

**The Arabs in Israel –
Two Years after the Or Commission Report**

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The Konrad Adenauer Program for Jewish-Arab Cooperation

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September 19, 2005 at Tel Aviv University

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Fundamental Problems

The Commission's report, published two years ago, prompted mixed reactions. Initially, words of criticism appeared more prominently than other responses. The arguments against the report were extremely varied and came from different sources. According to one argument, for example, the Commission allegedly failed to give sufficient weight to the severity of the riots and failed to reflect sufficient understanding of the police officers' plight. Other arguments claimed that the Commission's conclusions concerning specific individuals who were admonished were either too severe or too lenient – depending on the critic's viewpoint. In the Arab sector, criticism was voiced regarding the Commission's failure to identify all the police officers who fatally shot demonstrators. One widespread argument claimed that the Report's criticism of the Arab leadership was introduced solely to "balance" the criticism of Jewish politicians and police officials. There were such and other arguments, some of which were addressed by the Honorable Justice Theodor Or, in his lecture here on September 1, 2004.¹

However, with the growing inclination to address its full ramifications, public attention in both sectors soon focused on the substantial content of the Report. At the conclusion of a debate during its session of September 14, 2000, the Israeli Government expressed its fundamental position supporting the adoption of the Commission's recommendations.

* The following statements reflect the personal opinion of the author only. The Or Commission no longer exists.

Despite reservations on certain points, the High Follow-Up Committee for the Arab Citizens of Israel determined that the Report could "serve as an important historic turning-point in the relationship of the State of Israel with its Arab citizens [...] with a view toward a future [...] based on mutual respect, collaboration, equality and genuine democracy."²

During the initial period following the publication of the Report, interest, primarily on part of the media, focused on the specific Report recommendations concerning the politicians and police officers involved, yet it is my impression that, as time passed, attention was redirected to the more **essential** statements contained in the Report, those statements addressing the fundamental problems of the state of the Arab citizens in the State and society of Israel – fundamental problems that stood as a backdrop to the October Riots, and which have the greatest significance from a long-term perspective. The current call heard from different quarters to "carry out the Or Commission recommendations!" that appears to be gathering force, refers primarily to these sections of the Report.³

Indeed, the Or Commission Report addressed these fundamental problems extensively, and apparently surprised some of its readers who had expected a technical report, limited to a discussion of the immediate causes, similar to reports of several governmental committees of inquiry in the past. The Or Commission Report addresses these issues on two levels:

First, the Commission pointed to several basic truths concerning the nature of the Arab minority and its own perceptions of its situation in the State of Israel. The Commission cited the following facts:

1. "The Arab minority population of Israel is an indigenous population which perceives itself subject to the hegemony" of a society, that is largely not indigenous.
2. "The Arab minority in Israel is a majority transformed"; it bears a heritage of several centuries of belonging to the majority, and views with disapproval its minority status, forced upon it with the establishment of the State.
3. "This reversal was the result of a harsh defeat suffered by the Arabs" which, "in their historical memory, is tied to the Nakba - the most severe collective trauma in their history."
4. "There was a continuous dynamic aspect to the decisive outcome gained by Zionist movement in the struggle over the establishment of the State," reflected primarily in "the takeover of extensive lands, clearing space for the masses of new immigrants." This fact fostered a feeling among the Arabs "that the Israeli democracy is not as democratic toward the Arabs as it is toward the Jews."

5. "From a national perspective, the Arab minority in Israel belongs to the Palestinian people (narrowly defined) and the Arab nation (broadly defined), while the State of Israel is in a conflict with both." This fact gave birth to the famous statement by an Arab public figure: "My state is at war with my nation."
6. Despite various collective rights granted to Arabs in Israel, these "were not grounded in any principled recognition of their entitlement," thereby explaining Arab grievance "that the State views them merely as a 'demographic' group" [pp 26-29].

Second, the Commission unequivocally determined that "the State's Arab citizens live in a reality of discrimination [directed] against them as Arabs." The Commission noted that "this inequity has been documented in numerous professional surveys and studies, has been confirmed in judicial decisions and government resolutions, and has also found expression in State Comptroller reports and other official documents." Strictly speaking, the Commission did not speak only of "**perceived** discrimination," as some prefer to formulate it, but discrimination in practice. Through facts and figures, the Commission specifically described incidents of discrimination in matters of land, government budgets, employment and living conditions. The Commission also described incidents of social, cultural, educational, religious and political discrimination [pp. 41-59].

To remove all doubt, the Report extensively discussed the illegality of this discrimination at length. The Report noted that "the principle of equality is one of the major strata of the State's constitutional structure [...] According to the principle of equality, no public agency in the State of Israel may act with discrimination [...]. This prohibition applies to all government actions, whether in the allocation of budgets, or the allocation of other resources, whether in appointments or in any other action." The Report explained that "at the core of the prohibition on discrimination lies a prohibition on differential treatment based on nationality, religion or ethnicity [...]. It is therefore clear that discrimination against members of the Arab public in Israel on the basis of their ethnic, national or religious affinity, is prohibited" [pp. 33-36].

Ostensibly, these statements contain no novelty or innovation. Any individual who is not blind has been long aware of this situation. The Report's contribution lies in the unembellished presentation of these statements in an **official document** for the first time. In view of the long-standing inclination prevailing in Jewish society and its official agencies to repress an awareness of these problems, "sweep them under the rug," and occasionally even use various methods of denial regarding the existence of these problems – the explicit statements contained in the Report carry considerable significance. One prominent Jewish MK recently stated at a Knesset Internal Affairs Committee meeting:

I would not be exaggerating if I noted that, in my opinion, the Or Commission Report is the most positive thing that has occurred in the realm of Arab-Jewish relations in the State of Israel since the establishment of the State [...] This is the first time that a report by a government commission of inquiry, that has been adopted at least formally by the government, contains clear, lucid statements that are not open to any [reductive] interpretation, about what many of us have felt for many years, that profound discrimination exists, and has no connection to [or foundation in] the law [...] I believe that stating the truth, and our ability to lay it on the table and look at ourselves in the mirror – is supremely important."⁴

I am not citing these sweeping statements in order to bask in the praise of the Commission's work, but to illustrate my impression that **these** are the messages that have become increasingly recognized as the essence of the Report, since its publication.

In view of the above, the question at hand is, to what extent has any improvement occurred in the state of the Arab citizens of Israel, during the two years since the publication of the Report, and to what extent have the discrimination and deprivation ceased. I will arrange my responses to the different facets of this question in two groups: first, the "soft" issues – those issues pertaining to attitudes, feelings, awareness, images, moods and fears; second, the "hard" issues – the issues that are more tangible, and quantifiably measurable in shekels, hectares (dunams), and other concrete variables. The division into these two areas is, obviously, artificial, because all the phenomena are inter-related, and the distinction is made here merely for the sake of analytical convenience.

The Soft Issues: The Positive Side

We can discern both light and shadows in the developments that occurred in the "soft" areas. Although I fear that the shadows exceed the light, I will begin with the positive aspects.

