

Adalah's Newsletter, Volume 6, October 2004

Comments on the Tense Dialogue between Truth and Power¹

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October 2000 and the Social Sciences

How will historians view the demonstrations by the Palestinian Arab minority that occurred in early October 2000? Has sufficient time passed for historians to connect the demonstrations to other events that took place before, during, and after the demonstrations occurred? Clearly, the demonstrations marked a certain development in the course of the struggle of the Arabs in Israel. What is this development? Has it remained the same as it appeared during the demonstrations themselves? Or has it been subjected to changing social trends, raising different questions to those that were voiced in the aftermath of the protests?³

The Or Commission's Report has become canonized for those seeking an understanding of the demonstrations, but not only to learn what happened during those days, especially as regards the activities of the executive branch. This reliance is problematic. The Or Commission's Report is replete with contradictory approaches, some of which are delineated below.⁴ More importantly, it is doubtful that the Report can be viewed as a comprehensive social analysis of the demonstrations by the Arab minority.

Social scientists, of course, are the proper source for analyzing the October 2000 demonstrations. They have the tools to understand, and not only to describe, what took place in Palestinian society in Israel at that time. But social scientists, like other individuals, have different approaches, orientations, and points of view. Who, then, is the "utopian" social scientist capable of providing us with an understanding of the demonstrations? My candidate is the non-objective social scientist; one who has no ties to the government, and also resists making futile appeals to an

¹ This text is based on remarks made at the "October 2000: A Memory for Protest" conference held in Nazareth on 2 October 2004. The conference was hosted by Adalah – The Legal Center for Arab Minority Rights in Israel, the High Follow-up Committee for Arab Citizens in Israel, and the Victims' Families Committee in remembrance of the October 2000 protests. Advocate Dalal spoke on a panel entitled "Protest and the Or Commission".

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³ A disappointing approach can be found in Baruch Kimmerling, *Immigrants, Settlers, Natives* (Tel-Aviv: Alma-Am Oved, 2004), between pp. 397-400 (Hebrew). On an unnumbered page, Kimmerling analyzes the demonstrations, their background, and their repercussions. Yet, this page, like the rest of the chapter dealing with the Palestinian Arab minority, contains several embarrassing errors.

⁴ In addition, it should be mentioned that the Or Commission's Report is characterized by a fluid understanding of the meaning of the term "political." The Report selectively merges the government with the leadership of the civil society. See, e.g., Marwan Dalal, "The Commission Indeed Discriminated," *Ha'aretz*, 13 October 2003. The article points out that, "The Or Commission's position in warning elected Arab public figures is problematic not only because of its discriminatory character but also because of its content. The Commission's basic assumption was too compatible with the basic assumptions of establishment assessment bodies that are hostile to the mere politicization of Arab society." See also, the testimony of Dr. Elie Rekhess before the Or Commission on 27 December 2001, Protocol of the Or Commission of Inquiry, pp. 8992-9038 (Hebrew). Compare *The Official Commission of Inquiry to Investigate the Clashes Between the Security Forces and Israeli Citizens in October 2000*, 1 September 2003 (Hebrew) pp. 60-80 (hereafter "*Or Commission Report*"). See also, Elie Rekhess, "The Arabs of Israel after Oslo: Localization of National Struggle," *Israel Studies*, 7 (3), (2002) p. 1.

imagined constituency. This “utopian” social scientist takes an approach that is rigorous, and intentionally places himself, relentlessly and systematically, in opposition to the side holding power. He knows full well that the weaker side is not an object of compassion, but rather a subject that aspires, because of its essential condition, to free itself from the powerful chains of its oppressor.⁵

This “utopian” social scientist, then, recalls Edward Said's description of the academic and public role of the intellectual, despite the fact that Said has imbued him with a heroic, almost inhuman status:

[T]here is no substitute, no amount of good work on the outside, no amount of involvement, that is a substitute for commitment not only to one's students, but also to the rigors of the discipline in which one finds oneself.⁶

Said adds:

