

**The Concept of Protest and its Representation by the Or Commission \***

**By Dr. Ahmed Sa'adi†**

Protesting is a medium through which the weak can seek to influence the ruling authorities. Protesting complements other means of influence, such as political parties (the enactment of laws) and legal advocacy before the courts. Public protest is by definition a non-institutional means of attempting to influence the authorities. Since the 1960s, the way protest demonstrations are read has undergone a radical transformation, and public protest has become a legitimate means of exerting influencing and a part of freedom of expression.

The 1968 student protests in France can be considered a principal contributing factor to this transformation in the understanding of the concept of protest. The student protest movement paralyzed economic life in France, as workers also protested, took over factories and erected roadblocks. Even President de Gaulle was unable to move around the country without the aid of the army. These events, which lasted for three months, resulted in three deaths. Similarly, the student protests in Great Britain, during which the protestors surrounded and attempted to break into the American Embassy, ended with no fatalities, but only the injury of approximately 40 protestors and some arrests.

In the course of the numerous protests which have taken place in Israel since 1948, the only protestors to be killed by the police have been Arabs. During 1951-1952, Menachem Begin led a protest against an agreement over the payment of reparations from Germany to Israel for the Nazi Holocaust. One step in the protest involved an attempt to break into and occupy the Knesset. The protest did not produce any fatalities. The same can be said of the protest which took place in Wadi al-Salib in 1959, the protests organized by the 'Black Panthers' between 1971 and 1974, the protest movement of the reservist officers following the 1973 war, and also the protest against the Sabra and Shatila massacres. Protest in Israel since the beginning of the 1970s, be it left-wing or right-wing Zionist, has not been met with any lethal response from the Israeli authorities. One Jewish citizen has been killed in the context of protest; this protestor was one of the followers of Rabbi Uzi Meshulam (the leader of a right-wing, ultra-orthodox Jewish group), who was carrying weapons and was killed in an armed confrontation.

By comparison, in the case of Arab protestors, one sees the use of different means of response, including murder. Perhaps the most prominent case in point was the murder of six demonstrators during one day of protest on Land Day in 1976. What, then, is the reason for this difference in dealing with demonstrations held by Jewish citizens on the one hand, and the Arab minority on the other? In order to answer this question, we must first understand the roles of the police and the government, as well as the views and ideologies which guide them. By way merely of example, some Marxist theories understand the police as the government's fist in confronting the workers and their trade unions. An instance of this was the way in which the American government used the police as an iron fist against the trade unions in the 1920s.

---

\* This text is a summary of 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. Dr. Sa'adi spoke on a panel entitled "Protest and the Or Commission".

† Department of Politics & Government, Ben Gurion University.

In the Israeli context, for the sake of attempting to understand the attitude of the police and the government towards Arab citizens, it is necessary to pause to consider the ethnic definition of the state as a Jewish democratic state. I believe that in the State of Israel there is an outward appearance of democracy, or of a democratic structure, which consists of bureaucratic and democratic processes such as elections. However, the content which flows into this structure is Jewish, and undemocratic towards Arabs. Several questions arise from this dual definition of the state, particularly in the light of the content *vis-à-vis* the structure:

- What is the role of state institutions if they are defined as Jewish institutions?
- Is the police force a Jewish police force, given the definition of the state as Jewish?
- Are the courts Jewish courts?
- Are the remaining governmental departments Jewish departments?

A debate exists within the Jewish Israeli community about the meaning of the Jewishness of the state. The prevailing Arab understanding is that the issue of the Jewishness of the state's institutions is restricted to the number of Arab employees within each institution. However, an increase in the number of Arab employees does not imply the transformation of these institutions into non-Jewish institutions; even if there were greater numbers of Arab police, this would not change the fact that the police force as an institution is a Jewish police force, since its actual and conceptual foundation derives from the definition of the state as a Jewish state. As the philosopher and historian Michel Foucault has demonstrated, the concept of power which governs a given institution is also what dominates the consciousness of its personnel.

Israel's self-definition as a Jewish democratic state raises additional questions about how the Jewish majority conceives of itself, the state, and Arab citizens' protests against the state. How does the Jewish Israeli community view protests by the Arab minority? Is this group lenient in affording opportunities for Arab protest against a state defined as their state? Here it is worth contemplating why Jewish citizens attacked Arabs after the latter protested against the state, and not against Jewish citizens. No one assaulted the workers in France after they protested against state institutions.

