

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on minority issues; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the human rights to safe drinking water and sanitation

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(Please use this reference in your reply)

27 June 2024

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on minority issues; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 53/4, 51/8, 54/14, 49/13, 51/21, 53/12, 52/5, 49/5, 49/10, 52/7 and 51/19.

In this connection, we would like to bring to the attention of your Excellency's Government **alarming information we have received concerning large number of executions of individuals convicted of terrorism-related offences, often without prior notification to families or lawyers, following unfair trials, including the use of forced confessions, and based on broad and ambiguous legal provisions. In addition, we would like to reiterate our concerns regarding allegations of continued grave violations of human rights suffered by death row prisoners in Al-Nasiriyah Central Prison, including acts of torture and ill-treatment and lack of medical care for serious and infectious diseases, which has resulted in scores of deaths in custody with impunity.**

From the outset, we would like to acknowledge your Excellency's Government engagement with Special Procedures' mandate holders, reflected in the standing invitation extended since 16 February 2010 and the responses provided to the majority of communications sent by experts. We would like to seize this opportunity to reiterate concerns raised in previous communications, which we deem to have not been sufficiently addressed in your Excellency's Government's responses and bring new allegations of ongoing serious human rights violations to your attention, requesting your diligent prompt, thorough, independent and impartial investigation, in accordance with international standards. We remain willing and available to provide assistance and advice to the Government of Iraq to end these violations, bring perpetrators to justice, and provide reparation to victims and their families, in full compliance with the State's obligations under international law. These elements are,

in our view, key to restoring peace, justice, and the rule of law in Iraq.

In this regard, we note that the alarming human rights situation in Al-Nasiriyah prison, the maximum-security prison in Dhi Qar Governorate, and the systematic mass executions of terrorism convicts based on flawed legal proceedings, have been brought to your Excellency's attention on four occasions, since 2020 (IRQ 4/2020, IRQ 9/2020, IRQ 1/2021, IRQ 1/2024), and remains of utmost concern for our respective mandates. While we thank your Excellency's Government for the responses to all the aforementioned communications, we would like to provide the following feedback and request further details.

Summary of previous communications and responses:

On 17 August 2020, Special Procedures mandate holders sent a communication (IRQ 4/2020) to your Excellency's Government providing serious allegations of detention conditions and treatment amounting to torture and ill-treatment in al-Nasiriyah prison, in addition to the death sentences handed down, under the Counterterrorism Law no.13 of 2005 (CT Law), following flawed judicial proceedings that did not uphold due process principles. Your Excellency's Government response, dated 30 December 2020: referred to the broad legal provisions of the CT Law, affirming they complied with Security Council resolutions without clarification, notably on their compliance, *inter alia*, with requirements of legal precision and certainty; rejected allegations of torture, asserting that deaths resulted from natural causes, without detailing measures undertaken to investigate these allegations and establish facts and responsibilities, in accordance with international law; provided the national legal framework safeguarding fair trials and excluding torture-tainted confessions, without any evidence that these provisions are applied in practice, especially in cases of terrorism.

In response to the communication (IRQ 9/2020) sent on 20 November 2020, raising concern about mass executions based on unfair trials and without prior notification to families or lawyers, your Excellency's Government reiterated, in two separate letters, dated 30 December 2020 and 21 January 2021, the legal provisions on guarantees of fair trials, and procedures undertaken prior to the implementation of death penalties, without explaining how in practice these guarantees are applied in terrorism cases, especially in light of credible reports, including by the United Nations,¹ documenting irregularities in the administration of justice in relation to trials under the CT Law. Your Excellency's Government further referred to legal provisions punishing acts of torture, stating that defendants have the right to "request to be brought before the medical committees to verify the validity of his or her claims of torture during all stages of the investigation and trial," which does not fulfil the State obligation to promptly impartially, thoroughly, and independently investigate allegations of torture, including *ex officio*, and to make results available to the defendant and his/her lawyer. According to the response, multiple same-day executions were possible under the Iraqi legislation, However, no information/confirmation was provided on the multiple instances of mass executions addressed in the communication.

