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Iraq's Compliance with the Convention on the Rights of the Child:
Alternative Report on the Death Penalty and Children in Conflict with the Law

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 99th Session of the Committee on the Rights of the Child
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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. 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 is a membership-based global network committed to strengthening 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. This report examines Iraq's compliance with the Convention on the Rights of the Child, focusing on the death penalty's impact on children. Iraq fails to uphold its obligations, both with respect to children of people sentenced to death and regarding children in conflict with the law who are themselves at risk of being sentenced to death.

2. Iraq is one of the world's leading executioners[1] and carries out secret mass executions. Authorities deny crucial information about legal proceedings and outcomes to families (including children) of people who are sentenced to death, exacerbating their distress and violating their rights. There are significant gaps in the availability of information regarding proceedings in Iraq's judicial system, leaving children uncertain about their parents' fates. The Iraqi Parliament recently lowered the legal age of marriage to allow girls as young as nine to marry, placing them at risk of coming into conflict with the law as criminalized survivors of gender-based violence.

3. Furthermore, Iraq does not disclose the number of individuals sentenced to death or executed, nor does it disclose whether juvenile offenders are among them, raising serious concerns about its compliance with article 37(a) of the Convention. Reports indicate that authorities subject some child offenders to coerced confessions and limit their access to legal representation, and courts do not consistently make reliable age determinations. Courts overseeing counterterrorism cases sometimes overlook protections for juvenile offenders, potentially leading to unjust sentences and other violations of the Convention.

4. This report provides recommendations, including ensuring children receive timely and complete information about their parents' legal status, addressing concerns over coerced confessions, strengthening due process for child offenders, and adopting international standards for age determination. The report also recommends that Iraq take into account the best interests of the child when determining whether to carry out an execution. The report recommends that Iraq also improve transparency regarding death penalty cases, including whether such cases affect children or persons alleged to have committed capital offenses when they were under the age of 18.

Iraq fails to uphold its obligations under the Convention on the Rights of the Child

5. Iraq reintroduced the death penalty in 2004 and resumed executions in 2005, and even though Iraq asserts that the death penalty "is now applied on a smaller scale and only for specific offences,"[2] Iraqi laws identify at least 46 offenses that are eligible for the death penalty. Those laws include an expansive military penal code and the 2005 Anti-Terrorism

[1] Amnesty International, *Death sentences and executions in* 2024, 8 Apr. 2025, at 4, https://www.amnesty.org/en/documents/act50/8976/2025/en/.
[2] Combined fifth and sixth periodic reports submitted by Iraq under article 44 of the Convention, due in 2020, (Jan. 31, 2024), CRC/C/IRQ/5-6, ¶ 315.

Act (no.13/2005),[3] which authorizes the death penalty for a variety of vaguely defined terrorist offenses targeting the population, infrastructure, or state security.[4]

6. 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.[5]

7. Iraq's Juvenile Welfare Law (no. 76 of 1983) prohibits the death penalty for individuals who were under 18 at the time of the offense. As an alternative penalty, courts must sentence the juvenile offender to 5 to 15 years in a reformatory facility.[6]

8. Iraqi authorities have stepped up executions, and in 2024 Iraq was the world's fourth-leading executioner, quadrupling the number of known executions in the country compared with the previous year.[7] The number of recorded death sentences in Iraq has increased from at least 41 in 2022 to at least 139 in 2023[8] and at least 200 in 2024.[9]

9. Human Rights Watch reported that on 25 December 2023, authorities in the Nasiriyah Central Prison carried out 13 executions, an event considered to be "the first mass execution since 21 men were executed on November 16, 2020."[10] According to Amnesty International, authorities in the same prison carried out at least another 13 executions on 22 April 2024.[11] On 25 September 2024, authorities carried out another mass execution of 21 people.[12] One of the people executed was a woman who had been accused of being part of the Islamic State organization (ISIS).[13] These mass executions underscore additional

