



Iraq's Compliance with the International Covenant on Civil and Political Rights Suggested List of Issues for the Death Penalty

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**Submitted by The Advocates for Human Rights, a non-governmental organization
in special consultative status, in collaboration with the Iraqi Coalition against the
Death Penalty**

1. 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. 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 publications. 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.

2. The Iraqi Coalition Against the Death Penalty (first called the Iraqi Alliance for the Prevention of the Death Penalty) promotes and enhances the values of human rights among the Iraqi people. The Coalition works to define the culture of human rights in the judicial system. It also observes and documents violations of human rights in Iraq to prevent recurrence of such violations, working in co-operation and co-ordination with other human rights organization in Iraq and the world.

I. EXECUTIVE SUMMARY

3. This submission addresses Iraq's compliance with its human rights obligations under the International Covenant on Civil and Political Rights with regard to its use of the death penalty. This submission concludes that Iraq cannot guarantee its citizens adequate domestic and international guarantees against the arbitrary deprivation of life and therefore should abolish the death penalty. Execution rates in Iraq are some of the highest in the world, with over 170 people put to death in 2013 and at least 60 people executed in the first eight months of 2014.¹ These high execution numbers are even more alarming given serious concerns about unfair trial procedures, and a lack of transparency regarding

court proceedings and the legal process in Iraq. Additionally, it appears many death sentences are based solely on confessions obtained through torture of the accused or the unchallenged testimony of anonymous informants, in clear violation of basic international human rights standards. There are also concerns that the rise in executions is motivated by increasing sectarian conflict and political calculation, given that the majority of those executed and sentenced to death are members of the Sunni Arab minority.²

4. The Advocates for Human Rights, and the Iraqi Coalition Against the Death Penalty (Iraqi Coalition) appreciate the immensely difficult security and humanitarian issues facing the people and government of Iraq and the threat to innocent Iraqis every day from acts of violence. However, The Advocates and the Iraqi Coalition strongly disagree that an escalation in executions and death sentences is a proportionate, appropriate, or effective response to violence.

5. The Advocates and the World Coalition therefore recommend that Iraq: (a) immediately institute an official moratorium on executions with a view to abolishing the death penalty; (b) increase the transparency of its criminal justice system by gathering and publicly releasing accurate data on the country's application of the death penalty, particularly in terrorism cases; (c) ensure those accused of terrorism offenses have access to counsel at all stages of criminal proceedings, particularly during interrogations to prevent torture and abuse; (d) reform Article 4 of the country's 2005 anti-terrorism law to eliminate a sentence of death for terrorist related crimes; (e) ensure prompt and independent review of torture allegations to hold perpetrators accountable and provide an adequate remedy to those subjected to torture and sentenced to death; (f) agree to all requests for visits from U.N. Special Procedures, including Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment and extrajudicial, summary or arbitrary executions; (g) ensure that all persons, irrespective of their religious or sectarian affiliation, accused of crimes have the right to due process and enjoy freedom from discrimination through all stages of the criminal justice process; (h) allow independent oversight of prisons by allowing access by independent human rights monitors and civil society to engage in unrestricted monitoring of conditions and private meetings with prisoners; (i) ensure that statements, confessions, and other information obtained through torture or other ill-treatment are not admitted as evidence.

II. BACKGROUND

A. Domestic Legal Framework

6. The application of the death penalty in Iraq is exceptionally broad, covering a multitude of offenses ranging from aggravated murder, treason, drug trafficking, rape, kidnapping, assault, espionage, genocide, arson, and various military offenses, and often regardless of whether the accused caused the death of another person or other serious consequences.³ Many of these offenses are themselves broadly applicable, such as treason, which crime ranges from giving an "improper party" or enemy access to military structures to fleeing or deserting a military post.⁴ Of particular concern is the broad

definition of death eligible terrorist offenses, including “inciting, planning, financing, or assisting terrorists to commit crimes,” or even as has been reported, simply stealing electricity.⁵ The 2005 anti-terrorism law’s language prohibiting the act of “assisting terrorists” has been criticized as “vague.”⁶ Most people executed since 2008 were convicted of terrorist offenses under Article 4 of the 2005 anti-terrorism law, although a few were convicted of murder, drug-trafficking, and genocide.⁷

