



**State of Israel
Ministry of Justice**

**Israel's Investigation and Prosecution of Ideologically Motivated Offences
Against Palestinians in the West Bank¹**

Israel has a deep commitment to the rule of law and has taken extensive measures to prevent violence in general - and against Palestinians in particular. In addition, efforts have been made to investigate criminal complaints and to prosecute perpetrators when appropriate. In particular, Israeli officials, including high-ranking politicians and senior officials from law-enforcement bodies, have declared an unequivocal zero-tolerance policy towards the phenomenon of “price-tag” offences by Israeli extremists against Palestinians.²

Following considerable efforts made to enhance law enforcement in the West Bank, there is a significant decrease in ideologically-based offences and an increase in the number of investigations and the rate of prosecution. These efforts included the establishment of designated taskforces, increased allocation of funds, and the addition of professional manpower.

This document focuses on offences against Palestinians that were allegedly committed by Israelis; it presents information and data in regard to complaints that were filed concerning ideologically-motivated offences committed against Palestinians, the various means employed by Israel to fight and eradicate such offences and presents verdicts and sentences handed by the relevant court in this regard.

¹ **Current as of August 2020**

² The term “price-tag” refers to the phenomena of acts of violence by certain Israeli extremists in the West Bank seeking “to exact a price” against Palestinians in response to IDF measures to remove illegal outposts or in response to Palestinian violence against settlers.

See also: The Jerusalem Post, Tzvi Joffe, *Residents, officials condemn price tag attack on Jerusalem mosque*, (available at: <https://www.jpost.com/breaking-news/hate-crime-suspected-as-jerusalem-mosque-goes-up-in-flames-615217> (24.1.2020));

The Jerusalem Post, Julianne Helmhold, (available at: *Vehicles burned and tires punctured in two 'price tag' incidents* (25.4.18));

Noam (Dabul) Dvir *President Rivlin slams 'price tag' attack on mosque as terror*, YNet News (Oct. 14, 2014), available in <http://www.ynetnews.com/articles/0,7340,L-4580600,00.html>; Yoav Zitun, *Ya'alon: Price Tag is terror, perpetrators can expect zero tolerance*, YNet News (Aug. 1, 2014), available at <http://www.ynetnews.com/articles/0,7340,L-4474504,00.html>;

Oranit Etzer, *Minister: Outraged Yitzhar Rioters 'Unrestrained Criminals'*, Arutz Sheva (Aug. 4, 2014), available at: <http://www.israelnationalnews.com/News/News.aspx/179400>;

[Ariel Ben Solomon](#), [Lahav Harkov](#), *Netanyahu says 'Price Tag' attacks go against our values*, Jerusalem Post, (Apr. 30, 2014), available at <http://www.jpost.com/National-News/Netanyahu-says-Price-Tag-attacks-go-against-our-values-350963>.

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That said, it is important to keep in mind that the vast majority of Israelis and Palestinians residing in the West Bank are law-abiding. Moreover, ideologically-motivated offences committed against Palestinians are a small percentage of overall offences committed in the West Bank and also represent a small portion of specifically ideologically-motivated offences in the West Bank, as the majority of such offenses are committed by Palestinians against Israelis. Israel invests considerable law enforcement efforts to investigate alleged offences committed by Palestinians, including ideologically-based offences, termed “security offences.”

Law Enforcement Authorities

The Israel Police operates in those areas of the West Bank remaining under Israeli control. It is responsible for investigating crimes committed in the West Bank, including offences committed by Israeli citizens. The Judea and Samaria Police District (hereinafter: the “District”) consists of 1,100 trained police officers, including police investigators who are fluent in Arabic. Given the importance that the Israeli Government (hereinafter: “GOI”) places on law enforcement in the West Bank, and the unique challenges associated with the complex legal and factual situation, in recent years, Israel has created special units and designated taskforces within the existing law enforcement authorities to bolster the effectiveness of law enforcement in the West Bank.

The Nationalistic-Motivated Crimes Unit (hereinafter: NMCU), a special police unit, was established within the District for the purpose of policing ideologically-based offences and “price-tag” offences. This special unit currently employs 60 police officers (with an additional support team of approximately 20 auxiliary police officers). This Unit was also assigned to deal with severe offences of Nationalistic-Motivated Crimes that are committed in other districts, whilst coordinating with the national investigation and intelligence division. This Unit is currently fully operational. The unit works in cooperation with other Israel Police units, the Israel Security Agency (hereinafter: “ISA”), the Israel Defense Forces (hereinafter: “IDF”) and the Ministry of Justice. The NMCU is responsible for investigating, collecting evidence, and gathering intelligence.

The NMCU within the Israel Police makes considerable efforts to prevent and investigate ideologically-based offences, and to enable the prosecution of perpetrators. Upon completion of an investigation, and based on the severity of the crimes involved, cases are transferred to

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the Prosecution Division of the Israel Police or to the State Attorney's Office.³ When a sufficient evidentiary basis exists, indictments are issued. In addition, there exists an inter-agency team tasked with overseeing the law enforcement of crimes related to incitement, violent uprisings, and ideological crimes committed in the West Bank. This team has worked for nearly two decades to improve inter-agency coordination and cooperation, and to monitor criminal proceedings against suspects and defendants involved in such offences. This team is headed by a Deputy to the State Attorney and includes representatives from the State Attorney's Office, the ISA, the Police, and the IDF. Furthermore, the District also has a special desk within its Intelligence Department that is in charge of obtaining information regarding ideologically-based offences. As part of the measures taken to support security forces on the ground in their crime-prevention efforts in the West Bank.