I think the proper attitude of the intellectual outside the academy is some sort of defiance. It's very hard to maintain, but I find that it is a source of vitality, and I think, if I may be allowed this final, totally irreverent comment, it is much more important than getting one more award or one more prize.⁷

The Ministry of Justice's Police Investigation Unit (Mahash)

On 18 October 2000, Adalah requested that the then-Attorney General (now Supreme Court Justice), Mr. Elyakim Rubinstein, order an investigation into the killing of thirteen citizens by Israeli police officers. In our letter, Adalah set forth the findings of two international human rights organizations, Amnesty International and Human Rights Watch, on police handling of the demonstrators. On 5 November 2000, Adalah requested that the head of Mahash at the time, Mr. Eran Shendar (now State Attorney), order an investigation into the circumstances surrounding the killings of Arab citizens by police officers. We pointed out in our letter, *inter alia*, that:

As you know, according to Section 49I of the Police Ordinance [New version], 5731 – 1971, Mahash is empowered to investigate an offense in which a police officer is a suspect, as specified in the First Annex of the ordinance. This authority is in addition, of course, to the authority of the Attorney General to order an investigation in cases in which it is suspected that an offense has been committed...

In our opinion, there is suspicion, at least, that an offense has been committed by police officers who fired their weapons and by the officials who dispatched them and gave them the order to fire. In this case, the authority to initiate an investigation against the police officers becomes an obligation. This was the

⁵ Regarding rigorous discipline, examples can be found in the methodology and rigor of Aziz Al-Azmeh and of George Tarabishi. See Aziz Al-Azmeh, *Secularism from a Different Point of View* (Beirut: Center for Arab Unity Studies, 1998); Aziz Al-Azmeh, *Constantine Zurayk: An Arab for the 20th Century* (Beirut: Institute for Palestine Studies, 2003); and George Tarabishi, *Critique of the Critique of the Arab Mind* (Beirut: Dar Al Saqi, 1996).

⁶ Edward Said, "On Defiance and Taking Position" in *Reflections on Exile and Other Essays* (Cambridge: Harvard University Press, 2000), p. 500.

⁷ *Ibid*, p. 506.

holding of the Supreme Court in HC 297/82, *Berger, et. al. v. Minister of the Interior*, PD 37 (3) 29, 45-47, where the Court states:

... establishing primary regulations in statute, which grant the official holding a certain position the power to exercise authority in given circumstances, not only grants power and authority, but generates fundamental consequences, which also have the nature of an *imposition of duty*. Entailed in the grant of authority is, *inter alia*, the duty to consider the need to exercise it and the proper measure to take in that context... The holder of the authority is liable to be considered to fail in his duty if he relates to the authority given him as he would relate to an immovable stone, in the sense that he fails to consider it as good or bad, positively or negatively, and does not weigh if and when to exercise it...

Mahash did not initiate a serious investigation in any of the cases in which police officers killed citizens of the state. For example, Mahash did not collect evidence from the scene of the killings, and did not attempt to determine which police officers were involved in the events that caused the loss of life and bodily injury to Arab citizens. It should be mentioned that, shortly after the killings took place, Mahash were in possession of autopsy reports for four of the 13 persons who had been killed (Rami Ghara, Misleh Abu Jarad, Ahmed Jabareen, and Mohammed Jabareen). Yet, Mahash did not use this information nor other means to determine, shortly after the shootings occurred, which police officers fired the shots.

Mahash, whose entire staff of investigators is composed of former police officers, procrastinated over the investigation following the publication of the Or Commission's Report 1 September 2003, which recommended that Mahash investigate, *inter alia*, the killing of Arab citizens in October 2000. Two weeks after the publication of the Report, Adalah wrote to Mahash to inquire if an investigation had been opened, as recommended by the Commission. Mahash replied, on 23 September, that it is "making a preliminary review of the material."

