

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	1584
Land:	Irak
Kilde:	Advocates for Human Rights, Abolition Death Penalty of Iraq Organization & The World Coalition Against the Death Penalty
Titel:	The Republic of Iraq's Compliance with the Convention on the Elimination of All Forms of Discrimination against Women, Suggested List of Issues Relating to the Death Penalty, for the 92nd Session of the Committee on the Elimination of Discrimination against Women (Pre-Sessional Working Group) 24–28 February 2025
Udgivet:	6. januar 2025
Optaget på baggrundsmaterialet:	7. februar 2025



The Republic of Iraq's Compliance with the Convention on the Elimination of All Forms of Discrimination against Women

Suggested List of Issues Relating to the Death Penalty

Submitted by The Advocates for Human Rights,
a non-governmental organization in special consultative status with ECOSOC since 1996,

Abolition Death Penalty of Iraq Organization,

and

The World Coalition Against the Death Penalty

**for the 92nd Session of the Committee on the Elimination of Discrimination against Women (Pre-Sessional Working Group)
24–28 February 2025**

Submitted 6 January 2025

The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence. 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.

Abolition Death Penalty of Iraq Organization is an alliance of more than 160 NGOs, bar associations, local authorities and unions and was created in Rome on 13 May 2002. It was created as a result of the commitment made by the signatories of the Final Declaration of the 1st World Congress Against the Death Penalty organized by the French NGO Together Against the Death Penalty (ECPM) in Strasbourg in June 2001. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its 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.

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

EXECUTIVE SUMMARY

1. The Committee last reviewed Iraq's compliance with the Convention on the Elimination of All Forms of Discrimination against Women in 2019. This report addresses Iraq's compliance with the Convention as it pertains to issues related to the death penalty, which the Committee did not specifically address in its 2019 Concluding Observations.
2. Iraq has neither abolished the death penalty nor implemented a moratorium on executions. Iraqi law does not limit the death penalty to the most serious crimes.
3. In Iraq, women are exposed to discrimination in the judicial process leading to the death penalty. Since 2019, Iraqi courts have sentenced at least 397 people to death,¹ and as of the end of 2023, Iraqi authorities held at least 8,421 people under sentence of death.² Authorities do not disclose gender-disaggregated data on the number of women sentenced to death. In Iraqi Kurdistan, there are more than 550 people under sentence of death, including 33 women.³ As of August 2014 (the most recently available gender-disaggregated data), there were 25 women on death row in Iraq out of 1,724 death-sentenced prisoners, or about 1.4%.⁴ The lack of disaggregated data prevents detailed analysis of the gender bias at work in the application of capital punishment and the protection of the rights of women facing the death penalty
4. Iraq continues to carry out executions and has the sixth-highest number of executions worldwide.⁵ Iraq executed 17 women between 2004 and 2014, around 2.5% of its total executions.⁶ Recent executions include a mass execution of 13 people at the Nasiriyah Central Prison in 2023⁷ and another mass execution of 21 people, including one woman, at the same prison in 2024.⁸ These mass executions underscore additional human rights concerns, because in those cases officials did not notify attorneys or family members in advance, and the people who were executed had been sentenced to death after unfair trials

¹ Amnesty International Global Report, *Death Sentences and Executions* annual reports issued 2019–2023. Available at <https://www.amnestyusa.org/>.

² Amnesty International Global Report, *Death Sentences and Executions 2023*, at 29 (May 2024). Available online at <https://www.amnestyusa.org/wp-content/uploads/2024/05/Amnesty-International-Global-Report-Death-Sentences-and-Executions-2023.pdf>.

³ Email communication, Dec. 15, 2024, on file with The Advocates for Human Rights.

⁴ The Cornell Center on the Death Penalty Worldwide (The Alice Project), *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sep. 2018), at 12, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁵ World Coalition Against the Death Penalty, *Facts and Figures World Day Against the Death Penalty*, at 1, (Oct. 2024). Available at https://worldcoalition.org/wp-content/uploads/2024/07/FactsFigures2024_EN_Final.pdf.

⁶ U.N. Office of the High Commissioner for Human Rights and U.N. Assistance Mission for Iraq Human Rights Office, Report on the Death Penalty in Iraq, available at: http://www.ohchr.org/Documents/Countries/IQ/UNAMI_HRO_DP_1Oct2014.pdf, Oct. 2014

⁷ Amnesty International Global Report, *Death Sentences and Executions 2023*, at 31 (May 2024). Available online at <https://www.amnestyusa.org/wp-content/uploads/2024/05/Amnesty-International-Global-Report-Death-Sentences-and-Executions-2023.pdf>.

⁸ *Iraq hangs 21 mostly on “terror” charges: security sources*, Arab News, Sept. 25, 2024, <https://www.arabnews.com/node/2572758/middle-east/Iraq-issues-death-sentence-against-wife-of-late-Islamic-State-leader>, Tala Ramadan and Jana Choukeir, Reuters, (Jul. 10, 2024), <https://www.reuters.com/world/middle-east/iraq-issues-death-sentence-against-wife-late-islamic-state-leader-2024-07-10/>.

and on the basis of evidence extracted via torture.⁹ As of April 2024, as many as 150 people were at imminent risk of execution because President Abdul Latif Rashid had reportedly ratified their death sentences.¹⁰

5. Women face extensive gender-based discrimination and violence in Iraq and are disproportionately affected by discrimination in the context of the death penalty. Iraq's criminal legal system fails to take into account the effects of gender-based violence that may lead them to be in conflict with the law.

Iraq fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination against Women

I. Authorities sentence women to death and execute them for crimes that are not the “most serious” under international law and for mere affiliation with relatives who were members of the Islamic State.

