



Iraq's Compliance with the International Convention on the Elimination of All Forms of Racial Discrimination

Suggested List of Themes Relating to the Death Penalty

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

Abolition Death Penalty of Iraq Organization

and

The World Coalition Against the Death Penalty

for the

**113th Session of the Committee on the Elimination of Racial Discrimination
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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty is a volunteer-based non-government organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

Abolition Death Penalty in Iraq Organization is a non-governmental organization that has been fighting since 2010 to abolish the death penalty in law and application in Iraq. It struggles to stop torture and use international and humanitarian standards in the judiciary and courts. It is a member of the World Coalition Against the Death Penalty at the global level for a world free of the death penalty. In Iraq, it conducts field visits to prisons, organizes educational seminars and organizes demonstrations against executions and violations of the rights of detainees, and contacts anti-execution organizations and figures, judges, lawyers, parliamentarians, and activists against the death penalty to build a broad front to end the death penalty.

I. EXECUTIVE SUMMARY

1. The Committee last reviewed Iraq's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination in 2018. Among the Committee's 2019 Concluding Observations are four recommendations relevant to this report, particularly with respect to discrimination based on race, ethnicity, religion, and gender.
2. This report addresses Iraq's compliance with its human rights obligations under the Convention with regard to the death penalty, which the Committee did not specifically address in its 2019 Concluding Observations or in the 2024 List of Themes in relation to the combined twenty-sixth and twenty-seventh periodic reports of Iraq.
3. The number of recorded death sentences in Iraq has increased from at least 41 in 2022 to at least 139 in 2023.¹ At least 8,421 people were known to be under sentence of death at the end of 2023.² According to Amnesty International, at the end of April 2024, as many as 150 people were at imminent risk of execution after President Abdul Latif Rashid reportedly ratified their death sentences.³

II. BACKGROUND

4. Article 14 of the Iraqi Constitution establishes the principle of non-discrimination, stipulating that Iraqis are equal before the law without discrimination on the basis of gender, race, nationality, origin, color, religion, sect, economic or social status, or belief or opinion.⁴
5. Article 15 of the Constitution provides that deprivation or restriction of the right to life is prohibited except in accordance with laws and based on the judgment of a competent court.⁵
6. Iraqi law authorizes the application of death penalty for aggravated murder as well as several felonies not involving an intentional killing, including arson, kidnapping with aggravating circumstances, intentionally causing a flood or attempting to cause a flood, damaging or sabotaging public structures, incest, rape, robbery, and armed robbery.⁶
7. The Anti-Terrorism Law authorizes the death penalty for a variety of vaguely defined terrorist offenses targeting the population, infrastructure, or state security.⁷ Terrorism-related offenses not resulting in death, such as aiding, abetting, or financing terrorist offenses, can also lead to the death penalty.⁸ The Anti-Terrorism Law defines terrorism as any criminal act causing damage to public or private property with the aim to disturb the peace, stability, or national

¹ Amnesty International Global Report, *Death Sentences and Executions 2023* (May 2024), at 12. Available online at <https://www.amnestyusa.org/wp-content/uploads/2024/05/Amnesty-International-Global-Report-Death-Sentences-and-Executions-2023.pdf>.

² Amnesty International Global Report, *supra* note 1, at 29.

³ *Ibid.*

⁴ Iraq Constitution, art. 14, translation: United Nations Assistance Mission for Iraq, 2005.

⁵ Iraq Constitution, art. 15, translation: United Nations Assistance Mission for Iraq, 2005.

⁶ Iraq Penal Code, arts. 342, 349, 351, 354, 355, 422-424, 442, STS 251/88, Law no. 111, amended by Decision no. 330, Apr. 19, 1981; RCC Decision No. 488, published in *Al-Waqai' Al-Iraqiya* No. 2650 of Apr. 24, 1978, secs. 1-3, reprinted in: Iraq Penal Code, Law no. 111, amended by Decision no. 330, pp. 101-102, Apr. 19, 1981.

