

**A Year to the State Investigative Commission
on the October 2000 Events**

Judge (ret.) Theodor Or

The Konrad Adenauer Program for Jewish-Arab Cooperation

The Konrad Adenauer Program for Jewish-Arab Cooperation was established in 2004 by the Konrad Adenauer Foundation and Tel Aviv University as part of The Moshe Dayan Center for Middle Eastern and African Studies. The Program is an expansion of the Program on Arab Politics in Israel established by the Konrad Adenauer and Tel Aviv University in 1995. The purpose of the Program is to deepen the knowledge and understanding of Jewish-Arab relations in Israel through research, publications and documentation.

The Arabs in Israel
Editor: Elie Rekhess

A Year to the State Investigative Commission on the October 2000 Events

Judge (ret.) Theodor Or

Translated from Hebrew
By Judy Krausz

Edited By Renee Goldfischer-Hochman



Tel Aviv University
The Moshe Dayan Center
for Middle Eastern and African Studies



Konrad Adenauer Foundation
The Program for Jewish-Arab
Cooperation

The Konrad Adenauer Program for Jewish-Arab Cooperation
Tel Aviv University
Ramat Aviv, Tel Aviv 69978
Tel: 03-6409991
Fax: 03-6406046
E-mail: arabpol@post.tau.ac.il

ISBN:

©Tel Aviv University, 2004
The Konrad Adenauer Program for Jewish-Arab Cooperation

Cover Design: Yael Kfir, TAU Graphic Design Studio
Graphic Design: Michal Semo, TAU Graphic Design Studio
Cover Photo:
Production:

Introductory Remarks

Elie Rekhess

This booklet contains the text of a lecture delivered by Justice (ret.) Theodor Or at Tel Aviv University on September 1, 2004, under the auspices of the Konrad Adenauer Program for Jewish-Arab Cooperation, as well as my opening remarks.

For years, there were those who contested the very notion of addressing the issue of Arabs in Israel through the tools of historical research. The host of reasons offered claimed that such practice was “premature,” or pointed to the lack of a “sufficient perspective.” Indeed, anyone reviewing the books, articles and research papers on the Arab population published thirty or even twenty years ago, is impressed by the paucity of research materials.

Today, this trend has reversed: an impressive blossoming in the scope and types of research dealing with various issues relating to the life of the Arab population is evident, based on two main dimensions:

- On the substantive level: In contrast to the first two decades of statehood, when such issues were taboo, research is no longer limited to linear analyses of historic development trends or socioeconomic changes of one kind or another: Research now includes explorations of substantive issues underlying the national character of the State of Israel as a Jewish state, and the status of its national Arab minority.
- The second dimension relates to academic disciplines. Today, this topic [of the Arabs in Israel] is addressed by historians, as well as by political scientists, social psychologists, sociologists, anthropologists, geographers, jurists, statisticians and demographers.

Moreover, the results of these research efforts are not restricted to the academia alone. A large number of non-academic bodies have produced, and continue to produce, dozens

of studies and research papers that explore diverse aspects of the social, economic and cultural life of Arabs in Israel. Work is conducted by governmental agencies – especially the Central Bureau of Statistics, the Office of the State Comptroller, and various professional governmental offices; as well as by civil and human rights organizations such as Adalah (The Legal Center for Arab Minority Rights in Israel), other NGOs such as Sikkuy (The Association for the Advancement of Civic Equality in Israel), the Abraham Fund Initiatives and Shatil (Empowerment and Training Center), and others. As a zealous collector of every text published in the field, I can truly say that the bookshelf devoted to this field is filling up, to the point that it constitutes a library in its own right.

This development, however, has turned out to be a mixed blessing. Contradictions and seemingly inexplicable paradoxes are evident. The greater the public and research interest in the Arabs of Israel, the more the State of Israel has retreated, or at least stepped in place, in dealing with the complex issue of its Arab minority.

I could stand here before you and quote numerous statistics about the growing socioeconomic gap between Jews and Arabs, the disproportionate representation of the Arab towns and villages in the lowest strata of Israel's socioeconomic ladder, the gap in allocations for education, and other disturbing figures. Why this disparity exists is the topic for a separate lecture. Nonetheless, we must heed the toll of this neglect, disregard, suppression and denial, especially when socioeconomic unrest in the Arab population has merged in recent years with the clear trend toward growing national awakening. It has become popular to discuss the question of how many Arabs have joined hostile organizations, and indeed, the importance of this question should not be underestimated. Nonetheless, I believe it is no less important to address the widening socioeconomic gaps, the ideological political change, and the emergence of a self-concept of Arabs in Israel who view themselves as a national minority with collective rights.

Regrettably, this multi-faceted process is liable to end in tragedy. Together with other factors, this process was the root of the uprising of October 2000. At that time, as I observed that the tide of rage of the Arabs in Israel was rising, I feared that the handwriting was on the wall. Even more regrettably, I have a similar feeling in the present.

Nonetheless, changes have occurred in the past four years. I am referring to the establishment of the State Investigative Commission on the October 2000 Events, which became known by the name of its chairman, Justice Theodor Or. The very establishment of this commission, and its conclusions, represent a turning point in minority-majority relationships in Israel. For the first time, the issue of the Arab population in Israel was addressed and voiced by an official state body in such an extensive and thorough manner. Of special significance is the first section of the report, which provides a detailed and

frank survey of the grave state to which Jewish-Arab relations in Israel have deteriorated, containing no attempt to mask or conceal the truth.

The validity of these conclusions is further underlined by the fact that they are the product of an official body, a state commission of inquiry appointed by the Chief Justice of the Supreme Court, based on a resolution adopted by the Government of Israel. No less important are the commission's recommendations, especially Sections 12-23 and 40-43, which place this topic on the state agenda as a "highly significant and sensitive domestic topic of interest," and call for urgent action on three time scales: immediate, intermediate and long-range, to attain the goal of true equality for the Arab citizens.

The implementation of the commission's recommendations is a separate question. I will add only that since the Shiloah Institute and, more recently, the Dayan Center showed interest in the topic of Arabs of Israel, the Konrad Adenauer Program for Cooperation, in its previous forms, has steadfastly dedicated itself to addressing the issue of equality between Jews and Arabs, using the tools of our trade, to expand academic research on this topic, as befits our academic institute, while avoiding alienation from the community, and, rather, attempt to make a pragmatic contribution as well.

We are especially honored that Justice Theodor Or, Chairman of the State Investigative Commission on the October 2000 Events, was kind enough to accept our invitation and speak under the aegis of the Konrad Adenauer Program for Jewish-Arab Cooperation, his first such appearance since the Report was published in September 2003.

Kislev 5765, December 2004

A Year Since the Publication of the Report by the State Commission of Inquiry into the Events of October 2000

A Lecture by Justice (ret.) Theodor Or
September 1, 2004, Tel Aviv University

Introduction

A year has passed since the publication of the report of the State Commission of Inquiry that investigated the events of October 2000. Approximately four years have passed since the occurrence of the grave events that were addressed by the report.

Undoubtedly, the events of October 2000 were traumatic events, unprecedented in scope, force or nature. The events began on October 1, 2000, the day that severe rioting erupted in dozens of localities, including cities, in the Arab sector. In the course of the day's events, three citizens were fatally injured as a result of police fire, and many were wounded. On October 2, 2000, the events and their outcomes deteriorated further, with six more people killed.

The first wave of events began to quiet down on October 3, 2000, although two more citizens were killed in that day's events. At some point on October 7, 2000, following the kidnapping of three soldiers by the Hizballah organization, disturbances broke out in various locations in the Jewish sector, some evolving into confrontations between Jews and Arabs. In one location, (Nazareth, on Yom Kippur eve, October 8, 2004), two Arab citizens were killed in these confrontations, one by police fire.