6. Article 15 of the Iraqi Constitution provides that deprivation or restriction of the right to life is prohibited except in accordance with laws and based on the judgment of a competent court.¹¹
7. Iraqi law authorizes the application of the death penalty for aggravated murder as well as several offenses not involving an intentional killing, including arson, kidnapping with aggravating circumstances, intentionally causing a flood or attempting to cause a flood, damaging or sabotaging public structures, incest, rape, robbery, and armed robbery.¹²
8. Iraq's Anti-Terrorism Law authorizes the death penalty for a variety of vaguely defined terrorist offenses targeting the population, infrastructure, or state security.¹³ Terrorism-related offenses not directly resulting in death, such as aiding, abetting, or financing terrorist offenses, can also lead to the death penalty.¹⁴ The Anti-Terrorism Law defines terrorism as any criminal act causing damage to public or private property with the aim to disturb the peace or stability.¹⁵
9. In September 2024, authorities in Nasiriyah executed 21 people, including one woman, on terrorism-related charges, marking the largest mass execution of the year.¹⁶ Authorities accused the woman of being part of the Islamic State (also known as Daesh or ISIS)

⁹ *Iraq: Surging Unlawful Executions*, Human Rights Watch, (Nov. 19, 2024), <https://www.hrw.org/news/2024/11/19/iraq-surging-unlawful-executions>.

¹⁰ *Iraq: Surging Unlawful Executions*, Human Rights Watch, (Nov. 19, 2024), <https://www.hrw.org/news/2024/11/19/iraq-surging-unlawful-executions>.

¹¹ Iraq Constitution, art. 15, translation: United Nations Assistance Mission for Iraq, 2005.

¹² Iraq Penal Code, arts. 342, 349, 351, 354, 355, 422-424, 442, STS 251/88, Law no. 111, amended by Decision no. 330, Apr. 19, 1981; RCC Decision No. 488, published in *Al-Waqai' Al-Iraqiya* No. 2650 of Apr. 24, 1978, secs. 1-3, reprinted in: Iraq Penal Code, Law no. 111, amended by Decision no. 330, pp. 101-102, Apr. 19, 1981.

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

¹⁴ Iraq Anti-Terrorism Law, arts. 1-4, Law No. 13 of 2005, Nov. 7, 2005.

¹⁵ Iraq Anti-Terrorism Law, arts. 1-4, Law No. 13 of 2005, Nov. 7, 2005.

¹⁶ *Iraq hangs 21 mostly on “terror” charges: security sources*, Arab News, Sept. 25, 2024, <https://www.arabnews.com/node/2572758/middle-east>; *Global: Executions soar to highest number in almost a decade*, Amnesty International (May 29, 2024), <https://www.amnesty.org/en/latest/news/2024/05/global-executions-soar-highest-number-in-decade/>.

organization, and of being part of a group of people who killed a person during an anti-government demonstration in 2019. The coauthors have received information suggesting that the case arose not out of terrorism but as a government response to the events of the October 2019 Uprising.¹⁷ In April 2024, authorities in Nasiriyah executed 13 men on similarly broad and vague terrorism-related charges.¹⁸

10. Iraqi authorities have a track record of charging people with terrorism for their affiliation with the Islamic State rather than for specific criminal acts, and courts sentence many of these people to death.¹⁹ According to Human Rights Watch, “[g]enerally, the judiciary is sometimes failing to make a distinction between someone who was forced to cook for Islamic State fighters versus someone who was affiliated in a high-ranking, decision-making role who has committed grave violations.”²⁰ Experts observe that in the context of Islamic State affiliations, “there exists variance in agency and complicity along gendered lines,” but Iraqi courts often fail to recognize such distinctions when sentencing women for terrorism-related offenses.²¹
11. Women in Iraq are also sentenced to death for drug trafficking. For example, according to the Iraqi News Agency, on May 22, 2024, Basra Criminal Court sentenced a woman and three men to death for alleged drug trafficking.²² The Cornell Center found that “[g]ender dynamics and female disempowerment are salient factors associated with women’s involvement in drug smuggling. Many women engage in drug smuggling to counteract their marginalization and improve their socioeconomic status.”²³ The study observed that “most drug offenses involving women are small-scale offenses committed by women from economically deprived backgrounds.”²⁴
12. In the Kurdistan Region, the Supreme Council for Women recently announced support for executions in the region, particularly for people convicted of crimes that are “unacceptable to conscience and humanity.” The Supreme Council is an arm of the regional government and does not speak on behalf of civil society.²⁵

¹⁷ Email communication, Dec. 15, 2024, on file with The Advocates for Human Rights.

¹⁸ *Iraq: At Least 13 people executed amid alarming lack of transparency*, Amnesty International (Apr. 24, 2024), <https://www.amnesty.org/en/latest/news/2024/04/iraq-at-least-13-people-executed-amid-alarming-lack-of-transparency/>.

¹⁹ Lynsey Chutel & Eve Sampson, *Iraq Sentences ISIS Leader’s Wife to Death Over Crimes Against Yazidis*, New York Times, July 11, 2024, <https://www.nytimes.com/2024/07/11/world/middleeast/isis-baghdadi-iraq-wife.html#>.

²⁰ Lynsey Chutel & Eve Sampson, *Iraq Sentences ISIS Leader’s Wife to Death Over Crimes Against Yazidis*, New York Times, July 11, 2024, <https://www.nytimes.com/2024/07/11/world/middleeast/isis-baghdadi-iraq-wife.html#>.

²¹ Lynsey Chutel & Eve Sampson, *Iraq Sentences ISIS Leader’s Wife to Death Over Crimes Against Yazidis*, New York Times, July 11, 2024, <https://www.nytimes.com/2024/07/11/world/middleeast/isis-baghdadi-iraq-wife.html#>.

