

From October 2000 to Abu al-Qi'an: Impunity for Israeli police killings of Palestinian citizens must end

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Twenty years have passed since Israeli police opened fire on Palestinian demonstrators in October 2000, killing 13 people and wounding hundreds more. Despite the critical findings of the investigative Or Commission of Inquiry against Israeli police officers and commanders who were involved in these events, all of the cases were closed and no one responsible was ever indicted or held accountable.



The commemoration of October 2000 comes at a time of new developments regarding the 2017 Israeli police killing of Ya'akub Abu al-Qi'an, a 50-year-old teacher. There is a direct link between the closure of the Abu al-Qi'an case and the October 2000 cases, since both rely on the same policy of no criminal charges filed against law enforcement authorities, including the police, in cases involving the killing of Palestinian citizens of Israel. This policy leads to total impunity and a lack of accountability, even in cases where there is clear evidence of the illegal use of force by the police.

Heavily-militarized police officers shot Abu al-Qi'an dead during home demolition operations in his village of Umm al-Hiran in the Naqab (Negev) desert. Immediately after his killing, Israeli police commissioner Roni Alsheikh, and Israeli Internal Security Minister Gilad Erdan declared Abu al-Qi'an a terrorist who had attempted to car-ram police officers. Due to internal political struggles between Israeli Prime Minister Benjamin Netanyahu and the Justice Ministry, evidence was recently brought to light regarding Abu al-Qi'an's killing. This evidence indicated that law enforcement authorities resorted to all

possible means to avoid indicting any police officer or commander, including burying evidence, and breaking the law in the process. This new evidence was not news to Adalah. On 12 June 2018, Adalah sent an [urgent letter](#) to the Israeli Attorney General Avichai Mandelblit demanding immediate access to all investigatory materials and the opening of an independent, neutral examination into the critically-flawed investigation, including clear conflicts of interest and the obstruction of justice. As in the October 2000 cases, Israeli State Attorney Shai Nitzan closed the case while ignoring the full factual, evidentiary materials to which he had access.

The Or Commission of Inquiry was established on 8 November 2000 to investigate the October 2000 events. Its protocols amount to more than 16,000 pages. It received 500 affidavits and heard testimonies from 430 witnesses, along with 4,275 pieces of evidence, and its members visited the sites of the killings. On 1 September 2003, the Or Commission published its report, which spans more than 800 pages. The Or Commission determined that Israeli police illegally opened fire on demonstrators and used excessive force, and that none of the demonstrators killed posed an immediate danger that could justify the shootings. In addition, the Or Commission found that, for the first time, the police deployed snipers against demonstrators, an illegal move that caused deaths and wounding of dozens of people. It recommended that the Israel's Police Investigations Department (PID) investigate these cases in order to determine criminal responsibility and that indictments be filed.

Contrary to the Or Commission's recommendations, in its report of September 2005, the PID declared that it had not and would not investigate the October 2000 killings, based on orders by then-AG Elyakim Rubenstein and then-State Prosecutor Edna Arbel. Due to public protest against the closure of the files and the PID's failure to investigate, then-AG Menachem Mazuz asked then-deputy state attorney (special affairs) Shai Nitzan to examine the PID's report. Without any criminal investigations and contrary to the evidence before the Or Commission, in 2008, Nitzan's report affirmed the PID's decision. Applying the militaristic concept of conferring full discretion on soldiers in a battle scenario, Nitzan determined that there was no justification to find any police officer or commander criminally responsible, even if they had violated the open-fire regulations, since their response to the demonstrators was "how a good [military] commander should respond" in an operation.

Despite the Or Commission's recommendation that the police stop treating Palestinian citizens of the state as an enemy, the Israeli law enforcement authorities' policy continues to rely on the old illegal and racist 'enemy-alien doctrine', as evidenced by the Abu al-Qi'an case, for example. This doctrine was valid until the end of the Second World War and justified the suspension of the rule of law in the cases involving internal groups that were defined as 'enemies'. In these cases, the killing of members of these groups did not lead to criminality. In the 2017 Abu al-Qi'an case, police forces came to demolish the village of Umm al-Hiran in a military-style operation, a scenario which was used to justify Abu Al-Qi'an's killing outside the scope of criminal law. Similarly, in the October 2000 cases, the PID perceived the response of Israeli police to protesters as a military response against an armed enemy during a military operation, as opposed to demonstrations by citizens, which also justified the closure of all the criminal files in cases of killings. While the police were shielded from criminal charges, hundreds of demonstrators were detained, dozens were indicted, and two criminal cases were brought against family members of young men who were killed by the police. In one case, the father of a victim was

charged with assaulting a police officer, who was the main culprit in the killing of his son, during his testimony before the Or Commission; in the other case, the brother of a victim was indicted for stating that he would kill the person who killed his brother.

In 2019, for the first time, the Israeli Supreme Court – in a 2-1 split decision – accepted a petition filed against the attorney general for closing a case involving the 2014 police killing of Kheir Hamdan, a Palestinian citizen of Israel from Kufr Qanna. In this case, the court sharply criticized the AG, finding that the evidence clearly indicated that the police officers involved should face indictment. The AG, however, submitted a request for a second hearing to the court, which was recently accepted. The AG argued that the initial decision violated the policy of law enforcement authorities to refrain from indicting police, since it may deter them from using force when needed. In other words, according to this policy, criminal law should not apply to the police in cases involving the killings of Palestinian citizens of Israel.

The policy of Israel's law enforcement authorities puts the lives of Palestinian citizens at risk. Changing this dangerous policy demands first of all that the state deal with the October 2000 events, which is a constitutive factor of Palestinian citizenship in Israel. The world has put the killings of members of minority groups by the police on the top of the agenda in the fight against racism and violence. Like the October 2000 events, Bloody Sunday involved the shooting of 26 unarmed young men by British forces – of which 13 were killed – during the 1972 protest march in Northern Ireland. An initial tribunal convened by the British government immediately after the events was widely criticized as a whitewash; 25 years later, a new, independent inquiry committee was established, and in 2010 it concluded that the killings were unjustified, and murder investigations were opened. In the United States, the 2020 murder of George Floyd and the Black Lives Matter movement have mobilized millions of people in the U.S. and around the world to protest against killings by police based on race and ethnic belonging. **Treating the lives of Palestinian citizens of Israel as equal to other citizens first requires a genuine attempt to eliminate the discriminatory systemic state structure in which they are perceived as an enemy entity, and to implement the Or Commission's recommendations regarding the October 2000 killings and the abolition of the policy of blanket impunity.**

Twenty years on from the October 2000 killings, Adalah demands:

1. The establishment of an independent committee comprised of members known for their credibility and professionalism, who are selected with the agreement of the Arab political leadership in Israel. The mandate of this committee, the recommendations of which should be legally binding, shall be as follows: **a)** To examine the failures of the investigations and the investigatory system regarding the October 2000 cases; **b)** To recommend the indictments of individuals at all levels responsible for the killings and injuries; and **c)** To investigate the individual killing cases of Palestinian citizens of Israel since 2000 that were closed by the PID.
2. Regarding the case of Abu al-Qi'an, the state should issue immediate indictments against those responsible for the killing, as well as members of the law enforcement authorities for their obstruction of justice.