

## SUMMARY REPORT FOR THE UNIVERSAL PERIODIC REVIEW OF IRAQ

**ECPM (Ensemble contre la peine de mort/Together Against the Death Penalty)** is a French non-governmental organisation that fights against the death penalty worldwide and in all circumstances by uniting and rallying abolitionist forces across the world. The organisation advocates with international bodies and encourages universal abolition through education, information, local partnerships and public awareness campaigns. ECPM is the organiser of the World Congresses against the death penalty and a founding member of the World Coalition Against the Death Penalty. In 2016, ECPM was granted consultative status with ECOSOC.

This report provides updated information and data on the use of the death penalty in Iraq since its last review by the Working Group on the Universal Periodic Review (UPR) in 2019 (3rd cycle), for the country's upcoming review in January 2025 (4<sup>th</sup> cycle).

### FACTS AND FIGURES

- Iraq is a retentionist country and one of the top executioner in the world<sup>1</sup> with at least 138 death sentences passed and at least 16 executions carried out in 2023, including 13 at one time in Nasiriyah central prison.
- The number of death sentences increased by approximately 236% between 2022 (41+) and 2023 (138+), marking the highest number of known death sentences since 2016 (145).
- Access to Iraq's prisons is severely restricted, and Iraq appears to have stopped publishing data on its use of the death penalty in 2014.
- At least 8,421 prisoners were on death row at the end of 2023, with some estimates suggesting up to 25,000 people on death row for suspected terrorism charges<sup>2</sup>. Iraq's Ministry of Justice stated in 2021 that 50,000 people were detained on charges related to terrorism, with half of those (25,000) sentenced to death.
- As of January 2021, there were reportedly 332 women on death row in Iraq.
- As of 2023, 90% of those on death row did not yet have finalized death sentences, indicating a significant backlog in the appeals process.

### Recommendations

- **Immediately establish an official moratorium on the use of the death penalty**
- **Publish disaggregated data annually on the use of the death penalty, including the number of people sentenced to death, the number of people on death row, number of executions carried out, number of death sentences quashed or commuted on appeal and the number of cases in which amnesty or pardon has been granted, as well as information on planned executions. Commute the sentences of all death row inmates who have been charged with non-lethal offences.**

### LEGAL FRAMEWORK

#### National

- The Iraqi Constitution of 2005 guarantees numerous fundamental rights. Article 37 protects explicitly human dignity and prohibits psychological and physical torture and inhumane treatment. The right to life is enshrined in the Constitution in Article 15 but it can be subjected to restrictions "in accordance with the law and based on a decision issued by a competent judicial authority."
- The Constitution in Article 73-1 gives the President the power to grant pardon "except [...] for those who have been convicted of committing international crimes, terrorism, or financial and administrative corruption".

<sup>1</sup> Amnesty international report, the death penalty in 2023, <https://www.amnestyusa.org/wp-content/uploads/2024/05/Amnesty-International-Global-Report-Death-Sentences-and-Executions-2023.pdf>

<sup>2</sup> Reprieve, ECPM (summary report 2023)

- Since the re-introduction of the death penalty in Iraq in 2004, Iraqi law has been amended several times to increase the number of crimes punishable by death.
- At least 46 legislative provisions in Iraq allow for the application of the death penalty, indicating an expansive use of capital punishment in the legal system. They are included in the penal code, the military penal code and the counter-terrorism act.
- **The Iraqi Penal Code** prescribes the death penalty for a wide range of offenses, including some that do not meet the international standard of "most serious crimes", such as political offenses, sabotage, and certain non-lethal crimes. Article 86 of the Iraqi Penal Code also specifies hanging as one of the main methods of execution.
- Article 79 of the penal code states: "No person between the ages of 18 and 20 at the time of committing an offence can be sentenced to death. In such a case, he will receive life imprisonment instead of the death sentence.
- **The Iraqi Military Code** of 2007 includes several provisions regarding the death penalty for military personnel. It specifies that the death sentence is carried out by shooting.
- Article 4 of **the Iraqi Counter-Terrorism Act** broadly defines terrorism to include acts of violence, threats, sabotage and organised terrorist undertakings that endanger life, damage property or threaten national security. Among the terrorist offences punishable by death are the direct commission and indirect support such as planning, financing or encouraging terrorist activities.