The events, especially those occurring in early October, as well as those occurring on some of the following days, were exceptional and unusual in several respects. Thousands took part in these events that occurred simultaneously in many locations. The violence was fiercely and brutally intense. **The recurrent pattern** in various locations was

extensive stone throwing by Arab rioters at passing vehicles on main roads, to the extent that closure of traffic arteries became necessary. Police forces arriving on the scene to restore order were also attacked by the rioters. Firebombs were also hurled at Jewish civilians and members of the security forces, metal balls were shot at high speed from slingshots, and burning tires were rolled by the rioters. In some cases, live ammunition was even fired at Jews. Jews were attacked on the roads because they were Jews, and their property was destroyed. In some cases, their lives were endangered and, in one incident, a Jewish civilian passerby was killed. Forests, cars and even a bus were set on fire. Public buildings were destroyed, looted and set ablaze. Public facilities and infrastructure were destroyed. Attempts were made to march into Jewish towns and terrorize them. Major traffic arteries were blocked for prolonged periods. Traffic to Jewish towns, especially in the Galilee, was severely disrupted, sometimes even suspended for extended periods. The aggression and violence were driven by great determination, and persisted for long periods, even when a variety of riot-control methods was employed in an attempt to contain them.

From their inception, these riots coincided with fierce rioting in Judea, Samaria and the Gaza Strip. From the start of the events, prominent public and political figures in the Arab sector repeatedly stressed that the concurrence was not coincidental, and reflected reciprocal relations between the Arab citizens of Israel and Palestinians beyond the Green Line [pre - 1967] border. This message had already been underscored in the decision by the Supreme Arab Follow-Up Committee to announce a general strike in the Arab sector. This combination, the simultaneity of grave incidents on both sides of the Green Line, was also unprecedented.

Most important, the events made a serious dent in the fabric of life shared by Jews and Arabs in Israel. These events had the potential to evolve into a grave confrontation between the two sectors of the population.

From the outset of this discussion, it is important to remember and note that the fundamental causes of those events still exist. If action is not taken, if the situation is not transformed, we are liable to find ourselves in a similar or even graver situation in the future. Therefore, in addition to their gravity, these events constitute a warning signal for what may occur. All those involved, both in the Jewish sector and in the Arab sector, were obviously shaken by these events, and realized that, in the absence of any action to alter the situation, additional confrontations with unforeseeable consequences could be expected. In light of the shared understanding by all sides as to where the events might lead, a window of opportunity has emerged for a transformation in the relationship between the state, the Jewish majority and the Arab minority. This window

of opportunity must be exploited while it lasts. It is entirely possible that this window of opportunity will contract or disappear. We must take advantage of this window of opportunity. Indeed, there is a sense of urgency in the need to change things and provide solutions to foundational problems. Ultimately, the establishment of the Commission as well as its findings, conclusions and recommendations, share a single primary goal: finding a solution to the disputes and confrontations between a majority and a minority, between Jews and Arabs in this land.

In my talk today, it is my intention to offer a reminder of the October events and several issues that were addressed in the Commission report, and to make a number of specific observations on the work of the Commission that was comprised by Justice Hashim Khatib and Professor Shimon Shamir, in addition to myself. Commissions of inquiry speak through the reports they submit, just as judges speak through their rulings. The report contains whatever the members of the Commission had to say, and it speaks for itself. Therefore, my aim here is not to add or detract from the contents of the report regarding the description or causes of the October events. In my address today, which of course reflects my own thoughts only, it is my intention to discuss a number of problems that the Commission encountered in its work; I will also comment on several responses to the Commission's conclusions; and I will use this platform granted to me, to introduce some of my own reflections that emerged in the wake of comments and responses to the Commission report, and in light of the decisions and actions taken, **or not taken**, to implement part of its recommendations included in the report. While the year that has elapsed since the publication of the report is an insufficient period of time for reaching definitive conclusions on this matter, we nevertheless may discern trends in the implementation of the conclusions contained in the report. Here too my remarks will not constitute a comprehensive overview, but only observations about specific points.

Causes of the October events

General

Among the causes of the October events noted by the Commission, are **deep-seated causes** that have prevailed and accumulated over a long period, fueling antagonism toward the state and its institutions on part of significant portions of the Arab sector. Added to this matter were problems related to the minority status of the Arab sector, the ideological-political radicalization within this sector, the escalation in the language used by leaders of the sector in referring to state authorities, and the demonstrations of violence directed against various elements of the establishment. The report deals

extensively with this, and with charges of discrimination and unequal treatment of the Arab minority population. I will return to some of these causes.

The report also noted the **immediate causes**, those catalysts that ignited the outbreak that occurred in early October. Among the causes cited were the visit to the Temple Mount on September 28, 2000 by MK Ariel Sharon, and the reactions of the Arab sector to the visit; the rioting that erupted on the Temple Mount on Friday, September 29, 2000, where seven Palestinians were killed during crowd dispersal efforts by the police; and clashes between residents of Judea, Samaria and Gaza and the security forces on September 30, 2000, which also resulted in a large number of persons killed or injured. Among the fatalities of September 30, 2000, was, Muhammad al-Dura, a child whose death was immortalized by television cameras. The footage of his death, which was broadcast extensively, had a significant impact on the Arab street on September 30th and October 1st. The events of the final three days of September 2000 resulted in an escalation in the nature of the reactions and messages in the Arab sector.

Against this background, in the sizzling atmosphere that prevailed in the Arab streets at the time, the Supreme Arab Follow-Up Committee decided to hold demonstrations and marches in all the Arab sector towns.

Indeed, the right of demonstration is recognized as a fundamental and undisputable right in Israel. Nevertheless, in the state of affairs at the time, there was a genuine fear that the planned demonstrations and marches, most of which had not received legal permits, would evolve into riots and confrontations with the police forces seeking the restoration of public order. This was implied on the basis of riots that erupted in the past under similar circumstances. The scenario was familiar.

Towards October 1st, then, several deep-seated causes merged with short-term factors relating to the events that took place prior to October. This combination fueled the events. Commentators of the October events disagree on the relative contribution of each factor and the impact of each on the outbreak and persistence of the rioting. I will not deal here in weighing the influence of each. I will only note that each cause made a unique contribution [to the final outcome].

In my following remarks, I will address only some of the causes of the events and their aggravation. In doing so, it is not my intent to note past injustices in order to highlight the blame or contribution of this or that factor to the events. Neither is my intent to rekindle past differences over the identification of the events' causes and their impact. My sole purpose is this: the exploration of these factors holds an important lesson for the future, so that all parties involved may, by studying the causes of these past events, learn how a repetition of similar events in the future can and should be prevented.

I Discrimination and Deprivation

Without detracting from the significance of the other causes, I would like **at this point** to address the discrimination and deprivation of the Arab sector, with which the Report deals. Some people felt that the Commission should have focused exclusively on the immediate causes of the events and on the specifics of the events themselves. It was likewise argued that the Commission was not tasked to deal with the issues of discrimination and deprivation, since it was not these topics that caused the events. Following this line of thinking, the only underlying causes of the events were the growing tendencies toward political and ideological radicalization in the Arab sector and the identification of this sector with the Palestinians of Judea, Samaria and Gaza in their struggle against Israel. Of course, the contribution of these causes to the events should not be overlooked, but any attempt to dismiss or underestimate the importance of discrimination and deprivation, as an additional cause, is untenable.

