



التحالف للتعويضات العادلة
Coalition for Just Reparations
هاو په یمانې بۆ قهره بوو کړدنوه ی داد پوره رانه

COALITION FOR JUST REPARATIONS (C4JR)

Key Recommendations to the Iraqi Council of Ministers for Implementing Regulations of the Yazidi [Female] Survivors Law

Introduction

On March 1, 2021, the Iraqi Council of Representatives passed the Yazidi [Female] Survivors Law (YSL). This law, based on the initial bill submitted by the Iraqi presidency in March 2019, will deliver long-awaited relief to Yazidi women and other survivors who belong to communities targeted by the self-declared Islamic State of Iraq and the Levant (ISIL).

The Coalition for Just Reparations (C4JR), an alliance of 31 Iraqi non-governmental organizations (NGOs) calling for comprehensive reparations for civilian victims of atrocity crimes perpetrated during the ISIL conflict in Iraq, took the lead in reviving the public debate on reparations and improving the initial bill. The main aim of C4JR was to include, to the greatest extent possible, international standards and promote survivor-friendly solutions. The final outcome provides a sound basis for the important work ahead: repairing the harm done to survivors of ISIL crimes in Iraq. Moreover, in many respects it even sets a milestone, not only for the Middle East, for holistic reparations for atrocity crimes survivors.

Important work lies ahead. Regulations that are to be issued by the Council of Ministers within 90 days from the publication of YSL in the Official Gazette on March 15 must lay the groundwork for effective implementation. Thus, forthcoming regulations are crucial for ensuring that reparative measures reach their intended beneficiaries without undue delay.

Many procedural issues that are vital for the YSL's proper implementation (i.e., evidentiary standard for verifying survivors' claims, necessary documents, etc.) remain unclear. Also, building up know-how and infrastructure in the areas still ravaged by war represents a huge challenge. This includes opening outreach offices to receive claims as well as health centers to provide mental health and psychosocial support and medical services. Authorities should draw on expertise Iraqi NGOs accumulated over the years in supporting survivors through provision of a range of services. In line with the survivor-centered approach, survivors' rights, needs, and wishes must drive all of YSL implementation efforts.

C4JR has made use of the knowledge of its members to provide recommendations that will contribute to developing effective regulations. In doing so, C4JR carried out an internal consultation process to set priorities and gather feedback from member NGOs.

The recommendations set forth herein are not a comprehensive document but a set of key proposals of specific language to be used in the forthcoming regulations. These proposals are based on experience of C4JR members in working with ISIL survivors, best international practices in the field, and relevant human rights standards.



التحالف للتعويضات العادلة

Coalition for Just Reparations

هاوپه یمانی بۆ قهره بووکردنه وهی دادپهروهرانه

Summary of Key Recommendations

YSL, passed on March 1, 2021, provides a sound basis for repairing the harm done to survivors of ISIL crimes in Iraq. Implementing regulations, that are to be issued by mid-June 2021, should lay the groundwork for effective implementation. By issuing such regulations in due time, Iraqi officials will send a strong signal to the survivors and the world that they remain committed to repairing the harm inflicted by ISIL. C4JR, therefore, respectfully urges Iraqi Council of Ministers together with the Ministry of Labor and Social Affairs to show leadership and issue effective and survivor-centered implementing regulations. The following text highlights key recommendations elaborated below in more detail.