⁷ Iraq Anti-Terrorism Law, arts. 1-4, Law No. 13 of 2005, Nov. 7, 2005.

⁸ *Ibid.*

unity or to bring about horror and fear among people or to create chaos to achieve terrorist goals.⁹

8. The Iraq Criminal Procedure Code recognizes the right to due process. Article 123 guarantees the right to legal representation to all arrested persons during investigation and trial.¹⁰ Article 127 prohibits the extraction of a confession under duress.¹¹ The Constitution prohibits all forms of psychological and physical torture and inhumane treatment.¹²

III. Iraq fails to uphold its obligations under the Convention on the Elimination of All Forms of Racial Discrimination

Death sentences in Iraq are often the result of proceedings that lack due process, transparency, and respect for the right to a fair trial.

9. On April 22, 2024, authorities in Nasiriyah Central Prison executed 13 men.¹³ Reports suggest that authorities tortured these men in order to compel them to confess to crimes they allegedly committed, and those confessions resulted in their death sentences. Authorities have apparently lost the corresponding case files, and therefore international organizations have been unable to review case materials.¹⁴
10. According to reports from people housed at the Nasiriyah prison, in December 2023, prison authorities used a loudspeaker to call out the names of the people who were then executed the following morning. Prison authorities did not allow them to contact their families prior to the execution.¹⁵
11. Even though the law requires Iraqi courts to investigate all allegations of torture, authorities often ignore such allegations, and confessions allegedly made under the influence of torture have led to death sentences.¹⁶
12. Over the course of just four weeks in the Spring of 2021, 18 people housed in the Nasiriyah prison died under unclear circumstances, and post-mortem examinations of two people showed that they did not die of natural causes.¹⁷

⁹ Iraq Anti-Terrorism Law, art. 1, Law No. 14 of 2005, Nov. 7, 2005.

¹⁰ Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq*, (Jun. 20, 2018), UN Doc. A/HRC/38/44/Add.1, ¶ 61.

¹¹ *Ibid.*

¹² *Id.* ¶ 20.

¹³ Amnesty International, “Iraq: at least 13 executed in one day”, 24 April 2024. Available online at <https://www.amnesty.org.uk/press-releases/iraq-least-13-executed-one-day>;

¹⁴ *Ibid.*

¹⁵ Human Rights Watch, *Iraq: Unlawful Mass Executions resume* (January 24, 2024) available at <https://www.hrw.org/news/2024/01/24/iraq-unlawful-mass-executions-resume>

¹⁶ *Ibid.*; Human Rights Watch, *Iraq: Appeals Courts Ignoring Torture Claims*, (September 25, 2019) available at: [https://www.hrw.org/news/2019/09/25/iraq-appeals-courts-ignoring-torture-claims#:~:text=\(Beirut\)%20%20E%20%80%93%20A%20close%20study,Human%20Rights%20Watch%20said%20today](https://www.hrw.org/news/2019/09/25/iraq-appeals-courts-ignoring-torture-claims#:~:text=(Beirut)%20%20E%20%80%93%20A%20close%20study,Human%20Rights%20Watch%20said%20today).

¹⁷ The New Arab Staff, *Abuse, torture causing wave of deaths at Iraqi prison, says human rights group*, (July 08, 2024) available at <https://www.newarab.com/news/abuse-causing-wave-deaths-iraqi-prison-rights-group>.