On this point, the Report states:

The Arab citizens of Israel live in a reality in which they experience discrimination as Arabs. This inequality has been documented in a large number of professional surveys and studies, has been confirmed in court judgments and government resolutions, and has also found expression in reports by the state comptroller and in other official documents. Although the Jewish majority's awareness of this discrimination is often quite low, it plays a central role in the sensibilities and attitudes of Arab citizens. This discrimination is widely accepted, both within the Arab sector and outside it, and by official assessments, as a chief cause of agitation (p. 33).

It is not surprising that discrimination and deprivation drive agitation. As one Supreme Court judgment stated:

We are prepared to bear burdens, suffering and distress if we know that our fellow man –our equal – is treated as we are and is in the same position; but we will revolt and refuse to accept any situation in which our fellow man – our equal – is granted that of which we are deprived.

The principal of equality has been with us ever since the beginning of statehood, and was articulated as early as the proclamation of the establishment of the state. According to this principle, no public state authority may discriminate between equals, i.e., treat equals differently without relevant justification. This applies to all public authorities, and first and foremost to the state itself. It applies to all areas of the state's operation, and in particular to the allocation of state resources. The law in Israel, therefore, prohibits

discrimination against the Arab public in Israel on the basis of ethnicity, nationality or religion.

Consequently, not only does the noted discrimination produce grave results and constitute a cause of sedition that adduces to other causes in creating disquiet and unrest in the Arab sector, it also constitutes a violation of a basic principle of our judicial system and our democratic government.

This has been recognized by the Supreme Court in a series of judgments regarding claims of discrimination in the Arab sector in various areas: areas relating to the allocation of resources for education by the Ministry of Education, Culture and Sport; the allocation of budgets for religious affairs; the allocation of funds for the maintenance of cemeteries; the allocation of lands, and other areas. This has also been recognized in Supreme Court decisions regarding the proper representation of Arabs in public bodies. Not only did the Supreme Court determine procedures for implementing the provisions of the law on proper representation in the civil service and on boards of directors of government-owned companies, pursuant to explicit provisions in the law (Section 18a of the Government Companies Law, 5735-1975; and Section 15a of the Civil Service Law [Appointments]). The Supreme Court also affirmed the existence of a doctrine, or basic principle, regarding the necessity for proper representation of Arabs in the civil service in general, similar to the doctrine calling for proper representation of women. It clearly transpires from proceedings of the various petitions, and as the state's counsels were aware and confirmed, a distressing picture emerged of many years of discrimination against the Arab sector in areas in areas which required the intervention of the Supreme Court sitting as a High Court of Justice. The Court pointed to this in its judgments and took steps, in each matter that was brought before it, to amend this state of affairs, according to the circumstances of each case.

Nonetheless, the courts are unable to eliminate or overcome the inequality or discrimination. The courts judge only cases brought before them by parties to a dispute. In contrast to the Knesset and the executive arm that determine their own agenda, the court may not initiate hearings. While Supreme Court judgments constitute obligatory precedents for similar cases, and they offer guidelines and a compass reading of what is permissible and prohibited, the operative force of such judgments is restricted to the disputes they address. Indeed, the work of implementation in the field, the systematic and controlled elimination of discrimination, the determination of rules to ensure equal treatment for all sectors of the population, and updating these rules as necessary – all these can and should be performed by others. What is required is more than merely normative determinations, or decisions regarding a specific dispute over the right of

equality. Similarly insufficient are declarations or decisions, by elements in the executive authority, including the government, on the need to take active steps to grant equal and fair rights to the Arabs in Israel. The genuine test of equality is the test of acts and results.

Some people attribute the failure in the past to rectify the injustice of discrimination, to budgetary difficulties. Naturally, such constraints cannot be ignored. But we know, from both the recent and the distant past, that such difficulties always exist in the State. Therefore, we should not accept these difficulties as a justification for the prevention of equality. One way to overcome the aforementioned difficulties is affirmative action in budgetary allocations to the discriminated sector, at a scope and period as is required to bring about true equality. But, what happens if the supplementary budget needed to bring about equality is unavailable, or unavailable within a reasonable timeframe? In such a case, **there is another way of bringing about equal rights**. On this point, let us return to the text of the Report:

The principle of equality obliges an allocation of distributable resources according to egalitarian principles. This means that generally, wherever budgetary constraints prevent an increased allocation for parties who previously suffered from discrimination, existing resources must be re-allocated in an equitable manner (pp. 36-37).

In other words, it will be necessary to reduce the allocation of the sector that received more than the other sector in the past, and correspondingly increase the allocation to the deprived sector. In our context, this implies a reduction in the budget to the Jewish sector in order to advance the equality of the Arab sector.

There are those who dispute the justification for granting equal rights to the Arab sector population under the present circumstances. They claim that whoever does not have equal obligations as his fellow man, cannot justifiably have the same rights. The advocates of this approach call for “genuine equality in rights and duties of all the State’s citizens, both Arabs and Jews.” Hiding behind this general statement is the argument that, as long as no compulsory military or alternative service applies to the Arab sector population, they are not entitled as citizens to equal rights.

This approach is unacceptable. The duties of the citizens of the state are determined under law. To the extent that the law fails to impose duties or demands on members of the minority group, or so long as such obligations are not put into effect, and this situation warrants amendment, the authorities should take steps to amend the situation. But the nonexistence of a duty, or the absence of any action to enforce a duty by the qualified authorities – does not justify the authorities in drafting a “balance sheet”, resulting in the denial of rights or discrimination in granting them. The legislative and executive

authorities that act on behalf of the State are vested with the authority and power to take steps within the confines of the law, to impose duties on the citizens of the state and take steps to ensure their performance. However, this does not mean that they are justified or authorized to divest citizens, or some citizens, of their rights, or impose unlawful conditions on the exercise of such rights. Therefore, I have difficulty with a statement expressed in the findings of the Ministerial Commission on the Non-Jewish Sector (“The Lapid Commission”), which deliberated over the Report of the Commission of Inquiry. According to this statement, **the State’s incentive** to guarantee equal political and social rights to the Arab sector would be heightened by promoting the idea of the establishment of a state civil national service, in which the Arab sector population, which is not called up for military service, would take part. The idea of a state civil national service may be an idea worthy of promotion in its own right. However, promoting it does not constitute a condition for equal rights, and the State needs no such incentive to grant its citizens equal rights. **Let us remember, the granting of equal rights to a minority population is not an act of kindness bestowed by the majority. These rights are granted under the principle of equality, which constitutes part of the law of the land: All are equal before the law.**

It is similarly unacceptable to support the statement, delivered from the opposite direction, namely that the Arab sector will refuse to take part in any national service as long as it is denied equal rights. Statements in this vein have already been voiced in the past. Should the law impose the obligation of such a service, it cannot be evaded by claiming discrimination in other areas.

We have already noted that any amendment of the current state of affairs in the area of discrimination against the Arab sector cannot be limited to the realm of declarations and resolutions. The true test of such correction lies in the implementation of the requisite changes. Following the Report by the Commission of Inquiry, the government decided to establish the Ministerial Commission noted above, headed by Minister of Justice Mr. Yosef Lapid, which submitted its report in June of this year. This report indicates several problems and delays in implementing the various resolutions adopted on the issue of eliminating discrimination.

A series of resolutions on this issue was adopted by the Ministerial Commission on the Non-Jewish Sector [headed by the Prime Minister] on August 19, 2003. These decisions were made after the Commission of Inquiry announced the date for the submission of its report (yet before its actual submission to the government on September 1, 2003). The Lapid Commission considered several of the resolutions [adopted by the Ministerial

Commission on the Non-Jewish Sector] as adequate solutions to several recommendations of the Commission of Inquiry.

