Capital Punishment for Arabs Only

Bill for Death Penalty for Terrorists-2025

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The slogan "death penalty for terrorists" goes back a long time in Israel's public discourse. Until recently, it was heard mainly as an empty election campaign promise or as a predictable reaction to attacks, but on 10 November 2025, two bills seeking to introduce it into Israel's statute book passed their first reading in the Knesset.[1] These bills are now before the Knesset's National Security Committee, chaired by MK Tzvika Fogel of the Otzma Yehudit party.

The bills seek to enshrine in law the death penalty as a mandatory punishment for murder committed out of a racist motive, but only when the victim is Jewish. They thus establish a hierarchy in the offense of murder and determine that Jewish lives are dearer. Criminal legislation that embeds categories of nationality and race is exceedingly rare worldwide. The clearest, almost sole example of such legislation occurred in Nazi Germany.

Zulat's position is that these bills are racist, among the most despicable ever submitted to the Knesset, and should be rejected outright.

The Bills

The option of imposing the death penalty for murder was abolished in Israeli law in 1949.[2] Today, it may be imposed in a handful of exceptional cases, such as under the Nazis and Nazi Collaborators (Punishment) Law or the Convention on the Prevention and Punishment of the Crime of Genocide, at the judges' discretion and not as a mandatory punishment. It may also be imposed for various treason offenses in wartime listed in the Penal Code and in the Military Justice Law.[3] In the West Bank, military courts may mete out the death

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* English-language reference. All other references in this document are in Hebrew.

[1] Bill for Penal Code (Amendment No. 159) (Death Penalty for Terrorists), 2025; Bill for Penal Code (Amendment No. 160) (Death Penalty for Terrorists), 2025.

[2] Law To Amend Penal Code (Abolishment of Death Penalty for Murder), 1954. This law was abolished upon the integration of its principles in the new Penal Code legislated in 1977.

[3] *Nazis and Nazi Collaborators (Punishment) Law, 1950; Law on Prevention and Punishment of Crime of Genocide, 1950; Articles 96-99 of Penal Code, 1977; Article 43 of Military Justice Law, 1955. For an

penalty to Palestinians convicted of causing a person's death, but only by the unanimous decision of three judges with the rank of lieutenant colonel or higher.[4]

To date, only one person has been executed in Israel and in territories under its control, following a court sentenced death penalty: Nazi arch-criminal Adolf Eichmann, in 1962.

Two bills currently being discussed in the Knesset seek to fundamentally change this situation and expand the use of the death penalty: Amendments No. 159 and 160 to the Penal Code (Death Penalty for Terrorists), respectively submitted by Otzma Yehudit MK Limor Son Har-Melech and by several Yisrael Beiteinu MKs.[5]

The Penal Code already lists the crime of intentional or reckless murder committed for racist motives or hostility toward a group.[6] The aforementioned bills seek to establish the death penalty as a mandatory punishment for this crime when it is committed "with the aim of harming the State of Israel and the rebirth of the Jewish people in their land."

Another clause stipulates that military courts in the West Bank may impose the death penalty by a simple majority and that the IDF regional commander will be barred from commuting a sentence once it becomes final.

The explanatory notes accompanying the bills claim that a life sentence "does not deter terrorists," who supposedly believe they will eventually be released in a prisoner exchange and in the meantime enjoy stipends from the Palestinian Authority. Many of them "even go back to their evil ways and resume terrorist activity after their release." Therefore, the bills propose instituting the death penalty "to provide effective deterrence and thereby prevent more acts of terror."

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expanded discussion of this topic and a detailed review of the various legal provisions, see Boaz Sangero, On Capital Punishment in General and on the Death Penalty for Murder Committed During a Terrorist Act in Particular, *Alei Mishpat*, 2002.

[4] According to Article 209 of Order Regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651), 2009, the death penalty may be imposed on a person who intentionally caused the death of another. Such a sentence may be handed down only by a court composed of three judges holding the rank of lieutenant colonel or higher, and the verdict must be unanimous (Article 165a). It is prohibited to impose this penalty on someone who was a minor at the time the offense was committed (Article 165b). An appeal of a death sentence shall be heard by a panel of five judges (Article 19(c)(1)); the defendant shall always be considered as pleading not guilty; and the appeal shall be automatic (Article 156).