13. In March 2019, authorities arrested hundreds of children for alleged affiliations with Daesh (also known as ISIS or the Islamic State). Reports¹⁸ show that Iraqi authorities often arrest and prosecute children with any perceived connection to Daesh, use torture to coerce confessions, and sentence children to prison in hasty and unfair trials. Human Rights Watch estimates that Iraqi authorities were detaining approximately 1,500 children for alleged Daesh affiliation at the end of 2018. Iraqi government authorities have confirmed that courts have convicted at least 185 foreign national children on terrorism charges and sentenced them to prison terms.
14. The rushed nature of the judicial proceedings made it difficult for defense counsel to provide legal advice to the accused and often created a barrier to any independent review of court proceedings.
15. Widespread corruption also undermines the right to a fair trial.¹⁹ With a score of just 23/100, Iraq ranks 154th out of 180 countries assessed in the Corruption Perceptions Index.²⁰ Corruption affects the judiciary. Although the judiciary is officially independent,²¹ politicians and members of the public sector often influence the judiciary.²² For example, former minister Falah al-Sudani was sentenced to 21 years in prison in January 2018, but he received a pardon in November 2018, presumably as a result of pressure from the highest political circles.²³

Iraq does not provide for enough data to assess which ethnicities are on death row.

16. As the Committee observed in its 2019 Concluding Observations, the Government of Iraq does not collect and provide information on the ethnic and ethno-religious composition of its population.²⁴ Further, there are no official statistics regarding the people who are on death row.²⁵
17. Iraq has provided only a general list regarding the population size in each of the Governorates and the total number of people living in Iraq. That list, however, is not disaggregated by gender, national origin, or ethno-religious affiliation.

¹⁸ Human Rights Watch, *Iraq: ISIS Child Suspects Arbitrarily Arrested, Tortured*, <https://www.hrw.org/news/2019/03/06/iraq-isis-child-suspects-arbitrarily-arrested-tortured>; U.S. Department of State, *2023 Country Reports on Human Rights Practices: Iraq*, available at [https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/iraq/#:~:text=By%20the%20end%20of%20December,%27esh%E2%80%9D%20\(ISIS\)](https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/iraq/#:~:text=By%20the%20end%20of%20December,%27esh%E2%80%9D%20(ISIS)).

¹⁹ Transparency International, *Corruption Perceptions Index 2023*, available at <https://www.transparency.org/en/countries/iraq>.

²⁰ *Ibid.*

²¹ Iraq Constitution, art. 47, translation: United Nations Assistance Mission for Iraq, 2005.

²² Transparency International and U4 Anti-Corruption Research Center, *U4 Helpdesk Answer 2020:24, Iraq: Overview of corruption and anticorruption*, December 11, 2020, available at <https://www.u4.no/publications/iraq-overview-of-corruption-and-anti-corruption-2020.pdf>, ¶ 17.

²³ Bertelsmann Stiftung, *BTI 2020 Country Report — Iraq*, available at https://bti-project.org/fileadmin/api/content/en/downloads/reports/country_report_2020_IRQ.pdf, ¶ 11.

²⁴ Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined twenty-second to twenty-fifth periodic reports of Iraq*, (January 11, 2019), U.N. Doc, CERD/C/IRQ/CO/22-25, ¶ 5.

²⁵ The Cornell Center on the Death Penalty Worldwide, “*No one believed Me*” *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, September 2021, available at <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>, ¶ 63.

18. Reports suggest courts in regions with a large proportion of ethnic minorities sentence a disproportionate number of people to death. In the autonomous region of Kurdistan alone, for example, 446 people were reportedly on death row in 2023.²⁶

Iraq does not provide sufficient information on anti-discrimination measures.

19. In its 2019 Concluding Observations,²⁷ the Committee recommended that Iraq provide statistics on complaints of racial discrimination received by the High Commission for Human Rights and domestic courts as well as the outcomes of these complaints, including convictions or disciplinary measures handed down and reparations for victims. It also recommended that Iraq take all steps necessary to ensure access to justice by all groups and individuals protected by the Convention.

20. In its 2023 report,²⁸ Iraq reported on the number of complaints received, showing approximately 30,000 complaints registered between 2018 and 2021 against Daesh and approximately 6,000 cases related to alleged torture by Daesh groups registered in 2021. Iraq also explained that it has established specialized courts for human rights matters in every appellate court jurisdiction and that approximately 36,000 victims received compensation from courts of appeal in 2021.

21. The 2023 report lacks any information about complaints against Iraqi state institutions. The absence of this information is particularly problematic with regard to courts and their imposition of the death penalty.

