



## IRAQ

### **Twentieth Session of the Working Group on the Universal Periodic Review United Nations Human Rights Council 20 October – 31 October 2014**

**Stakeholder Report submitted by The Advocates for Human Rights, a non-governmental organization in special consultative status, in collaboration with The World Coalition Against the Death Penalty, an alliance of NGOs, bar associations, local authorities and unions, and 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 World Coalition Against the Death Penalty (World Coalition), an alliance of more than 150 NGOs, bar associations, local authorities and unions, was created in Rome on 13 May 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.
3. 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**

4. This submission addresses Iraq's compliance with its human rights obligations 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 31 people executed in January 2014.<sup>1</sup> 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.<sup>2</sup>

5. The Advocates for Human Rights, the World Coalition Against the Death Penalty (World Coalition), 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, the World Coalition, and the Iraqi Coalition strongly disagree that a rapid escalation in executions and death sentences is a proportionate, appropriate, or effective response to violence given the dramatic increase in civilian deaths in Iraq even after the government executed more people.

6. 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; and, (g) ensure the best interests of children, including the social, economic and psychological impacts, are taken into account when considering whether to sentence a parent to death.

## **II. BACKGROUND**

### **A. 2010 UPR Recommendations and Iraq's Response**

7. During Iraq's last Universal Periodic Review in 2010, many countries expressed deep concern about the reinstatement of the death penalty in Iraq and the alarming increase in executions since 2009.<sup>3</sup> Many of these countries also highlighted reports that death sentences were handed down in violation of due process and international human rights standards that included prolonged pretrial detention, torture and abuse of detainees, and noted that the death penalty was imposed for an excessively broad category of crimes.<sup>4</sup>

8. Iraq received more than 24 recommendations on the death penalty. Iraq rejected most of these recommendations, including all recommendations that called for a moratorium on the death penalty, a halt to executions, or abolition of the death penalty.<sup>5</sup> It accepted just two recommendations, from Canada and Belgium, requesting that Iraq respect minimum international human rights standards in the application of the death penalty.<sup>6</sup> It agreed to consider one more from Spain, asking Iraq to stop applying the death penalty in cases that are contrary to international law, namely consensual sex between adults.<sup>7</sup>

9. The Iraqi delegation argued that the death penalty was imposed only for the most serious crimes such as terrorism and genocide and that retention was necessary as a deterrent due to the abysmal security situation in Iraq and the prevalence of "terrorist crimes."<sup>8</sup> The delegation stated that accused persons were afforded all legal guarantees at all stages of criminal proceedings and that "efforts are being made to reduce the number of executions to a minimum."<sup>9</sup> Iraq denied that torture and abuse were endemic to the Iraqi criminal justice system, instead characterizing such reports as isolated incidents resulting from the inexperience or lack of training of individual officials.<sup>10</sup>

## **B. Domestic Legal Framework**

10. 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.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup>

11. The imposition of the death penalty in Iraq is not mandatory.<sup>15</sup> 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.<sup>16</sup> 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.<sup>17</sup> Both insanity and mental infirmity may also qualify the accused for a reduction in sentence.<sup>18</sup> There are reports that at least one juvenile has been sentenced to death, in 2011.<sup>19</sup>

12. 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.<sup>20</sup> 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.<sup>21</sup> Iraqi law requires that death sentences be reviewed by another court and most death sentences are automatically sent to the Court of Cassation.<sup>22</sup> 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.<sup>23</sup>

13. 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.<sup>24</sup> 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.<sup>25</sup> 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.<sup>26</sup>

14. 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 dominated by the Prime Minister’s ruling party and pressured by sectarian violence and corruption.<sup>27</sup> 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.<sup>28</sup> 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.<sup>29</sup> Prisoners have reportedly spent up to 5 years in prison *after* securing judicial orders of release.<sup>30</sup>

15. 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, 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.<sup>31</sup> 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.<sup>32</sup>

### **III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

#### **Human Rights and the Death Penalty in Iraq**

16. 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. Since 2010, the country has accelerated the pace of executions, putting more than 400 men and women to death in just 3 years, including at least 201 in 2013 and early 2014.<sup>33</sup> These numbers do not include those who have died from abuse and torture in Iraq's secret detention system.<sup>34</sup> Most of these people were accused or convicted of terrorist crimes under Article 4.<sup>35</sup> At a minimum, another 1580 people are believed to be sitting on death row, although the official number announced by the Iraqi Minister of Justice is 750.<sup>36</sup> Thousands more are in prison and awaiting a sentence of death.<sup>37</sup> 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.<sup>38</sup> 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.<sup>39</sup>

*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.<sup>40</sup>*

17. 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.<sup>41</sup> Of even greater concern, the Iraqi Prime Minister on 24 December 2013 directed the country's judiciary to expedite implementation of the death penalty.<sup>42</sup>

18. 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."<sup>43</sup> 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.<sup>44</sup>

19. These statements and actions by the Iraqi government raise serious concerns about country's commitment to its human rights obligations under the ICCPR and the Convention Against Torture, ratified by Iraq in 2011. As illustrated in Sections III(A)(2)-(3) below and contrary to Iraq's assertions during its 2010 UPR session, 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.<sup>45</sup>

*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.*

20. 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."<sup>46</sup> 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.<sup>47</sup> 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.<sup>48</sup> 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."

