

## THE OFFICIAL SUMMATION OF THE OR COMMISSION REPORT

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### **Introduction Part 1**

1. The events of October 2000 shook the earth. The riots in the Arab sector inside the State of Israel in early October were unprecedented. The events were extremely unusual from several perspectives. Thousands participated, at many locations, at the same time. The intensity of the violence and aggression expressed in the events was extremely powerful. Against security forces, and even against civilians, use was made of a variety of means of attack, including a small number of live fire incidents, Molotov cocktails, ball bearings in slingshots, various methods of stone throwing and the rolling of burning tires. Jews were attacked on the roads for being Jewish and their property was destroyed. In a number of incidences, they were just inches from death at the hands of an unrestrained mob.

In a number of instances, attempts were made to enter Jewish towns in order to attack them. Major traffic arteries were blocked for long periods of time and traffic to various Jewish towns was seriously disrupted, sometimes even severed, for long periods of time. In a large number of instances, the aggression and violence was characterized by great determination and continued for long periods. The police acted to restore order and used a variety of means to disperse the crowd. As a result of the use of some of these means, which included firing rubber bullets and a few instances of live fire, Arab citizens were killed and many more injured. In the second wave of events, some places saw retaliatory Jewish riots against Arabs.

During the events, 12 Arab and one Jewish citizen were killed. One resident of the Gaza Strip was also killed. Such riots could have developed - heaven forbid - into a serious conflict between sectors of the population, such as the interracial conflicts with their attendant results that we have seen in distant locales. The fact is that, in a number of locations in Israel, these developments did lead to retaliatory Jewish riots.

2. The riots inside the state coincided with serious riots in Judea, Samaria and the Gaza Strip. Prominent personages from the Arab sector indicated this was not coincidental, and reflected interaction between Palestinians inside the Green Line and Palestinians on the other side of the demarcation. Even this combination of events is unprecedented. Against the background of these aspects, the events were considered an "intifada" that exceeded the definition of local uprisings.

3. The events, their unusual character and serious results were the consequence of deep-seated factors that created an explosive situation in the Israeli Arab population. The state and generations of its government failed in a lack of comprehensive and deep handling of the serious problems created by the existence of a large Arab minority inside the Jewish state.

Government handling of the Arab sector has been primarily neglectful and discriminatory. The establishment did not show sufficient sensitivity to the needs of the Arab population, and did not take enough action in order to allocate state resources in an equal manner. The state did not do enough or try hard enough to create equality for its Arab citizens or to uproot discriminatory or unjust phenomenon. Meanwhile, not enough was done to enforce the law in the Arab sector, and the illegal and undesirable phenomena that took root there.

As a result of this and other processes, serious distress prevailed in the Arab sector in various areas. Evidence of the distress included poverty, unemployment, a shortage of land, serious problems in the education system and substantially defective infrastructure. These all contributed to ongoing ferment that increased leading up to October 2000 and constituted a fundamental contribution to the outbreak of the events.

Another cause was the ideological-political radicalization of the Arab sector. These processes were expressed in various expressions of identification with and even support of the Palestinian struggle against the state. This radicalization process was related to the increasing strength of Islamic politics in Israel in the period preceding the events. Serious conflicts existed between Muslims in Israel and governing authorities on matters like the Waqf's property; worsening conflicts between Muslims and the government on the issue of the Temple Mount; and cheers, primarily from the radical branch of the Islamic movement, for Islamist organizations that are Israel's enemies, including Hezbollah and Osama bin Laden.

4. The behavior of the Arab sector leadership contributed to the depth of the events and their force. The leadership did not succeed in directing the demands of an Arab minority into solely legitimate democratic channels. It did not succeed in understanding that the violent riots, obstruction of traffic arteries and identification with armed activity against the state and its citizens, constitute a threat against the state's Jewish citizens and substantially damaged the delicate fabric of Jewish-Arab relations in Israel. This created the mold for the threat of serious violence and the use of violence to achieve various goals, as evident in house destructions and land expropriation, and concerning negotiations regarding Jerusalem and the status of the Temple Mount. In various mosques, messages were transmitted delegitimizing the state and its security forces, and serious hostility and antagonism toward its symbols were expressed. Various circles raised demands to grant autonomy in some areas to the Arab minority, and to abolish the definition of the state as a Jewish state and make it "a state for all its citizens." This blurred more than once the line between the Palestinians in Judea and Samaria and the Arab citizens of the state.

Prior to and during 2000, there was a recognizable increase in the frequency of conflicts with the police and their force. The violent conflicts were a regular norm. In the first stage, organizations representing the Arab sector declared strikes and demonstrations, protesting processes and policies of various authorities. At the second stage, assemblies and processions were held in certain locations. At the third stage, youth left the masses to throw stones at vehicles, burn tires and damage facilities they felt symbolized the government. At this stage violent clashes with the police developed, after police arrived to restore order. Despite the fact that the slide from orderly demonstrations to unrestrained riots consistently reoccurred, the Arab leadership took no precautions to prevent the deterioration into violence, and did not warn against violating the law at demonstrations and processions it had initiated...

## **Introduction Part 2**

5. Various events that took place in the course of 2000 stridently signaled that the latent potential in these processes was getting out of control in practice. Although the police understood this and took certain steps to address this possibility, its commanders and the politicians failed in not making suitable preparations for the outbreak of widespread rioting that did take place, and in not addressing the tactical and strategic aspects involved in this possibility. The failure was evident in a lack of clear policy in handling the events during their first two, critical days. It was evident in a lack of sufficient operational or psychological training of police forces for any disturbances, and for events of the sort that occurred in particular. It was evident in a lack of appropriate police riot gear. It was evident in the police center of gravity relying on a very problematic means - rubber-coated cylinders that generally contain three separate bullets - whose various dangers were not sufficiently elucidated to those using them and those deciding to use them as a central and sometimes sole tool for handling riots. Not enough was done in order to assimilate as much as possible the need to avoid bodily injury to citizens, even rioting citizens.

