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Penal Law (Amendment No. 159) (Death Penalty for Terrorists), 5786–2025
(P/1159) – A Comparative Perspective

Submitted to the National Security Committee, updated 15 March 2026

The National Security Committee's deliberations on the bill in question frequently involve comparisons to practices in other countries and the international repercussions of the proposed legislation. International pressure on the issue, alongside the fact that the deterrence argument goes against global research & experience, lacks factual argumentation and non-decisive even according to the Shin Bet, has given rise to opposition to parts of the bill from the government, coalition factions, and security bodies.

The Public Committee Against Torture in Israel opposes the death penalty in principle, irrespective of the particular aggravating features of the bill before us, as it is an inherently cruel punishment that violates the right to life and fundamentally offends human dignity. Our position is that no death penalty law of any kind should be enacted. At the same time, we urge members of Knesset who do not share this view to pause and consider the particularly exceptional and harmful character of this bill, and its expected consequences for Israel's standing in the world and for the legal liability of all those who would take part in carrying it out.

The bill's proponents advance two main approaches: on one hand, an attempt to draw analogies between the bill and practices in democracies where the death penalty still exists¹; and on the other – the claim that the Israeli case is so unique as to justify ignoring all norms, knowledge, and experience in the field. ***A detailed comparative analysis² of the bill against global practice shows that the bill does indeed plan for Israel a unique death penalty regime.***

[A. Comparison to Europe](#)

Although the bill's proponents frequently invoke principles of justice and morality prevailing in democracies, they do not engage at all with a comparison to Europe – for the simple reason that ***the abolition of the death penalty is a fundamental value and a shared practical principle among European states*** since the declaration of heads of state on the matter in 1997. ***45 out of 46 member states of the Council of Europe, as well as Russia, have abolished the death penalty.*** The sole exception is Belarus – an authoritarian state, ruled since 1994 by a single leader, and even it carries out executions rarely. In June 2025, the coalition of democratic parties in Belarus [signed](#) a memorandum committing to the abolition of the death penalty in that country as well.

[B. Comparison to the United States](#)

The United States is one of a few democratic countries that carry out executions on a regular basis. However, ***the prevailing norm among the 50 U.S. states is the restriction of the death penalty's application and the absence of executions.*** [As of March 2025](#), 19 U.S. states have formally abolished the death penalty, and in 17 additional states executions have been formally halted – either by a standing gubernatorial order, due to constitutional difficulties, or – as in Arizona, Ohio, and Oklahoma – following botched executions. Only 6 U.S. states have executed more than 5 individuals in the past 5 years.

Instead of the sweeping due process violations in the current bill (***for example: having sentence of death as the default position, adjudication within a military system, disregarding prosecutorial discretion, appointment of junior judges, prohibition on physical meetings with counsel***), in the United States a doctrine of heightened procedural rigor applies in capital cases ("***super due process***"). Indeed, as the table below shows, a great many provisions of the bill before us are in sharp conflict with U.S. norms, and even the harshest death penalty regimes there would not contemplate adopting them.

Comparison of Bill Provisions with Legislation in U.S. States

Proposed Feature	Provision in the Bill	Status in U.S. States
Systemic discrimination by territory	All of Chapter B of the bill: West Bank – military enforcement and legal system; Israel – separate civilian enforcement and legal system. The military system adjudicates, as a matter of policy, Palestinians only, and severely impairs norms of due process and defendant protections, including for children.	Not part of the legal system; unconstitutional; does not exist in any state
Within Israel: discrimination by victim identity	Application of the law only where the victim is Israeli: Sec. 4 of the bill, addition of sub-sec. 301a(c) to the Penal Law: "...with intent to negate the existence of Israel"	Unconstitutional ³ , does not exist in any state
West Bank: exemption by perpetrator identity	Israeli residents of the West Bank (settlers) are exempt from the law's application: Sec. 3(a) of the bill, addition of sub-sec. 209(y) to the Security Provisions Order – applies to all area	Unconstitutional; does not exist in any state

Proposed Feature	Provision in the Bill	Status in U.S. States
	residents "...except a citizen or resident of Israel"	
West Bank: Death sentence as mandatory default + unclear, undefined exceptions ⁴	Sec. 3a of the bill, addition of sub-sec. 209(d) to the Security Provisions Order.	Unconstitutional since 1976, ⁵ does not exist in any state except an unconstitutional Florida law not yet tested. ⁶
West Bank: prohibition on pardoning or commuting the sentence	Sec. 3a of the bill, addition of sub-sec. 209(g) to the Security Provisions Order	Does not exist
Blanket secrecy at the discretion of the responsible minister	Sec. 8 of the bill, amendment to Sec. 55b(b-c) of the Prison Ordinance. Regarding IPS procedures, and generally: "The Minister, with the approval of the National Security Committee, may prescribe by regulation additional information whose disclosure shall be prohibited from publication"	Does not exist
Method: death by hanging	Sec. 8 of the bill, amendment to Sec. 53a(a) of the Prison Ordinance: execution order	Does not exist
Presence of condemned's family at execution	The family is not in the list of authorized parties: Sec. 8 of the bill, amendment to Sec. 54c(a) of the Prison Ordinance: parties present at execution	Permitted, except in Florida where it is generally prohibited.