¹ UNAMI/OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020: https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf ; Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq (A/HRC/38/44/Add.1), which took place from 14–23 November 2017: [g1818594.pdf \(un.org\)](https://www.un.org/ruhrdocda/default.asp?lang=en&nav=doclist&docid=61818594)

Furthermore, similar concerns about the reported ratification by the Iraqi President of 340 death sentences, making executions imminent, were raised in a communication (IRQ 1/2021) dated 27 January 2021. In response, on 26 March 2021, your Excellency's Government denied the date of ratification but not the substance, while reiterating procedures required to implement death penalties and efforts to reduce such sentencing, including through amnesty. We regret that the response did not mention the number and types of cases in which prisoners sentenced to death have been granted amnesty or a re-trial, nor did it specify the procedures permitting submission of a request for consideration by the Amnesty Committee.

Most recently, experts reiterated their serious concern, in a communication (IRQ 1/2024) dated 26 January 2024, about the continuing mass executions in Iraq based on broad and ambiguous counterterrorism charges and following judicial proceedings that deprived defendants of their fundamental safeguards, and where confessions extracted under torture were invoked as incriminating evidence. Your Excellency's Government response, on 24 April 2024, insisted on the legality of the application of the death penalty for the "most serious crimes" while listing an array of offenses under the Iraqi Criminal Code (Act No. 111 of 1969), which largely fail to meet this threshold (e.g. robbery, crimes against internal and external State security, crimes against the safety of transportation and public conveyances, kidnapping, etc.), and for which the capital punishment applies. The response further detailed procedures for the enforcement of executions, which seem to overlook the human rights of defendants and their families, including the right of families to be informed in advance about the date of execution and to promptly receive the body of their loved ones without restriction on the possibility to undertake an independent autopsy and to organize a funeral in accordance with religious and cultural traditions.

According to the information recently received:

Al-Nasiriyah Central Prison, known as al-Hoot (الحوث), is a maximum-security prison near Nasiriyah in the Dhi Qar Governorate of Iraq. It is the largest prison in southern Iraq. Al-Nasiriyah suffers significant overcrowding, with an estimated prison population exceeding ten thousand five hundred (10'500)² inmates (in 2022), significantly surpassing its actual capacity, the majority of whom are Iraqi male adults belonging to the Sunni branch of Islam, who have been sentenced to death on terrorism-related charges.

The excessive use of the death penalty and large numbers of executions:

Several instances of large numbers of executions have been carried out by the Iraqi authorities since 2016. Between 2016 and 2018, the Ministry of Justice has often announced the enforcement of death penalties against persons convicted of terrorism-related offenses, adopting a rhetoric favourable to executions as the only method to provide accountability for the horrendous crimes committed by terrorist groups in Iraq and to grant reparation to families of victims. In this respect, the Iraqi Minister of Justice criticised legislative provisions providing for the right to retrial for persons accused of terrorism

² According to a television [interview](#) dated 3 February 2023, on Alsharqiya channel, with the Prison director, Hussein Ahmad, the actual prison occupation was 12'000 prisoners and the capacity 8'000. However, the construction report indicates a capacity of 1'200, which was reportedly expanded to 2'000 in 2017, with the creation of two annexes.

offenses and called for the alleviation of impediments to executions. According to official information published by the Ministry of Justice of Iraq³:

- On 14 March 2016, twenty (20) prisoners were executed based on terrorism-related charges, while another 65 to 70 death penalties had been ratified by the President pending enforcement, including against nationals of different Arab States;
- On 16 March 2016, the Minister of Justice confirmed that twenty five (25) persons had been executed, stating a suggested legislative amendment to reduce the capacity of terrorism convicts to request a re-trial, which would expedite executions.⁴ In July, he confirmed the execution of forty five (45) persons since the beginning of 2016, including in cases of terrorism, indicating that three (3) more persons were to be executed shortly;
- On 21 August 2016, thirty-six (36) persons were executed, on terrorism charges in relation with the massacre of Camp Speicher;
- On 31 August 2016, seven (7) individuals convicted of terrorism, from different Arab nationalities, were executed,
- On 6 July 2017, the Ministry of Justice confirmed having carried out fourteen (14) executions during the month of June 2017 of individuals convicted of terrorism;
- On 24 September 2017, forty-two (42) persons were executed for crimes under the CT Law, including kidnapping, killing members of the security forces, armed robbery, and detonating explosive devices and car bombs;
- On 14 December 2017, thirty-eight (38) persons were executed at al-Nasiriyah Central Prison, on terrorism related charges;
- On 16 April 2018, thirteen (13) persons were executed, of whom eleven (11) were convicted of terrorism offenses, including detonating car bombs, killing security personnel, and kidnapping;
- On 28 April 2018, thirteen (13) persons were executed in relation to terrorism offenses including participation in armed operations with terrorist groups, kidnappings, bombings, and killing of civilians;
- On 16 August 2018, the Ministry of Justice announced that six (6) persons had been executed in the course of the week;

