

# Iraqi Civil Society and Survivor Networks Position on the Request of Iraq to Terminate UNITAD's Mandate in September 2024

*"Once UNITAD is out of Iraq, what will happen to us? Will ISIL members be held accountable? Many of us survivors provided the Iraqi Government with names of ISIL members and testified, but the Iraqi Government did nothing to support us or hold them accountable. The presence of UNITAD gave us, the victims and families of victims, hope. However, the Iraqi Government is now ending this hope. We have no trust whatsoever in the Iraqi Government to continue this process by itself."*

Yazidi Female Survivor<sup>1</sup>

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1 Online consultations conducted with survivors in December 2023.

## 1. Background

Following Iraq’s request to the UN Security Council (UNSC) to renew the mandate of the Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL (UNITAD) until September 2024 **only**, the UNSC requested:<sup>2</sup> (1) the UN Secretary-General (UNSG) to submit a report by 15 January 2024 setting out recommendations for implementing Iraq’s request to receive the evidence collected by UNITAD;<sup>3</sup> (2) UNITAD to present a completion roadmap by 15 March 2024; and (3) Iraq and UNITAD to determine the modalities for evidence sharing with third states.

We, the undersigned Iraqi and international civil society organisations as well as survivor networks working with the communities affected by the crimes carried out by ISIL in Iraq, believe it is essential that the United Nations as well as the Government of Iraq consult meaningfully with civil society and survivors directly affected before issuing recommendations and ways forward that will have major

implications for our communities. To that end, we came together and published a [statement](#) in September 2023 which was endorsed by 50 NGOs and survivor groups. The statement highlighted our concerns on the premature closing of UNITAD, and its large endorsement illustrated the consensus within civil society, despite representing different communities, areas of expertise and geographical locations. We then urgently prepared consultations, including [an in-person meeting in Iraq](#). We also regard essential that input be sought from survivors, and therefore actively consulted three networks: Hope Givers,<sup>4</sup> the Survivors’ Voices Network (SVN)<sup>5</sup> and the Yazidi Survivors Network (YSN)<sup>6</sup> as well as families of victims of the Speicher massacre committed by ISIL. Their input was incorporated into this report in the form of direct quotes so that their views are expressed fully and accurately.

The present document provides an overview of our main observations (section 2) and recommendations following these consultations (section 3).



*C4JR hold Consultations on Accountability Pathways and Sharing of Evidence Following Termination of UNITAD’s Mandate in Erbil on Nov 21st*

2 UNSC resolution [2697/2023](#).  
 3 The UN Secretary-General’s report was published on 19 January 2024 and is available [here](#). C4JR also issued a press release following the publication of the report: [UN Secretary-General Marks the Way Forward Towards Utilizing Evidence of ISIL crimes in Iraq](#).  
 4 Hope Givers is composed of male Yazidi survivors.  
 5 Survivors Voice Network (SVN) is composed of female Shabak and Yazidi survivors.  
 6 Yazidi Survivors Network (YSN) is composed of female Yazidi survivors and is supported by the NGO Yazda.

## 2. Observations

### 2.1. Expectations of survivors and Iraqi CSOs were raised

*“I experienced a significant shock upon hearing this news. The first question that came to my mind was what would happen to the investigations and evidence that UNITAD had gathered. Who would continue the work UNITAD had initiated?”*

Yazidi Female Survivor<sup>7</sup>

We, the members of C4JR and networks of survivors, were dismayed and disappointed to see the Iraqi Government’s request to end UNITAD’s mandate after September 2024. We supported the establishment of UNITAD in 2017 and have engaged through [the UNITAD-NGO Dialogue Forum](#). Some of us have also submitted information, including testimonies to UNITAD or have cooperated with it in different aspects of its work. UNITAD’s work has given hope to thousands of survivors across different communities and raised expectations that justice will result.

UNITAD was established at the request of the Iraqi Government, which called for the assistance of the international community to ensure that members of ISIL are held accountable for their crimes in Iraq, a goal we strongly share. This decision is creating confusion amongst civil society actors in relation to the motives for Iraqi Government request for UNITAD’s mandate closure. Whilst there may have been some divergences of expectations between UNITAD and the Iraqi Government, these can and should be addressed in the interests of achieving the common goal of justice, and urge that they are not allowed to get in the way of pursuing this goal in the best interests of survivors.