Investigation and Prosecution in the West Bank

Cases Investigated by the Police Involving Allegations of Nationalistic -based Offences Committed by Israelis and Palestinians (2019- 2020)

Year	Cases investigated by the <u>Judea and Samaria Police District</u> involving allegations of nationalistic-based offences and public disorder offences committed by Israelis	Cases investigated by the ISA and the <u>Judea and Samaria Police District</u> involving allegations of nationalistic-based offences committed by Palestinians.
2019	62	1,050 (not including additional 249 cases in which the offences were committed in Israel)
2020	31	511 (not including additional 162 cases in which the offences were committed in Israel)
Total	93	1,561

Source: Israeli Police, July 2020 and Israel's Security Agency Reports for 2019 and 2020.

Complaints

Complaints or information that gives rise to suspicion of a criminal offence are transferred to the relevant investigative police units in the District. Each police station in the District is staffed with an officer fluent in Arabic in order to ensure the proper handling of complaints submitted by Palestinians. In addition to investigations prompted by specific complaints, the Israeli Police initiates its own investigations based on intelligence collected indicating possible offences or threats.

³ The division of responsibilities between the State Attorney's Office and the Prosecution Division of the Israel Police is based on the gravity of the offences. In general, the latter is authorized to prosecute misdemeanors (offences carrying a sentence of up to three (3) years).

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The Investigative Process

As a general rule, regardless of the severity of the offence, whenever there exists a suspicion that an ideologically-based offence has been committed, a professional team made up of an investigator, a crime scene investigator, and a detective is called to the crime scene.

As noted above, the relevant authorities conduct thorough and in-depth investigation by trained professionals of each and every complaint. That said, a number of practical difficulties can complicate the process of surveying a crime scene, collecting evidence, and obtaining witness testimonies to be later used in court. First, immediate arrival at the crime scene is not always possible. For example, the entry into Area A or B of the West Bank requires security coordination with the Palestinian Authority and a military escort. Sometimes, entry to a specific area at a certain point in time is difficult due to violent demonstrations or other security risks. In addition, many complaints are filed only after a considerable amount of time has passed since the alleged offence occurred, which makes it challenging to obtain forensic and other evidence. In certain cases, there may also be reluctance, on the part of victims and witnesses, to cooperate with the Israel Police, which further complicates the investigative process. Notwithstanding these difficulties, the Israel Police takes its responsibilities seriously and ensures to undertake investigations that sufficiently fulfill its obligations, as evidenced in the figures presented in this document.

After the completion of the investigation, additional difficulties may be encountered by the prosecution authorities, such as when the complainant is reluctant to appear in court to testify which requires the withdrawal of the indictment. Considerable efforts are being made in order to overcome, to the extent possible, some of these practical difficulties. For example, in order to facilitate Palestinian access to courts in Israel, the State provides transportation from Area A of the West Bank to courts in Israel.

In addition, District investigators undergo training exercises on how to maintain crime scenes and gather forensic evidence, including visual and other documentation. Similar training is provided to IDF soldiers and police officers from the Border Police. Moreover, the Israel Police conducts training exercises for Palestinian Police officers as part of its cooperation with the Palestinian Authority's Civil Police.

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The Use of Illegal Association Restrictions as a Legal Tool

In order to facilitate the investigation efforts made by the Israeli authorities, on August 13, 2013, the Minister of Defense declared that any association of persons - unionized or not, including any group, cell, social partnership, section, or similar association - that uses the name “price-tag” or any other derivative with a similar meaning is an “illegal association” pursuant to Regulation 84 of the *Defense (Emergency) Regulations* of 1945. Under this classification, a “price-tag” offence can be regarded as a security-related offence that, in certain circumstances, allows for special law enforcement measures to be taken, subject to judicial review. Defining “price-tag” perpetrators as engaging in an “illegal association” attests to Israel’s unequivocal stance against these phenomena and, on the practical level, provides law enforcement and security services with appropriate measures to act against them.

The Counter-Terrorism Law 5776-2016

On June 15, 2016, as part of Israel's ongoing battle against terrorism, the GOI enacted the *Counter Terrorism Law 5776-2016*. This detailed and carefully-designed new law is part of an effort to provide law enforcement authorities with more effective tools to combat modern terrorist threats while incorporating additional checks and balances necessary to safeguard against unreasonable violations of individual human rights. The Law provides, among other things, updated definitions of "terrorist organization", "terrorist act" and "membership in a terrorist organization", detailed regulations for the process of designating terrorist organizations, and enhanced enforcement tools, both criminal and financial. The Law does not create discrimination on the grounds of race, color, descent or national or ethnic origin and does not subject individuals to racial or ethnic profiling or stereotyping.

The Authorities for Prevention of Internet Use for the Commission of Offenses Law 5777-2017

This law, authorizes the courts to issue an order for blocking access to a website or for its removal from the internet. Such an order may be issued if it is crucial for the prevention of an ongoing offense set in the Law's addendum. This law enables the courts to issue three (3) kinds of orders: (a) an order for restricting the access to the relevant website; (b) an order for restricting the possibility of locating the relevant website; (c) an order for the removal of a website from the internet – provided that the relevant site is stored on a server in Israel or is under the control of a person who is in Israel. According to Section 2 of this law, a District

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Court judge who was authorized by the President of the District Court may issue an order for restricting the access to a website, if that website belongs to a terrorist organization as defined in the *Counter Terrorism Law*, and the access restriction is required for the prevention of future activity in that site. The purpose of the Law is to supply law enforcement authorities with additional tools to, *inter alia*, combat terrorism in the virtual world, as part of the overall ongoing efforts on the matter.