Women in conflict with the law face discrimination.

22. Under the Iraq Penal Code, the willful killing of another person is punishable by death.²⁹ The Penal Code authorizes judicial mitigation under certain circumstances when husbands kill their wives,³⁰ but there is no similar provision when wives kill their husbands.³¹

23. Iraq lacks comprehensive legislation to protect and punish violence against women; Iraqi law recognizes “honor” as a mitigating circumstance, and although it criminalizes sexual assault, it allows authorities to drop charges if the perpetrator marries the victim. Several hundred women and girls are killed every year in “honor” crimes, and such crimes are underreported to the authorities.³²

²⁶ Rudaw, *Over 440 death row inmates in Kurdistan Region: Official* (August 4, 2023) available at <https://www.rudaw.net/english/kurdistan/04082023>.

²⁷ UN Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined twenty-second to twenty-fifth periodic reports of Iraq*, UN Doc. CERD/C/IRQ/CO/22-25 (Jan. 11, 2019).

²⁸ UN Committee on the Elimination of Racial Discrimination, *Combined twenty-sixth and twenty-seventh periodic reports submitted by Iraq* (June 26, 2023).

²⁹ Iraq Penal Code Article 406.

³⁰ Iraq Penal Code Article 409.

³¹ Mai Sato and Sandra Babcock (eds.), Eleos Justice and Cornell Center on the Death Penalty Worldwide, “*Silently Silenced: State-Sanctioned Killing of Women*” (March 2023), available at <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>, ¶ 45.

³² European Union Agency for Asylum, 2.16.1 Violence against women and girls: overview, January 2021, <https://euaa.europa.eu/country-guidance-iraq-2021/2161-violence-against-women-and-girls-overview#:~:text=Sources%20report%20that%20around%201,to%20poor%20outcomes%20for%20women%27;>

24. Women face barriers to accessing justice due to the discriminatory attitudes of police and other government officials. Women face broad discriminatory treatment in society and under the laws; marriage and divorce laws tend to favor men. Legal protections for women against domestic violence in Iraq are insufficient and violence in the family is underreported due to shame, fear of family or community reprisals, or harassment and abuse from police and security forces.³³
25. Iraqi courts sentence women foreign nationals to death. In 2018, an Iraqi court sentenced at least 15 Turkish women to death after finding them guilty of joining Daesh. According to Human Rights Watch, the women argued that their husbands had coerced them into going to Daesh-controlled territory and the women contended that they did not engage in violent acts.³⁴ In May 2023, authorities imprisoned approximately 400 women for being part of Daesh. Courts ultimately sentenced some of them to death. Some of these women engaged in a hunger strike in the Rusafa high-security prison in Baghdad to bring attention to what they say were unfair trials.³⁵ Among the women are foreign nationals from Azerbaijan, France, Germany, Russia, Syria, Turkey, Ukraine, and the United States.³⁶
26. Women often face intersecting forms of discrimination, including discrimination based on other elements of their identity, such as age, sexual orientation, disability, and race. Such prejudices can influence sentencing, particularly when prosecutors or judges invoke stereotypes of the defendant as a bad mother, a witch, or a femme fatale.³⁷ At trial, courts rarely examine important mitigating factors, such as a woman's experience with gender-based violence and abuse.³⁸

People involved in same-sex sexual conduct between consenting adults face violence and discrimination in the criminal legal system.

27. In early 2024, the Government of Iraq proposed amendments to legislation which would authorize the death penalty for consensual same-sex activity between adults.³⁹ Although these proposed amendments have so far not been introduced, an April 2024 law makes same-sex conduct punishable by up to 15 years in prison.⁴⁰

UK Home Office, *Country Policy and Information Note Iraq: 'Honour' crimes*, (March 2020) available at https://assets.publishing.service.gov.uk/media/60646a59d3bf7f0c8c97da1a/Iraq_-_Honour_Crimes_-_CPIN_-_v2.0_-_March_2021_-_EXT.pdf, ¶ 48.