7. The imposition of the death penalty in Iraq is not mandatory.⁸ Judges are allowed to consider mitigating “excuses” for a limited number of crimes including cases involving honor killings, and in all other cases, judges may specify “extenuating” circumstances that justify the imposition of a sentence other than death.⁹ However, it is not clear how often judges exercise such discretion. Iraqi law in principle excludes the application of the death penalty for juveniles and pregnant women up to 4 months after giving birth and on public and religious holidays, and allows judges to consider the mental illness or insanity of the accused as a mitigating excuse precluding the death penalty, as well as “infirmity of the mind” or diminished mental capacity.¹⁰ Both insanity and mental infirmity may also qualify the accused for a reduction in sentence.¹¹ There are reports that at least one juvenile has been sentenced to death, in 2011.¹²

8. The Iraqi constitution and code of criminal procedure require that accused persons have access to counsel at all phases of criminal proceedings, including during pretrial detention and interrogation.¹³ In practice however, it is reported that this right is severely restricted, particularly in terrorism cases where counsel is never present during interrogations by security forces.¹⁴ Iraqi law requires that death sentences be reviewed by another court and most death sentences are automatically sent to the Court of Cassation.¹⁵ It not clear how effective this right of appeal may be as many prisoners sentenced to death are unable to secure counsel for appeals and good data is not available on the number of convicted persons who have successfully appealed a sentence of death.¹⁶

9. According to the 2005 Iraqi constitution, the President must ratify all death sentences prior to execution and sign execution orders, although in practice, both the Presidential Council and Prime Minister must approve an order of execution.¹⁷ This implies an automatic clemency process with a stay of execution until a death sentence is ratified. However, while the President, upon recommendation of the Prime Minister, has the power to pardon prisoners or commute death sentences, the 2005 Iraqi constitution expressly forbids pardons for persons convicted of certain “international” crimes, which crimes are understood to include terrorism, corruption and genocide.¹⁸ According to the statute governing the Supreme Criminal Court of Iraq, an order of execution in these cases must be immediately enforced within 30 days of a final decision, presumably including ratification by the Presidential council.¹⁹

10. Although the judiciary in Iraq is constitutionally separate from the executive and retains the appearance of impartiality, in practice, the Iraqi judiciary lacks independence and is pressured by sectarian violence and corruption.²⁰ It is alleged and even acknowledged by Iraqi officials that security forces routinely violate Iraqi law by conducting mass arrests of terrorism “suspects” without an arrest warrant issued by a

judge.²¹ It is unclear whether Iraqi law guarantees a prompt review by a judge or magistrate of any charges brought against a person arrested for a death eligible offense, and if it does, whether such review actually occurs. In any event, in cases where some review of a person's detention has occurred, whether in a preliminary hearing or other proceeding, security forces reportedly ignore judicial orders for the release of detainees.²² Prisoners have reportedly spent up to 5 years in prison *after* securing judicial orders of release.²³

11. Overall, good data is lacking on the application of the death penalty in Iraq, including the identity of many of those executed, information about trials or appeals, including when, where and how any trial or appeal occurred, the identity of secret informants, or how long any particular detainee has sat on death row or in pretrial detention. The Iraqi government closely guards any such information. It is thus impossible to verify whether Iraq's criminal justice system, as described by Iraqi officials, affords those accused of death eligible crimes a legal process in accordance with all minimum international safeguards intended to prevent the arbitrary deprivation of life, or whether it is instead weak and flawed as documented and reported by U.N. inspectors, human rights groups, and others.²⁴ Such reports include repeated allegations of torture and coercion of the accused and witnesses to obtain convictions on terrorist charges, as well as sham trials lasting minutes before a person is sentenced to death.²⁵

12. In September 2011, the Iraqi Council of Ministers adopted the National Action Plan on Human Rights, which includes activities to decrease the use of the death penalty in various laws and to reform the anti-terrorism law.²⁶ The plan's timeframe for implementation was set at 15 months, yet, as of the end of August, no such progress has been made.²⁷

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Human Rights and the Death Penalty in Iraq