³ Ministry of Justice of Iraq, 14.03.2016, <https://moj.gov.iq/view.2236/>; 16.03.2016, <https://moj.gov.iq/view.2246/>; 06.07.2016, <https://moj.gov.iq/view.2462/>; 21.08.2016, <https://moj.gov.iq/view.2520/>; 31.08.2016, <https://moj.gov.iq/view.2548/>; 06.07.2017, <https://moj.gov.iq/view.3280/>; 24.09.2017, <https://moj.gov.iq/view.3446/>; 14.12.2017, <https://moj.gov.iq/view.3578/>; 16.04.2018, <https://moj.gov.iq/view.3776/>; 29.04.2018, <https://moj.gov.iq/view.3849/>; 16 August 2018, <https://moj.gov.iq/view.3918/>; 10 September 2018, <https://moj.gov.iq/view.3938/>; 18 October 2018, <https://moj.gov.iq/view.3986/>.

⁴ <https://www.ohchr.org/en/press-releases/2016/08/iraq-fast-tracking-executions-will-only-accelerate-injustice-zeid>

- On 10 September 2018, seven (7) persons convicted of terrorism offenses were executed; and
- On 18 October 2018, six (6) persons convicted of terrorism offenses were executed.

Since the above-mentioned statements, and despite the absence of official confirmation of executions, we received information providing sufficient grounds to believe that the Iraqi Government continued to execute prisoners, the majority of whom were convicted of terrorism offenses. In addition to the cases previously reported in communications on the execution of twenty-one (21) prisoners, in October 2020, and twenty-one (21) others in November 2020, we received credible reports about executions carried out against twenty-seven (27) prisoners in 2021, thirteen (13) prisoners in 2022, and twenty-nine (29) prisoners in 2023, of whom thirteen (13) were executed on 25 December 2023. All prisoners executed during this period were male Iraqi prisoners convicted of terrorism-related charges, except for 4 persons executed in 2021, executed for other criminal charges.

Since the beginning of this year (2024), we received credible reports that the Iraqi authorities carried out a total of thirty (30) executions: eleven (11) executions on 23 April,⁵ eleven (11) others on 6 May,⁶ and eight (8) on 31 May 2024.⁷ The majority of those executed are Iraqi male adults convicted of terrorism-related offenses.

The use of the death penalty and the implementation of this harsh and irreversible sentence have been reflected by senior political leadership as a positive and essential measure to achieve justice for victims of terrorism in the political discourse of senior officials. On 6 April 2023, the Minister of Justice of Iraq announced, in a television interview,⁸ that twenty thousand (20,000) persons have been charged with terrorism-related offenses, among whom eight thousand (8,000) were sentenced to the capital punishment. Furthermore, in a meeting held by the President of Iraq with the National Intelligence Council and the Ministry of Justice, on 22 January 2024, he confirmed the willingness to resolve the pending cases of terrorism and implement pending death sentences.⁹

The death penalty for terrorism-related offenses and the threshold for the “most serious crimes”

As indicated above, the vast majority of prisoners executed since 2016 have been sentenced to death on terrorism-related charges under the Counterterrorism Law no.13 of 2005 (CT Law).¹⁰

The acts of terrorism detailed in articles 2 (terrorist acts) and 3 (crimes against state security) of this law encompass a broad range of crimes with no lethal

⁵ [nasiriyah.org](https://www.nasiriyah.org) إرهابياً في سجن الناصرية المركزي - شبكة اخبار الناصرية [تنفيذ الإعدام بحق]

⁶ [nasiriyah.org](https://www.nasiriyah.org) مدانا بالأرهاب في سجن الناصرية المركزي - شبكة اخبار الناصرية [الإعدام ل]

⁷ [nasiriyah.org](https://www.nasiriyah.org) دواعش في سجن الناصرية المركزية - شبكة اخبار الناصرية [8 تنفيذ حكم الإعدام بـ]

⁸ The Iraqi news channel, 06.04.2023. https://www.youtube.com/watch?v=YOW1Th_qns4

⁹ Presidency of Iraq, 22.01.2024. <https://presidency.iq/Details.aspx?id=11591>

¹⁰ UNODC, Iraqi Anti-Terrorism Law No.13 of 2005. https://www.unodc.org/uploads/icsant/documents/Legislation/Iraq/Anti-Terrorism_Law_No._13_of_2005_.pdf

consequences, using broad and vague terms.