³³ European Union Agency for Asylum *supra* note 32.

³⁴ Human Rights Watch, *Unfair ISIS Trial in Iraq Hands Women Harsh Sentences*, February 21, 2018, accessible at: <https://www.hrw.org/news/2018/02/21/unfair-isis-trial-iraq-hands-women-harsh-sentences>.

³⁵ BBC: *Islamic State: Hundreds of women on hunger strike at Iraqi prison*, May 5, 2023, accessible at: <https://www.bbc.com/news/world-middle-east-65498377>.

³⁶ *Ibid.*

³⁷ <https://iraq.unwomen.org/en/digital-library/publications/2021/01/violence-against-women-in-the-iraqi-society>. International Federation for Human Rights, *Women Sentenced to Death: An invisible reality*, August 10, 2021, <https://www.fidh.org/en/issues/women-s-rights/women-sentenced-to-death-an-invisible-reality-27437>.

³⁸ *Ibid.*

³⁹ UN Human Rights Office of the High Commissioner, *Iraq: UN Human Rights alarmed by draft law with death penalty for same sex relations*, available at <https://www.ohchr.org/en/press-briefing-notes/2024/02/iraq-un-human-rights-alarmed-draft-law-death-penalty-same-sex>.

⁴⁰ Amnesty International, *Iraq: Authorities must urgently repeal new law criminalizing same-sex relations*, available at: <https://www.amnesty.org/en/latest/news/2024/04/iraq-authorities-must-urgently-repeal-new-law-criminalizing-same-sex-relations/>.

28. Moreover, authorities do not adequately protect LGBTIQ+ people, and authorities do not prosecute violence and discrimination targeting people on account of their sexual orientation or gender identity or expression. As a result, there is a climate of impunity for abduction, extra-judicial killings, rape, and other crimes against members of the LGBTIQ+ community. Vague formulations in Iraq’s Penal Code relating to “honor” and “morality”⁴¹ allow perpetrators to escape accountability.⁴²
29. In February 2022, reports emerged that a man had killed his 23-year-old transgender sister, Doski Azad, in the Kurdistan Region of Iraq.⁴³ Journalists described the murder as a transphobic “honor” killing.⁴⁴
30. Members of the LGBTIQ+ community also experience human rights violations perpetrated by the armed forces, particularly the Popular Mobilization Forces (PMF), which have been nominally under the prime minister’s control since 2016. In 2022, Human Rights Watch issued a report based on⁴⁵ interviews with 54 LGBTIQ+ people who faced death threats, abductions, and torture at the hands of the PMF.⁴⁶ Perpetrators have not been held accountable.⁴⁷

Iraq’s broad application of the death penalty may result in discrimination.

31. As discussed in paragraphs 6 and 7 above, Iraq does not limit the imposition of the death penalty to the most serious crimes.⁴⁸ Iraq in fact retains the death penalty for a wide range of offenses, most of which do not entail an intentional killing committed by the person being sentenced to death.⁴⁹ For example, in February 2022, a court sentenced a police officer and an informant to death for providing “false intelligence” to the police, when that intelligence resulted in a home raid in the course of which 20 people were killed.⁵⁰

⁴¹ E.g., Iraq Penal Code art. 128.

⁴² Human Rights Watch, *Iraq: Impunity for violence Against LGBT People*, (March 23, 2022) available at: <https://www.hrw.org/news/2022/03/23/iraq-impunity-violence-against-lgbt-people>

⁴³ The Guardian, *Transgender woman shot by brother had been hiding from family*, (February 21, 2022) available at <https://www.theguardian.com/global-development/2022/feb/21/kurdish-transgender-woman-shot-by-brother-had-been-hiding-from-family>.

⁴⁴ The Business Insider, *Doski Azad wanted to live life as a trans woman in Iraq. But her estranged brother flew from Europe to murder her in a transphobic ‘honor killing’ sources say*, (February 05, 2022) available at <https://www.businessinsider.com/iraq-trans-woman-murdered-by-brother-in-honor-killing-2022-2>.

