

Death penalty on the rise in US-occupied Iraq

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The US-backed Iraqi government is currently imposing the death penalty at a rate only surpassed by China, Iran and Pakistan. According to Amnesty International, just three men were executed in 2005, following the reintroduction of capital punishment. In 2006, at least 65 were hung, including the country's former dictator Saddam Hussein. This year, at least 30 to 40 more people have been executed, and another 50 to 60 are waiting on death row at a high security prison in Baghdad's Kazimiyah district.

Under any circumstances, the death penalty is barbaric. In Iraq, however, it is also being used as a tool to terrorise a population that is deeply hostile to the continued US-led occupation and supportive of armed resistance. Alleged insurgents are not treated as prisoners of war, but as common criminals who are afforded none of the protections of the Geneva Convention. They are detained in US or Iraqi government prison camps for interrogation then ultimately charged and tried in the Iraqi civilian courts. Growing numbers are being given the death penalty.

Little attention is being given in the international media to the issue. The execution of alleged insurgents raises the question as to whether the Iraqi people, like others who have been subjected to colonial conquest, have an inalienable right to resist, using the methods of guerilla war.

Hina Shamsi, a lawyer with the US-based Human Rights First, explained this month that the justification for refusing to treat insurgents as combatants in a legitimate war is that the US occupation handed over "sovereignty" to the Iraqi government in June 2004. From that point, she told Associated Press, anti-US guerillas have been considered "unprivileged belligerents, mere criminals".

David Crane, an international criminal law specialist at New York's Syracuse University, told Associated Press the insurgency was illegitimate because elections held in January and December 2005 had created a "sitting government, an elected government that is not resisting the US".

The attempt to criminalise Iraqi resistance on these grounds turns reality on its head. The US invasion of Iraq in March 2003 was an illegal act of aggression. Iraq's government was overthrown by force and direct American rule imposed upon the country. Elections were conducted under the barrels of American guns and only candidates acceptable to Washington were permitted to take part.

Since March 2003, hundreds of thousands of Iraqis have been killed. Millions have been turned into refugees. Every aspect of social infrastructure has been devastated—from health care to electricity and sewerage provision. Infant mortality has soared and life expectancy has plummeted. At the same time, attempts are being made to open up Iraq's oil industry for foreign energy corporations to plunder.

The true criminals are the Bush administration and all those within Iraq who have given legitimacy to its neo-colonial actions. The present Iraqi government, by accepting the occupation, has demonstrated it does not speak for or represent the Iraqi people. According to David Crane, however, resistance would only be legally recognised if the "Iraqi people rose up as one".

On the basis of this twisted argument, Iraqis, fighting a guerilla war against the overwhelming superiority of US firepower, face being charged with crimes punishable by death. As many as 40,000 alleged members of the resistance are already languishing in overcrowded US and Iraqi government-run detention centres. An independent monitor of the prisons in Baghdad told *Newsweek* last month: "Torture and abusive behaviour are widespread." The conditions will most likely worsen over coming months, as the US military is currently detaining people at the rate of 2,000 per month.

Many are held without charge for months. Those that are eventually tried face a court system that is notoriously under-staffed and corrupt. Trials take place without adequate defence for the accused. There are ongoing allegations that confessions extracted through torture are being accepted as proof of guilt.

Amnesty International has documented the case of

Shihab Ahmad Khalaf, a former colonel in the Iraqi army who was detained in January 2005 on charges of involvement in “terrorist acts”. A month later, he “confessed” to travelling to Pakistan in 2001 for terrorist training and to receiving instructions from Syrian intelligence. His confession was broadcast on a program called “Terrorism in the Grip of Justice”, a reality TV show on Al-Iraqiya state television featuring senior officers of the US-created Interior Ministry.

To discredit insurgents, many of the other confessions on this bizarre show included lurid admissions to homosexuality and rape, as well as guerilla attacks on US and government forces. In numerous cases, those who appeared on the program retracted their confessions as soon as they had access to a lawyer, and accused the Wolf Brigade of the Interior Ministry of torturing them.

Khalaf repudiated his confession in March 2005. Nevertheless, he and a man he implicated, Abdullah Kelana, were put on trial on November 23, 2005. The court hearing lasted just 45 minutes. The judge refused to accept evidence that Khalaf was in the Netherlands at the time he had confessed to being in Pakistan. On the basis of his admission of guilt, both men were sentenced to death for “threatening security and stability, formation of armed groups and using cars for the purpose of bomb attacks”. The sentence was upheld on appeal and Khalaf has not been heard of since September 2006. He is either still on death row or has been executed.

Amnesty believes other Iraqis have been sentenced to death on the basis of confessions extracted through torture that they never retracted in court due to fear. In a report published in April, it stated:

“It appears that in practice, many detainees—in particularly those suspected of capital offenses—make their first ‘confession’ while interrogated at police stations or other detention centres under the control of the Ministry of Interior. Detainees who have confessed to offences at a police station—including those who confessed as a result of torture or ill-treatment—are frequently escorted by staff of that station to their first appearance before an investigative judge. Amnesty International is concerned that in such circumstances detainees may have feared further torture or ill-treatment by police or other security forces and therefore, may have reiterated their previous confession in front of the investigative judge.” (See “Unjust and unfair: The death penalty in Iraq”, April 20, 2007)

In a recent case, a 25-year-old technician was detained by Interior Ministry police in October 2006. He was

allegedly repeatedly tortured with electric shocks and burns to his legs. Upon appearing before a judge, he confessed to “murder”. He was sentenced to death on February 13, 2007. Lawyers who saw him in March have stated he denied any involvement in the killing for which he was charged. He is either still on death row or has been executed.

Among other recent “confessions” that have led to a death sentence is that of a man who admitted mortaring the US headquarters in the Green Zone and an Algerian citizen who confessed to shooting down an American helicopter and taking part in an ambush of seven marines. In March, six men were reportedly sentenced to hang for having being found with the components necessary to rig up an improvised explosive device (IED). All of these “crimes” are acts of war.

The Central Criminal Court of Iraq (CCCI), which was established by the US occupation in 2004 to specifically deal with insurgents, had tried 1,800 alleged fighters by February 2007 and convicted over 1,500. In the case of an estimated 270 people, the sentence was death. Others received draconian sentences ranging from 15 years to life imprisonment. Hundreds more trials are likely to have taken place over the past four months.

Prisoners are being convicted under the 2005 “Anti-Terrorism Law”. Terrorism is defined as “any criminal act carried out by an individual or an organised group, targeting an individual, a group of individuals, groups, public or private organisations, and causing damage to private or public property with the aim of undermining security and stability or national unity, or instilling fear, terror and panic in people, or creating chaos in order to achieve terrorist goals”.

This definition is so broad as to include any action carried out by Iraqi guerillas against the US occupation forces and its local collaborators. By contrast, American troops and mercenary contractors employed by the occupation act with virtual impunity. Each day, Iraqis are killed in air strikes and house raids, or shot for simply getting too close to US or contractor checkpoints and convoys. No contractor has faced prosecution, and only a tiny handful of cases of war crimes by American soldiers have ever made it to court.



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