Prosecution

Upon the completion of an investigation, a senior Israel Police officer decides whether to transfer the case to the prosecution authorities or to close it. If, after reviewing the evidence gathered, the case is transferred to the prosecution authorities, it is for the prosecution to decide whether there is a sufficient basis to file an indictment - *e.g.*, sufficient evidence to establish a reasonable basis for conviction.

The decision to close a case is made in accordance with applicable laws and guidelines, upon a determination, for example, that there is insufficient evidence or that there is no public interest in pursuing the case. Unlike other districts where an Israel Police officer of the rank of Chief Inspector may be authorized to close a case, in cases of ideologically-based offences handled by the District, only the State Attorney's Office or the Head of the Prosecution Division of the Israel Police is authorized to close a case. The exception to this rule is where the perpetrator of the alleged crime is unknown, in which case a senior investigator of the rank of Chief Superintendent is authorized to close the case. In any event, any decision to close a case can be appealed to the Attorney General, whose decision can be further reviewed by means of direct petition to the Supreme Court of Israel, sitting as the High Court of Justice.

Judea and Samaria District - Police Cases Regarding Allegations of Ideologically-Based Offences Committed by Israelis

Between January and July 2020, 31 cases involving allegations of ideologically-based offences committed by Israelis were investigated by the Israel Police in the District. Out of these, indictments were filed in two (2) cases. Of the total number of cases, 20 cases are currently still under investigation, five (5) cases are currently being reviewed by the State Attorney's Office and five (5) cases were closed due to lack of evidence.

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Also in 2020, 11 cases were opened for offences related to disturbance of public order and four (4) cases were opened for nationalistic based offences committed by Israelis within Israel. Four (4) indictments were filed in these cases.

In 2019, 62 cases were investigated by Israel Police in the District involving allegations of ideologically-based offences committed by Israelis. Of this number, nine (9) indictments were filed. In one (1) case a verdict was issued by the relevant court. Of the total number of cases, 17 cases are still being reviewed by the Police Prosecution Department or the State Attorney's Office, five (5) cases are still under investigation and 40 cases were closed (25 cases were closed for lack of evidence, 14 cases were closed for circumstances unsuitable for opening an investigation of indictment (mainly very minor offences) and one (1) case was closed in accordance with a conditional arrangement.⁴

Also in 2019, 78 cases were opened for offences related to disturbance of public order and eight (8) cases were opened for nationalistic based offences committed by Israelis within Israel and 37 indictments were served in these cases.

During the first half of 2020, nine (9) restraining orders were issued against nine (9) Israelis (among them three (3) minors), prohibiting their presence in the West Bank, and one (1) restriction order was issued against an Israeli national (adult), prohibiting his presence in specific areas in the West Bank. During 2019, 12 restraining orders were issued against 11 Israelis (among them three (3) minors), prohibiting their presence in the West Bank, and 14 restriction orders were issued against 13 Israelis (among them two (2) minors), prohibiting their presence in specific areas in the West Bank. During 2018, 45 restraining orders against 30 Israelis (among them 19 minors), were issued prohibiting their presence in the West Bank, and 18 restriction orders were issued against 18 Israelis (among them 11 minors), prohibiting their presence in specific areas in the West Bank.

⁴ An arrangement in accordance with the *Criminal procedure Law*, that enables the prosecution to avoid from serving an indictment against a suspect and closing the case as long as the suspect confesses and implements the arrangement term. Such an arrangement can be made only in regard to offences punishable by up to three (3) years imprisonment, the suspect does not have any criminal record in the preceding five (5) years, there are no additional criminal proceedings against the suspect and the arrangement is in the interest of the public. The conditions of the arrangement may include a fine, compensation to the victim, rehabilitation etc.

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Cases Investigated by the Israel Police in the West Bank Involving Allegations of Disturbance of Public Order and Ideologically-Based Offences Committed by Israelis– by Case Status (January 2019-July 2020)

Police Cases	2019	2020
Cases opened – Total	47	31
Indictments Filed (including in cases opened prior to indicated year)	7	2
Cases under review of the Police prosecution department or State Attorney's Office	8	3
Cases still under investigation	4	12
Cases Closed – Lack of Evidence	20	4
Cases Closed – Lack of Public Interest	14	-
Cases Closed – Unknown Perpetrator	-	-
Cases Closed – Total	35	4

Source: Israel Police, July 2020.

Cases Investigated by the Israel Police in the West Bank Involving Allegations of Ideologically-Based Offences Committed by Israelis against Palestinians – by Case Status (January 2019-July 2020)

Police Cases	2019	2020
Cases opened – Total	15	11
Indictments filed (including on cases opened prior to indicated year)	2	-
Cases under review of the Police prosecution department of State Attorney's Office	9	2
Cases still under investigation	1	8
Closed – lack of evidence	5	-
Closed – lack of public interest	-	-
Closed – unknown perpetrator	-	-
Cases Closed – Total	5	-

Source: Israel Police, July 2020.

The statistics of cases opened between January-July 2020 by the Police concerning Israeli suspects involved in disturbance of public order and ideologically-based offences against Palestinians, is as follows: four (4) allegations of offences with a racist motive or out of "animosity towards a public", eight (8) allegations of offences against property, nine (9) allegations of offences against public order and nine (9) allegations of bodily harm.

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In 2019, the cases opened by the Police concerning Israeli suspects involved in disturbance of public order and ideologically-based offences against Palestinians included eight (8) allegations of offences with a racist motive or out of "animosity towards a public", 16 allegations of offences against property, six (6) allegations of offences against public order and 12 allegations of bodily harm.