6. A series of deeds and omissions close to the events and during them combined to actualize the explosive potential that grew with time. Ariel Sharon's visit to the Temple Mount led to serious responses to it from the Arab sector leadership inside Israel and from the Palestinian leadership in Judea and Samaria and the Gaza Strip. One day later, there was serious unrest at the site, and during its dispersion by the police, some were killed and many injured. Against this backdrop, serious riots began in Judea and Samaria, in which residents were killed and many were injured. The Higher Arab Monitoring Committee chose, in this sensitive situation, to send the masses into the streets and call for processions and

demonstrations. With this backdrop, and in light of what was already known on the continuing processes and serious events that occurred in 2000, the police and those responsible for it, commanders and politicians, failed in not ordering appropriate preparation prior to Oct. 1, 2000. Police forces were not prepared at the locations known in advance to be possible sources of unrest.

As a result, the riots began with no response at all, and in other places, police forces were unable to handle the riots properly. By the time the police came to its senses, the events had built up momentum and begun to cause bodily injury, which added to the flames. Even at this stage, the Monitoring Committee and the government could have prevented further escalation by preventing a general strike on the one hand, and resolute action to restrain security force response in order to prevent further injury, on the other. Only after the bloody Oct. 2, 2000, did the government and other entities in the Arab sector leadership take action to moderate events and stop them. Even after this point, the serious events did not cease immediately, and five citizens were killed in riots that took place after October 2. Nonetheless, the exceptional nature of the events did moderate and order returned gradually.

7. The committee sent cautions according to Clause 15 of the Investigative Commissions Law to 14 persons and officeholders. These personages and officeholders were given the opportunity to bring evidence and make arguments in order to rebut the content of these warnings. The gist of the committee's conclusions will be described here, according to the order of the personages decided under Clause 15.

#### **Ehud Barak – Not Aware**

8. Ehud Barak. Some of the details in the caution sent to Mr. Barak were proven. The commission found it was proven that Mr. Barak was not aware of or sufficiently attentive, being prime minister of Israel, to the processes occurring in Israel's Arab society, which created during his tenure a real fear of the outbreak of widespread rioting. This omission was evident in the fact that he did not respond to requests and recommendations to hold a discussion involving all branches of government on the matter, and such a discussion was not held in practice. It was proven that Mr. Barak did not give enough thought to the need for appropriate preparation by the police force prior to the riots as stated, thus not devoting sufficient energy and thought to a subject of strategic importance to the State of Israel, and its citizens well-being. It was further proven that in the first two days of the events, Mr. Barak took insufficient action to prevent the use of deadly force by the police or to limit it. It was also proven that Mr. Barak did not fulfill his duty as prime minister during the events of October 2000, in that he did not demand the police or its commanders make concrete, complete and detailed reports as soon as possible regarding the police's manner of operation in specific events in which citizens were killed or seriously injured, and regarding the reasons for this serious outcome of each such event.

In contrast, it was not proven as charged that Mr. Barak gave instruction prior to October 2 to open traffic arteries, with the emphasis on the Wadi Ara road, using any means, in other words at any price. Regarding this matter, it was determined that Mr. Barak instructed the security forces to open Wadi Ara road that day, despite the fact that funerals with massive participation were expected in the region. He even instructed the security forces to be resolute in keeping the axis, and other axes, open to traffic. It was determined that this instruction was not unreasonable, under the circumstances, to the extent that justifies criticism of Mr. Barak. It was determined that the use of snipers on October 2 at the Umm al-Fahm junction exceeded the instruction, and that Mr. Barak did not foresee it.

The additional charge against Mr. Barak - that he did not invest sufficient thought on October 1-2 to events occurring in Israel, even after he knew of the severity of the October 1 events, of a casualty that day, and of the expected escalation the following day - was not proven. In a similar manner, it was determined that he did not do enough to bring calm during the events, in that he did not meet with the Arab Israeli leadership until October 3, despite the intelligence service's estimates that such a meeting, if held urgently, could lead to a substantial calming of the events.

The commission decided not to make operative recommendations regarding Mr. Barak. As far as his function as prime minister, the commission gave its opinion that Mr. Barak has not filled the position since the February 2001 elections and that it is an elected position. The commission reached the conclusion that there is no reason to deal with or discuss the possible ramifications of its conclusions on Mr. Barak's candidacy to serve in the position again. Regarding other positions, although it did not take the findings lightly, the commission believed after considering the overall proven facts that there is no place for any operative recommendation regarding Mr. Barak's fulfilling any other positions.

### **Shlomo Ben Ami – Insufficient Action; Sheikh Ra'ed Salah – Used Propaganda**

9. Professor Shlomo Ben Ami. The commission determined that it was proven that, while minister of public security, in the period before the October 2000 events, Mr. Ben Ami did not take sufficient action to ensure that the police be ready for widespread riots in the Arab sector, despite being aware of the processes increasing the risk of such events. The commission further determined that, as minister of public security, both prior to the October 2000 events and in the first days of the October 2000 events, Mr. Ben Ami did not show sufficient awareness of the inherent risks in the use of rubber-coated bullets for riot dispersion, and did not take the necessary steps to prevent the use of this ammunition or limit its use in this sort of event. This, despite the fact that he knew or should have known, the intense latent risk in the use of such ammunition. It was further determined that, as minister of public security, Mr. Ben Ami did not invest the thought required of his position, on October 1-2, in police preparedness in areas for which it was possible to foresee the possibility of violent events and did not confirm the polices' appropriate preparedness in those areas.

The commission further determined that what Mr. Ben Ami was charged with was proven, in that during the October 2000 events he did not take resolute or aggressive enough action to regulate police operations, as required by his position and the seriousness of events, in that he avoided demanding the police or its commanders make concrete, full and detailed reports, as soon as possible, on the manner of police operations in specific events in which citizens were killed or seriously injured, and regarding the reasons for this serious outcome of each such event. The commission determined that it was not proven that Mr. Ben Ami was partner to instructions to open traffic axis at any price.

