War – the *Nakba* - Lifta came under sustained attack by Israeli force. This resulted in the destruction of the majority of homes and two elementary schools and displaced the Palestinian population, turning them into refugees.<sup>1</sup>
- The Green Line of the 1949 Armistice Agreement divided Lifta in two: the western half came under Israeli control, and the eastern half under Jordanian controlled East Jerusalem. During the 1967 War, Israel crossed the Green Line and occupied the West Bank, including East Jerusalem and eastern Lifta.
- Since 1967, the people of Lifta have been Protected Persons, and Israel the Occupying Power, in the eyes of international law.<sup>2</sup>

### The Absentee Property Law of 1950 and Effects on Lifta:

- In 1950, Israel approved the *Absentee Property Law*<sup>3</sup> and established the Custodian of Absentee Property. Most Arab property was re-classified as absentee, and all rights of said property were taken from the Arab owner and went to the Custodian. Officially, this was done for guardianship until a political solution for Palestinian refugees was reached. In reality however, Palestinian property was transferred to the Israeli Development Authority and sold for a nominal fee to private settler organizations. This was implemented with total disregard for due process and no compensation was given to Palestinian landowners, most of whom lost their property without ever being informed.
- Presently, the Israeli authorities view the remaining homes in Lifta as absentee property, in spite of the fact that many Palestinian owners live only 500 meters from the village. Palestinians have been deprived of possession of their own property and Israeli authorities do not allow them to return to their homes.

<sup>1</sup> United Nations Relief and Works Agency (UNRWA) defines Palestinian Refugees as: “people whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict.” UNRWA ‘Palestine refugees’ Available at: <[www.unrwa.org/template.php?id=86](http://www.unrwa.org/template.php?id=86)>.

<sup>2</sup> Article 4, Fourth Geneva Convention of 1949.

<sup>3</sup> ‘Absentee’ is defined as: “(1) a person who, at any time during the period between 29 November 1947 and the day on which a declaration is published [...] has ceased to exist, was a legal owner of any property situated in the area of Israel or enjoyed or held it, whether by himself or through another, and who, at any time during the said period – (i) was a national or citizen of the Lebanon, Egypt, Syria, Saudi Arabia, Trans-Jordan, Iraq or the Yemen, or (ii) was in one of these countries or in any part of Palestine outside the area of Israel, or (iii) was a Palestinian citizen and left his ordinary place of residence in Palestine.” *Absentee Property Law*, 5710-1950, 14 March 1950.

## Israel's Plan for Lifta:

- In June 2004, the Jerusalem Municipality Planning Committee, along with two architectural offices and a private organization<sup>4</sup>, created a re-development project called Plan No. 6036, originally launched in April of 1984. The plan would turn the remains of Lifta into an exclusively Jewish luxury residential and commercial neighborhood. The new plan called for the construction of 245 luxury housing units, a shopping mall, a tourist resort, a museum, and a luxury, 120-room hotel.
- In February 2011 the Israel Land Administration (ILA) requested tenders for bids from the private sector for Lifta's land.
- If implemented, the plan would have resulted in the destruction of almost all remaining Palestinian homes, the village cemetery, and would have destroyed the physical presence and historical memory of Palestinian inhabitants of Lifta Village.

## Legal Analysis:

Several legal issues should be considered when examined the case of Lifta Village.

- Displacement of indigenous population
  - According to international law, the term 'displacement' refers to the forced removal of a person from his/her home or country, particularly when the removal occurs as the result of an armed conflict.<sup>5</sup> Most come to be considered refugees or internally displaced persons (IDP's).

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<sup>4</sup> G. Kartas, S Grueg and S Ahronson, Ze'ev Temkin of TIK Projects.

<sup>5</sup> Bryan A. Garner, *Black's Law Dictionary*, 7<sup>th</sup> Edition, (1999), 484.