Cases Investigated by the Israel Police in the West Bank Involving Allegations of Disturbance of Public Order and Ideologically-Based Offences Committed by Israelis against Palestinians – by Type of Offence (January 2019-July 2020) *

Alleged Offences	2019	2020
Offences with a racist motive or out of animosity toward a public	8	4
Offences against Property	16	8
Offences against a person and bodily Harm	12	9
Offences against Public Order	6	9

Source: Israeli Police, July 2020.

Note that some cases may appear in more than one (1) category.

Case law – Criminal Cases Involving Ideologically Based Offences in which the Severity of the Sentence was Increased by the Court

This commitment of the State of Israel in this regard is exemplified by the recent Supreme Court decision to increase the severity of the punishment set by the District Court in the following case: On July 2015, an indictment was filed in the Nazareth District Court (Cr.C.57576-07-15) against two (2) defendants (Yinon Reuveni (Defendant No. 1) and Yehuda Asraf (Defendant No. 2)). According to the indictment, prior to June 17, 2015, Defendant No. 1 conspired with other persons, whose identity is unknown (hereinafter: "the others"), to set fire to the Church of the Multiplication of the Loaves and Fish in Nahum Village in order to harm sanctities of the Christian faith. In addition, both defendants conspired that Defendant No. 2 will transfer his car to Defendant No. 1, knowing that the car will be used to commit an offence with a racial or hostile motive towards a religious site. Defendant No. 1 was charged with arson under aggravated circumstances, defacing real estate with a motive of hostility against the public, conspiracy for committing a crime, conspiracy for committing other offences, using a car in the commission of a crime obstructing a police officer and violation of a legal order. Defendant No. 2 was charged with providing means for the commission of a crime and conspiracy for committing other offences. On July 3, 2017, Defendant No. 1 was convicted by the Court and

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Defendant No. 2 was acquitted of all the charges against him. On December 12, 2017, Defendant No. 1 was sentenced to four (4) years imprisonment (from the day of his initial arrest), 12 months suspended imprisonment for a period of three (3) years, six (6) months suspended imprisonment for a period of three (3) years, compensation to the Church in the sum of 50,000 NIS (13,500 USD) and a fine of 5,000 NIS (1,350 USD).

In January 2017, the GOI had transferred 1.5 Million NIS for the complete renovation of the Church.

Following this sentence, two (2) appeals were filed against the verdict and sentence, one by the defendant which focused on the admissibility of the two (2) main pieces of evidence in the case and the other by the State against the leniency of the sentence. On August 16, 2018, the Supreme Court rejected the defendant's appeal, and accepted the State's appeal, noting, *inter alia*, that "the characteristics of this case are more severe than in other cases that were mentioned in regard to the sentence. Apart from the fact that this is an arson committed from a religious-ideological motive, it was specifically aimed at harming a historic religious center that is a central symbol of the Christian religion in Israel." **The Court therefore, increased the defendant sentenced from four (4) to five and a half (5.5) years imprisonment** (without changing the other components of the sentence) (Cr. Ap 6928/18 *The State of Israel v. Yehuda Asraf* (16.8.18)).

Another such example is the recent Supreme Court decision to harshen the punishment against two (2) defendants who were convicted and sentenced in the frame of a plea bargain that did not include the sentence by the Jerusalem District Court. In this case, according to the indictment, on November 28, 2014, Shlomo Tweeto (Defendant No. 1), Nachman Tweeto (Defendant No.2) and a third person (Yitzhak Gabay) conspired to set fire to a bilingual school in Jerusalem and deface real estate in protest against assimilation and co-existence between Jews and Arabs. According to the indictment, on November 29, 2014 around 18:00 the three made the necessary preparations, and drove to the school. They broke into the school through a window, Defendant No. 1 and the third person entered different classrooms and poured gasoline while Defendant No. 2 sprayed racial slurs on walls outside the classrooms. After Defendant No. 1 exited the school, the third person set fire to the classrooms and they all ran to their car and escaped.

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Following an investigation of this case and the indictment of the three (3) men, the Jerusalem District Court convicted Defendant No. 1 for arson and defacing real estate and sentenced him to 24 months imprisonment, eight (8) months suspended imprisonment for a period of three (3) years, a fine of 1,500 NIS (375 USD) and compensation to the school in the sum of 10,000 NIS (2,500 USD). Defendant No. 2 was convicted of arson, defacing real estate and incitement to violence (for publication of terrorist organizations' symbols and content inciting violence and racism on his Facebook account) and was sentenced to 30 months imprisonment, 10 months suspended imprisonment for a period of three (3) years, and compensation to the school in the sum of 15,000 NIS (3,750 USD). (Cr.C. 4001-05-15 *The State of Israel v. Shlomo Tweeto et. al.* (22.7.15)). The State appealed these sentences to the Supreme Court, stating, *inter alia*, that the sentences are too lenient and do not reflect the substantial damage to the social values that were harmed, the aggravated circumstances in which these offences were committed and the need to deter others from committing such offences. The Court increased both defendants' sentences by an additional eight (8) months imprisonment, stating, *inter alia*, that "by their actions the defendants harmed the entire society. Acts such as these may increase tension and inflame hatred between various groups in the population. They [...] harm values of tolerance, equality and co-existence". Justice Rubinstein added that "Anyone who considers engaging in such acts should know that the punishment will be severe. The State of Israel is a Jewish and Democratic state and anyone who sets fire to those who seek co-existence between Jews and Arabs, even if he/she disagrees with them, harms not only Israel's democratic values but its Jewish values as well, and instead of acting through tolerance and peace, he/she wages war and inflames hatred. This court and all courts have the duty to fight that". (Cr.A. 5794/15 *The State of Israel v. Shlomo Tweeto et. al.* (31.1.16)). The third person in this case, Yitzhak Gabay, was tried separately from the other two defendants since he claimed that his confession was inadmissible. After deliberation on this matter, the Court rejected this claim, and in the frame of a plea bargain that included the defendant's confession, convicted him for arson of the bilingual school in Jerusalem, defacing real estate in protest against assimilation and co-existence between Jews and Arabs, possession of a knife, incitement to violence, incitement to racism and support of a terrorist organization. The Court sentenced the defendant to 36 months imprisonment, 14 months suspended imprisonment, and ordered him to pay 10,000 NIS (2,500 USD) as compensation to the school. (Cr.C. 31351-12-14 *The State of Israel v. Yitzhak Gabay* (01.12.15)).