It seems that there is a growing awareness that the problems concerning the relationship of the State and the Arab sector, and the relations between Arabs and Jews in Israeli society, require fundamental measures. The shock of the October 2000 riots played a major role in creating this awareness, and I am inclined to believe that the Or Report also made its own contribution. Now, the government and the Knesset find themselves compelled to address issues relating to the Arab sector more frequently than ever. One prominent example is the Knesset's Internal Affairs Committee which conducted approximately 15 extensive discussions on topics relating to the Arab sector between June and August 2005, and many additional discussions have been scheduled

for the future. These sessions are attended by the relevant Ministers, senior officials responsible for issues concerning Arab citizens, representatives of the Arab sector, and various experts (the first session was also attended by Justice Or). More than ever before, government ministries whose operations have a considerable impact on the state of the Arab sector, are addressing the problems of this sector, in discussions, plans, and occasionally actual actions.

Statements of the Jewish leadership also reflect the understanding that improved, closer relations with Arab citizens, are a national objective of first priority. This attitude is reflected, for example, in speeches delivered by President Katzav during his visit to Nazareth two weeks ago (September 6, 2005), where he noted, among others, that he holds "great expectations of the implementation of the Or Commission conclusions."

Yet another expression of the growing awareness of the need to deal thoroughly with the problematic relationship between Jews and Arabs is evident in the public sphere. Never have seminars and talks in this field been held more frequently than in recent years. The number and extent of the activities of NGOs have also increased: their members include many Jewish and Arab experts, several of whom are engaged in monitoring the results of the Or Report. Various funds provide generous financial support for these activities. There has also been a recent rise in the interest of various Jewish and other circles in the US and Europe in issues relating to Jewish-Arab relations in Israel, and their desire to promote relations between the two sectors. Of course, the public and private activities in this field began before the occurrence of and investigation into the October Riots, but have since increased in magnitude.

The Or Report also directed attention to the need to "find ways to reinforce the Arab citizens' sense of belonging to the State, without detracting from their sense of belonging to their culture and community" [p 780]. The Commission's call to "add public events and symbols with which all citizens could identify" was translated by the Lapid Committee into a proposal for "Tolerance Day." The proposal was received coldly, especially by Arabs claiming that "celebrations were premature." Still, the debate on how to express the belonging of all citizens to the State was placed on the agenda. In the same vein, intellectuals, public figures and MKs discussed possible modifications to the national anthem. One suggestion proposed to replace the words "the **Jewish** spirit yearns" with the words "the **Israeli** spirit yearns." Notably, the proposed "School Week of Studying the Other" has been adopted by the Ministry of Education. No substantial change has yet occurred, but awareness of the need for a change has increased.

An appreciation of the need to address the constitutional status of Arabs in Israel in a more fundamental manner, also grew during this period. Although the great majority of

the Jewish public insists on the definition of Israel as a "Jewish and democratic state," various calls are now heard, including voices from the Jewish mainstream, to appreciate the difficulties this definition poses for Arabs. One proposal, for example, suggested adding the words "and of all its citizens" to the conventional definition of the State. Research institutes and university scholars of the two sectors are conducting blossoming discussions on the formulation of a constitution that meets the legitimate expectations of both parties. This issue was also discussed during the Knesset Constitution Committee's recent visit to Sakhnin, headed by Chairman Michael Eitan. It is only natural that these discussions are rather academic, but they are indicative of developments in thinking.

It is a difficult task to accurately gauge changes in prevailing moods, and we lack a systematical method to do so other than to refer to public opinion polls, despite their shortcomings. One important, recently published survey is the survey conducted by Professor Sammy Smooha of Haifa University, "Index of Jewish-Arab Relations in Israel – 2004."⁵ The study sheds light on several perturbing phenomena, which I will discuss below, yet it also contains several bright points. Among the Jews, 75.4% supported granting full civil rights to Arabs, while 68.1% supported granting equal rights in budget allocation and equal access to education and employment for Arabs. Among the Arabs, 84.9% stated that Israel has a right to exist as an independent state, and 70% noted that it has a right to exist as a democratic, Jewish state.⁶ Encouraging findings were also obtained on the willingness to live together. A very high percentage of the Arabs expressed the desire for friendly relations with Jews, including joint organizations and encounters. Jews also supported similar relations with Arabs, albeit at a slightly lower rate.

Very significant is the finding that Arab support of violence as a means to achieve political goals dropped sharply, to less than 2%. This constitutes confirmation of the prevailing impression that the Arab sector is highly aware of the damage caused by the violent eruption of October, as are the Jews aware of the need to prevent any future recurrence.

Finally, I would like to add a speculative comment on one factor that may facilitate Jewish-Arab rapprochement. Several Arab citizens have recently stood out for their excellence in Israeli cultural life; this may have a positive effect on the image of the entire sector which, for some Jews, still bears the image of "fallaheen." Mira Awad in opera, Abir Kubti on a popular television show, and others, have joined Muhammed Bakri and Makram Khuri, whose outstanding performances as Israeli theater and film actors are very impressive. In sports, soccer players Abbas Sawan and Walid Badr excelled in international matches and attained achievements on behalf of Israel; The Bani Sakhnin

team National Cup champion, finally with a stadium of its own, represented Israel overseas with dignity. Although these outstanding Arab performers occasionally have made statements that were not always pleasing to Jewish ears, there is no doubt that they are greatly admired by Jews and Arabs alike.

The Soft Issues: The Negative Side

Nonetheless, as already noted, the shadows exceed the light. Looking at the overall picture, there is no doubt that the October Riots increased the alienation between Jews and Arabs in Israel. During the period immediately following the Riots, the two sectors appear to have boycotted each other. One of the discomfiting expressions of the difficulties encountered by Arabs in their efforts to make a living in the Jewish sector, is the fact that hundreds of Arabs have changed their names to Hebrew names.⁷ Tensions were aggravated by the Intifada in the Territories, with which Arab citizens at least emotionally identified. Although Israeli Arabs, as a public, refrained from supporting the Intifada, and even demanded that its leaders refrain from involving them in this war, Jewish wariness was exacerbated by those incidents in which Arab citizens were found to have participated in terror attacks, or at least to have assisted terrorists in reaching their destinations.

The threats of terror increased security measures inside Israel, and Arab citizens suffered from this more than ever. One Arab expressed this in the following manner: "When I enter Ben Gurion Airport, I am transformed from an Israeli citizen to a Palestinian suspect." This impression was reinforced by the removal of a respected Israeli-Arab journalist from the President's entourage leaving the airport for a state visit to a foreign country. The Arab sector's sense of alienation was demonstrated by a sharp drop in participation in the elections, from an average of 70% in the preceding four elections, to 18%.

The mutual alienation found expression in the aforementioned survey by Professor Smooha. Approximately one half of the Arabs declared that they feel alienated from the Jews and believe that Jews cannot be trusted. Among the Jews, an even higher percentage expressed alienation from and mistrust of Arabs. The survey also revealed the intensity of the ideological conflict: of the Arabs, 72% stated that "As a Zionist state, Israel is a racist state," while, 80.4% of the Jews believed that "Arab citizens who define themselves as 'Palestinian Arabs residing in Israel' cannot be loyal to the State or its laws."

The amplification of the issues relating to the relations with the Palestinians, fueled a demand for a "Jewish majority" in Knesset votes on issues concerning the relations with the Palestinians. In my opinion, although we cannot totally reject the problematics

of permitting a potentially decisive vote to Palestinian citizens of Israel in crucial issues pending between Israelis and Palestinians, the demand for a "Jewish majority" contradicts the fundamentals of democratic process. At the same time, more than 80% of the Jewish respondents in Smooha's survey stated that "a Jewish majority is required on resolutions concerning the nature of the State and its borders, and a majority of *all* citizens is insufficient." Naturally, in the eyes of the Arab sector, such a position undermines the legitimacy of their participation in the political community.

