

Israel's Draft Death Penalty Bill Constitutes a Violation of Fundamental Provisions of International Law, Including the Prohibition Against Torture

I. Introduction

In its sitting on 10 November 2025, the Knesset Plenum voted to approve in first reading the Penal Bill (Amendment No. 159) (Death Penalty for Terrorists) 2025, marking a dangerous shift in Israeli policy by seeking to legally enshrine the systematic state-sanctioned killing of Palestinian detainees. While similar bills on imposing the death penalty have previously not passed the first reading, the geopolitical landscape – both in Israel and abroad – has shifted. The current death penalty Bill has passed a number of stages in the Israeli Knesset (parliament) with indications that it will likely become law.

Urgent intervention is required to mobilise the international community to prevent Israel from further violating the most fundamental rights of the Palestinian people as it entrenches its discriminatory apartheid policies and practices on both sides of the Green Line, and pursues their destruction through the ongoing genocide. Al-Haq and Addameer warn that the Bill puts the lives of thousands of Palestinian detainees in Israeli detention under serious risk.

II. The Status of the Death Penalty in Israel

Israel has not acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) of 1966, adopted in December 1989, which obliges signatory States to abolish the death penalty. Accordingly, Israel remains among the States whose national legislation continues to provide for the death penalty.

Throughout the past 77 years, in a bid to maintain its settler-colonial apartheid regime and unlawful occupation of Palestine, Israel has perpetrated – and continues to commit – thousands of extrajudicial executions. These take the form of assassinations, an official Israeli policy referred to as “targeted killings”; sniping operations; killings at military checkpoints and Palestinian demonstrations; and the killing of Palestinian detainees due to torture and ill-treatment, including neglect and inhumane conditions, that they are subjected to in Israeli detention centres.

III. Contextual Background to the Draft Bill

Since being appointed Minister of National Security, Itamar Ben-Gvir has been unwavering in his pursuit of legally enshrining the death penalty against Palestinians. This was brought to the attention of UN Special Procedures in an Urgent Appeal submitted by the Commission of Detainees and Ex-Detainees Affairs, Palestinian Human Rights Organizations Council and

Palestinian Prisoners' Society in February 2023.¹ While Prime Minister Benjamin Netanyahu had previously opposed similar draft bills, he has since reversed his stance following the implementation of the so-called “ceasefire”.

On 28 September 2025, the National Security Committee, chaired by MK Tzvika Foghel (a member of Otzma Yehudit, the ultranationalist political party of Ben-Gvir), voted to approve the latest iteration of the Penal Bill (Amendment – Death Penalty for Terrorists) for first reading, despite the objection of the Knesset's legal advisors. The committee's legal advisor, Adv. Ido Ben-Itzhak, had warned that any vote on the Bill would be invalid on the basis “that it is mandatory to hear the relevant security elements who have not yet been heard, and to hold a substantive discussion on the Bill's provisions”.² Despite no substantive discussion having taken place, in the debate held prior to the vote, Ben Gvir said: “Precisely at this time, they need to know that if even a single hair of a hostage falls, there will be a death sentence.”³ After being approved in first reading on 10 November, the Bill must pass a second and third reading before becoming law.

IV. Penal Bill (Amendment No. 159) (Death Penalty for Terrorists) 2025

Echoing a 2018 draft bill, the 2025 Bill proposes that a person who caused the death of an Israeli citizen deliberately or even through indifference, “from a motive of racism or hostility against a population, and with the aim of harming the State of Israel and the national revival of the Jewish people in its land” shall be sentenced to death. The Bill would introduce two tracks for the death penalty. In the occupied West Bank, the death penalty would be imposed by military courts under military law for terrorist acts causing the death of a person, even if not intended. In Israel and occupied East Jerusalem, the death penalty would apply under Israeli criminal law but only for the “intentional killing of Israeli citizens or residents”.

This death penalty would be applied mandatorily. Any death penalty imposed cannot be commuted and must be carried out within 90 days.⁴ Furthermore, the Bill rules out the possibility of considering extenuating circumstances in the sentencing. The Bill, if transposed into a military order making it directly effective in the unlawfully occupied West Bank, also amends the military courts law, allowing courts there to impose the death penalty by a simple majority vote on the judge's panel instead of a unanimous vote.

