



Yesh Din

Volunteers for Human Rights

Yesh Din's new report: **Bad Faith - The illegal outpost of Mitzpe Kramim and efforts to retroactively approve it**

Yesh Din's new report, [Bad Faith](#), tells the story of how the unauthorized outpost of Mitzpe Kramim was built, from the political background and context for its establishment, the legal battle the Palestinian landowners waged to have it removed, the state's attempts to retroactively 'authorize' the outpost, thereby preventing the return of the stolen land to its rightful owners, and, finally, the legal interpretation used to justify the retroactive approval of the outpost, which is illegal according to Israel's own position.

The unauthorized outpost of Mitzpe Kramim represents a significant stratum in the larger story of Israel's most significant political project in recent decades, i.e. territorial expansion in the occupied West Bank through the subversion and subjugation of domestic and international law. In this sense, Mitzpe Kramim is an important case study that characterizes the entire settlement enterprise – a system that unilaterally determines facts on the ground and molds legal and constitutional interpretation to produce fateful decisions, which, in turn, perpetuate Israeli control and obliterate the fundamental rights of Palestinians living under it.

[Click here for the full report](#)



The outpost's development between 2000-2020.

During the nearly decade of litigation in this case, the State of Israel sought to have the outpost retroactively approved. As part of these efforts, **the state activated a little-known section of military law the Attorney General claims is akin to the market ouvert principle as practiced in Israel.** According to the market ouvert principle, where ownership of property is transferred in good faith by parties other than the owner or based on erroneous records, the owner may be stripped of their title, which is then transferred to the receiving party.

In August 2018, the District Court ruled in favor of the settlers, holding the outpost can be retroactively approved by applying the market ouvert principle. This judgment had far-reaching implications for the retroactive approval and future of thousands more structures in the West Bank built illegally on privately owned Palestinian land.

This ruling prompted the residents of Deir Jarir to petition the High Court against this decision, and indeed, the High Court overturned the District Court's decision in August 2020.

However, about two weeks later, the Ministry of Defense, with the AG's approval, filed a motion for a further hearing on the issues of principle arising from the judgment by an extended panel of justices. The High Court granted the motion and held a further

hearing before an extended panel. Yesh Din and ACRI joined both the petition and further hearing as amicus curiae. The case is still pending.

The misapplication of the market ouvert principle represents one link in a long chain of the State of Israel's misuse of legal mechanisms with the aim of expanding Israeli settlement at the expense of Palestinian residents of the West Bank. In this case, it was made at the advice of the Attorney General and was upheld by the District Court. The fate of this outpost rests on the High Courts' decision in the pending proceedings.

[Click here for the full report](#)

[See Yesh Din's motion to join proceedings in the appeal against the District Court's decision on Mitzpe Kramim as amicus curiae](#)

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