Findings from other studies are even more powerful. A survey by the Israeli Institute of Democracy and the Guttman Center, found – somewhat contradicting Smooha's findings – that 53% of the Jewish respondents oppose full equality of rights between Jews and Arabs, and an even higher percentage, 57%, would support official encouragement of Arab emigration.⁸ A more recent study, conducted in March 2005 by the Dahaf Institute, found a smaller yet still quite high percentage of individuals – 42% – who would concur with a state policy encouraging the emigration of Israeli Arabs.⁹ Surveys conducted among young people reflected even higher rates of support of a transfer policy and the disenfranchisement of Arabs.

I believe that the growing expressions of racism, particularly by Jews against Arabs, are the development with the most perturbing long-term ramifications for the relations between the two sectors.

Racism is currently evident on several levels. At the popular level, it is expressed in calls of "Death to Arabs" in soccer stadiums and on the sites of terrorist attacks. It appears in graffiti and on bumper stickers, such as "No Arabs – No Terror Attacks." It can be found in certain newspaper articles and websites. In fact, it also surfaced in articles published in response to the Or Commission Report, one of which claimed that the Commission failed to understand that the riots erupted "due to typical murderous Arab passion." At a more official level, it appears in statements of politicians and rabbis, who refer to a possible "genetic defect" of Arabs, or who describe Arabs as "swarming like ants."

Verbal racism occasionally pairs with violent racist actions. From time to time, the press reports harassment of Arabs, and even beatings of Arabs, usually by gangs of Jewish youngsters. Arabs are sometimes expelled from public parks, clubs and beaches. Although these are isolated incidents originating from the margins of society, it is a grievous fact that the instigators frequently benefit from the support of members of the local public. Both verbal racism and violent racism usually go unpunished.

I believe that we must turn to all the relevant authorities, calling to eradicate this evil from our midst. Political and legal leaders must react vigorously and unequivocally

denounce any sign of racism, and ensure that the guilty parties are punished as required by the law. Our educational systems must deal head-on with racism among youngsters. If we refrain from doing so – how can we ever denounce anti-Semitism?

Notably, Arab society is similarly not free of indications of racism. Statements by Muslims who, citing a traditional theme, call Jews "descendants of monkeys and pigs," reflect the same type of racism that must be eradicated if we wish to improve the mutual respect between these two societies.

Ideological murder of Arabs, which has horrendous precedents in Israel, was recently renewed in the killing of four innocent Arabs in Shefaram. Jewish leaders immediately denounced the murder, went to pay condolences to the victims' families, and ordered an investigation of the failures that allowed an AWOL soldier, known to be so predisposed, to carry out his scheme. Still, there remains the question of the extent to which the murderer's motives were cultivated by anti-Arab agitation - for even the most zealous murderer would have seen no point in killing of Arabs as Arabs in the absence of racial de-humanization.

After the fact, it emerged that the victims' families were not entitled to terror attack victim compensation, because this law applies exclusively to victims of Arab terror. In my opinion, this distinction is unjustified: terror is terror is terror, and the law should be amended as soon as possible to apply to Arab victims of Jewish terror as well.¹⁰

The outstanding feature of mutual Jewish-Arab attitudes is the belief that the other poses a threat. There are numerous signs that mutual wariness has increased in both sectors; this was reflected, among others, in Smooha's study. On the Jewish side, current fears focus on popular rebellion by Israeli Arabs (71.7%), assistance of Israeli Arabs to the enemy (78.7%) and their joining the struggle of the Palestinian people (83%).¹¹ It is not inconceivable that the severity and scope of the October 2000 Riots fueled these fears.

In the Jewish sector, talk of the "demographic threat" is widespread. The factual foundation of such concerns has always existed, although it seems that an awareness of the demographic extrapolations has only recently been assimilated by the public, and has infused public discourse. This has been facilitated by politicians and academics who choose to specialize in this issue, and who feed the fears regarding the risks of the loss of the State's Jewish identity and its transformation into a bi-national state. Of the Jewish respondents in this survey, 66.7% expressed concern at the high birth rates of the Arabs, while 71.1% expressed apparently related consternation of an Arab struggle to change the Jewish nature of the State.

In the Arab sector people view Jewish apprehensions of "the demographic threat," as a distressing attack on their civic status, and are offended by their portrayal as "a ticking bomb." Moreover, they have fears of their own. Approximately two thirds of the Arab respondents fear a population transfer. They have seen how the transfer concept, formerly outside legitimate Jewish public discourse, is now voiced in public; the advocates of this idea no longer see any reason to apologize for their position. The fear of the Arab sector is that the legitimization of verbal statements will lead to the legitimization of actions.

Fears also exist regarding the "territorial exchange" project, which is a new proposition to solve the demographic problem, that has recently emerged in Jewish political discourse. The project implies the transfer of Arab towns in the Triangle, adjacent to the Green Line, including their residents and land, to the future Palestinian State, in exchange for the annexation of the large blocs of Jewish settlements. Prominent right-wing party leaders, with some reliance on academic studies, support this program which appears to enjoy considerable public support. The program does not call for the expulsion of civilians from their homes, but it undermines basic civil rights; for many Arabs, the program constitutes a genuine nightmare. The percentage of Arabs who fear this scenario is identical to those who fear a population transfer.

With the completion of the disengagement operation, the territorial exchange program has gained momentum. The evacuation of the settlements in Gaza and northern Judea apparently prompted discussion of several scenarios that pose a threat to the rights and status of the Arab citizens. Observers tracking these developments on the Jewish side have voiced their concern that the evacuation of the Jewish settlements will shift the attention of many disengagement opponents to activities inside the Green Line, and to the relations between Jews and Arabs inside the State; with such a shift being accompanied by an inclination to apply the same norms that are practiced by the Jewish settlers in the Territories, to the Arab sector in Israel. Voices in the Jewish society call to grant Jewish settlers "ideological compensation" in the form of strengthening the Jewish nature of the State. One extreme expression of such calls can be found in statements by MK Benny Alon, who declared that the political right wing, when it attains power, will use the laws enacted to evacuate the Jewish settlements in order to expel Arabs.¹² The Arabs listen to these statements with apprehension. One Arab newspaper editor recently wrote that Arabs in Israel now understand that "the disengagement affects them directly;" they will become "scapegoats of all the disengagement opponents [...] it is sufficient to hear the discourse of the right wing [which] proposes to detach Arab villages from Israel and transfer them to the West Bank."¹³

In a letter to the editor last week, a reader of Ha'aretz, probably expressing the views of many others, contended that "After the disengagement in Gush Katif has been completed, we can now declare: The next stage is the Galilee [...] we created a precedent on the ground, and we conclude that it is certainly possible to transfer Arab residents from place to place."¹⁴ His plan is to concentrate the Arabs who live there into a specific area, to make space available for Jewish settlements. In fact, increasing the Jewish population in the Galilee and the Negev has become a major government project that crystallized concurrently with the disengagement program. The "Evacuation-Compensation" law granted, among others, incentives to the evacuated families to settle in the Negev and the Galilee. It is perhaps noteworthy that the plan to "bolster Jewish presence" in areas in Israel that have an Arab majority, is perceived by the Jewish public as entirely legitimate, and grounded in the core Zionist vision of a Jewish State with a Jewish majority in all its parts. However, it is only natural that this is perceived differently by the Arab society. The trauma of past campaigns to "Bolster Jewish Presence in the Galilee," involving the extensive expropriation of lands, still resonates. The Arabs perceive this approach not only as detrimental to their civic status and their claim for equality, but also as a genuine threat to their towns which, in any case, suffer from insufficient land reserves.