In June 2004, the "Report and Recommendations of the Ministerial Committee in the Matter of the Or Commission," was published. In two pages, the Ministerial Report discusses the Mahash investigations pursuant to the Or Commission's recommendations.⁸ Essentially, the Report presents Mahash's position, which is riddled with inconsistency. On the one hand, it mentions that Mahash, in consultation with the State Attorney, and with the knowledge of the Attorney General, decided not to conduct investigations into the killings, on the grounds that a state commission of inquiry had been appointed. According to Mahash, "It would be improper to conduct a Mahash investigation at the same time that a state commission of inquiry is doing its work, and it would be proper to wait until the commission completes its task." The law offers no support for this position. It is Mahash's obligation, by law, to conduct an investigation immediately, expeditiously, and efficiently where it is suspected that an offense has been committed, and certainly where a police officer has killed an individual. This duty is not mooted or diminished by the establishment of a state commission of inquiry.

On the other hand, Mahash believes that the long time that has passed since the offenses were committed makes it difficult to conduct a proper investigation, not to mention its lack of sufficient personnel. Mahash added that, at the time of the Ministerial Committee's Report, a decision had been made to investigate only one case of killing by a police officer during the events in October 2000. In that case, a preliminary review had been completed and Mahash decided to open an investigation into the matter.

⁸ *Report and Recommendations of the Ministerial Committee in the Matter of the Or Commission*, June 2004, pp. 37-38.

The faulty management of Mahash and its constant failures dating back to October 2000 were criticized by Justice (Ret.) Or in a lecture he gave on 1 September 2004 at Tel Aviv University. His criticism included the following:

In general, Mahash did not collect evidence relating to the events surrounding the killings of the citizens, did not gather evidence at the scene, and did not attempt to locate any of the police officers who were involved in the incidents shortly after the incidents occurred... The Commission of Inquiry recommended that Mahash conduct an investigation into a number of incidents in which 13 people died. The intention was that, following the investigation, a decision would be reached over whether indictments should be filed and if so against whom. It is becoming clear that, to date, no conclusion has been reached over whether indictments are to be filed in relation to any of the events that Mahash was charged with investigating. The explanation given is that Mahash lacks sufficient personnel, and that only when additional manpower was provided did the pace of the investigation accelerate. In light of the grave results of the events that Mahash is charged with investigating, in light of the fact that the testimonies obtained by investigators on behalf of the Commission and by the Commission itself were always available to everyone, including Mahash investigators, as long ago as when the Commission was performing its work; and in light of the fact that over a year has passed since the Commission made its recommendations, it is regrettable that the Mahash investigation has not accomplished more.

Justice Or's criticism of Mahash is valid. Yet, his criticism is awkward given that two members of the Commission's staff that collected the material were from Mahash. Furthermore, the justifiable criticism of Mahash's failures immediately following the events is not mentioned in the Commission's Report. The Commission deems it appropriate to mention in this context, in only a few sentences, the need, which was not met, to collect physical evidence at the scene of the killing, without informing the reader about who has the duty, by law, to do this. In this regard, Mahash appears as a body of equal value to the Or Commission: both of these bodies had no physical evidence from the scene of the killings:

We also encountered a phenomenon whereby, as regards some of the events, physical evidence was not collected shortly after the events, so that they could serve for investigation purposes in the future, either by us or by other investigating bodies, such as Mahash.⁹

The Privilege of Mystery

Do we know today what instructions the senior governmental officials gave to the police involved in quelling the Arab demonstrations in October 2000? Clearly the unknown, or, to be more precise, hidden facts exceed the information that has been disclosed. The Or Commission did not reveal many documents that are important to an understanding of the positions of the various arms of the executive branch. For example, the protocols of crucial Cabinet meetings at the time the events were unfolding were available to the Commission, but not to the public. The same is true about the crucial Cabinet meeting held on the morning of 2 October 2000. Similarly, all the documents that the Or Commission gathered from the General Security Service (GSS), including

⁹ *Or Commission Report*, p. 15.

testimonies of GSS agents, remain confidential.¹⁰ The Supreme Court rejected a petition Adalah filed objecting to the taking of testimonies of GSS agents behind closed doors.¹¹ The Commission was willing to make public a minimal amount of the material – which it did by incorporating the information in its Report – dealing with the positions held by the top officials of the executive and intelligence branches and with the discussions and meetings they conducted.

