



## Yesh Din

Volunteers for Human Rights

**The State of Israel announced its intention to create a new settlement in order to allow the settlers of Homesh to remain on private Palestinian lands belonging to the residents of Burqa; Justices issue *Order Nisi* in favor of rightful landowners**

Yesterday the fifth hearing took place in [High Court petition 2821/19](#), in which Yesh Din represents the Palestinian landowners from Burqa against the illegal outpost Homesh.

In the hearing, **the State withdrew its previous commitments (made before the Court as recently as June 2022), that the illegal outpost Homesh would be evacuated, and instead presented a new position: in accordance with the new coalition agreements, the State will act to amend existing legal arrangements and policies preventing Israeli presence on the land and will undertake to ‘regularize’ the illegal outpost.** The State attorneys requested three months’ time in order to advance regularization proceedings, including cancellation of the Disengagement Law. When the justices questioned how regularization can be pursued on Private Palestinian property, the state attorney could not provide any answers.

Following the hearing, **the justices [issued an order nisi](#) in favor of the petitioners**, giving the state 90-days in which to explain why it has not evacuated the illegal invasion of private land as well as why appropriate steps are not being taken in order to ensure access for the rightful Palestinian landowners to the land.



Attys. Shlomy Zachary and Fadia Qawasmi speak with petitioners from Burqa following the hearing on Monday. Yesh Din photo.

Yesterday's announcement represents a clear shift in the position of the State, which, until now, has recognized the illegality of Homesh and has promised multiple times over the past years that the outpost would be evacuated. It also signifies a clear statement in favor of establishing new settlements, including Homesh, and in-so-doing gives tailwind to acts of violence, trespassing, and ideologically motivated crimes.

During the hearing, Yesh Din attorney Shlomy Zachary asked that the justices issue an *order nisi* in the petition, as, regardless of future plans of the political echelon, the existence of the outpost and the violent crimes committed by settlers residing there constitute flagrant violations of both Israeli and international law. For four years the High Court justices refrained from issuing an order in this case, allowing the State to continually delay enforcing the law and protecting the rights of the Palestinians - but yesterday this changed when an *order nisi* was given in the petition, ordering the State to explain its failure to uphold the law and rights of the petitioners from Burqa.

**It must be noted that, while the State has made clear its plans to amend the Disengagement Law, asserting that this will pave the way for the regularization of the outpost, Homesh is situated on private, registered**

**Palestinian land which cannot be regularized, regardless of the Disengagement Law.**

*The regularization of the outpost Homesh would constitute a grave a violation of international law and will further entrench the repression and dispossession of the rightful Palestinian landowners of this land.*

*Homesh is situated on private land which cannot be regularized and any plans to do so constitute land theft under the auspices of Israeli rule of law. Establishing an Israeli settlement of private Palestinian lands entails a drastic departure from Israeli policy since the precedent-setting Elon Moreh case of 1979, which prohibited the expropriation of private Palestinian land for Israeli settlement purposes. In order to 'regularize' Homesh, the Knesset would likely have to revive the unconstitutional and racist Regularization Bill, which was struck down by the High Court in 2020.*

[Click for background on the legal battle to evacuate Homesh](#)

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**For more information contact:**

Chanah Dulin; [chanah@yesh-din.org](mailto:chanah@yesh-din.org); +972 (0)58.416.4797

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