The C4JR is also gravely concerned at the negative signal closing down UNITAD will send to survivors and affected communities, who may feel neglected and may question the Iraqi Government’s commitment to justice and ac-

countability for atrocity crimes. Civil society is particularly concerned that neither the Security Council resolution and plan to close UNITAD early, nor next steps, have been communicated to survivors and affected communities.

### 2.2. Iraq is not ready to start prosecution of core international crimes for which the UNITAD collected evidence is intended

*“ISIL members are tried based on the [Iraqi Antiterrorism Law] and not according to [adequate laws]. The current law cannot cover the magnitude of crimes and genocide committed by ISIL. We need a more comprehensive law to achieve true justice.”*

Yazidi Male Survivor<sup>8</sup>

It was always envisaged that the primary intended recipient of the evidence UNITAD collects would be the relevant Iraqi authorities, to support domestic efforts to hold ISIL accountable; that UNITAD would operate with full respect for the sovereignty of Iraq and its jurisdiction over crimes committed in its territory and would work alongside Iraqi investigative judges and other criminal experts; and that upon conclusion of its mandate, arrangements would be agreed with the Iraqi Government regarding the custody of the evidence and materials it collected.<sup>9</sup> We support all these goals.

However, UNITAD was established to carry out a task that is far from completed. This includes: liaising and cooperating with States, regional and intergovernmental bodies, and the UN; to provide legal assistance and capacity building to the Government of Iraq in order to “strengthen its courts and judicial system”; to “help build capacity in investigations, prosecutions and the judiciary in Iraq” and to “assist the Government of Iraq in developing and implementing relevant legislation”.<sup>10</sup> In other words, UNITAD’s aim is to help prepare the relevant Iraqi authorities as well as authorities in third countries to investigate and prosecute ISIL crimes. We are hopeful that Iraq will enact legislation to criminalize atrocity crimes, including genocide, crimes against humanity and war crimes as also described in Iraq’s recent

<sup>7</sup> YSN, online consultations conducted in December 2023.

<sup>8</sup> Hope Givers, online consultations conducted in December 2023.

<sup>9</sup> UNSC Resolution 2379(2017), paragraphs 2 and 5, and UNITAD Terms of Reference, S/2018/118, available online [here](#), paragraph 10.

<sup>10</sup> UNITAD Terms of Reference, paragraphs 39 and 41.

communication to the UN Secretary-General,<sup>11</sup> but we are concerned that this process is taking too long and that even once such a law is passed, Iraq will need support to actually carry out prosecutions in a survivor-centered manner.

For the reasons set out below, we have serious concerns that Iraq is not yet fully ready to take on responsibilities to be handed over by UNITAD. This is illustrated by the fact that, almost ten years after ISIL attacks on Iraq, still no legislation has been adopted to criminalize international core crimes in Iraq. Furthermore, recent national prosecutions have solely been limited to membership of terrorist organization, which remain highly criticized by international observers and are not perceived as meaningful justice by survivors because they completely disregard the crimes committed against them and do not apply fair trial rights. Therefore, UNITAD's premature closure would have a significant impact on the prospects for meaningful accountability for ISIL's crimes.

### 2.3. Iraq has yet to comply with international law and UN principles<sup>12</sup>

***"[Without guarantees], we categorically refuse to share our name or the name of our organisation with any party other than UNITAD because we know that we will be subjected to persecution from the government as well as from tribes."***

Families of victims of the Speicher massacre<sup>13</sup>

As a consequence of Iraq's lack of preparedness, there is a possibility that if UNITAD is forced to close imminently it would not be able to hand over to Iraq much of the evidence

it has collected. This is because its Terms of Reference provide that evidence collected by UNITAD shall solely be for use in fair and independent criminal proceedings, consistent with applicable international law.<sup>14</sup> We note that Iraq has not yet aligned its law and practice with such standards and survivors' networks have expressed concerns about the evidence being politicised and used wrongly, especially to protect tribal interests.