For example, article 2(1) criminalizes “Violence or threat of Violence or a threat aimed at provoking terror among people...”: article 2(2) criminalizes “Knowledge of violence or a threat aimed at deliberate sabotage, destruction or damage to public buildings or property...”; article 2(4) criminalizes inciting and financing of sectarian strife, and article 2(8) kidnapping. In addition, article 3 outlines an array of crimes against national security, using broad and vague terms such as “threatens *national unity* and *social cohesion*, affects the *security and stability of the State*” or “*overthrow by force or violence of the system of Government, or the form of the State established in the Constitution,*” which pave the way to wide and abusive interpretation, and do not satisfy the requirements of legality and legal certainty under international law.

Article 4(1) of the CT Law imposes the death penalty against perpetrators of, and accomplices to terrorist acts, and provides that “Anyone who incites, plans, funds or enables terrorists to commit the offences set forth in the present Act shall be punished by the same penalty as a primary perpetrator.” We note that the “Acts of violence” under articles 2 and 3 are not limited to lethal acts and, as such, clearly fail to meet the threshold of the most serious crimes, as defined by the International Covenant on Civil and Political Rights (ICCPR), the imposition of the death penalty in cases under the CT law would amount to an arbitrary deprivation of life.

Violations of fundamental safeguards throughout legal proceedings

Aside from the deficiency of the law under which mostly Iraqi adult males of the Sunni branch of Islam have been convicted and sentenced to capital punishment, credible reports have indicated that legal proceedings from arrest and detention, throughout the trial and sentencing stages have been marred with irregularities and serious violations of international human rights law. Fundamental principles of due process, including effective legal representation, exclusion of confessions extracted through torture, and the duty to investigate all allegations of such abuse, have been systematically breached.

According to information received, and about forty-two (42) individual cases examined by experts, individuals have been arrested by Iraqi security forces without an arrest warrant and consequently held incommunicado for a period varying between one to two months before being allowed contact with their families or lawyers.

During this period, these individuals were subjected to various forms of torture and ill-treatment to coerce them into signing self-incriminating statements or providing forced confessions of guilt. Individuals reported being subjected to beatings with cables and other metal objects, suspension by wrists with their hands tied behind their back, suspension by a chain from the ceiling, flogging on the back and legs (falaka), electric shocks, stress positions, deprivation of sleep, burning with cigarette, soaking with iced water, suspension upside-down between two bars while blindfolded, and receiving death threats if they refused confess.

Upon appearance before a judicial authority, in some cases a year following arrest and detention, defendants, who denounced their torture and requested a medical examination, had their requests denied or dismissed. The statements signed under coercion and without having the possibility to read them, as well as the confessions extracted under torture were admitted as the main evidence of guilt in court, based on which they were sentenced to the death penalty.

During appeal proceedings, defendants have reportedly maintained they were tortured to provide forced confessions of guilt, and repeatedly requested to be examined by a medical professional to prove their claims. These requests were systematically denied and the death sentences against them were confirmed.

In some cases, defendants were allegedly not allowed to prepare their defence or call witnesses and the court dismissed evidence presented by their lawyers, which could have proven their innocence. Furthermore, reportedly, death penalties were handed down after summary court proceedings, which lasted an hour or two. Reportedly, the judge only asked defendants if they were guilty or innocent, and when they responded “innocent”, the judge would say “you look like criminals” and immediately sentenced them to death.

Despite the summary trials and the excessive use of the death penalty in terrorism cases, the Amnesty Law No. 27 of 2016 in its article 4 excludes those accused of offenses related to terrorism or State security from being considered for a re-trial. However, in cases where those convicted, including for the excluded crimes, claim to have been coerced to provide a confession or to have been convicted based on a statement by a secret informant or a confession by another defendant, a request to the Amnesty Committee could be made to review the rulings, on both form and substance (article 9). In such cases, the Committee maintains a discretionary authority to reopen the investigation. The experts are not privy to any case where a person convicted of terrorism charges has been granted amnesty based on article 9.

According to the information made available to the experts, requests for review made by convicts of terrorism have been systematically dismissed by the Amnesty Committee. In at least one case, the review was refused due to the destruction of the casefile and not on the merits.

Violations of the rights of families of executed and deceased prisoners

Due to the absence of official confirmation of the exact number of executions carried out, families of prisoners on death row are living in constant fear and suffering without information on the ratification status of the death sentence against their loved ones, nor the date of execution.