When developing forthcoming regulations, the survivor-centered approach should be front and center. This would entail abiding by the principle of do no harm, upholding confidentiality of survivors, and prioritizing their safety, well-being, and dignity. A code of conduct and mechanism of its enforcement, detailing concrete obligations for all those working with survivors, should be established. Set up a comprehensive training program for all those participating in the application and review procedures and delivery of services. When determining the monthly salary of survivors, vulnerability of the person should be postulated as the main evaluative criterion. Clarify that those subjected to ISIL crimes before August 3, 2014, and continued to suffer the same violations at least until August 3, 2014, are eligible to receive reparations. Adopt a holistic understanding of rehabilitation that encompasses a range of specialized services for the survivors and their families. Envisage regular consultations with survivors to receive their feedback and adapt practices accordingly. Create fair, effective, and survivor-friendly application and verification procedures. Conduct interviews with survivors only if no other supporting data is available or upon their request. Create safeguards to avoid stigmatization and re-traumatization of survivors during outreach, application, review, and delivery of services. Ensure that claims are evaluated against a relaxed evidentiary standard, not amounting to legal standard of evidence under civil or criminal law. Once survivors can establish some veracity to their claims, a presumption of eligibility should arise shifting the burden of proof to the Committee. Create avenues to ensure that survivors residing outside Iraq can effectively realize their right to reparations. Make clear that there is no statute of limitations for submitting reparations claims and delivering benefits under the Law. Delineate effective modes of cooperation with national and international organizations. C4JR recommends considering the recommendations as a whole.



التحالف للتعويضات العادلة
Coalition for Just Reparations
هاوپه یمانی بۆ قهره بووکردنه وهی دادپهروهرانه

1. Survivor-centered approach

The Committee, the General Directorate, all other government institutions and officials, partner NGOs, and other actors and persons participating in the proceedings and delivery of services shall at all times adhere to the guiding principles of the survivor-centered approach. This would entail abiding by the principle of do no harm, strictly preserving and upholding confidentiality of survivors, and prioritizing their safety, well-being, and dignity.

Following the survivor-centered approach will necessarily entail the following elements:

1.1. Identity protection and data confidentiality

The personal data, private life, and identity of the survivor eligible to claim benefits under the Law shall be protected.

The Committee, the General Directorate, all other government institutions and officials, partner NGOs, and other actors and persons participating in the proceedings and delivery of services or otherwise learning about the facts related to the proceedings have a legal and ethical obligation to protect the survivor's identity, conduct the proceedings with the exclusion of the public, and ensure the confidentiality of all collected data on the survivor. They shall be responsible for keeping an official secret and be held liable in accordance with the provisions of the Criminal Code on disclosing information without prior authorization and consent of the survivor.

All files that are not public shall be strictly kept out of unauthorized access.

The Committee shall create an electronic platform, as stipulated in Article 10(4) of the Law, to receive and consider applications of survivors.-The survivors shall be notified about this and be ensured of the complete confidentiality of these data.

1.2. Right of the survivor to be informed

The survivor must be fully informed about her/his rights, procedures, persons involved in the application and review process, limitations and necessary criteria for application. The survivor shall be provided with credible information at all times.

The survivors shall be offered an opportunity to pose questions to the Committee, General Directorate, and partner NGOs, and to anonymously receive information about the application procedures.

The Committee shall approve a frequently asked questions and answers manual pertaining to this process and disseminate it widely among survivors.

A toll-free telephone number shall be made available to all interested persons who wish to inquire about eligibility, criteria, application procedures, pending applications and other issues pertaining to the Law.



التحالف للتعويضات العادلة

Coalition for Just Reparations

هاوپه يمانى بۆ قهره بوو كوردنوهى دادپهروهرانه

During the awareness-raising, community outreach, consultations activities, application and review procedures, and delivery of services, the survivors shall be ensured privacy and briefed on the course of the application procedures, and informed that the application and verification procedure is conducted with the exclusion of the public.

Survivors shall also be informed that all information and circumstances stated during the proceedings as well as their identity will be kept secret and used only for the purpose of exercising the rights set forth in the Law and reporting atrocity crimes or perpetrators to the competent authorities when there is a need or obligation to do so.

All information stipulated in paragraphs 1-6 of this Article must be made available in languages and forms accessible to survivors, while taking into consideration the role played by stigmatization and fear in applying for reparations.

1.3. Informed consent

Full and informed consent shall be obtained when requesting information from a survivor for the purpose of exercising the rights from the Law.

Additional consent from the survivor shall be obtained if any portion of the engagement exceeds the scope of activities necessary for realizing rights under this Law, or information will be shared with any entity other than that established under this Law, including but not limited to, consultations with survivors, media involvement, publication or referral to support services.

