

Appendix II

Affidavit of Gideon Suleimani, Chief Excavator of the Israeli Antiquities Authority excavation on the “Center for Human Dignity – Museum of Tolerance” site in Mamilla cemetery, submitted to the Israeli High Court in 2009. Unofficial translation.

AFFIDAVIT

I the undersigned, Gideon Suleimani, holder of I.D. Card No. 53599999, having been warned that I must state the truth and that I shall be liable to penalties prescribed by law if I do not do so, hereby declare as follows:

1. I have been an archeologist by profession since 1994, and have engaged in archeology since 1984.
2. In 1990 I joined the Antiquities Authority and served as Supervisor in West Jerusalem until 2000. In the course of this period I performed supervisory works to enforce the Antiquities Authority Law, archeological excavations, archeological surveys and publishing archeological excavations.
3. I served as Director of the Antiquities Authority Jerusalem District from 2000 to 2005.
4. At the end of 2005 I became an excavating archeologist on behalf of the Antiquities Authority, and served in this capacity until September 2008.
5. My acquaintance with the “Tolerance Museum” began in 2004, when I was serving as the Jerusalem District Archeologist in the Antiquities Authority.
6. The entrepreneurs of the “Tolerance Museum” project on behalf of the Wiesenthal Institute sought to erect the project on the land of the Muslim cemetery in Mammilla. Therefore, around 2004, about one year prior to the commencement of the excavations, I accompanied the representatives of the project entrepreneurs from the architects firm of Tolker–Epstein, and we conducted a tour of the site designated for the erection of the project.

6.1 During the tour, I clarified to the entrepreneur's representatives that this was the site of a very ancient Muslim cemetery where no archeological excavations had ever been made, and therefore I know nothing of the state of preservation of the graves. I added that it is possible to see graves adjacent to the fence of the parking lot, both inside and outside the lot, and continuing into it.

6.2 I stated to them that I would not be able to decide on the number of graves located underneath the asphalt of the parking lot, since I assumed that many graves had been removed when the parking lot was constructed.

6.3 In light of the above, I demanded to make test trenches. This would be done by excavating narrow cross-sections on the site, in order to discover whether there were any antiquities in the area designated for constructing the project.

6.4 In light of the above, I issued a letter headed "Demand for Test Trenches" close to the site of the above tour.

6.5 Prior to commencing the actual excavation, around November 2005, the test trenches were dug, from which it emerged that the entire area "abounded with graves", and that under the parking lot there was a crowded Muslim cemetery, containing three or four layers of graves.

6.6 The above information was given to representatives of the Museum prior to actual commencement of the excavations.

I should state that this discovery did not surprise me, nor did it surprise the senior ranks of the Antiquities Authority. The Mammilla cemetery is known as an antiquities site and a burial site in Jerusalem ever since the period of the Crusades. It continuously served as one of the most important Muslim cemeteries from the Ayub period (end of 12th century – M.R.) until the end of the 20th century.

7. I was put in charge of managing the excavation and in December 2005 I was appointed Chief Excavator of the project. In fact I was the supreme professional authority at that excavation. Nobody but me made any excavations there.

7.1 At first I was required to perform a "limited test excavation". That is the customary procedure following positive findings in the test trenches,

in order to find the depth of the layers, the extent of the antiquities, their period and importance.

7.2 As part of the limited excavation, three excavation squares were opened at the north-west part of the building site, and three layers of antiquities were exposed.

7.3 From these excavations we reached the conclusion that the burials were in traditional Muslim style, and that burials had been continuously performed there over a long period of time.

7.4 In light of the results of the limited excavation, my recommendation was to perform rescue works throughout the site or, alternatively, to perform a sample rescue excavation, and to cover the rest of the area without destroying the graves.

7.5 In the end, my first recommendation to perform rescue works throughout the area was adopted.

8. Following the discovery that the area “abounded with graves”, the Antiquities Authority demanded to conduct a full archeological excavation of the entire site, before deciding whether to release it for construction.

9. The excavations in the cemetery were one of the largest and most complex I had ever conducted in my professional life. An enormous team of about 200 persons – archeologists, anthropologists, photographers and excavation workers – was placed at my disposal.

As archeologists we faced a tremendous task – we had to collect every item of information from the Mammilla Muslim Cemetery, which consisted of 3–4 layers of hundreds of graves each, some of them from the 12th and 13th centuries.

The fact that I was excavating and dismantling an ancient cemetery disturbed me, but on the other hand, to excavate such a cemetery was an extraordinary matter for me personally, professionally and academically. The societies living in this region believe in life after death, and the cemeteries, by the manner of burial, the objects that are or are not in the graves, express their world of abstract beliefs.

