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OPINION ON FRENCH NATIONALS SENTENCED TO DEATH OR FACING THE DEATH PENALTY IN IRAQ

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*The opinion on French nationals sentenced to death or facing the death penalty
in Iraq*

was adopted at the plenary assembly of 28 January 2020.

(40 votes "for", 3 votes "against")

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EXECUTIVE SUMMARY

Since the collapse of the terrorist group the “Islamic State of Iraq and Syria” (ISIS), several French nationals in the Syrian-Iraqi region have been transferred to Iraq where they have been sentenced to death or are at risk of being sentenced to death by Iraqi courts for belonging to IS and acts of terrorism.

The CNCDH is concerned about this situation and considers that there are several arguments in favour of their repatriation to France. Firstly, transfer to a state that provides for the death penalty and practises torture is contrary to the principle of non-refoulement. Secondly, the death sentences have been handed down following unfair trials. Thirdly, the death penalty is contrary to France’s legal and diplomatic commitments. Fourthly, the consular protection provided to the detained persons is insufficient. Fifthly, the French courts also have jurisdiction to try the perpetrators of these serious acts on the basis of their nationality. In addition to these legal arguments is the key consideration of the security imperative for France and for Europe.

The CNCDH is concerned about the situation of French nationals in the Syrian-Iraqi region. While it has already asked the French Government – mainly for humanitarian, but also security reasons – to repatriate as soon as possible the French children detained in camps in Syria by an opinion delivered on 24 September 2019,¹ the situation of the French nationals sentenced to death or facing the death penalty in Iraq cannot be overlooked.

Since the outbreak of the Syrian armed conflict in 2011, foreigners from more than 80 States have joined groups labelled as terrorists, including the “Islamic State of Iraq and Syria” (ISIS), which was formed between Syria and Iraq. A considerable number of European citizens were among them, including around 1300 French nationals. Between 2014 and 2019, ISIS gradually lost control of all the territories it occupied in the face of offensives led by the international coalition formed by France and the United States, inter alia. Following its military defeat, thousands of people living under its yoke were placed in camps in Syrian Kurdistan, controlled by the Syrian Democratic Forces (SDF), the majority of whom are Kurds.

In February 2019, men suspected of being members of IS were transferred from north-eastern Syria to Iraq for trial. In May and June 2019, the Central Criminal Court in Baghdad issued death sentences by hanging against 11 of them, French nationals, for belonging to ISIS and acts of terrorism. Towards the end of August 2019, they were transferred to Al Rusafa prison east of Baghdad. Since then, only one consular visit has been made, on 17 December 2019. Many people, including 60 to 70 French nationals suspected of jihadist activities, are reportedly still being held in northern Syria by the SDF and could be transferred to Iraq for trial at any time.²

This situation raises questions regarding respect for the fundamental rights of French nationals as guaranteed by international law: the principle of non-transfer to a country practising torture, the right to a fair trial and the prohibition of the death penalty, while consular protection is difficult to apply and when, in any event, French courts are competent to try them.

Transfer to Iraq contrary to the principle of non-refoulement

The CNCDH questions the conditions under which French nationals are transferred from Syria to Iraq, without any legal basis and in contravention of the principle of non-refoulement, to a country that practices torture. Article 3 of the *Convention against Torture* states that “no State shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” The European Court of Human Rights has also consistently adopted

1. CNCDH, *Avis sur les enfants mineurs français retenus dans les camps syriens*, Plenary Assembly of 24 September 2019, Journal Officiel de la République Française (JORF) No. 0237 of 11 October 2019, text No. 78.

2. Jean-Pierre Filiu, “Les jihadistes renforcés par l’offensive turque en Syrie”, *Le Monde*, 20 October 2019 <https://www.lemonde.fr/blog/filiu/2019/10/20/les-jihadistes-durablement-renforces-par-loffensive-turque-en-syrie/>.

this approach since 1989, by interpreting Article 3 “by ricochet”, in particular with regard to persons at risk of being returned to a State where they are liable to the death penalty.³

Moreover, in its commentary on Common Article 3 of the *Geneva Conventions*, the ICRC considers that, whether or not an international armed conflict is involved, “*the principle of non-refoulement, in its traditional sense, prohibits the transfer of a person from one State to another in any manner whatsoever if there are substantial grounds for believing that the person would be in danger of suffering the violation of certain fundamental rights in the jurisdiction of that State. This is especially recognized in respect of torture or cruel, inhuman or degrading treatment or punishment, arbitrary deprivation of life (including as the result of a death sentence pronounced without the fundamental guarantees of fair trial), [...]*”⁴ The CNCDH considers that France should have prevented the transfer of its nationals, and requests that its role in these operations be clarified. It calls on the national authorities to take the necessary steps to prevent more illegal transfers taking place.

