

# Death Penalty in the Palestinian Authority and Under Hamas Control

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International law does not ban the death penalty. It does, however, put stringent restrictions on implementing it, and encourages states having the death penalty to revoke it. Accordingly, the [International Covenant on Civil and Political Rights](#) [1] (in article 6) requires that only the most grievous offenses be subject to the death penalty. Also, the death penalty may be imposed only where the rules of due process, as set forth in Article 14 of the Covenant, are strictly adhered to, and provided that the defendant has the right to appeal the court's decision.

Many human rights organizations, B'Tselem among them, view the death penalty as a violation of a person's fundamental right to life and as cruel, inhuman, and degrading punishment, and urge all states to revoke the penalty completely. Many states have already signed the optional protocols to some international human rights conventions, which completely ban the death penalty.

The death penalty in the Palestinian Authority is enshrined in its statutes, which are based on Jordanian law (regarding the West Bank) and Egyptian law (regarding the Gaza Strip). The Palestinian Penal Code applying in the West Bank enables imposition of the death penalty on a person who is convicted of committing any of seventeen offenses, while in the Gaza Strip, fifteen offenses warrant the death penalty.

Also, the death penalty may be imposed pursuant to the PLO Revolutionary Penal Code, of 1979. The code enables imposition of the death penalty on a person who is convicted of any of forty-two offenses and is applied by a system of Palestinian military courts.

Until 2003, the Code was applied also by a special system of State Security courts. These special courts are responsible for the vast majority of death sentences imposed by the Palestinian Authority. In June 2005, President Mahmoud Abbas announced that all persons who were sentenced to death in the State Security courts would be retried in order to ensure they are given a fair trial in accordance with the constitution. Eleven persons who had been sentenced to death were retried.

Imposition of the death penalty in the Palestinian judicial system requires the approval of the president of the Palestinian Authority. The political controversy over the expiration of the term of President Abbas, which was to end in January 2009, led the Ministry of the Interior in the Gaza Strip, which is under Hamas' control, to carry out executions without the requisite approval of the president, contending that Abbas no longer had the authority to approve, or prevent, execution of a death sentence. [Since then, 16 persons were executed](#) [2] in the Gaza Strip. Since Abbas took office, in January 2005, no executions have been carried out by the Palestinian Authority.

Imposition of capital punishment in the Palestinian judicial system contravenes international law in several ways. Most of the death sentences imposed in the West Bank and in the Gaza Strip are imposed by the military courts, pursuant to the PLO Revolutionary Code, and not the Palestinian constitution. The trials in the military courts are not held in accordance with the accepted standards of due process, and for many offenses a death sentence is mandatory. Also, the large number of offenses for which the death sentence may be imposed, even in the civil courts, is inconsistent with the requirement that the list be restricted to the most grievous crimes.

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[1] <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>

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