According to information received, since late 2023, Al-Nasiriyah prison morgue has been overwhelmed with an increased number of bodies, and some were buried in the back yard of the prison.

Families of prisoners at Al-Nasiriyah prison have often been notified by the prison administration two or three months after the death of their family members in prison, in order to recover the dead bodies.

Before leaving with the bodies, families are coerced not to submit any complaints upon collection of the bodies, or to seek medical expertise or autopsy of the bodies, otherwise they risk being detained at the prison facility or face other forms of reprisals. Security services follow family members to the burial site, where the bodies are immediately buried after washing (as per the Sharia Law requirements). In most cases, no funeral services were allowed, and families were at times prevented from returning to the burial site for visits that would allow for respect of religious practices and rituals.

In some cases of executions, families were called the same day to collect the bodies of their loved ones, at Al-Nasiriyah prison. Once there, and after several hours of waiting, families were provided with a death certificate stating that the cause of death was “execution by hanging,” while no signs of hanging on the neck could be seen. Bodies collected were rather emaciated and showed signs of torture. In these cases, families have been systematically threatened by the prison administration to refrain from complaining or delaying burial.

There are grounds to believe that some of the prisoners’ bodies collected by families have not been executed but rather died in custody due to torture, malnutrition, or lack of medical care. These allegations cannot be corroborated without an independent forensic examination of the bodies, which the families have been prevented from undertaking.

It has been further reported that in cases where family members are not able to collect the body of their loved one, a benefactor (فاعل خير) is allowed to collect the body and bury it, without a death certificate. It is unclear how this procedure is being implemented and whether the family is informed or is able to provide consent to this benefactor, and how this latter is being appointed/selected.

The conditions of detention and treatment of death row prisoners in Al-Nasiriyah central prison leading to deaths in custody

According to information received, prisoners on death row at Al-Nasiriyah prison have been subjected to physical and psychological torture by prison guards who have been sporadically falsely threatening them with imminent execution, telling them to “get ready” as the execution order arrived. These practices have been inflicting a state of constant terror and stress amongst this group of prisoners. The psychological suffering is exacerbated by the fact that some prisoners on death row have been taken away from their cells and never returned, without information on whether they were executed.

Furthermore, prisoners who complain about their treatment or detention conditions are sent to solitary confinement without access to food, clean drinking water, or a toilet. Prisoners have to defecate and urinate in their solitary cell.

It is further reported that only Shia clerics are operating at Al-Nasiriyah prison, whereas the vast majority of prisoners belong to the Sunni branch of Islam. This has allegedly prevented Sunni prisoners from performing their religious observations and practices and contributed to their isolation.

There is no permanent presence of medical services in the death row section of Al-Nasiriyah prison. However, it has been alleged that medical committees, affiliated with the Ministry of Justice, conduct visits to this section every few months. Prisoners reported being afraid to ask for medical care following severe illnesses or death caused by injections administered by these medical committees. The purpose of these injections is unclear.

An outbreak of Tuberculosis (TB) has been reported in Al-Nasiriyah prison with no possibility of isolating sick prisoners and no medication offered by the prison administration. Families who learned about the TB situation bought medication for their loved ones, but were required to leave it with the guards, without confirmation that it will finally reach their detained family members. Furthermore, prisoners suffering from chronic diseases such as diabetes or heart problems do not receive the medication provided by their families.

Generally, families are not allowed to hand any items to prisoners during the sporadic visits, which are allowed every four to six months. Food, clothing, medication, or money are handed to guards, and allegedly end up being sold in the prison shop for inflated prices, unaffordable to prisoners.

During visits, prisoners are handcuffed and separated from their families by a metal fence and thus not allowed any physical interaction. This has been reportedly increasing the suffering of family members, in particular children who are prevented from hugging their fathers.

Prisoners visited have been reportedly pale, due to the lack of access to sunlight, and emaciated. Due to the inflated prices at the prison shop, prisoners are unable to buy food and are left to starve. Access to clean drinking water has also been sporadic. Prisoners are reportedly compelled to drink contaminated water, which increases the risk of disease.

Al-Nasiriyah prison reportedly is holding ten times more than its capacity, causing alarming levels of overcrowding. Meanwhile, prisoners are allegedly spending 23 hours and 45 minutes a day in their overcrowded cells, where there is not enough space to sleep, except in a sitting position or by taking turns. During the fifteen-minute “yard time”, the detainees are pushed to run with their hands and ankles cuffed together, while security guards beat and humiliate them.