Regarding recommendations in Mr. Ben Ami's case, the commission felt Mr. Ben Ami has no longer served as a minister, since the change of power in 2001, and in that he resigned the Knesset. The commission noted that Mr. Ben Ami's intentions and Mr. Ben Ami's actions regarding the operation of the police in the Arab sector was far from positive. Nonetheless, the commission believed that the conclusions indicate a substantial failure in fulfilling his duty. Against the backdrop of his failure as minister of public security, the commission recommends that Mr. Ben Ami not be appointed in the future to a ministerial position in this ministry.

10. Sheikh Ra'ed Salah. The commission determined that the charges against Sheikh Ra'ed Salah were proven, including that, as the head of the northern branch of the Islamic movement, the mayor of Umm al-Fahm and a public personage, he was responsible in the period prior to the October 2000 events, including in 1998-2000, for the transmission of repeated messages encouraging the use of violence and the threat of violence as a means to achieve the goals of Israel's Arab sector. In addition, it was proven that he held mass assemblies and used propaganda to incite the public and create an inflammatory atmosphere regarding the sensitive issue of the Al Aqsa mosque.

It was also proven that, as head of the northern branch of the Islamic movement, the mayor of Umm al-Fahm and a public personage, Sheikh Salach was responsible in the period prior to October 2000, including in the years 1998-2000, for the transmission of messages that negated the legitimacy of the existence of the State of Israel and presenting the state as an enemy.

It was further proven that, as head of the northern branch of the Islamic movement, the mayor of Umm al-Fahm and a public personage, Sheikh Salach was responsible, prior to October 2000, for the transmission of messages regarding an allegedly planned massacre at Al Aqsa

on Sept. 29, 2000. He was also responsible for comments praising the outbreak of serious and widespread violence that occurred in the Arab sector at the beginning of 2000, before the events had ended.

In all this, he had a substantial contribution to provoking tempers and the violent and widespread outburst that took place in the Arab sector at the beginning of October 2000.

Considering that Sheikh Salah does not fulfill any official public position, after resigning as the mayor of Umm al-Fahm, and his position in the movement is voluntary, the commission saw no need to give a recommendation regarding Sheikh Salah.

### **Azmi Bashara – Escalation; Abdulmalik Dehamshe – Inflaming**

11. MK Dr. Azmi Bashara. Dr. Bashara was charged - while head of the Balad Party, an MK and a public personage - with being responsible in the period prior to the events of October 2000 for the transmission of messages supporting violence as a means of achieving the goals of Israel's Arab sector, thus having a substantial contribution to inflaming the atmosphere and the escalation of violence that took place in the Arab sector at the beginning of 2000. These facts were proven.

Mr. Bashara is an elected official representing his party in Knesset. The legality of his candidacy and that of his party for Knesset election was recently approved by the Supreme Court. Under this circumstance, the commission saw no reason for personal recommendations regarding Mr. Bashara.

12. Abdulmalik Dehamshe. It was charged that Mr. Dehamshe, while an MK, head of the United Arab List and a public personage, was responsible in the period prior to the events of October 2000, and primarily during the years 1998-2000, and during the events of October, for the transmission of messages of support for violence as a means of achieving the goals of Israel's Arab sector, making a contribution to inflaming the atmosphere and the worsening of the violence that took place in the Arab sector at the beginning of October 2000. These things were proven. Similar to MK Bashara, Mr. Dehamshe is also an elected official, representing his party in the Knesset. Under this circumstance, the commission saw no reason for personal recommendations regarding Mr. Dehamshe.

### **Yehuda Wilk – Didn't Fulfill Duties**

13. Yehuda Wilk. The commission determined that most of the details of the caution sent to Police Commissioner Yehuda Wilk were proven. It was proven that as police commissioner of the Israel Police, he did not take care prior to the events of October 2000 to equip the police with the means of the type and quantity necessary to handle serious unrest, and thus led to the fact that rubber-coated bullets, with the serious risk inherent in their use, were the primary means available to the police to disperse uprisings. It was also proven that Commissioner Wilk did not take care at the time of sufficient police preparedness in the form of appropriate training exercises for events such as serious riots.

The commission also found that it's proven that Commissioner Wilk did not act properly leading up to October 1 and during that day, in that, although he foresaw the possibility of violent events among Israel's Arab population on October 1, he did not order appropriate police deployment on October 1 in keeping with this possibility, mostly in northern Israel. It was further proven that, as police commissioner in the period prior to the events of October 2000, Commissioner Wilk did not initiate an investigation of the impact of the use of rubber-coated bullets, of the results and orders to use these bullets, despite knowing that the use of this ammunition involved serious, and even fatal, consequences. The commission determined also that it was proven that Commissioner Wilk did not, as police commissioner during the events of October 2000, appropriately supervise and control the use of rubber-coated bullets, allowed widespread use of such bullets during the events and did not instruct police forces sufficiently to use nonlethal means at their disposal to disperse riots. In this context, it was determined that Commissioner Wilk did not apply or take care of the application of lessons learned from events in September 1998 in Umm al-Fahm, regarding the overuse of rubber-

coated bullets, regarding police control of riots and regarding appropriate training for forces involved in handling riots.

The commission further determined that as commissioner of the Israel Police, Commissioner Wilk did not respond to the initial events, in which citizens were killed in the October 2000 events, efficiently and resolutely enough in order to prevent further loss of life and bodily injury, including not giving appropriate instructions aimed at preventing these injuries and leading to a calming of tempers. It was proven that Commissioner Wilk did not take care, as police commissioner, of conducting, at the earliest possible moment, organized investigations into the events of October 2000, with emphasis on events in which the conflicts led to the use of live fire or rubber-coated bullets, and events in which there were injuries ...

The commission further determined that Commissioner Wilk was aware after the fact of the use of live fire by snipers during the events of October 2000, and did not fulfill his duty in not revealing these facts to politicians, not taking any steps to ensure that the normative personnel conclusions would be drawn from the use of snipers in the events, and even expressed retroactive agreement with use of snipers as a deterrent ...

The commission further determined that it was not proven that Commissioner Wilk did not fulfill his duty regarding the development of nonlethal means for the police to handle unrest ...