21. 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

22. Security forces routinely ignore legal requirements governing the lawful arrest, detention and interrogation of persons accused of death eligible crimes, particularly terrorist crimes.<sup>49</sup> 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.<sup>50</sup> 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.<sup>51</sup> 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.<sup>52</sup> For example, World Coalition members in Iraq allege that 30 people put to death in one

week in November were tortured, and state that many cases are supported by medical documentation.<sup>53</sup>

23. 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, violating Iraq's obligations under Articles 4, and 12-14 of the CAT.<sup>54</sup> 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, as required by Article 10 of the CAT.

24. 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.<sup>55</sup> 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.<sup>56</sup> 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.<sup>57</sup>

#### b. Lack of access to counsel

25. 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.<sup>58</sup> 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.<sup>59</sup> Moreover, many death-sentenced prisoners are unable to secure counsel to challenge their conviction on appeal.<sup>60</sup>

26. 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

27. 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.<sup>61</sup> 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. .

28. 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.<sup>62</sup> Retrials are rarely awarded, even in documented cases of torture and abuse of the accused.<sup>63</sup> 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.<sup>64</sup> 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. Additionally, it is not clear that Iraq has legally followed its own process, given that the President of the Iraqi Republic has been absent from the country for several months and his Vice President is himself is out of the country and under sentence of death.<sup>65</sup>

29. 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.<sup>66</sup> 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.*

30. 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.”<sup>67</sup> 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.<sup>68</sup> 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.<sup>69</sup>

31. 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.<sup>70</sup> The accused person must be informed of the accusation directly as well as of his/her rights to a lawyer.<sup>71</sup> 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.<sup>72</sup>

32. Despite concerns that Iraq's anti-terrorism law has been used primarily to punish and intimidate Sunni opponents of incumbent Prime Minister Nouri al-Maliki, including the former Sunni Vice-President, 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."<sup>73</sup> 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.<sup>74</sup> 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**

33. 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 are fully compensated for their injuries in accordance with Articles 12-14 of the CAT.
- 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 the best interests of children are taken into account in criminal proceedings concerning their parents, specifically in considering whether to sentence the parent to death and with particular concern for mothers of young children.

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<sup>1</sup> 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.

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

<sup>3</sup> U.N. Human Rights Council, Report of the Working Group on the Universal Periodic Review, Iraq, U.N. Doc. A/HRC/14/14 (15 March 2010), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/120/70/PDF/G1012070.pdf?OpenElement>.

<sup>4</sup> Id. at pp. 7-10, paras. 42 (United Kingdom), 51 (the Netherlands), 63 (Slovakia), 66 (Sweden).

<sup>5</sup> Id. at para. 83(1-22). Canada did request that Iraq work toward abolition of the death penalty, but included the alternative recommendation that Iraq follow international law if it chose to keep the death penalty. The actual text of its recommendation as follows: “Undertake to abolish the death penalty or, in the absence of abolition, respect international standards restricting the scope of its application.” Id. at para. 81(47).

<sup>6</sup> Id. at para. 81(47, 48).

<sup>7</sup> Id. at para. 82(9). Iraq did not definitively answer this recommendation at the Fourteenth Session of the Human Rights Council, and simply took note of it and several other recommendations. U.N. Human Rights Council, Report of the Human Rights Council on its fourteenth session, U.N. Doc. A/HRC/14/L.10 (18 June 2010), at para. 591.

<sup>8</sup> Id. at para. 11.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Death Penalty Worldwide, *supra* n. 2.

<sup>12</sup> Id.

<sup>13</sup> 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.

<sup>14</sup> Id., highlighting the execution of several former high-ranking officials in Saddam Hussein’s regime.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> 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.

<sup>18</sup> Id., citing Iraq Penal Code, arts. 128, 130, 132, STS 251/88, Law no. 111, 1969.

<sup>19</sup> 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.

<sup>20</sup> Death Penalty Worldwide, *supra* n. 2.

<sup>21</sup> Id.