- a. One resolution concerned reducing the **discrepancies in the municipal services**. The decision was “to impose a duty on the following parties (cited in the resolution) to submit plans, including details of the parties in charge of implementation, a method for implementation, a budget and timetable for addressing the main problems of the Arab sector, to the Ministerial Commission on the Non-Jewish Sector, through the National Security Council, **within six months**.” As it was worded, the aim of the resolution was, inter alia, to strengthen the local Arab authorities, with the intent to examine the chronic problems hindering their functioning, and remove obstacles blocking the realization of proposed solutions. It also called for recommendations to be submitted on how these could be removed. What was done to implement this resolution? The Lapid Commission Report, published ten months later, notes two words alongside this resolution: “Pending Implementation”.
- b. On August 19, 2000, the same Ministerial Commission also adopted a resolution on industrial development in the Arab sector with an aim of reducing gaps in development levels. This resolution instructed the Ministry of Industry, Commerce and Employment to submit a proposal **within 30 days** for the merger of Arab authorities into joint administrations of industrial zones in geographically adjacent locations. The Ministry was further instructed to examine whether benefits payable under the Law for Encouragement of Capital Investments could be made conditional on the implementation of these mergers. The said proposal was never submitted. According to the Lapid Commission Report, the Ministry of Industry, Commerce and Employment, with other elements, are jointly working on action plans. In other words, although it is needless to say that any proposal is no more than the first step in correcting the situation, and despite the resolution that a proposal be submitted within 30 days, not even a proposal has been suggested in almost one year.
- c. What of **employment**? As is well known, many towns in the Arab sector suffer from serious unemployment. Arab towns “lead” in their high unemployment rates. According to the Lapid Commission Report, the resolution of August 19, 2003 offered a solution to this problem as well. Inter alia, the resolution directed the Minister of Industry, Commerce and Employment to submit recommendations on overcoming the special employment problems of the Arab sector, including the obstacles impeding progress of existing plans on this issue,

and methods of resolution. What was the response to this resolution? The Lapid Commission Report states: “Failure to implement due to excess obligations of the Ministry of Industry, Commerce and Employment. The Ministry is working out plans for dealing with this.”

- d. According to the Lapid Commission Report, there have been numerous and welcome activities to reduce differences in **the field of education**. Various pedagogical programs have been initiated in the Arab sector, along with new technological education tracks. These programs are part of the implementation of the government resolution of October 22, 2000 on a “Multi-Annual Development Plan for Arab Sector Towns.” Although the Lapid Commission Report noted that the major part of this resolution had been carried out, this is not borne out in budgetary data. The plan also included an item on the construction of new classrooms in educational institutions for all age levels. Construction costs alone reached NIS 700m, compared to NIS 346m, the cost of the remaining items. The Lapid Report notes: “Construction of classrooms was not executed.”

The issue of **land** is a topic of unparalleled sensitivity for the Arab sector, and in the context of its relationship vis-à-vis the State. Our Report traces the origins of this sensitivity and the related disputes and confrontations in the past. I will not repeat the statements here. I will only mention that the Commission of Inquiry concluded as follows:

The emotional cargo and national contexts involved do not detract from the State’s obligation to treat its Arab citizens according to the appropriate principles of distributive justice. The Arab sector has legitimate needs that stem, inter alia, from its natural growth. The state must allocate land to this sector and to other sectors on the basis of egalitarian patterns and principles. In principle, there should neither be discrimination against the Arab sector, nor affirmative action to support this sector, compared to what is acceptable for other sectors (p. 767).

The Commission’s position on this point – regarding the State’s duty to allocate State lands in an egalitarian manner - is supported by a Supreme Court judgment in the Ka’adan case.

The Lapid Commission quotes from this decision and expresses its opinion that the resolution of August 19, 2003 contains a response to the Commission of Inquiry’s recommendation quoted above. However, the resolution of August 19, 2003, states that, in this context, “The problems in construction, housing and planning in the Arab sector, among others, will be studied, including the obstacles preventing the full implementation of existing plans, and solutions to these problems; recommendations will be submitted

on methods to solve these problems and remove these obstacles.” The same resolution calls for the Minister of the Interior to submit recommendations for solving problems in planning, construction and housing.

It is difficult to consider this general statement, quoted from the resolution of August 19, 2003, as a response to the clear call, by the Commission of Inquiry into the Events of October, for the need to implement the principle of equality also in the allocation of lands to the Arab sector.

True, according to the Ministerial Commission report (The Lapid Commission), all 73 Arab localities were integrated into the Cluster (“Eshkolot”) Program. This program constitutes “an umbrella scheme to chart a master plan and a zoning plan to enable the establishment of a boundary commission to determine the boundaries for each and every town, expected to submit its recommendations to the Minister of the Interior by the end of 2005.” These plans are of great importance and constitute a necessary condition for solutions to the problems of the various villages and towns. However, the road ahead is still long. Experience shows that implementation dates are flexible. Moreover, we cannot anticipate the nature of the recommendations on the expansion of Arab town boundaries, if any. Furthermore, this provides no direct solution to the issue of land allocation by the State based on the principle of equality. While the Lapid Commission Report also addressed issues such as the sale of additional land to the Arab sector, it noted that such actions are conditional upon the consistent application of the principle of “multi-unit construction” “pursuant to proper needs and principles of planning.” Again, alongside these **highly ambiguous** instructions, no mention is made of equality as the supreme principle to which all should aspire.

Difficulties also emerged in putting into practice the trend to propose **appropriate representation of the Arab sector** in the civil service and on the boards of directors of government-owned companies. The legislator, in two instances of legislation, issued instructions on the need for such appropriate representation and affirmative action to support the Arab sector population. The statement by the Supreme Court underlined the doctrine of such appropriate representation and affirmative action to the Arab sector in public sector organizations, even in the absence of specific instructions dictating such actions. Government resolutions were adopted in this spirit and some even called to achieve a specific proportion of Arab employees in the civil service within a designated period.

Regrettably, the designated goals were not attained, neither in the number of civil service jobs allotted nor in the number of directors appointed to government-owned companies. This is reflected in the Lapid Commission Report, which states: “Delays

by the responsible parties in the government ministries” were the cause of the failure to attain the goals. What hides behind these delays? Who are the “responsible parties” in the ministerial offices, noted by the Lapid Commission Report (itself comprised of seven ministers), who failed to comply with governmental resolutions?

A goal determined by the Ministerial Commission on the Non-Jewish Sector called for the appointment of at least one Arab director to every government-owned company, by August 2004. It was also resolved that no director would be appointed to any board of directors of the above companies until the goal was achieved. The report stated that the Prime Minister, who heads the said Commission, stressed the need to meet this goal. In practice, there was no increase in the number of Arab directors in government-owned companies. Apparently, despite specific requests, the majority of the ministers failed to propose Arab candidates for the government-owned companies under their responsibility. Here, then, is yet another example of a significant gap between plans, pronouncements and even governmental resolutions on one hand, and their realization and implementation, on the other.

I have mentioned only several examples of the disparity between declarations of intent and even government resolutions, and their implementation. The requisite conclusion is that a genuine change in priorities as well as in implementation and day-by-day monitoring, is necessary to achieve significant equality for the Arab sector. As the October events recede into the past, there is a creeping fear that the sense of urgency in dealing with this topic may dissipate.