⁴⁵ Human Rights Watch, *Everyone Wants Me Dead*, (March 2022) available at https://www.hrw.org/sites/default/files/media_2022/03/iraq_lgbt0322_web_0.pdf.

⁴⁶ *Id.* at 35, 47.

⁴⁷ Human Rights Watch, *Deadly Violence against LGBT People in Iraq*, (March 23, 2022) available at <https://www.hrw.org/news/2022/03/23/deadly-violence-against-lgbt-people-iraq>.

⁴⁸ Human Rights Committee, *Concluding observations on the fifth periodic report of Iraq*, UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015), ¶ 28; Human Rights Watch, *supra* note 15.

⁴⁹ The Advocates for Human Rights and the World Coalition Against the Death Penalty, *Iraq’s Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Suggested List of Issues Relating to the Death Penalty*, June 22, 2020, ¶¶ 4-7, <https://www.theadvocatesforhumanrights.org/res/byid/8729>; World Coalition Against the Death Penalty, *Unfair trials and the death penalty for terrorism in Iraq*, (January 13, 2020), available at <https://worldcoalition.org/2020/01/13/unfair-trials-and-the-death-penalty-for-terrorism-in-iraq/>

⁵⁰ *Iraq sentences police officer, informant to death over deadly bogus operation*, Middle East Eye, Feb. 14, 2022, <https://www.middleeasteye.net/news/iraq-police-officer-informant-sentenced-death-bogus-operation>.

32. As described in paragraph 7 above, the Anti-Terrorism Law authorizes the death penalty for vaguely defined terrorist offenses.⁵¹ Reports suggest that alleged membership in a terrorist organization such as Daesh may result in a death sentence, even if authorities fail to prove that the defendant committed any acts of violence.⁵²

IV. Implementation of the Committee's Recommendations

33. The Committee's 2019 Concluding Observations urged the Iraqi Government to implement comprehensive programs to gather data on racial discrimination in the court system and to adopt comprehensive measures to ensure the fair treatment of ethnic and ethno-religious groups and women. The 2023 State Party Report references training programs for members of security agencies and courts as well as programs intended to encourage reporting of torture in prisons and to review policies affecting the rights of women. The Report makes no reference to racial discrimination in the context of people in conflict with the law.

34. The Committee further recommended that Iraq "provide, in its next report, information and statistics on complaints of racial discrimination received by the High Commission for Human Rights and domestic courts as well as their outcome, including convictions or disciplinary measures handed down and reparations for victims." The State Party Report asserts that the High Commission for Human Rights has received a single complaint related to racial discrimination, and the Commission referred the case to a local court in Rusafah.⁵³ The State Party Report does not provide any other data about complaints of racial discrimination.

35. The Committee also recommended that Iraq "adopt all measures necessary to guarantee the safety and security of members of all ethnic and ethno-religious groups, in combination with the communities concerned," including by ensuring "the safety and security of internally displaced persons voluntarily returning to their location of origin." The State Party Report focuses on IDPs but does not address the safety and security of members of ethnic and ethno-religious groups who are in conflict with the law.⁵⁴

36. The Committee also sought assurance that "counter-terrorism measures do not discriminate against ethnic or ethno-religious groups" and recommended that Iraq conduct investigations of "reports of human rights violations, especially reports of summary executions, enforced disappearances, torture and other ill-treatment . . . allegedly perpetrated by the Iraqi security forces or affiliated militia groups." Related to this directive, the Prime Minister gave "instructions to commence a review of the issue of torture in Iraqi prisons through gathering of reports and complaints extracted under coercion."⁵⁵ To date, however, authorities have not provided any reports. As discussed above, Iraq targets foreign nationals, including women, for prosecution and death sentences under vaguely defined provisions of the Anti-Terrorism Law.

⁵¹ Iraq Anti-Terrorism Law, arts. 1-4, Law No. 13 of 2005, Nov. 7, 2005.

