



בצלם - מרכז המידע הישראלי לזכויות האדם בשטחים (ע.ר.)  
بتسيلم - مركز المعلومات الإسرائيلي لحقوق الإنسان في الأراضي المحتلة  
B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories

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Jerusalem

25 November 2015

MK Benjamin Netanyahu

The Prime Minister

Dear Sir,

Re.: **Your responsibility for permitting a de facto death penalty**

The day before yesterday, a police officer in Jerusalem shot N.'A., a 16-year-old girl from Qalandiya as she lay injured and immobile on the ground. Her 14-year-old cousin, Hadil, was also shot in the same incident even after she had already been hit by gunfire and had fallen to the ground. Hadil was killed. The day before, soldiers shot dead Ashraquat Qatnani, a 16-year-old girl from Nablus, after she had already been injured when hit by a car. In October, Basel Sidr and Fadi 'Alun were shot dead in Jerusalem; the gunfire did not stop even after they had already been hit and injured. In each of these five cases, even though the individuals involved had already been "neutralized," they were shot at again. Of the five, four were killed and one seriously injured. Whether or not these individuals had been attempting to perpetrate attacks is a matter that cannot obscure the harsh reality at hand: these instances constitute public, summary street executions, without law or trial. And there is reason for concern that there are other such cases as well.

The death penalty for murder was abolished in Israeli criminal law in 1954, over 60 years ago. And never was a death sentence a possible penalty for attempted murder or grievous assault. Regardless, even if the death penalty were on the books in Israeli law, the decision to impose it would rest with the courts. *Yisrael Beiteinu*, the political party whose pre-election campaign prominently advocated reinstating the death penalty, failed in its attempt to promote such legislation. When it was brought to a vote recently, all Knesset factions with the exception of *Yisrael Beiteinu* voted against the bill: 94 Members of Knesset to six. In other words, there can be no doubt as to the norms and the legal reality in our country: no executions – full stop. This is a stable and longstanding position, and as noted, one that was recently reaffirmed in the Knesset.

The chilling gulf between the normative position described in the previous paragraph and the actual reality is intolerable. During your term of office, a new pseudo-normative reality has effectively emerged, in which a “shoot to kill” approach must always be adopted, no matter the circumstances, even when the suspect no longer poses any danger whatsoever. This reality is a direct consequence of inflammatory statements by senior members of the government and MKs in your coalition, who draw support from your silence. The upshot is that there can only be one outcome in cases that combine an individual with Arab appearance and a knife: execution on the street. Israa ‘Abed of Nazareth, who was shot and very nearly killed at the central bus station in Afula, showed through her actions that she had internalized this unacceptable reality, which she apparently sought to exploit in order to commit suicide.

Thus your government permits – and even encourages – the transformation of police officers, and even of armed civilians, into judges and executioners. The disparity between words and actions is a stark one. It has been claimed that there has been no change in open-fire regulations and that security forces are employing reasonable force not exceeding that required to thwart perpetrators. It is ostensibly taken for granted that it is unlawful to shoot an injured person who poses no danger. Yet in practice, full support for the documented instances of unlawful killing reflects a completely different reality and grants it legitimacy.

Remaining silent when security forces operate outside the boundaries of the law cannot absolve one of responsibility. You will not be able to claim that your ears did not hear of this or that your mouth did not command it. Your protracted silence in the face of such events, while at the same time speaking in general commendation of the work of the security forces, make it all too clear what policy you advocate and support. Your silence in the face of Minister of Public Security Gilad Erdan’s saying that “every terrorist should know that he will not survive the attack he is about to perpetrate” is tantamount to consent to this unlawful policy. Your silence following the implementation of this policy constitutes retroactive support.

Moreover, the letter issued (approximately a month ago) by the attorney general on this matter illustrates even more clearly that his comments regarding “strict adherence to the open-fire regulations” are mere lip service. Mr. Weinstein only took the trouble to comment on the matter following requests from the Association for Civil Rights in Israel and Adalah. His comments were belated and vague, and contained no concrete condemnation of statements or actions. Above all – his words were not attended by any practical steps.

The wave of attacks against Israelis is appalling. Security forces must protect the public. They must use the force necessary under the circumstances to achieve this goal. However, police officers and soldiers must not act as judges and executioners. The person who actually pulls the trigger bears responsibility for his or her actions, but the prevailing “spirit” is determined by the commander. As prime minister, you bear ultimate responsibility.

If the Knesset were to pass a law introducing the death penalty, that would be a negative and shocking development. The de facto situation is even worse: the bill did not pass, but it is being implemented de facto, in silent or tacit complicity, with retroactive support or on the basis of an a priori general directive. The legislation was not promoted, but the “public atmosphere” has taken its place, serving as a directive to use lethal force against individuals who have already been “neutralized.”

It is impossible to bring back to life those who have already been shot and killed, but it is not too late to stop the moral bankruptcy that is embodied in the current reality. You bear an obligation to clarify immediately that no one has the authority to carry out an execution, and that the function of the security forces is to protect the public’s wellbeing – no less, but also no more – and that police officers are not to be transformed into executioners on the street.

Sincerely,

A handwritten signature in black ink, appearing to be 'Hagai El-Ad', written in a cursive style.

Hagai El-Ad

Executive Director, B'Tselem

cc:

MK Gilad Erdan, Minister for Public Security

MK Moshe Ya'alon, Minister of Defense

Att. Yehuda Weinstein, Attorney General