²² Iraqi News Agency, ‘Four, one of whom is a woman, receive death penalty for drug-related offenses’, 22 May 2024, <https://ina.iq/eng/32858-four-one-of-whom-is-a-woman-receive-death-penalty-for-drug-related-offenses.html>

²³ The Cornell Center on the Death Penalty Worldwide (The Alice Project), *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sep. 2018), at 12, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

²⁴ The Cornell Center on the Death Penalty Worldwide (The Alice Project), *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sep. 2018), at 12, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

²⁵ Email communication, Dec. 15, 2024, on file with The Advocates for Human Rights.

13. The absence of data disaggregated by gender and crime committed hinders a detailed analysis of gender bias at work in capital punishment in Iraq as well as any protections for women in conflict with the law and at risk of the death penalty.

II. Iraq's failure to address gender-based violence and improve women's access to justice for gender-based violence puts women at risk of committing death-eligible offenses (Concluding Observations Paragraphs 19-22).

14. In its 2019 Concluding Observations, the Committee expressed deep concern about Iraq's failure to address widespread gender-based violence. The Committee noted that Iraq adopted a national strategy on violence against women and girls (2018–2030), which seeks to (i) provide a legal, legislative and executive framework to protect the human rights of women in Iraq, (ii) provide a framework for comprehensive capacity-building program with focus on women and girls, (iii) highlight the basic rights including education, health, training, and housing of women and their empowerment and (iv) promote culture which renounces gender-based violence and discrimination against women by providing a “work plan or manual” for governmental and civil society institutions to protect women and ensure their rights as equal important members of the society.”²⁶ The Committee noted concern, however, about how “a number of factors continue to contribute to the underreporting of cases of gender-based violence against women, such as cultural barriers and the impunity of perpetrators, as well as the scarcity of human, technical and financial resources available to police family protection units.”²⁷
15. The Committee expressed further concern that, despite its first draft being completed in 2011 and submitted to the Council of Representatives of Iraq for approval on three occasions since 2015, the act on protection against domestic violence has not yet been adopted, owing to objections raised by the parliamentary committee on religious endowments.²⁸
16. The Committee also expressed concern about the Discriminatory provisions in the Penal Code that allow perpetrators to invoke the defense of honor as a mitigating circumstance for homicide.²⁹
17. The Committee recommended that Iraq “[t]ake measures to accelerate the adoption of the draft act on protection against domestic violence,” “provide systematic training on the draft act . . . to all police officers working in family protection units,” and “[e]nsure the availability of shelters for women who are victims of violence throughout its territory.”³⁰

²⁶ U.N.F.P.A. Iraq, *The National Strategy to Combat Violence against Women and Girls 2018-2030*, at 12. Available at https://iraq.unfpa.org/sites/default/files/pub-pdf/the_national_strategy_to_combat_violence_against_women_and_girls_2018-2030_0.pdf

²⁷ Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Iraq*, UN Doc. No. CEDAW/C/IRQ/CO/7, ¶ 21(b) (Nov. 12, 2019).

²⁸ Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Iraq*, UN Doc. No. CEDAW/C/IRQ/CO/7, ¶ 21(a) (Nov. 12, 2019).

²⁹ Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Iraq*, UN Doc. No. CEDAW/C/IRQ/CO/7, ¶ 19(b) (Nov. 12, 2019).

³⁰ Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Iraq*, UN Doc. No. CEDAW/C/IRQ/CO/7, ¶ 22(b)-(d) (Nov. 12, 2019).

The Committee further recommended that Iraq “[a]dopt a comprehensive strategy to eliminate discriminatory stereotypes and all harmful practices, such as . . . crimes committed in the name of ‘honour,’” and repeal provisions in the Penal Code “to ensure that perpetrators of crimes committed in the name of ‘honour’ cannot invoke the defence of honour as a mitigating circumstance for homicide.”³¹

18. In the context of gender-based violence committed by members of the Islamic State, Iraq’s Eighth Periodic Report mentions that the “Ministry of Health has opened gender-based violence centres to provide assistance to victims of violence in conflict settings,” but does not mention whether such centers are available to the general population.³² The State Party Report describes various hotlines for victims of gender-based violence and notes that in 2023, authorities had arrested 9,200 “perpetrators . . . in connection with domestic violence cases,” but it does not provide any information about convictions or penalties for acts of domestic violence.³³
19. The Eighth Periodic Report defends the provisions in the Penal Code allowing mitigation for crimes committed in the name of “honour,” asserting that such provisions are “not considered discrimination against women qua women,”³⁴ while noting that the Kurdistan Region in 2002 adopted a law stating that “invoking honour is not deemed to be a mitigating circumstance in respect of a crime against a woman.”³⁵
20. In a 2018 study, the Cornell Center on the Death Penalty Worldwide found that, in the global context, women are more vulnerable and most likely to be sentenced to death for criminal offenses committed within the context of gender-based violence³⁶ and manipulative or coercive relationships with male co-defendants.³⁷ Cornell’s data indicate that women who are under sentence of death for allegedly committing murder have overwhelmingly experienced prolonged domestic violence at the hands of a partner, spouse, or another family member.³⁸

³¹ Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Iraq*, UN Doc. No. CEDAW/C/IRQ/CO/7, ¶ 20(a)-(b) (Nov. 12, 2019).

³² Committee on the Elimination of Discrimination against Women, *Eighth periodic report submitted by Iraq under article 18 of the Convention, due in 2023*, UN Doc. No. CEDAW/C/IRQ/8 (Jan. 15, 2024), ¶ 100.

³³ Committee on the Elimination of Discrimination against Women, *Eighth periodic report submitted by Iraq under article 18 of the Convention, due in 2023*, UN Doc. No. CEDAW/C/IRQ/8 (Jan. 15, 2024), ¶¶ 101, 103.

