



January 16, 2026

## The Death Penalty Bill – A Fundamental Breach of International Law Through Targeted Capital Punishment Against Palestinians

*Position of the Public Committee against Torture in Israel, Adalah – The Legal Center for Arab Minority Rights in Israel, Hamoked – Center for the Defense of the Individual, and Physicians for Human Rights Israel, regarding the Penal Law Bill (Amendment – Death Penalty for Terrorists), Version as of January 13, 2026: Preparation for Second and Third Readings in the National Security Committee*

### **Death Penalty Draft Legislation**

Two bills currently advancing in the Israeli parliament (Knesset) seek to impose the death penalty exclusively on Palestinians, threatening to create a regime of racialized capital punishment. The bills are some of the most extreme and dangerous legislative measures ever proposed by Israel against Palestinians. **Any introduction of the death penalty against Palestinians through legal or military channels would constitute an arbitrary and unlawful deprivation of life and is strictly prohibited under international law.** The legislation runs counter to the prevailing international trend toward abolition of the death penalty, placing it in direct opposition to widely accepted international norms on capital punishment.

This position paper focuses on the bill formally titled *Penal Law (Amendment – Death Penalty for Terrorists) – 2025*, which has passed a first reading in the Knesset and is currently being considered by the Knesset’s National Security Committee, having reached the final stages of the Israeli legislative process.<sup>1</sup>

The bill establishes a discriminatory and punitive framework that departs from accepted legal norms by systematically denying Palestinians equal protection under the law, fair-trial guarantees, and protection from torture and inhumane

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<sup>1</sup> The second bill aimed at introducing the death penalty is the so-called *Tribunals Law (“Prosecution of Participants in the October 7 Massacre Events Bill, 5786–2025”)* in its version of December 18, 2025. The legislation proposes the establishment of a special tribunal with capital punishment provisions for individuals indicted for participation in the October 7, 2023 attack on Israeli communities. It was last discussed on December 30 by the Constitution, Law and Justice Committee and was advanced to the plenum for a first reading, which has yet to be scheduled.

treatment, rendering any resulting death sentence inherently unlawful. Its passage would further undermine the rule of law, threaten the rights of detainees and defendants, and add a lethal aspect to the expanding body of legislation specifically targeting Palestinians.

### ***Background to the Bill***

Although several provisions of Israeli law allow for the imposition of the death penalty, both in Israel and in the occupied West Bank, Israel has become a *de facto* abolitionist state with respect to formal capital punishment, having not carried out the death penalty since 1962. It has consistently voted in favor, and even co-sponsored, UN resolutions UN General Assembly calling for the establishment of a moratorium on executions with a view to abolishing the death penalty.

While similar legislation has been introduced in the past, the current bill — first tabled in early 2023 by the far-right government and consolidated with a similar proposal by opposition party Yisrael Beiteinu — is far more advanced in the legislative process and enjoys broad political support, including the opposition. As a result, **if brought to a vote in the Knesset plenum, its passage is highly likely.**

### ***Main Elements of the Bill***

The current version of the bill, introduced by Member of Knesset (MK) Limor Son Har-Melech of the Otzma Yehudit (Jewish Power) party on 13 January 2026, was discussed in the Knesset's National Security Committee on 14 January 2026, with further discussions scheduled throughout the ensuing week.

The bill proposes multiple amendments primarily targeting Palestinians subjected to Israeli civilian and military law.

#### **1. Military courts directed to sentence Palestinian residents in the oPt to death; removal of basic procedural safeguards**

The bill introduces a mandatory death penalty for persons convicted in Israeli military courts — which have jurisdiction exclusively over Palestinians — of intentional killing, by amending the *Order Regarding Security Provisions* at the instruction of the Defense Minister. The mandatory sentence removes judicial and prosecutorial discretion and significantly alters military court procedures: death sentences may be imposed by a simple majority of judges, even if the prosecution did not seek this penalty. The bill also stipulates that the Military Commander in the West Bank shall not commute or alter death sentences and requires executions to be carried out within 90 days of a final verdict (Chapter B).

## **2. Israeli civil courts directed to sentence to death persons convicted of intentional killing of Israeli citizens and residents**

Separately, the bill amends Israel's Penal Code, empowering Israel's civil courts to sentence to death persons convicted of intentionally causing the death of an Israeli citizen or resident through an act of terrorism, as defined under the 2016 Counter-Terrorism Law (Chapter C).

