

AMNESTY INTERNATIONAL PUBLIC STATEMENT

26 June 2019 MDE 14/0540/2019

FAIR TRIALS FOR IS SUSPECTS CRITICAL TO JUSTICE FOR ATROCITY CRIMES

Amnesty International is concerned by reports that the USA and some European states have facilitated the rendition of people alleged to be former fighters in the armed group calling itself Islamic State (IS) from Northern Syria to Iraq. IS suspects in Iraq have been tried and sentenced to death in proceedings which have been so grossly unfair that the use of this punishment may constitute summary executions. International law prohibits rendition and transfer to torture, unfair trial and the arbitrary imposition of the death penalty.

War crimes, crimes against humanity and other serious violations and abuses of human rights and international humanitarian law have been committed with impunity by all parties and all sides to the conflicts in Syria and Iraq. Those responsible must be brought to justice in fair trials not subject to the death penalty.

The Kurdish-led Syrian Democratic Forces (SDF), who are allied with the US-led Coalition in the conflict against IS, are holding thousands of alleged or suspected IS fighters, members and supporters, of many nationalities including Syrian and Iraqi. The international community must take steps to ensure that all those reasonably suspected of committing crimes under international law are brought to justice through fair trials without recourse to the death penalty, and that those who are not promptly charged with a recognizable criminal offence and tried fairly are released.

If trials do not meet international human rights standards, even more so those trials which may result in the death penalty, they must be immediately halted until new proceedings can be commenced against the accused which meet international fair trial standards.

Amnesty International opposes the death penalty unconditionally in all cases and holds that its use is the ultimate cruel, inhuman and degrading punishment. Under international law and standards, executions carried out following unfair trials violate the prohibition against arbitrary deprivation of life as well as the prohibition of cruel, inhuman or degrading punishment, and in certain cases may constitute summary executions. Further, within the context of an armed conflict, the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognised as indispensable, is a war crime. Individuals responsible for summary executions and/or war crimes must be brought to justice in fair trials.

The organization notes reported proposals by Sweden to establish an internationalised tribunal, whether hosted in Syria, Iraq or The Hague, to try foreign IS suspects. While welcoming all efforts to hold perpetrators of atrocity crimes to account, states must set up a tribunal or accountability mechanism not limited to IS foreign suspects, or any specific party to the conflicts in Syria and Iraq. Rather, the international community must urgently take steps to ensure that all persons, regardless of nationality, who are reasonably suspected of committing crimes under international law during these conflicts are brought to justice through fair trials not subject to the death penalty.

This will require a comprehensive international justice strategy. Such a comprehensive strategy may require the reform of the Iraqi judicial system, the establishment of hybrid or *ad hoc* tribunals or a Security Council referral to the ICC, and the continued investigation and prosecution of cases under universal jurisdiction.

Ultimately all victims of the conflicts in Syria and Iraq must be able to access truth, justice and reparations.