It is undisputed that the meeting held at the home of Prime Minister Ehud Barak on the evening of 1 October 2000 to assess the situation was decisive. The senior officials from the government and the police who took part in the meeting knew that an Arab citizen had been killed by police gunfire in the Umm al-Fahem area. The next day, 2 October, the police killed six Arab citizens (one in Umm al-Fahem, two in Sakhnin, two in Arabeh, and one in Nazareth). Also, snipers were being deployed in Umm al-Fahem and Nazareth. That morning, Ehud Barak was interviewed on the radio:

At a meeting that lasted until after midnight at my home, I directed the Police Force and the Minister of Internal Security – incidentally, both of them deserve great praise for the self-control they exhibited yesterday during the demonstrations – but I told them that they have a green light to take any action necessary to maintain law and order and ensure that citizens of the state are free to move about everywhere in the state.¹²

The meeting at Barak's house, which was an official meeting for all intents and purposes, was not documented. Barak's assistants (military secretary Eisenkot and his deputy Noiman) made conflicting statements regarding the reason for the lack of documentation. On this point, the Or Commission stated:

Various explanations were given for this. The explanations are not always reconcilable. In one instance, Commission investigators were told that an attempt would be made to look for and find copies of the protocols of the meetings to assess the situation that were held at the said times. Another time, it was contended that the meeting apparently was not recorded at all. Another time, it was contended that an attempt was made to record it, and that a tape recorder had been brought for that purpose. Afterwards, though, it was found that the tape recorder didn't work. There were other inconsistencies in details relating to a recording. It is hard to reconcile the conflicting versions given on this matter, and no convincing explanation has been given for the inconsistencies.¹³

The Commission's analysis of Ehud Barak's role is perplexing. For example, the Commission finds that, "Mr. Barak did not take sufficient action to prevent, or limit, the use of lethal means by the police."¹⁴ On the other hand, the Commission analyzes the effect of Barak's instructions to the police to ensure that Route 65 remains open even if it means a confrontation will ensue, but exempts him from responsibility for the events that followed, in particular the use of snipers in

¹⁰ Most of the documents that the Or Commission obtained from the GSS are found in exhibits binder number 49, which the Commission has never made public.

¹¹ HC 950/02, *The Committee of Victims' Families, et. al. v. Commission of Inquiry*, judgment delivered 4 February 2002.

¹² Interview with Ehud Barak on the "This Morning" program on Israel Radio Channel 2. The interviewer was Ariyeh Golan.

¹³ *Or Commission Report*, p. 613; See also, Marwan Dalal, *October 2000: Law and Politics before the Or Commission of Inquiry*, (Adalah, July 2003), pp. 20-21.

¹⁴ *Or Commission Report*, p. 614.

that area.¹⁵ The Commission points out that, when Barak gave a green light to the police to take “every action necessary,” he intended firm action by the police commanders based on their discretion exercised pursuant to law. This analysis is problematic. The law charges the police to maintain public order. It does not need a green light from the Prime Minister to carry out its duty and authority under the law. In giving a green light to take “every action necessary,” especially when it was known that one person had already been killed and many others wounded, it is clear that the Prime Minister supported these acts when he issued his instruction.

Particularly problematic is the assumption that underlies the approach taken by the Or Commission regarding the reasonableness of the instructions and decisions made by Barak during those days. According to the Commission:

...It should be assumed that, given the high position held by the Prime Minister, and the breadth of the public interest for which he is responsible, the Prime Minister should also be allowed a wide latitude of reasonableness in taking action and decision making.¹⁶

According to this analysis, the Prime Minister is subject to a normative system applying only to him because he has many powers and much authority. As a result of the unique sphere of reasonableness surrounding his position, the argument goes, the Prime Minister is subject to a different legal domain than that of other government officials, such as the Police Commissioner. This approach obviously critically undermines fundamental concepts of the rule of law.