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Both sides appealed the sentence to the Supreme Court. The State argued among other things, that the lower court's sentence was too lenient and did not reflect the substantial severity of the arson and the threat still posed by the defendant. On September 28, 2016, after hearing both sides and receiving additional information about the defendant, the Court raised the defendant's sentence by additional four (4) months (from 36 to 40 months imprisonment) (Cr.A. 401/16 *The State of Israel v. Yitzhak Gabay* (28.9.16)).

Criminal Cases Involving Ideologically Based Offences in the West Bank

1. On January 24, 2019, an indictment was filed against a minor (aged 16) in the Lod District Court for the manslaughter of Aisha Rabi in circumstances of a terrorist act (alongside two (2) additional offenses - stone throwing at vehicles in aggravated circumstances of a terrorist act and malicious damage to property in aggravated circumstances of a terrorist act). The case is still pending.
2. On January 3, 2016, an indictment was filed to the Central District Court, against two (2) defendants: Amiran Ben-Uliel, aged 21 (Defendant No. 1), and a 17 year old minor (Defendant No. 2). Defendant No. 1 was indicted for three (3) counts of murder - the murder of the three Dawabshe family members (the parents Sa'ed and Riham and Ali-Sa'ed, aged 18 months) in the village of Duma, attempted murder of an additional Dawabshe family member - Ahmad Dawabshe, aged 4, and additional offences of attempted murder and arson committed with a racist motive. Defendant No. 2 was indicted for conspiracy to commit murder with a racist motive, malicious damage with a racist motive and additional offences.

According to the indictment, following the murder of Malachi Rosenfeld by Palestinians in June 2015, the defendants conspired to take their revenge against Arabs. Defendant No. 1, made the necessary preparations, including the preparation of a bag with two (2) bottles filled with a flammable liquid, a lighter, a matchbox, gloves and black spray paint. On the relevant day he then went to meet Defendant No. 2 in a specific location, however, since he did not meet Defendant No. 2 there, he decided to continue on his own. According to the indictment, Defendant No. 1 tied a shirt around his head and donned his gloves; he then looked for indications for an inhabited house, sprayed "revenge" and "long live the messiah" on a house and threw an incendiary device into it, with the intent of killing its residents. This house was empty. Defendant No. 1 then immediately turned to the home of Sa'ed and Riham Dawabshe. After unsuccessful attempts to open two windows, he managed to open

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the window of the bedroom in which the family was sleeping. Defendant No.1 then lighted the incendiary device, threw it through the window and escaped, killing three family members (the parents, Sa'ed and Riham and Ali-Saed aged 18 months) and causing severe burns to Ahmad Dawabshe, aged 4. Currently Defendant No. 1 is under arrest until the end of the proceedings. Defendant No. 2 (minor)pled guilty to an amended indictment, that included the offences of conspiracy to commit an arson, arson of a taxi in Yassouf village, arson of a warehouse in a close vicinity to a residential house in the village of Akrabe and damage to 11 vehicles in Beit-Tzafafa. The Court convicted Defendant No. 2 according to his confession and requested, due to his age at the time of the offences, a probation service survey in his regard. This defendant did not confess to the offence of membership in a terrorist organization, however, after hearing both sides in this regard, on October 24, 2019, the Court convicted Defendant No. 2 for membership in a terrorist organization. His sentence is scheduled for September 2020.

On May 18, 2020, the Court convicted Defendant No. 1 (Ben Uliel) for murder of the three (3) Members of the Dawabshe Family, for attempted murder, two (2) offences of arson, and conspiracy to commit a crime out of racial motive. The defendant was found not guilty of membership in a terrorist organization. In July 2020 the defense request to present additional evidence and the case is still pending.

This indictment is the outcome of a thorough investigation conducted by the ISA and the Israel Police (Judea and Samaria District). The filing of the indictment was approved by the Attorney General and the State Attorney.

An additional recent indictment is the case against Asaf Sadeh. According to indictment in this case, on February 23, 2018, the defendant, together with others, arrived with a handgun to the eastern neighborhood of Burin village, where he and the others threw stones at one of the houses and in the general direction of the village. In response, the village residents started throwing stones back, and at some point, the defendant recklessly, without facing any threat and without any precautions, took out a gun and fired several shots upward into the air. The defendant later joined two (2) others and continued to throw stones toward the house and the village. In November 2019 defendant was indicted with threats, firing at a residential area, recklessness and negligence with a firearm and misconduct in a public place. The case is still pending. (Cr.C. 35724-11-19, *The State of Israel v. Asaf Sadeh* (Pending)).

