

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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ISRAEL/OPT: LEGISLATIVE PROPOSALS ON DEATH PENALTY VIOLATE INTERNATIONAL LAW

Over the past months, the Israeli Knesset has been discussing proposed legislative measures to expand the scope of the death penalty and revive its implementation in Israel and the Occupied Palestinian Territory (OPT).

The Knesset has been discussing two main bills, one that would allow for the application of the death penalty by amending the Israeli Penal Law 5737-1977 and the Defense Regulations that Israel applies to the occupied West Bank (excluding illegally annexed occupied East Jerusalem), and a second that would introduce special provisions and an ad hoc military court to prosecute those accused of involvement in the attacks of 7 October 2023 in southern Israel.¹

Israel abolished the death penalty for ordinary crimes in 1954 but has retained this cruel punishment for offences under the Genocide Act and for treason under the Penal Law, with the last execution dating back to 1962. These amendments would represent a 20-year set back in Israel's positive engagement for the adoption since 2007 of UN General Assembly resolutions calling for a moratorium on executions towards the abolition of the death penalty.²

If adopted, these bills would distance Israel from the vast majority of states which have rejected the death penalty in law or in practice, while further entrenching its cruel system of apartheid against all Palestinians whose rights Israel controls.

The National Security Committee of the Knesset is expected to consider the first draft bill amending legislation on the death penalty from 3 February. If adopted, this will pave the way for its final readings at the plenary session and a final vote to pass the bill into law.

These two bills, introduced starting from late 2023 by proponents from different political parties, have been considered by the Knesset, Israel's parliament, with the aim of introducing the death penalty for intentionally causing death, including during the attacks of 7 October 2023, and other offences against Israeli citizens or residents; and removing critical safeguards protecting the rights of defendants in capital cases, with the aim of facilitating the implementation of death sentences.

By virtue of the ongoing system of apartheid against all Palestinians whose rights Israel controls,³ these amendments would further entrench this discriminatory regime with the death penalty de facto being applied primarily against Palestinians. These amendments would also violate multiple restrictions and safeguards established under international human rights law and standards on the use of this cruel punishment, as well as under customary international law and international humanitarian law.

Amnesty International opposes the death penalty unconditionally, in all cases without exception, regardless of who is accused, the nature or circumstances of the crime, guilt or innocence or method of execution.

Rather than an isolated development, the proposed amendments should be viewed in the context of Israel's ongoing genocide in Gaza, predicated on the unprecedented levels of dehumanization of Palestinians in Israel's public narrative and policies, and the intensification of the use of torture and other ill-treatment of Palestinians held in Israeli prisons, with the resulting spike in Palestinian deaths in custody, and a wider increase in the numbers of unlawful killings of Palestinians across the OPT and Israel over the past decade.

Death sentences imposed as a result of these amendments would amount to a violation of the right to life and of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment under international human rights law and standards. In the OPT, Israel's conduct is bound both by the rules of international humanitarian law relevant to military

¹ An alternative proposal, Penal Code Bill (Amendment No. 160) (Death Penalty for Terrorists), 2025 2025, is also pending before the National Security Committee of the Knesset, to be considered alongside the main bill. Available at: <https://main.knesset.gov.il/activity/legislation/laws/pages/lawbill.aspx?t=lawsuggestionssearch&lawitemid=2200663>

² General Assembly resolutions 62/149 of 18 December 2007; 63/168 of 18 December 2008; 65/206 of 21 December 2010; 67/176 of 20 December 2012; 69/186 of 18 December 2014; 71/187 of 19 December 2016; 73/175 of 17 December 2018; 75/183 of 16 December 2020; 77/222 of 15 December 2022; and 79/179 of 17 December 2024.

³ Amnesty International, Israel's apartheid against Palestinians: Cruel system of domination and crime against humanity (MDE 15/5141/2022), 1 February 2022, <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>

occupation (law of occupation) and its obligations under international human rights law; and violations of the right to a fair trial and death sentences imposed as a result of unfair proceedings by military courts against Palestinians may also amount to war crimes. The establishment of ad hoc military courts for the alleged perpetrators of the 7 October attacks and the powers granted to military courts in the unlawfully occupied West Bank –excluding illegally annexed East Jerusalem– to issue death sentences would further violate the right to a fair trial, as these courts have a well-documented track record of denying Palestinians their right to a due process.