The principle that should have guided the Or Commission is precisely the opposite of that which it set: the greater the power and authority held by a government official, particularly when the use of authority and power affect fundamental human rights, the more demanding the examination of his acts and decisions must be. This fundamental principle is found in decision after decision of the Supreme Court, and for this reason, should be known to at least the two judges who sat on the three-member Commission. For example, in *Barzilai*, the Supreme Court held:

We are one of the arms of government, and our role is to supervise and ensure that the other arms act in the framework of the law to ensure compliance with the rule of law. The arms of government are lofty, but the law is loftier than all of us.¹⁷

The Commission’s lack of consistency is obvious in another matter: the knowledge that the police and the senior governmental officials had of the use of live sniper fire on the demonstrators. For example, the Or Commission found that Police Commissioner Yehuda Wilk was aware that the police were using sniper fire on 2 October 2000, basing their reasoning on the reports of sniper fire that appeared in the media. However, the Commission made sure to point out that the senior governmental officials did not know about the sniper fire because senior police officials made no mention of it. Regarding Police Commissioner Wilk, the Commission wrote:

There were also reports in the media about sniper fire in Umm al-Fahem. On the main evening news of Channel 1 [television] on 2 October 2000, it was reported that police were using snipers in Umm al-Fahem. The next day, sniper fire was also mentioned in *Yediot Aharonot*’s coverage of the events. Similarly, in *Ha’aretz* of 3 October, [sniper fire was mentioned] in its report on the previous day’s events. The report stated that, in Umm al-Fahem, “The police officers who used sniper rifles tried to prevent the blocking of the Wadi 'Ara Road.” The

¹⁵ *Or Commission Report*, pp. 577-600.

¹⁶ *Or Commission Report*, p. 598.

¹⁷ HC 428/86, *Yitzhak Barzilai, Attorney v. Government of Israel*. PD 40 (3) 505, 585.

next day, 4 October 2000, *Ha'aretz* reported that Nazareth's mayor, Ramez Jeraisy, claimed that snipers on roofs fired at demonstrators.¹⁸

The Or Commission does not find that the senior governmental officials, and especially the Prime Minister Barak and Minister of Internal Security Shlomo Ben Ami, were aware of the media reports on the police's use of sniper fire at the demonstrators, although it attributes such knowledge to the Police Commissioner. Furthermore, the Commission finds that Police Commissioner Wilk's failure to report the use of sniper fire to the senior governmental officials "amounts to... breach of trust that the police owes to the senior governmental officials, to which it is subordinate ... The concealment of such important information impairs the ability of senior governmental officials to supervise their subordinates who carry out the operations."¹⁹

The Commission of Inquiry presents the senior governmental officials as victims, who were not informed that the police used snipers to quell the Arab demonstrations on 2 October 2000. The Commission fails to use the same logic, based on the explicit and conspicuous coverage in the media, when it considers the responsibility of Barak and Ben Ami. If the Police Commissioner had to know about the use of snipers because of the media reports, as every ordinary person should reasonably have known, why, of all people, are the Prime Minister and the Minister of Internal Security exonerated from knowing this information? Insofar as lethal means were used, which led to the killing of Arab citizens of Israel, is it not logical that the Or Commission would expect these two senior governmental officials to know that sniper fire was being used, even ahead of the Police Commissioner?

Indeed, an argument was made before the Or Commission that, because of the media reports, it was unreasonable to believe that the senior governmental and police officials did not know that snipers were firing live ammunition at demonstrators. As stated, the Or Commission attributed knowledge of that fact to the Police Commissioner, but not to the senior governmental officials:

The senior police officials, including then-Police Commissioner Yehuda Wilk, and the senior governmental officials (Minister of Internal Security Ben Ami and Prime Minister Ehud Barak) contended in their testimony that they did not know the police had used live ammunition, or snipers, against demonstrators, until the hearings of the Commission of Inquiry. As explained above, snipers were used as early as 29 September in the area of the al-Aqsa Mosque, with the knowledge of the Police Commissioner and the Minister of Internal Security at the time. Also, the "Melody's Magic" command explicitly included the use of snipers, and the command was used *vis-à-vis* the demonstrations at the time. The police not only failed to conduct investigations into the circumstances surrounding the deaths of, and injuries sustained by demonstrators, but also, its documents on the lessons to be learned from the events stated that the use of snipers effectively deterred the demonstrators. This lesson was presented at a conference of police commanders held on 8 November 2000, at which the Police Commissioner and Minister of Internal Security were present...