[3] *Ensemble Contre la Peine de Mort*, Summary Report for the Universal Periodic Review of Iraq 16 July 2024 : https://www.ecpm.org/app/uploads/2024/07/Summary-UPR-Iraq_EN.pdf.
[4] Iraq Anti-Terrorism Law, arts. 1-4, Law No. 13 of 2005, Nov. 7, 2005.
[5] 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.
[6] Articles 76(2) and 77(2) of Iraq's Juvenile Welfare Law (no. 76 of 1983).
[7] Amnesty International, *Death sentences and executions in* 2024, 8 Apr. 2025, at 10, https://www.amnesty.org/en/documents/act50/8976/2025/en/.
[8] Amnesty International Global Report, Death Sentences and Executions 2023 (May 2024), at 12. Available online at https://www.amnestyusa.org/wp-content/uploads/2024/05/Amnesty-International-Global-Report-Death-Sentences-and-Executions-2023.pdf.
[9] Ibid.
[10] Harm Reduction International, *The Death Penalty for Drug Offences: Global Overview 2023*, (2024) at 17. Available online at https://hri.global/wp-content/uploads/2024/03/HRI-GO2023-finalfinal-WEB.pdf.
[11] Ibid.; Amnesty International Global Report, *Death Sentences and Executions 2023* (May 2024), at 29. Available online at https://www.amnestyusa.org/wp-content/uploads/2024/05/Amnesty-International-Global-Report-Death-Sentences-and-Executions-2023.pdf.
[12] Human Rights Watch, Iraq: Surging Unlawful Executions, Executions Follow Unfair Trials Based on Torture-Tainted Evidence, (Nov. 19, 2024, 12:00AM EST), https://www.hrw.org/news/2024/11/19/iraq-surging-unlawful-executions (accessed Dec. 5, 2024). Additionally, according to Amnesty International, these executions on December 24 had also been confirmed to the media by what they described as "security sources". Amnesty International, *Iraq: At least 13 people executed amid alarming lack of transparency*, Apr. 24, 2024, https://www.amnesty.org/en/latest/news/2024/04/iraq-at-least-13-people-executed-amid-alarming-lack-of-transparency/ (accessed Dec. 5, 2024).
[13] *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*

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 and on the basis of evidence extracted via torture.[14]

10. A particular concern is so-called "secret" executions.[15] In June 2024, Human Rights Watch reported that AFAD—"an independent group that monitors human rights abuses in Iraq"—had determined that in recent weeks, Iraqi authorities had carried out 63 executions "that had not been publicly announced."[16] 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.[17]

11. In its 2024 State Party Report following up on the Committee's 2015 Concluding Observations, Iraq contended that "in view of the numerous grave offences committed by terror groups, which amount to crimes against humanity and genocide and threaten the safety of society, the Iraqi State took the decision to reinstate the death penalty as a way to preserve national peace and security."[18]

12. Iraq continues to sentence people to death and carry out executions, even though doing so violates the rights of those people's children. Death sentences and executions of a parent can violate a child's rights to not be separated from a parent, to have his or her best interests taken as a primary consideration, to health, safety and an adequate standard of living, and to freedom from torture.

13. Further, even though Iraqi law purportedly prohibits sentencing child offenders to death, legal proceedings deny child offenders due process and access to counsel, and in some cases officials torture children to extract confessions and then subject them to harsh detention conditions, especially when children face charges of ISIS affiliation.

14. Moreover, juvenile offenders in Iraq are still at risk of being sentenced to death and may in fact face death sentences, given the lack of transparency and the absence of standards to determine an alleged offender's age at the time of the offense.

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decade, Amnesty International (May 29, 2024), https://www.amnesty.org/en/latest/news/2024/05/global-executions-soar-highest-number-in-decade/.

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

[15] Ibid. *See also* Amnesty International, *Iraq: At least 13 people executed amid alarming lack of transparency*, Apr. 24, 2024, https://www.amnesty.org/en/latest/news/2024/04/iraq-at-least-13-people-executed-amid-alarming-lack-of-transparency/ (accessed Dec. 5, 2024) (noting that "Amnesty International is concerned that many more people may have been executed in secret amid a disturbing lack of transparency regarding executions in Iraq in recent months.").

[16] Human Rights Watch, *Iraq: Surging Unlawful Executions, Executions Follow Unfair Trials Based on Torture-Tainted Evidence*, (Nov. 19, 2024, 12:00AM EST), https://www.hrw.org/news/2024/11/19/iraq-surging-unlawful-executions.