Further, UNITAD may only share evidence in accordance with UN policies and best practices and relevant international law, including international human rights law, rules and standards, which would include respecting the confidentiality of the information, the consent expressed by sources and any protection concerns.<sup>15</sup> Indeed, UNITAD is explicitly required to seek to obtain the informed consent of witnesses and other sources to share evidence they have provided.<sup>16</sup> The applicability of these principles is confirmed both by the UN Secretary-General and UNITAD in the January 2024 report.<sup>17</sup> This may present a major obstacle to UNITAD in sharing evidence with Iraq, since witnesses and third parties who have shared information with UNITAD may not have explicitly consented to their information being shared with the Iraqi Government. As one survivor told us, *"I don't want the evidence I have given to UNITAD to be given to Iraq."*<sup>18</sup>

In this regard, millions spent by the international community on UNITAD's work to support accountability of ISIL in Iraq will largely go to waste and the impunity gap will remain if the evidence it has produced cannot be used for that purpose and is solely archived by the UN, a risk highlighted by the UN Secretary-General in his report.<sup>19</sup>

11 UNSC, [S/2024/53](#): Letter dated 28 December 2023 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General: *"The competent committee in the Office of the Prime Minister has completed a draft act on countering international crime. The draft was sent to the Council of State, which will review it and then return it to the Cabinet for a vote before it is sent to the Council of Representatives of Iraq for enactment."*

12 We have set out below what we consider Iraq needs to do to comply: see recommendation 1. See also Coalition for Just Reparations [Position Paper](#) on an ISIL Accountability Mechanism in Iraq.

13 Families of victims of Speicher massacre, online consultations of December 2023.

14 UNITAD Terms of Reference, paragraphs 7, 26, 28 and 45.

15 See for example Terms of Reference of the Independent Investigative Mechanism for Myanmar, UN General Assembly [A/73/716](#) of 21 January 2019, paragraph 20.

16 UNITAD Terms of Reference, paragraph 20.

17 The UN Secretary-General's report was published on 19 January 2024 and is available [here](#).

18 YSN, online consultations of December 2023.

19 See January UNSG 2024 report paragraph 22: *"In line with existing mandates and authorities, the materials of the Investigative Team would be transferred to the Secretariat for preservation as archives of the United Nations. The Secretariat would not be in a position to guarantee, within existing resources, that the evidence is preserved as active or "live" archives and in accordance with international criminal law standards. The Secretariat currently has no appropriate structure or capacity to manage and provide access to archives of digital evidence in accordance with such standards. Therefore, it is unlikely that the evidence of the Investigative Team would be accessible and that it could be used in the future for evidentiary purposes."* [emphasis added]. See also paragraph 33.

## 2.4. UNITAD has not completed its work:

***“UNITAD is really important here because a lot of evidence has not been collected yet. We want this evidence to be collected. Will Iraq do the same? There are many unresolved issues; we still have unexhumed mass graves, and there are numerous abducted individuals who, upon their return, will possess critical information. It raises the question of who will collect this evidence. Moreover, there are many witnesses with valuable information whose statements have not been taken yet.”***

Yazidi Female Survivor<sup>20</sup>

Iraqi civil society and survivors’ networks fear that in the absence of UNITAD or a similar body, there is a serious risk that some evidence will go uncollected; that investigations, including excavations and exhumations at mass grave sites will proceed more slowly and be of lower quality; and that Iraqi authorities will suffer from the lack of legal basis and institutional structures to pursue accountability effectively.

Only UNITAD itself is able to provide details on its progress towards achieving its mandate. However, we believe much important work remains to be done including at least the following:

- Completing structured investigations in line with UNITAD’s detailed implementation strategy, and publishing briefs that can be used to support prosecutions worldwide. *“The families of the Speicher victims are disturbed by the delay in supporting the Speicher case. We have not seen anything on the ground, but despite that, we need the presence of UNITAD to continue and to work in Iraq. For our part, we are ready to provide all the necessary information and evidence to UNITAD.”*<sup>21</sup>

- Building a roadmap for using the evidence it has collected, including securing a framework and pathways with prosecutors in Iraq and elsewhere to support prosecutions: *“We want a mixed court between Iraq and the international community. There are hundreds of courts now in Iraq and they are still not able to provide me with the justice I need. So another one created by Iraq alone will be as useless.”*<sup>22</sup>
- Many mass graves remain to be excavated and many crime scenes have yet to be documented: *“Day after day, we discover mass graves, and we do not know how many [are left]. UNITAD needs to work at least until all graves are exhumed, and remains are identified.”*<sup>23</sup>
- Much remains to be done to provide legal assistance and capacity building to strengthen Iraq’s courts and judicial system,<sup>24</sup> including to assist Iraq in developing and implementing legislation incorporating war crimes, crimes against humanity and genocide into Iraqi law as well as other areas such as developing evidence digitisation systems and following survivor-centered processes to ensure survivors wellbeing: *“The judiciary here in Iraq doesn’t know how to treat survivors, how to manage these cases. Once I went to a court in Iraq and I felt very uncomfortable. The judge didn’t seem to believe me and told me ‘You are an ISIL member’.”*<sup>25</sup>
- While it has submitted regular reports to the Security Council, UNITAD has yet to provide a comprehensive report on the crimes committed by ISIL in Iraq, to enable the Security Council to characterise the crimes and recognize the genocide committed by ISIL against the targeted communities.