Preparations by the Israel Police

As I have already noted, several causes came into play at the time of the October events, which, combined with the underlying causes discussed above, and contributed to the events, their scope and their intensity. **One of these causes was a lack of sufficient preparedness by the Israeli police on October 1, 2000.** In its Report, the Commission dealt in detail with the security forces’ anticipation of significant disturbances in the Arab sector on that day, in light of the September 30, 2000 decision by the Supreme Arab Follow-Up Committee and the events of the last three days of the month of September 2000, which we noted above. In light of these, a day of violent confrontations was projected, called “Land Day Plus” by some. Incidents were expected in a not insignificant number of Arab sector towns where demonstrations and marches were planned. There was a tangible danger of serious riots. These dangers featured clearly in official situation assessments by relevant authorities, especially in police assessments.

Nevertheless, and despite clear and explicit police regulations that called for reinforced deployment in anticipation of scenarios of this type, the police were inadequately prepared on October 1, 2000 for these anticipated events. No forces were concentrated in the area of the Northern Police District, identified as potential sites of disturbances on the basis of similar incidents in the past. As a result, the Northern Police District had no significant forces in place in close proximity to the sites of the events as they unfolded and no significant forces were available to support the response to these events.

In this state of affairs, it was clear that the police would be unable to respond effectively and efficiently, should the anticipated disturbances erupt on a scale similar to the events of “Land Day Plus.” As a result of this failure, it was not before late in October 1, 2000, that a more significant array of forces was deployed in the Northern District. As a result, the police stood helpless at the critical stage of the outbreak of the disturbances. Police forces at various sites had difficulty dealing with the riots. In many locations, disturbances occurred with no response from the police whatsoever.

Three Arab civilians were killed on that grave day. This result undermined attempts to bring the events to an end and contributed to the further escalation of the rioting. Consequently, the Commission determined that “there is a significant probability that, had the plans [for police deployment] been activated as required, at least some of the grave consequences of the police’s actions on that day would have been prevented.”

Involvement of the Arab Leadership

The **incendiary messages by the Arab leadership** were an additional factor that contributed to the rioting and their escalation. Prominent Arab leaders contributed to the heated tempers, inflamed the crowds, especially the young people, and incited them to persist in their confrontations with the security forces.

These actions share several features. Let us review the main features.

First, the claim by leaders and prominent figures from the Arab sector that the events on the Temple Mount on September 29, 2000, in which seven Palestinians were killed, were a “planned massacre” conducted by the Israeli security forces, which compels the Arabs of Israel to come out in protest. This seditious claim was groundless. Of particular prominence in this context was a manifesto issued by the Supreme Arab Follow-Up Committee at the height of the intensive riots on October 1, 2000, the first day of the events. Even though no incidents were taking place on the Temple Mount at that time, this manifesto claimed that the “massacre” on the Temple Mount “persisted to the present.”

A second feature of the messages conveyed by the Arab leadership, was the link drawn between the events within State borders and simultaneous events in the territories

of Judea and Samaria. The Commission deals with this in its Report (pp. 762, 769-70). Notably, at that very same time, a violent intifada [uprising] was initiated in Judea and Samaria, in which live fire was used against Jews, and a not insignificant number of Palestinians were injured by security force fire. On this backdrop, the very fact that Arab leaders defined the events within the State as an “intifada,” had an inciting effect.

A third feature of the messages by Arab leaders during the events was **praise for the participants from the Arab sector in the rioting, with special emphasis on admiration and veneration of the bravery and self-sacrifice of the young people who confronted the security forces**. This motif was reflected in manifestoes and public statements issued by the Supreme Arab Follow-Up Committee, as well as in statements by leaders and other prominent figures in the Arab sector. In the few statements that criticized the disturbances, criticism was directed solely to the destruction of public institutions and vital services. Not a word of criticism was directed, or implied, against the grave attacks committed against Jewish civilians and their property or against the security forces.

A fourth feature of the Arab leadership’s actions during these events was the absence of any concrete action prior to October 3, 2000, to contain the rioting. As noted, the Arab leadership instigated a general strike on October 1, 2000, even though the strike and marches were expected to evolve into violent disturbances. Nevertheless, as the day grew near, no appeal to maintain public order was voiced. Even after the grave events of that day, the Supreme Arab Follow-Up Committee decided to extend the general strike an additional day, and as foreseen, this led to even heavier rioting. Only on October 3, 2000 did the Supreme Arab Follow-Up Committee effectively announce a return to normalcy in most towns.

Police Actions During the Riots

Another factor that emerged during the course of the events was the **modus operandi of the police forces**. A significant portion of the conclusions and recommendations in the Report of the Commission of Inquiry addresses **the work of the police and their deployment in preparation of disturbances**. In its report, the Commission dealt at length with the severe budgetary constraints of the police prior to the October 2000 events and with the fact that the police had an insufficient number of officers capable of controlling disturbances and dispersing crowds. The Commission also dealt extensively with failures and omissions by the police on a series of issues: the procedures it established, the training conducted for policemen to handle serious disturbances; the failure to perform appropriate and adequate practical drills for scenarios of such events

and their related risks, and the shortage of various means required to control public riots.

Regarding the means used in the October events, the Commission determined that snipers used live ammunition for deterrence purposes when there was no tangible or immediate danger to life, without advance warning, and when circumstances did not justify such use.

A special section of the Report was devoted to a discussion of the rubber bullets used by the police during the October events. This ammunition is potentially lethal and its widespread dispersion creates the risk of collateral damage to sensitive organs or to individuals, whose injury was neither intended nor justified. The instructions in force during the October events permitted fire at the range of 40-50 meters, a range in which this ammunition is potentially lethal. It also became apparent that police officers encountered a fundamental problem in estimating the distance to their targets, and had received no appropriate training on this issue. It emerged that the previous tests conducted on this ammunition prior to its introduction into use, were inadequate and insufficient to support an informed determination of its lethal potential.

Despite all the above, rubber bullets were the primary means of riot dispersal used by the police before and during these events. In light of the overall risks involved in their use, the Commission recommended that they be removed from police use and, in order to prevent collateral damage, replaced with other kinetic ammunition, which could be used in a precise manner in situations of danger to life calling for the use of less lethal ammunition than live fire.

The Conduct of the Police Command and the Political Echelon

The Commission also touched upon various flaws [in the performance] of police officers at diverse command ranks. The Commission additionally determined that the above noted problems and flaws in preparing the police for the events also contributed to the escalation of the disturbances and to their unparalleled scope and intensity, as such was witnessed in October 2000.

On another level, the Commission determined that the police failed to conduct the required operational debriefings in respect of most of the October events. On a related issue, the Commission determined that no activity reports, as required by police procedures, were completed for most of the incidents that occurred during the October events. These flaws contributed to fact that the command level, including the Chief of Police and the District Commander, was unaware of many details of these events, which ended in grievous results, either as these events unfolded or immediately thereafter.

The Commission also noted the failure, during the first days of the events, to issue the necessary instructions for a restrained response, which might have alleviated the situation. Neither did the police officers in charge take any concrete steps to investigate the causes of the fatalities of those first days as soon as possible.

On this matter, the Commission determined that both the Minister of Internal Security and the Prime Minister failed to fulfill their duty at the time to provide proper supervision and appropriate guidelines to the police in all aspects of the use of lethal weapons or request a full and detailed concrete report as soon as possible on the conduct of the police during the events in which civilians were killed, and on the reasons for the grave outcomes of these events.

Responses of the Israel Police to the Commission's Recommendations

In its recommendations, the Commission stressed its recommendation to the police to improve its services to the Arab sector as a means to counter the sector's prevailing perception of the police as a hostile element. In this context, the Commission emphasized the importance of expanding community police services in the Arab sector, to be supported by a substantial reallocation of internal budgets. The Commission emphasized the need for the police to assimilate the importance of sound and moderated conduct vis-à-vis the Arab sector, and insisted on the need to uproot any prejudice against this sector. The Commission recommended that the police set higher standards for its commanders, and for the nature of its commanders' ties and communications with the leadership of the Arab sector. At the same time, the Commission recommended that the police demonstrate a clear position on all aspects of law enforcement in the Arab sector, including matters of illegal construction and of illegal incitement to use violence.