Sentences handed down following unfair trials

According to the outside observers present, all the death sentences against French nationals were handed down following expeditious and unfair⁵ trials held in an oppressive security environment. These trials are excessively short – no longer than 30 minutes – and involve no real preliminary investigation. Furthermore, they do not respect the principles of fair trial or individualised sentencing. The rights of the defence are non-existent,⁶ in particular due to the fact that the lawyers, who are most of the time court-appointed, do not have access to the case documents and are unable to talk to their clients other than a few minutes before the hearing. Moreover, these lawyers rarely plead their clients’ cases, and when they do, only very briefly.⁷ As for the defendants, who face serious difficulties due to their lack of knowledge of the Arabic language in particular, they are only allowed to speak for a short time. This is all the more worrying as confessions are allegedly extracted under torture,⁸ a common practice in Iraq,⁹ and then used by Iraqi judges as the sole means of

3. ECHR, *Soering v. the United Kingdom*, 7 July 1989, Application No. 14038/88.

4. Commentary on Common Article 3 of the Geneva Conventions, ICRC 2018, paras 708-709.

5. See for example: Human Rights Watch, “*Iraq: French Citizens Allege Torture, Coercion*”, 31 May 2019: www.hrw.org/news/2019/05/31/iraq-french-citizens-allege-torture-coercion; Letter from the Special Rapporteur on extrajudicial, summary or arbitrary executions sent to the French Government, UA FRA 5/2019, 8 August 2019.

6. OHCHR, “UN expert urges efforts from France for the return of 7 nationals awaiting execution in Iraq”, 12 August 2019, www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24887&LangID=E.

7. Hearing by the CNCDH, 18 October 2019.

8. Human Rights Watch, “*Iraq: French Citizens Allege Torture, Coercion*”, *op. cit.*

9. See Human Rights Committee, Concluding observations on the fifth periodic report of Iraq, 3 December 2015, CCPR/C/IRQ/CO/5, para. 27, which mention: “[...] *allegations of instances in which death sentences have been imposed on the basis of confessions obtained under duress or torture, or otherwise in the context of trials that did not meet the standards of article 14 of the Covenant*”.

proof.¹⁰ Moreover, these trials are conducted in the absence of the victims and without any testimony to support the charge. Lastly, the Iraqi judicial system suffers from shortcomings in terms of the independence and training of judges.¹¹ Some experts do not hesitate to use the term “arbitrary executions”, under international law, to describe death sentences handed down in this context.¹²

With regard to the related offences and penalties, these judgements are based on Iraqi Counter-Terrorism Law No. 13 of 7 November 2005, which sets out as the only penalties, firstly, the death penalty for anyone who has “*organized, chaired or participated in an armed terrorist gang that practices and plans for terrorism and also contributes and participates in this act*”,¹³ and secondly, life imprisonment for anyone who “*intentionally covers up any terrorist act or harbors a terrorist with the purpose of concealment*.”¹⁴ Furthermore, merely belonging to IS is construed as contribution to and participation in its activities, which incurs the death penalty.¹⁵ The CNCDH considers that this law contains provisions of substantive law that are too vague,¹⁶ which is contrary to the principle of the legality of offences and penalties, enshrined constitutionally (Article 8 of the *Declaration of the Rights of Man and of the Citizen*), internationally – Article 15 of the *International Covenant on Civil and Political Rights* (ICCPR) – and at the European level – Article 7 of the *European Convention for the Protection of Human Rights* (ECHR) and Article 49 of the *Charter of Fundamental Rights*.