[17] Ibid.; *Iraq: At least 13 people executed amid alarming lack of transparency*, Amnesty International, (24 April 2024) : https://www.amnesty.org/en/latest/news/2024/04/iraq-at-least-13-people-executed-amid-alarming-lack-of-transparency/.

[18] Combined fifth and sixth periodic reports submitted by Iraq under article 44 of the Convention, due in 2020, (Jan. 31, 2024), CRC/C/IRQ/5-6, ¶ 315.

I. The lack of transparency in judicial and penal proceedings violates the rights of children to information.

15. In its 2024 List of Issues, the Committee asked Iraq to provide information on the measures taken "to ensure pathways for children to gain access to justice and remedies, including administrative complaint mechanisms and child-friendly judicial procedures."[19]

16. Iraq does not publish disaggregated information about people charged with capital crimes or people sentenced to death or executed, making it difficult to assess the full impact of the death penalty on affected children.

17. As discussed in paragraph 10 above, there have been multiple reports of secret executions carried out without prior notice to family members.[20] A witness told human rights experts that on the evening of 24 December 2023, authorities in one Iraqi prison announced the names of 13 men to be executed over the prison loudspeaker. Authorities took the men from their cells and executed them the following morning, giving them no opportunity to contact their families or lawyers.[21]

18. The Iraqi Afada Observatory, an independent human rights observatory in Iraq, has documented cases in which Iraqi authorities did nothing more than notify families by phone that they could collect their relative's body from the forensic department in Nasiriyah. In some cases, authorities coerced families into signing non-disclosure agreements and denied them the right to conduct traditional mourning rituals.[22]

19. Human Rights Watch interviewed a lawyer who confirmed that authorities in some cases contacted families months after an execution and instructed them to retrieve their relative's remains. One family member stated that although their loved one's death certificates listed the cause of death as "execution by hanging," the body had no visible marks around the neck—raising concerns about the true nature of the person's death.[23]

20. Children of people sentenced to death suffer immense psychological distress when they are denied timely and complete information regarding their parent's sentence and execution. Depriving children of this knowledge may amount to ill-treatment or even psychological torture.[24]

21. **Recommendation:**

- Ensure that any child whose parent has been sentenced to death receives timely and age-appropriate information regarding their parent's sentence, physical location, and execution (if applicable), unless an independent authority, in consultation with

[19] Committee on the Rights of the Child, List of Issues in relation to the combined fifth and sixth periodic reports of Iraq, (Oct. 10, 2024), U.N. Doc. CRC/C/IRQ/Q/5-6, ¶ 2(f).
[20] Human Rights Watch, "Iraq: Surging Unlawful Executions" (Nov. 19, 2024), ¶ 6, https://www.hrw.org/news/2024/11/19/iraq-surging-unlawful-executions.
[21] Human Rights Watch, "Iraq: Unlawful Mass Executions Resume" (Jan. 24,2024), ¶ 4.
[22]The New Arab, "Major increase in secret executions in Iraq prison exposed by local human rights observatory" (June 12, 2024), ¶ 10, https://www.newarab.com/news/human-rights-group-exposes-surge-secret-executions-iraq.
[23] Human Rights Watch, "Iraq: Surging Unlawful Executions" (Nov. 19, 2024), ¶ 12, https://www.hrw.org/news/2024/11/19/iraq-surging-unlawful-executions.
[24] Children Rights Connect & Working Group on Children of Incarcerated Parents, "Children of parents sentenced to death or executed: How are they affected? How can they be supported?" report (Aug. 2013), at 3, 8.

the child, determines that withholding such information is in the child's best interest.

II. Iraq's use of the death penalty violates the right to health and safety of children of parents sentenced to death or executed.