13. Iraq is a retentionist country. It reinstated the death penalty in 2004 and expanded the scope of death eligible crimes through Article 4 of the 2005 anti-terrorism law. Contrary to the assurances given by the Iraqi delegation to the Human Rights Council in 2010 that Iraq would seek to reduce executions to a minimum, executions have increased dramatically.²⁸ Since 2010, the country has accelerated the pace of executions, putting at least 385 men and women to death in the four years between 2010 and 2013, including at least 177 in 2013.²⁹ In the first eight months of 2014, Iraq executed 60 people.³⁰ These numbers do not include those who have died from abuse and torture in Iraq's secret detention system.³¹ More than 1,724 prisoners, including 1,669 men and 255 women, are currently sentenced to death.³² These individuals include persons sentenced to death at the first instance level, those navigating the appeals process, and those who have exhausted their appeals and are awaiting execution.³³ Most of these people were accused or convicted of terrorist crimes under Article 4.³⁴ Many death sentences are based on

confessions extracted through torture, or are based on the word of an anonymous informant whose testimony cannot be challenged by the accused.³⁵

14. Iraq is also in the habit of performing shocking mass executions, hanging several people to death in the course a single day or series of days.³⁶ Since 2010, Iraq has routinely executed groups of ten or more individuals on the same day.³⁷ This includes, at least, the execution of 34 individuals on January 19, 2012,³⁸ the execution of 21 individuals in one day in April 2013,³⁹ the execution of 42 individuals over a two-day span on October 10 and 11, 2013,⁴⁰ the execution of 11 individuals in one day in November 2013,⁴¹ and the execution of 37 individuals in one day on January 10, 2014.⁴²

1. Iraqi officials have expressly committed the country to the death penalty, rejecting repeated international calls to halt “obscene” mass executions of persons convicted of terrorist crimes under flawed circumstances.⁴³

15. The Iraqi Ministry of Human Rights in November of 2013 issued a statement dismissing any reports that the Iraqi government might be considering a moratorium on the use of the death penalty, stating: “[T]he Ministry of Human Rights would like to clarify that the Government has a solid attitude towards implementing the death penalty.”⁴⁴ The Ministry claims that due to the unstable security environment in Iraq, the government had a legal commitment to execute “without mercy” criminals who are guilty of killing Iraqis and that the opinion of international organizations did not oblige or require Iraq to abolish the death penalty.⁴⁵

16. These statements and actions by the Iraqi government raise serious concerns about country’s commitment to its human rights obligations under the ICCPR, ratified by Iraq. As illustrated in Sections III(A)(2)-(3) below, Iraq’s criminal justice system cannot protect the domestic and international rights of persons facing the death penalty, including their rights to be free from arbitrary arrest, torture and forced confessions. Despite the government’s stated commitment to reviewing and reforming its criminal justice system, and after acknowledging widespread abuses by security forces, no reforms have been implemented even as executions increase.⁴⁶

2. Iraq’s criminal justice system fails to provide persons facing the death penalty essential safeguards against the arbitrary deprivation of life, and it is characterized by violations of due process, torture, secrecy, and lack of access to counsel, contrary to international human rights standards.

17. United Nations ECOSOC Resolution 1984/50 states that a death sentence “may only be carried out . . . after legal process which gives *all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights*, including the right not to confess guilt and the right to adequate legal counsel at all stages of criminal proceedings.⁴⁷ The death penalty may only be imposed when “guilt is based on clear and convincing evidence” that leaves no room for any alternative explanation of the facts.⁴⁸ Article 6 of the ICCPR prohibits sentencing a person to death without a fair trial, or after a trial based upon a confession secured

through abuse or torture, or after a trial based upon a confession obtained when the accused did not have access to counsel.⁴⁹ Article 9 of the ICCPR requires that a detainee be “promptly” brought before a judge or other reviewing officer and that he or she “shall be entitled to trial within a reasonable time or to release.”