Moreover, Iraqi judges very rarely take into account the causes of irresponsibility or diminished criminal responsibility provided for by Iraqi law.¹⁷ As such, the United Nations Committee against Torture expressed its concern in this regard, referring to the “questionable judicial practices” to which the application of the law of 7 November 2005 leads.¹⁸ From the French point of view, such practices are directly contrary to the principle of the individualisation of sentences enshrined by the Constitutional Council.¹⁹

10. Human Rights Watch, “Iraq: Appeals Courts Ignoring Torture Claims”, 25 September 2019: www.hrw.org/news/2019/09/25/iraq-appeals-courts-ignoring-torture-claims.

11. Committee against Torture, *Concluding observations on the initial report of Iraq*, 7 September 2015, CAT/C/IRQ/CO/1, para 23.

12. See *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, 9 August 2012, A/67/275; *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings*, A/HRC/35/23, 6 June 2017, para 32. See also UN News, “Egypt: UN experts condemn executions of nine men after ‘confessions under torture’”, 25 February 2019: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24204&LangID=E.

13. Article 2 para 3 of the 2005 Iraqi Law, loose translation.

14. Article 4 para 2, *ibid*.

15. Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, 2017, pp. 29-30.

16. In this sense, see Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq*, A/HRC/38/44/Add.1, 20 June 2018, paras 46-49.

17. Article 5 of the 2005 Iraqi Law, *op. cit*.

18. Committee against Torture, *Concluding observations on the initial report of Iraq*, *op. cit.*, para 23

19. See Constitutional Council, *Decision No. 2005-520 DC of 22 July 2005*.

Death penalty in contradiction with France's legal commitments and values

The death penalty is contrary to the right to life, guaranteed by Article 6 of the ICCPR²⁰ and Article 2 of the ECHR, and in itself constitutes inhuman and degrading treatment under Article 3 of the Convention.²¹ France is also a party to the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty, as well as to Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances.

In the absence of effective measures taken to prevent death sentences and to repatriate French citizens, the CNCDH questions the obligations of the French State arising from its international and European commitments to prohibit the death penalty. This position is all the more paradoxical given that, since the abolition of capital punishment in 1981, France has clearly and unambiguously displayed its commitment to its abolition worldwide, at international forums and in the framework of French foreign policy. In December 2018, when an international human rights strategy was announced, the Minister for Europe and Foreign Affairs, Jean-Yves Le Drian, emphasised his “*renewed support for the universal abolition of the death penalty*”.²² The fact that France's decisions are not exemplary with regard to its nationals sentenced to death in Iraq is likely to delegitimise or even render inaudible, in the future, any political and diplomatic steps taken in the name of France to advance the abolitionist cause worldwide.

In accordance with France's international commitments, the CNCDH recalls that an abolitionist State committed to upholding the prohibition of the death penalty must apply this obligation “*universally, including to its nationals abroad*”²³ and must protect any person, and a fortiori its nationals, facing the death penalty abroad in all circumstances, regardless of the seriousness of the crimes, including for terrorist acts.

Moreover, France has, on several occasions, pledged to provide technical assistance to Iraq with a view to abolishing the death penalty.²⁴ During the Universal Periodic Review (UPR) of Iraq carried out in 2014 by the United Nations Human Rights Council, France expressly recommended that the Iraqi authorities “*establish a moratorium on the death penalty with a view to its abolition*”.²⁵ The situation is all the more alarming today given that Iraq is one

20. Human Rights Committee, General comment No. 36 on the right to life, CCPR/C/GC/36.

21. ECHR, *Al-Saadoon and Mufdhi v. the United Kingdom*, Fourth Section, 2 March 2010, Application No. 61498/08.

22. See www.diplomatie.gouv.fr/fr/politique-etrangere-de-la-france/droits-de-l-homme/actualites-et-evenements-sur-le-theme-des-droits-de-l-homme/actualites-2018-sur-le-theme-des-droits-de-l-homme/article/droits-de-l-homme-strategie-internationale-de-la-france-10-12-18.

23. Human Rights Council, *Application of the death penalty to foreign nationals and the provision of consular assistance by the home State*, 20 August 2019, A/74/318, para 108.

24. Ensemble contre la peine de mort, *20 questions to better understand the situation of the French citizens sentenced to death in Iraq*, pp. 11-12.

25. Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Iraq*, 12 December 2014, A/HRC/28/14, para 127.109.

of the five States in the world that execute the largest number of people on death row,²⁶ the majority of them for acts of terrorism.²⁷

Insufficient French consular protection

The State of origin, in the exercise of consular assistance, has a primary role in defending the rights of its nationals before the authorities of the prosecuting State.²⁸ According to article 36 of the 1963 Vienna Convention on Consular Relations, ratified by Iraq and France, foreign nationals are entitled to consular assistance when they are prosecuted outside their territory of origin. This is an individual right,²⁹ guaranteeing at least a fair trial³⁰ and constituting “an important aspect of the protection of those facing the death penalty”.³¹ As such, Iraq has an obligation to inform detainees of this right and France has an obligation to provide this assistance with a view to exercising it. In other words, the authorities of the prosecuting State must, without delay, notify foreign detainees of their right to inform their consulate of their detention and to communicate with their consular representative.³²

According to the French authorities, all appropriate measures are taken to provide consular protection to nationals facing the death penalty abroad. Regarding persons sentenced to death in Iraq in May and June 2019, prison visits were carried out until the end of July 2019. An embassy official attended all the trials, sometimes providing the accused with an interpreter and ensuring the presence of a lawyer. However, it appears that the presence of consular officials has no influence on the fairness of trials.³³ In addition, since July 2019, requests for visits concerning French nationals transferred to Al Rusafa prison have not received a positive response for several months. While a consular visit finally took place on 17 December 2019, the families of the detainees continue to be concerned about

26. Amnesty International, *Death Sentences and Executions 2018, 2019*: www.amnesty.org/download/Documents/ACT5098702019ENGLISH.PDF.

27. United Nations Assistance Mission for Iraq, Office of the United Nations High Commissioner for Human Rights, *Report on the Death Penalty in Iraq*, October 2014, p. 26.

28. See the opinion of the Inter-American Court of Human Rights, *The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law*, 1 October 1999, para 80.

29. See cases of the International Court of Justice: *Avena and Other Mexican Nationals (Mexico v. United States of America)*, 31 March 2004; *LaGrand (Germany v. United States of America)*, 27 June 2001.

30. Human Rights Council, *Application of the death penalty to foreign nationals and the provision of consular assistance by the home State*, *op. cit.*, para 22.

31. Yearly supplement of the Secretary-General to his quinquennial report on capital punishment, 2 August 2017, A/HRC/36/26, para 23. See also in this sense, Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, 7 August 2015, A/70/304, para 92.

32. The authorities of the prosecuting State must also inform the consulate of this detention without delay, facilitate the communication of the detainee with consular services and allow consular officials to visit the detainee.

33. Human Rights Council, *Application of the death penalty to foreign nationals and the provision of consular assistance by the home State*, *op. cit.*, para 50.

a serious lack of information on their conditions of detention and state of health.³⁴ Lastly, despite the steps taken by the French authorities, no effective and credible diplomatic guarantee has reportedly been provided by the Iraqi authorities to ensure that the French citizens sentenced to death are not executed.

In view of this observation, the CNCDH recommends that France take all appropriate measures without delay to obtain the commutation of death sentences already handed down, sufficient guarantees from the Iraqi authorities that other death sentences will not be handed down, authorisation for consular officials to exercise their right of visit, and the transfer of prisoners to France to serve their sentences there once they have been commuted.

French justice system competent with regard to the nature of the crimes committed and the victims' right to reparation

According to the French Government, prosecutions and convictions must be based on the territorial jurisdiction of Iraq; as such, during a visit to the country on 17 October 2019, the Minister for Europe and Foreign Affairs, Jean-Yves Le Drian, recalled that the trials of jihadists must be held in the areas where they went to fight.³⁵ However, while this jurisdiction is indisputable, it should not obscure the fact that active personal jurisdiction exists in French law, as in international law, which enables French criminal courts to deal with crimes committed by French nationals abroad.

Firstly, it would appear that most of the French nationals currently on death row fought in Syria and not in Iraq. According to information gathered from the lawyers interviewed by the CNCDH, more than half of them have never been on Iraqi territory. As a result, the territorial jurisdiction invoked by Iraq and supported by France is reportedly lacking, considering that the French courts are competent to judge these persons on the basis of active personal jurisdiction.³⁶ Moreover, French territorial jurisdiction could even be exercised over these acts prosecuted in Iraq if they are connected³⁷ or even indivisible with the planning of terrorist attacks committed in France,³⁸ and if the individuals involved are expressly the subject of an arrest warrant. It is also important to recall that the French legislative arsenal

34. Communiqué du Collectif des Familles Unies sur les conditions de détention des condamnés à mort français en Irak et les risques d'exécution, 23 January 2020: www.famillesunies.fr/2020/01/23/communique-du-collectif-des-familles-unies-sur-les-conditions-de-detention-des-condamnes-a-mort-francais-en-irak-et-les-risques-dexecution/.