22. Children of parents sentenced to death or executed face significant threats to their physical and mental well-being. In its 2015 Concluding Observations, the Committee urged the Iraqi government to "[e]nsure adequate living conditions for children in prison with their mothers," and "[e]nsure that the best interests of children are taken into account in criminal proceedings concerning their parents, and that death sentences are not carried out on mothers who have a child for which they are caring.[25]

23. In its State Party Report, the Iraqi government stated that its legal framework provides for "detention facilities within a particular geographical area and the provision of a secure environment, health care, nursery facilities and adequate meals for inmates and their children." The report, however, fails to address the best interests of children.[26]

24. Additionally, while Iraqi law grants the President the authority to postpone the execution of a mother for four months after childbirth and allows judges discretionary powers to commute death sentences in cases warranting clemency, these provisions are inadequate in practice. They do not fully protect children from the devastating consequences of a parent's execution.[27]

25. Moreover, the execution of women is not merely hypothetical. Iraq executed at least one woman in 2024,[28] executed 17 women between 2004 and 2014, and has at least 25 women under sentence of death.[29] Abolition Death Penalty of Iraq Organization (ADPI) estimates that the actual number of women under sentence of death is much higher, with 13 women on death row in just one of Iraq's 28 prisons.

26. In 2017, after the fall of ISIS, authorities arrested and detained thousands of women and many young children at the high security prison of Rusafa in Baghdad. Courts sentenced some of these women to 15 years to life imprisonment and sentenced other women to death. Reports indicate that at least 30 children, including at least one three-year-old child, have died in Rusafa prison due to poor living conditions.[30]

27. Children visiting parents or other relatives in prison may also experience ill-treatment. A man reported that a prison guard beat his 10-year-old nephew while he was visiting his

[25] Committee on the Rights of the Child, Concluding observations on the combined second to fourth periodic reports of Iraq (Mar. 3, 2015), U.N. Doc/ CFC/C/IRQ/CO/2-4, ¶ 57.
[26] Combined fifth and sixth periodic reports submitted by Iraq under article 44 of the Convention, due in 2020, (Jan. 31, 2024), CRC/C/IRQ/5-6, ¶ 165.
[27] *Id.* ¶ 166.
[28] Amnesty International, *Death sentences and executions in* 2024, 8 Apr. 2025, at 10, https://www.amnesty.org/en/documents/act50/8976/2025/en/.
[29] The Advocates for Human Rights et al., 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, 6 Jan. 2025, ¶ 4, https://www.theadvocatesforhumanrights.org/Res/Iraq%20CEDAW%20LOI%20DP%20Final.pdf.
[30] BBC, "Islamic State: Hundreds of women on hunger strike at Iraqi prison," (May 5, 2023), https://www.bbc.com/news/world-middle-east-65498377.

imprisoned uncles, who had been sentenced to death. The boy's mother and the wives of the other detainees were permitted to visit only every six months.[31]

28. The abrupt loss of a parent due to execution causes severe emotional trauma, which can lead to long-term mental and physical health problems.[32] Research shows that children in such situations are at increased risk of developing anxiety disorders, depression, and post-traumatic stress disorder.[33] Additionally, children of incarcerated or executed parents often face societal discrimination and stigma, leading to exclusion from educational opportunities, healthcare services, and employment prospects. This marginalization exacerbates their emotional distress and increases their vulnerability to violence and exploitation.[34]

29. **Recommendations:**

- Issue a directive to prison authorities to ensure that all children who do not live in prison with their parents have the ability to carry out visits with their parents with as much regularity as is in the best interests of the child, and ensure that such visits take place in a child-appropriate setting with adequate safeguards to minimize any potential trauma from exposure to a carceral environment.
- Provide comprehensive support to children of people sentenced to death, promoting their physical and psychological recovery and social reintegration in an environment that fosters the health, self-respect, and dignity of the child, consistent with Article 37.
- Ensure that any child living in a detention facility with a parent who is charged with a criminal offense or serving a sentence receives access to adequate and child-appropriate food, clothing, bedding, recreation, and education, and conduct periodic assessments to ensure that such living arrangements continue to be in the best interest of the child.

III. Iraq's criminal legal system denies child offenders due process and access to counsel, and authorities subject children to torture and other ill-treatment to extract confessions.