The practical question on the agenda is, to what extent will the regional planners take into consideration the interests of the Arab inhabitants, and include steps designed to improve their situation and close the gaps between the Arabs and the Jews. Deputy Prime Minister Shimon Peres, who heads the project, was deliberately absent from a recent conference on Galilee development because no Arabs were invited to participate. Still, the key question is not the extent of Arab participation in **talks** on development, but their participation in the development process itself. It is the Americans who showed an appreciation of these needs by earmarking a share of Negev and Galilee development grants for the needs of the Arab residents. Nonetheless, concerns are that the Arabs will not receive a large share in development allocations from Jewish planners, and under such circumstances, this project would produce yet another source of tension between Jews and Arabs in these regions.

I would like to add one more comment on a specific issue marginally related to the disengagement, yet connected to the problems of the Arab sector – the Muslim part in this particular case. The destruction and setting afire of the synagogues remaining in Gush Katif drew angry reactions in Israel. In an address to the Knesset, one respectable party leader stated that had mosques been similarly treated by Israelis, riots would have ensued worldwide. The problem is, Jews have in fact exhibited disrespect of mosques, and even quite extensively so. Approximately one hundred abandoned mosques were

destroyed in Israel, and many of those remaining were converted to other uses. On this point the Or Commission Report commented that "there were more than a few incidents of destruction of [abandoned] prayer houses or their use as galleries, restaurants, stables, warehouses or synagogues" [p 55]. If disregard of this fact does not constitute hypocrisy, it contains something worse: blindness to the problems of the Arab sector; the same mechanism of denial that has accompanied the attitude toward the Arab sector for a long time. In any case, no improvement in the state of the mosques has been evinced since the publication of the Commission's report.

And finally, another issue that agitated the Arab citizens of Israel – and not only them – is the Citizenship Law, or more precisely: the Amendment to the Law of Citizenship and Entry into Israel (Emergency Provision)-2005. As is well known, the law prevents, or seriously impedes the unification of families in which one partner is a Palestinian living in the Territories. The law has been extensively discussed in political and academic forums, and is beyond the scope of our discussion here. However, I will allow myself one comment. The fears that marriages between Palestinians from the Territories and Israeli citizens (occasionally even fictive marriages), could develop as a means to a quasi-realization of the "Right of Return," are understandable. However, in its present form, and even after its amendment in response to demands of the Supreme Court, this law is extremely problematic in that it singles out Arabs as the individuals to whom these severe restrictions apply and whose fundamental rights are adversely affected. It is similarly impossible to ignore the law's grave implications on the very status of Arab citizens in the state. We only hope that more humane and just solutions to this problem will be found when the permanent law is approved in 2006.

The Hard Issues: A Review

I will now proceed to discuss those issues that I termed "hard," that is, those that are amenable to concrete and quantifiable measurements.¹⁵

Poverty and Unemployment

The Or Commission Report pointed out that "Poverty in the Arab sector is more severe than in the entire Israeli society" and fuels the sense of deprivation and agitation among Arab citizens. Since the Report was published, the situation has not improved and, on the contrary, it has actually become worse.

The gravity of the National Insurance Institute data, published in August this year, under the heading "Dimensions of the Poverty and Income Gaps – 2004," stunned the Israeli public. The fact that over 20% of all Israeli families were living under the poverty

line, and almost one third of all children were poor, made a grave impression. Poverty in the Arab sector was even more extensive, and showed signs of growing. The percentage of Arab families under the poverty line rose from 48.4% in 2003, to 49.9% in 2004, and in absolute terms, from 119,700 in 2003 to 123,500 in 2004. In other words, one half of all Arab families live in poverty. These figures on poverty are higher by threefold than the poverty data of Jews. Even more serious is the state of Arab children, of approximately 60% of which are poor; also recall that children constitute about one half of the entire Arab population. Notably, these data did not include the enclaves of deep poverty among Bedouins; inclusion of this data would have exacerbated the picture even further. Of course, the cut in welfare subsidies, which constitute a larger share in the income of Arab families than in Jewish families, has also played an important part in aggravating the poverty.

Unemployment among Arabs is also higher, and generally increases at a faster pace than unemployment among Jews. Of the 40 towns suffering from the highest unemployment rates, 36 are Arab towns. The Arabs' problems in finding jobs are well-known: they have a relatively low level of education, there are insufficient jobs in the vicinity of their towns, they occasionally suffer discrimination by Jewish employers, and in their fields of occupation (such as construction) they compete with foreign workers. Employed Arabs do not fair much better: according to the Central Bank of Israel figures for 2003, the average salary of Arab workers is 29% lower than the average salary of Jewish workers.

It is therefore not surprising that, when the towns in Israel are classified into ten clusters based on socio-economic indices, the Arab towns are concentrated in the lower four clusters in this list, and are absent from the upper half of the list entirely. About 85% of all Arabs live in towns that belong to the bottom three clusters. Severe hardship is also evident in Arab neighborhoods in the mixed cities: a poor level of educational institutions and medical services, a shortage of housing for young couples, delinquency, etc.

The Or Commission advised of the gravity of this situation, noting the different areas in which the Arab sector suffers from problems that contribute to its hardships, and recommended that the government take action to resolve these problems. As we know, the government – which approved the Commission's recommendation in principle – appointed a ministerial committee headed by the Deputy Prime Minister and Minister of Justice, Yosef Lapid, to study the Report and submit its recommendations. The Lapid Committee Report, published in June 2004, addressed the major problematic areas indicated by the Or Commission: municipal services, industrial development, land, employment, proper representation, education and the Bedouins. It would not be an

exaggeration to say that the Lapid Committee's discussion of these issues was feeble. The Report led to great disappointment in the Arab sector, and not only there, and public voices claimed that the Lapid Report was designed to empty the Or Report of its messages concerning the discrimination against Arab citizens. The political circumstances of the establishment and operation of this ministerial committee are well-known and there is no point repeating these here.

In his speech of September 1, 2004, Justice Or addressed the Lapid Report and noted that little progress, if any, had been made in the aforementioned issues. In my presentation I wish to supplement and update his data.

1. **"The government authority for the promotion of minority sectors."** The Or Report pointed out that resolving Arab sector issues, in light of their importance and sensitivity, requires the "personal involvement, management and leadership on part of the PM" [pp 766-767]. Accordingly, the Lapid Committee proposed the establishment of an authority reporting to the PM, to handle the unique problems of what was termed "the non-Jewish sectors," their full integration into Israeli society and economy, and prevention of discrimination against them.

This proposal received mixed reactions. Some welcomed the establishment of an agency dedicated exclusively to the promotion of the Arab sector. But there were also many others, especially among Arab citizens, who saw the proposed agency as an organization lacking both budgets and effective powers, and merely another version of the position of Advisor on Arab Sector Affairs in the PM's Office, or the position of the Minister for Minority Affairs – positions which the Arab sector view in a quite negative light. The skepticism was also fed by the fact that the Lapid Committee's resolution made no explicit mention of Arabs. Instead, it referred to "minority sectors" and "non-Jewish sectors." In any case, the agency was never established. Members of the National Security Council responsible for this issue, explained that much time was needed for consultations with numerous bodies, and that the disengagement operations lowered the priority of the Authority's establishment. They have expressed assurances that the issue will now be placed on the agenda, and nothing remains for us other than to wait and see.