⁵² Human Rights Watch, *supra* note 15; World Coalition Against the Death Penalty *supra* note 49.

⁵³ UN Committee on the Elimination of Racial Discrimination, *Combined twenty-sixth and twenty-seventh periodic reports submitted by Iraq* (June 26, 2023), ¶ 150.

⁵⁴ UN Committee on the Elimination of Racial Discrimination, *Combined twenty-sixth and twenty-seventh periodic reports submitted by Iraq* (June 26, 2023), ¶¶ 165-174.

⁵⁵ UN Committee on the Elimination of Racial Discrimination, *Combined twenty-sixth and twenty-seventh periodic reports submitted by Iraq* (June 26, 2023), ¶ 198.

37. The Committee also recommended that Iraq “take immediate measures to effectively prevent and protect minority women from all forms of gender-based violence.” The State Party Report makes no reference to minority women who have experienced gender-based violence and who are subsequently in conflict with the law.

V. QUESTIONS AND RECOMMENDATIONS

38. **Suggested recommendations** for the Government of Iraq:

- Abolish the death penalty and replace it with a sentence that is fair, proportionate, and respects international human rights standards.
- In the interim:
 - i. Establish an official moratorium on executions, effective immediately;
 - ii. Direct all judges to cease sentencing people to death;
 - iii. Commute all existing death sentences to sentences that are fair, proportionate, and respect international human rights standards;
 - iv. Amend the penal code to prohibit imposition of the death penalty for any offense that does not include an intentional killing by the defendant;
 - v. On an annual basis, publish comprehensive data about people sentenced to death and executed, disaggregated by race, ethnicity, nationality, gender, crime of conviction, court of conviction, relationship to any codefendants and/or victims, age of any dependent children, current location or date and location of execution, and status of any appeals or requests for pardon or clemency;
 - vi. Ensure that any court making a sentencing determination in a case involving alleged terrorist activities considers all the facts and circumstances of the defendant’s alleged conduct and takes full account of any mitigating factors warranting a lesser sentence than death, including a woman’s experience with gender-based violence, coercive control, and early and forced marriage;
 - vii. Ensure that defense counsel in capital cases have adequate time and financial resources to prepare and present evidence of mitigating circumstances warranting a lesser sentence than death;
 - viii. Ensure that all persons charged with capital offenses are provided with well qualified legal counsel free of charge and ensure that they have access to counsel from the time of charging through any appeals, including during any interrogations;
 - ix. Ensure full adherence to the Vienna Convention on Consular Relations in capital cases involving foreign nationals; and
 - x. Ensure that all women sentenced to death are able to have frequent and regular full-contact visits with their children in the least restrictive setting possible.

- Provide enhanced technical support for courts handling terrorism cases to ensure that they provide all defendants with heightened procedural protections and access to well qualified legal counsel.
- Establish and promulgate guidelines for judges handling terrorism-related cases to ensure thorough investigation of any allegations of torture or coerced confessions and prohibition of any evidence obtained under duress.
- Bar courts from considering any evidence obtained through torture, except with respect to evidence of the crime of torture itself, and create a mechanism by which defendants may raise the issue of inadmissibility before trial. Ensure that all judicial authorities receive adequate training and support to assess such allegations and have the capacity to bar consideration of such evidence.
- Take concrete measures to improve conditions in prisons for all persons, including people on death row, in accordance with the Nelson Mandela Rules and the Bangkok Rules.
- Allow civil society organizations specializing in human rights to visit prisons, to learn about the course of investigations, and to investigate the status of prisons.
- Ensure that all courts responsible for sentencing women defendants take full account of any mitigating factors including evidence of trauma and/or abuse, economic pressures, child marriage, domestic and gender-based violence, mental health issues, as well as psycho-social and intellectual disabilities.
- Bring the laws, particularly the Anti-Terrorism Law and the domestic legal order, into conformity with the Constitution by providing protection against all forms of discrimination, including sexual orientation and gender identity as grounds for protection in anti-discrimination legislation. Legally recognize the self-defined gender identity of all persons without infringement on other rights. Ensure that members of the judiciary and law enforcement receive systematic education and sensitivity training on sexual orientation and gender identity. Ensure the rights to peacefully organize, associate, assemble, and advocate around issues of sexual orientation and gender identity, and to obtain legal recognition for such associations and grounds, without discrimination on the basis of sexual orientation or gender identity or expression.