<sup>22</sup> Id., citing Iraq Law on Criminal Proceedings with Amendments, arts. 136, 224, 254, law No. 23 of 1971, amended by Law no. 91/1976, 1976.

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- <sup>23</sup> Id.
- <sup>24</sup> Id.
- <sup>25</sup> 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.
- <sup>26</sup> Id.
- <sup>27</sup> Transparency International, *Iraq: overview of corruption and anti-corruption*, 7 (April 2013); Human Rights Watch, *Iraq: A Broken Justice System* (31 January 2013)..
- <sup>28</sup> 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>.
- <sup>29</sup> Death Penalty Worldwide, *supra* n. 2.
- <sup>30</sup> 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).
- <sup>31</sup> U.N. HRC, Iraq, *supra* n. 3, at para. 11.
- <sup>32</sup> 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](http://www.huffingtonpost.com/2012/09/23/iraq-death-penalty-recons_n_1907670.html).
- <sup>33</sup> Id. Iraqi Coalition, *supra* n. 1..
- <sup>34</sup> Iraqi Coalition *supra* n. 1.
- <sup>35</sup> Death Penalty Worldwide, *supra* n. 2; Iraqi Coalition, *supra* n. 1.
- <sup>36</sup> Id.
- <sup>37</sup> Iraqi Coalition, *supra* n. 1.
- <sup>38</sup> Id.; Death Penalty Worldwide, *supra* n. 2.
- <sup>39</sup> 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.
- <sup>40</sup> 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](http://www.nytimes.com/2013/04/20/world/middleeast/Iraq-executions.html?_r=0),
- <sup>41</sup>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. 17.
- <sup>42</sup> Iraqi Coalition, *supra* n. 1.
- <sup>43</sup> Mohammed, Layla, *Iraq Will Not Abolish Death Penalty*, Iraqi News (21 November 2013), <http://www.iraqnews.com/features/iraq-not-to-commit-to-international-calls-to-abolish-death-penalty/#ixzz2nbLRQdgu>.
- <sup>44</sup> Id.
- <sup>45</sup> Human Rights Watch, *supra* n. 28.
- <sup>46</sup> 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.”
- <sup>47</sup> Id.
- <sup>48</sup> International Covenant on Civil and Political Rights (entered into force 1976). Available at <http://www2.ohchr.org/english/law/ccpr.htm>.
- <sup>49</sup> Death Penalty Worldwide, *supra* n. 2.
- <sup>50</sup> Iraqi Coalition, *supra*, n. 1.
- <sup>51</sup> 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>.
- <sup>52</sup> Death Penalty Worldwide, *supra* n. 2; Iraqi Coalition, *supra* 1..
- <sup>53</sup> 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*

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*Safe*”: *The Abuse of Women in Iraq’s Criminal Justice System* (6 February 2014), <http://www.hrw.org/sites/default/files/reports/iraq0214webwcover.pdf>.

<sup>54</sup> World Coalition, *supra* n. 51.

<sup>55</sup> Human Rights Watch, *supra* n. 28..

<sup>56</sup> *Id.*

<sup>57</sup> Death Penalty Worldwide, *supra* n. 2; Human Rights Watch, *supra* n. 28.

<sup>58</sup> Death Penalty Worldwide, *supra*, n. 2.

<sup>59</sup> Salaheddin, *supra* n. 32.

<sup>60</sup> Death Penalty Worldwide, *supra* n. 2.

<sup>61</sup> *Id.*

<sup>62</sup> Iraqi Coalition, *supra* n. 1.

<sup>63</sup> *Id.*

<sup>64</sup> Iraq 2010 UPR, Report of the Working Group, *supra* n. 3.

<sup>65</sup> Iraqi Coalition, *supra* n. 1.

<sup>66</sup> U.N. ECOSOC Safeguards, *supra* n. 46, 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.”

<sup>67</sup> ICCPR, *supra* n. 48, Art. 6(1)-(2). ECOSOC Death Penalty Safeguards, *supra* n. 46.

<sup>68</sup> Abbas, Mushreq, *Iraq’s Anti-Terrorism Law Criticized* (2013), <http://www.al-monitor.com/pulse/originals/2013/04/iraq-terrorism-law-executions-controversy.html#>

<sup>69</sup> *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.

<sup>70</sup> Iraqi Organization for Human Rights, *supra* n. 17, citing Article 93 of Penal Proceedings Code No. 23 of 1971 (as amended).

<sup>71</sup> *Id.*

<sup>72</sup> Death Penalty Worldwide, *supra* n. 2.

<sup>73</sup> 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#>.

<sup>74</sup> Human Rights Watch, *supra* n. 28.