30. In 2015, the Committee said that it was "concerned about reported acts of torture and other cruel or degrading treatment or punishment committed against children by the police"[35]; and that it was also "highly concerned about the increasing number of children in detention, especially in pretrial detention for long periods, and the particularly poor living conditions to which they are subjected, including overcrowding, exposure to physical and sexual abuse and insufficient access to medical services."[36]

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[31] Human Rights Watch, "Iraq: Unlawful Mass Executions Resume" (Jan. 24,2024), ¶ 17.
[32] Quaker United Nations Office, "Children of Parents Sentenced to Death" report (Feb. 2012), at 12, https://quno.org/sites/default/files/resources/ENGLISH_Children%20of%20parents%20sentenced%20to%20death.pdf.
[33] *Id.* at 9.
[34] *Id.* at 10.
[35] Committee on the Rights of the Child, Concluding observations on the combined second to fourth periodic reports of Iraq (Mar. 3, 2015), U.N. Doc/ CFC/C/IRQ/CO/2-4, ¶ 36.
[36] *Id.* ¶ 86.

31. The Committee called on Iraq to "investigate all allegations of torture and other cruel, inhuman or degrading treatment or punishment of children in a prompt and independent manner, and ensure that such acts receive an appropriate response through judicial process."[37] It also urged Iraq to "bring its juvenile justice system fully into line with the Convention and other relevant standards," including by ensuring that a child's case is brought to court for a decision on the lawfulness of his or her detention within 24 hours after arrest and by promoting alternative measures to detention.[38]

32. In its 2024 List of Issues, the Committee requested information on "[t]he cases and results of investigations conducted on allegations of torture and other cruel or degrading treatment or punishment against children, including in detention settings; the sanctions imposed on the perpetrators; and the steps taken to ensure the inadmissibility of evidence obtained by unlawful means, such as coerced confessions and torture, including in national security or terrorism-related cases."[39] The Committee also requested an update about measures taken "to apply non-custodial measures in relation to children deprived of liberty, including children facing national security or terrorism-related charges or detained for migration-related reasons."[40]

33. In its reply, Iraq asserts that "[t]orture is an offence under both the Constitution and criminal law, and no consideration is given to any confession extracted under torture. Furthermore, the Supreme Iraqi Criminal Tribunal Act categorizes torture as a crime against humanity."[41] Iraq further states that when authorities arrest juveniles, they hand them over to the Juvenile Police Department, which brings them before a juvenile court of investigation, and that juvenile offenders serve detention in a reform school (under 14) or an observation home, or, if there is no such facility in an area, that authorities take measures to ensure the juvenile offender is not detained in an adult facility.[42]

34. ADPI reports that torture in Iraqi prisons, including torture of children, is prevalent. According to ADPI, in most cases investigators obtain confessions through force and coercion. ADPI reports that at trial, courts disregard defendants' allegations of torture and do not examine relevant forensic reports.

35. Human Rights Watch reports that as of the end of 2018, the Iraqi and Kurdistan Regional Government (KRG) authorities were detaining approximately 1,500 children for alleged ISIS affiliation, based on dubious accusations and forced confessions obtained through torture.[43] Out of the 29 interviewed detainees or former detainees from ages 14 to 18 whom the KRG had charged with or convicted of ISIS affiliation, 19 said that officers tortured them to get confessions, including by beating them with plastic pipes, electric cables, or

[37] *Id.* ¶ 37.
[38] *Id.* ¶ 87.
[39] Committee on the Rights of the Child, List of Issues in relation to the combined fifth and sixth periodic reports of Iraq, (Oct. 10, 2024), U.N. Doc. CRC/C/IRQ/Q/5-6, ¶ 5(b).
[40] Committee on the Rights of the Child, List of Issues in relation to the combined fifth and sixth periodic reports of Iraq, (Oct. 10, 2024), U.N. Doc. CRC/C/IRQ/Q/5-6, ¶ 11(d).
[41] Combined fifth and sixth periodic reports submitted by Iraq under article 44 of the Convention, due in 2020, (Jan. 31, 2024), CRC/C/IRQ/5-6, ¶ 115.
[42] *Id.* ¶ 302.
[43] Human Rights Watch, "Everyone must confess: Abuses against Children Suspected of ISI Affiliation in Iraq" report (Mar. 6, 2019), at 1, iraq0319_reportcover_8.5x11_HIGHRES.