Mr. Wilk resigned as commissioner shortly after the October events, at the end of his previously determined term of office. The commission received the impression that Commissioner Wilk served with devotion with a real sense of mission. Nonetheless, the commission believes the facts and conclusions detailed indicate a substantial professional failure on Wilk's part in fulfilling his position, and even of breach of trust toward the politicians involved regarding the use of snipers. In light of this, the commission recommends that Mr. Wilk not fill any senior positions in public security in the future.

#### **Alik Ron – Muddied Relationship**

14. Alik Ron: The committee found that, as commander of the Northern District prior to the outbreak of the October 2000 disturbances, Major General Ron contributed, in word and deed, to the muddied relationship, and the break off in communication between himself and the Arab leadership in his district. In so doing, he made more difficult the fulfillment of his duties and those of the personnel under his command in this sensitive district. Maj. Gen. Ron's words and deeds exceeded the permissible and desirable for a district commander, and also made it more difficult for the police to deal with the events of October 2000. The committee also determined that Maj. Gen. Ron did not prepare the personnel under his command properly for widespread riots that might break out in the district, and he did not ensure the application of lessons learned from previous events in the district.

With regard to the events themselves, the committee found that Maj. Gen. Ron did not properly prepare personnel under his command for the fact that riots might break out on Oct. 1, 2000, although he should have predicted the possibility that riots might break out on this date. On October 1 and 2, he did not give adequate consideration to the need to receive information that was as updated, complete, and detailed as possible under the circumstances, regarding events in the district under his command. He did not operate a front-line command position, as required by police regulations. The committee found that, as a result, Maj. Gen. Ron's ability to direct police operations in the numerous events that took place in the district was compromised.

The committee also found that Maj. Gen. Ron was responsible for live fire by sharpshooters that was directed at rioters in Umm al-Fahm. It determined that this firing was unjustified, and resulted in injuries to at least seven people and the death of one of them. The committee found that he personally ordered the sharpshooters to open fire, in direct contravention of police orders in the matter of live fire. It was determined that Maj. Gen. Ron was also responsible for the use of live fire in Nazareth.

The committee also determined that Maj. Gen. Ron did not ensure that priority would be given to nonlethal means during control of the riots. He did not properly supervise the use of rubber-coated cylinders, and allowed their widespread use, which the committee determined was unjustified, although he knew, or should have known, of the dangers, including loss of life, involved in the use of this ammunition. The committee also determined that Maj. Gen. Ron did not ensure the proper investigation of the events in his district, especially of the events that brought about the use of live ammunition or rubber-coated bullets, and the events in which there were casualties ...

The committee was impressed with Maj. Gen. Ron's leadership qualities, with the fact that he is much admired by those under his command, and with his willingness to take responsibility, as well as from his devotion to duty and his work in the past to assist the Arab sector in solving conflicts with him through compromise. However, the committee determined that the array of its findings regarding Maj. Gen. Ron point to a substantial failure in the ways and means of fulfilling his duties. In consideration of the above, and in light of the fact that Maj. Gen. Ron retired from the police on May 1, 2003, the committee recommended that in the future he not fulfill any command or administrative position in the area of public security.

### **Moshe Waldman – Exceeded Authority; Bentzi Sao – Substantial Failures; Yaron Meir – Against Orders**

15. Major General Moshe Waldman: The committee concluded that Maj. Gen. Waldman was responsible for putting live-fire sharpshooters into the arena. It determined that using the sharpshooters was both unjustified and against police regulations and practice. The committee also determined that Maj. Gen. Waldman, who was commander of the Valleys District of the Israel police during the events of October 2000, did not carry out proper command and monitoring procedures regarding the use of rubber-coated bullets, and allowed widespread, unjustified use of this ammunition in spite of the fact that he was aware of the serious risks involved, including death. The committee also proved that Maj. Gen. Waldman did not order that preference be given to nonlethal weapons in responding to the disturbances.

The committee also showed that in an incident in Nazareth on Oct. 8, 2000, Maj. Gen. Waldman gave the order to fire, without giving due consideration to the risk involved in live fire on civilians. As a result of this failure, the live rounds fired by police severely wounded civilians and caused the death of at least one civilian. There was also no justification for the firing of rubber-coated cylinders ...

Maj. Gen. Waldman closely followed the investigation of this case, and even directed officers under his command. This constituted a conflict of interest, as he had been personally involved in commanding the police during the course of the disturbance ...

Although Maj. Gen. Waldman impressed the committee as a serious and experienced commander, it determined that facts indicated serious failures in fulfilling his command, and that he exceeded his authority in ethical terms regarding investigation of the case in which he was personally involved. The committee was informed that he was in line for promotion during the period of its deliberations, however, it recommended that he be released from service.

16. Major General Bentzi Sao: The committee concluded that Maj. Gen. Sao, who served as commander of the Northern District of the Border Police and commander of the Wadi Ara region during the events of October 2000, commanded the forces during an hours-long confrontation at the Umm al-Fahm junction in a manner unjustified under the circumstances and against district police policy as it had been determined that morning. In the confrontation that resulted from the action commanded by Maj. Gen. Sao, a police contingent entered Umm al-Fahm, against directives. Numerous rubber-coated and live bullets were fired, causing the death of two civilians and numerous injuries. However, the committee determined that Maj. Gen. Sao was not personally responsible for the serious consequences of the actions of individual police personnel in Umm al-Fahm. It also determined that on Oct. 2, 2000, Maj. Gen. Sao was one of those responsible for the unjustified opening of fire by sharpshooters on stone throwers at the Umm al-Fahm junction.

Maj. Gen. Sao impressed the committee as a serious and experienced commander. However, the committee found substantial failures in his functioning. Maj. Gen. Sao was also in line for promotion during the period of the committee's deliberations. The committee recommended that he not be promoted in rank or position for a period of four years from the day of publication of its report.