³⁴ Committee on the Elimination of Discrimination against Women, *Eighth periodic report submitted by Iraq under article 18 of the Convention, due in 2023*, UN Doc. No. CEDAW/C/IRQ/8 (Jan. 15, 2024), ¶ 65.

³⁵ Committee on the Elimination of Discrimination against Women, *Eighth periodic report submitted by Iraq under article 18 of the Convention, due in 2023*, UN Doc. No. CEDAW/C/IRQ/8 (Jan. 15, 2024), ¶ 22.

³⁶ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 4, 2018). Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

³⁷ Cornell Center on the Death Penalty Worldwide, “No One Believed Me”: A Global Overview of Women Facing the Death Penalty for Drug Offenses (Sept. 6, 2021), 6. Available online at <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

³⁸ Cornell Center on the Death Penalty Worldwide, “No One Believed Me”: A Global Overview of Women Facing the Death Penalty for Drug Offenses (Sept. 6, 2021), 11. Available online at <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>; Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global*

21. As of 2023, nearly 1 million women and girls in Iraq are at risk of some form of gender-based violence.³⁹ Furthermore, 26% of Iraqi women report having experienced violence at the hands of an intimate partner, and Iraqi experts say many cases go unreported.⁴⁰ The cabinet has adopted the draft law on domestic violence, referenced in the Committee's 2019 Concluding Observations, but it remains a draft law.⁴¹
22. The coauthors have information about the case of K.S., a woman sentenced to death for killing her husband who currently resides in Sulaymaniyah Prison. She reports that her husband had been pressuring her to engage in sex work to support the family. Her case "is full of legal loopholes" but she remains on death row.⁴²
23. Iraq lacks comprehensive legislation to protect women and punish perpetrators of violence against women. For example, Article 41 of the Penal Code grants men the right to discipline their wives and children.⁴³
24. Under the Penal Code, the willful killing of another person is punishable by death.⁴⁴ The Penal Code authorizes judicial mitigation under certain circumstances when husbands kill their wives,⁴⁵ but there is no similar provision when wives kill their husbands.⁴⁶ Article 409 of the Penal Code states, "Anyone who surprises his wife or one of his male relatives in the act of adultery or in the same bed with her partner and kills her shall be punished with imprisonment for a period not exceeding three years."⁴⁷ Several hundred women and girls are killed every year in "honor" crimes, and such crimes are underreported to the authorities.⁴⁸ On January 31, 2023, the father of 21-year-old YouTube star T.A. strangled her to death. Describing the incident, the Iraqi Interior Ministry explained to a global news broadcaster that "[A]n accident happened to [T.A.]. In the perspective of law, it is a

Overview of Women Facing the Death Penalty (Sept. 4, 2018), 4. Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

³⁹ Sarah Gold, *Survivors, Saviors, Leaders – Not Victims: Tackling Gender-Based Violence in Iraq*, International Organization for Migration Iraq (Nov. 23, 2023), <https://weblog.iom.int/survivors-saviors-leaders-not-victims-tackling-gender-based-violence-iraq>.

⁴⁰ Sarah Gold, *Survivors, Saviors, Leaders – Not Victims: Tackling Gender-Based Violence in Iraq*, International Organization for Migration Iraq (Nov. 23, 2023), <https://weblog.iom.int/survivors-saviors-leaders-not-victims-tackling-gender-based-violence-iraq>.

⁴¹ Committee on the Elimination of Discrimination against Women, *Eighth periodic report submitted by Iraq under article 18 of the Convention, due in 2023*, UN Doc. No. CEDAW/C/IRQ/8 (Jan. 15, 2024), ¶ 20.

⁴² Email communication, Dec. 15, 2024, on file with The Advocates for Human Rights.

⁴³ Geneive Abdo, *Violence Against Women Permeates All Aspects of Life in Iraq*, Wilson Center (Nov. 29, 2022), <https://www.wilsoncenter.org/blog-post/violence-against-women-permeates-all-aspects-life-iraq>.

⁴⁴ Iraq Penal Code No. 111 of 1969, Article 406.

⁴⁵ Iraq Penal Code No. 111 of 1969, Article 409.

⁴⁶ Mai Sato and Sandra Babcock (eds.), *Silently Silenced: State-Sanctioned Killing of Women*, Eleos Justice, Monash University & Cornell Center on the Death Penalty Worldwide, at ¶ 45 (Mar. 2023). Available at <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

⁴⁷ Iraq Penal Code No. 111 of 1969, Art. 209.

⁴⁸ European Union Agency for Asylum, 2.16.1 Violence against women and girls: overview (Jan. 2021), <https://euaa.europa.eu/country-guidance-iraq-2021/2161-violence-against-women-and-girls-overview>; UK Home Office, *Country Policy and Information Note Iraq: 'Honour' crimes*, at ¶ 48 (Mar. 2021). Available at https://assets.publishing.service.gov.uk/media/60646a59d3bf7f0c8c97da1a/Iraq_-_Honour_Crimes_-_CPIN_-_v2.0_-_March_2021_-_EXT.pdf.

criminal accident, and in other perspectives, it is an accident of honor killings,” suggesting that T.A.’s father is culpable of a lesser offense than murder.⁴⁹