In the case of an individual, adult or child, who is not capable of giving informed consent, the permission of a legally authorized representative in accordance with applicable law must be sought and obtained in order to satisfy the principle of informed consent.

1.4. Principle of do no harm

Members of the Committee, staff of the General Directorate, other government institutions and officials, NGOs, and other persons participating in the proceedings in the course of registering applications, collecting documentation, conducting interviews, and delivering specific forms of reparations envisaged under the Law must not place undue administrative and financial requirements on survivors.

They shall prevent, reduce, or respond to potential harm (including the risk of re-traumatization), and shall immediately disengage if harm cannot be prevented or appropriately mitigated.

1.5. Non-discrimination/No Hierarchy of Survivors

All survivors enumerated under the Law will be treated equally and shall not be differentiated during the community outreach activities, in the process of application, verification of claims, and delivery of services. Members of the Committee, staff of the General Directorate, partner NGOs, and other actors and persons shall abide by the above principles without discrimination against any



التحالف للتعويضات العادلة

Coalition for Just Reparations

هاوپه یمانی بۆ قهره بووکردنوهی دادپهروهرانه

survivor on any ground, such as gender, ethnicity, religion, sect, race, language, sexual orientation, gender identity, political opinion, social status, age, disability, or place of origin. The above-mentioned actors shall aim to foster a supportive environment in which all survivors feel safe, respected, and comfortable.

1.6. Declaration and Code of Conduct

Declaration on Protecting Confidentiality and Code of Conduct for Survivor-centered Engagement with Survivors will be put in place to ensure survivors are treated in line with the outlined components of the survivors-centered approach. The Declaration and the Code of Conduct will include identity protection and data confidentiality, right to be informed, obtaining informed consent, principle of do no harm and safeguards ensuring equal treatment with dignity and respect.

All Committee members, staff of the General Directorate, NGOs, and other persons participating in the proceedings and delivery of services must sign and adhere to the Declaration on Protecting Confidentiality and the Code of Conduct for Survivor-Centered Engagement with Survivors at all times.

Serious or persistent disregard of tenets set out in documents indicated in paragraph 1 of this Article shall lead to removal from the Committee/General Directorate/NGOs or revocation of authority.

General Directorate will regularly seek anonymous feedback from survivors and civil society on staff's compliance with the above-indicated Declaration and Code of Conduct. Results of such surveys will be forwarded to the Director General, Committee Chair, and made available to the public in languages and forms accessible to survivors.

1.7. Consultations with survivors

The General Directorate shall engage in continuous and effective consultations with survivors to receive their feedback on implementation, especially regarding Article 8 of the Law, and adapt practices accordingly. These consultations will be conducted at least once per year and in line with methodology ensuring safe and ethical interaction with survivors. Informed written consent shall be obtained from all survivors, prior to any consultations.

1.8. Training of the Committee members, staff of the General Directorate and partner NGOs

After appointment, Committee members as well as staff of the General Directorate and partner NGOs and other persons participating in the proceedings and delivery of services, shall undergo mandatory trainings in relation to the:

- Basic trauma understanding and awareness, including recognizing signs of trauma and distress, psychological first aid and the trauma-informed approach to mitigate the risk of re-traumatization arising from engagement with survivors;



التحالف للتعويضات العادلة

Coalition for Just Reparations

هاو په یمانې بۆ قهره بوو کړدنوه ی داد په روه رانه

- Informed consent, do no harm principle, confidentiality, protection of privacy, and the best interest of the child principle in relation to girls and boys;
- Capture, storage, management, confidentiality and disclosure of information, as per national legislation and best international practices;
- Awareness about wartime sexual violence-related stigma and stigma sensitization; associated physical, mental, social, and economic harms suffered by different survivors, including survivors of different ages, national, ethnic, and religious backgrounds, and mental and physical abilities;
- Legislative framework, application form, standard operating procedures, and Code of Conduct for Survivor-centered Engagement with Survivors;
- Self-care techniques to reduce vicarious trauma, including training on signs and symptoms of secondary trauma, support protocols, and safe working methods.

