New Israeli Ministry of Justice report describes Israeli law enforcement efforts as effective and adequate for deterring and punishing ideologically motivated offenses committed by Israeli civilians against Palestinians in the West Bank; yet according to Yesh Din’s data collected since 2005, a police complaint filed by a Palestinian in the West Bank has a mere 1.9% chance of being effectively investigated, and a suspect identified, prosecuted and convicted.

Background:
In January 2016, the Israeli Ministry of Justice released its recent report “Israel’s Investigation and Prosecution of Ideologically Motivated Offences against Palestinians in the West Bank” (henceforth: the MoJ report)\(^1\). In this report, the Ministry of Justice claims that “Israel has taken extensive measures to prevent violence in general - and against Palestinians in particular” and that “In recent years, Israeli authorities made considerable efforts to enhance law enforcement in the West Bank, which have led to a significant decrease in ideologically-based offences and an increase in the number of investigations and the rate of prosecution”.\(^2\) Yesh Din has been monitoring the work of Israeli law enforcement agencies in the West Bank for over a decade, publishing research reports and periodical data sheets based on field research and information provided by official agencies following requests under the Freedom of Information Act. Although some improvements have been made, Yesh Din’s data points to consistent systematic failures in law enforcement that are a result of government policy. Lack of law enforcement on Israeli citizens who harm Palestinians and their property sends perpetrators a clear message that their actions will be tolerated and they will be immune from punishment. Yesh Din’s recent data shows an increase in attacks carried out against Palestinians in residential areas of West Bank villages since August 2014, reflecting a growing boldness on the part of perpetrators, who know they will not be penalized.\(^3\)

Yesh Din’s work and methodology:
The ongoing monitoring of the proceedings and outcomes of investigations forms the core of a long-term project implemented by Yesh Din with the goal of strengthening law enforcement on Israeli civilians, settlers and others, involved in harming Palestinians and their property over the past decade. The project is based on the principle that Israel bears a legal and moral obligation to protect the residents of the occupied territories under its control. To this end, members of Yesh Din document incidents in which Israeli civilians harm Palestinian residents of the West Bank, help Palestinian victims who are interested in doing so submit complaints to the Israel Police and legally following up the cases. After the police launches an investigation, the organization’s legal team monitors its progress and outcomes and when cases are closed without charges

---

\(^1\) Israel’s Investigation and Prosecution of Ideologically Motivated Offences Against Palestinians in the West Bank” (updated 21, January 2016), Israeli Ministry of Justice website: http://www.justice.gov.il/Units/InternationalAgreements/HumanRightsAndForeignRelations/Faq

\(^2\) Ibid, page 1

\(^3\) Data Sheet October 2015, Law Enforcement on Israeli Civilians in the West Bank – Yesh Din Monitoring Update 2005 - 2015
brought against the suspects, reviews the investigation material and appeals decisions to close the file, when the team believes the investigation was not exhaustive, or that the evidence could support an indictment.

Over the past ten years, from 2005 to August 2015, Yesh Din has monitored the results of investigations into 1,104 cases of ideologically motivated crime conducted by various SJ District Police stations, including the Hebron Area, Shomron Area, Binyamin Station and the Nationalistic Crime Unit at the SJ Central Unit.

Lack of separation of ideologically-motivated offences committed by Israeli civilians against Palestinians from those directed at Israeli security forces personnel (page 6 MoJ report)

According to the data presented by the MoJ, 119 cases were investigated in 2015 regarding incidents involving ideologically-motivated offenses committed by Israeli citizens against Palestinians in the West Bank (some apparently concerning incidents from previous years). According to data obtained from the Israel Police through requests based on the Freedom of Information Act, in 2015 the Police opened 280 investigations of ideologically motivated offenses allegedly committed by Israelis. However, most of these investigations did not concern ideologically-motivated offenses committed against Palestinians in the West Bank but rather against Israeli security forces personnel or by targeted enforcement.