Amnesty International urges the members of the Knesset and of the government of Israel, as well as the international community including Israel's allies, to take all possible steps to ensure that plans to adopt and implement these amendments are abandoned and that the death penalty in Israel is fully abolished.

1. PROPOSED EXPANSION OF THE SCOPE AND INCREASE IN RESORT TO DEATH PENALTY IS AT ODDS WITH ISRAEL'S INTERNATIONAL OBLIGATIONS

As of 2 February 2026, two main bills are being considered at different stages by the Knesset. In its most recently revised version of 28 January 2025, among other points the **Penal Law Bill (Amendment No. 159) (Death Penalty for Terrorists), 2025** proposes to:⁴

- Order the Commander of the Israel Defense Forces in the West Bank to amend section 209 of the Security Provisions Order, applicable to the occupied West Bank (excluding illegally annexed East Jerusalem) to give jurisdiction to military courts to try residents – Palestinian and foreigners – of this part of the occupied territory, but explicitly excluding those residing in Israeli settlements, accused of causing the death of a person in an act falling within the Israeli law definition “terrorism”, as set forth in its Counter-Terrorism Law, 5776-2016, and impose the mandatory death penalty for such acts; ensure that the death penalty can be imposed regardless of whether the prosecution requests it or supports its imposition; and with the decision of a simple majority of the judges constituting the Military Court panel conducting the trial. At present, section 209 of the Security Provisions Order foresees the discretionary death penalty for those found guilty of “intentionally causing the death of another”, with no references to Israel's terrorism law. A death sentence can only be imposed with the unanimous decision of the court panel, composed of three judges whose ranks are no lower than lieutenant colonel (section 165). The unanimous decision has been a key safeguard to limit the imposition of this most extreme punishment.⁵ The proposed amendments also restrict the automatic right to appeal to the conviction only; preclude the possibility of commuting a finalized death sentence or granting pardon.
- Amend section 301A of the Penal Law 5737–1977, which is applicable in Israel and illegally annexed occupied East Jerusalem, to introduce the death penalty for anyone found guilty of intentionally causing “the death of a person with the purpose of harming an Israeli citizen or resident”, this law is primarily applied against Palestinian citizens of Israel, residents of occupied East Jerusalem and Palestinians from the occupied Gaza Strip.
- Introduce provisions in Chapter D of the bill to regulate the imposition and execution of the death penalty, including to prescribe that death sentences imposed under the Penal Law and the Law on the Prevention and Punishment of the Crime of Genocide, 5710-1950, can be imposed regardless of the support or request of the prosecution; that death sentences by military courts must be carried out by hanging within 90 days of final judgment, with the possibility for the Prime Minister to issue stays of executions for a maximum of 180 days; to restrict access to those under sentence of death only to officials or those authorized by the Minister of National Security or the Commissioner of prisons, a cleric and to a maximum of two lawyers. This Chapter also classifies information on the implementation of the death penalty as confidential, with intentional and unintentional disclosures punishable by imprisonment of three years and one year, respectively; and bars liability claims against prison officers for acts and omissions carried out in good faith as part of the implementation of the death penalty.

An earlier version of this bill was approved in the first reading of the plenary session of the Knesset on 11 November 2025;⁶ and the draft proposal is currently pending before the National Security Committee of the Knesset for its second consideration.⁷

⁴ Available in Hebrew at: <https://main.knesset.gov.il/activity/legislation/laws/pages/lawbill.aspx?t=lawsuggestionssearch&lawitemid=2199298>

⁵ Ron Dudai, “Restraint, Reaction, and Penal Fantasies: Notes on the Death Penalty in Israel, 1967–2016”, *Law & Social Inquiry*, 43(3), pp. 862–888.