rods, subjecting them to electric shocks, or forcing them into stress positions. "Security forces threatened others with torture if they refused to confess to ISIS associations."[44]

36. That same report highlights that, although the Iraqi government has a specialized juvenile justice system, authorities held many of the children suspected of ISIS affiliation in adult counterterrorism facilities throughout the investigation and trial. These facilities were severely overcrowded and unsanitary, and detained children had no access to education, rehabilitation, or contact with their families.[45]

37. Most of the children told Human Rights Watch that they did not know whether they had a lawyer, and that their hearings and trials lasted only 5 or 10 minutes. Several children detained by the KRG said that they had told a judge that their confession had been coerced through torture, but that the judge appeared to ignore them.[46]

38. ADPI also reports that authorities continue to detain child offenders even after they have completed their sentences. For example, authorities arrested M.K. in 2018 when he was 15 years old. He is now detained in a juvenile rehabilitation school in Al-Rashad, even though he has completed his sentence.

39. **Recommendations**:

- Ensure that all persons not proven to be age 18 or older at the time of the alleged offense are tried before specialty courts for child-offenders, and immediately transfer any such cases pending before other courts to the specialty courts.
- Vacate all convictions of juvenile offenders where there is evidence to suggest that the conviction was based on a confession or other statement obtained under torture or other ill-treatment.
- Issue a directive to all judges overseeing proceedings against child offenders to prohibit introduction of any evidence, including confessions and other statements, obtained through torture or ill-treatment, and to order an independent investigation whenever a child offender raises such allegations to the court.
- Take measures to hold accountable any individuals responsible for inducing confessions from child-offenders through torture or ill-treatment.
- Ensure that a child's case is brought to court for a decision on the lawfulness of the child's detention within 24 hours of arrest, including in any circumstances in which it is not clear whether the detained person is under the age of 18.
- Ensure that all persons accused of crimes that they allegedly committed when under the age of 18 have access to counsel during all phases of the criminal investigation, throughout trial, and for the duration of any appellate proceedings.

[44] *Id.* at 3, 4.
[45] *Id.* at 21; Child Frontiers for UNICEF: "Mapping and Assessment of the Child Justice System | Kurdistan Region of Iraq," (Nov. 2022), at 32, Report Child Justice System EN.pdf.
[46] Human Rights Watch, "Everyone must confess: Abuses against Children Suspected of ISI Affiliation in Iraq" report (Mar. 6, 2019), iraq0319_reportcover_8.5x11_HIGHRES.

- Direct a comprehensive review of all persons serving sentences for offenses committed when under the age of 18 and order the immediate release of any person who has completed their sentence.

IV. Children are at risk of being sentenced to death or executed.

40. As referenced in paragraph 7 above, Iraq's Juvenile Welfare Law prohibits the death penalty for individuals who were under 18 years of age at the time of the offense. Instead, courts must sentence the juvenile offender to 5 to 15 years in a reformatory facility, as specified in Articles 76(2) and 77(2) of the law. According to ADPI, the Ba'ath government held juvenile offenders until they reached the age of majority and then executed them, but it is unknown whether the current authorities carry out this practice, which would seem to violate the Juvenile Welfare Law.

41. Iraq's State Party Report, however, seems to concede that courts do not systematically determine the age of defendants at the time of the offense but instead focus on their age at the time of trial, stating: "The Juvenile Welfare Act is applicable to juveniles who are under the age of 18 when an investigation is conducted."[47] The report goes on to explain that "[i]f the age of a child at the time he or she committed an offence cannot be determined, the matter is to be referred to a medical committee of the Ministry of Health for it to determine the child's age."[48]

42. Such reliance solely on a medical age assessment may wrongly classify children as adults. According to the European Asylum Support Office Practical Guide on Age Assessment, "no method currently available can tell the exact age of a person."[49] The guide therefore recommends that authorities use a holistic approach that considers multiple factors.[50]

43. Additionally, it is unclear whether the burden of proof falls on the defendant or the prosecutor. It is unclear whether the criminal legal system requires a defendant to prove they were under the age of 18 at the time of the alleged crime, rather than requiring the State to prove that the alleged offender was an adult at the time of the offense.