## **3. Execution procedures**

All **death sentences are to be carried out by hanging**, as will formally be ordered by the court. The bill further establishes an exceptional execution regime that is characterized by secrecy and the lack of effective safeguards. It mandates the concealment of the identities of those involved in carrying out executions, classifies all related information as confidential, exempts individuals involved from personal accountability, and stipulates that the State of Israel will bear no financial liability related to the execution. In addition, the bill imposes stricter isolation measures for death row prisoners and significantly restricts their procedural and substantive rights in the period preceding execution. It curtails the right to consult with an attorney and eliminates effective external oversight mechanisms. Under Chapter D, Article 12, an execution may proceed even in the absence of designated officials, and may be carried out solely in the presence of the prison warden if other officials fail to attend on time. The bill stipulates that the general provisions governing the implementation and execution of the death penalty also apply to existing criminal offences for which the death penalty is a possible punishment, including treason, assisting the enemy, and genocide (Chapter D).

## ***Fundamental violations of international law***

The proposed legislation would stand in clear violation of international human rights law, international humanitarian law, and fundamental principles of Israeli law.

### **1. Racially targeted legislation**

The discriminatory nature of the bill is evident from the legislative process – during which lawmakers have repeatedly stated that the law is intended to apply to Palestinians as punishment for the killing of Israelis<sup>2</sup> – earlier versions of the bill

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<sup>2</sup> Statements made by the bill's sponsors and supporters during the legislative process demonstrate that it was intended to apply to Palestinian perpetrators. During the Knesset plenary debate during the bill's first reading, MKs repeatedly described the proposed death penalty in explicitly ethno-national terms, referring to "terrorists" who murder Jews "simply because they are Jews," asserting that "there are no Jewish terrorists," and calling for the death penalty to be imposed on persons whose sole purpose is to murder Jews. Similar statements were made during committee deliberations, during which the Chair of the National Security Committee stated that the purpose of the bill was to sanctify and protect the lives of Jews in the State of Israel, clarifying that the death penalty would apply only in cases where a court finds a person guilty of murdering a Jew solely because they are Jewish. Taken together, these statements, along with many others, demonstrate that the bill was conceived, promoted, and justified as a

that expressly noted its discriminatory intent, and the mechanisms it stipulates, specifically its application to military courts in the West Bank, which exercise jurisdiction exclusively over Palestinians.

The mechanism under Israeli civil law is similarly discriminatory: the bill requires that the act be committed against an Israeli citizen or resident, thereby excluding similar offences committed by Israeli citizens against Palestinians in the oPt. It also imposes the death penalty where a homicide is deemed to constitute a terrorist act, with Palestinian disproportionately accused of terrorism-related charges, while Jewish Israeli offenders are far less likely to be accused or convicted of such offenses.

The racialized design is further evidenced by a statement made by the bill's sponsor, MK Son Har-Melech, at its first reading that "[there is no such thing as a Jewish terrorist](#)", and [more recently](#) that "the attempt to force symmetry between Arab nationalist terrorism, whose aim is the destruction of the Jewish state, and crimes committed by Jews is an illegitimate and dangerous attempt", and that the death penalty should not be applied to Jews. This racialized targeting violates the fundamental principle of equality before the law, the prohibition on racial discrimination, and the ban on arbitrary deprivation of life under international law.

As UN experts noted in regards to the previous version of the bill, it entails unlawful discrimination, and "Discrimination in the application of the death penalty is contrary to articles 2(1), 6 and 26 of the ICCPR (Human Rights Committee, general comment No. 36, para. 44). Discrimination is also prohibited under international humanitarian law (ICRC Customary International Humanitarian Law, rule 88)."

## **2. Arbitrary violation of the rights to life and a fair trial**

The bill violates the right to life as stipulated in the International Covenant on Civil and Political Rights (ICCPR) and in General Comment No.36, as it (1) adds a new offence carrying a death penalty sentence; (2) sets the death penalty as a mandatory punishment for military courts, making its application arbitrary and unlawful;<sup>3</sup> and (3) is discriminatory since it is designed to apply to Palestinians only.

Furthermore, General Comment No. 36 of the ICCPR emphasizes that any violation of fair trial guarantees renders a subsequently imposed death sentence arbitrary

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measure that targets only those convicted of killing Jewish Israelis, thus revealing a discriminatory purpose, despite the use of language that is neutral on its face.