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An additional example is an indictment filed against three (3) defendants: Dvir Yegoda (Defendant No. 1) Meir Etinger (Defendant No. 2) and Ben-Tzion Afarsemon (Defendant No. 3). According to the indictment, in December 2014, the three (3) defendants arrived near a house in the vicinity of Burin village, when Defendant No. 1 was holding a slingshot. Defendant No. 1 used the slingshot to throw several stones toward the house and toward two (2) of the village residents who were inside it. Following a plea bargain, the indictment was amended and the three (3) defendants were indicted for "threats as a group". In March 2019, in the frame of that plea bargain, the Defendants confessed and were convicted by the Court. On June 21, 2020, Defendant No.1 was sentenced to 250 hours of community service, six (6) months suspended imprisonment for a period of three (3) years, 3,000 NIS (835 USD) fine and 3,000 NIS (835 USD) compensation to the complainants. Defendant No. 2 was sentenced to 150 hours of community service, three (3) months suspended imprisonment for a period of three (3) years, 2,000 NIS (550 USD) fine and 2,000 NIS (550 USD) compensation to the complainants. Defendant No. 3 was sentenced to 150 hours of community service, three (3) months suspended imprisonment for a period of three (3) years, 1,000 NIS (280 USD) fine and 1,000 NIS (280 USD) compensation to the complainants. (Cr.C. 44897-11-17, *The State of Israel v. Dvir Yegoda et. al.* (21.6.2020)).

3. On July 20, 2014, two (2) indictments were filed in the Jerusalem District Court against three (3) Israelis: Adiv Asraf (Defendant No. 1), Yosef Idan Shirazi (Defendant No. 2) (Cr.C. 38225-07-14), and Eliran Nahum (Defendant No. 3) (Cr.C. (Jer) 38265-07-14). The indictments alleged that the defendants conspired, on several occasions between June 21 and 24, 2014, to commit a "price-tag" offence. The defendants spray-painted racial slurs in several locations in the city of Ma'ale Adumim. They also obtained batons and planned to attack Palestinian by-passers at the entrance to Ma'ale Adumim. The defendants were charged with defacing real-estate based on racial motivation and with publication of racist incitement. The Defendants were also charged with attempted assault based on racial motivation. Defendant No. 2 has been remanded to custody until the conclusion of proceedings in another case. The parties reached a plea bargain, according to which Defendant No. 2he confessed to an amended indictment. No agreement was reached with regard to the sentence. On February 1, 2016, Defendant No. 2was convicted and sentenced to six (6) months imprisonment to be served as community service and 14 month suspended imprisonment for a period of two (2) years. On September 9, 2015, Defendant No. 1 and the prosecution reached a plea bargain, according to which he confessed to an amended

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indictment. No agreement was reached with regard to the sentence. On April 14, 2016, the Court convicted Defendant No. 1 and sentenced him to six (6) months imprisonment (since Defendant No. 1 already been detained for two (2) months, the Court ordered that the remaining four (4) month would be served as community service) as well as three (3) months suspended imprisonment for a period of three (3) years. (Cr.C. (Jer) 38225-07-14, *The State of Israel v. Adiv Asraf et. al.* (14.4.16)).

On February 13, 2019, Defendant No. 3 was convicted by the Jerusalem District Court of defacing real-estate out of racial motive, publication of incitement to racism and attempted assault under aggravated circumstances out of a racial motive. On April 29, 2019, Defendant No. 3 was sentenced to four (4) month community service, four (4) months suspended imprisonment for a period of two (2) years and a fine of 5,000 NIS (1,350 USD). (Cr.C. 38265-07-14, *The State of Israel v. Eliran Nahum* (29.4.19)).

Prevention of Criminal Activity

In addition to investigating and prosecuting perpetrators, the Israeli authorities take extensive measures, based on intelligence information, to deter and prevent ideologically-based offences.. These efforts include administrative measures, such as orders denying certain Israeli nationals access to various areas in the West Bank (for information on these orders in 2018-2020, see above). In past years, the Supreme Court of Israel, sitting as the High Court of Justice, denied several petitions challenging the legality of such orders filed by Israeli nationals who were the subject of these orders. The Court held that while these administrative orders infringed upon certain individual rights, in weighing the balance between these rights and security concerns, the orders were necessary to maintain law and order in the West Bank.⁵

In addition, the Military Commander of IDF Forces in the West Bank is authorized to declare a specific area as a Closed Military Zone if necessary in order to protect public order and security.⁶ This Order may be applied, as required, to Israelis, Palestinians, or both. The South Hebron Hills region, certain places in the Valley of Shiloh, and other locations have been

⁵ See, for example, H.C.J. 4101/10 *Akiva Hacohen v. The Commander of the IDF Forces in Judea and Samaria* at P. 19-22 (1.7.10); H.C.J. 1052/05 *Federman v. The Commander of the Central District* (23.2.05); H.C.J. 7772/05 *Adler et. al. v. Major General Yair Naveh et. al.* (23.8.05); H.C.J. 7191/06 *Albert v. The Commander of the IDF Forces in Judea and Samaria, Major General Yair Nave et. al.* (5.12.06); H.C.J. 7489/06 *Gruner v. The Commander of the IDF Forces in Judea and Samaria et. al.* (13.11.06).

⁶ Article 90 of Decree of Security Provisions, *Security Provisions Order [Consolidated Version]* (Judea and Samaria).

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declared Closed Military Zones because the Military Commander has deemed them as friction sites prone to ideologically-based offences.

