



IRAQ
**Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:
The Death Penalty**

Submitted by The Advocates for Human Rights
a non-governmental organization in special consultative status with ECOSOC since 1996
and
The World Coalition Against the Death Penalty

**for the 73rd Session of the Committee against Torture
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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established 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 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.

The World Coalition Against the Death Penalty, an alliance of more than 150 NGOs, bar associations, local authorities and unions, was created in Rome on May 13, 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. 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.

EXECUTIVE SUMMARY

1. This report provides an update to the coauthors' report at the List of issues stage¹ and responds to the State party's responses to the Committee's questions in the List of issues that touch on the death penalty.

Iraq fails to uphold its obligations under the Convention against Torture with respect to the death penalty (List of issues paragraph 26, art. 16)

2. The Committee in its List of issues inquired as to “whether the State party has reconsidered its position regarding the possibility of abolishing the death penalty and, in the meantime, establishing a moratorium on executions.”²
3. In response to the List of issues, the Iraqi Government asserted that its use of the death penalty “is restricted to the most serious offences; those that affect the right to life or the peace and security of society.”³ The Iraqi Government added that its use of the death penalty “has been reduced to a limited number of offences defined by law”⁴
4. As described in greater detail in the coauthors' previous report, Iraq retains the death penalty for a wide range of offenses, most of which do not involve an intentional killing on the part of the person being sentenced to death.⁵
5. In November 2020, the Special Rapporteur on Torture, the Special Rapporteur on the promotion and protection of human rights while countering terrorism, and the Special Rapporteur on extrajudicial, summary or arbitrary executions issued a statement expressing their alarm at reports that since October 2020, Iraqi authorities had “reportedly initiated a wave of executions of prisoners on death row at the Nasiriyah central prison (also known as al-Hoot prison). Twenty-one were executed during October, followed by another 21 on 16 November alone, in what seems to be part of a larger plan to execute all prisoners on death row.”⁶ The experts estimated that approximately 4,000 people were on death row, most of whom had been

¹ 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, <https://www.theadvocatesforhumanrights.org/res/byid/8729>.

² Committee Against Torture, *List of issues in relation to the second periodic report of Iraq*, (23 Dec. 2020), U.N. Doc. CAT/C/IRQ/Q/2, ¶ 26.

³ Committee Against Torture, *Replies of Iraq to the list of issues in relation to its second periodic report*, (18 Jan. 2022), U.N. Doc. CAT/C/IRQ/RQ/2, ¶ 166.

⁴ Committee Against Torture, *Replies of Iraq to the list of issues in relation to its second periodic report*, (18 Jan. 2022), U.N. Doc. CAT/C/IRQ/RQ/2, ¶ 166.

⁵ 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>.

⁶ *Iraq: Wave of mass executions must stop, trials are unfair – UN experts*, UN Human Rights Council (press release), 20 Nov. 2020, <https://reliefweb.int/report/iraq/iraq-wave-mass-executions-must-stop-trials-are-unfair-un-experts>.

charged with terrorism-related offenses.⁷ According to the statement, “hundreds of deaths were now imminent after their execution orders had been signed-off.”⁸

6. The UN experts also described “serious human rights concerns” regarding Iraq’s Anti-Terrorism law no. 13 of 2005, which includes a “vague and overly broad definition of terrorism. Under the law, an individual can face trial on terrorism charges and can be sentenced to death for a non-violent crime committed without intent to terrorize the population. Furthermore, when rendering punishment, no distinction is made between different levels of participation, involvement and responsibility in terrorist acts and no assessment is made based on the severity of the act.”⁹
7. Despite concerns from UN experts, Iraq has continued to step up the pace of executions. In December 2020, authorities executed three people who had been convicted of “terrorism” offenses.¹⁰ Iraq carried out at least 45 executions in 2020, according to Amnesty International.¹¹
8. Iraqi authorities tend to step up executions in response to political pressure. For example, after an attack by the “Islamic State” in January 2021, Iraqi authorities disclosed that they were prepared to carry out more than 340 execution orders for “terrorist or criminal acts.”¹² In response to public calls for revenge after the attack, President Barham Salih had ratified these death sentences.¹³ In late January 2021, authorities executed three people convicted of “terrorism.”¹⁴ In February 2021, Iraqi authorities conducted another mass execution, this time of five men who had been convicted of terrorism-related offenses.¹⁵ They held another mass

⁷ *Iraq: Wave of mass executions must stop, trials are unfair – UN experts*, UN Human Rights Council (press release), 20 Nov. 2020, <https://reliefweb.int/report/iraq/iraq-wave-mass-executions-must-stop-trials-are-unfair-un-experts>.

⁸ *Iraq: Wave of mass executions must stop, trials are unfair – UN experts*, UN Human Rights Council (press release), 20 Nov. 2020, <https://reliefweb.int/report/iraq/iraq-wave-mass-executions-must-stop-trials-are-unfair-un-experts>.

⁹ *Iraq: Wave of mass executions must stop, trials are unfair – UN experts*, UN Human Rights Council (press release), 20 Nov. 2020, <https://reliefweb.int/report/iraq/iraq-wave-mass-executions-must-stop-trials-are-unfair-un-experts>.

¹⁰ *Report: Iraq hangs three men on ‘terrorism’ charges*, Agence France Presse, i24 News, Dec. 14, 2021, <https://www.i24news.tv/en/news/middle-east/the-gulf/1639485344-report-iraq-hangs-three-men-on-terrorism-charges>.

¹¹ Amnesty International, *Death Sentences and Executions 2020* (2021), at 9, <https://www.amnesty.org.uk/files/2021-04/DEATH%20SENTENCES%20AND%20EXECUTIONS%202020%20Web%20%281%29.pdf?VersionId=8oYJ0oZFmsKrV67.bYSCX1NHvBNSxAYZ>.