25. Additionally, the Penal Code does not recognize marital rape, and in fact promotes marriage as a solution for rape by authorizing authorities to drop charges if the perpetrator marries the victim. In particular, Article 398 absolves perpetrators of rape from punishment if they marry their victims.⁵⁰ This provision encourages impunity.⁵¹ It also encourages men to rape women who refuse to marry them.⁵² The law interacts with societal conceptions of a woman’s value to encourage the victim’s family to resort to mediation to achieve marriage.⁵³ This law punishes the victim and rewards the perpetrator, treating women as chattel.⁵⁴
26. Iraq also fails to provide a social, economic, and legal safety net for victims of gender-based violence. Experts note that “it is very stigmatizing for a woman or girl, even if she is experiencing severe abuse, to seek external support or pursue legal measures against a family member.”⁵⁵ Survey results consistently show that only a small minority of people experiencing domestic violence seek support from state institutions, and the very act of reporting the violence is viewed “as bringing shame on the family, contributing to social breakdown, and compromising the woman’s reputation.”⁵⁶ Experts also note that when survivors pursue divorce, their families often made their lives intolerable by refusing to take them in or support them, rejecting their children, abusing them physically or verbally, placing restrictions on their daily activity, or pressuring them to remarry.⁵⁷
27. Women face barriers to accessing justice due to the discriminatory attitudes of police and other government officials. Women face broad discriminatory treatment in society and under the laws; marriage and divorce laws tend to favor men. Legal protections for women

⁴⁹ Gem O’Reilly, *The Iraqi YouTube star killed by her father*, BBC News (Sept. 5, 2023), <https://www.bbc.com/news/world-middle-east-64533577>.

⁵⁰ Miriam Putick, *War Waged in the Home: Rethinking conflict and gender-based violence in Iraq*, Ceasefire Centre for Civilian Rights, at 33 (Mar. 2024). Available at https://www.ceasefire.org/wp-content/uploads/2024/04/Ceasefire_War_at_Home_April24_EN_ONLINE.pdf.

⁵¹ U.N.A.M.I. Human Rights Office, *Submissions to the UN SRVAV Thematic Report on Rape As A Grave And Systematic Human Rights Violation And Gender-Based Violence Against Women*, at 1. Available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/SR/RapeReport/un/unami-iraq.docx> (last visited Dec. 6, 2024).

⁵² Madeline Jones, *A Call to Repeal Iraq’s Rape-Marriage Law*, Mich. St. Int’l. L. Rev. (Mar. 20, 2023), <https://www.msuir.org/new-blog/2023/3/20/a-call-to-repeal-iraqs-rape-marriage-law>.

⁵³ Geneive Abdo, *Violence Against Women Permeates All Aspects of Life in Iraq*, Wilson Center (Nov. 29, 2022), <https://www.wilsoncenter.org/blog-post/violence-against-women-permeates-all-aspects-life-iraq>.

⁵⁴ Madeline Jones, *A Call to Repeal Iraq’s Rape-Marriage Law*, Mich. St. Int’l. L. Rev. (Mar. 20, 2023), <https://www.msuir.org/new-blog/2023/3/20/a-call-to-repeal-iraqs-rape-marriage-law>.

⁵⁵ Miriam Putick, *War Waged in the Home: Rethinking conflict and gender-based violence in Iraq*, Ceasefire Centre for Civilian Rights, at 21 (Mar. 2024). Available at https://www.ceasefire.org/wp-content/uploads/2024/04/Ceasefire_War_at_Home_April24_EN_ONLINE.pdf.

⁵⁶ Miriam Putick, *War Waged in the Home: Rethinking conflict and gender-based violence in Iraq*, Ceasefire Centre for Civilian Rights, at 21 (Mar. 2024). Available online at https://www.ceasefire.org/wp-content/uploads/2024/04/Ceasefire_War_at_Home_April24_EN_ONLINE.pdf.

⁵⁷ Miriam Putick, *War Waged in the Home: Rethinking conflict and gender-based violence in Iraq*, Ceasefire Centre for Civilian Rights, at 20 (Mar. 2024). Available online at https://www.ceasefire.org/wp-content/uploads/2024/04/Ceasefire_War_at_Home_April24_EN_ONLINE.pdf.

against domestic violence in Iraq are insufficient and violence in the family is underreported due to shame, fear of family or community reprisals, or harassment and abuse from police and security forces.⁵⁸

28. In this context of impunity for perpetrators and the absence of any viable means for survivors to escape prolonged abuse, women in Iraq are at heightened risk of coming into conflict with the law. And if they do kill their abusers, they are at risk of being sentenced to death.
29. While officials maintain secrecy regarding most death sentences and executions,⁵⁹ Iraq is one of 42 countries where women are known to be on death row.⁶⁰ According to The World Coalition Against the Death Penalty, Iraq is considered to be among the “top ten executioners of women in the world.”⁶¹ Iraq is one of just 14 countries known to have executed women in the last decade.⁶² There is no official data about the number of women under sentence of death or their offenses, but as set forth in paragraph 20 above, global data suggest that most of these women are under sentence of death for killing in the context of gender-based violence.

III. Iraq fails to address systemic discrimination that excludes women from controlling their own economic resources (Concluding Observations Paragraphs 14(b), 20).

30. In its 2019 Concluding Observations, the Committee expressed concern about “the persistence of discriminatory stereotypes about the roles and responsibilities of women and men in the family and in society which perpetuate the subordination of women to men,”⁶³ and recommended that Iraq “[a]dopt a comprehensive strategy to eliminate discriminatory stereotypes.”
31. The Committee also reiterated its recommendation to repeal all sex-discriminatory provisions of the “Penal Code, the Code of Criminal Procedure and other legislation, regulations and directives.”⁶⁴
32. Iraq’s Eighth Periodic Report identifies “the National Strategy for Iraqi Women (2023-2030),” which “encompasses a number of programmes aimed at raising awareness of the

⁵⁸ European Union Agency for Asylum, Iraq – Country Focus (May 2024). Available at https://euaa.europa.eu/sites/default/files/publications/2024-05/2024_05_COI_Report_Iraq_Country_Focus_EN.pdf.

⁵⁹ Human Rights Watch, *Iraq: Surging Unlawful Executions*, Nov. 19, 2024, <https://www.hrw.org/news/2024/11/19/iraq-surging-unlawful-executions>.