35. *Franceinfo*, "Jihadistes étrangers en Syrie : Jean-Yves Le Drian entame des pourparlers avec Bagdad", 17 October 2019: www.francetvinfo.fr/monde/proche-orient/offensive-jihadiste-en-irak/jihadistes-etrangers-en-syrie-jean-yves-le-drian-entame-des-pourparlers-avec-bagdad_3663447.html.

36. See article 113-6 of the Penal Code.

37. See article 203 of the Code of Criminal Procedure.

38. Some of the offences began in France, which could be the basis for France's territorial jurisdiction, 10 questions for a better understanding of the situation of French citizens sentenced to death in Iraq, *op. cit.*, p. 16.

contains all the substantive provisions allowing the trial of persons suspected of jihadism who have travelled to Syria to join ISIS.

Secondly, Iraqi judges rely exclusively on the 2005 law, which contains no reference to the offence of crimes against humanity.³⁹ However, several United Nations fact-finding missions have provided credible information that terrorist groups have committed crimes against humanity and even genocide in Iraq and Syria.⁴⁰ In the face of the commission of such acts, to reduce the charges to merely belonging to a terrorist group is to obscure the seriousness of the international crimes committed by IS. Moreover, the trials in Iraq de facto exclude any participation of victims and the death sentences of French nationals, as the Association française des victimes du terrorisme (AfVT – French Association of Victims of Terrorism) points out, will not “[allow] *our societies and victims of terrorism to understand the reasons for their departure and the ramifications of their organisation.*”⁴¹ In so doing, victims and their families are deprived not only of their right to reparation for the damage suffered, but also of their right to the truth about the gross human rights violations perpetrated.⁴² This is why the CNCDH considers that, in law and in opportunity, referral to the French justice system, which has jurisdiction over both terrorist acts and crimes against humanity, should be preferred to that of the Iraqi justice system.⁴³

Thirdly, Security Council resolutions on the fight against terrorism require Member States to bring to justice, in accordance with their international obligations, all persons suspected of committing or financing terrorist acts.⁴⁴ As noted by the coordinating magistrate of the

39. The Iraqi government has even requested the assistance of the international community “to ensure that members of ISIL (Da’esh) are held accountable for their crimes in Iraq, including where those may amount to crimes against humanity”, Security Council Resolution 2379 (2017) adopted on 21 September 2017, S/RES/2379 (2017), para 6 of the preamble.

40. The Commission of Inquiry on Syria has issued several detailed reports on the possible commission of international crimes in Syria, see www.ohchr.org/en/hrbodies/hrc/iicisyrria/pages/independentinternationalcommission.aspx. See also Human Rights Council, Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups, A/HRC/28/18, 27 March 2015.

41. AfVT, “L’AfVT s’oppose aux condamnations à mort de 4 citoyens français pour appartenance au groupe État Islamique en Irak”, 28 May 2019: www.afvt.org/lafvt-soppose-aux-condamnations-a-mort-de-4-citoyens-francais-pour-appartenance-au-groupe-etat-islamique-en-irak/.

42. According to the United Nations High Commissioner for Human Rights, the right to the truth is “an *inalienable and autonomous right, linked to the duty and obligation of the State to protect and guarantee human rights, to conduct effective investigations and to guarantee effective remedy and reparations*”, Report of the Office of the United Nations High Commissioner for Human Rights, Study on the right to the truth, E/CN.4/2006/91, 8 February 2006.

43. See the position of Agnès Callamard, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq, 20 June 2018, A/HRC/38/44/Add.1, § 48 “ISIL fighters have perpetrated serious and systematic human rights violations, including war crimes, crimes against humanity and possibly genocide in the territories it controlled and beyond. The investigation and prosecution of these crimes require an appropriate legal framework. The Special Rapporteur does not believe that the Anti-Terrorism Law was designed to respond to such international crimes.”