18. Iraq’s criminal justice system clearly fails to provide these safeguards that protect innocent persons from being put to death.

a. Torture and due process violations

19. Security forces routinely ignore legal requirements governing the lawful arrest, detention and interrogation of persons accused of death eligible crimes, particularly terrorist crimes.⁵⁰ Members of the armed forces often interrogate terrorist suspects in army barracks, with no oversight by the Ministry of Justice and with little or no training in lawful interrogation techniques or how to conduct criminal investigations.⁵¹ The location of many Iraqi prisons is kept secret by the government, and the number of persons detained on death eligible crimes is unknown, with more than 1,000 reportedly arrested and “brutally tortured” in early 2012 and many more arrested since then, including some who have reportedly died under torture with no accounting made of their death.⁵² UNAMI found that nearly half of the criminal cases under its examination involved torture to obtain a confession that was still allowed as evidence.⁵³ When defendants have informed courts of the torture leading to their confessions, the judiciary has failed to adequately respond to these allegations.⁵⁴ In this atmosphere of impunity and secrecy, torture and abuse of detainees are common and confessions obtained under torture are still regularly used to sentence people to death, in clear violation of international law, including Article 15 of the CAT.⁵⁵ For example, World Coalition members in Iraq allege that 30 people put to death in one week in November 2013 were tortured, and state that many cases are supported by medical documentation.⁵⁶

20. Additionally, and despite the fact that torture is officially against the law in Iraq, there is little or no accountability for anyone who violates the domestic prohibition on torture, or indeed any credible process for reviewing allegations of torture or providing relief and compensation to victims.⁵⁷ This only increases the likelihood that security and other government forces will continue to torture detainees with impunity, particularly if the government fails to train its security forces on the proper use of force and the prohibition on torture.

21. It is also not clear what if any process is afforded those charged with death eligible terrorism or other offenses, despite pledges of reform by the Iraqi government in 2012.⁵⁸ Many arrests and interrogations continue to occur “outside” the justice system, with little or no formal review of the grounds for an arrest or detention, in direct violation of Article 9 of the ICCPR.⁵⁹ Also, arrests made under the Anti-Terrorism Law often serve as a pretext for the government to arrest, hold, interrogate, and torture individuals based on their political or sectarian affiliations, rather than substantial evidence of terrorism-related activity.⁶⁰ It is reported that numerous arrests made under the Anti-Terrorism Law in fact target political opponents of the Iraqi government or religious minority groups.⁶¹

22. Arrests are often based on information from an unidentified informant.⁶² The UN Assistance Mission for Iraq (UNAMI) found that convictions were at times based on the unverified and standalone evidence of a secret informant.⁶³ Even though Iraqi officials said they would reduce the use of unchallenged secret informants to arrest, detain and convict persons of death eligible crimes, it is reported that the practice continues.⁶⁴

b. Lack of access to counsel

23. The right to adequate legal representation at all stages of criminal proceedings is not supported or enforced for those accused of death eligible crimes in Iraq, in direct violation of Iraqi law and Iraq's international treaty obligations under Article 14 of the ICCPR. Terrorism suspects are reportedly denied any access to counsel during interrogations.⁶⁵ Magistrates often conduct interrogations without allowing the accused to have an attorney present.⁶⁶ It is also not clear whether and to what degree those facing the death penalty have access to effective and adequate representation by counsel during their trials, given the lack of available and transparent data on terrorism charges and death penalty trials in Iraq. The fact that some trials resulting in a sentence of death have reportedly lasted only minutes implies that defense counsel is either absent, inadequate, or powerless to effectively represent the accused.⁶⁷ Moreover, many death-sentenced prisoners are unable to secure counsel to challenge their conviction on appeal.⁶⁸

The presence of counsel would make acts of torture or other degrading and inhumane treatment of detainees more difficult and would curb the use of coerced confessions to sentence people to death.

c. Deficient appellate and clemency review process

24. Death sentences are rarely overturned or granted clemency.⁶⁹ By law and generally in practice, all death sentences must be reviewed by a second court and ratified by the Presidential Council and Prime Minister.⁷⁰ The President must sign all execution orders, which are issued as Presidential decrees. However, this method of review has not been an effective safeguard against flawed convictions that put innocent persons at risk of death given the number of persons executed whose confessions were taken under torture.