2. **Budgets.** In any area in the State where a significant gap exists between the situation of Arabs and Jews, progress depends on the allocation of budgets to promote equality. As is well-known, the recent years have been years of budgetary cuts, especially involving social and development budgets. Nonetheless, the Or Commission rejected

the argument that governmental budgetary constraints justify the restricted allocation of funds to eliminate discrimination against Arabs. "As the rule goes, budgetary considerations ebb when the issue at stake is a claim to exercise fundamental rights," wrote the Commission in its Report, and it quoted the Supreme Court: "Protection of human rights prevails over money, and a society that respects human rights should be prepared to bear their financial burden" [p 36]. The Lapid Report does not address the budgetary issue at all.

The Vilnai Committee, which deliberated this issue during the Barak administration, decided to allocate NIS 4 billion over four years, to promote the Arab sector. The execution of this resolution in the years 2000-2004, resulted in expenditures of less than NIS 1 billion each year. In effect, a mere NIS 2.7 billion was budgeted over the said four-year period. This is a rather meager addition, considering the annual NIS 0.5 billion budget allocated to the Arab sector in previous years, in any case. This means that the nominal supplement was less than NIS 175 million per year, and in real terms, the allocation was even smaller. However, even such a supplement is considered an achievement by some official circles, in view of the poor implementation of development budgets in previous years. It is, however, hard to find comfort in this.

The amount allocated for 2006 will probably be around NIS 420 million – a sum that is far from adequate to cope with existing needs. However, the problem lies not only in the size of the budget, but in its structure as well. According to all indications, this budget is not grounded in any comprehensive, long-term plan or clearly-defined goals and priorities, or based on any in-depth analysis of the data and development trends in the Arab sector.

3. **Municipal Governments.** The Or Commission noted that the meager allocations to local governments in the Arab sector were one of the key causes of "the poor state of the infrastructure and services in Arab towns" [p 48]. On this, the Lapid Report merely stated that the government resolution of August 2003, calling for a program to strengthen local Arab governments, had yet to be implemented.

The quality of life of residents of Arab towns is affected directly, and perhaps more so than other factors, by what local governments are able to provide. Therefore, hardships of individuals are closely related to the poor state of the local governments, caused, among other factors, by the persistent and cumulative discrimination in government budget allocations. Calculating on a per capita basis, allocations to Jewish towns have sometimes been 2.5 times greater than allocations to Arab

towns in the same socio-economic stratum.¹⁶ In weighting this gap, one should also recall that local Arab authorities are more dependent on government grants than Jewish governments, due to low revenues from municipal taxes. In principle, the government recognized the gravity of the inequality in allocations. The Gadish Committee was established, and last year recommended eliminating all budgetary discrimination; increased balancing budgetary grants were earmarked for the Arab local governments. This, however, was at odds with the process of budgetary cutting, and progress was limited.

Upon assuming his new position as Minister of the Interior, Ofir Pines declared his intention to take steps to close the gap, even through positive discrimination. An Arab General Director was appointed to the Ministry and assigned the task of promoting local Arab governments. The Arab village of Ein Hud was recognized. The Minister determined that Arab towns would receive a supplement of up to 35%, and 43% of the added balancing grants would be directed to Arab towns. This constitutes an important step forward in terms of ongoing needs, but is far from a solution to the fundamental problems. Sound criteria for equality still are absent. In this context, in its meeting on June 28, 2005, the Knesset's Internal Committee notably recommended that the Knesset "adopt the conclusions and the spirit of the Or Commission Report." It also recommended that the government ensure that the proportion of any budget allocated for the ongoing needs of Arab local governments, in any area, does not fall below the relative share of the Arab population in the relevant township category.

- 4. Master Plan and Local Outline Schemes.** The Or Commission noted that the absence of master plans and local outline schemes is a serious obstacle to legal residential construction for the growing Arab population, and an obstacle to Arab town development [p. 43, 767]. The Lapid Report addressed this issue and, relying on governmental resolutions of August 2003, recommended that the Ministry of the Interior complete the master plan and local outline schemes before the end of 2005, to permit residential construction (with an emphasis on hi-rise construction) and development. The Report stated that 73 Arab towns were included in a "Master Program for the Outline of a Master Plan and Outline Scheme," as a preliminary step towards the delineation of municipal borders by a border committee.

Indeed, the master plans for most towns are in preparation, have been completed or are in the process of being approved. Last year, seven outlines schemes for the Arab sector were approved. Still, it was reported that 15 Arab towns still await inclusion

in the planning process. The issue of determining borders is a sensitive one. The areas of Arab towns were drastically reduced in the past and their jurisdictions now constitute a mere 3% of all municipal areas in Israel. Population density in these areas is overwhelming. Even where there is an intention to expand town limits, based on criteria of genuine needs, it emerges that expansion is blocked by surrounding Jewish towns, main highways or security installations. Resolution of these issues is extremely protracted, criteria are unclear, the Arab population is not sufficiently involved in the process, the planning and approval procedure is arduous, there is a lack of sufficient manpower to handle the issue, and the expansion of not a single Arab town has been approved to date.

On the positive side, we should mention the return of 11,500 dunams of Firing Area 107, also known as "Ruha Lands," to the jurisdiction of the Arab towns in Wadi Ara.

5. **Land.** The planning issue is integrally linked to the issue of land, which the Or Commission stated is "the most sensitive, agitating and unifying issue" for the Arabs. The Commission recommended that the State allocate land to Arabs "based on equal patterns and principles," in response "to their legitimate needs, stemming, among other things, from natural growth" [p 41, 767]. The Lapid Committee continued on this course, and recommended that government agencies sell land to Arab towns according to criteria based on the size and the needs of the inhabitants of each town.

It is difficult to point to any real progress in this area. Arab towns still suffer from a lack of land for construction and development, they lack public spaces for local institutions and suffer from discrimination in the sale of state lands. It is in this context that there re-emerged the debate on prohibiting the sale to Arabs of Keren Kayemet land - which constitute 13% of all State lands. The transfer of lands in the Galilee and the Negev from the Israel Land Administration to the Keren Kayemet, apparently in order to bolster the Jewish settlement in these areas, has caused Arab concern and resentment. The decision by the State Attorney, requiring that Land Administration and Keren Kayemet lands also be sold to Arabs, had a somewhat mitigating effect, but many obstacles still remain before land is thus allocated in practice.

6. **Illegal Construction.** The delay in preparing outline schemes, and the shortage of land, created the problem of illegal (or, as some prefer, "unauthorized") construction,

which has reached enormous proportions. The Or Commission demanded a resolution to this problem, and stated "wherever the situation cannot be legitimized [...], the State must act to decisively enforce the law" [p 767]. The Lapid Report is stricter on this issue. It makes a sweeping demand "to act resolutely against this phenomenon using all the existing means available by law." Many believe that a distinction should be made between construction stemming from a genuine need, and brazen construction alongside highways, on public land, etc. In effect, no real progress has been made in resolving this problem, either through retrospective legitimization or through enforcement.