10. The task of managing the excavation was interesting and challenging, but not easy. From day to day, objections to the project on the part of

Muslim entities increased, and for that reason the project entrepreneurs, who were seeking to establish facts on the ground, exerted strong pressure to complete the works quickly. The entrepreneurs would come to the site on a daily basis, pressing for the excavations to progress quickly, to prevent the Muslims from halting the project.

11. The Director General of the Antiquities Authority, Mr. Shuka Dorfman, began pressing me to complete the excavations as quickly as possible, and he even told me that ministers were pressing him to expedite the work.

12. In the course of the excavations, threats began coming in from the entrepreneurs. The Regional Director in the Antiquities Authority, John Zeligman, told me that the entrepreneurs were threatening that if the excavation was held up they would sue the Antiquities Authority, and therefore the pace must be quickened.

13. Due to the pressure on the part of the entrepreneurs and the management levels of the Antiquities Authority, we commenced working 6 days a week, 12 hours a day, which made analysis of the findings even more difficult. The earth was muddy, and separation between findings and periods became almost impossible. Nevertheless, the works continued at an accelerated pace.

14. The pressure did not cease, and at a certain stage I suggested to the Director General to get an impression from the enormous quantity of skeletons exposed, in the belief that the extraordinary findings we found in the excavations would help him to understand the importance of the excavation, and to be able to resist the pressures exerted on him, until the professional entities on the site would be able to complete their work. However, the Director General was not convinced, and said to me: "I have seen so many dead people that these skeletons have no effect on me."

15. The haste of the senior echelons in the Antiquities Authority to complete the archeological excavations on the site resulted in an "archeological crime". In their haste to complete the excavations, the senior echelons destroyed an opportunity to study the history of Jerusalem over the last millennium.

The Antiquities Authority, as a public entity, violated the Antiquities Law of which it is in charge, and under pressures on the part of the entrepreneurs and politicians, participated in the destruction of a valuable archeological site.

16. Even more serious, upon reviewing the judgment, it became clear to me that the Authority had distorted the findings from the site, and that it had filed in the Supreme Court a misleading and false response concerning the state of the excavations on the site.

17. In the report I wrote on April 9, 2006, headed "Report to the Entrepreneur, Excavation of the Mammilla Cemetery" (hereinafter – the "Report to the Entrepreneur"), I described the course of the works in each of the six excavation areas I had performed on the site.

Attached hereto is the Report to the Entrepreneur and a plan of the excavation areas, Appendices A and B.

17.1 I excavated and exposed six areas, marked A to D on the attached map

17.2 Excavations were completed in only in one of the areas, marked A1. It covered 225 sq.m. out of the 2500 sq.m. I should immediately emphasize that this is less than 10% of the entire area of the project.

17.3 In the other areas, actually 90% of the project site, excavation was either only partial or preliminary.

17.4 In the A2 area, the third, most ancient level was not excavated.

17.5 In the A3 area, graves were exposed but none were excavated.

17.6 In Area B, the largest of the areas – about 500 sq.m., only the first layer was excavated, and in the second and third layers many graves were exposed but only a small part of this layer was excavated. On the northern part of this area, an antique aqueduct was exposed from the Roman-Byzantine and early Arabic periods.

17.7 In Area C, covering approximately 250 sq.m., only the first layer was excavated and removed; on the second layer mainly secondary burials were excavated; on the third layer many graves were exposed, but only a few were excavated. The fourth layer was not excavated at all.

17.8 In Area D, covering 375 sq.m., only a shallow excavation was made. Many graves were exposed but not one was opened or excavated.

17.9 A total of 250 skeletons were excavated, some of them from secondary burials, and another 200 graves were exposed but not excavated. On the basis of the above, I estimated that there are at least about 2000 graves on the site.

17.10 In light of the above findings, I recommended unequivocally: "The site cannot be released for construction without completing the excavation."

18. After reviewing the supplementary notice given by the Antiquities Authority to the Supreme Court on January 2, 2007, ostensibly based on the excavations of which I was in charge, I was amazed to discover that the Antiquities Authority had chosen not to state the above particulars, but chose instead to give particulars that are totally contradictory to the findings on the site.

19. I was amazed to know that the Antiquities Authority had notified the Supreme Court that "almost the entire area of the excavation has been released for construction, because it contains no further scientific data". That is a factual and archeological lie. The archeological conclusion that should have been drawn, as I recommended in the Report to the Entrepreneur, is the unequivocal opposite, i.e. the area cannot be released for construction.

As aforesaid, from the date I composed the Report soon after the excavations were discontinued in February 2006, in accordance with the interim injunction issued by the Supreme Court, the works were stopped and the situation on the site did not change until the works were resumed after the judgment was rendered on the petitions against the Museum.

20. I hereby declare that from the professional aspect, when the works were discontinued due to the Supreme Court's interim injunction in February 2006, the excavations were only at the initial stages. So in no way can it be said that the excavations had been exhausted on most of the project area, and the statement that, except for one area, the scientific findings on the site had been exhausted, and the site was released, is not true.