All the persons under paragraph 1 of this Article are obliged to participate in the trainings. Non-participation in these trainings shall lead to removal from the Committee/General Directorate/NGOs or revocation of authority.

1.9. Psychosocial support

Regular supervision sessions shall be held for the progress and realization of the work duties for the Committee members and the relevant staff of the General Directorate and partner NGOs. Mental health professionals will be engaged by the General Directorate in order to hold these sessions.

2. Clarification of eligibility and benefits

2.1. Persons eligible to receive benefits

The following survivors are eligible to receive benefits and services envisaged in the Law:

- Yezidi female survivors (women, girls)
- Christian female survivors (women, girls)
- Turkmen female survivors (women, girls)
- Shabak female survivors (women, girls)
- Yezidi male and female child survivors (under age 18 at the time of abduction)
- Yezidi male and female survivors, both children and adults, of mass killings and eliminations
- Christian male and female survivors, both children and adults, of mass killings and eliminations
- Turkmen male and female survivors, both children and adults, of mass killings and eliminations
- Shabak male and female survivors, both children and adults, of mass killings and eliminations



التحالف للتعويضات العادلة
Coalition for Just Reparations
هاو په یمانې بۆ قهره بوو کوردنوهی دادپهروهرانه

All Yazidi, Turkmen, Christian, and Shabak female survivors who endured violations indicated in the Article 2(1) of the Law prior to August 3, 2014, and continued to suffer the same violations at least until August 3, 2014, are eligible to receive reparations under the Law.

To facilitate the healing process and upon approval of the General Directorate, family members of survivors whose claims have been verified by the Committee shall have access to rehabilitation services indicated below.

All individual survivors belonging to groups indicated in the Law (Yazidi, Turkmen, Christian, and Shabak, male and female, and Yazidi children) are eligible to receive all forms of reparations indicated in the Law.

All individual survivors belonging to groups indicated in the Law (Yazidi, Turkmen, Christian, and Shabak, male and female, and Yazidi children) will receive at least the minimum monthly salary specified in Article 6(2) of the Law.

Particularly vulnerable survivors will receive a monthly salary in an amount beyond the minimum specified in Article 6(2) of the Law.

2.2. Determining the amount of monthly salary

In addition to reviewing claims and verifying their validity, the Committee will determine the amount of monthly salary referred to in Article 6(1) of the Law by using current social, economic, and/or physical vulnerability criteria. These criteria will include but not be limited to: number of dependents, disability, and single female-headed households.

2.3. Rehabilitation of survivors

In addition to medical and psychological services, rehabilitation of survivors indicated in Article 4(2) of the Law shall encompass a range of specialized services to mitigate, to the greatest extent possible, the consequences of endured traumas thus enabling the survivors to lead a dignified life. Survivors and, where necessary, their family members will have temporally unlimited and free of charge access to at least the following services in line with best international practices:

- a) Mental Health and Psychosocial Support (MHPSS)** provided through individual, family, and group therapy sessions, as well as other culturally sensitive and appropriate techniques;
- b) Medical services** including comprehensive health services and particularly sexual and reproductive health services, necessary for treating physical after effects of wartime sexual violence. These services will be provided in a non-discriminatory manner, residentially and through referrals to specialists. The consistent supply of necessary medications shall be ensured.
- c) Legal aid services** that encompass assistance with legal issues stemming from or arising out of an individual's status as a survivor including, but not limited to, legal action to obtain civil



التحالف للتعويضات العادلة

Coalition for Just Reparations

هاو په یمانې بۆ قهره بوو کړدنوه ی دادپه روه رانه

documentation, welfare benefits, and participation in criminal proceedings against alleged perpetrators.

e) Livelihood programs including offering vocational trainings for securing and retaining suitable employment and income-generating work.

f) Family counselling providing professional guidance on how to advance physical and psychological well-being of survivors, including by strengthening and reestablishing family ties severed or damaged by wartime sexual violence and other crimes stipulated in the Law;

g) Community-oriented programs to support reintegration of survivors of wartime sexual violence and other crimes stipulated in the Law. These programs should strengthen social support networks (including but not limited to friends, neighbors, community, and religious groups), by fostering understanding for survivors, combating stigma, and cautioning against harmful and discriminatory traditional practices.