#### **Recommendations**

- **Consider the abolition of the death penalty**
- **Amend the penal code, the Iraqi penal code and the Iraqi counter-terrorism act to restrict the application of the death penalty exclusively to "most serious crimes" as defined by international standards**
- **Review and amend the Anti-Terrorism Law to ensure it complies with international standards, particularly regarding the imposition of the death penalty for non-lethal offenses**
- **Conduct a comprehensive review of the legislative provisions allowing for capital punishment, with the aim of significantly reducing the number of offenses punishable by death**

#### International

- Iraq is a party to the International covenant on civil and political rights (ICCPR), which restricts the use of the death penalty, but national laws often conflict with these international obligations. Iraq has also ratified the Interventional convention on the rights of the child (CRC).
- The State has not ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) nor the Second Optional Protocol to the International Covenant on Civil and Political Rights (OP2).
- Since 2007, Iraq has consistently voted against the UN General Assembly resolution calling for a universal moratorium on the use of the death penalty
- During its last UPR cycle (2019), Iraq accepted one recommendation out of 30 in relation with the issue of the death penalty, to "limit capital punishment to the most serious crimes and reform anti-terrorist legislation so as to guarantee a fair trial for the accused". This recommendation has not been implemented.

#### **Recommendations**

- **Ratify and implement the OP2 and the OPCAT**
- **Align national laws with Iraq's obligations under the ICCPR**
- **Reconsider Iraq's position on the UN General Assembly resolution calling for a universal moratorium on the use of the death penalty, with a view to supporting this resolution in future votes**

### **THE USE OF THE DEATH PENALTY IN IRAQ<sup>3</sup>**

<sup>3</sup> ECPM, alternative report on Iraq's compliance with the ICCPR, 134th session of the Human Rights Committee, 2022, <https://www.ecpm.org/app/uploads/2022/10/Iraq-ICCPR-040222-MD.pdf>

- Iraq continues to retain the death penalty for a wide range of offenses, including non-lethal crimes, in violation of its obligations under international law, particularly the ICCPR.
- The Iraqi Anti-Terrorism Law is used to impose thousands of death sentences for broad and vaguely defined terrorism-related offenses, even for individuals not directly involved in violent acts.
- In addition, the death penalty is mandatory under the Anti-Terrorism Law, meaning that the judges do not have any other choice than sentencing people to death
- Capital trials in Iraq have been reported to last as little as ten minutes in some cases, raising serious concerns about due process and fair trial rights.
- Torture is reportedly widespread in Iraq's judicial system, with confessions extracted under torture being used to sentence individuals to death, undermining fair trial rights.
- In 2023, a mass execution of 13 people was carried out in the Nasiriyah Central Prison without prior notice.
- Women are disproportionately affected by the death penalty, mostly for terrorism-related charges, often for mere affiliation with terrorist organizations.
- Many foreigners have been sentenced to death<sup>4</sup>.

#### **Recommendations**

- ***Commute all death sentences handed down for offenses that do not meet the seriousness threshold of the international standards, promptly and thoroughly investigate all allegations of torture and ill-treatment, ensure that perpetrators identified during a fully impartial and effective investigation into allegations of torture are prosecuted and ensure that victims of torture and ill-treatment have access to redress, rehabilitation and compensation.***
- ***Take steps to improve the judicial system in order to ensure rights to a fair trial and due process.***
- ***Ensure that those facing the death penalty are informed of their right to seek clemency.***
- ***Ensure that foreigners facing the death penalty have access to consular assistance.***

---

<sup>4</sup> ECPM, *10 questions pour mieux comprendre la situation des citoyens français condamnés à mort en Irak*, 2019, updated in 2021, available in French at: <https://www.ecpm.org/wp-content/uploads/10-questions-confe%CC%81rence-Irak-061021-GRIS-MD2.pdf>