- 7. Industrial Zones.** The Or Commission called government agencies to initiate, among other things, plans for industrial development and employment programs, as the key to closing the gaps [p 767]. The Lapid Committee supported this call and recommended to earmark a portion of the land added to Arab towns for employment and industry. Indeed, as the Lapid Report notes, the establishment of industrial zones (or zones of employment) adjacent to Arab towns, is the key to improving the economic situation, reducing unemployment, facilitating women's entry into the labor market, and increasing municipal government tax revenues. These industrial zones would also absorb the workshops currently dispersed among the residential houses and which constitute environmental and health hazards. Industrial zones should be established on the basis of meticulous integrated planning, a selection of proper locations, preparation of appropriate infrastructure, and encouragement of Arab entrepreneurs to invest in the industries. In contrast to the past, Arabs should receive significant shares in joint industrial zones with Jewish towns.

The Ministry of Industry, Commerce and Tourism submitted a list of 10 Arab towns to the Internal Affairs Committee, where reinforcement and expansion is planned for existing industrial zones. New industrial zones are planned in five towns, while construction of industrial zones is underway in the remaining five. In addition, several Arab local governments will be included in regional industrial zones. In 2005, NIS 40 million was allocated for these goals. Although if executed, these plans would undoubtedly lead to a considerable improvement in the Arab towns, there are very few indications of implementation on the ground.

- 8. Proper Representation.** The principle of equality, which is the fundamental underpinning of the Or Commission Report in this area, also applies to the employment of Arabs. The Report critically notes the miniscule rate of Arab employees in public

and government service [pp 50-51]. The Lapid Committee addressed government resolutions of August 2003 and January 2004, that called for government ministries to promote Arabs appointments to positions in their offices. The government determined that the proportion of Arab sector employees should reach 8% in three years, that is by 2007, and 10% in five years, that is by 2009. The government also determined that at least one Arab director should serve in every government-owned company within the year, that is by August 2004. The Lapid Committee noted the slow process of executing these resolutions, and attributed the failure to achieve the defined goals "to the authorities in charge at the government ministries."

The description by the Lapid Report is a faithful rendition of reality. Although the government instructed that intake of new Arab employees should be encouraged, and previous restrictions on new employee intake should be lifted for Arab employees, the results were disappointing. The percentage of Arabs employed by the government increased from 5%, when the Or Report was published, to merely 5.5 to 6% today. These employees are mainly concentrated in lower echelons, and a considerable proportion of Arab public servants are employed in healthcare services. Despite available incentives, and reported availability of jobs and qualified Arab candidates, the number of Arabs accepted into government service has grown slowly. This is also true regarding government-owned companies. The number of Arab directors in these 105 companies increased from less than 30 at the time, to a current figure of 50, but this number still constitutes a mere 9% of all public company directors.

9. **Education.** The Or Commission Report reviewed the inequality in allocations for education in the Arab sector in many areas, and called to rectify this situation [p 48, 767]. The major recommendation of the Lapid Committee in this area was to replace private educational institutions with public schools. The Committee noted three government resolutions from the period between 2000 and 2003, calling for various steps to strengthen education in the Arab sector. According to the Committee, the majority of these resolutions have been executed or were in the process of being implemented.

In his lecture on September 1, 2004, Justice Or expressed doubts regarding the accuracy of this statement, in view of budgetary data. Indeed, the picture is far from rosy. Some progress has been made, but it has far from reconciled any gaps. The Ministry of Education recognizes the gravity of the problem and has expressed its desire to resolve it – as reflected in the Shoshani Report – but the road ahead is a long one. Here are some examples: the Ministry reports that 45% of all classrooms

currently under construction are for Arab schools, but there is a current lack of 1000-1500 classrooms; a considerable number of weekly teaching hours per Arab pupil have been added, but the number is still lower than that allocated per Jewish pupil. The number of Arabs eligible for Bagrut (matriculation) certificates has increased, but in 2004 the figure still stands at 38.8% for Arabs and 58.4% for Jews; Attrition from Arab schools has diminished, but is still higher than the drop-out rate for Jewish pupils. The number of Arab students in institutions of higher learning has increased (to approximately 9%) but remains much lower than the proportion of Arabs in the population, and so on and so forth in many areas.

Notably, alongside the charges, one significant positive development has recently occurred in the Ministry of Education: the position of General Security Services representative in the Ministry has been cancelled, thus eliminating one of the obstacles that led to harsh complaints by Arab citizens over many years.

Finally, 10. **The Bedouins.** In its recommendations, the Or Commission Report, which described the grave problems prevailing in the Bedouin population, called to direct "special attention...to the conditions of living and hardships of the Bedouins [p 53, 767]. The Lapid Committee mentioned the government resolutions of September 2003, which outlined a six-year development program for the Bedouin settlements in the Negev, the establishment of seven new Bedouin towns, and investments in infrastructure, public institutions, employment, technological education, roads and religious facilities. A considerable part of these decisions concerned strengthening the law enforcement system. The Lapid Report laconically determined that no data on the execution of these resolutions were available.

Indeed, it is difficult to obtain a detailed picture of the government's actions among the Bedouins. The government decided to expand the settlement of Rahat, and establish seven new towns in the Negev for the Bedouins. The recently established Abu-Bassma Regional Council has assumed responsibility for these new towns. However, even after these steps, a dispersion of approximately 40,000 people (constituting over one quarter of the total Bedouin population in the south), still lacks official recognition. Deputy Prime Minister Ehud Olmert was appointed in charge of the government program in the Bedouin sector, and his Ministry has reported on various plans. In May, the government approved a NIS 400 million budget to establish the new Bedouin towns. Hopefully, these steps will be executed, but there is no doubt that the somber situation addressed by the Or Report has not changed in essence: severe poverty, unemployment, poor or non-existing infrastructure, children

suffering from malnutrition, inadequate social services, delinquency, and more. This is not a situation that any self-respecting state can tolerate for any extended period.

To summarize this section, we note that awareness of the need to resolve the grave problems of the Arab sector has increased, and important planning actions are taking place in various ministries, but the scope of these actions remains limited; the basic problems and all their threatening implications still exist. It seems that the situation will not fundamentally change until the government devotes itself to drafting a comprehensive, long-term, integrative program to close the gaps with the Arab population, allocates the considerable resources required for this (rather than using what Justice Or termed, "the budget excuse"), and accelerates the pace of program implementation.

The Police

In his speech on September 1, 2004, Justice Or has already stated that the Police generally implemented the Commission's recommendations – and I concur with his opinion. I shall therefore quote from his speech: "To the credit of the higher echelons of the Police, it must be stated that the Police was attentive to the evidence brought before the Commission, its ramifications and the Commission's conclusions. These matters had been partially addressed during the course of the Commission's work, even before its report was presented [...] After the publication of the Commission's report, the Police addressed its findings, conclusions and recommendations in a thorough and orderly fashion." Improvements are evident in the following areas, on the basis of the Commission's recommendations: development of a methodical strategy of responding to riots, improvements in riot dispersion equipment, use of a new documentation and debriefing procedures, maintaining systematic dialogues with members of the Arab sector, extension of community-based policing, and others.

The fact that Arab sector demonstrations on potentially explosive anniversary dates, such as "Land Day," have been conducted with no fatal collisions over the past five years since the October Riots, in contrast to the past, can be largely attributed to improved police procedures. Notably, the Arab sector and its leaders also played a large part in this: after the October Riots, they concluded that their goals are not served by violence. This was also reflected in the reactions to the murder in Shfaram, where protests were directed into restrained channels of expression.

