

**Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Independent expert on the promotion of a democratic and equitable international order; the Special Rapporteur on minority issues; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Special Rapporteur on violence against women and girls, its causes and consequences**

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(Please use this reference in your reply)

11 May 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Independent expert on the promotion of a democratic and equitable international order; Special Rapporteur on minority issues; Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolutions 58/14, 54/14, 53/4, 52/9, 59/4, 60/10, 61/22, 53/12, 57/7, 52/5, 1993/2A, 52/36, 52/7, 54/8 and 59/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the Death Penalty for Terrorists Law, 5786–2025, adopted by the Knesset 30 March 2026. We raised concerns about an earlier draft of the Law in [ISR 23/2025](#) and we have also publicly expressed concerns on the adoption of the bill.<sup>1</sup> We are concerned that the Law is inconsistent with Israel's obligation to protect the right to life under article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency's Government in 1991,

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<sup>1</sup> See [Israel: UN experts urge withdrawal of death penalty bill | OHCHR](#); [Israel's death penalty law constitutes discriminatory regime of capital punishment: UN experts | OHCHR](#)

and related provisions including the prohibition on torture and other cruel, inhuman or degrading treatment or punishment (article 7 of the ICCPR as well as articles 1, 2, 15 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, also ratified by Israel in 1991), non-discrimination and equality (articles 2(1) and 26 of the ICCPR), fair trial (article 14 of the ICCPR), legality (article 15 of the ICCPR) and the right to an effective remedy (article 2(3) of the ICCPR).

### *The provisions of the Law*

The stated purpose of the Law is to deter and punish terrorism against Israel (section 1).

#### *In the West Bank*

In the occupied Palestinian territory of the West Bank, the Law makes the death penalty quasi-mandatory for “[a] resident of the Area who intentionally causes the death of a person, where the act constitutes an act of terrorism as defined in the Counter-Terrorism Law, 5776–2016” (section 2). A military court may reduce the sentence to life imprisonment only where undefined “special circumstances” exist. A “resident of the Area” is defined to essentially mean a Palestinian<sup>2</sup> and expressly excludes “an Israeli citizen or an Israeli resident”.

The Law does not require the death sentence to be imposed unanimously - thus permitting a simple majority and lowering the existing threshold - and does not require all judges of the panel to hold the rank of Lieutenant Colonel or higher (section 3).

The Law prohibits the Commander of the Israeli Defense Forces in the West Bank from mitigating or commuting a death sentence or pardoning a person (section 3).

#### *In Israel*

The Law amends the Penal Law applicable within Israel to mandate only either death or life imprisonment for a person “who intentionally causes the death of a person with the aim of negating the existence of the State of Israel” through specified terrorism offences under Israeli law (section 6).

#### *In both the West Bank and Israel*

A court is authorized to impose the death penalty even if it has not been requested or supported by the prosecution (sections 3-4).

A death sentence must be implemented within 90 days, unless the Prime Minister requests a court to stay execution for “special reasons” to a maximum of 180 days (section 5).

The method of execution is by hanging (section 7).

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<sup>2</sup> Specifically, “one who is registered in the population registry of the Area or one who resides in the Area even if not registered”.

Persons sentenced to death must be held, as far as possible, separately from other prisoners (section 7). Access to them is restricted to specified people, including lawyers and religious officials, but not including family members, friends or colleagues (section 7). A family representative may attend the execution (section 7). There is no right of media representatives to attend. The fact of the execution is published on the Israel Prison Service website (section 7).

The Law contains extensive provisions requiring confidentiality relating to Israel Prison Service procedures regarding the implementation of the Law and information about the person's imprisonment or execution, for reasons relating to "State security, public safety, prison security, the safety or well-being of a person, or the fulfillment of the sentence", with penalties for unlawful disclosure of three years' imprisonment (section 7).

### *Context*

Israel maintains the death penalty for Nazi-era war crimes, crimes against humanity and crimes against the Jewish people, as well as for aggravated treason and certain crimes under military law in wartime. It has, however, a long-standing *de facto* moratorium on implementation. It has only finally imposed the death penalty in two cases in its history: an Israeli army officer, executed for espionage in 1948 but later exonerated; and a Nazi leader abducted to Israel and executed in 1962.

### *Human rights concerns*

#### *Non-regression*

Firstly, since Israel previously abolished the death penalty for murder and maintains it only for certain international crimes, military offences and treason, we emphasize that under international law States parties may not transform into a capital offence any offence that, upon ratification of the Covenant or at any time thereafter, did not entail the death penalty (article 6(2) of the ICCPR and Human Rights Committee, general comment No. 36, para. 34).