¹ See ‘Joint Urgent Appeal to the UN Special Procedures to Safeguard Palestinian Political Prisoners' Rights against Collective Punishment and Arbitrary Measures Implemented by the Israeli Prison Services at the behest of the Israeli Occupying Authorities’ (14 February 2023) <https://www.alhaq.org/cached_uploads/download/2023/02/23/urgent-appeal-on-prisoners-2023-1677159197.pdf> 3-4

² The Knesset, ‘National Security Committee approves death penalty for terrorists bill for first reading’ (*Knesset News*, 28 September 2025) <<https://main.knesset.gov.il/en/news/pressreleases/pages/press28925q.aspx>>

³ The Knesset, ‘National Security Committee approves death penalty for terrorists bill for first reading’ (*Knesset News*, 28 September 2025) <<https://main.knesset.gov.il/en/news/pressreleases/pages/press28925q.aspx>>

⁴ Adalah et al, ‘The Death Penalty Bill – A Fundamental Breach of International Law Through Targeted Capital Punishment Against Palestinians’ (Briefing Paper, 16 January 2026) <https://www.adalah.org/uploads/uploads/Briefing_Paper_Death_Penalty_Jan_2026_PCATI_Adalah_HaMoked_PHRI.pdf?mc_cid=d91f933f73>; UN OHCHR, ‘Israel: UN experts urge withdrawal of death penalty bill’ (4 February 2026) <<https://www.ohchr.org/en/press-releases/2026/02/israel-un-experts-urge-withdrawal-death-penalty-bill>>

The wording of the Bill, specifically regarding the victim, i.e., an Israeli citizen, directly implies that Jewish Israelis that commit the same offence would not be subject to the same mandatory death sentence. Under Israel's settler-colonial apartheid system, Palestinians are subject to military law, while illegally transferred in Israeli colonial settlers are subject to Israeli civilian law. Through its application to Palestinians alone, if enacted into law, the Bill will add to the vast body of discriminatory laws and policies that further entrench Israel's apartheid system and oppression of Palestinians throughout the OPT and on both sides of the Green Line.

Pursuant to the Bill, all death sentences would be carried out by hanging. The Bill further establishes an exceptional execution regime characterised by secrecy and a complete lack of safeguards, in the interests of ensuring those tasked with the unlawful killing of Palestinians evade accountability. 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, including the right to consult with an attorney. 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. In a further breach of international law, Chapter D also provides for the retroactive application of the provisions therein, allowing 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 and assisting the enemy.

The Bill has since been fast-tracked through consecutive hearings in the Knesset's National Security Committee, and National Security Minister Ben-Gvir has pledged to remove his party (Otzma Yehudit) from the coalition government if it is not passed into law.⁵ In February 2026, Israel's Channel 13 reported that the Israeli Prison Service has begun to prepare for when the Bill becomes law. This includes the creation of a facility dubbed "Israel's Green Mile", where executions will take place by teams composed entirely of volunteers that, in groups of three, will hang Palestinians by simultaneously pressing a trigger.⁶

V. Violations of International Law

While attempts to introduce similar legislation have failed in the past, the continued impunity for Israel's conduct towards Palestinians since 7 October 2023 – in addition to the ongoing lack of accountability for the crimes it has committed over the past eight decades – has emboldened

⁵ N12, "האולטימטום של בן גביר, בריאיון ראשון מאז העסקה: 'הצבתי לנתניהו דד-ליין'" (18 October 2025)

https://www.mako.co.il/news-politics/2025_q4/Article-631d17c6508f991026.htm

⁶ Middle East Eye, 'Israeli prisons 'begin preparations to apply death penalty' for Palestinians' (9 February 2026)

<https://www.middleeasteye.net/news/israel-begins-preparations-execution-palestinian-prisoners-report>; Novara Media,

'Israeli Volunteers Would Execute Palestinians by Hanging Under New Bill' (11 February 2026)

<https://novaramedia.com/2026/02/11/israeli-volunteers-would-execute-palestinians-by-hanging-under-new-bill/>

the current Israeli government (the most far-right in Israel's history) to take unprecedented measures in their pursuit of Palestinian erasure.

The enactment of a law imposing the death penalty exclusively against Palestinians would mark yet tool another of oppression and racial domination over the Palestinian people. In response to the Israeli Ministerial Committee on Legislation's vote on a 2023 draft bill on the death penalty, numerous Special Rapporteurs stated:

The reinstatement of the death penalty is a deeply retrogressive step. More so when, on the face of it, the punishment will apply against minorities living within the State or those who live under the 55-year military occupation and rule (...) counter-terrorism laws are already applied arbitrarily and undermine the fundamental guarantees of international humanitarian and human rights law with respect to counter-terrorism efforts (...) The proposed law merely exacerbates these challenges.⁷

The same assessment squarely applies to the 2025 Bill. Beyond constituting another apartheid practice, the Bill confirms to citizens of Israel and illegal settlers, already violently attacking Palestinian men, women and children on a daily basis, that Palestinian lives have no meaning or value.