Among its recommendations to the police, the Or Commission suggested that police officers receive preparatory training for the complex psychological difficulties with which they must cope in confrontations with rioters. The recommendation stated as follows:

“It is not enough to state that police officers must show restraint. They should receive explanations about the potential factors that could undermine their self-restraint under such conditions. They should participate in training, simulations and feedback sessions in order to understand, gain a genuine understanding, of these factors and their affect on their actions” [p 775]. Indeed, that is exactly what the Police did before deploying its forces to evacuate the Gaza Strip settlements. These preparatory actions, whether inspired by the Report or not, played a large role in the effective and dignified execution of this difficult assignment by police officers.

In this context, I cannot exempt myself from addressing the recently voiced allegation, that the Police showed great restraint toward the settlers because they were Jewish, but used strong-arm tactics against the rioters during the October Riots that led to the killing of 13 individuals, because they were Arabs. Such a comparison is problematic because the Arab rioters marked the police officers themselves as the target of their violence. In contrast, only a small minority of the settlers sought a confrontation with the police. Furthermore, in the eyes of Israeli society, the October Riots were related to the broad Arab-Jewish conflict and therefore had an aspect of an existential threat, whereas the settlers' violence at the most challenged authoritative government procedures - a very serious threat, but on a different level. Is it possible, in view of the above, to determine that police officers as a rule hold the same attitude toward Arab rioters and Jewish rioters? I fear that it would be very hard to determine that.

And now I come to a disconcerting issue. Since the October Riots, there have been 18 incidents in which police officers killed Arab civilians, usually in crime-related events. Non-profit Arab organizations have documented these incidents in detail and claimed that the shootings were unjustified; the Police has its own versions. As to myself, I, of course lack the means to decide between the versions. In any case, in the majority of these incidents, the Police Investigations Department (PID) failed to file any criminal suit. It is difficult to shrug off the impression that there are too many victims here and too little PID.

Police Investigations Department

From here to the PID, on whose shoulders the Or Commission placed the task of investigating all the October Event fatalities. Yesterday, the PID published a document entitled “Conclusions in the Matter of the Confrontational Events between Security Forces and Israeli Citizens in October 2000.” As everyone already knows, the PID concluded that no indictment is warranted in any of the 13 incidents. Their explanation for closing the cases was, in some cases, “due to lack of evidence” or “lack of sufficient evidence,”

or in other cases – “offender unknown,” and in one case, “no offense committed.”

This document continues to generate vigorous public debates, and will certainly be analyzed by jurists in details. As for myself, I have not yet read the document with the required scrutiny, and in my talk today, I can offer no more than preliminary comments. All of these comments reflect my personal opinion, and do not represent the Or Commission or any of its former members.

There is truth to the statements contained in the document, that many obstacles stood in the way of this investigation, and it was very difficult to reach the truth of the matter three years after the events. However, this begs the question, why the PID failed to commence its investigations immediately following the events, when the individuals involved were still on the site, when the eye-witnesses’ memories were fresh, when the tracks of the events had not yet been obliterated, and when it was possible to collect much evidence. Although the PID was ordered to suspend any investigation due to the activity of the Or Commission, it was able to conduct an efficient investigation during the several months that transpired until the Commission commenced its operations, and during the even longer period until the order was issued.

One gains the impression that a considerable part of the introduction of this document is designed to respond to this argument. I must say that I did not find the PID’s answers sufficiently convincing. Firstly, the document states that investigation teams could not have been introduced into the area because it was too dangerous. This argument is not worthy of being voiced, and would certainly sound extremely odd to the journalists, members of the security forces or the many civilians who wandered freely on the sites of the events. PID investigators would have been able to act with considerable freedom, at least subsequently to the mitigation of the first wave of violence after a few days. Secondly, the document criticizes the lack of cooperation of local Arabs; indeed, this factor does have some weight and was also mentioned in the Or Commission Report, but a significant number of local Arabs were willing to testify, and in any case, there was extensive opportunity to investigate the police officers, which was perhaps even more important. Third, the PID states that it lacked the authority to commence an investigation before any formal complaint had been filed. Formally this may be a reasonable argument, but there is no doubt that in grave incidents such as the fatalities of the October Riots, the PID was entitled to collect materials and conduct preliminary investigations, and the fact is that it did so in certain other cases.

The validity of the PID arguments should be examined on a case by case basis: by juxtaposing the versions of the PID and the Or Commission – whose version is presented in the PID report only in brief fragments - and judging whether the Or Report contains

responses and refutations to the PID statements. This is obviously something I cannot do in this lecture, but I will allow myself one remark. It is my impression that PIDs conclusions have, in several cases, strained to the possible maximum, and perhaps even beyond that, the limits of tolerance toward policemen's claim that they faced real and immediate danger to their lives in a way that justified the deployment of snipers and use of live ammunition.

I would like to add one more point which I believe is very significant. The PID resolution to refrain from filing indictments is generally based on the conclusion that it lacked sufficient evidence to secure a conviction. Obviously no one expects indictments to be filed with the courts if they stand no chance, but if every case in which some doubt exists about the outcome is transferred to the archives, judges would not be left with much to do. In the case at hand, the Or Commission named certain police officers for whom ostensible evidence existed of their responsibility for unjustified and fatal use of firearms.¹⁷ If this was the opinion of a Commission including two experienced judges, it is hard to say that these cases would have had no chance in the courtroom. Assigning the appropriate cases to the court, and leaving the decision in the hands of competent judges would also have had a positive effect from a public point of view, because a situation in which 13 people are killed yet no one is indicted, is difficult to accept, and indeed we have already heard sharp protests regarding this point from the public. Therefore, if a reasonable course of action to avoid such a situation is available, and in the case at hand such a course of action did in fact exist, then, based on the guidelines indicated by the Or Commission¹⁸ and additional evidence that could have been collected, this course should have been taken. Obviously there is no legal justification to argue that indictments should be filed merely to appease public opinion, but when *prima facie* evidence exists, cases should not be closed, thus arousing public indignation and undermining public trust in the system.

I have no doubt that the PID document will have an adverse affect on the creditability of the PID in the eyes of many people. In fact, PID's credibility has been a problematic issue for some time, especially in the Arab sector. We heard this in testimonies given before the Or Commission, in which it was claimed that in the case of the Ruha clashes of 1998, in which numerous Arab residents were wounded by the police, the PID made no effort to interrogate the victims; instead, the PID casually accepted the police officers' version and closed the case. This is the reason, as we may recall, that many Arabs responded with skepticism and scorn to the Or Commission's decision to assign the investigation to the PID. Its refusal to file indictments in several incidents (after October 2000) in which Arabs were killed, including the incidents previously mentioned,

provoked deep anger in Arab society, and several applications to the courts were even made in this matter. Therefore, the PID document has further eroded Arabs' trust in the Israeli system, and signifies a step backward in Arab-Jewish relations in general.