44. V. Security Council resolution 2396 (2017) adopted on 21 December 2017, S/RES/2396 (2017), para 23.

anti-terrorism division of the Paris court, their repatriation is an issue of “long-term justice”⁴⁵ with a view to establishing criminal responsibility. The prosecution of these persons by the parquet national anti-terroriste (PNAT – national anti-terrorism prosecutor’s office), whose jurisdiction includes crimes against humanity and genocide, would allow the nature and extreme seriousness of the crimes committed to be taken into account by making it possible for victims to participate in the trial.

Lastly, recourse to this solution, which is fully justified by respect for fundamental rights, is also justified on security grounds. Indeed, the situation in the region of the Middle East in question is as volatile as it is worrying, as shown by the worsening violence in Iraq. It has also deteriorated following the Turkish military offensive launched on 9 October 2019 against the Kurds in north-eastern Syria. As a result, alleged jihadists have escaped from camps and prisons and riots have broken out in some camps, including Al-Hol, where more than 12,000 foreign women and children are being held. This situation is even more worrying since Abu Bakr Al Baghdadi broadcast an audio message on 16 September 2019 calling on his fellow fighters to come to the rescue of jihadists detained in prisons or held in camps in Syria and Iraq.⁴⁶

This risk of detained jihadists regaining their freedom and committing further acts of terrorism must be taken all the more seriously as none of the entities involved – Iraqi, Syrian, Kurdish or Turkish – has expressed a desire to keep and try alleged jihadists from foreign States on its territory.

In this context, it would be highly preferable for France, abandoning its questionable doctrine of having its nationals tried “*as close as possible to the place where they committed the crimes*”, to schedule their return in an orderly manner to be tried on its territory rather than having to be forced to return at a later date under conditions that would then be much more difficult.

45. *Le Monde*, “Il faut juger en France les djihadistes français”, 20 November 2019: www.lemonde.fr/idees/article/2019/11/20/juger-en-france-les-djihadistes-francais_6019873_3232.html.

46. *Le Monde*, “Abou Bakr Al-Baghdadi appelle à “sauver” les djihadistes détenus et leurs familles”, 16 September 2019: www.lemonde.fr/international/article/2019/09/16/abou-bakr-al-baghdadi-appelle-a-sauver-les-djihadistes-detenus-et-leurs-familles_5511143_3210.html.

In conclusion, the CNCDH considers that, for reasons relating both to respect for the law and to security, France must give priority to the return of its nationals, suspected to be jihadists or sentenced to death by the Iraqi courts, by way of extradition⁴⁷ in the case of the former or transfer in the case of the latter. This recommendation is justified, first of all, by a body of knowledge on the detention conditions and trial of these persons, such as the unfairness of trials, the death sentence, and the practice of torture and ill-treatment. Moreover, it is based on France's values and international commitments, which are also undermined by the lack of respect for the principle of non-transfer to a country that practises torture and the death penalty and by the difficulties in providing effective consular protection for persons deprived of their liberty. It is reinforced by the full jurisdiction of the French courts to try such persons for all crimes, whatever their nature and gravity. Added to this is the essential consideration of a security imperative for the Middle East as well as for France and Europe and even the whole world.

47. It is recalled that extradition and transfer procedures may be implemented even in the absence of a convention between the States concerned, as is the case between France and Iraq.

Created in 1947 at the instigation of René Cassin, **the National Consultative Commission on Human Rights (CNCDH) is the French national institution responsible for promoting and protecting human rights with level 'A' accreditation from the United Nations.**

The CNCDH performs a three-pronged role that involves the following:

- enlightening the public decision-making process with regards to human rights;
- monitoring the effectiveness in France of rights protected by international human rights conventions;
- overseeing France's implementation of recommendations made by international committees.

The CNCDH is independent and operates based on the principle of the pluralism of ideas. This being the case, as the only institution that maintains continuous dialogue between civil society and French experts in the field of human rights, the Committee comprises 64 qualified individuals and representatives of non-governmental organisations with their roots in civil society.

The CNCDH has been an independent National Rapporteur on the fight against all forms of racism since 1990, on the fight against the trafficking and exploitation of human beings since 2014, on the fight against homophobia since 2018.

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