⁶ The Knesset, “Approved in first reading: Death penalty for terrorists”, 11 November 2025, <https://main.knesset.gov.il/en/news/pressreleases/pages/press11125g.aspx>

⁷ The Knesset, “National Security Committee continues to prepare bill on death penalty for terrorists for final readings; MK Foghel, chair: The bill has to be applicable and not a dead letter, otherwise it will be a tailwind to terrorism”, 23 December 2025, <https://main.knesset.gov.il/en/news/pressreleases/pages/press231225g.aspx> This bill has been sponsored by

The **Bill Prosecuting Participants in Massacres of October 7, 5776–2026**, aims at establishing special and expedited procedures for the arrest, detention and prosecution of those suspected of having participated in “acts of hostility, murder, rape, looting, and kidnapping” in connection to the attacks of 7 October 2023.⁸ Among other points, the bill proposes to grant special jurisdiction only to ad hoc military courts established under the Defense Regulations to try those charged with offences related to these attacks under “any law”, including the Law for the Prevention and Punishment of the Crime of Genocide, 5710–1950, as well as offences of “harming state sovereignty and integrity, causing war, and assisting the enemy in war” under sections 97–99 of the Penal Law and other offences under the Counter-Terrorism Law; impose death sentences with a simple majority vote of the panel of sitting judges (the court is composed of three judges); and consider appeals on its decisions. The Constitution, Law and Justice Committee of the Knesset approved a revised version of this bill on 30 December 2025; and the plenary session of the Knesset adopted it at its first reading on 13 January 2026.⁹ The Constitution, Law and Justice Committee of the Knesset is set to resume its consideration of this Bill on 4 February 2026.

The proposed **expansion of the scope** of the offences that could be punishable by death, compounded by the removal of key safeguards, would **increase the use of the death penalty** and would result in further violations of Israel’s obligations as a state party to the International Covenant on Civil and Political Rights (ICCPR), which it ratified in 1991.

Article 6(6) of the ICCPR recognizes abolition of the death penalty as a goal for states that are yet to fully abolish it. The UN Human Rights Committee – the body tasked with the interpretation of the ICCPR – has stated in its General Comment no.36 that “Article 6(6) reaffirms the position that States parties that are not yet totally abolitionist should be on an irrevocable path towards complete eradication of the death penalty, de facto and de jure, in the foreseeable future. [...] It is contrary to the object and purpose of article 6 for States parties to take steps to increase de facto the rate of use of and the extent to which they resort to the death penalty, or to reduce the number of pardons and commutations they grant.”¹⁰

While extrajudicial executions have continued for many years, the Israeli courts have refrained from imposing judicial death sentences. Israel has co-sponsored and voted in favor of 10 resolutions adopted by the UN General Assembly since 2007 calling for the establishment of a moratorium on executions with a view to abolishing the death penalty.¹¹ The move to adopt these amendments would set the country against not only its own record of more than six decades without judicial executions, but also its long-standing policy of supporting abolitionist initiatives at the international level.

2. DEATH PENALTY AS ANOTHER DISCRIMINATORY TOOL IN ISRAEL’S SYSTEM OF APARTHEID

Although the most explicitly racist and inflammatory wording in earlier versions of the proposed legislation has been removed,¹² the discriminatory nature of the proposals has remained. In particular, the amendments of the military laws applicable in occupied West Bank, excluding illegally annexed occupied East Jerusalem, would prescribe the death penalty for offences carried out by residents of the area with explicit exclusion of residents “of an Israeli settlement in the Area.” Effectively, this amendment applies only to Palestinian civilians as they are the only ones tried in military courts, while Israeli citizens are not subject to military jurisdiction and are tried in civilian courts.¹³ The other amendment that modifies the Israel’s Penal Law applies to those accused of intentionally causing “the death of a person with the purpose of harming an Israeli citizen or resident”, a framework primarily applied to Palestinian suspects. Finally, the proposed ad hoc legislation and mechanisms related to the prosecution of those accused of involvement in violations related to the events of 7 October would apply virtually only against Palestinian suspects. To conclude, these amendments mean that the most extreme and irrevocable punishment is being **reserved for, and weaponized against, Palestinians**.