Furthermore, as early as the beginning of October 2000, the mainstream media reported that the police were using sniper fire on demonstrators and that the police were using snipers. For example, the evening news broadcast on 2 October reported that, "Alik Ron gave the order to use snipers in Umm al-Fahem." That same day, *Ha'aretz* reported on the demonstrations that took place in Umm al-Fahem the day before: "Umm al-Fahem. Residents reported

¹⁸ *Or Commission Report*, p. 495.

¹⁹ *Or Commission Report*, p. 498.

that police and border police used live ammunition, during several severe confrontations that broke out in the city.” On 3 October 2000, *Ha'aretz* reported there had been demonstrations in Umm-el Fahm and mentioned that the police had used snipers against the demonstrators:

Umm al-Fahem. Seventy-five demonstrators were injured, most of them lightly, by rubber bullets in demonstrations in the city and were treated in the local medical clinic. Twelve persons required hospitalization. Dozens of young people confronted police and border police who were standing at the entrance to the village. The police, who used snipers, tried to prevent the blocking of the Wadi 'Ara Road. Another young person was killed by police gunfire, and dozens of young people were injured.²⁰

Furthermore, in its Report, the Or Commission states:

As early as 3 October 2000, when [Alik] Ron met with the director of the GSS, Avi Dichter, during the latter's visit in the north, he told him about the events that had taken place, in which he mentioned that snipers had been used in Umm al-Fahem the day before.²¹

The same logic attributing the information on the use of snipers in light of the media reports also applies to GSS Director Dichter and his subordinates. On this point, too, the Or Commission is silent. To aggravate matters, the Commission's Report does not examine the actions taken by the GSS from the moment that its director was informed, on 3 October, that snipers were being used.

In October 2000, the GSS operated as part of the Prime Minister's Office, in accordance with the prerogatives given to the government and the Prime Minister, pursuant to the Basic Law: The Government. In 2002, the General Security Service Law was enacted. Section 4 of the statute places the GSS under the control of the government. More specifically, Section 4(b) states: “The Prime Minister is in charge of the Service on behalf of the government.” One of the major functions of the GSS is to control and supervise the Arab minority.²² In effect, the GSS plays a central role in designing government policy, and the actions of the various arms of government, toward the Arab minority.²³ The information that the GSS received, by the head of the organization himself, on the use of snipers by the police shortly after the sniper-fire took place, was information that should be attributed to the Prime Minister, through whose powers and authority the GSS operates. As stated, the Or Commission fails to relate to this issue.

The Or Commission discusses the management of the GSS in the relevant period with great delicacy. The Commission describes the GSS, and particularly the head of the agency's northern district, as a positive influence. This impression is derived primarily from the position held by the

²⁰ Marwan Dalal, *October 2000: Law and Politics before the Or Commission*, (Adalah, March 2003) (Hebrew), pp. 34-35.

²¹ *Or Commission Report*, p. 495, and also at p. 250.

²² For example, the GSS has a permanent representative in the Arab Education Division of the Ministry of Education, holding the post of Deputy Director of the department, whose control over senior appointments in the department is unchallenged. See HC 8193/04, *Union of Parents of Arab Students in Israel, et. al., v. Ministry of Education, et. al.* (case pending).

²³ The GSS also affects law enforcement authorities, including the official at the top of the pyramid, who is supposed to be faithful to the fundamental principles of the rule of law. As a direct result of this influence, the Attorney General filed indictments against the leaders of the Islamic Movement in Israel for the humanitarian assistance they provided to Palestinians in the Occupied Territories. The Attorney General also sought to ban the National Democratic Assembly party (BALAD) from competing in the 2003 Knesset general elections. See also, *Or Commission Report*, p. 607.

GSS, as found by the Or Commission, on the need of the government and the Prime Minister to meet with the Arab leadership.²⁴

From the little that the Or Commission reveals about the GSS's position on the Arab demonstrations, and the proper way to cope with them, the organization appears in a less than favorable light. Thus, the Or Commission is clearly inconsistent, in that it does not discuss the reasons and consequences of the GSS's positions on the policy adopted by the decision makers and on the officials who implemented the policy.