[5] See footnote #1.

[6] Article 301a (re murder) and Article 144f (re aggravated circumstances) of the Penal Code, 1977.

The Death Penalty: Immoral and Illegal

Through the act of execution, the state admits that there are people who are not worthy of living. However, the right to life applies to all human beings, and the deliberate killing of a person, even of someone who has committed the most heinous attack on fellow human beings or when coming at the end of a legal process, is a stark expression of contempt for the value of life and for human dignity.

Imposing the death penalty assumes that the proper moral response to severe acts of violence is to reproduce the violence and to repay death with death and an eye for an eye. Yet the principle of revenge cannot guide justice systems, and it is rather hypocritical to be horrified by the defendant's deed on the one hand and choose the exact same action on the other.

One of the common justifications for the death penalty, which is also cited in the explanatory notes, is that it is a deterrent and therefore saves lives. However, this argument must be rejected, because the question of deterrence is irrelevant: when a state treats a person's life as a means to achieving an extraneous end, it desecrates the fundamental principle that a human being is an end in itself.

These principles have been adopted in international law. While it does not absolutely ban the death penalty, the restrictions placed on its imposition and the interpretation of its provisions render its use extremely rare to nearly nonexistent.

The main framework regulating the use of the death penalty is the International Covenant on Civil and Political Rights, which states in Article 6 that "every human being has the inherent right to life" and that "no one shall be arbitrarily deprived of his life." It also states that "in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes," but "only pursuant to a final judgment rendered by a competent court," and in any case not on minors or pregnant women. The Covenant emphasizes that a person sentenced to death is entitled to seek a pardon or commutation of the sentence.[7]

[7] Article 6 of *International Covenant on Civil and Political Rights (1966). Restrictions on the death penalty were also incorporated in regional human rights conventions: The European Convention on Human Rights permitted the imposition of the death penalty in Article 2 under very limited conditions; Protocol No. 6 (1983) abolished the death penalty in peacetime, while Protocol No. 13 (2002) abolished the death penalty in both peacetime and wartime. The American Convention on Human Rights adopted by South and Central American countries in 1966 limited the use of the death penalty to only the most serious crimes and prohibited signatories that had not used it previously from introducing it into their

In the Second Optional Protocol to the Covenant, the death penalty is already fully prohibited. Countries ratifying it undertake to pass a law abolishing it with no option of reinstating it, not even in times of emergency. The protocol, which went into effect in 1991, has been signed by 92 countries.[8] Israel is not among them.

The UN Human Rights Committee, the body responsible for interpreting the Covenant, set a series of restrictions on the use of the death penalty: it may be imposed only for intentional killing and it is absolutely forbidden to impose it based on discrimination for reasons of religion, race, or nationality; the defendant's personal circumstances must be considered before it is imposed, thereby forbidding mandatory death sentences. The ban on imposing the death penalty on minors and pregnant women was further extended to include people with mental or intellectual disabilities, as well as people whose execution would cause great suffering to others, such as parents of young children or people who were victims of human rights violations in the past. It also ruled that executions may not be carried out using methods that constitute torture, such as stoning, gas chambers, or immolation, and emphasized the obligation to ensure a fair process before imposing the penalty, including a ban on coerced confessions and allowing the defendant to cross-examine witnesses. In light of these restrictions, the UNHRC determined that the death penalty cannot be reconciled with full protection of the right to life and that it violates the prohibition on torture and on cruel, inhuman, and degrading treatment. Therefore, countries that have not yet abolished the death penalty should do so promptly.[9]

These provisions have not remained theoretical. Abolishing the death penalty has become an unequivocal worldwide trend, as 75% of countries have ceased using it and 113 have revoked it by law.[10] The death penalty has been abolished throughout Europe except in Belarus, and the European Union requires its complete abolition as a condition for joining its ranks EU.[11] Other countries that have abolished it include Canada, Australia, New Zealand, South Africa, and the South American continent. The general direction is clear: the use of the death penalty is steadily shrinking, and almost all governments in countries where it still exists do not identify as democratic.