Since 2020, hundreds of deaths in Al-Nasiriyah prison have been reported by unofficial sources, including around 130 deaths in 2023, with no information from the Government about exact numbers, identities of the deceased, or any investigation initiated to determine the circumstances of these deaths.

We herewith express our utmost concern at the continued mass executions of prisoners, without information to families or lawyers, and without due consideration to their right to amnesty or commutation of their sentence. Furthermore, in view of the scale of documented irregularities during the stages of arrest, detention, and judicial proceedings of persons accused of terrorism offenses; the broad and ambiguous definition of terrorist acts; and the imposition of the death penalty on an array of offenses that fail to meet the threshold of the most serious crimes, the implementation of these death

sentences clearly amounts to an arbitrary deprivation of life, and constitutes a serious breach of article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iraq on 25 January 1971. Furthermore, the large scale of implementation of these death penalties may amount to a crime against humanity under international law and engage the responsibility of officials involved.

We would like to remind your Excellency's Government that retentionist States are required to abide by the strict application of the death penalty to the "most serious crimes", meaning intentional killing. In this regard, the imposition of the death penalty on terrorist acts which do not directly or intentionally result in death, as defined under articles 2 and 3 of the CT Law, as well as for other crimes under the Criminal Code, such as armed robbery, abduction, and other political and national security crimes, violates the right to life and the State's obligations under article 6 of the ICCPR. We therefore reiterate the requirement set out by the Human Rights Committee to "revoke death sentences issued for crimes not qualifying as the most serious crimes and pursue the necessary legal procedures to resentence those convicted for such crimes." (General comment No. 36 (GC36) of the Human Rights Committee (HRC), para. 35).

Furthermore, we are deeply concerned about the excessive use of the death penalty in terrorism cases, and the exclusion of terrorism crimes from the possibility to seek amnesty under the national law (Amnesty Law No. 27 of 2016), except where allegations of torture have been made. We are further appalled by the rejection of the request for Amnesty by one prisoner on death row due to the destruction of his casefile and his consequent execution. We insist that the access to amnesty mechanisms and/or the possible commutation of death sentences, as well as the clarity of the procedures to seize these mechanisms, are obligations under international law, otherwise the sentence would be arbitrary in nature. (GC36 of HRC, para. 37 and 47).

We continue to have serious concerns about the Iraqi Anti-Terrorism Law no. 13 of 2005, which contains a definition of terrorism that is vague and overly broad and fails to require proof of terrorist intent. We recall that, to comply with the elements identified by the Security Council in its resolution 1566 (2004), the definition of terrorism and terrorism offences must be confined to acts that are 'genuinely' terrorist in nature and be set out in precise and unambiguous language that narrowly defines the punishable acts. We also want to respectfully remind your Excellency's Government to the "principle of legal certainty" under international law (ICCPR article 15(1)) which requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence. This principle recognizes that ill-defined and/or overly broad laws are open to arbitrary application and abuse.

It is alarming that despite numerous and well documented violations of due process against persons convicted of terrorism, and sentenced to the capital punishment, your Excellency's Government maintains that judicial proceedings upheld defendants' rights. United Nations' reports have documented breaches to fundamental safeguards of fair trials including violations to the right to be promptly brought before a judicial authority, the right to access to a lawyer, including during interrogations, and to contact your family, the presumption of innocence, the right not to incriminate oneself, amongst other rights as detailed in article 14 of the ICCPR. The respect of these rights also prevents torture and other forms of ill-treatment. We

stress that without proper, thorough, independent, and transparent investigation of these reports, including of torture-tainted confessions, and, as appropriate, the granting of a re-trial that upholds due process of law, the death penalties handed down are considered arbitrary and in violation of the inherent and non-derogable right to life (GC36 of HRC, para. 41). These acts also violate Your Excellency's Government's obligations under articles 1, 2, 15 and 16 of the Convention against Torture (CAT) ratified by Iraq on 7 July 2011, and articles 6, 7, 9, 10 and 14, read alone and in conjunction with article 2(3) of the ICCPR. We remind your Excellency's Government that the right to a fair trial is one of the fundamental guarantees of human rights and the rule of law. It comprises various interrelated attributes and is often linked to the enjoyment of other rights, such as the right to life and the prohibition against torture. In addressing the challenge of terrorism, the Human Rights Committee has stressed the importance of developing and maintaining effective, fair, humane, transparent and accountable criminal justice systems which provide access to a fair and public hearing and to independent and adequate legal representation in accordance with obligations under international law (HRC, general comment No. 32, CCPR/C/GC/32).