17. Chief Superintendent Yaron Meir: The committee determined that on Oct. 2, 2000, Chief Superintendent Meir did not ensure the presence of a police contingent at the Teradyon industrial zone in the Misgav region northwest of Nazareth. The committee determined that as commander of the Misgav region, Chief Superintendent Meir should have ensured the proper deployment of forces in the area. It also determined that his actions in this regard went against orders and instructions in this matter. The committee also determined that Chief Superintendent Meir could have deployed forces at the Teradyon industrial zone on the day in question, to the site where Superintendent Guy Reif had been attacked by dozens of young people near the Petros factory. However, the committee could not prove that Meir's failures led directly to the fatal outcome of the confrontation at the Petros factory between the police and rioters, because the committee determined that Superintendent Reif could have and should have retreated and thus averted the danger.

The committee did not recommend that action be taken against Chief Superintendent Meir.

18. Chief Superintendent Shmuel Marmelstein: The committee determined that, as commander of the Nazareth police station on Oct. 3, 2000, Marmelstein was responsible for positioning sharpshooters, and their opening fire, in a manner that was against regulations and practice. It was also determined that sharpshooter fire was unjustified under the circumstances. Chief Superintendent Meir also failed to ensure that he receive real-time reports on the actions of the sharpshooters. The committee determined that the claim that Chief Superintendent Marmelstein was not authorized to order the sharpshooters into position was unfounded; routine practice permits an officer of the rank of station commander to do so. However, the claim that Chief Superintendent Marmelstein gave the sharpshooters an order to fire ahead of time, without ensuring that each order to fire be authorized by him, was shown to be false.

Chief Superintendent Marmelstein impressed the committee as an experienced, well-balanced, and serious officer. The committee determined that his actions during the difficult events of October were, in most cases, unblemished and even praiseworthy. However, the committee determined that his failure regarding the sharpshooters under the circumstances was substantial, and demonstrated a deficiency in police operations. In consideration of the fact that this was a single exception, the committee recommended that Chief Superintendent Marmelstein's promotion in rank or position be delayed for one year from the day of publication of the committee's report.

#### **Guy Reif – Judgment Deficiencies**

19. Superintendent Guy Reif: The committee determined that Superintendent Reif repeatedly arrived at the scene of the disturbances alone or accompanied by a single policeman, without appropriate numbers of personnel or riot control equipment to deal with the events in question. In so doing, he failed to use the judgment expected of a commander of his position and rank, and created an unreasonable risk of escalation, which did indeed occur.

The committee also determined that on Oct. 2, 2000, the situation in which Superintendent Reif found himself in the Teradyon industrial zone, facing dozens of stone-throwing young men, could have been avoided. Among other things, he ordered unjustifiable use of live fire against the crowd, and thus caused the death of two civilians and the wounding of others. The committee also found that on Oct. 3, 2000, during the disturbances in Kfar Manda, Superintendent Reif ordered unjustified use of live fire, that was also against police regulations and practice.

The committee was impressed with the determination that characterized Superintendent Reif's attitude toward his police work. However, it determined that Superintendent Reif's behavior during the October events indicated substantial deficiencies of judgment.

The committee determined that Superintendent Reif should not serve as a commander in the police force, and it recommended that he be released from service.

20. N.I.: The committee determined that during the events of Oct. 2, 2000, N.I. ordered unjustifiable use of live fire, against regulations, and that he unjustifiably shot directly at a person after that person threw a Molotov cocktail, although neither he nor other police personnel were in danger. The committee also determined that at a later stage of the activity of that night, N.I. did not ensure that the contingent under his command be clearly identified as police personnel. In so doing, he created a risk that the contingent would not be identified by civilians as police operatives, which in fact occurred. However, there was reasonable doubt as to whether N.I. was responsible for the unjustified shooting that evening by three personnel of the Special Anti-Terror Unit, including himself, on a car traveling on Banks Street in Nazareth, in which a woman passenger was severely injured. Because N.I. no longer serves in the police, the committee did not see fit to make a recommendation regarding him.

21. Murshad Rashad: The committee determined that, while on duty during disturbances in the village of Jatt on Oct. 1, 2000, Rashad, a border policeman, aimed and fired rubber-coated cylinders unjustifiably, at the short range of 15 meters, at the upper body of civilians against regulations regarding safe distances for the firing of rubber-coated bullets and the order to fire rubber-coated bullets at the legs only. In so doing, Rashad created a serious risk of grave bodily harm. The shooting caused the death of one civilian.

Because Rashad no longer serves in the police, the committee did not see fit to make a recommendation regarding him. However, the committee recommended that the Ministry of Justice department for investigation of police investigate the incident in which he was involved.

22. Recommendations to initiate an investigation: The committee recommended that the Ministry of Justice department for the investigation of police investigate a number of incidents so that the proper authorities can decide whether to initiate criminal proceedings against anyone allegedly involved.

23. Institutional recommendations: The committee detailed a list of conclusions and recommendations regarding various institutions.

### **The Arab Sector and its Leadership**

24. The Arab sector: The committee determined that this is the most sensitive and important domestic issue facing Israel today. As such, it requires the personal involvement and leadership of the prime minister. The committee determined that the issue has been neglected for many years, and demanded that immediate, medium-term, and long-term action be taken. The committee determined that action must be focused on giving true equality to the country's Arab citizens. Israel's Arab citizens have the right to equality because of the essence of the State of Israel as a democracy, and because it is a basic right of every citizen. The state must work to wipe out the stain of discrimination against its Arab citizens, in its various forms and expressions.

In this context, the state must initiate, develop, and operate programs emphasizing budgets that will close gaps in education, housing, industrial development, employment, and services. Special attention should be paid to the living conditions and the hardships of the Bedouin. The committee determined that the state, through its most senior officials, must work to close these gaps quickly and energetically, determining clear and tangible goals and definite timetables. In this connection, the committee added that all government agencies must find the means to allow Arab citizens to express their culture and identity in public life in a respectable manner.