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law books (Article 4), while a protocol added in 1990 completely abolished the use of capital punishment.

[8] *Second Optional Protocol to the International Covenant on Civil and Political Rights (1991).

[9] *General Comment No. 36 of International Covenant on Civil and Political Rights, *United Nations,* 3 September 2019.

[10] *Death Penalty, *Amnesty International*.

[11] *EU Guidelines on the Death Penalty, *Council of Europe* (2020).

In 2024, the highest number of executions took place in China, though the exact figure is unknown because this information is classified as a state secret.[12] Besides China, the countries with the highest numbers of executions include Iran, Saudi Arabia, Iraq, and Yemen, in that exact order. Based on available data (not including China), at least 1,518 people were executed in 15 countries in 2024, 87% of them in Iran and Saudi Arabia. Also in 2024, at least 2,087 death sentences were handed down in 46 countries, and it is estimated that more than 28,000 people are on death row worldwide.[13]

Use of the death penalty has been declining even in the United States: 23 states have abolished it by law, and in four other states it is not applied. In states where it remains in effect, its use has dropped significantly over the years: 98 people were executed in 1999, while in 2024 the number dropped to 25. This was the tenth consecutive year with fewer than 30 executions, most of them in just four states.[14]

Bills Establish That Jewish Lives Are Dearer

The bills, titled "Death Penalty for Terrorists," stipulate that the death penalty in Israel will be imposed on a national basis: only someone who hurt Jews will be sentenced to death. The meaning of the proposal is that the punishment is not determined by the defendant's responsibility for the deed, but by the national identity of both the perpetrator and the victim.

Such an assertion establishes a hierarchy within the offense of murder, meaning that the killing of Jews is more serious than that of people belonging to other nationalities. The bills therefore seek to anchor in primary legislation the racist principle that Jewish lives are worth more than the lives of others, and in the Israeli context, that Jewish lives are more valuable than Palestinian lives.

A historical examination of death penalty legislation around the world shows that embedding categories of nationality and race into criminal law is extremely rare. The clearest, almost singular example of legislation basing criminal liability on the identity of the defendant rather than on the severity of the deed is Nazi Germany.

[12] *Death Penalty, *Amnesty International*.
[13] Ibid.
[14] *The Death Penalty in 2024, *Death Penalty Information Center,* 19 December 2024; *State by State, *Death Penalty Information Center*.

Criminal law under the Nazi regime contained explicit distinctions based on race. This racial hierarchy was written directly into the law as a guiding normative principle, and discrimination was embedded in statutes that determined, on a racial basis, who could commit an offense and what punishments would apply. New offenses grounded in racist ideology were added and criminal laws were enacted that applied exclusively to Jews, such as the Nuremberg Laws. In the territories occupied by the Nazis, additional laws were passed imposing a mandatory death penalty for conduct that, by definition, could apply only to Jews, such as exiting the ghetto.[15]

Another example of such legislation can be found in a different and earlier historical context: explicit provisions in the Slave Codes enacted in the southern United States in the 18th and 19th centuries, which stipulated that certain offenses, such as rebellion or harming a white person, would be punished by death only when the offender was a black person.[16]

Systemic racial discrimination also characterized regimes such as apartheid-era South Africa or the British colonial regime in Rhodesia (present-day Zimbabwe), though its nature was fundamentally different. The criminal statutes were drafted in neutral language and did not include explicit racial distinctions. The discrimination emerged from the way the laws were applied: the levels of enforcement, punishment, and the structure of the justice system.