39. Suggested questions for the Government of Iraq:

- Provide an update on efforts to document demographic composition of the population based on self-identification, disaggregated by ethnic and ethno-religious origin, languages spoken, as well as migrants, refugees, asylum seekers, internally displaced persons and stateless persons. Describe the systems in place to collect and maintain such data from people who are arrested, charged with crimes, or brought to trial.
- Please provide disaggregated data broken down by age, race or ethnicity, nationality, and sex relating to all persons sentenced to death or executed during the reporting period, including: date of the alleged crime; age of defendant on the date of the alleged crime; the crime(s) of conviction; location and date of arrest; date of charge; location, date, and duration of trial; date of sentencing; location of post-trial detention; date(s) of any decisions on appeal; and location and date of execution, if applicable. For all convictions based on terrorism-related charges, please describe the factual circumstances that formed the basis

for the conviction and sentence, whether any evidence in mitigation was presented to the court, and whether the court acknowledged any mitigating evidence.

- Describe any steps the State Party has taken to build support for abolition of the death penalty among lawmakers and the general public and, in the interim, to institute a de jure moratorium on executions.
- What steps have Iraqi authorities taken to reduce the number of crimes eligible for the death penalty and to limit the availability of the death penalty to the “most serious” crimes in accordance with Article 6 of the International Covenant on Civil and Political Rights?
- Describe safeguards in place to ensure that sentencing authorities take into account a woman’s experiences with child marriage and other forms of gender-based violence, particularly at the hands of her spouse, in determining whether to sentence her to death for killing her spouse.
- Describe the safeguards in the criminal legal system to guard against double discrimination against vulnerable women in conflict with the law.
- What measures has the State party taken to consult and expand its dialogue with civil society organizations working in the area of human rights protection, particularly combatting racial discrimination in the context of the criminal legal system?
- What procedures are in place to ensure that detention conditions for women accused or convicted of crimes comply with the Bangkok Rules?
- What procedures are in place to promote public transparency with respect to criminal proceedings in which a person may be sentenced to death and with respect to death sentences and executions?
- What concrete measures is the government taking to ensure respect for the rights of defendants to a fair trial and adequate legal representation, particularly in capital cases?
- What procedures are in place to ensure that any foreign national at risk of being sentenced to death is afforded the right to consular notification under the Vienna Convention on Consular Relations? What remedies are in place if an accused person is not provided notification of those rights?
- What procedures exist when a defendant in a criminal proceeding alleges having been tortured or otherwise ill-treated? What measures exist to hold persons who commit acts of torture accountable and to compensate victims of torture in this context?
- How do courts ensure that evidence obtained under torture is not used to obtain a conviction in any case other than the prosecution of the person responsible for the alleged torture?
- Please provide data about all complaints received alleging torture or other ill-treatment, including the nature of the complaint, the authority receiving the complaint, investigative measures taken, results of the investigation, accountability measures pursued, and remedies provided to the victim, in the following circumstances: during investigation of an alleged crime; during the period in which a person is on trial for a criminal offense; while a person is held in pre-trial detention; while a person is detained after conviction while any appeals are pending; while a person is detained after conviction after the exhaustion of any appeals.

- Please provide information about all cases in which officials have been criminally prosecuted for committing acts of torture against suspects or defendants in criminal proceedings, including the outcomes of those cases.
- How does the judiciary ensure that defense counsel in terrorism-related cases is able to present all relevant mitigating evidence and that courts consider all evidence that warrants a sentence other than death?