MK Limor Sonn Har Melech (Otzma Yehudit) and to it are attached a bill sponsored by MK Nissim Vaturi (Likud) and another proposal sponsored by MK Oded Forer (Yisrael Beiteinu) and a group of MKs.

⁸ Available in Hebrew at <https://main.knesset.gov.il/activity/legislation/laws/pages/lawbill.aspx?t=lawsuggestionssearch&lawitemid=2222852>. The Bill was sponsored by MK Rothman and MK Yulia Malinovsky (Yisrael Beiteinu).

⁹ The Times of Israel, “Knesset advances bill establishing military tribunal to try October 7 perpetrators”, 13 January 2026, <https://www.timesofisrael.com/knesset-advances-bill-establishing-military-tribunal-to-try-october-7-perpetrators/>; Knesset News, “Approved in first reading: Bill for prosecution of October 7 massacre perpetrators”, 12 January 2026, <https://m.knesset.gov.il/EN/News/PressReleases/Pages/press13126r.aspx>

¹⁰ UN Human Rights Committee, General comment No. 36 Article 6: right to life, UN Doc. CCPR/C/GC/36, 3 September 2019, para.50.

¹¹ See footnote 2.

¹² Amnesty International, Israel must immediately halt legislation of discriminatory death penalty bill, 11 November 2025, <https://www.amnesty.org/en/latest/news/2025/11/israel-must-immediately-halt-legislation-of-discriminatory-death-penalty-bill/>

¹³ For an overview of the different legal and policy frameworks, see chapter 5 in Amnesty International, Israel’s apartheid against Palestinians: Cruel system of domination and crime against humanity (MDE 15/5141/2022), 1 February 2022, section 6.2, <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>

This proposed use of the death penalty that deliberately targets Palestinians is a further manifestation of Israel's system of apartheid against all Palestinians and its genocide against Palestinians in the Gaza Strip.¹⁴ It comes in the context of a drastic increase in the number of unlawful killings of Palestinians, including acts that amount to extrajudicial executions, over the last decade, and a horrific rise of torture and other ill-treatment and deaths in custody of Palestinians since October 2023 amidst a climate of incitement to violence, hostility and discrimination against all Palestinians as evidenced also by the surge in state-backed settler attacks in the occupied West Bank. The systemic and institutionalized discrimination has also been reflected in the administration of justice across all areas.¹⁵

The discriminatory use of the death penalty amounts to a violation of the right to life. In the words of the UN Human Rights Committee: "[t]he death penalty must not be imposed in a discriminatory manner contrary to the requirements of articles 2(1) and 26 of the Covenant."¹⁶ "Legal protections for the right to life must apply equally to all individuals and provide them with effective guarantees against all forms of discrimination, including multiple and intersectional forms of discrimination. Any deprivation of life based on discrimination in law or in fact is ipso facto arbitrary in nature."¹⁷

Further exacerbating the discriminatory nature of some proposed amendments is the role given to military justice, which has been a key enforcer of Israel's apartheid system in the OPT, in the administration of the death penalty. The amendments applicable to the West Bank –excluding illegally annexed occupied East Jerusalem– would authorize the use of the death penalty by military courts in the occupied West Bank, under which Palestinians are subjected to serious violations of their rights including their right to a fair trial. Equally concerning is the prospect of the establishment of ad hoc military courts to try those allegedly involved in the 7 October attacks. In both cases, military judges will have the authority to issue a death sentence without the requirement of unanimity, which would add another layer of injustice and cruelty against Palestinians.

Any death sentences imposed as a result of the adoption of the proposed amendments would be discriminatory and unlawful under international human rights law and standards, and will violate the obligations of Israel as a state party to the ICCPR.

3. MANDATORY DEATH SENTENCES

The Penal Bill (Amendment No. 159) (Death Penalty for Terrorists), 2025, would introduce in Section B the **mandatory death penalty** as punishment in the military system for causing "the death of a person and the act is an act of terrorism as defined in the Counter-Terrorism Law". In Section C, the amendment to Israel's civil legislation on similar circumstances as those set forth in Section 301A of the Penal Law – "causing the death of a person with the purpose of harming an Israeli citizen or resident", would prescribe the death penalty as the maximum sentence, but not a mandatory one.