<sup>3</sup> In its 2025 concluding observations on Israel's compliance with the Convention Against Torture, the UN Committee Against Torture explicitly noted with regard to the bill that "mandatory imposition of the death penalty, without consideration of the defendant's personal circumstances or the particular circumstances of the offence, constitutes an arbitrary deprivation of life." See UN Committee Against Torture, *Concluding Observations on the Fourth Periodic Report of Israel*, para. 51, 2025, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=fGAUPoLOzCI94WttFXKQTzb%2FRrw7z21ow27PPsNqz79%2F5EMZ2qUB2IQjJAdrSA7WpbqVRkuW7Q%2BrQ841G6n5ug%3D%3D>

and illegal. Military criminal procedure, which applies to Palestinians from the occupied West Bank, already involves multiple violations of fair trial guarantees, including harsher maximum punishments, reduced procedural safeguards compared to Israeli civilian courts, longer detention periods, denial of access to legal counsel, and overly broad definitions of offenses that violate the principle of legality. Military courts also frequently fail to guarantee essential rights, such as translation of evidentiary and investigatory materials and legal proceedings into the defendant's mother tongue. As a system that is discriminatory, lacks fair trial safeguards, and often relies on secret evidence, any death sentence imposed under it would be inherently arbitrary and unlawful.

### **3. Violation of the right to be free from torture and ill-treatment**

The death penalty itself has been recognized by international human rights experts as cruel and inhuman and in violation of the absolute prohibition on torture and ill-treatment.<sup>4</sup> The UN Committee Against Torture has expressed concern specifically regarding hanging as a method of execution noting in 2022 that it “exacerbates the cruelty” of the death penalty.<sup>5</sup>

Moreover, any conviction and subsequent death penalty sentence that is based on information procured by torture or other forms of ill treatment violates the prohibition on torture. It is commonplace and legally sanctioned in Israel that Palestinians suspected of committing offenses classified by Israel as security offenses are subject to Israeli Security Agency interrogations, which routinely include physical violence, sleep deprivation, humiliation, threats and other forms of psychological pressure designed to extract information. Thus, it is likely that the death sentence will be handed down on the basis of confessions or information obtained through torture.

### **4. Violation of international humanitarian law**

The legislation also violates international humanitarian law relating to penal procedures and imposing capital punishment on residents of an occupied territory. Moreover, the imposition of the death penalty on Palestinians in the oPT without any fair trial guarantees, as set out in the Fourth Geneva Convention, may amount to a war crime.<sup>6</sup> Notably, the application of this bill in the occupied Palestinian territory in particular constitutes a gross violation of international humanitarian law as the Knesset does not have the authority to apply Israeli law

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<sup>4</sup> See, e.g., *Al-Saadoon v. United Kingdom*, ECtHR, App. No. 61498/08, para. 115 (2010); *Öcalan v. Turkey*, ECtHR. See also Juan E. Méndez, *The Death Penalty and the Absolute Prohibition of Torture and Cruel, Inhuman, and Degrading Treatment or Punishment*, at the time of publication United Nations Special Rapporteur on Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment, <https://www.corteidh.or.cr/tablas/r27394.pdf>

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[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FBWA%2FCO%2F1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FBWA%2FCO%2F1&Lang=en), para. 23

<sup>6</sup> Volker Türk, UN High Commissioner for Human Rights, January 2, 2026, <https://www.ohchr.org/en/press-releases/2026/01/israel-turk-says-draft-proposals-death-penalty-palestinians-must-be-dropped>

extraterritorially in occupied territory, which is instead governed by the laws of belligerent occupation.

### ***Conclusion***

More than 70 percent of states worldwide — including the vast majority of democratic states and all EU member states — have abolished capital punishment in law or practice. The proposed legislation therefore diverges sharply from the prevailing international trend toward abolition, as well as from Israel's own long-standing position in UN human rights bodies in support of restricting and ultimately abolishing the death penalty.

The bill undermines Israel's stated commitments in international forums and the foundational principles of equality before the law and due process, establishing a system that is racially discriminatory by design, applying the death penalty exclusively to Palestinian defendants, eliminates judicial discretion, and erodes fundamental fair-trial guarantees.

If enacted, the bill would constitute an extension of Israel's broader policy of unlawful lethal state violence. This includes extrajudicial killings carried out with impunity and an abusive and deadly incarceration system that has resulted in [nearly 100 documented Palestinian deaths in custody since October 7, 2023](#). By codifying execution under these conditions, the legislation would entrench and exacerbate an already deadly system, exposing Palestinians to a severe and racially targeted threat to their lives.