



ELDH European Association of Lawyers for Democracy & World Human Rights

WITH LAWYERS
IN 23 COUNTRIES

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt

EJDH Asociación Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo

EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme

EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

Equality Privacy Social Rights
No Racism Peace No Torture No War
Self-Determination of Peoples Democracy
Human Rights Rights of Migrants

Bologna, Donostia, Düsseldorf, Vienna, 03/04/2026

Statement: Against Israeli Death Penalty Law

The European Association of Lawyers for Democracy and World Human Rights (ELDH) expresses its grave concern regarding the recent legislative measures adopted by the Knesset expanding the application of the death penalty, including within the occupied Palestinian territory and in ways that may also affect Palestinians holding Israeli citizenship.

These developments must be assessed within the applicable framework of international law. The West Bank, including East Jerusalem, and the Gaza Strip remain occupied territories under international law. Consequently, Israel, as the occupying power, is bound by the rules of belligerent occupation, notably the Fourth Geneva Convention, as well as by its obligations under international human rights law, including the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), both of which it has ratified.

1. Breach of the Legal Framework Governing Occupation

Under international humanitarian law, an occupying power is prohibited from fundamentally altering the legal and penal framework of the occupied territory unless strictly required by security needs or to ensure compliance with international obligations. The introduction and expansion of capital punishment, particularly where it was not previously applicable in such a manner, constitutes a clear departure from these limitations.

ELDH European Association of Lawyers for Democracy & World Human Rights

Co-President: Urko Aiertza (lawyer), Donostia, Basque Country

Co-President: Barbara Spinelli (lawyer) Bologna

Co-Secretary General: Thomas Schmidt (lawyer), Düsseldorf | E-Mail: Thomas.schmidt@eldh.eu | Phone +49 (0)172 68 10 888

Co-Secretary General: Serife Ceren Uysal (lawyer), Vienna | E-Mail: serifecerenuysal@gmail.com | Phone +43 664 4853347

Postal address: ELDH | Thomas Schmidt | Platanenstrasse 13 | D – 40233 Düsseldorf (Germany)

Website: www.eldh.eu

The extension of Israeli legislative and judicial authority into the occupied territory further reflects an impermissible blurring of the distinction between occupation and sovereignty. International law is unequivocal: occupation does not confer sovereign rights over the territory. Legislative measures that effectively integrate or treat occupied territory as part of the occupying power's domestic legal system are incompatible with this principle.

2. Use of Military Courts and Denial of Fair Trial Guarantees

The authorisation of military courts to impose death sentences against protected persons raises profound concerns. Such courts have long been criticised for failing to meet the minimum guarantees of independence, impartiality, and due process required under international law.

Article 14 of the ICCPR guarantees the right to a fair and public hearing by a competent, independent, and impartial tribunal. The systemic deficiencies associated with military courts operating in the occupied Palestinian territory—combined with extremely high conviction rates—undermine the credibility of such proceedings and render the imposition of irreversible penalties, such as the death penalty, legally untenable.

3. Arbitrary Deprivation of Life

The right to life is a non-derogable norm protected under Article 6 of the ICCPR. The imposition of the death penalty in a context where fair trial guarantees are not ensured constitutes an arbitrary deprivation of life.

Furthermore, the restrictive conditions attached to sentencing—such as the effective exclusion of judicial discretion and the denial of the right to seek pardon or commutation—are incompatible with established international safeguards governing the application of capital punishment.

From the perspective of criminal law theory and progressive legal thought, the death penalty is inherently incompatible with the fundamental principles of human dignity, rehabilitation, and the prohibition of cruel, inhuman or degrading punishment. ELDH reaffirms that capital punishment is unacceptable in all circumstances and in all jurisdictions.

4. Discriminatory and Racialised Legal Regimes

The establishment and consolidation of differentiated legal frameworks applicable to Palestinians—both in the occupied Palestinian territory and, in certain respects, to Palestinian citizens of Israel—entrench systemic discrimination.

The selective application and expansion of severe penalties, including capital punishment, in a manner that disproportionately targets Palestinians raises serious concerns regarding the racist character of the legislation. Such measures are incompatible not only with Article 26 of the ICCPR, but also with Israel’s obligations under CERD, which require States to prohibit and eliminate racial discrimination in all its forms and to guarantee equality before the law, including in the administration of justice.

The reliance on broadly defined and ideologically framed offences further exacerbates the risk of discriminatory enforcement, arbitrary prosecution, and the stigmatisation of an entire population.

5. Right to Self-Determination and Resistance to Occupation

The Palestinian people retain their inalienable right to self-determination, as recognised under international law. In situations of foreign occupation, this right encompasses the entitlement to resist such occupation, within the bounds of international humanitarian law.

The broad criminalisation of acts associated with resistance, particularly under expansive “counter-terrorism” frameworks, must be carefully scrutinised to ensure compliance with international legal standards and to avoid the unlawful suppression of protected rights.

6. Context of Impunity and International Accountability

These legislative measures occur in a broader context characterised by persistent allegations of unlawful killings and a lack of effective accountability. The apparent absence of impartial

investigations and prosecutions at the domestic level reinforces concerns regarding systemic impunity.

In this regard, international accountability mechanisms, including the International Criminal Court, play a crucial role in ensuring compliance with international law and addressing serious violations.

Conclusion

ELDH considers that the expansion of the death penalty within this legal and institutional framework constitutes a serious violation of both international humanitarian law and international human rights law, including obligations arising under the ICCPR and CERD. It represents a further escalation in policies that undermine fundamental guarantees, including the right to life, the right to a fair trial, and the prohibition of racial discrimination.

Beyond the specific context, ELDH reiterates its principled opposition to the death penalty in all circumstances, as a form of punishment that is incompatible with contemporary standards of justice and human rights.

ELDH calls upon the international community, and in particular European institutions and States, to take all appropriate measures to ensure respect for international law, to prevent further violations, and to uphold the rights of the Palestinian people.