Israeli authorities continue their substantial efforts to prevent criminal acts against Palestinians during the annual olive harvest in the West Bank.⁷ The olive harvest is considered by the Military Commander to be a major annual occurrence. Thus, the IDF takes measures to provide security arrangements for the harvest, *inter alia*, by issuing injunctions, providing soldiers with specific instructions and training, coordinating meetings and maintaining regular dialogue with certain human rights organizations. In the past, military and police personnel conducted field visits in advance of the harvest in order to locate potential areas of friction. The IDF also prevented access of Israelis to certain areas, reinforced military and police forces before and during the olive harvesting season and provided security forces to accompany workers in certain places where there was substantial potential for disturbances in agricultural activity due to land ownership disputes.

Law Enforcement against Ideologically Based Offences in Israel

As described above, Israel has made a concerted effort to improve law enforcement and to put a stop to “price-tag” offences in the West Bank. Both Jews and Arabs have been the victims of these despicable offences. One of the most egregious examples was the kidnapping and murder of a sixteen-year-old Palestinian, Muhammed Abu Khdeir as claimed “revenge” for the abduction and murder of three (3) Israeli teenagers by Hamas terrorists in June 2014. Following an intensive Police investigation of Abu Khdeir's murder, the State filed an indictment in the Jerusalem District Court against three (3) Israelis, Yossef Haim Ben David (Defendant No. 1) and two (2) minors, for this murder as well as the attempted kidnapping of another Palestinian boy.⁸ On November 30, 2015, the Court convicted both minor defendants of the murder of Abu Khdeir and determined that Defendant No. 1 was also involved in the murder, however, due to a last minute psychological opinion that was served; the Court decided to postpone the decision in his regard. On February 4, 2016, the Court sentenced Defendant No. 2 (minor) to **life**

⁷ See *Olive Harvest in Judea and Samaria*, Civil Administration in Judea and Samaria (8.8.18), available at https://www.moag.gov.il/yhidotmisrad/teum_kishur/teum_shamron/%D7%A4%D7%A8%D7%A1%D7%95%D7%9E%D7%99%D7%9D/Publications/Documents/Olive_teum.pdf (in Hebrew)

⁸ For detailed information on this case, see Criminal Proceedings in the Murder of Mohammad Abu-Khdeir, State of Israel, Ministry of Justice, The Legal Counseling and Legislation Department (International Law) (Jan. 29, 2015), available at <https://www.justice.gov.il/Units/YeutzVehakika/InternationalLaw/MainDocs1/Criminal%20Proceedings%20in%20the%20Murder%20Case%20of%20Mohammad%20Abu-Khdeir.pdf>.

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imprisonment, additional three (3) years imprisonment to be served concurrently, compensation of 5,000 NIS (1,300 USD) to the family of the boy the three attempted to kidnap and compensation of 30,000 NIS (7,800 USD) to Abu Khdeir's family. In addition, the Court sentenced Defendant No. 3 (minor) to **21 years imprisonment**, one year suspended imprisonment and compensation of 30,000 NIS (7,800 USD) to Abu Khdeir's family. On April 19, 2016, after reviewing psychiatric expert opinions provided by both sides, the Court accepted the opinion provided by prosecution and rejected the expert opinion provided by the defense, and noted, *inter alia*, that at the time of the commission of the above offences, Defendant No. 1 was not in a psychotic state, he understood what he was doing and was responsible for his actions. The Court ruled that Defendant No. 1 was the initiator of these acts and convicted him of Abu Khdeir's murder, in addition to kidnapping for the purpose of murder, assault causing grave bodily harm and attempted arson. On May 3, 2016, the Court sentenced Ben David to **life imprisonment, and an additional 20 years imprisonment to be served concurrently**. Ben David was also sentenced to compensation of 20,000 NIS (5,260 USD) to the family of another boy the three had tried to kidnap and compensation of 150,000 NIS (39,500 USD) to Abu Khdeir's family. (Jerusalem District Court, S.Cr.C. 34700-07-14, *The State of Israel v. Yossef Haim Ben David* (19.4.2016)). On February 8, 2018, the Supreme Court denied the three (3) appeals that were filed by the appellants. The Court noted, *inter alia*, that the acts committed in this case by the appellants have long since exceeded the size of a regular criminal case and that this murder requires a profound self-examination by the Israeli society in order to deal with the phenomena of racism (Cr.App. 2067/16, 2277/17 and 4713/16, *Anonymous et. al. v. The State of Israel* (8.2.2018)).

Prosecution of Ideologically-Based Offences which Took Place in Israel

In response to the phenomenon of ideologically-based offences, Israel has adopted a more stringent enforcement policy. The following are some recent examples of charges filed against Israelis for ideologically motivated offences against Arabs in Israel and against security personnel:

1. In July 2020, the Central District Court of Appeals overturned the Petah Tiqva Magistrate Court's decision to acquit Nachum Shalom Ariel of the charges of incitement to violence and of insulting a public servant. The defendant uploaded posts to an online forum enticing others to throw rocks at defense forces personnel, stating that "there is no religious prevention against killing a soldier who is participating in evacuations." The second charge

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concerned a Facebook post, depicting the name and photograph of a police officer who legally detained a resident of the settlement, while referring to the legal detention as an act of torture, and enticed others to share the content. The Magistrates Court ruled that the defendant's actions did not amount to the aforementioned criminal acts, but rather constituted expressions of political and social protest. The Court further decided that the Facebook post did not amount to insulting a public servant, and held that the indictment constituted selective enforcement. The State appealed this decision claiming that the lower Court erred in its interpretation of the concrete possibility standard, in light of both the modern reality of virtual communication and the actual facts in the settlement in question. The Appellate Court noted that the religious foundation to the support of violence strengthens the concrete possibility that such violence would occur and thus found the defendant guilty of incitement to violence. The Court also found the defendant guilty of insulting a public servant, stating that the lower court erred in its judgment of the objective criteria in this case. With regard to the defendant's selective enforcement argument, the Appellate Court held that, in accordance with relevant precedents, as long as the prosecution's failure to indict stems from a disparity in the evidence against different suspects, such an argument bears no merit. The case was returned to the Magistrate Court for sentencing (Cr.App. 14600-09-19, *The State of Israel vs. Nachum Shalom Ariel* (pending)).