21. As aforesaid, up to the discontinuation of the works, I had succeeded in opening only about 200 graves, and I had exposed another 200 without opening them. Opening the graves is the most important part of the excavation. After all, if the graves are not opened, 90% of the value of the dig is lost, because only then is the required professional information obtained.

22. In January 2007 the Antiquities Authority filed its supplementary response to the Supreme Court, to which it attached a schematic map dividing the site into 5 areas. It is a strange fact that the Authority chose to attach a map that I had not drawn and to conceal from the court the one I had drawn.

23. After a review of the map submitted to the Supreme Court, on which the judgment mainly relied, which states that the area colored purple is the only part not yet excavated, I hereby declare that the map is misleading and does not correspond to the real situation on the site.

24. I hereby declare that between the map I drew and the one submitted by the Antiquities Authority there are disturbing and profound differences, as set forth below:

24.1 The area marked 1 on the Authority's map, which was released for construction because it was claimed that the "Antiquities Authority had exhausted the excavations and there is no concern for the existence of skeletons", includes areas that we never excavated and in which, according to my assessment, there remain many graves.

24.2 Area 2 on the Authority's map, which was released for construction because it was claimed that "all scientific data had been extracted", includes extensive areas that were never excavated and therefore no scientific data whatsoever were found, so it is not at all clear how the conclusion can be reached that all scientific data have been extracted! In the areas that were excavated, the excavations were not completed and no scientific data were extracted.

24.3 In Area 3 the excavations were very partial, mainly graves that were only exposed but not excavated, so hardly any scientific information was produced from there.

24.4 Area 5 was indeed not examined by me.

25. The conclusion is that the archeological picture on Area 3, the purple area, is the same as on the majority of the project area.

26. As aforesaid, we discovered hundreds of Muslim graves on the site. The position in which the skeletons were lying on their sides and facing Mecca testifies that this is indeed a Muslim environment. In parentheses I

shall state that if the skeletons in question were Jewish the story would have developed in a completely different direction. When the skeletons found are suspected to be Jewish, it is mandatory to notify the Ministry of Religions, and its representatives may discontinue the excavations. It appears to me that the Muslim dead have nobody to defend them.

27. I should state that in that period a photograph of one of the skeletons from the excavations was published in the press. The suspicion arose that one of the workers had taken the photograph with his mobile telephone, and from then on all workers were made to deposit their mobile phones at the start of the day's work. The site was also surrounded by high fences, cameras were installed and guards were placed around the site, so that it looks more like a military camp, all with the aim of maintaining secrecy.

28. The excavation itself produced fascinating findings. It turned out that the bottom layer, the earliest, is from the 11th century. This was the cemetery of the residents of the vicinity – men, women and children, very orderly, very crowded, which shows that the society was very organized, with a great deal of mutual respect. The findings of the headstones show that this was a cemetery for militarily, religiously and politically elite Muslims. The earliest headstone that was found was from 1278, and the latest were from 1928, and from the beginning of the 1930s.

That is to say that this cemetery had been active for about 1000 years, up to the first half of the 20th century.

29. I hereby declare that in the whole of my career in the Authority – about 18 years – there has never been a case where such a complex site was released without an overall excavation. It was in the interests of science to continue the excavation.

30. I hereby declare that nobody advised me of the decision to release the area for the construction of the Tolerance Museum. Although I was the chief excavator on the site, nobody from the Authority requested explanations from me, and no conference was held to discuss the conclusions of my report, so that I could not imagine that my unequivocal conclusion not to release the site would be totally altered with no discussion whatsoever in the Authority. The only person who sought to comment on my report was Adv. Bar Sela, who called me and asked me whether I could “alter my report”. At the time I did not understand why I should have to alter the report, and I replied that it would be impossible.

31. The first time I learned of the decision to release the site for construction despite my conclusion was when I read the judgment on the Internet. I must say that I read the judgment in a state of shock. The position of the Antiquities Authority, on whose behalf I was in charge of conducting the excavations on the site, is the central theme throughout the judgment, but this position is light-years away from reality on the site. The position of the Antiquities Authority as submitted to the Supreme Court is an "archeological crime", which is a pity. The Authority has lost all moral and professional validity for its work.

This is my name and my signature, and the content of my Affidavit is true.

(_____)

The Deponent's signature

Confirmation

I the undersigned, Adv. Dorgam Saif, hereby confirm that on March 1, 2009 , Mr.Gideon Suleimani, who identified himself by I.D. No.53599999, appeared before me, and, after I had warned him that he must state the truth, and that he would be liable to penalties prescribed by law if he did not do so, he confirmed to me the truth of his above Affidavit and signed it in my presence.

Dorgam Saif, Adv.

License No. 21543

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Stamp and Signature