In South Africa, the legal framework that governed the death penalty during apartheid was Criminal Procedure Act 51 of 1977, which listed the crimes punishable by death, foremost among them murder, treason, and certain political offenses.[17] The wording of the law did not distinguish between white and black defendants, but the application of the death penalty was blatantly racist: of the 1,070 inmates executed in Pretoria in 1980–1988, about 97% were black.[18]

In Rhodesia, the main legislation dealing with security offenses and death sentences was the Law and Order Maintenance Act of 1960, enacted by the white minority. Article 37 mandated the death penalty for throwing firebombs, arson, recruiting guerrilla fighters, and "acts of terrorism or sabotage." The law did not specify that it applied to any particular

[15] See, for example, *Antisemitic Legislation 1933-1939, *United States Holocaust Memorial Museum.*
[16] See, for example, *South Carolina Slave Code, 1740 and *Slave Laws of Georgia, 1755-1860.
[17] Article 277(1) of *Criminal Procedure Act 51, 1977, *Republic of South Africa's Government Gazette*, 6 May 1977.
[18] Amanda Dissel and Jody Kollapen, *Racism and Discrimination in the South African Penal System, *Penal Reform International*, 2002; *South Africa: The Death Penalty, *Amnesty International*, 1983.

nationality, but in practice it was enforced only against black people, with more than 210 executed in 1968-1979.[19]

Even in the United States, where the death penalty remains in effect today, discrimination features not in the wording of the law but in its application. Studies consistently show that most people sentenced to death in recent decades are members of minority groups, primarily blacks, and that the likelihood of a death sentence is several times higher when the victim is white and the defendant is black.[20] They also show that the death penalty in the United States is, to a large extent, a punishment imposed on poor people who cannot afford adequate legal representation, so that the outcome of the most serious cases is often determined not by the severity of the offense but by the defendant's socioeconomic situation.[21]

Mere Resemblance to Nazi Legislation Enough to Disqualify Bills

If passed, these bills would turn an immoral act into binding law. The death penalty would become a routine practice. Prosecutors would urge the courts to impose it, judges would be obligated to order the killing of human beings, and a new profession would be born in Israel: executioner.

The inconceivable discussion about how the law would be implemented has already begun. There have been reports in the media about plans to send a delegation, led by National Security Minister Itamar Ben-Gvir and Israel Prison Service officers, to countries that enforce the death penalty in order to examine various execution methods.[22] On the other hand, the Israel Medical Association hastened to announce that doctors would in no way take part in executions, "such as by issuing fitness assessments, administering injections, monitoring vital signs, or providing technical advice."[23]

Zulat's position is that these bills must be rejected outright and that the very discussion of them should be condemned. These are not merely additional laws in a series of

[19] Andrew Novak, *Abuse of State Power: The Mandatory Death Penalty for Political Crimes in Southern Rhodesia, 1963-1970, *Fundamina: A Journal of Legal History*, 1 January 2013.
[20] Articles 32-37 of *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *United Nations Commission on Human Rights,* 1989.
[21] *Evaluating Fairness and Accuracy in State Death Penalty Systems, *American Bar Association,* October 2007.
[22] Moti Kastel, Exclusive: Israel Looking into Ways to Execute Terrorists, *C14*, 19 November 2025.
[23] Letter from Dr. Yossi Wolfish, chairman of Israel Medical Association's Ethics Bureau, to MK Tzvika Fogel, chairman of Knesset's National Security Committee, dated 19 November 2025.

undemocratic bills proposed by members of the Knesset on an almost daily basis – particularly since 7 October – aimed at inflicting severe harm on Palestinians and their rights.[24] Rather, these are among the most extreme proposals ever placed before the Knesset, as they concern the intentional killing of human beings belonging to only one nationality.

The death penalty is disappearing from the statute books of countries around the world. There is not and there can be no justification for introducing it now into Israel's legal code, certainly not by means of a law based on racist principles. The mere resemblance of these bills to Nazi legislation is sufficient reason to remove them from the legislative agenda at once.

[24] See, for example, Bill for Penal Code (Amendment: Prohibition on Display of Flag of Enemy States or Palestinian Authority by State-Funded Bodies), 2024; Bill for Prevention of Foreign Broadcaster's Harm to State Security (Temporary Provision: Iron Swords War), 2024; Bill for Basic Law: The Knesset (Amendment: Expansion of Grounds for Preventing Participation in Elections). For expanded discussion of the topic, see Eitay Mack, *Deportations and Death Penalty: Normalization of Racist Cruel Punishments Disguised as Counterterrorism, *Zulat*, 7 November 2024.