We would also like to underline that the arrest and detention of persons accused of terrorism-related offenses without access to their lawyers or families, and without information about their fate and whereabouts for one to two months, before appearing before a judicial authority would amount to enforced disappearance. In this respect, we recall the WGEID's General Comment on the right to truth (A/HRC/16/48), which states that the right of the relatives to know the truth of the fate and whereabouts of the disappeared persons is an absolute right, not subject to any limitation or derogation. No legitimate aim, or exceptional circumstances, may be invoked by the State to restrict this right. Furthermore, we reiterate that, in order to constitute an enforced disappearance, the deprivation of liberty of the person concerned must be followed by a refusal to acknowledge such deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law, regardless of the duration of the said deprivation of liberty or concealment. Notably, the prohibition of enforced disappearance has attained the status of *jus cogens*. The acts described amount to a violation of articles 1, 2, 12, 17, 18, and 24, of the International Convention on the Protection of All Persons from Enforced Disappearances, to which Iraq acceded on 23 November 2010. They also infringe articles 2, 9, 10, 11, 12, and 13 of the Declaration on the Protection of All Persons from Enforced Disappearance.

Handing down death penalties on the basis of forced confessions of guilt is a grave violation of the exclusionary rule (CAT, article 15). In addition, paragraph 4 of the [United Nations Safeguards Protecting the Rights of those Facing the Death Penalty](#), provides that capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts. In addition, even during a state of emergency or a fight against terrorism, the guarantees of fair trial must not be derogated from in a way that would circumvent the protection of non-derogable rights, such as the right to life (article 6), the right to be free from torture (article 7) or the right to freedom of religion or belief (article 18). On this basis, any trial leading to the imposition of the death penalty must conform to the requirements under article 14 of the ICCPR, and must not admit statements, confessions, or other evidence obtained under coercion, as evidence in any court proceedings. Deviating from fundamental principles of fair trial is prohibited at all times (GC N.32 of HRC, para. 6).

We are extremely preoccupied by the alleged political use of death sentences mainly handed down against Sunni Iraqi males, considering the dominating political discourse welcoming the implementation of the death penalty against this group of persons qualified as terrorists. We would like to stress that the recognition of the rights of victims of terrorism cannot prejudice the equality of rights of defendants, without discrimination, regardless of public outcry. Should these allegations be confirmed, they will be in blatant violation of article 2(1) read in conjunction with article 6, as well as of article 26 of the ICCPR.

The scores of deaths in custody in Al-Nasiriyah prison reportedly due to, *inter alia*, torture, lack of medical care, and malnutrition, without proper investigation to establish the causes and circumstances of these deaths, take preventive measures against recurrence, and in cases where liability for death in custody has been substantiated, bring to justice those responsible. We remind your Excellency's Government that deaths in custody, caused by lack of food, water, or healthcare, are preventable, and that the State hold the responsibility for prisoners' deaths until such responsibility is refuted, through a thorough and impartial investigation.¹¹ These investigations must be conducted in compliance with relevant international standards, manifested in the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016).

Finally, the continued allegations describing conditions of detention and treatment of detainees that amount to physical and psychological torture in Al-Nasiriyah central prison, and reportedly causing scores of deaths, are of extreme concern. These concerns are exacerbated by the reported lack of prompt, thorough, impartial, and transparent investigations into allegations of torture, and deaths in custody. If confirmed, would be clear violations of article 7 of the ICCPR, and articles 2 and 16 of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT), to which Iraq acceded on 7 July 2011.

In reference to the repeated false threats of execution by guards, which inflict severe mental pain and suffering amongst death row prisoners, we remind your Excellency's Government's that "[A]ll methods of torture are subject to the same prohibition and give rise to the same legal obligations, regardless of whether the inflicted pain or suffering is of a "physical" or "mental" character, or a combination thereof" (A/HRC/43/49). In addition, we reiterate that "Torture and ill-treatment perpetrated, instigated or consented or acquiesced to by State agents or by individuals acting in an official capacity, including failure to act with due diligence to prevent such abuse, or to provide redress and reparation, conclusively amount to a violation of international law." (A/76/168, para. 13)

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

¹¹ Human Rights Committee, *Dermit Barbato v. Uruguay*, Communication No. 84/1981, para. 9.2.