On the evening of 1 October 2000, the GSS held a meeting to assess the situation. At the time, it knew that a person had been killed in Umm al-Fahem, that many persons had been wounded, and that Arab protest marches were taking place in numerous locations.²⁵ Later that same evening, and in preparation for the meeting to be held at Prime Minister Barak's house, the GSS held another meeting to assess the situation. This meeting was attended by fewer officials, including Barak himself. No documentation exists of this meeting nor, as previously noted, of the meeting held later at Barak's house.²⁶ The Or Commission does not discuss the reason for the lack of documentation. This approach contradicts the manner in which the Commission related to the lack of documentation of the meeting at Barak's home on 1 October and the lack of documentation by the police regarding its actions, particularly in cases in which there were casualties.

On 2 October 2000, at around 8:00 p.m., the GSS held another meeting, headed by the GSS Deputy Director, to assess the situation.²⁷ That day had been particularly grave for the Arab minority: six Arab citizens had been killed, and two others had died of injuries sustained the day before. At the time the meeting was held, the death toll of Arab citizens had reached nine, and scores of Arabs had been wounded by police gunfire. The participants at the meeting knew these statistics.²⁸ Nevertheless, the GSS Deputy Director summarized the situation, stating, "at locations where there were confrontations with Israeli Arabs, such as on major roads, 'it was necessary to act with great firmness,' and not to allow the main roads to be blocked." The GSS held the same position in the meeting on 3 October. The Or Commission mentions that, at that meeting, "an evaluation was made that Israeli Arabs understood the potential of blocking traffic arteries and, therefore, preparations should be made to meet future disturbances, to meet the possibility that attempts will be made to block intersections. In this context, an argument was raised that it was forbidden to let the message go out that violence pays."²⁹ The combative approach, lacking any awareness of fundamental constitutional rights, was expressed on 3 October by GSS Director Dichter, and the head of the National Security Council, Uzi Dayan. Here, too, one is compelled to settle for the Or Commission's description of the positions held by these two officials:

The head of the GSS said that, following the events, the Arab sector understands that there are red lines, which it had not previously understood, such as Lotam and the industrial zone in Tardion...

The head of the National Security Council, Major General Uzi Dayan, said that, as regards law enforcement, further closing of major roadways was not to be allowed. General Dayan was aware that this action entailed the possibility of

²⁴ See, e.g., *Or Commission Report*, p. 607; see also p. 571.

²⁵ *Or Commission Report*, pp. 206-207.

²⁶ *Or Commission Report*, p. 207.

²⁷ *Or Commission Report*, pp. 236 ff.

²⁸ *Or Commission Report*, p. 218.

²⁹ *Or Commission Report*, p. 255.

casualties, but he reasoned that if the forces were concentrated and acted properly, the objective could be achieved with a minimal number of casualties.³⁰

The Or Commission took no position on Dichter's and Dayan's comments. In failing to do so, the Commission committed a grievous error. Two young Arabs, Walid Abu Saleh and Emad Ghanaym, were killed in the Tardion industrial zone.³¹ In effect, GSS Director Dichter was in favor of a combative approach to handling the Arab demonstrations in the beginning of October 2000. The results of the quelling of the demonstrations, that is, the killing of at least eleven citizens (as of 3 October 2000), and the injury of hundreds of persons, did not lead them to think twice. Rather, they concluded that the Arab minority understood that there were "red lines." In other words, the Arab minority was deterred by the use of police forces. Thus, there is no difference between the position of the GSS, described above, and the lesson that the police learned at the meeting of its commanders on 8 November 2000, at which the following statement was made:

A combination of the intelligent use of special professional forces (snipers, undercover units,³² and the like) in the serious public disturbances was a turning point in the handling of the events.³³

³⁰ *Or Commission Report*, pp. 256-257.

³¹ *Or Commission Report*, p. 343.

³² Units of secret service personnel disguised as Arabs.

³³ See *Or Commission*, Exhibit 747A; Dalal, pp. 27 – 28.