To its credit, the police leadership was attentive to the evidence brought before the Commission and to the called-for conclusions, as to the conclusions of the Commission. **Some of these matters were addressed while the Commission was in session**, even before the Report was submitted. In this context, there was a considerable improvement in communications between police commanders and Arab sector leaders, as well as communications in anticipation of events liable to deteriorate into violent clashes. Inter alia, the police approved rules of engagement during disturbances, which provided a solution to several problems in police training on this subject. Following the events, there was a genuine change in the means of riot and crowd control distributed for police use, with a sharp increase in weapons based on teargas, and a corresponding reduction in the quantities of rubber bullets. The relative share of rubber bullets in all ammunition in use also decreased. In fact, diverse means of defense were acquired in large quantities.

Instructions regarding the firing of rubber bullets were amended and, although rubber bullets remained in police use at the time, the use of rubber bullets was effectively suspended in the Northern District.

After the publication of the Commission Report, the police addressed its findings, conclusions and recommendations in a thorough and systematic manner. Police reports to the Lapid Commission indicate that police teams were established to discuss the Commission conclusions and implement its recommendations and conclusions, in order to make the necessary improvements. Inter alia, various practical steps were taken to put many of the recommendations into practice, while other actions are presently in the planning stage. On this point, it should be emphasized that the police removed rubber bullets from use entirely, at the Commission's recommendation. The police also followed the Commission's recommendation to refrain from deploying special anti-terrorist forces or snipers, to handle civil disturbances.

Nonetheless, the police lack the necessary resources to establish a force of thousands of policemen dedicated to the control of civil disturbances. According to police estimates, it lacks resources for thousands of jobs, some of these in the special forces, to handle extreme disturbances. The lack of manpower is even more evident regarding police services to the Arab sector. In order to match the relative number of police officers allocated to the Jewish and Arab sectors, several hundred additional police officers are needed to serve the Arab sector.

Overall, the police remain short of means and manpower, and much remains to be done. Hopefully, however, the steps that have been taken and those that are planned will substantially improve the police's ability to fulfill its tasks and deal effectively with large-scale disorderly conduct. Naturally, and this is the main point, and it is toward this goal that efforts must be directed, we hope that there will be no further need to deal with events such as those of October 2000 in the future.

Responses to Arguments Raised Against the Commission of Inquiry Report

General

The discussion above provides an appropriate background to address several arguments raised following the publication of the Commission of Inquiry Report.

Before touching upon these arguments, a general note is warranted. A commission of inquiry that fulfills its task properly cannot avoid addressing the complete scope of events submitted to its inquiry, or avoid holding up a mirror to the establishment or to other elements of society whose actions it is required to investigate. This is true in our case as

well. The range of events and activities is covered on hundreds of pages. The situation reflected in this mirror is described at length in the Report. Some parties may certainly view this picture as uncomplimentary. The Report is critical of acts and omissions that contributed to the events and the failure to deal with them. The Commission was obligated to express its opinion on all these. The Report evoked displeasure and criticism from both sides of the fence, as was, of course, entirely expected. We also encountered criticism, which was ungrounded, for having seemingly ignored this or that matter in our Report.

The Report Addresses the Involvement of the Arab Leadership

One line of criticism concerns the Report's **treatment of the conduct, acts and omissions of several prominent Arab sector leaders** – MKs Dr. Azmi Bishara, Abd al-Malik Dahamsha and Sheikh Ra'id Salah. The Report contains a detailed account of the acts and statements of these individuals, before and during the events. Their acts and messages were consistently designed to encourage and incite opposition to members of the establishment acting in an official capacity, as well as to police actions. Their statements extolled and encouraged violent responses and actions.

Preceding and during the events themselves, as the Report details extensively, these figures and their movements expressed seditious messages both regarding Israel's actions in Jerusalem and the territories of Judea, Samaria and the Gaza Strip, and regarding the need to confront the security forces as a means of expressing identification with the intifada across the Green Line. They were parties to such messages even while serving as senior members of the Supreme Arab Follow-Up Committee.

The Commission felt that it was duty-bound to address this issue. The resolution to establish the commission of inquiry obligated the Commission to study the causes of the events, both the antecedents and the factors emerging during the events. On this matter, the Commission was explicitly required to explore the conduct of the instigators and agitators of the events.

Furthermore, this was not a situation where, as some claimed, the victims turned tables on their aggressors. The messages communicated by the leaders reflected a trend designed to infuse and induce the Arab population in Israel to adopt the path of a belligerent struggle, a path which the leaders clearly should have understood was neither legal nor allowed. The Arab leaders perceived and consequently presented this path to the Arab sector public as a legitimate option to achieve its goals. Several leaders of the Arab sector supported this thesis when presenting their version to the Commission.

Therefore, the Commission saw before it a situation in which messages, increasing

in ferocity, justifying acts of violence, were conveyed by various methods, with the aim of influencing the public. It also emerged that significant segments of this public in fact acted upon these messages as intended. In such a situation, the Commission, under the terms of its appointment, could not avoid issuing a clear statement on this issue. If our goal is to avoid similar events in the future, which the Commission presumed to be one of the main goals underlying its establishment, all the actual causes and contributory factors of the events must be examined honestly, fearlessly and impartially so that **all** the parties concerned draw the necessary lessons and conclusions. Just as the Commission did so – and in detail – regarding the police and the political echelon, it was also obliged to do so regarding the leadership of the Arab sector. As the Commission determined, it is impossible to ignore the role this leadership played both before and during the events, in creating the atmosphere that fired the events and their intensity.

Recommendations Regarding Specific Individuals

Another matter upon which I would like to touch concerns **the absence of personal recommendations regarding several individuals who were admonished by the Commission**. The criticism on this issue drew from two directions: Some people criticized the lack of recommendations for sanctions against the Arab leaders who had been cautioned by the Commission and whose acts had been proven before the Commission. The critics argued that this reflected bias in favor of the Arab sector leaders. Other critics argued against the absence of any personal recommendation regarding Mr. Barak, who was Prime Minister at the time of the events. The contents of the admonishment issued to him by the Commission were partially confirmed. On this matter, I would like to add two remarks.

My first remark concerns the main reason for the omission of such recommendations. The actions of the three Arab leaders, and the force of their public weight, were effected in their official capacity as lawfully elected public servants. At the time of the events, two of the leaders, Dr. Azmi Bishara and Abd al-Malik Dahamsha, acted in their capacity as Members of the Knesset, while the third, Sheikh Ra'id Salah, headed a local authority. The requisite sanction concerned their right of re-election.

The Commission found no grounds for recommending that the government (to which the Commission's recommendations were submitted) impose personal sanctions against the Arab leaders. Underlying this decision was the fact that neither the Commission nor the government, nor any other body, has the legal authority to prevent the election or appointment of public servants, as long as the individuals in question meet the qualifications for election under law. Any recommendation on this issue would be totally

ineffective, and neither the government nor any other authority had the means available for its enforcement. I believe that in the absence of an appropriate legislative provision, such a recommendation is also inappropriate from a constitutional perspective.