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information on the prison population of Al-Nasiriyah prison, including the exact number of prisoners on death row.
3. Please provide detailed statistics concerning the imposition of the death penalty and its execution in the past three years (2021-2023) in Iraq, disaggregated by gender, age, nationality, ethnicity or religious background, charges and conviction. Please specify how many of these executions were carried out in Al-Nasiriyah prison.
4. Please provide information on the access to medical care available, including to specialized treatment, for prisoners, particularly on death row, in Al-Nasiriyah prison.
5. Please confirm the exact number of prisoners on death row in Iraq and specify how many of these death sentences have been ratified by the President, with exact dates.
6. Please provide information as to whether the detainees on death row and their families have been informed of their respective death sentences and dates of their imminent execution. In addition, please specify the exact procedures followed to inform families of scheduled executions, to allow them to visit their loved ones before, and to collect bodies after executions.
7. Please explain in detail the procedures followed to collect the bodies of executed prisoners, and detail any rules applied on burial and religious observations and practices. Also, please provide information on who is entitled to collect the body of an executed person.
8. Please provide detailed information on the criminal proceedings, and minimum safeguards guaranteed from the outset of arrest and how these are implemented in practice, in the cases of detainees accused with terrorism-related crimes and sentenced to death. In your response, please specify:
 - Before trial, the exact lapse of time from the moment of arrest until the detainee is allowed access to family and/or a lawyer; the presence of the lawyer during interrogations; the right to remain silent; the right not to incriminate oneself; the right to an independent medical examination; and the right to submit a complaint and have it investigated by an independent judicial authority.
 - During trial, please explain how defendants exercised their right to defence; producing defence witnesses and other evidentiary elements proving their innocence; having their claims of torture investigated independently; excluding any statement or confession of guilt presumably obtained under torture as

evidence to incriminate defendants.

- After trial, please explain the exact safeguards implemented to allow defendants to appeal the judgment against them, have access to their casefile, as well as to the Amnesty Committee and other measures available to commute death sentences.
9. Please provide detailed information on any investigation, which may have been undertaken, and any results thereof, concerning the allegations of enforced disappearance and of torture and ill-treatment, including independent medical examination and documentation. Please explain how these investigations comply with the international standards outlined in the Istanbul Protocol.
 10. Please provide detailed information on evidentiary elements used by the courts to pronounce the death penalty against defendants charged in terrorism-related cases and sentenced to death. Kindly also provide extracts from judicial decisions and explain how the criminal proceedings complied with the international human rights obligations of Iraq.
 11. Please explain in detail the exact number of prisoners on death row who have been granted Amnesty under the Law No. 27 of 2016 and specify how many of these have been accused of terrorism charges.
 12. Please specify the exact criteria and conditions for a prisoner on death row to request the consideration of his case by the Amnesty Committee.
 13. Please provide detailed information about the number of deaths during the past three years, in al-Nasiriyah prison, as well as measures undertaken to investigate every death in custody, including information on forensic examination, in accordance with required international standards, in particular the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), as well as procedures to hand over bodies to families.

While awaiting a reply and given the scope and scale of the alleged violations, as well as the irreversibility of the death penalty, we urge Your Excellency's Government to immediately halt all executions of prisoners, ensure a fair retrial for prisoners on death row, in particular those accused of terrorism-related offenses. In addition, we call for a prompt, thorough, independent and impartial investigation of all allegations of torture and coerced confessions, in accordance with the strictest international standards of due process and fair trial and request the Government to make the results of such investigation available to the experts, prisoners on death row as well as their families and lawyers.

We will publicly express our concerns in this regard, as we believe that the imposition of the death penalty is the ultimate, irreversible and irreparable sanction that can be imposed on an individual accused of a crime, no matter how abhorrent that crime may be. Given the gravity of the issue, we believe that the public at large should be alerted to the implications of what would be considered as large-scale

deprivation of life. Any public expression of concern on our part on this matter will indicate that we have been in contact with your Excellency's Government to clarify the issues in question.

We would like to inform your Excellency's Government that having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to this urgent appeal and the regular procedure.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Ganna Yudkivska

Vice-Chair on Communications of the Working Group on Arbitrary Detention

Aua Baldé

Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Michael Fakhri

Special Rapporteur on the right to food

Tlaleng Mofokeng

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Margaret Satterthwaite

Special Rapporteur on the independence of judges and lawyers

Nicolas Levrat

Special Rapporteur on minority issues

Nazila Ghanea

Special Rapporteur on freedom of religion or belief

Ben Saul

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Alice Jill Edwards

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Pedro Arrojo-Agudo
Special Rapporteur on the human rights to safe drinking water and sanitation