25. Even if a death sentenced person does secure counsel or otherwise challenge their conviction on appeal, it appears exculpatory evidence is often completely ignored, again violating international guarantees that death sentences must be based only on clear and convincing evidence.⁷¹ Retrials are rarely awarded, even in documented cases of torture and abuse of the accused.⁷² All of these deficiencies imply a weak judiciary unable to exercise credible authority or enforce laws and procedures intended to protect the right of the accused, including domestic and international prohibitions against the use of torture.⁷³ There is also no evidence that any person convicted and sentenced to death, and who was tortured to obtain a confession, has had his or her sentence reversed by the Council or Prime Minister, highlighting the hollowness of this review.

26. Finally, the constitutional and statutory prohibition on pardons for persons sentenced to death for “international” offenses violates international standards and safeguards guaranteeing the right to pardon or commutation of sentence in all capital cases.⁷⁴ This prohibition is particularly troubling when considered in the broader context of the many deficiencies in Iraq’s criminal justice system, the widespread use of torture to secure confessions, and the fact that people are executed most often for terrorist crimes.

3. Iraq’s imposition of the death penalty for vaguely defined “terrorist” offenses is overly broad and in violation of international law requiring a narrow application of the death penalty to grave and serious crimes, and should be eliminated.

27. Article 6 of the ICCPR prohibits arbitrary deprivation of life and requires that for countries retaining the death penalty, a sentence of death should only be imposed for the most serious crimes, understood as those with “lethal or extremely grave consequences.”⁷⁵ The broad sweep of death-eligible crimes in Iraq violates this prohibition on its face, given that crimes such as kidnapping and corruption are punishable by death. Of greatest concern, the definition of death eligible terrorist offenses is vague and open to wide interpretation by security officials and others as to who is a “terrorist” subject to the death penalty, including those who are coerced or forced to support acts of violence.⁷⁶ Family members can face the death penalty for a relative’s actions, whether or not they actually had knowledge of, or participated in, any terrorist activity.⁷⁷

28. As noted above, security officials routinely conduct mass arrests without judicial arrest warrants, despite the fact that Iraqi law states that when arresting an accused person there should be an arrest warrant issued by the investigating judge that clearly identifies the accused person including full name and address, and that outlines the nature of the charge against the accused.⁷⁸ The accused person must be informed of the accusation directly as well as of his/her rights to a lawyer.⁷⁹ In the absence of such detailed warrants required by Iraqi law, it is often impossible to know or document on what basis someone was charged with a terrorist offense, even if the Iraqi government freely released such information. This leaves an enormous amount of discretion to the security forces to define who is a terrorist. The fact that security forces can and do routinely torture those detained on terrorist charges to obtain confessions or intimidate witnesses only makes the situation worse and increases the risk that innocent persons are regularly charged and convicted of death eligible terrorists crimes.⁸⁰

29. In the past, the Iraqi government has indicated that it will not annul the anti-terrorism law because this would deprive Iraq of its “most important judicial pretext to pursue insurgents.”⁸¹ For certain terrorism offenses, mitigating evidence is not admissible for judicial consideration.⁸² More than 13,000 people have been arrested in Iraq on terrorism charges since 2005, mostly Sunnis, and as of February of 2013, at least 6,000 remain in custody, many of whom have been detained for years without trial and who were likely arrested without a warrant or any judicial review of the charges brought against them.⁸³ Most of the 675 executions since 2005 have been for crimes of terrorism.⁸⁴ Not only does

this violate Iraq's international treaty obligations under the ICCPR, it increases sectarian conflict within Iraq, undermining the government's stated goals to protect Iraqi citizens and halt the escalation in violence.