20 SVN, online consultations conducted in December 2023.

21 Families of victims of Speicher massacre, online consultations of December 2023.

22 SVN, online consultations conducted in December 2023.

23 Hope Givers, online consultations conducted in December 2023.

24 UNITAD Terms of Reference, paragraphs 39-41.

25 SVN, online consultations of December 2023.





Engaging in crucial discussions: Participants delve into topics of handing over and sharing evidence collected by UNITAD with the Iraqi authorities and third parties at the C4JR event in Erbil.

## 2.5. Preventing evidence sharing with third states will hinder the only justice avenue currently available to survivors

***“As everyone knows, ISIL members were not only of Iraqi nationality but also nationals of other countries. When will an international court be established to try ISIL foreign fighters? Prosecuting ISIL members in Iraq is not sufficient to achieve justice for all ISIL members, as Iraqi law does not apply to other countries and [to individuals of] foreign nationalities.”***

Families of victims of the Speicher massacre <sup>26</sup>

ISIL members came from over 80 countries, and many have returned or will return to their countries of nationality. Others will try to present themselves as refugees despite being war criminals. Suspects who are at large and living close to and among affected communities may continue to escape justice, thereby prolonging the sense of insecurity

and mistrust in justice on displaced populations, preventing them from returning to their homelands.

We are pleased to note that the Iraqi Government and UNITAD have now agreed on clear modalities for sharing evidence with third states. We also welcome Iraq’s position that “it would like to share evidence with all States after UNITAD has shut down operations in Iraq by the end of 2024.”<sup>27</sup> The UN Secretary-General also highlighted in his January 2024 report the importance of allowing requests to be received and processed after the end of UNITAD’s mandate, pending necessary resources. This will allow the evidence to continue being used to support investigations and prosecutions abroad as they still remain the only justice avenue available to survivors and should complement prospective prosecutions in Iraq. The possibility to prosecute ISIL members wherever they are is vital to ending impunity globally.

<sup>26</sup> Families of victims of Speicher massacre, online consultations of December 2023.

<sup>27</sup> See UNSC, [S/2024/53](#): Letter dated 28 December 2023 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General.

## 2.6. Specific concerns on the sharing of evidence collected by UNITAD with the Iraqi authorities

***“We have a tribal society [in Iraq]. According to our experiences, the Iraqi Government has a history of highly confidential documents and information being leaked to the public. Suppose we share our evidence against ISIL criminals with the Iraqi Government; in that case, there is a great possibility that this information will be leaked to ISIL members who are still free or to their families or to the tribes to which they belong. Thus, our lives and the lives of the victims’ families are exposed to a real threat. We have strong evidence and documents and do not wish to share information with the Iraqi Government. Our message to the UN is that if the Iraqi Government leads a court, its consequences will be dire, as the judges may be from ISIL [affiliated] tribes and will sympathise with the terrorists and not try them fairly.”***

Families of victims of the Speicher massacre<sup>28</sup>

We, as Iraqi civil society organisations and networks of survivors, deeply wish to see criminal prosecutions of ISIL in Iraq, rooted in the Iraqi Constitution, applicable laws, and respecting Iraqi sovereignty. We have been pleased to see efforts made by the Government of Iraq to bring about accountability for ISIL crimes in Iraq. Along with enactment of the [Yazidi Survivors Law No. 8 of 2021](#), we regard the Government’s request to the international community for support and its request to establish UNITAD as important manifestations of such willingness. We also appreciate that Iraq has committed itself to uphold fair trial and other internationally recognized human rights, through ratification of international human rights treaties.