International Human Rights Law

The rights of the Palestinian people to due process guarantees and a fair trial have been violated for nearly eight decades. Palestinians in the OPT live under and are subject to Israel's military courts system. According to international law, the trial of civilians in military courts should only be permitted under exceptional circumstances due to the serious concerns in guaranteeing the right to equality and a fair trial. General Comment No. 36 of the International Covenant on Civil and Political Rights (ICCPR) emphasises that a violation of fair trial guarantees would make a subsequently imposed death sentence arbitrary and illegal. Military criminal procedure sets harsher maximum punishments, provides fewer procedural guarantees than Israeli civilian procedure, including longer detention periods and denial of access to counsel. Furthermore, Israeli military courts often fail to provide essential rights such as the translation of evidentiary and investigatory materials and legal proceedings into the accused's mother tongue.

In addition, Israeli laws applicable to Palestinians are defined in vague, broad terms that run contrary to the principle of legality. Two United Nations Working Groups and seven Independent Experts have identified clear human rights and humanitarian law deficiencies in the Israeli Counter-Terrorism Law 5776-2016 and related regulations and orders.⁸ These overarching terrorism laws and regulations, which list the offences to which the death penalty Bill applies, were found to suffer from a lack of legal precision; infringe on critically important

⁷ UN OHCHR, 'Israel: UN experts alarmed by potential reinstatement of death penalty for "terrorism offences"' (24 February 2023) <<https://www.ohchr.org/en/press-releases/2023/02/israel-un-experts-alarmed-potential-reinstatement-death-penalty-terrorism>>

⁸ See OL ISR 6/2022 (5 May 2022)

<<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27237>>

rights; and fail to meet the required thresholds of legality, necessity, proportionality, and non-discrimination under international law.⁹

In addition to violating the fundamental right to a fair trial enshrined in Article 14 of the ICCPR and related principles of legality, necessity, proportionality, and non-discrimination, the Bill represents a real and blatant risk to the right to life protected under Article 6 of the ICCPR and Article 3 of the Universal Declaration of Human Rights.

The death penalty can only be lawfully applied in the most exceptional cases under strict conditions and only for the most serious crimes. The Bill recently passed on first reading would apply the death penalty in cases where a person caused the death of an Israeli citizen deliberately or *through indifference*. This blatantly falls short of the standard of intent to kill required by criminal law and the severity threshold outlined in Article 6. What's more, under international law, the right to seek amnesty, pardon or commutation of the sentence of death may be granted in all cases – yet this is expressly excluded in the Bill.

As recently stressed by UN experts:

Since Israeli military trials of civilians typically do not meet fair trial standards under international human rights law and humanitarian law, any resulting death sentence would further violate the right to life.¹⁰

Said violation is compounded by the death penalty being a mandatory sentence based on an unfair trial and subsequent decision by a simple majority in military courts, rather than requiring judicial unanimity on the appropriate punishment in a fair and public hearing by a competent, independent and impartial tribunal. The Bill further violates the right to life on the grounds that it is inherently discriminatory as it only applies to Palestinians and not Jewish Israelis who commit a similar offence for racially motivated or nationalist reasons.

Finally, it is crucial to highlight the prevalence of torture in Israeli detention centres and Israel's documented, systematic practice of extracting false confessions and information based on sexual and gender-based violence, starvation, sleep deprivation, and physical and psychological torture, including threats, and humiliation. Therefore, any death penalty imposed will likely be carried out on the basis of false confessions or information obtained through torture. Not only does this constitute an egregious breach of the peremptory norm prohibiting torture, it legally invalidates the basis of the conviction and subsequent sentence.

Even in the limited circumstances where due process and fair trial rights were guaranteed, and the conviction was not grounded upon evidence obtained through torture or inhumane, degrading, or ill-treatment – which every Palestinian detainee is subject to simply by the conditions in Israeli detention centres – it is now well-established that the death penalty itself

⁹ UN OHCHR, 'Israel: UN experts alarmed by potential reinstatement of death penalty for "terrorism offences"' (24 February 2023) <<https://www.ohchr.org/en/press-releases/2023/02/israel-un-experts-alarmed-potential-reinstatement-death-penalty-terrorism>>; OL ISR 6/2022 (5 May 2022) <<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27237>>