The table demonstrates that ***the bill before us departs from norms prevailing in the United States not only in its specific legal provisions, but also in fundamental elements of the legal and governmental system***: no U.S. state maintains a military regime that sentences civilians to death, as forms the infrastructure of Chapter B of the bill; while the bill permits a death sentence by majority vote (through the addition of sub-sec. 209(f)(2) to the Security Provisions Order), in the United States a unanimous verdict is almost always required, and by a jury – a systemic difference that undermines the very basis for comparison; and so on.

It follows that ***any analogy between the bill before us and what occurs in the United States is not only comprehensively and consistently refuted throughout the bill, but also lacks context and real significance, and risks amounting to genuine misrepresentation.***

C. Comparison to Other Countries

We have seen that the very implementation of the death penalty would create a genuine barrier between Israel and European practice, and that many components of the bill render the comparison to the United States fundamentally untenable. How does the bill relate to practice in the rest of the world's nations?

Death by hanging: The global trend is to move away from hanging, due to its many failures and the excessive suffering it causes. The African Court on Human and Peoples Rights has found that hanging “constitutes a violation of Article 5 of the African Charter as it constitutes a form of torture and cruel, inhuman and degrading treatment”. According to the committee, the reason for choosing this method is the existence of a provision dealing with hanging in Israeli law. Execution by hanging would indeed [distinguish Israel from all U.S. states](#) and from many others. Yet it remains ***a method recognized in approximately 22 countries that have executed at least one person since 2016***, among them Afghanistan, Iran, Bangladesh, South Sudan, India, Japan, Kuwait, Myanmar, Egypt, Syria, Singapore, Oman, Iraq, North Korea, and Qatar.

Mandatory death sentence: The arbitrary nature of a mandatory death penalty places it in violation of both Article 6 (Right to Life) and Article 14 (Right to Fair Trial) of the International Covenant on Civil and Political Rights (ICCPR) - a treaty that Israel ratified in 1991. Unclear phrasing of exceptions was proved to produce mandatory-like results. Vietnam, Zimbabwe, Malawi, Kenya, Uganda, Belize, Barbados, and many other countries with a death penalty in force – often for “terrorism” – have abolished it as a mandatory sentence, or never legislated it as such. Nevertheless, ***approximately 14 countries still maintain a mandatory death penalty law***: Afghanistan, Iran, Botswana, Brunei Darussalam, Ghana, Guinea, Trinidad and Tobago, Myanmar, Nigeria, Sudan, Singapore, Sri Lanka, Saudi Arabia, and Pakistan.

Application of the death penalty to a civilian population through a military regime: A series of countries that were or still are involved in bloody wars and internal conflicts have [abolished the death penalty since 1990](#), among them East Timor, Ivory Coast, Rwanda, Ireland, Mozambique, Moldova, Liberia, Azerbaijan, Turkey, Russia, and many others. Nevertheless, as of 2026, ***military death penalty regimes can be found*** in Myanmar, the Democratic Republic of Congo, and also at Guantanamo Bay – though the latter has not yet been applied.

Two components of the Israeli bill set it apart nevertheless in the modern death penalty landscape: these are the **explicit discrimination** in its application based on

territory, the identity of the suspect, and the identity of the victim, **and the prohibition on commuting or altering the sentence.**

Summary

The research shows that the bill in question combines a unique mixture of defects and draconian conditions, abandoning any commitment to knowledge, law, and prevailing norms.⁷ The sweeping secrecy and arbitrary application set out in the bill would identify Israel with a small group of states that are actively executing and are responsible for more than 93% of all executions worldwide, led by China, Iran, and Saudi Arabia.

¹ The committee refers primarily to the United States. Other States that define themselves as democracies with a death penalty in force are India, which has carried out no executions in the past five years, Singapore (at least 47 executions since 2022) and Japan (5 executions since 2021).

² This study refers to current data and is limited to legislation since the 1970s, known as the modern era of death penalty legislation. This era is characterized by a growing trend toward the restriction and abolition of the death penalty worldwide.

³ The U.S. Constitution [prohibits all discrimination](#), and all the more so explicit discrimination, in the protections of the law and in its application.

⁴ The committee's proposal for a mandatory death sentence is contrary to the position of the government, professional bodies, and even some of the bill's own sponsors.

⁵ Two rulings from 1976 struck down mandatory penalties in Louisiana (<https://supreme.justia.com/cases/federal/us/428/325/>) and North Carolina (<https://www.oyez.org/cases/1975/75-5491>).

⁶ On 31.1.2025 Florida enacted a [mandatory death penalty](#) for "illegal aliens" within its territory. This unconstitutional law has not yet been applied and has therefore not yet been tested in court.

⁷ Professional bodies draw a parallel between the current legislative process in Israel and the changes taking place in Burkina Faso, where an authoritarian regime emerged in 2022. That regime replaced a zero-execution policy with a permissive death penalty law, whose enactment was completed in December 2025, concurrent with the deliberations here.