44. Courts overseeing terrorism-related cases frequently ignore protections for juveniles and often try children as adults.[51] Juvenile offenders are therefore at risk of receiving harsh sentences, including life imprisonment for crimes allegedly committed while they were children. It is unclear whether courts overseeing terrorism-related cases have sentenced juvenile offenders to death.

45. ADPI has documented six cases in which people who were under the age of 18 at the time of their arrest, were detained at the Al-Tobji juvenile prison, and subsequently were sentenced to death for other offenses and transferred to Al-Hout prison in Nasiriyah (also known as Nasiriyah Central Prison). Those people include: M.K., born in 1995, arrested in 2012; O.D., born in 1994 and arrested in 2011; and four people, M.M., M.A.A., M. Q., and M.S.A., all born in 1994 or 1995. The six people were subsequently rearrested in 2014 for

[47] Combined fifth and sixth periodic reports submitted by Iraq under article 44 of the Convention, due in 2020, (Jan. 31, 2024), CRC/C/IRQ/5-6, ¶ 299.
[48] *Id.* ¶ 301.
[49] European Asylum Support Office, "Practical Guide on Age Assessment" Second Edition (2018), at 23.
[50] *Id.* at 42.
[51] Human Rights Watch, "Everyone Must Confess" report (Mar. 6, 2019), at 17–19, 23–26, iraq0319_reportcover_8.5x11_HIGHRES.

attempting to escape the Al-Tobji juvenile detention center, charged with terrorism, and sentenced to death in 2017. In accordance with Resolution No. 86 of 1994 issued by the Revolutionary Command Council of the Ba'ath Party, because they were under the age of 20, their sentences were amended.

46. According to ADPI, the Iraqi Parliament recently amended Personal Status Law No. 188 of 1959, and one of the results of those amendments is that girls as young as the age of nine years are allowed to marry, in accordance with Jaafari Sharia law. According to groundbreaking research by the Cornell Center on the Death Penalty Worldwide, child marriage is one of several factors that can increase the risk that a woman will be sentenced to death.[52] The study found that on a global scale, courts "largely fail to take into account gender-based violence as a mitigating factor to reduce sentences, even in the context of child marriage. This omission erases the role of domestic violence in cases of female minors who kill their abusers, a significant concern given the prevalence of domestic abuse worldwide in marriages involving girls. Similarly, courts rarely consider the mental health effects of child marriage, such as post-traumatic stress disorder, depression, and other mental or emotional disorders."[53]

47. Recommendations:

- Ensure that age-determination procedures comply with international standards, including the determination procedures set forth in General Comment 24, and prohibit unreliable medical assessments as the sole proof of age.

- Ensure that the prosecution bears the burden of proving that a defendant was an adult at the time of the offense, and that if there is no proof of age or if age cannot be established, the defendant is given the benefit of the doubt, in accordance with General Comment 24.

- Guarantee that all individuals whose age is in doubt benefit from the presumption of minority status, in line with General Comment 24.

- Ensure that all people charged with offenses that they allegedly committed when under the age of 18 are tried before courts specializing in children in conflict with the law, regardless of the nature of the charges, in line with General Comment 24.

- On an annual basis, publish comprehensive data about all persons charged with capital crimes, sentenced to death, and executed, disaggregated by age at the time of the offense, method of determining age for any person alleged to be between age 18 and 22, sex or gender, crime of conviction, sentencing court, initial sentence, relationship to any codefendants or victims, current location, current sentence, and status of any appeals or requests for clemency or pardon.

- Ensure that the law that criminalizes terrorism incorporates a definition of terrorism that is consistent with international human rights standards.

[52] *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, Sept. 2018, at 15, https://www.deathpenaltyworldwide.org/wpcontent/.
[53] *Id.* at 15-16.

- Prohibit any person from marrying when under the age of 18 years.

- Direct all courts handling capital cases to seek information regarding, and to take into consideration such evidence of, a defendant's history as a survivor of gender-based violence, including child marriage, when determining an appropriate sentence, particularly when evidence suggests that the offense arose in a context of a coercive control relationship or gender-based violence.