#### *Arbitrary deprivation of life*

Secondly, we recall that mandatory death sentences that leave domestic courts with no judicial discretion as to whether to designate the offence as a crime warranting the death penalty, and whether to issue the death sentence in the particular circumstances of the offender, are arbitrary in nature (Human Rights Committee, general comment No. 36, para. 37) and are thus contrary to the right to life under article 6 of the ICCPR. Although the Law does not make the death penalty absolutely mandatory, death is the presumptive penalty and the "special circumstances" for reducing the penalty to life imprisonment are undefined. In practice such exception risks not being applied to the benefit of the offender by military judges in occupied territory, lacking sufficient independence from the executive and impartiality, who are applying terrorism laws designed to defend the security of their own State, including its military forces. Even where a reduced penalty is applied, life imprisonment is still mandatory, which still deprives the court of judicial discretion. Further, mandatory sentences of death or life imprisonment violate the principle of proportionality in

sentencing under international law, which requires that an offender receives a punishment that corresponds to the gravity of the crime, taking into account the seriousness of the conduct, the offender's degree of responsibility, and any aggravating or mitigating circumstances.

Thirdly, it is prohibited to impose the death penalty based on vaguely defined criminal provisions. The Law applies the death penalty in the West Bank and Israel in connection with terrorist offences under Israeli counter-terrorism law that are themselves vague and overbroad, not consistent with the principle of legality under article 15 of the ICCPR, and are prone to arbitrary application and abuse, particularly in the context of suppressing lawful resistance to an occupying power (including its military forces) under international law (and where not unlawful under international humanitarian law). Within Israel, the Law additionally refers to acts with the vague and ill-defined "aim of negating the existence of the State of Israel", a test which could be particularly problematic in the context of the rights of self-determination and lawful resistance to occupation. Where criminal liability depends on excessively subjective or discretionary considerations, it is not reasonably foreseeable (general comment No. 36, para. 38), thus rendering the deprivation of life arbitrary contrary to article 6 and incompatible with the requirement of legality under article 15.

Fourthly, the Bill's exclusion of commutation and pardon is not consistent with article 6(4) of the ICCPR, which requires 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." We emphasize that no category of sentenced persons can be a priori excluded from such measures of relief (Human Rights Committee, general comment No. 36, para. 47).

#### *Discrimination against Palestinians*

Fifthly, the Bill involves two types of unlawful discrimination. In the West Bank, discrimination is *de jure* because the Law does not apply the death penalty to "an Israeli citizen or an Israeli resident" – even if they commit equally serious terrorist offences, as in the case of Jewish settler terrorism as documented by the Independent International Commission of Inquiry on the Occupied Palestinian Territory and other United Nations human rights mechanisms.<sup>3</sup> Within Israel, the Law is *de facto* discriminatory because the application of crimes associated with "negating the existence of the State of Israel" would in practice mainly be applied to violence by Palestinian but not by Jewish Israelis. The Knesset debates on the adoption of the law further indicate its deliberately discriminatory intent. Such discrimination adds to the existing pattern of discrimination against Palestinians, as affirmed by the International Court of Justice finding in its 2024 Advisory Opinion that there exists entrenched "racial segregation and apartheid" contrary to Article 3 of the Convention on the Elimination of All Forms of Racial Discrimination. Discrimination in the application of the death penalty is contrary to articles 2(1) and 26 of the ICCPR and would render the execution arbitrary and thus also in violation of article 6 (Human Rights Committee, general comment No. 36, para. 44). Discrimination is further prohibited under international humanitarian law (ICRC Customary International Humanitarian Law, rule 88).

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<sup>3</sup> See [A/80/337](#); [CAT/C/ISR/CO/6](#).

*Unfair trials by military courts lacking independence and impartiality*

Sixthly, we are concerned that, because Israeli military trials of civilians typically do not meet international fair trial standards under human rights law and humanitarian law, any resulting imposition of the death penalty would be arbitrary in violation of article 6 of the ICCPR (Human Rights Committee, General Comment No. 36, para. 41). Specific breaches have included, for example, torture and forced confessions, denial of adequate access to legal representation, lack of interpretation, inadequate facilities to prepare a defence, protracted pre-trial detention, and non-disclosure of secret evidence necessary for a fair trial, lack of independence or impartiality of military courts, and a near-total conviction rate for Palestinian defendants. The Human Rights Committee has further emphasized that “[a]s a rule, civilians must not be tried for capital crimes before military tribunals (general comment No. 36, para. 45). We emphasize that denial of fair trial is also a war crime under international humanitarian law. In its general comment No. 32, the Committee has stressed that trials of civilians by military courts raise serious concerns for the administration of justice and, where resorted to at all, must be strictly exceptional and afford all guarantees of independence, impartiality and due process (see also ECOSOC resolution 1984/50).