According to the Israel Police’s data received by Yesh Din, 89 investigations were opened concerning offenses committed against Palestinians. In 2015, Yesh Din assisted Palestinian victims of such offenses file a complaint to police in 66 cases, which are approximately 74% of the new police investigations opened following incidents that took place in 2015. It is therefore safe to conclude that the cases which Yesh Din represents (by virtue of power of attorney) are a reliable reflection of the total cases brought to police. It is not clear what the MoJ’s source of information is for citing that only 31 complaints were submitted by Palestinians in 2015 (page 6), as this number is much lower than those represented by Yesh Din. In any case, it would be unreasonable to conclude that the decline in the number of new cases brought to police reflects a decrease in the number of incidents that occur, when Yesh Din’s data reflects a very high rate of victims who refrain from filing complaints with the Israel Police.

Decrease in the number of Palestinians who complain to the Israel Police (pages 2 and 8 MoJ report)

The MoJ report points to an alleged decrease in the number of complaints filed by Palestinian victims of attacks perpetrated by Israeli civilians (page 2). Law enforcement agencies choose to present this data as reflecting a decrease in the number of incidents, or criminal offenses that occur. In doing so, they ignore the consistent decline in Palestinians’ willingness to complain to Israel Police. Yesh Din has directed attention to this concerning trend in its publications as well as in advocacy meetings with Israeli and international duty bears. According to Yesh Din’s data, the main reason for Palestinians’ decision not to file a complaint with police is lack of faith in Israeli law enforcement authorities and their willingness to investigate towards achieving justice. In addition, Yesh Din’s field researchers learn from many Palestinians that they fear filing a complaint will cause further harm because it will lead to vengeful attacks by settlers and settlement civilian security coordinators, or to revocation of work or entry permits to Israel, which they depend on for livelihood or health. Many victims of attacks committed by Israeli citizens did complain to police in the past, yet investigations of offences committed against them were concluded without an indictment of a suspect, and they now explicitly note they have despaired of this ineffective system. In 47 of the 135 cases of ideologically motivated offenses documented by Yesh Din in 2015 – approximately 35% - Palestinian victims explicitly expressed they would not complain to the Israel police (but did give testimony of the incident to Yesh Din).

Between January 2013 and August 2015, Yesh Din documented 377 incidents of ideologically motivated offenses against Palestinians by Israelis; in 107 of these cases (27%), victims decided against complaining. When Yesh Din field researchers asked why they did not want to lodge a complaint, 41 (40%) said they did not believe the Israeli authorities could help investigate their complaint; 13 based this statement on previous experience with failed investigations of complaints they had made, or on humiliation and further harm they

---

suffered as a result of filing a complaint. Seventeen other victims (16.6%) expressed concern that filing a complaint would bring them harm in the form of the denial of a work permit, harassment from the security coordinator of a nearby settlement, or worse violence by Israeli civilians from a nearby settlement. In 11 additional cases (10.7%), the police were at the scene of crime and collected statements, but Yesh Din later found out that no case had been opened since and the crime victims perceived it as a waste of time to file and official complaint after this experience.  

Consistently low indictment rates (page 7 MoJ report)  
The MoJ report presents data suggesting a marked increase in the indictment rate in ideologically-motivated offenses (page 7 – table, row two ‘indictments filed’): Yesh Din has analyzed the data received from the Israel Police for 2015 and found that the majority of these indictments cited do not concern cases in which Palestinians or their property were harmed by Israeli citizens in the West Bank.  

According to data the Police provided Yesh Din with following a request for information under the Freedom of Information Act, Police investigated 280 new incidents of ideologically motivated offenses committed by Israelis in the West Bank in 2015. Of these new cases, indictments were served in 59 cases (21%). Based on the data provided by the Israel Police, indictments were served in merely 4 cases (4.5%) of offenses carried out against Palestinians in the West Bank. This data corresponds with the data Yesh Din received from the Israel Police in previous years regarding the Nationalistic Crime Unit at the Samaria and Judea (SJ) District Police (termed NMCU in the MoJ report), the elite force combatting ideologically motivated crime among Israeli citizens: just 31% of the indictments served against suspects in investigations conducted by the Unit in 2014 involved offenses committed against Palestinians (16 of 51 indictments); in 2013, a mere 15% of indictments served concerned offenses against Palestinians (5 of 32 indictments).  

Extensive use of administrative orders (pages 5, 6 and 12-14 MoJ report)  
Regarding the use of individual administrative orders as a legitimate means of law enforcement (page 6 of the MoJ report), Yesh Din’s comprehensive research report on police failures to investigate cases of ideologically-motivated crimes against Palestinians addresses the extensive use of this executive measure which is violating the principle rule of law.  