¹⁰ UN OHCHR, 'Israel: UN experts urge withdrawal of death penalty bill' (4 February 2026) <<https://www.ohchr.org/en/press-releases/2026/02/israel-un-experts-urge-withdrawal-death-penalty-bill>>

violates the prohibition of torture. In 2010, the European Court of Human Rights held that the death penalty should be prohibited in all circumstances, including on the basis of the prohibition of torture.¹¹ In 2012, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Juan E. Méndez, upheld the position that state execution (including lethal injection, gas asphyxiation, death by hanging, etc.) violates the *jus cogens* prohibition on torture due to the prevalent conditions under which capital punishment is actually applied. Under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment.¹² In 2017, UN Special Rapporteurs on extrajudicial, summary or arbitrary executions and on torture and other cruel, inhuman or degrading treatment or punishment, Ms. Agnes Callamard and Mr. Nils Melzer, respectively, “deplored the Bahraini authorities’ decision to resume executions” and urged Bahrain to “consider an official moratorium on death penalty and to consider its complete abolition”.¹³ The same message, along with demands for tangible action capable of deterring Israel from its path of destruction of the Palestinian people, must be conveyed to Israel and the international community.

International Humanitarian Law

The Bill is being advanced at a time of unprecedented violence and destruction of the Palestinian people. Its framing as a measure to counter “terrorism” evinces a clear intent to execute collective death sentences that could target hundreds of Palestinian detainees subject to arbitrary arrests and detention. Israel’s politicisation, use and abuse of the “terrorist” label is well-documented. Two of the four Palestinian organisations that submitted an Urgent Appeal on the Bill¹⁴ were targeted with this label on 19 October 2021.¹⁵

In the aftermath of 7 October 2023, a military operation labelled by Israel as a “terrorist attack”, Israeli officials made clear that they view the entire population of the Gaza Strip as collectively responsible. For example, on 12 October 2023, President Isaac Herzog expressly stated that Israel was not distinguishing between militants and civilians in Gaza, stating in a press conference to foreign media — in relation Palestinians in Gaza, over one million of whom are children: “It’s an entire nation out there that is responsible”.¹⁶ On 10 November 2023, Ben-Gvir clarified the government’s position in a televised address, stating: “[t]o be clear, when we say that Hamas should be destroyed, it also means those who celebrate, those who support, and

¹¹ *Al-Saadoon and Mufdhi v. United Kingdom; A.L. (X.W.) v. Russia*

¹² UN General Assembly, Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (9 August 2012) UN Doc. A/67/279

¹³ UN OHCHR, 'Urgent appeal to the Government of Bahrain to stop new executions – UN rights experts' (25 January 2017) <<https://www.ohchr.org/en/press-releases/2017/01/urgent-appeal-government-bahrain-stop-new-executions-un-rights-experts#:~:text=Related.and%20on%20torture%2C%20Nils%20Melzer.>>

¹⁴ Al-Haq, *Joint Urgent Appeal to the UN Special Procedures and Working Group on Arbitrary Detention to Protect Palestinian Detainees from Collective Punishment and Physical Destruction Through the Arbitrary Deprivation of Life by Israel* (20 November 2025) <https://www.alhaq.org/cached_uploads/download/2025/11/26/urgent-appeal-death-penalty-bill-20-november-2025-1764179301.pdf>

¹⁵ See Al-Haq, Addameer, the Bisan Center for Research & Development, Defence for Children International-Palestine, the Union of Agricultural Workers Committees (UAWC), and the Union of Palestinian Women’s Committees (UPWC), 'Position Paper: Dangerous Designations, Israel’s Authoritarian Dismantling of Palestinian Civil Society, an Attack on Human Rights and the Rule of Law' (30 October 2021) <<https://www.alhaq.org/advocacy/20453.html>>

¹⁶ Rageh Omaar, 'Israeli president Isaac Herzog says Gazans could have risen up to fight ‘evil’ Hamas', (ITV News, 13 October 2023) <<https://www.itv.com/news/2023-10-13/israeli-president-says-gazans-could-have-risen-up-to-fight-hamas.>>

those who hand out candy — they’re all terrorists, and they should also be destroyed.”¹⁷ The same logic squarely applies to the West Bank, where children throwing stones, journalists and human rights defenders are routinely targeted, detained, and punished based on the amorphous charge of “terrorist activity”. This renders the Bill a retaliatory and revengeful measure intended to collectively punish the Palestinian people resisting Israel’s unlawful occupation and Zionist agenda.