⁶⁰ The World Coalition Against the Death Penalty, *Mapping of Women on Death Row*, at 6, 10 (Jun. 2023). Available at https://worldcoalition.org/wp-content/uploads/2023/08/ENG_Country-Mapping-report_Women-on-Death-Row.pdf.

⁶¹ The World Coalition Against the Death Penalty, *Mapping of Women on Death Row*, at 13 (Jun. 2023). Available at https://worldcoalition.org/wp-content/uploads/2023/08/ENG_Country-Mapping-report_Women-on-Death-Row.pdf.

⁶² The World Coalition Against the Death Penalty, *Mapping of Women on Death Row*, at 13 (Jun. 2023). Available at https://worldcoalition.org/wp-content/uploads/2023/08/ENG_Country-Mapping-report_Women-on-Death-Row.pdf.

⁶³ Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Iraq*, U.N. Doc. No. CEDAW/C/IRQ/CO/7, ¶ 19 (Nov. 12, 2019).

⁶⁴ Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Iraq*, U.N. Doc. No. CEDAW/C/IRQ/CO/7, ¶ 14(b) (Nov. 12, 2019).

seriousness of discrimination against women,”⁶⁵ and asserts that “Iraq has endeavoured to ensure de facto equality and to combat all forms of discrimination in legislation, procedures and policies, as well as stereotypes that may result from social customs and traditions that are not recognized by law.”⁶⁶ The Eighth Periodic Report confirms that all of the laws that purportedly would repeal sex-discriminatory provisions in legislation are still in draft form.⁶⁷

33. Iraqi women continue to face widespread gender discrimination. Legislation, including the Personal Status Law (articles 25, 89, and 90), reinforces traditional social norms that can obstruct women’s employment opportunities. This law limits women’s ability to establish their own businesses, and unequal inheritance rights make it challenging for women to obtain bank loans because banks are unwilling to loan money to people who do not own property. Iraqi women and girls continue to be underrepresented in the workforce and in the education system.⁶⁸ Only 11.5% of women of working age actively participate in the labor market. Because women do not have access to their own economic resources, they may face heightened difficulty escaping gender-based violence.⁶⁹

IV. Gender discrimination within the criminal legal system puts women at risk of being sentenced to death (Concluding Observations Paragraph 18).

34. The Committee recommended that Iraq adopt temporary special measures to “to accelerate the achievement of substantive equality between women and men” in all areas where women are disadvantaged or underrepresented, such as political and public life, education, and employment, particularly in managerial, civil, diplomatic, and judicial positions.⁷⁰ The Committee also recommended that Iraq implement capacity-building programs for State officials and employers on the importance and non-discriminatory nature of these measures.⁷¹

⁶⁵ Committee on the Elimination of Discrimination against Women, *Eighth periodic report submitted by Iraq under article 18 of the Convention, due in 2023*, UN Doc. No. CEDAW/C/IRQ/8 (Jan. 15, 2024), ¶ 60.

⁶⁶ Committee on the Elimination of Discrimination against Women, *Eighth periodic report submitted by Iraq under article 18 of the Convention, due in 2023*, UN Doc. No. CEDAW/C/IRQ/8 (Jan. 15, 2024), ¶ 68.

⁶⁷ Committee on the Elimination of Discrimination against Women, *Eighth periodic report submitted by Iraq under article 18 of the Convention, due in 2023*, UN Doc. No. CEDAW/C/IRQ/8 (Jan. 15, 2024), ¶¶ 19 (draft amendment to the Penal Code), 20 (draft law on protection from domestic violence), 21 (preliminary draft law to amend the Code of Criminal Procedure and the Personal Status Act).

⁶⁸ U.N.D.P., *Iraq: Gender Analysis on Women’s Economic Empowerment in Anbar, Diyala, Kirkuk, Ninewa, and Salah Al-Din* (Jul. 2022). Available at https://www.undp.org/sites/g/files/zskgke326/files/2023-06/undp_iq_gender_analysis_economic_empowerment_iraq.pdf.

⁶⁹ Tina L. Cheng, Et. al, *Breaking the Intergenerational Cycle of Disadvantage: The Three Generation Approach*. Pediatrics (June 2016). Available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC4894258/>. See also Council of Europe, *Gender Matters: What causes gender-based violence?*, <https://www.coe.int/en/web/gender-matters/what-causes-gender-based-violence> (accessed Dec. 5, 2024).

⁷⁰ Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Iraq*, UN Doc. No. CEDAW/C/IRQ/CO/7, ¶ 18(a) (Nov. 12, 2019).

⁷¹ Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Iraq*, UN Doc. No. CEDAW/C/IRQ/CO/7, ¶ 18(b) (Nov. 12, 2019).

35. The Eighth Periodic Report observes that women hold 25% of the seats in the Council of Representatives and women hold leadership positions in the executive branch.⁷² Regarding the judicial branch, however, the report simply states: “The judiciary accords great importance to the role of women in its ranks,” and provides no further details.⁷³
36. Women continue to be underrepresented in the judiciary, with only 8% of the country’s judges being women.⁷⁴ The lack of representation increases the barriers women in conflict with the law face, including barriers to accessing justice due to the discriminatory attitudes of the judiciary.
37. Within Iraq’s criminal legal system, women often face intersecting forms of discrimination, including discrimination based on other elements of their identity, such as age, sexual orientation, disability, and race. Such prejudices can influence sentencing, particularly when prosecutors or judges invoke stereotypes of the defendant as a bad mother, a witch, or a femme fatale.⁷⁵ At trial, courts rarely examine important mitigating factors, such as a woman’s experience with gender-based violence.⁷⁶
38. An International Commission of Jurists study concluded that lower representation of women in the judiciary is often due to gender stereotyping.⁷⁷ Gender stereotyping can also compromise judges’ impartiality, influence their understanding of the nature of a criminal offense, affect their views on witness and victim credibility and legal capacity, prevent them from holding offenders legally accountable, and impede access to legal rights and protections.⁷⁸
39. Judicial stereotyping can significantly impede women’s access to legal protections, especially against gender-based violence. It also inhibits their ability to seek to enforce

⁷² Committee on the Elimination of Discrimination against Women, *Eighth periodic report submitted by Iraq under article 18 of the Convention, due in 2023*, UN Doc. No. CEDAW/C/IRQ/8 (Jan. 15, 2024), ¶ 40.