The Commission reached a similar decision for the Arab three leaders and for Mr. Barak, Prime Minister at the time. As the Report noted, “the office of prime minister is in essence an elected office, even under the current electoral system.” The individual heading a list of party candidates is designated as the person who forms a government on that party’s behalf. In this respect, every vote for the party list is a vote for the leading candidate to form a government. In as much as the omissions attributed to Mr. Barak, according to the Report, relate solely to his office and his actions in his capacity as prime minister, the Commission similarly did not see fit to make any practical personal recommendation for Mr. Barak. In both cases – that of Mr. Barak and that of the three leaders of the Arab sector – the Commission saw no cause to curtail their right of re-election. Certainly there was no bias here.

Notwithstanding the fact that the Commission found no cause to **recommend individual sanctions** against these individuals, for the reasons noted above, my **second remark** wishes to highlight the **personal conclusions** noted in the Report regarding their acts or omissions. In its account of the facts, findings and conclusions, the Commission extensively discussed the role and contribution of each of these individuals to the events. **These findings and conclusions lie at the heart of the matter. They also point to some of the antecedents of the events and the lessons we must draw to prevent the occurrence of similar events in the future. Our attention must be focused on all these elements and the public must be made aware of them. These were discussed at length by the Commission.**

The Report Addresses the Performance of the Police and Political Echelon

Another line of criticism voiced against the Commission concerns its statements on **the conduct of the political echelon and of police officers of all ranks during the events**. Arguments in this vein pointed to the inconsistency between the Commission’s statements regarding the exceptional intensity of the events, and the Commission’s critique of the police methods used to cope with these events.

The response to these arguments is simple. There were two main sides in the confrontations of the October 2000 events: the rioters, on the one hand, and the police forces and their superiors, on the other. The fact that the events were of exceptional intensity and scope does not, in itself, imply in any way that the response was correct or appropriate, or that an examination of the conduct of the professional and the political

echelons in these events is not justified. On the contrary, the very exceptional nature of the events requires the special attention of most senior police commanders and political officials, if only due to the critical need to select the most effective method of control to alleviate such situations.

For this reason, it is very significant that the senior echelon failed to issue clear instructions for a restrained police response, during the first two days of the events. The Commission heard a great deal of testimony about the escalating effect of the police's vigorous response in various arenas, which included the use of rubber bullets and sniper fire. These testimonies did not necessarily come from Arab sector sources. They were also voiced by key senior officials in the area of domestic security. Some of the arguments even noted a direct relationship between the irregular nature of the events compared to similar past events, and the escalation in police response patterns compared to its conduct in the past.

These remarks are not intended to detract from the severity of the events, independent of the police response. This is not the point. The events were serious and unprecedented, and this finds expression throughout hundreds of pages in the Commission Report. These arguments, however, reflect the expectation that response patterns of the police remain within acceptable boundaries, even, and perhaps especially, in the face of events as grave as these. The police and the superior officers were expected to use force only to the extent appropriate for the circumstances. The police are not entitled to exercise excessive force in any arena simply because severe violence occurred in a second arena or time. **In other words, the subordination of law enforcement to the rule of law is not suspended by grave, even unprecedented, events. The gravity of events does not, and should not, grant anyone immunity from scrutiny of his or her methods of action.**

Examining the legality and reasonability of an act vis-a-vis the prevailing law and procedures is required, not merely because the security forces are duty bound to avoid unjustified injury or harm to citizens' bodies and lives. Such an examination is also required because of the duty of senior echelons to act in a reasonable manner terminate grave events such as the October events, with minimal casualties. Indeed, the instructions issued by the political echelon from October 3, 2000 onward, were consistent with this approach. From that day, the political echelon stressed the prevention of bodily harm and damage to property, based on its understanding that this was the key to subdue the events. In practice, the riots did subside to a substantial degree following the significant change in the police *modus operandi* on October 3, 2002 (and the concurrent moderation in the Supreme Arab Follow-Up Committee messages to the Arab sector). The conclusion is that any inquiry into the preparations and the responses to these events is separate from consideration of the intensity of the events.

The Issue of Inquiry Findings Regarding the Immediate Causes of the Fatalities

Another type of criticism concerns the Commission of Inquiry findings regarding **the circumstances in which Arab civilians were killed during the October events**, and Commission's recommendation to investigate these events by the Department for the Investigations of Police Misconduct (DIPM) under in the Public Prosecutor's Office.

On this point, I would like to emphasize that the Commission examined at length the circumstances of each of the incidents involving fatalities, in an attempt to reveal the truth. These investigations lasted weeks and sometimes months, and hundreds of police officers were questioned. In its conclusions, the Commission established the timeline of events in each case. In several of the events, the collected evidence supported a reasonable identification of the police officer personally responsible for the fatality. On the basis of the evidence presented to the Commission in the majority of the cases, however, such determination was impossible. It was only possible to determine which police unit was responsible for the fatality and whether the force applied was justified under the circumstances. Obviously, the conclusions drawn by the Commission on these matters carry significant implications in themselves.

Several factors combined to create the extreme difficulty in determining the circumstances in which the victims of the October riots died.

First, a commission of inquiry lacks the means of investigation available to the police (or the DIPM). In contrast to these authorities, a commission of inquiry cannot use various investigative tactics or procedures that potentially help determine the truth from among versions of several individuals, each of whom could be held responsible for the fatal outcome in a specific event under investigation.

Second, during the early stages of the Commission's work, complainants from the Arab sector refrained from cooperating with members of the Commission or law enforcement officers. Their testimonies were first heard by the Commission only several months after being deposed by a third party, with all the implications of this situation. Moreover, in most of the incidents where citizens were killed, permission to perform an autopsy was denied. Such permission was denied even during the Commission's work, despite the Commission's appeal to the families of the deceased.

Third, the police failed to adequately record its actions, as its procedures required. In the vast majority of cases, police officers failed to complete activity reports, and in most cases no debriefing was conducted as required.

Fourth, in general, the DIPM failed to collect evidence regarding the events in which civilians were killed, failed to collect evidence from the field and made no attempt, immediately after the events, to identify the officers involved. Thus, the Commission

of Inquiry had no material from the DIPM that might have supported its investigation into the circumstances of the deaths of the 13 victims, and the determination of the responsible parties.

Some claimed that the absence of the said investigative actions by the DIPM stemmed from the establishment of the investigative committee of these events, or the subsequent establishment of the Commission of Inquiry. But we know that the DIPM conducted investigative procedures into some of the October events, including for example, the events that occurred in Nazareth at Mary's Well Square on October 1, 2000 on the Street of the Banks on October 2nd and in Safafra neighborhood on October 3rd. It was only six months later that the DIPM decided to suspend its own investigations of the events pending completion of the investigation by the Commission of Inquiry.

Another charge voiced was, that the DIPM failed to investigate the events due to an absence of formal complaints regarding most of the events, and a lack of cooperation on part of Arab sector eyewitnesses regarding all of the events. This is true. At the same time, notwithstanding the lack of formal complaints, the police, according to regular police procedure, notified the DIPM of every single event in which civilians were killed in police actions, and this was sufficient to initiate an investigation. It is also true that even though it was impossible at that stage to record statements from Arab sector eyewitnesses, it was possible to investigate the police officers and officials. This is what the Commission of Inquiry did. These testimonies were sufficient to discover, for example, what occurred in Um-al-Fahm on October 2nd with all aspects to sharpshooter fire, or to discover the identity of the force that operated in the eastern neighborhood of Nazareth on that date, in an incident in which an Arab civilian was killed, or uncover many other facts relating to events with civilian casualties.

The omissions of the investigation and the deficient documentation of the events placed serious problems at the Commission's door. For a large portion of the events, the Commission's first task was to identify the police force that operated on each site. Taking into consideration the scope of police forces involved in operational actions and the extent of their mobility, and the number of events at hand, the time element was critical in this context and posed a genuine obstacle for the Commission of Inquiry. This also prolonged the Commission's investigations.