The thinking which guides the police also produces their training. There is an extensive literature addressing the issue of police professionalism. There is professionalism which relates to the most beneficial uses of the resources and revenues available to the police. There is professionalism which emphasizes institutional memory, the hierarchical structure, and responsibilities within the institution. It should be noted that the Or Commission report discusses at length the work of the police on this point. The goal, according to the report, was that the police would become more efficient through the squandering of fewer resources.

The other approach to the subject of police professionalism starts from the position that protest is legitimate, and that providing the opportunity for protests to take place is a duty of the police. In accordance with this approach, the work of the police in the context of dealing with protests is:

- To clear a space in which citizens can express their opinions;
- To prevent other groups from interrupting the protest;
- To establish open and clear lines of communication between the police and citizens.

The first approach considers the police as the fist with which the government strikes the protesting group. Accordingly, the police resort to the gradual exercise of force. The training methods start from the basis of separating the protestors from the general public, and arresting the protest leaders, and keeping them away from the rest of the demonstrators. The basic starting point of this approach is the necessity of breaking up the crowd or dispersing it forcibly.

In accordance with the second approach, which is based on an acknowledgment of the right to protest, communication between the police and the demonstrators is open. Senior police officers are sent to the protest, rather than young, newly qualified recruits who could take the protest as being directed against them personally. Through its experienced members, the police leadership can contribute to the maintenance of a distance between the police and the demonstrators, the non-use of violence, the use of arrest only in cases where there is a definite danger posed to the lives of protestors, police or other citizens.

These two approaches are also connected to theories of the concept of protest and protestors. Following the French sociologist Gustav Le Bon, the first approach considers the demonstrators to be a band of hooligans. Public demonstration is dangerous. What characterizes public demonstration is its irrationality and its illogical methods. Further, the protestors harbor and give out negative sentiments. Because they are protesting as a group, they lose their individuality, and their ability to make independent value judgments and to differentiate between right and wrong. The rabble is thirsty for blood. It is united, although it is possible to change its path, and control it through individuals considered the leaders of the crowd of protestors.

It is not difficult to detect this analysis of protest in the Or Commission report. There we find extensive analysis of the elected Arab leaders, and pronouncements they made, in particular MK Dr. Azmi Bishara, MK 'Abd al-Malek Dahamshe, and Sheikh Ra'ed Salah. While the Or Commission wrote around fifty pages on what they called incitement by the Arab leaders, they wrote fewer than thirty pages on the police's use of snipers, and less than a single page on the racist anti-Arab statements made by Jewish leaders.

In contrast, the approach which considers protest as a noble activity views the protestor as someone with a concern for public affairs, with the capacity to differentiate between right and wrong, and a public activist for a cause, the justice of which he believes in. According to this understanding, protesting is a positive activity. Therefore, the task of the police in this context is to try to ensure that the protests remain peaceful, so that their message can be relayed to the authorities.

The Or Commission report and the police's actions in October 2000 reflect the first approach. They consider Arab protest to emanate from a herd mentality, while protests by Jewish groups were examined as the result of the emotions of the human conscience. Consequently, the Arabs, like a herd, obey not their consciences but only their leaders. Jews on the other hand, are not moved by racist statements; it is their human conscience which enjoins them to protest. In this way, we can also understand the behavior of the police and the methods and weapons which they used against the Arab community. This in turn is organically linked to the understanding of Arab protest as lacking in any moral or just context or restraints.

A final observation about the Or Commission: I believe that the essential function of the legal apparatus (and the Or Commission, which held quasi-legal deliberations and was composed of two judges and an Orientalist, and can be regarded at least as a quasi-legal body) is to preserve the *status quo*, and not to alter it. That is, to preserve the boundaries of legitimacy. We must not

be surprised that the Or Commission report has been received with widespread esteem, since this report, by design, upholds the *status quo*, and in particular the power relations which govern and control it. After reading the entire report (all 827 pages), I found in it some symbolic references to the Arab community, which were not applied. The organic relationship between the government and the Or Commission can be analyzed from the final lines of its report, and in particular when the Or Commission stops to mention the groups which suffered damages at the beginning of October 2000:

- The first injured group was the Jewish community;
- The second group was the bereaved Arab families;
- The third group was the security forces.

The Arab community, which went out to protest as a result of a moral obligation towards a just cause, received no mention at all. The Arab minority is not one of the damaged groups worth mentioning. An acceptance of the Arab community as such a group would be the embodiment of a disturbance in the balance of power, through an understanding of the defeated individual, who will accept anything the state exposes him to.