⁷³ Committee on the Elimination of Discrimination against Women, *Eighth periodic report submitted by Iraq under article 18 of the Convention, due in 2023*, UN Doc. No. CEDAW/C/IRQ/8 (Jan. 15, 2024), ¶ 40.

⁷⁴ U.N.H.R.C., *Experts of the Committee on Economic, Social and Cultural Rights Commend Iraq for Plans to Increase the Number of Female Judges, Ask Questions on Anti-Homosexuality Legislation and Access to Clean Drinking Water* (Feb. 20, 2024), <https://www.ohchr.org/en/news/2024/02/experts-committee-economic-social-and-cultural-rights-commend-iraq-plans-increase>.

⁷⁵ UN Women, *Violence against Women in the Iraqi Society: A Legal, Judicial and Statistic Study*, 2021, <https://iraq.unwomen.org/en/digital-library/publications/2021/01/violence-against-women-in-the-iraqi-society>; International Federation for Human Rights, *Women Sentenced to Death: An invisible reality*, August 10, 2021, <https://www.fidh.org/en/issues/women-s-rights/women-sentenced-to-death-an-invisible-reality-27437>.

⁷⁶ UN Women, *Violence against Women in the Iraqi Society: A Legal, Judicial and Statistic Study*, 2021, <https://iraq.unwomen.org/en/digital-library/publications/2021/01/violence-against-women-in-the-iraqi-society>; International Federation for Human Rights, *Women Sentenced to Death: An invisible reality*, August 10, 2021, <https://www.fidh.org/en/issues/women-s-rights/women-sentenced-to-death-an-invisible-reality-27437>.

⁷⁷ International Commission of Jurists, *Women and the Judiciary*, at 3 (2013), https://www.unodc.org/res/ji/import/programmes_projects_initiatives/women_and_the_judiciary/women_and_the_judiciary.pdf.

⁷⁸ U.N.H.R.C., *Gender Stereotyping and the Judiciary* Presentation. Available at https://www.ohchr.org/sites/default/files/OHCHR_JudicialStereotyping_Session4.pdf (last visited Dec. 6, 2024).

their rights such as through orders for protection. In such cases, women may not only be denied justice but may also be at risk of further acts of violence.⁷⁹

40. Stereotyping often leads judges to form negative views about the credibility of women victims and survivors, while forming favorable views of men accused of gender-based violence. This bias can influence judges' understanding of gender-based offenses and their perception of whether a criminal offense has occurred.⁸⁰
41. Additionally, the absence of women in the criminal legal system can exacerbate the stigma associated with reporting gender-based violence. Female survivors of sexual and gender-based violence face significant barriers when attempting to pursue cases if the court is predominantly staffed by male jurists and gender-stereotyping is pervasive.⁸¹
42. Gender stereotypes in the judiciary are particularly apparent for women in conflict with the law who are accused of terrorism-related offenses and thereby at risk of being sentenced to death. Iraqi courts have sentenced women—including foreign nationals—to death for their affiliation with the Islamic State. Such affiliations are often simply familial relationships. Trials in these cases often fall short of international due process standards, with some lasting for only ten minutes.⁸² Public defenders and translators also fail to provide sufficient services for defendants to mount an adequate defense.⁸³
43. Anti-terrorism laws in Iraq include group membership as an offence leading to the conviction of several women under these laws and additional prosecution for illegally entering Iraq, as well as aiding and abetting the Islamic State. These cases have failed to take into account the status of women within the Islamic State, which often forced women and girls into sexual slavery or exposed them to other forms of gender-based violence.⁸⁴ In May 2023, authorities imprisoned approximately 400 women for being part of the Islamic States. Courts ultimately sentenced some of them to death. Some of these women engaged in a hunger strike in the Rusafa high-security prison in Baghdad to bring attention to what

⁷⁹ U.N.H.R.C., *Gender Stereotyping and the Judiciary* Presentation. Available at https://www.ohchr.org/sites/default/files/OHCHR_JudicialStereotyping_Session4.pdf (last visited Dec. 6, 2024).

⁸⁰ Simone Cusack, *Eliminating judicial stereotyping Equal access to justice for women in gender-based violence cases*, Submission to OHCHR (Jun. 9, 2014), <https://www.ohchr.org/Documents/Issues/Women/WRGS/StudyGenderStereotyping.doc>.

⁸¹ U.N. Women, *2011-2012 Progress of the World's Women: In Pursuit of Justice*, at 50-61 (2011). Available at <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2011/ProgressOfTheWorldsWomen-2011-en.pdf>.

⁸² Cornell Center for the Death Penalty Worldwide, *Iraq*, <https://deathpenaltyworldwide.org/database/#/results/country?id=34#fn-18748-W70P23T104835> / (last visited Dec. 6, 2024).

⁸³ Cornell Center for the Death Penalty Worldwide, *Iraq*, <https://deathpenaltyworldwide.org/database/#/results/country?id=34#fn-18748-W70P23T104835> / (last visited Dec. 6, 2024).