To ensure survivors have access to rehabilitative services in the vicinity of their residence and that these services are provided in conformity with international standards and best practices, an assessment will be conducted to determine what services are already available, their quality, and what new services need to be established.

3. Create accessible application procedures

3.1. Application form

Committee and General Directorate will develop a simple and clear application form to collect and process data from survivors applying for services. The informed consent form will be an integral part of the application form. Before wider dissemination of application forms, a test phase will be carried out to ensure that forms and planned procedures are optimal and will facilitate an effective and fair process.

3.2. Application/Registration procedure

Applications for reparations under the Law may be submitted orally or in written form. The Committee shall create a secure and user-friendly electronic platform, as stipulated in Article 10(4) of the Law, to receive and consider applications of survivors from inside and outside Iraq detailing all the relevant facts related to these cases. Upon submission of an application, in-person or online, the Committee shall provide the survivor a unique tracking number for monitoring the status of the application.

General Directorate will dispatch mobile teams of registrars to areas with high numbers of survivors and camps to register oral claims.



التحالف للتعويضات العادلة

Coalition for Just Reparations

هاو په یمانې بۆ قهره بوو کوردنه وهی دادپهروهرانه

Written applications can be made to the General Directorate/Committee/sub-offices directly and also be received via proxy, an online application portal or through Iraqi embassies and consulates to ensure refugee survivors can also access the application process.

Before resorting to further documentation through interviews, General Directorate and Committee shall make use of existing sources of information in preparing statistical data and for verification of claims. The Committee may, to that end, enter into memoranda of understanding with governmental, non-governmental and international organizations that are deemed credible in their documentation processes. Statements previously given to these bodies and shared as per the survivor's informed consent will suffice in lieu of an interview before the Committee and constitute adequate documentation of the claim.

Committee will establish a database/repository of all available evidence on relevant crimes committed during the ISIL conflict in Iraq. Diverse sources of information such as statements, reports, and other information collected by governmental, non-governmental, and international actors will be cross-referenced to map out patterns and locations of violations and facilitate the review process of pending applications.

4. Create fair and effective verification procedures

4.1. Verification procedure

The Committee shall have primary burden of proof in verifying survivors' claims. After it has been established that a survivor was present at the atrocity site at a time when the crime was perpetrated and provided that personal statement reveals patterns of sexual and other violence committed by ISIL, an eligibility presumption will arise, thus shifting the burden to the Committee to prove otherwise.

Claims shall not be held up to a legal burden of proof under civil or criminal law. Documentation of the claim shall suffice

In the course of the application procedure and verifying survivors' claims, medical or any other procedures amounting to inhuman or degrading treatment or otherwise stigmatizing for survivors shall not be requested or admitted.

Any government-issued civil documentation such as national ID card, ration card, passport, birth certificate or marriage certificate will suffice for proper identification.

4.2. Interview

Considering the existing documentation of survivors and the risk of re-traumatization, an interview referred to in Article 10(4) of the Law will be conducted only if no other documentary or other forms of written or oral supporting data is available or upon voluntary request by the survivor to be heard by the Committee.



التحالف للتعويضات العادلة

Coalition for Just Reparations

هاوويه يمانى بؤ قهره بوو كوردنوهى دادپهروهرانه

Each Committee member, when conducting an interview with a survivor, shall act with consideration, taking into account the survivor's age and physical and mental condition, recognizing her/his traumatic experience, establishing a relationship of trust and building rapport. Special consideration will be accorded to the interview's length, use of appropriate terminology understandable to the interviewee, as well as her/his other needs.