At the same time, we have serious concerns about the unconditional handover of UNITAD’s evidence and information to the Iraqi authorities under current conditions. These include inadequate safeguards to ensure evidence is stored, preserved and managed in a confidential manner and to prevent it falling into the wrong hands, or be used to pursue political interests. We are aware that sensitive information is regularly leaked in Iraq, whether intentionally or negligently. This could result in exposing survivors to stigma or reprisals, especially victims of sexual violence or those exploited as child soldiers. In a worst-case scenario, it could result in evidence falling into the hands of ISIL members who will take reprisals.

Further, survivors who shared information with UNITAD may not have explicitly consented to their information being shared with the Iraqi Government. Some survivors have told us they only felt comfortable sharing information with UNITAD on the basis it will not be shared with the Iraqi Government. Due to inadequate legal protections for vulnerable groups, some of those who shared evidence might themselves be at risk of prosecution, such as children associated with armed forces or groups: *“As a survivor, I do not feel safe in Iraq, including the Kurdistan Region. Meanwhile, the perpetrators of these crimes enjoy the freedom and security that I, as a survivor, am supposed to feel.”*<sup>29</sup>

<sup>28</sup> Families of victims of Speicher massacre, online consultations of December 2023.

<sup>29</sup> SVN, online consultations of December 2023.

### 3. Recommendations

*“We need to do advocacy as much as needed with survivors, local and international organizations to push for UNITAD to stay.”*

Yazidi Female Survivor<sup>30</sup>

In light of the above, we call upon the United Nations and Iraq to implement the following recommendations:

**Recommendation 1:** Establish benchmarks that must be reached before UNITAD closes

*“UNITAD needs to work until there are actual trials of ISIL criminals. The mandate will be completed once all graves are exhumed, the remains are identified, the displaced have left the [IDP] camps, the fate of the missing is known and stories and evidence have been documented.”*

Yazidi Male Survivor<sup>31</sup>

Instead of setting an arbitrary date for UNITAD to close (September 2024), we propose a different approach: All parties involved in decision making, including UNITAD, to agree on milestones or benchmarks that must be met before UNITAD’s closure. These should include at a minimum:

- **Adequate legal framework and fair trial rights guaranteed:** Iraq must enact legislation to incorporate genocide, crimes against humanity and war crimes into its national law, to ensure that crimes committed by ISIL can be prosecuted in Iraq. Iraq must enact other domestic legislation and/or implement measures necessary to guarantee fair and independent criminal proceedings for ISIL crimes, conducted in a survivor-centred manner and in accordance with international law, including adequate witness protection, victim participation, and public trials.<sup>32</sup> Adequate protections for vulnerable

groups such as children associated with armed forces or groups should be integrated in legislation.

- **UNITAD must have completed work set out in an agreed:** Such road map should cover the different communities affected by ISIL crimes in Iraq. It should also, as specified in Resolution 2379(2017), detail how UNITAD will work alongside and on an equal footing with Iraqi investigative judges and other criminal experts and share knowledge and technical assistance with Iraq. The roadmap should also set out how UNITAD will work transparently with survivors “to ensure their interests in achieving accountability for ISIL are fully recognized”.<sup>33</sup>
- **UNITAD must publish a comprehensive report on the crimes committed by ISIL in Iraq,** to stand as a record and enable the Security Council to characterise crimes as genocide. This would contribute significantly to truth-finding and justice in the eyes of survivors and affected communities.
- **A joint transition plan must be put in place** for designated Iraqi bodies to take over investigations and to prepare prosecutions, and arrangements must be made for the handover of evidence and materials to safeguard their storage, preservation and management (see further below).

**Recommendation 2:** Clear conditions should govern handing over of evidence collected by UNITAD to the Iraqi authorities

*“We certainly need a court but without the intervention of the United Nations or other countries, we are confident that the Iraqi Government will not try perpetrators fairly. Another critical point is that protection of witnesses must be guaranteed, and their testimony kept anonymous, and they must be protected from the court or the concerned authorities. If a competent court, similar to international courts is not established, we feel that genocide will happen to us again.”*

Yazidi Male Survivor<sup>34</sup>

30 YSN, online consultations conducted in December 2023.

31 Hope Givers, online consultations conducted in December 2023.

32 See again Coalition for Just Reparations [Position Paper](#) on an ISIL Accountability Mechanism in Iraq.

33 UNSC Resolution 2379(2017), paragraph 3.

34 Hope Givers, online consultations conducted in December 2023.



**Creation of an independent body:** We recommend the creation of a special working group or body in Iraq, to be mandated with overseeing the receipt, preservation and storage of evidence handed over by UNITAD and with power to allow information to be shared only if conditions outlined by the UNITAD Terms of Reference are met and ensuring that relevant consents have been obtained. Such working group could be composed of members of relevant Iraqi institutions, including the Supreme Judicial Council, the General Directorate of Survivors, the National Human Rights Commission and representatives of civil society. We would prefer that at least for a transitional period, the working group would include, or would consult with representatives of the UN (possibly represented by UNAMI).