⁸⁴ *Iraq: Change Approach to Foreign Women, Children in ISIS-Linked Trials*, Human Rights Watch (Jun. 21, 2018), <https://www.hrw.org/news/2018/06/21/iraq-change-approach-foreign-women-children-isis-linked-trials>.

they say were unfair trials.⁸⁵ Among the women are foreign nationals from Azerbaijan, France, Germany, Russia, Syria, Turkey, Ukraine, and the United States.⁸⁶

44. In July 2024, an Iraqi court sentenced to death A.M. (also known as U.H.),⁸⁷ a widow of Islamic State leader Abu Bakr al-Baghdadi on terrorism-related charges for allegedly working with Daesh and detaining Yazidi women in her home after Islamic State gangs kidnapped them.⁸⁸ According to the Supreme Judicial Council, the court sentenced her to death for “working with the extremist organization and detaining Yazidi women.”⁸⁹ She has denied involvement in the Islamic State atrocities and in the organization’s kidnapping and enslavement of Yazidi women.⁹⁰ She had previously told the BBC that “she had challenged her husband about having ‘the blood of those innocent people’ on his hands” and that she “‘felt ashamed’ and was ‘very sorry’ about what happened to Yazidi women and children.”⁹¹

V. Suggested questions for the Government of Iraq

45. The coauthors suggest that the Committee pose the following questions to the Government of Iraq:

- Provide official data about all women charged with capital crimes, sentenced to death, and executed during the reporting period, disaggregated by age, nationality, occupation at the time of arrest, disability, crime of conviction, date of conviction, relationship to any victims or codefendants, ages of any minor children, status of any appeals or requests for clemency/pardon, current sentence, current location (if applicable), and date of execution (if applicable).
- What is the status of the draft law on protection against domestic violence?
- Over the reporting period, how many perpetrators of domestic violence have been charged, how many have faced penalties, and what penalties did courts impose?
- Please provide data about all women charged with murder during the reporting period, including their relationship to the victim, whether they raised the defense of self-defense at trial, and whether defense counsel introduced gender-specific evidence in mitigation at the time of sentencing.

⁸⁵ BBC: Islamic State: Hundreds of women on hunger strike at Iraqi prison, May 5, 2023, accessible at: <https://www.bbc.com/news/world-middle-east-65498377>.

⁸⁶ Ibid.

⁸⁷ David Gritten, *Abu Bakr al-Baghdadi’s widow sentenced to death in Iraq*, BBC News, July 10, 2024, <https://www.bbc.com/news/articles/c51y78nl13jo>.

⁸⁸ *Iraq issues death sentence against wife of late Islamic State leader*, Tala Ramadan and Jana Choukeir, Reuters, (Jul. 10, 2024), <https://www.reuters.com/world/middle-east/iraq-issues-death-sentence-against-wife-late-islamic-state-leader-2024-07-10/>.

⁸⁹ David Gritten, *Abu Bakr al-Baghdadi’s widow sentenced to death in Iraq*, BBC News, July 10, 2024, <https://www.bbc.com/news/articles/c51y78nl13jo>.

⁹⁰ David Gritten, *Abu Bakr al-Baghdadi’s widow sentenced to death in Iraq*, BBC News, July 10, 2024, <https://www.bbc.com/news/articles/c51y78nl13jo>.

⁹¹ David Gritten, *Abu Bakr al-Baghdadi’s widow sentenced to death in Iraq*, BBC News, July 10, 2024, <https://www.bbc.com/news/articles/c51y78nl13jo>.

- Under what circumstances may a woman who has experienced prolonged domestic violence successfully plead self-defense for killing her abuser? Which legal standards apply in such cases? On how many occasions during the reporting period has such a defense been successful?
- Under what circumstances is gender-based violence considered a mitigating factor in capital cases?
- How do authorities ensure that all women accused of capital crimes have access to free and effective legal representation by attorneys who specialize in capital cases, that such women have access to counsel at all times, from the start of the investigation through any appeals, and that the defense team has sufficient funding to conduct a thorough investigation and to secure relevant expert witnesses, particularly regarding gender-specific defenses?
- What safeguards are in place to ensure that women charged with terrorism-related offenses are charged for intentional acts, rather than coerced or compelled conduct or simple familial relationships with people engaging in acts of terrorism?
- How does Iraq ensure that judges, prosecutors, defense counsel, police, and other individuals in positions of power within the criminal legal system are knowledgeable about gender-based discrimination, domestic violence, and tactics of coercive control that may lead women to commit death-eligible offenses? Specifically, what training programs regarding gender-based violence and tactics of coercive control are available for judges and other actors within the criminal legal system?
- What training do public defenders and other defense counsel in capital cases receive on gender-based discrimination, domestic violence, and tactics of coercive control that may lead women to commit death-eligible offenses? Does Iraq provide funding for expert witnesses on these topics if they are relevant to a woman's defense?
- Under what circumstances are civil society organizations and human rights defenders allowed to attend criminal proceedings to monitor for potential discrimination against women in conflict with the law? What constraints apply to such monitoring efforts?
- What steps has Iraq taken to build support for abolition of the death penalty among lawmakers and the general public and, in the interim, to institute a de jure moratorium on executions?
- What steps has Iraq taken to increase women's participation in decision-making positions within the judiciary? What proportion of judges within the criminal legal system are women?
- Please provide data regarding the use of "honour" as a mitigating factor in homicides during the reporting period, disaggregated by the sex of the offender, the sex of the victim, and the punishment imposed.
- Please describe the safeguards in place to ensure the safety, privacy, and health of women who are in detention, including access to adequate toilets, sanitation, and

feminine hygiene products. How does prison infrastructure design accommodate women's specific needs, including their need for privacy?

- What constraints govern civil society organizations that might seek to express opposition to the death penalty?
- Are civil society organizations allowed to visit prisons where women are detained and monitor conditions of detention? Under what circumstances? How many such visits have taken place during the reporting period? Did these visits include women under sentence of death?