Article 33(1) of the Fourth Geneva Convention prohibits collective punishment and “penalties of any kind”. This absolute prohibition is solidified by Additional Protocol I to the Geneva Conventions, wherein collective punishment is “prohibited at any time and in any place whatsoever, whether committed by civilian or military agents”.¹⁸ Despite Israel’s failure to ratify the Additional Protocols, the entrenchment of the prohibition in customary international law, according to the ICRC, leads breaches of the prohibition to be a “serious violation” of international humanitarian law.¹⁹

Since 7 October 2023, Israel has stringently pursued a policy of mass detention and enforced disappearance of Palestinians throughout the OPT. An estimated 11,000 Palestinians are being held across 23 prisons, detention facilities and interrogation centres, more than double the number held before 7 October 2023.²⁰ As explained above, arbitrarily detained Palestinian men, women, and children have no due process rights or fair trial guarantees. Within this apartheid system and immense power imbalance, sentences handed down against Palestinians are stripped of all legal validity and merely constitute another attack against the Palestinian people as a whole.

Finally, implementing the death penalty will also collectively punish Palestinian families and communities, which are already forced to endure a reality in which they are rendered powerless in the face of a Western-backed, genocidal regime committed to their destruction.

Prohibition of Genocide

As the present analysis has stressed, the Bill – in its current and previous iterations – represents another component of Israel’s genocidal campaign against the Palestinian people and its long-held goal of Palestinian erasure. On the basis of Israel’s clear intent to destroy the Palestinian people, conduct that kills and inflicts serious mental harm – on both the Palestinian person mandatorily sentenced to death and their family and wider community – including a pervasive, lasting sense of hopelessness and distress must also be categorised as genocidal acts.

¹⁷ Interview with Itamar Ben-Gvir on Channel 12 (11 November 2023), 10:30 onwards <<https://www.youtube.com/watch?v=2vRI-cc-D3w>>; Quds News Network, @QudsNen, Tweet (7:28 pm, November 12, 2023) <<https://twitter.com/QudsNen/status/1723784790682358189>>

¹⁸ International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 UNTS 3

¹⁹ See UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 15 July 2020, UN Doc A/HRC/44/60

²⁰ Middle East Eye, ‘Video: UN questions Israel over torture of Palestinian detainees’ (13 November 2025) <<https://www.middleeasteye.net/live-blog/live-blog-update/video-un-questions-israel-over-torture-palestinian-detainees>>; Wafa News Agency, ‘Number of Palestinian detainees in Israeli custody surpasses 11,100 - Palestinian prisoners’ institutions’ (8 October 2025) <<https://english.wafa.ps/Pages/Details/163169>>

VI. Urgent Demands

Previous demands by UN Special Procedures, referred to above, to abandon a prior draft of the death penalty Bill and “pull back from undermining the rule of law” have clearly fallen on deaf ears.²¹ Israel’s legislative steps to introduce the death penalty constitute a grave escalation in its unlawful conduct towards Palestinians on both sides of the Green Line, which already includes thousands of extrajudicial killings and executions. Al-Haq and Addameer request that you:

1. Label the Death Penalty Bill as an unlawful attack on the Palestinian people that, if implemented into law, constitutes acts of genocide, apartheid, collective punishment, torture and some of the most serious human rights violations;
2. Call upon Third States to demand the Israeli government refrain from passing the Bill on the basis of its manifest illegality;
3. Situate Israel’s latest legislative efforts within the root causes underpinning the ongoing Israeli military aggression and genocide against the Palestinian people, in particular Israel’s settler-colonial apartheid system and ongoing Nakba;
4. Demand that Israel immediately cease its unlawful military activity, racial discrimination and apartheid, and genocide in the OPT;
5. Remind States of their binding obligations to prevent and punish the crime of genocide and to respect and ensure respect for the Geneva Conventions of 1949 – pursuant to these obligations, States must take all reasonable measures to prevent further breaches of these provisions by Israel including: imposing a full arms embargo; cutting diplomatic and trade relations; imposing comprehensive sanctions; and pursuing accountability;
6. Remind States of their binding obligation to refrain from assisting in maintaining the illegal situation arising from Israel’s violations of peremptory norms and promote the right to self-determination of the Palestinian people, in line with the International Court of Justice’s Advisory Opinion on *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*;
7. Call on the UN Security Council to implement economic sanctions and other countermeasures capable of forcing Israel to adhere to its binding obligations under international law and ending its mass atrocities against the Palestinian people;
8. Demand the reconstitution of the UN Centre and Special Committee against Apartheid;
9. Ask the Prosecutor of the International Criminal Court to expedite the investigation into the Situation in Palestine with full resources and onsite visits as promised in December 2022.

²¹ UN OHCHR, ‘Israel: UN experts alarmed by potential reinstatement of death penalty for “terrorism offences”’ (24 February 2023) <<https://www.ohchr.org/en/press-releases/2023/02/israel-un-experts-alarmed-potential-reinstatement-death-penalty-terrorism>>