Complaints over the PID conduct did not originate solely in the Arab sector and Arab NGOs. Complaints were also voiced by Jews, even figures from official circles: several months ago, it was reported that “many accusations were reportedly hurled at the PID in the Knesset’s Internal Affairs Committee in recent months.”¹⁹ The State Comptroller's Report dated August 31, 2005, condemned various aspects of the PID's work. Among other things, the Comptroller pointed out that during the years investigated, 2002-2003, approximately two thirds of the thousands of complaints of unjustified use of force by the police were closed with no investigation, and in only 1%-2% of the cases were indictments filed. Only 4%-5% of all the cases investigated by the Department were prosecuted. I believe that it would be correct to say that Israeli society is in need for an efficient and credible PID.²⁰

Arab Leadership

In my statements until now, I have voiced much criticism of what I see as defects in the conduct of Jewish society, its institutions, and its leadership, in issues concerning the Arab sector. However the picture I see is not one-sided, and there are also problems that warrant correction on the Arab side as well, especially on part of its politicians (and these remarks are not designed to supposedly “balance” the criticism against the Jewish sector). I therefore wish to conclude my presentation by briefly outlining four points relating to this matter.

1. I do not understand the adamant opposition of many Arabs, especially the politicians among them, to non-military national/civil service in their own communities – a proposal which has been on the agenda for an extended period of time, and is again mentioned in the Lapid Report. I understand the fears that a civil service could lead to military service, and I am familiar with the arguments that Arabs should not bear full obligations as long as they do not enjoy full rights, but I believe these arguments are baseless. Particularly fallacious is the argument making the performance of duties dependent on the achievement of rights. Moreover, this argument could even be counter-productive: others could and in fact have claimed, that Arabs should not be granted civil rights as long as they refuse to assume equal obligations. Civil service, which according to the Ivri Report would grant volunteers the same privileges as military service veterans, could be a path to dignified integration in

Israeli society and in addition make a significant contribution in resolving the grave communal problems of Arab towns. The rejection of this proposal merely aggravates the alienation between the two sectors.

2. As to full military service, everyone agrees that Arabs should not be compelled to serve in an army that occasionally battles against other Arabs. However, more than a small number of Arabs currently serve in the IDF, and increasing criticism of this is heard in the Arab sector. Based on the right to freedom of speech, such criticism is legitimate, but it should have its limits. For example, a boycott on the soldiers and their families, the refusal to bury their dead, and other similar actions, constitute hostile acts of defiance against the State itself, and are detrimental to Jewish-Arab relations.
3. An issue extensively addressed by the Or Commission is the political campaign to “Defend Al-Aksa” led by Islamic Movement leaders, that continues to this day, unabated. It is certainly possible to appreciate the deep attachment of Muslims in Israel to the mosques on the Temple Mount, and their concern for their safety. But it is also now evident that the major threat to mosques comes from the fanatical margins of Jewish society, while the Government invests efforts to protect the mosques from these elements. Sometimes the police deploys thousands of police officers to stop these zealots. Yet, for the “Al-Aksa Defenders” the **State** is the enemy, and they do not distinguish between potential terrorists and the security forces that block them. This fact fosters the impression in Israeli society, that the broad popular mobilization conducted under the Al-Aksa banner, is in fact directed against Israeli society and the State.
4. One can also appreciate the Arab citizens' feelings of solidarity with their Palestinian brethren in the Territories, and Jews should respect this. However, Arab public figures must define a red line between what is legitimate and what is not. Support of terrorism, even verbal support, lies beyond this line. In my opinion, Arab public figures are mistaken when they express identification with security prisoners, or when they justify acts such as the destruction of the Gush Katif synagogues, as they have done recently. Public personalities are imposed with the difficult role of finding the golden path between the Palestinian and the Israeli dimensions of their community, and they must fulfill this role out of a sense of responsibility.

These are my comments on the issue of Arabs in Israel, two years after the publication of the Or Commission Report. The state of affairs as I see it, which I have attempted to describe to you, is not heartening. As a member of the former Or Commission, I stand before you today with a sense of disappointment and sadness. This is not the reality we aspired for. We, the members of the Commission, were sufficiently realistic to understand that there was a limit to what could be achieved under the present circumstances, but when we expressed our wishes and hopes in the Report's conclusion, we believed that it was possible to achieve more than what we see today. Recently I heard someone say, "The recommendations of the Commission to close the gaps between Jews and Arabs were eroded by the Lapid Report; and the Commission's recommendations to bring to justice those guilty of the killings were undermined by the PID document." This may be an exaggeration, but it is not excessively so. The lack of progress in resolving these outstanding problems between Jews and Arabs in this country is fraught with grave dangers. I can only conclude this lecture with none other than the words used by the Chairman of our Commission, Justice Theodor Or, to conclude his own lecture one year ago: "The handwriting remains on the wall."

Notes

1. Theodor Or, *A Year to the State Investigative Commission on the October 2000 Events*, Tel Aviv University, Tel Aviv, 2004.
2. Shawki Khatib, Knesset Committee for Internal Affairs, June 28, 2005.
3. Although the publication of the PID conclusions once again directed attention to the police officers guilty of the killing, the fundamental problems remain in the background.
4. MK Amram Mitzna, Knesset Committee for Internal Affairs, June 21, 2005.
5. *Du-Et*, June 6, 2005 [in Hebrew].
6. Support of the State of Israel's right to exist as a Jewish, democratic state appears to be excessive, especially in view of the opposition to this concept among Arab politicians. However, some corroboration of Smooha's finding can be found in a Truman Institute survey published after the date of this lecture, stating that 63% of the Arab citizens accept the principle that Israel is the state of the Jewish people (*Ha'aretz*, October 2, 2005). The respondents apparently link acceptance of the existing situation with attainment of equality in the State.
7. *Du-Et*, June 6, 2005 [in Hebrew].
8. *Ha'aretz*, December 31, 2004 [in Hebrew].
9. *Ha'aretz*, April 4, 2005 [in Hebrew].
10. On September 25, 2005, the government decided to amend the Terror Attack Victims' Compensation Law to allow Arab victims of Jewish terror to receive National Insurance compensation. According

to the proposed amendment, which requires approval by the Knesset, victims "relating to the national conflict in Israel" will receive payment.

11. One finding emerged after the date of this lecture, in the annual review of Radio Channel 2, confirms these disturbing numbers: 72% of the Jews expressed the opinion that "Arabs are not loyal to the State."
12. *Ha'aretz*, August 4, 2005 [in Hebrew].
13. *Ha'aretz*, August 5, 2005 [in Hebrew].
14. *Ha'aretz*, September 13, 2005 [in Hebrew].
15. I would like to thank Dr. Danny Gera, CEO of ARSAD, an organization involved in social-economic development in the Arab sector, and advisor to the Knesset Internal Affairs Committee; and to Mr. Ehud Prawer, Deputy Director of the National Security Commission, for their assistance in obtaining and analyzing the data. I also wish to thank Arik Rudnitzky, of the Adenauer Program for Jewish-Arab Cooperation at the Moshe Dayan Center of Tel Aviv University, for his assistance in data gathering.
16. Amin Fares. *The State Budget and the Arab Citizens: 2004 Socio-Economic Report*, Haifa, 2005, p. 97 [in Hebrew].
17. The foremost examples are: The Commission Report stated that there was proof that a certain police officer used live ammunition with no justification and caused the deaths of two citizens [p. 754]. Regarding a second police officer, the Commission Report stated that he used rubber bullets at short range with no justification, causing a head injury and death of a citizen [p. 757].
18. Testimonies heard by a commission of inquiry cannot serve as evidence in a judicial process.
19. *Ha'aretz*, February 21, 2005 [in Hebrew].
20. In late September, it was reported that the State Attorney may re-open the PID's conclusions for further examination.