The mandatory imposition of the death penalty is prohibited under international human rights law¹⁸ and its application would contravene Israel's international human rights obligations.

The UN Human Rights Committee has stated that "the automatic and mandatory imposition of the death penalty constitutes an arbitrary deprivation of life [...] in circumstances where the death penalty is imposed without any possibility of taking into account the defendant's personal circumstances or the circumstances of the particular offence".¹⁹ In addition, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that "[the] mandatory death penalty [...] is inconsistent with the prohibition of cruel, inhuman or degrading treatment or punishment".²⁰

4. DEATH SENTENCES BY MILITARY COURTS

¹⁴ Amnesty International, Israel/Occupied Palestinian Territory: 'You Feel Like You Are Subhuman': Israel's Genocide Against Palestinians in Gaza (MDE 15/8668/2024), 5 December 2024, <https://www.amnesty.org/en/documents/mde15/8668/2024/en/>

¹⁵ Among other examples, see UN Committee on the Elimination of Racial Discrimination, Report of the Ad Hoc Conciliation Commission on the inter-State communication submitted by the State of Palestine against Israel under article 11 of the International Convention on the Elimination of All Forms of Racial Discrimination - Addendum, UN Doc. CERD/C/113/3/Add.2, paras. 12-13.

¹⁶ UN Human Rights Committee, General comment No. 36 Article 6: right to life, UN Doc.CCPR/C/GC/36,3 September 2019, para.44. See also UN Office of the High Commissioner for Human Rights, Israel: Türk says draft proposals on death penalty for Palestinians must be dropped, 2 January 2025, <https://www.ohchr.org/en/press-releases/2026/01/israel-turk-says-draft-proposals-death-penalty-palestinians-must-be-dropped>

¹⁷ UN Human Rights Committee, General comment No. 36 Article 6: right to life, UN Doc.CCPR/C/GC/36,3 September 2019, para.38.

¹⁸ UN Human Rights Committee, *Pagdayawon Rolando v Philippines*, Communication No. 1110/2002, UN Doc.CCPR/C/82/D/1110/2002, para. 5.2.

¹⁹ UN Human Rights Committee, General comment No. 36 Article 6: right to life, UN Doc.CCPR/C/GC/36,3 September 2019, para.37.

²⁰ Report of the Special Rapporteur on Extrajudicial, summary or arbitrary executions, UN Doc. E/CN.4/2005/7, para. 80.

The Penal Law Bill (Amendment No. 159) (Death Penalty for Terrorists), 2025, would introduce in its Section B the possibility for military courts in the occupied West -excluding illegally annexed occupied East Jerusalem, to impose, for the first time, mandatory death sentences on civilians with non-unanimous sentences from the panel judges.

Additionally, the Bill Prosecuting Participants in Massacres of October 7, 5776–2026, proposes to grant jurisdiction to ad hoc military courts established only to try those charged with offences related to the 7 October 2023 attacks under any law, including the Law for the Prevention and Punishment of the Crime of Genocide, 5710–1950 and the Counter-Terrorism Law; and consider appeals on its decisions.

Under international human rights law and standards, military courts' jurisdiction should be limited to breaches of military discipline committed by military personnel. Military courts should not have jurisdiction to try civilians for any offences and must never impose the death penalty on civilians. Members of the military must not be tried by military courts for ordinary criminal offences, human rights violations, war crimes or other crimes under international law, given concerns about these courts' lack of independence and impartiality and related impunity.

The imposition of **death sentences by non-regularly constituted courts** further violates restrictions and safeguards established under international human rights law and standards, as well as international humanitarian law.