**The evidence collected by UNITAD should be held and shared according to terms and conditions set out in an Memorandum of understanding (MoU) to be agreed between the UN Security Council and the Iraqi Government:**

- Evidence collected by UNITAD must only be used in fair and independent criminal proceedings for genocide, war crimes and crimes against humanity in accordance with UN policies and best practices and relevant international law, including international human rights law, rules and standards. This means, *inter alia*, that evidence shall not be obtained under torture or other ill-treatment and observance of victims' rights to participation and reparation.
- Evidence must not be used for prosecuting children associated with armed forces or groups – in accordance with the UN Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflict, to which Iraq is signatory – or other vulnerable groups who lack protection under Iraqi law.
- Trials should be public, independent monitoring should be permitted, and there should be regular outreach and public information to keep survivors and affected communities informed of the progress of investigations and prosecutions.
- There must be a robust capacity to protect those who are at risk as a result of investigations

and prosecution, including effective witness protection and respect for the rights, privacy and dignity of all survivors and witnesses.

- Evidence must only be shared once the informed consent of its providers has been obtained. UNITAD must check that previously obtained consents from survivors includes sharing with Iraqi authorities and if not, must contact the interviewees and obtain explicit consent.
- Protocols should be developed and agreed for safe storage, preservation and management of the evidence and other materials, and responsibility given to a competent body with adequate training and resources, which continuously respects confidentiality of all evidentiary materials obtained and produced in line with UN policies.<sup>35</sup>

**Recommendation 3:** Continue the sharing of evidence collected by UNITAD with third states or with international courts and other bodies, and cooperation between Iraq and others to achieve accountability for ISIL crimes

*“Most male and female survivors do not trust the government. Survivors do not want to share evidence and give their testimonies to Iraqi courts without the presence of international courts and bodies.”*

Yazidi Male Survivor<sup>36</sup>

We call on the Iraqi Government and the UN, as part of their arrangements regarding the future of UNITAD's legacy, to agree on a clear legal framework that will enable evidence to be shared with third states upon request. Information should be shared following rigorous standards, as described above. Internal procedure must be developed consider requests for information from third states, as well as from other bodies, such as the International, Impartial, and Independent Mechanism (IIIM) or the International Criminal Court (ICC).

ISIL presented, and still presents, a global threat, and both victims and perpetrators are now dispersed across many countries. Bringing ISIL members to justice is therefore a

<sup>35</sup> UNITAD Terms of Reference, paragraph 24.

<sup>36</sup> Hope Givers, online consultations conducted in December 2023.

shared endeavour. Sharing evidence with third states as well as with Iraq was part of UNITAD's original mandate and purpose.<sup>37</sup> Domestic prosecutions and investigations which are taking place in countries such as Germany, the Netherlands, and Sweden are extremely important to survivors. Such proceedings build hope that justice can be achieved, in particular in relation to judicial findings of genocide.

We call on interested states to engage with the Iraqi Government and UNITAD to negotiate a clear and transparent legal framework – such as a Joint Investigative Team (JIT) or Working Group – to agree on cooperation and evidence sharing aimed at bringing ISIL to justice for crimes committed in Iraq and against Iraqi nationals. This could be achieved by expanding the scope of the existing JIT established in 2021 by France and Sweden, created with the goal of examining atrocities committed against the Yazidi in Syria and Iraq. This system, now counting with the Netherlands and Belgium, could be expanded to include Iraq, as well as other states and international bodies, such as UNITAD, the IIIM and the ICC.

Such entity could also serve to ensure that national proceedings can resort to means for cooperation and assistance from other states when necessary, such as securing evidence from abroad, location, arrest, detention, and surrender of accused persons.