- The people of Lifta are considered refugees according to the definition of UNRWA.
- Right of return
  - Article 13 of the Universal Declaration of Human Rights recognizes the right of return, affirming that 'everyone has the right to leave any country, including his own, and to return to his country.' Article 15 of the Declaration asserts that 'everyone has the right to a nationality,' especially when an individual's expulsion or prevention from return results in their denationalization and statelessness.
  - United National General Assembly Resolution 194 of 11 December 1948, provides for a Palestinian right of return, asserting that refugees have the right to return to their homes, receive restitution of lost property, and to receive compensation in cases where they do not seek to return. This resolution has been reaffirmed by the UN on multiple occasions.<sup>6</sup>
  - UN bodies have further recognized the right of return on multiple occasions. 1981 UN Resolution 36/146C "Calls once more upon Israel: (a) To take immediate steps for the return of all displaced inhabitants; (b) To desist from all measures that obstruct the return of the displaced inhabitants, including

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<sup>6</sup> Israel's admittance to the UN as a member State was conditional on its acceptance and implementation of UNGA Res. 194. It could be asserted that Israel is legally bound to implement the resolution and facilitate the return of Palestinian refugees.

measures affecting the physical and demographic structure of the occupied territories.' This has been reaffirmed by the General Assembly in every session since 1981. These have all been ignored by Israel.

- The 1966 International Covenant for Civil and Political Rights (ICCPR) implicitly recognizes the right of return for Palestinians. Article 12(4) states that "No one shall be arbitrarily deprived of the right to enter his own country." Furthermore, Article 2(3) puts an obligation on the State Party to "ensure that any person whose rights or freedoms are violated shall have an effective remedy." Israel, as a State Party to the ICCPR, is therefore bound by these obligations.
- Destruction of culture and heritage
  - Article 1(a) of the Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954, to which Israel is a State Party, the term 'cultural property' includes groups of buildings which, as a whole, are of historical or artistic interest. Lifta Village, as an historic village, should be considered of this nature.
  - Article 4(3) of the Convention clearly states that the High Contracting Parties shall "undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property."
  - Article 5(1) states that in a situation of occupation, the Occupying Power shall, as far as

possible, support the national authorities of the occupied country in safeguarding and preserving its cultural property. Additionally, according to Article 5(2), the Occupying Power shall take measures "to preserve cultural property situated in occupied territory."

- Israel's redevelopment plan for Lifta seeks to destroy the cultural heritage and property of the Palestinian people and should be considered a violation of Israel's obligations under the Convention.

### February 2012 Court Ruling:

- In 2011, the displaced people of Lifta Village submitted, through attorney Samir Irshad and the Civic Coalition for Palestinian Rights in Jerusalem, a petition to Israeli courts requesting that the ILA's bid be cancelled, at least until the court made a ruling on the legality of the sale.
- On 6 February 2012, the Administrative Court in Jerusalem ruled in favor of the Lifta people, upholding their petition to cancel the impending sale.
- On the ruling and the petition, Irshad commented, "On 11 May 2011, the court heard the testimony and arguments of our side: that selling the land would lead to the total and complete destruction of the village and its history and that this must be prevented, at least until the full case is heard. The petition declared that the land could not be sold for three reasons: the first is that Lifta's refugees hope and plan to return to their land and it should remain as it was before they were displaced; the second is that Lifta is a model of the nation's history that should be preserved; and the third

is that if the land is sold, it will be destroyed, preventing any possibility of preserving its heritage and history. After the court heard these arguments, it ruled in our favor and suggested that the ILA cancel the sale. The ILA initially refused so in his ruling today, Judge Yigal Marzel ordered them to cancel the sale until the case reaches its end. Today was victory for the refugees of Lifta Village who successfully prevented the sale of their lands and homes.”<sup>7</sup>



Lifta Village

**Supported by:** *Islamic Bank*



Civic Coalition for Palestinian Rights in Jerusalem  
<http://www.civiccoalition-jerusalem.org>



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<sup>7</sup> Civic Coalition for the Rights of Palestinians in Jerusalem, 'The People of Lifta Win Case Against the Israel Land Administration,' (7 February 2012).