Interpreting Article 6 (2) of the ICCPR, the UN Human Rights Committee recalled that “the death penalty can only be carried out pursuant to a judgment of a competent court. Such a court must be established by law within the judiciary, be independent of the executive and legislative branches and be impartial. It should be established before the commission of the offence. As a rule, civilians must not be tried for capital crimes before military tribunals and military personnel can be tried for offences carrying the death penalty only before a tribunal affording all fair trial guarantees.”²¹

Article 3 common to the four Geneva Conventions of 12 August 1949 (Common Article 3) prohibits the “passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples”, on “persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause” (para.d). The ICRC Customary IHL Study (Rule 100) states: “No one may be convicted or sentenced, except pursuant to a fair trial affording all essential judicial guarantees.”

5. DENIAL OF RIGHT TO SEEK COMMUTATION OF DEATH SENTENCES IMPOSED IN THE WEST BANK

Chapter B, para.3(g) of the Penal Law Bill (Amendment No. 159) (Death Penalty for Terrorists), 2025 that relates to the jurisdiction of military courts include provisions that explicitly deny the possibility to “mitigate or commute the death sentence imposed on a terrorist suspect, defendant or convict [...] nor to pardon them”.

Section 12 of the Bill targeting alleged participants in the 7 October's attacks, states that those suspected, charged or convicted of an offence related to such attacks or related offences “shall not be included in a decision on the release of a prisoner as stated in Section 8B of the Government Law, 5761-2001”.

The **right to seek pardon or commutation of a death sentence** is an important safeguard established for all death penalty cases under international human rights law and standards, as well as international humanitarian law.

Article 6(4) of the ICCPR and Safeguard no.7 of the UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty state that “Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.”

The International Court of Justice has taken the view that such clemency procedures, though carried out by the executive rather than the judiciary, are an integral part of the overall system for ensuring justice and fairness in the legal process.²²

The Fourth Geneva Convention guarantees in its Article 75 the right to petition for pardon or reprieve of a death sentence in all cases.

6. INCREASED RISK OF UNFAIR PROCEEDINGS RESULTING IN DEATH PENALTY

²¹ UN Human Rights Committee, General comment No. 36 Article 6: right to life, UN Doc.CCPR/C/GC/36,3 September 2019, para.45.

²² International Court of Justice, Avena Case (Mexico v United States), ICJ (2004) para. 142.

The amendments in both bills introduce special procedures that remove important safeguards established under international human rights law and standards to guarantee the right to a fair trial and other rights of those facing the death penalty;²³ and allow political interference in key aspects of a judicial process, blurring the separation of powers and undermining the independence of the judiciary, which are a cornerstone of the rule of law. These include, under the Penal Law Bill (Amendment No. 159) (Death Penalty for Terrorists), 2025:

- For the parts related to the military jurisdiction, provisions to regulate the imposition and execution of death sentences for offences under the Penal Law and under the Law on the Prevention of the Crime of Genocide, 5710-1950, to allow for the imposition of the death penalty regardless of whether the prosecution requests or supports it.
- To mandate the timeline of 90 days for the implementation of death sentences imposed under the Penal Law and under the Law on the Prevention of the Crime of Genocide, 5710-1950, as well as under the Security Provisions Order that Israel applies to Palestinians only in the West Bank, excluding illegally annexed occupied East Jerusalem, which raises concerns of due process and the possibility of meaningful review.
- The classification of information on the implementation of the death penalty and incarceration of those facing execution as privileged on security grounds, with disclosures permitted under special authorized circumstances only; and punishments for unauthorized disclosures of up to imprisonment for three years.
- The possibility for the Minister of National Security to designate by regulation, with approval of the Foreign Affairs and Defense Committee, additional information as barred from publication.
- The notification of an execution order is foreseen only for the individual facing execution, with no mention of family members and legal representatives, in a process where disclosure of information is prohibited. This raises concern of cruel, inhuman or degrading treatment of those facing execution and their relatives, among other points.
- Immunity from liability claims for officers for “acts or omission done in good faith and in a reasonable manner” relating to the implementation of the death penalty.
- The possibility for executions to be carried out without the presence of representatives of the judiciary and religious counsel, among others, “insofar as their absence delays the execution of the sentence”.
- Restrictions on access to those sentenced to death, including for their lawyers which is limited to meeting “at most two attorneys”.