25. In the matter of land, the committee determined that it is the state's obligation to act toward its Arab citizens with equality and justice with regard to land use. The Arab sector has legitimate needs that stem from natural growth, among other things. The state must allocate land to this sector according to the same egalitarian principles it uses with other sectors. The committee added that suitable planning should be carried out as soon as possible to prevent illegal construction caused by lack of existing town planning that make it difficult to obtain a building permit. In this regard, the committee noted that a real response must be made by the government to the issue of the destruction of houses and the expropriation of land. On the other hand, wherever a way cannot be found to legalize existing construction, the law must be enforced unstintingly.

26. The committee noted the need for a reform of police systems with regard to the Arab sector. The police is not conceived as a service provider by the Arab population, but as a hostile element serving a hostile government. There is a need to expand community police services in order to improve service to this sector. The committee determined that, in light of budgetary difficulties in the police, budgets should be diverted from other areas to this area.

27. The committee noted the importance of inculcating moderate and balanced norms of behavior among all ranks of police personnel with regard to the Arab sector. It is important to work to uproot prejudice, which exists even among officers who are experienced and admired. The police must learn to realize that the Arab sector in Israel is not the enemy and must not be treated as such.

28. The committee determined that the police must raise the level of dialogue between its officers and the leaders of the Arab community. It must be in continuous contact with leaders at all levels in order to identify flash points for violence at an early stage and to determine agreed-upon means that will permit expression of protest without endangering the public and with minimum disruption of public order. The committee noted that during the period of its work it appeared that real progress had been made in this area.

29. The committee added that the police must demonstrate systematic and egalitarian enforcement of the law, whether in regard to the illegal call to use violence or in other illegal phenomena.

30. The Arab leadership: The committee determined that the Arab leadership must show greater responsibility in its messages and actions. Praising violence as a means of attaining goals, even legitimate ones, is not equitable with the obligation of the leadership to act responsibly, because messages they send may create an immediate risk to public safety and, in the longer term, a danger to the social fabric. Adopting the strategy of threatening violence or using illegal means to attain goals is unsuitable to responsible leadership. The committee determined that the right to protest does not include the right to initiate violent confrontation or to attack innocent civilians or the security forces ...

31. The committee added that those who initiate protest have the responsibility to end it without endangering public safety. The committee determined that the norm of unlicensed protests is unacceptable. It noted that this norm radiates lack of respect for the rule of law. Other, proper norms are to be expected of the leaders of the Arab community, many of whom are local or national leaders ...

32. The committee determined that, while most of Israel's Arab citizens are loyal to the state, the messages transmitted during the October disturbances blurred and sometimes erased the distinction between the state's Arab citizens and their legitimate struggle for rights, and the armed struggle against the state being conducted by organizations and individuals in the West Bank and Gaza. More than once, the two struggles are presented by leaders of the Arab community as one struggle against one adversary, often an enemy. The committee emphasized that the concept of citizenship is incompatible with the presentation of the state as the enemy ...

The committee emphasized the obligation of the Arab leadership not to blur the boundary between the emotional complexities that Israel's Arabs experience and the fact that they see

themselves as the brothers of the Palestinians in the territories and taking action and transmitting messages that are incompatible with the loyalty that every citizen of every nation must show. The committee said that the events of October 2000 should be seen as warning signs against continuing to head in this direction.

### **Role of the Public Security Ministry**

... The Public Security Ministry and its minister have an important role to play in supervising and monitoring the police, and in keeping the fine balance necessary in its functioning. This is even more the case in times of crisis and in preparing for them.

The committee determined that, with regard to decisions involving the value of human life, the minister of public security may not remain passive. He must be on his guard to ensure that he has the information necessary so that he can make informed decisions to supervise the work of the police and to direct police policy. Although the minister of public security should not interfere in individual operational or professional decisions, such as those involving investigations, he is expected to show leadership in matters of policy. In order for him to do so, he must make sure to obtain all necessary information, and to consult with operational staff personnel in his office regarding the significance of that information.

34. The operational headquarters in the Public Security Ministry: The committee noted the importance of the operational headquarters in providing the minister, who is not a police professional, with the independent professional advice to assist in supervising and monitoring the police. The committee determined that, for this reason, the chief of operations at the ministry should not be on active duty and in line for promotion, a status that creates a conflict of interest. The committee therefore recommended that personnel serving in this position not be on active duty on the police force. The committee also recommended that this course of action be followed regarding other functions in the Public Security Ministry.

35. ... The committee was impressed with the fact that, on the whole, the police, its commanders, and personnel operate faithfully, courageously, and in a determined manner that is to be commended, and noted that they serve night and day to protect public order and the laws of the state. However, the committee pointed out a series of matters needing attention and improvement, as detailed below.

36. Directives and orders: The committee found that the police do not require a sufficient level of coordination or systematically follow written directives and practices on various subjects ...

37. The committee determined that the police are not doing enough to transmit new orders and directives. In this regard, it found that the police do not take suitable action to inform personnel of changes in its directives permitting the use of rubber-coated cylinders only when lives were endangered. It was noted that most of the officers and personnel who testified before the committee said they were not aware of this change in regulations.

38. The committee noted that, during the events of October 2000, directives given to personnel in the field were not sufficiently clear. Directives on sensitive subjects such as riot control were transmitted without due emphasis on the importance of the matter. Only after fatalities were incurred were messages transmitted that clarified police policy on this issue.

39. The committee found that the following of orders and practices is not sufficiently obligatory in police culture ...

40. The committee examined the serious failures that were revealed in investigating, reporting, and documenting the events in which the police were involved. It noted the suspicion that the culture of full and true reporting of events in real time was not deeply rooted. The committee learned that a phenomenon of nondocumentation exists regarding various police activities, in spite of their great importance. The committee also noted that it found one case where failures in investigation bordered on ethical irregularities, with a district commander actively involved in examination of an event in which his own functioning was to

be investigated, and in actuality was not. The committee added that in many cases investigations regarding the discharging of a weapon did not take place ...

41. The committee found that omissions regarding reporting and the carrying out of orders is not limited to the lower echelons of the police ...

In this context, the committee noted that the use of sharpshooters during the October disturbances was concealed from the political echelons with no reasonable explanation offered.

42. The committee also noted that the culture of drawing conclusions by the police from the events of October 2000 is not deeply rooted ...