IV. RECOMMENDATIONS

30. Iraq should, in accordance with commitments made during its 2010 UPR session:
- a. Enact an immediate and official moratorium on the death penalty with a view to abolishing the death penalty;
 - b. Increase the transparency of its criminal justice system, including collecting and publicly releasing data on the number of those accused of death eligible crimes and their identity, the exact crime charged, the basis on which the charge is made, whether the accused was afforded an opportunity to challenge their detention on a death eligible charge, where death sentenced prisoners are held and for how long they have been held, treatment of detainees, transcripts and data from any trial proceedings, appeals, retrials or clemency requests and whether the accused had access to counsel at all stages of criminal proceedings;
 - c. Ensure all persons accused of death-eligible crimes, including those accused of terrorism offenses, have access to counsel during all phases of criminal proceedings, including interrogations, and consider video or other monitoring of all interrogations to ensure torture and abuse of accused persons is eliminated;
 - d. Reform Article 4 of the country's 2005 anti-terrorism law to eliminate the death penalty for terrorist related crimes, and ensure that charges brought under the law are subject to transparent and strict review by independent Iraqi courts to prevent abuse and misapplication by security forces and the ruling party;
 - e. Promptly and openly review any allegation of torture to ensure persons who commit acts of torture are held accountable, and victims can exercise their right to an effective remedy for such violations.
 - f. Agree to all requests for visits from U.N. Special Procedures, including Rapporteurs on Torture, Summary Executions, Terrorism and the Independence of Judges and Lawyers, so that they may conduct independent investigations in Iraq and make recommendations for reform.
 - g. Ensure that all persons, irrespective of their religious or sectarian affiliation, accused of crimes have the right to due process and enjoy freedom from discrimination through all stages of the criminal justice process.
 - h. Allow independent oversight of prisons by allowing access by independent human rights monitors and civil society to engage in unrestricted monitoring of conditions and private meetings with prisoners.
 - i. Ensure that statements, confessions, and other information obtained through torture or other ill-treatment are not admitted as evidence.

¹ Iraqi Coalition Against the Death Penalty, documents and statements on file with authors; Report on the Death Penalty in Iraq, UNAMI Human Rights Office and the Office of the High Commissioner for Human

Rights (2014), at 19 [hereinafter, UNAMI Report]. The Iraqi Coalition Against the Death Penalty reports that 26 people were executed on 20 January 2014, and another 11 people were executed on 23 January 2014. Iraqi Coalition Against the Death Penalty, documents and statements on file with authors.

² Death Penalty Worldwide, Death Penalty Database, Iraq, updated 26 November 2013, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Iraq>.

³ Death Penalty Worldwide, *supra* n. 2.

⁴ Id.

⁵ Id., citing 2010 reports that the Iraqi Council of Ministers had expanded Paragraph 197 of the Penal Code to add stealing electricity -- a common practice in poorer areas of Iraq -- to the list of death eligible terrorist crimes, even though that section of the penal code had previously been restricted to crimes against state security and not economic crimes.

⁶ Hubert, Thomas, *Middle East Iraq's Frantic Executions Pace Linked to Serious Human Rights Violations*, Mar.27, 2014.

⁷ Death Penalty Worldwide, *supra* n. 2., highlighting the execution of several former high-ranking officials in Saddam Hussein's regime.

⁸ Id.

⁹ Id.

¹⁰ Id., citing Iraq Law on Criminal Proceedings with Amendments, art. 287, No. 23 of 1971, 1971; Iraqi Organization for Human Rights, Studies and Research Center, *Legal Study on Executions in Iraq* (Kirkuk 2014), in *Arabic*, document on file with authors.

¹¹ Id., citing Iraq Penal Code, arts. 128, 130, 132, STS 251/88, Law no. 111, 1969.

¹² Id., citing Human Rights Watch, *Iraq: Halt Execution of Yemeni Juvenile*, <http://www.hrw.org/news/2012/12/09/iraq-halt-execution-yemeni-juvenile>, Dec. 10, 2012.

¹³ Death Penalty Worldwide, *supra* n. 2.

¹⁴ Id.

¹⁵ Id., citing Iraqi Law on Criminal Proceedings with Amendments, arts. 136, 224, 254, law No. 23 of 1971, amended by Law no. 91/1976, 1976.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id., citing Iraqi Constitution, art. 73(1), translation: U.N. Assistance Mission for Iraq, 2005. Iraqi Law on Criminal Proceedings with Amendments, paras. 285(b), 286, No. 23 of 1971, 1971.

¹⁹ Id.

²⁰ Transparency International, *Iraq: overview of corruption and anti-corruption*, 7 (April 2013); Human Rights Watch, *Iraq: A Broken Justice System* (31 January 2013).

²¹ Human Rights Watch, *Iraq: Executions Surge but No Action on Reform, Promises to Improve Justice System Followed by Spate of Judicial Killings* (25 April 2013), <http://www.hrw.org/news/2013/04/25/iraq-executions-surge-no-action-reform>.