During the interview, Committee members and other involved persons shall avoid appearing (either through verbal or nonverbal communication) to be judging the survivor, disapproving of her/his conduct, or disbelieving the information provided.

At the request of the survivor, an interpreter to a language of her/his choice or a sign language will be provided. Survivors' preferences concerning the interpreter's gender shall be accommodated to the greatest extent possible.

An interview may be conducted either in-person or virtually (through secure video conferencing application), in accordance with survivors' preferences. Creating a video or audio recording of an interview is strictly forbidden.

A survivor is not obliged to answer questions that relate to her/his strictly personal life and which are not important for establishing the facts in the proceedings.

A system for providing psychological first aid and urgent medical assistance to survivors during and immediately after interviews will be established.

When inviting survivors to appear before the Committee, best effort shall be made to ensure survivors are comfortable with arrangements concerning logistics, including timing, location, accommodation, travel, meals and childcare, if applicable. Other relevant support services shall also be made available.

4.3. Accompaniment

When the applicant appears before the Committee for an interview, he/she is entitled to the accompaniment of any person of her/his choosing (except when the Committee ascertains that the presence of such person might breach the process).

The accompanying person is neither allowed to speak with the applicant nor address the Committee on behalf of the applicant. The purpose of her/his presence is to provide psychosocial support to the applicant when the latter so requests. The accompanying person shall be requested in advance to sign the Declaration on protecting confidentiality.

4.4. Admissible documentation

In addition to the filled-in form, statements and other documentation collected by entities (governmental, non-governmental and international organizations) deemed credible in their documentation processes for criminal-justice purposes, the applicant may attach any document



التحالف للتعويضات العادلة
Coalition for Just Reparations
هاو په یمانې بۆ قهره بوو کړدنوه ی دادپهروهرانه

which he/she considers to be relevant for the review and verification of the their case, including, but not limited to:

- Mental health records;
- Medical records;
- Witness statements;
- Other unofficial documents such as photographs, instant communication logs, or letters from CSOs.

5. Create effective and fair mechanisms for distribution of benefits

5.1. Personal reparation plan

After eligibility of the applicant has been verified by the Committee, the General Directorate will appoint a reparations officer to conduct an individual assessment of each survivor's case in order to match her/his preferences with specific reparation measures envisaged in the Law.

Pending appeal proceeding before the Committee or the first instance court solely on the issue of the amount of salary awarded will not prevent the General Directorate to proceed with drawing up personal reparations plan and facilitating access to agreed reparation measures, other than monthly salary.

6. No statute of limitations

There is no statute of limitations for reparation claims under the Law. Provision of reparation benefits under the Law are not subject to any temporal limits.

7. Set up structures to realize benefits

Outreach activities, registration and verification of claims and distribution of benefits shall be financed by the state at no cost to survivors. In doing so, state authorities may cooperate with international and national NGOs.

Committee, General Directorate and its regional branches and rehabilitation centers shall be established to facilitate registration and verification of claims and distribution of benefits. Prior to establishing such institutions, assessment of the number of potential beneficiaries of the Law in and outside Iraq, their current residence, costs of each benefit and operational expenses will be conducted. Such assessment will be used in producing a cost analysis, viable financial plan and identifying optimal locations for setting up branch offices of the General Directorate, rehabilitation centers and infrastructure necessary for delivering benefits envisaged in the Law.

7.1. Cooperation with national and international organizations

In the course of implementing the Law, MoLSA, General Directorate, Committee and other officials shall cooperate with local and international bodies and institutions. This cooperation may



التحالف للتعويضات العادلة

Coalition for Just Reparations

هاو په یمانې بۆ قهره بوو کړدنو هې داد پهر وهرانه

include exchange of information, capacity building, transfer of know-how, provision of services and sociological research estimating expected number of survivors eligible to receive benefits under the Law.

The General Directorate, in cooperation with MoLSA and upon consultations with survivors, civil society and international organizations, shall prepare the Declaration on Protecting Confidentiality and Code of Conduct for Survivor-centered Engagement with Survivors, training modules and methodology for conducting consultations with survivors.