Naturally, in the absence of evidence collected from the scenes during or immediately after the events, the Commission of Inquiry, which was established almost one month after the events subsided, had almost no finding from the sites of any of the events and was forced to rely on highly incomplete documentation and eyewitness testimonies. Needless to say, this fact also made it extremely difficult to determine which parties were responsible for the fatal results in any specific event.

The Commission recommended that the DIPM conduct an investigation on a series of events, including those events in which 13 individuals found their deaths. The Commission intended that the decision to file charges and, if so against whom, would be made in light of such an investigation. However, it appears that no conclusions have been drawn to date on whether to file charges relating to even one of the events transferred to the DIPM for investigation. According to the formal explanation, this is due to insufficient manpower for the DIPM investigation, which stepped up the pace of its work only when the DIPM received the requested assistance. In light of the grave consequences of these events, which called for an investigation by the DIPM, and in light of the fact that the testimonies by witnesses deposed for the Commission and the Commission's proceedings themselves were accessible at all times to everyone, including DIPM investigators, even during the work of the Commission, and in light of the fact that over a year has passed since the Commission presented its recommendations in its report – it is regrettable that the DIPM has not accomplished more by now.

(Additional) Remarks on the Report of the Ministerial Commission

I would like to add two short remarks on issues that have found expression in the report of the Ministerial Commission on the Non-Jewish Sector (“the Lapid Commission”). At this opportunity, these will be the only additional comments on this report.

Following several issues mentioned in the report of the Commission of Inquiry, the Lapid Commission recommended to initiate an educational effort on diversity. The Commission recommended to devote one week of the school year to teaching youngsters about the characteristics of the various sectors and groups comprising Israeli society, with an emphasis on the diversity of customs, language and culture, on one hand, and an emphasis on equality and citizenship as Israelis, on the other hand.

The Commission of Inquiry also proposed the following idea:

Perhaps the time has also come to give expression in public life to the common denominator of the entire population, by adding national events and state symbols with which all citizens can identify; and it is further warranted to discover ways of reinforcing Arab citizens' sense of belonging to the state, without compromising their [sense of] belonging to their culture and their community.

In response, the Lapid Commission proposed to set aside an annual date devoted to the exhibition of civic partnership designed to enhance tolerance and solidarity among all sectors in Israel. A public commission would set the date for this annual Tolerance Day and determine its contents.

Both recommendations by the Lapid Commission were viewed frostily in the Arab sector, to say the least. Some people spoke against these proposals, claiming them inappropriate as long as inequality and discrimination prevail.

This is an unfortunate response. The two proposals were not designed or even presumed to be a substitute for any modification or amendment in various areas, to the extent that such are required. The proposals were designed to enable or facilitate dialogue, enhance mutual awareness of the sectors and create the appropriate atmosphere of trust to promote fraternity. Any approach that rejects this, undermines the very goals of equal rights to which the Arab sector strives.

Arab sector leaders also responded gravely to the composition of the Lapid Commission. Because of their displeasure at the Commission's composition, Arab sector representatives refused to appear before the Commission's plenum sessions, and instead, presented their petitions to the Commission Chairman alone. With all due respect, this was a commission established by the government of Israel, reflecting the majority in the Knesset, the very same government authorized to act on behalf of the state. Arab sector leaders were entitled to express their disappointment over the Commission's composition, and its conclusions and recommendations - or the lack thereof on specific issues - were open to criticism; But these leaders could not "select" a ministerial commission of their own choosing or determine the composition of its members. In any case, the "ban" imposed on the commission was unwarranted and did not promote the interests of the sector these leaders represented.

What Next? Reflections on the Future

The inescapable question hanging in the air is, what does the future bode for the relationship between Jews and Arabs in this country? Will an awareness and understanding of the underlying factors of the October events, their progression and their grave consequences, lead to a change? Will the diverse causes of the October 2000 events be treated, and will we find a way to prevent the recurrence of similar events? In its report, the Commission felt the need to express several comments on the future. At the same time, the Commission was careful to avoid taking or proposing any specific political path. This is what we said, *inter alia*, in the concluding remarks of the report:

The clashes that occurred in these events, and their grave results, widened the gulf and reduced the contact between the two societies, and exacerbated the suspicion and antagonism. Still, it is not our belief that these events marked a point of no return in the relations between these two sectors. Beyond the harsh statements repeatedly heard on both sides, each side has firm and clear interests in maintaining stability and

cooperation. Ultimately, the events of October effectively attested to the co-dependence of both societies and demonstrated the lurking dangers of extremism and confrontations. Although complete reconciliation may not be achievable in the near future, it is certainly possible.

Indeed, every effort must be made to ensure peaceful coexistence between Jews and Arabs in this land, and thus to ensure that events similar to those in October do not ever recur. The proximity of Jews and Arabs as neighbors is an existential fact that grants both sides only one practical option, which is coexistence based on mutual respect. The remaining options are all prescriptions for heightened tensions, increased distress, and the undermining of public order.

Coexistence is not easily achieved. It poses demands that are not easy for either side. It requires attentiveness to others, understanding their sensibilities and respecting their fundamental rights. The Arab citizens must bear in mind that Israel constitutes the realization of the Jewish people's dreams for a state of its own, a state where Jews are the majority, and state founded on the principle of ingathering of the exiles— and that is the very essence of the state's significance for its Jewish citizens. The Jewish nature of the state is a constitutional fact that is reflected, *inter alia*, in the centrality of Jewish history and the Hebrew language in the public sphere. The Jewish majority must bear in mind that the state is not only a Jewish state, but a democratic one and— as we noted above — equality is one of the central bricks in the state's constitutional structure, and the proscription against discrimination applies to all citizens. The Jewish majority must understand that the events that transformed the Arabs into a minority in this state constituted a national catastrophe for them, and that their integration into the State of Israel involves painful sacrifices on their part. The Jewish majority must respect the identity, the culture and the language of Israel's Arab citizens (pp. 779-80).

In the section quoted above, we had the opportunity to point to what we believe are the basic necessary conditions for achieving a sustainable mutual relationship. In various sections of the Report we also pointed to issues that demand modification and redress. Still, we refrained from drafting a prescription or path leading to the brotherly and peaceful coexistence of the two sectors in the long run. It is questionable whether, in principle, such a scenario exists, one that can be defined in the present for the future, one that both sectors would be willing to use to stride upon with determination and vigor until the goal is achieved. The shock experienced by the citizens and residents of this country in October 2000, and the longing for a wonder drug to prevent a recurrence of those times, with similar or even graver consequences, underscore our desire to discover a formula for salvation that would lead us to the resolution of disputes, and to a life

of security, peace and brotherhood of all the inhabitants of this country. It is highly probably, however, that this is a mere illusion, and the path that we must assume towards our goal is made of measured, somewhat hesitant steps, rather than daring leaps and bounds whose consequences are unforeseeable. It appears that we first must establish an appropriate climate, an atmosphere of anticipation, a willingness to accept change, achieve reconciliation, make sacrifices and give greater consideration to the other side. The looming shadow of the crisis such as we all experienced in October 2000, has the power to facilitate this move. It seemed for a moment as if all the parties concerned stopped for a second, were willing to rethink the issues, look out upon the window of opportunity, and see the imminent dangers ready to descend if things do not change.

Several witnesses who appeared before the Commission during its deliberations, claimed that “the writing” had been “on the wall” prior to the October events. My dear ladies and gentlemen, whether you adopt that position or a different approach to cope with the reality in which we live, the friction and confrontations between the majority and minority in this country, we must remember this: The writing still remains on the wall.