²² Death Penalty Worldwide, *supra* n. 2.

²³ Iraqi Coalition, *supra* n. 1. When Iraqi officials announced reforms in January 2013, one of their most public actions was to order the release of women who had judicial orders for release from prison. Human Rights Watch, *Iraq: Security Forces Abusing Women in Detention* (6 February 2014).

²⁴ UN Human Rights Council, Report of the Working Group on the University Periodic Review, Iraq, U.N. Doc. A/HRC/14/14 (Mar.15, 2010), at para. 11.

²⁵ Iraqi Coalition, *supra* n. 1. See also Salaheddin, Sinan, *Iraq Death Penalty Reconsiderations Dismissed*, Huffington Post (23 September 2012), http://www.huffingtonpost.com/2012/09/23/iraq-death-penalty-recons_n_1907670.html.

²⁶ UNAMI Report, at 10.

²⁷ UNAMI Report, at 19.

²⁸ For example, Appeal No. 1641/G2/2009 dated 14/1/2010 approved the execution of eleven Iraqi citizens, See Iraqi Organization for Human Rights, *supra* n. 10.

³⁰ UNAMI Report, at 19.

³¹ Iraqi Coalition *supra* n. 1; UNAMI Report, at 19.

³² UNAMI Report, at 21.

³³ UNAMI Report, at 21.

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- ³⁴ Death Penalty Worldwide, *supra* n. 2; Iraqi Coalition, *supra* n. 1.
- ³⁵ Id.; Death Penalty Worldwide, *supra* n. 2.
- ³⁶ This includes the execution of 11 people convicted of terrorist crimes on November 24, 2013, and 21 people in one day in April 2013. Id.; Iraqi Coalition, *supra* n. 1.
- ³⁷ This includes, at least, the execution of 34 individuals in January.
- ³⁸ “Iraq’s Execution of 34 People in One Day ‘Shocking’ – UN Human Rights Chief,” www.un.org/apps/news/story.asp?NewsID=41019#_VINMD2HF-VM
- ³⁹ Communication from The Iraqi Coalition against the Death Penalty, Nov.15, 2014 (on file with authors).
- ⁴⁰ “UN: Iraq’s Use of Death Penalty ‘Obscene, Inhuman,’” www.rferl.org/content/iraq-un-death-penalty/25134108.html.
- ⁴¹ Communication from The Iraqi Coalition against the Death Penalty, Nov.15, 2014 (on file with authors).
- ⁴² Deathpenaltynews.blogspot.com/2014/01/Iraq-executes-11-prisoners-for-terror.html.
- ⁴³ Death Penalty Worldwide, *supra* n. 2, quoting U.N. High Commissioner for Human Rights, Navi Pillay in, Arango, Tim and Cumming-Bruce, Nick, *Top U.N. Rights Official Denounces Executions in Iraq as ‘Obscene,’* N.Y. Times (19 April 2013), www.nytimes.com/2013/04/20/world/middleeast/Iraq-executions.html?_r=0,
- ⁴⁴ Mohammed, Layla, *Iraq Will Not Abolish Death Penalty*, Iraqi News (21 November 2013), <http://www.iraqinews.com/features/iraq-not-to-commit-to-international-calls-to-abolish-death-penalty/#ixzz2nbLRQdgu>.
- ⁴⁵ Id.
- ⁴⁶ Human Rights Watch, *supra* n. 21.
- ⁴⁷ UN Economic and Social Council (ECOSOC), “Safeguards guaranteeing protection of the rights of those facing the death penalty”, Resolution 1984/50, 25 May 1984. The UN Secretary-General stated in 2010 that the 1984 ECOSOC safeguards “should be considered the general law applicable on the subject of capital punishment.”
- ⁴⁸ Id.
- ⁴⁹ International Covenant on Civil and Political Rights (entered into force 1976). Available at <http://www2.ohchr.org/english/law/ccpr.htm>.
- ⁵⁰ Death Penalty Worldwide, *supra* n. 2.
- ⁵¹ Iraqi Coalition, *supra*, n. 1.
- ⁵² Death Penalty Worldwide, *supra* n. 2; Iraqi Coalition *supra* n. 1. *See also* World Coalition Against the Death Penalty, *More than 1,000 sentenced to death in Iraq in 8 years* (1 March 2012), <http://www.worldcoalition.org/1145-sentenced-to-death-in-iraq.html>.
- ⁵³ UNAMI Report, at 23.
- ⁵⁴ UNAMI Report, at 24.
- ⁵⁵ Death Penalty Worldwide, *supra* n. 2; Iraqi Coalition, *supra* 1.
- ⁵⁶ Iraqi Coalition, *supra* n. 2. Human Rights Watch documented the case of a woman on death row in Iraq, who displayed visible, physical signs of torture, and who was eventually executed despite the fact that courts had dismissed some of the terrorism charges leveled against her. Human Rights Watch, “*No One is Safe*”: *The Abuse of Women in Iraq’s Criminal Justice System* (6 February 2014), <http://www.hrw.org/sites/default/files/reports/iraq0214webwcover.pdf>.
- ⁵⁷ World Coalition, *supra* n. 51.
- ⁵⁸ Human Rights Watch, *supra* n. 21.
- ⁵⁹ Id.
- ⁶⁰ Communication from the Iraqi Coalition Against the Death Penalty, Nov. 15, 2014 (on file with authors).
- ⁶¹ Id.; Transparency Int’l, *Iraq: Overview of Corruption and Anti-Corruption*, 7 (April 2013); Human Rights Watch, *Iraq: A Broken Justice System* (Jan. 31, 2013).
- ⁶² Communication from the Iraqi Coalition Against the Death Penalty, Nov. 15, 2014 (on file with authors); UNAMI report, at 2.
- ⁶³ UNAMI, at 23.
- ⁶⁴ Death Penalty Worldwide, *supra* n. 2; Human Rights Watch, *supra* n. 28.
- ⁶⁵ Death Penalty Worldwide, *supra*, n. 2.
- ⁶⁶ UNAMI report, at 22.
- ⁶⁷ Salaheddin, *supra* n. 25.
- ⁶⁸ Death Penalty Worldwide, *supra* n. 2.