Whether UNITAD closes after one year or has its mandate extended further, when the time comes for it to close, we further recommend the following.

**Recommendation 4:** When UNITAD closes, a residual mechanism should be established within the UN system that will hold a full copy of all the evidence and materials collected by UNITAD and in accordance with UN policies on information sensitivity, classification and handling.<sup>38</sup>

*“ISIL is not only an issue in Iraq, but also an international one. Therefore, we cannot do anything without [other states]”.*

Yazidi Female Survivor<sup>39</sup>

As noted above, it may not be possible for UNITAD to hand over certain evidence to the Iraqi authorities, either due to lack of the consent from the provider, either due to lack of observance of UN's principles and standards. The UN should, in any case, retain full copies of all materials in the interest of preservation and security. In this regard, experience from Iraq and elsewhere shows that records, whether electronic or physical are vulnerable. The residual mechanism could also serve to coordinate support from different UN bodies for accountability efforts in Iraq, monitor progress and report to the Security Council.

**Recommendation 5:** UNITAD should take all possible steps to ensure the evidence it has collected can be used to benefit survivors in ways other than criminal proceedings

Beyond criminal accountability, survivors and affected communities need full support to access their rights in Iraq. To advance this, UNITAD could issue certificates that would be recognized to support an applicant status of survivor, to help them obtain reparations under the Yazidi Survivors Law and other reparations mechanisms. UNITAD could also support in sharing information on missing persons or those killed on mass graves to help facilitate identification of victims and exhumations (where all relevant consents are in place). Finally, UNITAD could publish briefs or reports (with any necessary redactions) relevant for truth telling purposes and memorialisation.

37 UNITAD Terms of Reference, paragraphs 2, 7, 26.

38 While UNSC Resolution 2697/2023 states that UNITAD will “provide” the evidence it has collected to the Iraqi Government, and UNITAD's Terms of Reference state that upon conclusion of its mandate, the UN and the Iraqi Government shall agree arrangements regarding the custody of original versions of evidence and materials collected, as well as any materials and analyses produced by UNITAD (paragraph 10, UNITAD TOR), and nowhere is it stated that duplicates could not be made or that the UN must surrender the only versions or give up access.

39 YSN, online consultations conducted in December 2023.

## Undersigned organizations:

1. ASUDA
2. Banan Foundation for Sustainable Development
3. Better World Organization for Community Development (BWO)
4. CAPNI for Humanitarian Aid in Iraq
5. Center for Victims of Torture (CVT)
6. Central Council of Ezidis in Germany (ZÊD)
7. Civil Development Organization (CDO)
8. Çiya Press Agency
9. DAK Organization for Ezidi Women Development
10. EMMA Organization for Human Development
11. Eyzidi Organization for Documentation
12. Ezidi Millennium Organization for Development (EMOD)
13. Farida Global Organization
14. Fight for Humanity
15. Free Yezidi Foundation (FYF)
16. Genocide Watch
17. Global Center for the Responsibility to Protect
18. Global Survivors Fund
19. Hammurabi Human Rights Organization
20. Harikar NGO
21. HAWAR.help
22. Hope Givers
23. House of Coexistence
24. International Rehabilitation Council for Torture Victims (IRCT)
25. Iraqi Institution for Development (IID)
26. Jiyan Foundation for Human Rights
27. Justice Organization for Minority Rights (JOMR)
28. Kaniya Foundation for Culture and Media
29. Methra Organization
30. Nadia's Initiative
31. National Center for Human Rights
32. Nisha Organization
33. NL Helpt Yezidis
34. Peace and Freedom Organization (PFO)
35. Petrichor Organization for Human Rights
36. Progress in Peace Organization for Relief and Development
37. Religious Freedom Institute
38. Sanabel Future
39. SEED Foundation
40. Sinjar Academy
41. Sinjar Heart Organization for Relief and Development
42. Survivors Voice Network (SVN)
43. TAJDID
44. The Iraqi Educators League
45. The Lotus Flower
46. The Observer Human Rights Center (OHRC)
47. The Zovighian Partnership
48. To Reconcile Organization (TRO)
49. Turkmen Rescue Fund (TRF)
50. Warjin Media Foundation
51. We Are With You
52. Women Legal Assistance Organization (WOLA)
53. Yazda
54. Yazidi Legal Network
55. Yazidi Survivors Network (YSN)
56. Youth Bridge Organization