All these restrictions and special circumstances contribute to preventing scrutiny of the authorities’ use of the death penalty and put defendants at an even greater risk of being subjected to arbitrary deprivation of life. When applied in the context of Israel’s system of apartheid against Palestinians such risk is even greater.

Under the Bill Prosecuting Participants in Massacres of October 7, 5776–2026, the amendments foresee among other concerns:

- The introduction of special procedures for the indictment, detention and prosecution of those suspected of having participated in “acts of hostility, murder, rape, looting, and kidnapping” in connection with the attacks of 7 October 2023, granting ad hoc military courts jurisdiction to adjudicate an offence under any law, including offences under the Genocide (Prevention and Punishment) Law, 5710-1950 and counter-terrorism legislation. At present these courts can only adjudicate offences under the Defence Regulations.
- The explicit authorization for the ad hoc military courts tasked with the adjudication of these offences to “depart from the accepted procedures and law of evidence”, both for potentially legitimate reasons, such as the protection of victims, and others seemingly aimed at reducing scrutiny of the proceedings, such as “the scope of evidence and the number of defendants, the publicity of the hearing and its accessibility to the general public, and the public interest in conducting fair and efficient proceedings”. The proposal gives discretion to the government, and not the court, to initiate further regulations in this framework that could result in violations of the right to a public hearing and other fair trial guarantees.
- The appointment to the ad hoc military courts overseeing the adjudication of indictments for offences relating to the 7 October 2023 attacks of a military officer who is a retired District Court judge as the presiding judge, together with two other officers who are qualified to be appointed as District Court judges. Appeals are to be heard by judicial panels of three judges comprising an officer who is a retired Supreme Court judge, a retired President of a District Court or the President of the Military Court of Appeals, and two officers who are retired District Court judges. The

²³ See Amnesty International, *Fair Trial Manual, Second Edition* (Index: POL 30/002/2014), <https://www.amnesty.org/en/documents/pol30/002/2014/en/>

appointment of judges outside the ordinary framework once again risks undue political interference in the administration of judicial matters and diminishes the legal protections of Palestinian defendants.

The procedural changes proposed in these bills would further exacerbate existing systemic unfairness built in other judicial processes in Israel and the Occupied Palestinian Territory as part of Israel's system of apartheid against Palestinians. These have ranged from vague and overly-broad terrorism laws and regulations, which have failed to meet the principles of legality, necessity, proportionality, and non-discrimination under international human rights law;²⁴ to widespread and discriminatory use of administrative detention and the use of the illegal Unlawful Combatants' Law, which allow for the detention without charges or trial, torture and other ill-treatment; and routinely and grossly unfair trials held by military courts against Palestinian defendants.²⁵

The right to a fair trial is a fundamental human right and one of the universally applicable guarantees proclaimed in the Universal Declaration of Human Rights, and it has become legally binding on states as part of customary international law. The key elements that define this right are set out in Article 14 of the International Covenant on Civil and Political Rights (ICCPR), including the rights to equality before the courts and to be tried by a competent, independent and impartial tribunal established by law. These fair trial guarantees are considered part of customary international humanitarian law and apply in situations of armed conflict and military occupation. "Wilfully depriving a protected person of the rights of fair and regular trial" is a grave breach of the Fourth Geneva Convention, and a war crime. Safeguard no.5 of the UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty states that Capital punishment may only be carried out [...] after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights" and must include "adequate legal assistance at all stages of the proceedings".

Proceedings that do not meet international standards for a fair trial render the use of the death penalty arbitrary in nature.²⁶

7. LIMITED AND MANDATORY TIMEFRAME FOR EXECUTION OF FINALIZED DEATH SENTENCES

The legislative proposals would make it mandatory for executions of death sentences imposed by military courts following these amendments to be carried out within 90 days of their final confirmation. Under the Penal Law Bill (Amendment No. 159) (Death Penalty for Terrorists), 2025, the Prime Minister can request one or more stays of execution for special reasons, for an overall period not exceeding 180 days.