43. Handling of public disturbances by the police: The committee noted the principle of the sanctity of life requires that everything possible be done to prevent deaths or injuries during riot dispersal. The committee emphasized the obligation of the police to seek every possible avenue, under the circumstances, to avoid casualties. It noted that there is consensus on the fact that if budgetary and personnel constraints would allow, the desirable solution involves the establishment of a special force, consisting of thousands of personnel, for this purpose. In this context, the committee noted that there is an inherent advantage to a large, well-outfitted force to deal with disturbances, and that such a force may contribute to minimizing loss of life.

The committee noted that, in order for the police to face public disturbances, it must be properly equipped, which involves suitable budgetary appropriations. It noted that the lack of appropriate funding was a clear factor limiting police human resources and its ability to fulfill its duties. The committee recommended massive budget increases be given to the police. It also determined that in the given budgetary situation, police command may be improved in the issues in question. In this context, it determined that the police must outfit its units that deal mainly with public disturbances with the required protective gear, in order to to delay as much as possible the need to use brute force. The committee noted that such steps were taken as a result of the events of October 20200, and it emphasized that the police should ensure that the steps are completed as soon as possible.

### **Use of Live Fire**

44. The committee also addressed the issue of the measures used to disperse crowds. The committee determined that the fact that rubber-coated bullets became the principal means of handling disorder during Wilk's term as police commissioner significantly increased the risk of causing bodily harm during crowd dispersal, and this could have been anticipated. The committee determined that this happened due to the police's failure to check the consequences of this measure as used by the police in dispersing crowds. Similarly, the police failed to study the impact of rubber-coated bullets before being put into service even after the 1998 incidents in Umm al-Fahm, when many were injured by them. Even proposed legislation on this issue did not lead the police to conduct an orderly collection of data and present various alternatives and their consequences.

The committee determined that based on the way the police handled this matter, there is a structural defect in its operations. It was also determined that this shortcoming derives, at least partially, from a conceptual obstacle, according to which the police's means of dispersal is a technical matter for the quartermaster alone to handle. The committee insisted that this conception is mistaken. It was determined that the means of crowd dispersal have far-reaching implications on the relations between the police and the crowd it is facing and have a direct impact on human life and limb.

The committee emphasized in this context that only after the events of October did the police draw the necessary conclusions, forming a panel to investigate the use of firing rubber-coated bullets and shifted to using tear gas for crowd dispersal.

45. The committee determined that it should be made unequivocally clear that firing live ammunition, including sniper fire, is not a means to disperse crowds by the police. This is a

means to be used only in special circumstances, such as when there is a real and immediate threat to life or in the rescue of hostages.

46. The committee determined that rubber-coated bullets are not appropriate for use due to their risk. It was determined that the police should remove them from use. It was emphasized that this does not prevent the police from deploying other kinetic means, including rubber ones. Nonetheless, the guiding principle must be that a means with lethal potential can be used only in situations of real and immediate life-threatening danger, and only if its accuracy level enables it to hit the source of this life-threatening danger and no one else. In other situations, the police must use non-lethal means.

47. The committee insisted on the need for an organized doctrine to disperse crowds, and stressed the importance of providing sufficient training to the forces responsible for confronting public unrest. It was determined that until the events of October, the police lacked a systematic operation doctrine that could provide a clear and orderly answer to the complex psychological difficulties the police encounter when confronting public unrest.

In this context, the committee noted that in a number of the incidents it reviewed Umm al-Fahm on Oct. 2, the Lotem incident on Oct. 2, the Patrus incident on Oct. 2 and the mall incident on Oct. 8 the police response escalated, in some cases to the point of using lethal ammunition, as an almost immediate reaction after one of the policemen or commanders was injured by stones thrown at them from the unruly crowd. The committee noted that in each of these cases, the police reaction was excessive given the circumstances, since there was no real danger that required a lethal response. The committee emphasized that these examples illustrate the real difficulty in instilling in policemen the wisdom of self-restraint that will abide with them in difficult conditions of pressure and danger.

48. The committee emphasized the need to inculcate in policemen and field commanders a sharp realization of the serious significance of deploying potentially lethal means. It was noted that in the events of October, these means were used in many incidents without any objective justification for this.

The committee noted that also in this context, there was a significant trend for change in the police after the October events. The committee recommended that this trend be passed on to the entire police in an orderly manner as part of the doctrine for dealing with disorders. The committee added that it would be advisable for the police to take into consideration in the framework of its operating doctrine on this issue the way in which the use of guns is perceived - even if the means is rubber-coated bullets - by the other side. In this context, it was noted that the use of rubber-coated bullets is generally perceived as different from the use of live ammunition, and the even the police cannot distinguish between the firing of live ammunition and rubber-coated bullets from sound or sight alone. This has an impact on the dynamics of the clash.

49. The committee noted that during the events of October, the Police Special Anti-Terror Unit's forces were used to protect policemen engaged in confronting the disturbances. The committee noted that this raises questions: The expertise of the unit's personnel is in rescuing hostages and handling threats entailing live gunfire.

In light of all this, the committee determined that arrangements should be made to ensure that the unit's personnel are not deployed as part of a force handling public disturbances, and that they only enter action to counter threats that fall within the framework of the the unit's special mission.

50. The committee also addressed the issue of control over police forces engaged in handling incidents of public unrest. It was noted that these public disturbances are characteristically prolonged and dynamic incidents can evolve in unexpected directions. It was also noted that there are substantial numbers of police involved in such events who often find themselves in threatening and tense situations. The committee noted that these conditions pose an inherent risk of an immoderate reaction by one policeman or another during some stage of the event, and that such reactions are liable to lead to severe consequences, bringing the incident out of

control and even affecting events in other locations. The committee noted that this occurred in various cases in the events of October.

In light of this, the committee determined that when selecting policemen for units assigned to handle public order, the police should give serious weight to the criterion of cool-headedness and self-restraint. The committee added that the police should improve the level of control of its commanders.