In addition, since a death sentence by must be implemented within 90 days, unless the Prime Minister requests a court to stay execution for “special reasons”, the pursuit of a judicial appeal would not therefore appear to automatically or necessarily suspend the execution, and the legislation appears to deprive the courts of such power.

Human rights defenders could be at higher risk of being targeted in the application of this law as they have already been targeted by the military system (see [ISR 13/2024](#), [ISR 2/2024](#), [ISR 9/2023](#), [ISR 15/2022](#), [ISR 10/2022](#) and [ISR 10/2022](#)).

Moreover, bearing in mind that many of those to whom death penalty can be imposed under the new Law are currently forcibly disappeared, held incommunicado and without access to their relatives, lawyers or counsel, and are thus outside the protection of the law, they would clearly lack the necessary facilities to prepare a defence and to be granted any fair trial in death penalty proceedings.

*Torture and other cruel, inhuman or degrading treatment or punishment (execution method and process)*

Seventhly, we highlight that “considerable progress may have been made towards establishing an agreement among the States parties to consider the death penalty as a cruel, inhuman or degrading form of punishment” (Human Rights Committee, general comment No. 36, para. 51), contrary to article 7 of the ICCPR, including because of the methods of execution, as well as the mental torment arising from the imposition of a death sentence and the protracted periods and conditions on death row which follow. In this regard we emphasize the Committee against Torture has condemned hanging as a cruel method of execution (CAT/C/BWA/CO/1, para. 23). Further, the Law imposes strict measures of segregation on death row prisoners, and limited access to them by others (including family members) to, which are likely to

aggravate their mental suffering. It is almost impossible to impose the death penalty without breaching the absolute prohibition of torture or other ill-treatment (see PAK 8/2025 and USA 30/2025).

Failure to respect article 7 of the ICCPR would inevitably render the execution arbitrary in nature and therefore also a violation of the right the life (Human Rights Committee, general comment No. 36, para. 40).

We also refer to article 12 of the International Covenant of Economic, Social and Cultural Rights, ratified by Israel on 3 October 1991, which guarantees the right to health, which is closely related to the realization of other human rights, including the prohibition against torture as an integral component of the right to health (Committee on Economic, Social and Cultural Rights, general comment No. 14, paras. 3 and 8).

Further, the Law imposes extensive secrecy and confidentiality provisions and other restrictions relating to persons on death row, which greatly reduce oversight and accountability in detention and access to effective remedies, thus increasing the likelihood of ill-treatment and impunity. These include classifying all information as confidential, severely limiting access to prisoners (including by the media of family members), allowing executions to proceed in the absence of timely attendance of designated officials, concealing the identities of executioners, exempting officials for personal liability and the State of Israel from financial liability. Concerns regarding forced or involuntary confessions under torture and other ill-treatment are directly prohibited by article 15 of the CAT.

#### *Abolition of the death penalty*

Ninthly, we reiterate that the Human Rights Committee has indicated that article 6(6) of the ICCPR “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. The death penalty cannot be reconciled with full respect for the right to life” (Human Rights Committee, general comment No. 36, para. 50). Moreover, “[i]t 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” (*ibid*).

We stand ready to provide any technical advice your Excellency’s Government may require in ensuring that legislation is consistent with international human rights law and international humanitarian law.

As regards Israel’s authority to make law in the occupied Palestinian territory, we emphasize that the International Court of Justice in its 2024 Advisory Opinion declared that Israel’s presence in the occupied Palestinian territory is unlawful and that Israel must bring to an end its unlawful presence as rapidly as possible.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above analysis.
2. Please indicate how the Law is consistent with Israel's international human rights law and international humanitarian law obligations.
3. Please clarify whether the Government plans to repeal the Law and abolish *de jure* the death penalty for all crimes, noting that Israel has been a *de facto* abolitionist State.
4. Please explain how the prosecution of capital offences before military courts is compatible with the right to fair trial by an independent and impartial tribunal. In addition, please explain how fundamental safeguards – from the moment of arrest and throughout all stages of the judicial proceedings – protect the rights of persons accused of capital offences, including against arbitrariness.
5. Please explain how the Law would avoid having a discriminatory impact on Palestinians under Israeli occupation and within Israeli territory.
6. Please indicate how the Law ensures respect for the right to life, the right to fair trial, including the right to appeal, the absolute prohibition on torture and other cruel, inhuman or degrading treatment or punishment, and the right to effective remedy.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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