2. On March 3, 2019, the Be'er-Sheva Magistrate Court convicted a defendant of two (2) offences of incitement to violence and two (2) offences of prohibited publication of incitement to racism, which included 12 publications of incitement to violence and 27 publication of incitement to racism in total. According to the indictment, following the abduction and murder of Gilad Michael (16), Yaakov baftali frankel (16) and Ayal Ifrah (19) by Palestinian terrorists in 2014, the defendant decided to open a Facebook page in order to upload various contents inciting to violence and racism against Arabs. The defendant uploaded many publications which received wide exposure, and the page served as a platform for others who wrote supportive or similar publications. In addition, on June, 30, 2014 the defendant opened another Facebook account in order to publish publications and ideas calling for violence and incitement against Arabs, which he did on many occasions. Also according to the indictment, on July 2, 2014, following the abduction and murder of Muhamad Abu Khdeir (16), the defendant published a call to commit additional such abductions and murders against Arabs. Following this publication his additional

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account was blocked by Facebook. The defendant opened another account in which he published numerous inciting publications and called for revenge against Arab. On September 15, 2019, the defendant was sentenced to 18 months imprisonment and suspended imprisonment of eight (8) months for a period of three (3) years (Cr.C. 712-08-14 *The State of Israel v Shlomi Avraham* (15.9.19)).

3. On September 19, 2017, the Be'er-Sheva Magistrate Court convicted Lior Cohen of several offences of prohibited publication of incitement to racism and incitement to racism or terrorism, after he opened a Facebook group to which he uploaded materials inciting to violence against Arabs. On July 7, 2019, the Court sentenced the defendant to six (6) months imprisonment and additional previous suspended sentence against him of three (3) months imprisonment – nine (9) months imprisonment in total that would be served by community service, 12 months suspended imprisonment for a period of three (3) years and probation supervision order for a period of six (6) months. The Court took into account, among other things, the sincere remorse expressed by the defendant, the rehabilitation process which he underwent, his understanding of his actions, the close supervision of the Adult Probation Service and the positive social worker's survey in his regard. The Court noted, *inter alia*, that the Defendant's statements in his Facebook publications were of a racist dimension and included calls for physical violence against the Arab population, however, due consideration should be given to that fact that the number of viewings and likes that these publications received were insignificant and very low. (Cr.C. 41705-08-14 *The State of Israel v. Lior Cohen* (7.7.19)).
4. In yet another case, the Ramle Magistrate Court convicted a defendant, in the frame of a plea bargain, for multiple offences of incitement to violence and incitement to racism. According to the amended indictment, in the relevant period the defendant held and operated a Facebook account to which he uploaded directly and consistently direct calls for violence and terrorism against Palestinians and Israeli Arabs, including praise, sympathy and support toward such acts, direct calls for violence and terrorism against former MK Hanin Zoabi including praise, sympathy and support toward such acts, calls with intent to incite to racism against Palestinians and Israeli Arabs, and publications of sympathy and support toward acts of violence toward Israeli Jews holding left-wing political opinions. The defendant's publication achieved high exposure to at least 1,280 of his Facebook friends and others. On November 8, 2018, the defendant was sentenced to six (6) months imprisonment and six (6) months suspended imprisonment for a period of three (3) years

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(Cr.C. 45798-02-16 *The State of Israel v. Elyaho Eliav Moalem* (8.11.18)). The defendant's appeal against his sentence was rejected by the Central-Lod District Court (Cr.Ap. 46324-12-18, *Elyaho Eliav Moalem v. The State of Israel* (21.5.19)). A request for a pardon sent by the defendant to the President was denied on April 28, 2020.

5. On November 5, 2018, the Be'er-Sheva District Court sentenced a defendant who had been convicted in the frame of a plea bargain of attacking Arab men on several occasions, and stabbing one of them out of a racial motive, since the victims had been meeting with Jewish women. The amended indictment contained four (4) counts which, *inter alia*, included offences of causing severe harm under aggravated circumstances and possession of a knife, assault under aggravated circumstance (several offences), assault that causes actual bodily harm under aggravated circumstance and injury under aggravated circumstance – all out of a racial motive (some of them conducted with other persons). The Court determined that the defendant acted out of racial ideology that should be condemned, and that his offences inflict severe harm to the core social values of human dignity of every person. The Court noted the great severity of the harm caused to these basic protected values, as it exceeded the matter of the individual victims and concerns wider circles - in this case the Arab population in Israel. The Court sentenced the defendant to five and a half (5.5) years imprisonment and nine (9) month suspended imprisonment for a period of three (3) year regarding any offence for which he was convicted. (S.Cr.C. 35048-04-17 *The State of Israel v. Raz Amitzur* (5.11.18)).

Conclusion

Israel is fully committed to fighting racist and ideologically-based violence, including against Palestinians. Israel has implemented, and continues to implement, its policies of upholding law enforcement in the West Bank and in Israel. These efforts are based on Israel's respect for the fundamental principles of democracy and the rule of law. The comprehensive efforts made by law enforcement authorities attest to Israel's commitment. Thus far, these efforts have proven to be successful in containing ideologically-based offences against Palestinians in the West Bank. Israel is committed to continuing its efforts on this front by investigating and prosecuting alleged offences, with the hope of preventing further offences in the future.