These provisions violate guarantees set out under international humanitarian law, recommending that a period of at least six months is allowed.

Article 75 of the Fourth Geneva Convention prohibits the implementation of death sentences "before the expiration of a period of at least six months from the date of receipt by the Protecting Power [the ICRC] of the notification of the final judgment confirming such death sentence, or of an order denying pardon or reprieve."

8. THE KNESSET MUST REJECT LEGISLATIVE PROPOSALS ON DEATH PENALTY AMONG CONCERNS OF ARBITRARY DEPRIVATION OF LIFE

Amnesty International urges the authorities of Israel to immediately abandon all plans to adopt the proposed legislative measures that would introduce and facilitate the use of the death penalty. The proposals would enable the commission of multiple violations of international human rights law, customary law and international humanitarian law.

Article 6(1) of the ICCPR protects against the arbitrary deprivation of life, which is, together with torture and other ill-treatment and punishment, absolutely prohibited under customary international law, international human rights law and international humanitarian law.²⁷ Any death sentences imposed as a result of these proposed amendments would thus

²⁴ Amnesty International, "Israel must end mass incommunicado detention and torture of Palestinians from Gaza", 18 July 2024, <https://www.amnesty.org/en/latest/news/2024/07/israel-must-end-mass-incommunicado-detention-and-torture-of-palestinians-from-gaza/>; "Israel/OPT: Horrifying cases of torture and degrading treatment of Palestinian detainees amid spike in arbitrary arrests", 8 November 2023, <https://www.amnesty.org/en/latest/news/2023/11/israel-opt-horrifying-cases-of-torture-and-degrading-treatment-of-palestinian-detainees-amid-spike-in-arbitrary-arrests/>

²⁵ Amnesty International, Israel's apartheid against Palestinians: Cruel system of domination and crime against humanity (MDE 15/5141/2022), 1 February 2022, section 6.2, <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>

²⁶ Human Rights Committee, Maryam Khalilova v Tajikistan, Views of the Human Rights Committee, Communication No. 973/2001, UN Doc. CCPR/C/83/D/973/2001, 13 April 2005, para. 7.6; General comment No. 36 Article 6: right to life, UN Doc. CCPR/C/GC/36, para.41.

²⁷ Among others, Article 5 of the Universal Declaration of Human Rights, Article 7 of the ICCPR, Article 2 of the Convention against Torture, Articles 37(a) and 19 of the Convention on the Rights of the Child, Article 10 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; Human Rights Committee,

amount to a violation of the right to life and of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment under international human rights law and standards; and, in some instances, constitute a war crime.

Israel has not carried out the death penalty in more than six decades. Any resumption of its use, including in line with the current proposals, would further entrench Israel's apartheid system by introducing additional provisions in law that are designed to be selectively used against Palestinians to arbitrarily deprive them of their lives. Claims that the death penalty has a unique deterrent effect have long been disproven.²⁸ While from the narrative, contextual situation, including the upcoming Knesset elections, it appears that these bills aim to score political gains and to exacerbate a climate of intimidation and fear for Palestinians.

Amnesty International urges the members of the Knesset and the Israeli government at large, to ensure that plans to adopt and implement these amendments are abandoned and that the death penalty in Israel is fully abolished. The organization calls on the international community including Israel's allies, to take all possible steps to proactively engage the Israeli authorities to abandon these measures once and for all. Third states have clear legal obligations towards cooperating to bring an end to Israel's international crimes against Palestinians, including the crimes against humanity of apartheid.

General Comment 24, UN Doc. CCPR/C/21/Rev.1/Add.6, para. 8; Report of the Special Rapporteur on Extrajudicial Executions, UN Doc. A/67/275, 2012, para. 11; Committee Against Torture, General Comment 2, para.1; Report of the Special Rapporteur on torture, UN Doc. A/67/279, 2012, para.58.

²⁸ World Coalition Against the Death Penalty, Debunking the deterrence theory- World Day Against the Death Penalty, 10 October 2024-2025, https://worldcoalition.org/wp-content/uploads/2024/07/EN_JM2024_Deterrence_Final.pdf