51. The committee noted that the police formulated a detailed and orderly operational doctrine for dealing with public disorders following the events of October. It was noted that most of the aforementioned conclusions are addressed in the framework of this operational doctrine. The committee recommended that the police make a concerted effort to inculcate these lessons among policemen and their commanders in the field in order to improve significantly their ability to cope with the difficult situations they face when dealing with public disturbances.

### **Blocking off the Roads**

52. The commission considered blocking off roads, including major highways, while the acts of disorderly conduct were in progress. It was noted that this phenomenon is not unique to acts of disorderly conduct in the Arab sector. The commission noted that in the context of the October events, several prominent people in the Arab sector said the events proved that the blocking of roads to traffic constituted an effective device by which it was possible to affect opinions and decisions with regard to the Arab sector. That being the case, the commission faced a dilemma. On the one hand, blocking major highways causes a severe disruption of normal life. When this is accompanied by violence, it constitutes a real danger to passing motorists, and obligates the responsible parties to do what they can to prevent the blocking of traffic on main highways. The commission also determined that legitimacy should not be given to the modus vivendi of blocking roads, since this would provide an incentive to make frequent and intensive use of this unlawful and harmful method.

Conversely, the commission determined that for the most part, it is unrealistic to open up blocked roads when mass acts of disorderly conduct are taking place without causing casualties. It is noted that on their own initiative, on more than one occasion the police closed roads that had actual or expected acts of disorderly conduct.

In this context, the commission noted that there is great significance to the formulation of policy and its clarification to all of the relevant parties in order that the rules of conduct be made clear to all, in advance.

Specifically, the commission noted that it would be possible to limit partially the damage caused by this occurrence by means of prior coordination at the high-ranking levels of the police force - and when required, by the political echelons, as well - with the leadership of the Arab sector. This would make it possible to hold a march or demonstration at a certain location for a pre-determined amount of time. To this end, the commission noted, the police should be alert and sensitive to the possibility that at a certain location or at a certain time there could be acts of disorderly conduct that could lead to the blocking of roads, and should initiate a prior dialogue. The commission added that this could reduce the risk of disorderly conduct, but could not guarantee absolute deterrence. In such an instance, when dialogue is ineffective, it should still be borne in mind that prevention of bodily harm, including harm to passersby, is a supreme consideration in the state's handling of these types of events. Nevertheless, it is noted that the state's ability to restrain itself is not unlimited. The blocking off of roads for prolonged periods cannot be accepted. Nor can the state accept the blocking off of traffic arteries during a mass call-up or a similar national emergency situation. In such instances, a determined response, and if need be a powerful response, to the blocking of roads could be considered a reasonable and obvious action.

53. Concluding remarks. The commission expressed its feelings of sympathy with the victims of the violence. With the citizens who found themselves assaulted by harsh violence on their country's and settlements' roads. With residents of the settlements who felt threatened in their homes and along their fences. With the bereaved families who lost their loved ones in these

events, and who have found no comfort, regardless of the circumstances. With those who were injured in the violence, often experiencing trauma that will not be forgotten soon. With the dedicated policemen who found themselves under orders, often as the few facing the many, lacking adequate protection and equipment to face a riotous and inflamed horde, and who were on more than one occasion themselves injured, at times seriously, in fulfilling their duties.

54. The commission noted that the October events had reduced the chances of attaining the goal of living together with mutual respect. The clashes and their aftermath led to reduced contact between the two societies and increased distrust and hostility. Nevertheless, the commission noted that in its opinion, the events did not constitute a point of no return in relations between the two sectors. It was stressed that each side has a clear and firm interest in stability and cooperation, and in the end, the October events had in fact proved that the two societies are mutually dependent, and focused attention on the dangers inherent in polarization and conflict. The Commission noted that even if full reconciliation between them is not attainable in the short term, it is by all means feasible.

The commission considered the need to strive and take active steps to ensure the peaceful coexistence of Jews and Arabs in this country, thereby ensuring that events similar to those of October 2000 will not recur. It noted that Jews and Arabs living alongside one another is a fact of life, and the two sides have only one practical option for maintaining this way of life - coexistence with mutual respect. All other options, it was noted, are recipes for increased tension, heightened distress and undermining of the order.

55. The commission stressed that coexistence presents challenges that are not easy for either side. It obliges each side to listen to the other, understand its sensitivities, and respect its basic rights. Arab citizens must bear in mind that Israel represents the realization of the yearnings of the Jewish people for a state of its own, the only state in which Jews are the majority, a state that is partly based on the principle of an ingathering of the Jewish exile, and that this is the essence of the existence of the state for its Jewish citizens. The Jewishness of the state is a constitutional given, which is partly reflected in the primary nature of the heritage of Israel and of the Hebrew language in its public life.

At the same time, the commission noted that the Jewish majority must bear in mind that the state is not only Jewish, but also democratic. As stated above, equality is one of the primary elements of the constitutional structure of the state, and the prohibition against discrimination applies to all citizens of the state. The majority must understand that the events that made the Arabs a minority in the state were for them a national catastrophe, and that their integration into the State of Israel was attended by painful sacrifices. The majority must respect their identity, culture and language. The commission also referred to the possibility of giving public expression to common denominators that link the entire population through the addition of official state events and symbols. It considered the need to find ways to reinforce Arab citizens' sense of belonging to the state without adversely affecting their belonging to their culture and community.

56. The commission did not take a stand on the various claims to grant collective rights to the Arab sector in several areas. It noted that this is an emotionally charged issue that is a source of great sensitivity to both sides. Among other things, it noted the testimony of former prime minister Mr. Barak, who felt that the Arab sector in Israel has communal rights - as a collective - to its own heritage and culture, but who differentiated between these types of rights and collective national rights that would threaten Israel's basic identity as a Jewish state. The commission noted that resolving the tension that partly arises from this differentiation is no simple task, and that debate of these issues necessitates political exchange of views, which should be worked out through dialogue to be held in appropriate forums.

57. The commission concluded that although its work and this report have endeavored to investigate the essential facts of the October events, above all other considerations, it does not abandon the hope that its work will also eventually contribute to a warmer relationship between Jews and Arabs in Israel.