⁶⁹ UNAMI, at 2.

⁷⁰ Id.

⁷¹ Iraqi Coalition, *supra* n. 1.

⁷² Id.

⁷³ Iraq 2010 UPR, Report of the Working Group, *supra* n. 3.

⁷⁴ U.N. ECOSOC Safeguards, *supra* n. 47, para. 7: “Anyone sentenced to death shall have the right to seek pardon, or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital punishment.”

⁷⁵ ICCPR, *supra* n. 48, Art. 6(1)-(2). ECOSOC Death Penalty Safeguards, *supra* n. 47.

⁷⁶ Abbas, Mushreq, *Iraq's Anti-Terrorism Law Criticized* (2013), <http://www.al-monitor.com/pulse/originals/2013/04/iraq-terrorism-law-executions-controversy.html#>

⁷⁷ Id. Women are reportedly regularly detained to act as informants about their husbands’ alleged militant activities, or simply to harass and intimidate their family or community. In many cases, they are tortured or raped while in prison, and the judiciary generally ignores any complaints. See: Human Rights Watch, *Iraq: Security Forces Abusing Women in Detention* (6 February 2014); Iraqi Coalition, *supra* n. 1.

⁷⁸ Iraqi Organization for Human Rights, *supra* n. 10, citing Article 93 of Penal Proceedings Code No. 23 of 1971 (as amended).

⁷⁹ Id.

⁸⁰ Death Penalty Worldwide, *supra* n. 2.

⁸¹ Sadah, Ali Abel, *Iraq in Crisis Over Terror Death Penalty Law*, Al Monitor (4 February 2013), <http://www.al-monitor.com/pulse/originals/2013/01/irp-terrorism-sadah-w-arabic-version.html#>.

⁸² Hubert, Thomas, *Middle East Iraq's Frantic Executions Pace Linked to Serious Human Rights Violations*, Mar. 27, 2014.

⁸³ Human Rights Watch, *supra* n. 21.

⁸⁴ UNAMI Report, at 26.