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Israel's Proposed Special Tribunal Law — Grave Concerns for the Rule of Law, Due Process, and the Death Penalty against Palestinians

Tribunal Bill expected to pass Knesset vote imminently

The *Prosecution of Participants in the October 7 Massacre Events Bill (5786–2026)*, expected to be brought to a final vote in the Knesset plenum on May 11, 2026, would establish a special military tribunal to adjudicate Palestinians held in Israeli custody on suspicion of participation in the Hamas-led attacks of October 7, 2023 and the subsequent hostage-holding in Gaza, through a process that strips suspects of basic procedural protections essential to a fair trial.

The bill empowers the tribunal to impose the death penalty, a sentence not carried out in Israel since 1962. Together with the new Death Penalty Law that entered into force on March 30, 2026, it places Israel in direct opposition to the international trend toward abolition and to binding obligations under international law, including the prohibition of cruel, inhuman, and degrading punishment. This legislation strips suspects of basic procedural protections essential to a fair trial, rendering any death sentence imposed an arbitrary deprivation of life, absolutely prohibited under international law and potentially a war crime. The bill further targets a specific, identifiable category of suspects, a form of personal legislation prohibited under both Israeli constitutional principles and international law.

The bill was proposed by legislators from both the coalition (MK Simcha Rothman, Religious Zionist Party) and the opposition (MK Yulia Malinovsky, Yisrael Beiteinu), and enjoys broad parliamentary support, having passed committee review and a first reading ahead of its final vote.

Nearly three years after the October 7 attacks, reportedly 300–400 detainees from Gaza suspected of involvement remain in Israeli custody without charge or trial, amid a documented policy of systemic torture. The bill establishes an exceptional legal framework aimed at prosecuting these detainees.

Main elements of the bill

The bill establishes a special tribunal, a hybrid civilian–military body operating under Israel's emergency defense regulations. The tribunal would apply both civil and military penal law, with

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judges drawn from civilian and military ranks. The bill broadly exempts these courts from the safeguards of ordinary criminal procedures, including guarantees of judicial independence, impartiality, and evidentiary rules, and grants them sweeping discretion to depart from those safeguards entirely. The tribunal would draw on existing Israeli criminal law for offences punishable by death, including the Law for Preventing and Punishing the Crime of Genocide (1950) and criminal code provisions covering treason, assisting an enemy in wartime, and violations of state sovereignty and territorial integrity (notably excluding the 2026 Death Penalty Law). The bill's exceptional judicial appointment process, lack of security of tenure, and the risk of executive and political influence further undermine compliance with fair trial standards. These concerns are particularly acute given the tribunal's authority to impose the death penalty and lawmakers' stated expectation that it would do so against hundreds of Palestinians from Gaza.

Erosion of Due Process and Fair Trial Guarantees

The bill explicitly permits the waiver of due process protections and evidentiary requirements. Specific deficits include:

- ***Deviation from standard rules of evidence and procedural rules:*** The bill authorizes the tribunal to depart from standard evidentiary and procedural rules, lowering fair trial protections already found inconsistent with Articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) in counter-terrorism cases. Of particular concern, the tribunals may be able to conduct collective or "mass" trials of suspects, contrary to basic criminal principles. Furthermore, defendants are denied the right to be physically present at their own trials, as the bill mandates their attendance via video by default in most hearings.
- ***Simple majority threshold and lack of judicial independence:*** The bill allows the death penalty to be imposed by a majority vote of judges, departing from the unanimity requirement under current Israeli law. It thereby lowers the threshold for the most irreversible punishment of death, and is contrary to the heightened due process protections required in capital cases. Furthermore, under current Israeli military law, death penalty appeals must be heard by a panel of five judges; this bill reduces that requirement to only three judges, further eroding procedural safeguards. Judicial independence is further compromised by the bill: the appointment process grants the Israeli Army Chief of Staff and military authorities a central role in selecting judges; judges serve fixed, limited terms; and broad administrative powers over panel composition are vested in the military. These conditions are irreconcilable with the institutional guarantees of judicial independence required for a fair trial under international law.
- ***Broadcasting of proceedings:*** The bill mandates the creation of a dedicated website to broadcast hearings, effectively transforming criminal proceedings into **show trials**. This measure undermines the presumption of innocence, the right to a fair trial, and the dignity of suspects by treating indictment as a prior determination of guilt before any judicial finding has been made.

Fundamental Violations of International Law

The Bill Violates the Right to Life and the Prohibition on Cruel, Inhuman, and Degrading Punishment

This bill, together with the 2026 Death Penalty Law, seeks to end Israel's decades-long de facto moratorium on capital punishment, in direct violation of its obligations under international law. The right to life is the most fundamental of all human rights, protected under both Israeli constitutional law and international human rights law. State execution — deliberate, premeditated, and carried out where alternative punishments exist — constitutes cruel, inhuman, and degrading punishment, in violation of the absolute prohibition under the ICCPR and customary international law.

Any death sentence imposed following proceedings that fail to meet fair trial standards before an independent tribunal — conditions inherently absent from the tribunal this bill creates — would constitute an arbitrary deprivation of life contrary to Article 6 of the ICCPR, and would violate ECOSOC Resolution 1984/50, which provides that the death penalty may be imposed only where guilt is established by clear and convincing evidence following a fair and independent trial.

In a January 2026 communication to Israel, several [UN Special rapporteurs](#) found the bill to be incompatible with international law on numerous grounds.

Conclusion: The Tribunal bill allows for the death penalty for Palestinians under substandard judicial proceedings

By empowering procedurally deficient, military-controlled courts to impose the death penalty on a specific, identifiable group of suspects, live-streaming proceedings before any guilt is established, and permitting convictions based on evidence obtained through torture, the bill subordinates every principle of fair criminal justice to a punitive and retributive spectacle. It violates the right to life, the prohibition on cruel, inhuman, and degrading punishment, the presumption of innocence, and the foundational guarantees of judicial independence and due process under both Israeli constitutional law and binding international law.

Justice for the victims of October 7 is a legitimate and urgent imperative. Those individuals responsible for grave atrocities must be held accountable. However, accountability must be pursued through a process which includes rather than abandons the principles of justice. It must be pursued through fair trials, in which the prosecution must prove its case, defendants have a meaningful right to defend themselves, and no one is put to death.

Our Call to the International Community

We call on governments, regional bodies, and international institutions to:

- Formally communicate to Israeli authorities the incompatibility of this legislation with Israel's obligations under international human rights law, including the International Covenant on Civil and Political Rights and the Convention Against Torture.
- Press for the removal of death penalty provisions, the restoration of full due process guarantees, the exclusion of political officials from prosecutorial oversight, and the publication and independent scrutiny of all procedural rules before any such tribunals are convened.
- In light of this bill's blatant violation of international law, which further compounds a documented policy of systemic torture, we demand urgent and concrete measures. We call for immediate intervention to not only prevent this legislation from being implemented but to halt the broader, systemic human rights violations against Palestinians.