

## **Two Policies for Two Peoples**

**By Abeer Baker\***

The protest by Arab citizens of Israel against the State Prosecutor's Office decision to indict ten young Arabs from Shafa'amr for attacking Natan Zada is appropriate.<sup>1</sup> It is a protest against the selective policy of the state's law enforcement authorities in handling indictments and conducting investigations pertaining to assault and killing – one policy for Arabs and another policy for Jews.

It is clear to all that the protest in this case is not against the indictment of an Arab. Not at all; it is rather against the selective policy of the law enforcement authorities in fully exercising the law vis-à-vis suspects. It is hard not to wonder about the tireless determination of the State Prosecutor's Office in submitting indictments, at any cost, against the [Arab] suspects in this case, as compared to the lack of seriousness and the indifference it revealed from the very first moment that 13 Palestinian Arab demonstrators were shot to death [in October 2000], when it was clear to all that policemen had committed grave criminal offenses.

The eagerness of the State Prosecutor's Office to submit indictments against Arab citizens – instead of protecting them as should be expected in such circumstances – was also clearly evident in October 2000. As you will recall, 14 citizens of Israel were killed in the serious events of that period, 13 Arabs and one Jew. Soon after the October 2000 events the State Prosecutor submitted an indictment against a young Arab man, charging him with killing the Jewish citizen. The acquittal of the young Arab man on the manslaughter charge is a good indication of the haste in which the indictment was submitted. Needless to say, no action was taken against those who were responsible for the killing of the others, who were, naturally, Arabs.

Instead of fulfilling the obligation of law enforcement authorities to conduct a genuine investigation into the illegal use of snipers against citizens during the October events, senior officials in the State Prosecutor's Office convened an emergency meeting to discuss the question of how to impose a stricter policy against the Arab demonstrators who were arrested and to prevent their release. The report of the Official Commission of Inquiry (the Or Commission) that was appointed to investigate the events contained harsh criticism of police officers and unequivocally determined that their use of firepower was illegal. A day after the publication of the report in 2003 and before the State Prosecutor's Office had had the opportunity of studying all of its implications, the prosecution directed its efforts against Bilal Lawabny (the brother of the deceased Eyad Lawabny). Bilal Lawabny was interviewed in the media and angrily threatened that if he found the policeman who had killed his brother he would attack him.

The indictment was filed against Lawabny just two days after the publication of the Or Commission's report, along with a demand that he be detained until the end of the proceedings against him. The indictment, in effect, made a victim of the policeman who shot

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<sup>1</sup> On 4 August 2005 Natan Zada, a Jewish Israeli army deserter, opened fire aboard a bus in Shafa'amr and killed four Palestinian citizens of Israel.

the deceased Mr. Lawabny who was to be protected from the embittered brother. No proceedings have ever been initiated against this policeman, the "potential victim."

Police Officer Guy Raif, who was identified by the Or Commission as the primary suspect in the killing of the late Mr. Walid Abu Saleh, for which he has yet to be brought to account, was also made into the victim by the law enforcement authorities. During his testimony before the Or Commission, he described the way in which he had opened fire on demonstrators who were standing in the same location as the late Mr. Abu Saleh. The bereaved father burst toward Raif and punched him in the face. The law enforcement authorities did not fail to respond: they not only submitted an indictment against the bereaved father, but also waged a legal battle advocating severe punishment, refusing to accept a two-month prison sentence.

An examination of the prosecution's decisions in indicting suspects cannot be carried out without paying regard to its general policy and the guiding principles thereof. The public interest that is supposed to guide the prosecution in indicting a person is also supposed to guide it in decisions not to indict. Public interest demands a fair and equal approach by law enforcement and the protection of victims.

The law enforcement authorities, who regard their role as protecting the public interest only when the suspect is an Arab and disregard their role when an Arab is the victim, cannot be provided with legitimacy for their decisions.