¹² *Iraq executes five men convicted of terrorism*, Arab Weekly, Feb. 10, 2021, <https://thearabweekly.com/iraq-executes-five-men-convicted-terrorism/>; *Fears of Iraq execution spree after Daesh attack*, Arab News, Jan. 25, 2021, <https://www.arabnews.com/node/1797941/middle-east>.

¹³ Sinan Mahmoud, *Iraq authorizes mass execution of militants and criminals after ISIS bombings*, National, Jan. 26, 2021, <https://www.thenationalnews.com/world/mena/iraq-authorises-mass-execution-of-militants-and-criminals-after-isis-bombings-1.1152541>.

¹⁴ *Iraq executes five men convicted of terrorism*, Arab Weekly, Feb. 10, 2021, <https://thearabweekly.com/iraq-executes-five-men-convicted-terrorism/>.

¹⁵ *Iraq executes five men convicted of terrorism*, Arab Weekly, Feb. 10, 2021, <https://thearabweekly.com/iraq-executes-five-men-convicted-terrorism/>.

execution in August 2021, hanging six people, three of whom had been sentenced to death for terrorism-related offenses.¹⁶

9. Iraqi courts continue to sentence people to death, with at least 27 death sentences in 2020 alone.¹⁷ The Iraqi Ministry of Justice reported to the UN Assistance Mission for Iraq that as of November 2020, it was holding 11,595 persons in its facilities under sentence of death.¹⁸
10. In many cases, the defendants are not alleged to have carried out an intentional killing. For example, in February 2022, an Iraqi court sentenced two people to death for providing “false intelligence” to the police that ultimately resulted in a raid of a home, during which security forces opened fire and killed 20 people.¹⁹
11. The Government of Iraq further responded that it had reinstated the death penalty “as a way of preserving community peace,” because the country is “faced with the serious crimes threatening the peace of society committed by terrorist bands” and considers the death penalty “to constitute a deterrent.”²⁰
12. The Government of Iraq further asserted that “[a]ll procedural and judicial safeguards are duly respected during investigation, trial and enforcement of sentence.”²¹
13. As described in greater detail in the coauthors’ previous report, there is evidence of widespread due process violations in capital cases, including the use of confessions obtained under torture and assembly-line trials resulting in mass executions.²²
14. According to the November 2020 statement by UN experts discussed above, “[t]rials under the Anti-terrorism Law have been marked with alarming irregularities . . . Defendants have frequently been denied the most basic right to an adequate defence and their allegations of torture and ill-treatment during interrogations have not been investigated.”²³

¹⁶ *Iraq Executes Six Convicts in Nasiriyah Prison*, Basnews, Aug. 31, 2021, <https://www.basnews.com/en/babat/710055>.

¹⁷ Amnesty International, *Death Sentences and Executions 2020* (2021), at 12, <https://www.amnesty.org.uk/files/2021-04/DEATH%20SENTENCES%20AND%20EXECUTIONS%202020%20Web%20%281%29.pdf?VersionId=8oYJ0oZFmsKrV67.bYSCX1NHvBNSxAYZ>.

¹⁸ UN Assistance Mission for Iraq, OHCHR, *Human Rights in the Administration of Justice in Iraq: legal conditions and procedural safeguards to prevent torture and ill-treatment* (Aug. 2021), at 6, https://iraq.un.org/sites/default/files/2021-08/IRAQ%20-%20Legal%20conditions%20and%20procedural%20safeguards%20to%20prevent%20torture%20and%20ill-treatment_Update%20EN.pdf

¹⁹ *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>.

²⁰ Committee Against Torture, *Replies of Iraq to the list of issues in relation to its second periodic report*, (18 Jan. 2022), U.N. Doc. CAT/C/IRQ/RQ/2, ¶ 166.

²¹ Committee Against Torture, *Replies of Iraq to the list of issues in relation to its second periodic report*, (18 Jan. 2022), U.N. Doc. CAT/C/IRQ/RQ/2, ¶ 167.

²² 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, ¶¶ 12-19, <https://www.theadvocatesforhumanrights.org/res/byid/8729>.

²³ *Iraq: Wave of mass executions must stop, trials are unfair – UN experts*, UN Human Rights Council (press release), 20 Nov. 2020, <https://reliefweb.int/report/iraq/iraq-wave-mass-executions-must-stop-trials-are-unfair-un-experts>.

15. In response to the Committee’s question about the death penalty, the Iraqi Government added that authorities are currently reviewing the Code of Criminal Procedure “with a view to making amendments in line with human rights standards.”²⁴

16. **Suggested recommendations** relating to the death penalty:

- Abolish the death penalty and replace it with a sentence that is fair, proportionate, and respects international human rights standards.
- In the interim, establish an official moratorium on executions, effective immediately, direct all judges to cease sentencing people to death, and commute all existing death sentences to sentences that are fair, proportionate, and respect international human rights standards.
- In the interim, amend the penal code to prohibit imposition of the death penalty for any offense that does not include an intentional killing by the defendant.
- 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 acts, and takes full account of any mitigating factors warranting a lesser sentence than death.
- 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.
- 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, and ensure that legal counsel have adequate time and financial resources to prepare and present evidence of mitigating circumstances warranting a lesser sentence than death.
- Take concrete measures to improve conditions in prisons for all persons, including people on death row, in accordance with the Nelson Mandela Rules.

²⁴ Committee Against Torture, *Replies of Iraq to the list of issues in relation to its second periodic report*, (18 Jan. 2022), U.N. Doc. CAT/C/IRQ/RQ/2, ¶ 168.