There is a noticeable increase in the use of administrative orders restricting the movement of individuals: 36 in 2015 compared to 13 in 2014, and 19 in 2013. While allegedly used for deterrence and prevention of crimes, the individuals against whom they are issued are not given a fair chance to face the allegations against them and do not allow for a trial conducting fact-finding based on hearing of evidence. The MoJ claims that defining organizations illegal associations under the Defense (Emergency) Regulations of 1945 is an example of law enforcement (“The Use of Illegal Association Restrictions as a Legal Tool”, page 5 of the MoJ report), yet this demonstrates that law enforcement agencies are widely using undemocratic measures rather than establishing prevention through proper criminal proceeding, which includes an investigation, serving an indictment and a fair, impartial trial. It reflects the failure of law enforcement authorities to conduct proper and efficient investigations that would contribute to deterrence.  

Physical barriers to accessing justice (page 4 of MoJ report)  
The MoJ report refers to the practical difficulties in cases when an indictment is served against a suspect/s of offenses against Palestinians (page 4). While the MoJ claims that the State spares no effort in order to bring Palestinian complainants and eyewitnesses to Israeli courts, and even provides transportation for Palestinians who reside in Area A to courts inside Israel, Yesh Din’s experience contradicts this claim. In Yesh Din’s experience, victims and eyewitnesses who are subpoenaed to testify in Israeli courts face several obstacles, including receiving permits to enter Israel. In several cases represented by Yesh Din, in which investigations

---

6 It is likely that these offences were directed against security forces personnel, or concerned offences such as violation of an administrative order restricting the movement of an individual or insulting a civil servant, etc.  
7 Mock Enforcement – The failure to enforce the law on Israeli civilians in the West Bank, Yesh Din, May 2015, page 125.
led to an indictment, Yesh Din arranged transportation in order to ensure eyewitnesses were able to reach courts in Israel.

**Alarming low indictment rate reflects failures in investigations**
The MoJ’s publication attempts to present a comprehensive picture of law enforcement in cases of ideologically motivated crime, and yet it does not address the outcome of the few indictments served against suspects of crimes committed against Palestinians. According to Yesh Din’s monitoring data, only one third of the legal proceedings (33.3%) resulted in a full or partial conviction of the defendants. Nearly a quarter of the legal proceedings (22.8%) were eventually cancelled or vacated, and another quarter (24.6%) resulted in a judicial decision not to convict the defendants, despite finding that they did committed the offenses for which they were tried. These statistics demonstrate that a police complaint filed by a Palestinian in the West Bank has a mere 1.9% chance of being effectively investigated, and a suspect identified, prosecuted and convicted. This suggests grave concerns regarding Israel’s pretense of effectively enforcing the law in the occupied Palestinian territories.

**Summary**
While there have been efforts to improve addressing ideologically motivated offenses against Palestinians in the West Bank over the past 5 years, law enforcement in such cases is still ineffective and does not provide adequate protection for Palestinians and their property. Palestinian victims continue to experience fundamental obstacles to accessing justice, such as the lack of Arabic-speaking investigators and delays to updates on the status of investigations in cases represented by Yesh Din by virtue of power of attorney. The increase in the number of attacks against Palestinians in residential areas in Area C noted by Yesh Din reflects the lack of enforcement and deterrence, and further deepens Palestinians’ fear and mistrust of Israeli law enforcement agencies.

**Suggested readings** for further information on Yesh Din’s data on law enforcement of ideological crimes committed by Israeli civilians against Palestinians in the West Bank:
- **Mock Enforcement** – The failure to enforce the law on Israeli civilians in the West Bank. Yesh Din, May 2015,
- **Data sheet May 2015** - Prosecution of Israeli civilians suspected of harming Palestinians in the West Bank – Yesh Din monitoring figures

**For more information, please contact Birte Brodkorb**, Director of International Relations, birte@yesh-din.org, phone: +972 (0)50 4307742

---

8 Data sheet May 2015 - Prosecution of Israeli civilians suspected of harming Palestinians in the West Bank – Yesh Din monitoring figures.
9 Data Sheet October 2015, Law Enforcement on Israeli Civilians in the West Bank – Yesh Din Monitoring Update 2005 - 2015