



التحالف للتعويضات العادلة
Coalition for Just Reparations
هاوپهيمانى بۆ قهره بووکردنه وهى دادپهروهرانه

**IDENTIFYING, DOCUMENTING, INVESTIGATING AND PROSECUTING CRIMES OF
SEXUAL TORTURE COMMITTED DURING WAR AND ARMED CONFLICTS, AND
REHABILITATION FOR VICTIMS AND SURVIVORS**

INPUT FOR THE REPORT OF THE UNITED NATIONS SPECIAL RAPPORTEUR ON TORTURE AND
OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

SUBMITTED BY:
JIYAN FOUNDATION FOR HUMAN RIGHTS
&
COALITION FOR JUST REPARATIONS (C4JR)
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Jiyan Foundation for Human Rights is a non-profit organization promoting the mental well-being, physical rehabilitation, and social reintegration of survivors of violence, torture and trauma in Iraq. Today the Jiyan Foundation runs a network of eleven trauma rehabilitation centres across Iraq, including special departments for traumatised women and children and a clinic for Yazidi women who survived ISIL captivity.

The Coalition for Just Reparations (C4JR) is an alliance of Iraqi NGOs who came together to call for comprehensive reparations for survivors of atrocity crimes perpetrated during the ISIL conflict in Iraq. C4JR seeks to provide a collaborative and safe space where the grievances of survivors belonging to all affected groups (Yazidi, Turkmen, Shabak, Kakai, Christians, Shia, Sunnis, and others) will be adequately addressed. It uses Iraqi law and international human rights law to support reparation claims of survivors and encourage Iraqi authorities to meet their obligation to provide reparations. C4JR also strives to make available access to good practices, refer to international standards, and learn from the mistakes and successes of other post-conflict initiatives.

EXECUTIVE SUMMARY:

This submission from the Jiyān Foundation for Human Rights and the Coalition for Just Reparations (C4JR), with specific input from members of C4JR's Rehabilitation Working Group, provides a comprehensive overview of the situation regarding crimes of sexual torture committed during war and armed conflicts in Iraq, focusing on the atrocities perpetrated by the self-declared Islamic State in Iraq and the Levant (ISIL). It highlights the devastating impact of conflict-related sexual violence (CRSV) on communities including the Yazidi, Turkmen, Shabak, Kakai, Christians, Shia, Sunnis, and others, and emphasizes the urgent need for justice, accountability, and rehabilitation for survivors.

KEY POINTS INCLUDE:

1. The widespread use of CRSV by ISIL as a weapon of war and genocide, causing immense suffering to thousands of women and girls.
2. Challenges in achieving justice and accountability due to deficiencies in the Iraqi legal framework and concerns about fair trials.
3. The importance of survivor-centred approaches in accountability mechanisms and the need for the active involvement of victims in the legal process and to centre their voices in rehabilitation.
4. The significance of reparative and transitional justice frameworks, such as the Yazidi [Female] Survivors Law (YSL), in supporting survivors and addressing wrongdoings.
5. Efforts by organisations like the Jiyān Foundation for Human Rights and other members of the Coalition for Just Reparations to provide holistic and interdisciplinary rehabilitation services for survivors, including trauma clinics and mental health support.

Overall, the submission underscores the need for comprehensive action at both national and international levels to address the legacy of sexual torture and other atrocities committed during conflicts in Iraq, ensuring justice, accountability, and support for survivors; and ongoing support for organizations and communities working on this issue.

- 1. Challenges, impediments and obstacles to effective identification, documentation, investigation and prosecution of crimes of sexual torture and related ill-treatment**
- 2. Regulatory frameworks – civilian and military codes**
- 3. Victim participation and protection during investigation and prosecution**
- 4. Evidence collection and documentation pursuant to the Istanbul Protocol**
- 5. Rehabilitation**

- 1. Challenges, impediments and obstacles to effective identification, documentation, investigation and prosecution of crimes of sexual torture and related ill-treatment:** What are the main impediments preventing full and prompt investigations and prosecutions into allegations of sexual torture and related crimes committed during an armed conflict – consider matters such as gaps in civil or military legal and regulatory frameworks (see next), political-cultural-leadership, institutional, sociological, psychological, practical, forensic, health, other challenges? What are some examples of the strategies or good practices for addressing these challenges?

The armed conflict that spread across Iraq with the rise of the self-declared Islamic State in Iraq and the Levant (ISIL) at the beginning of 2014 led to gross violations of International Human Rights Law, International Humanitarian Law, and International Criminal Law.¹ The Yazidi community, together with other minorities (Christians, Shabak, Turkmen), were particularly targeted. In addition to executions, torture and child recruitment, conflict-related sexual violence (CRSV) was deployed by ISIL as a weapon of war and genocide, harming thousands of women and girls often in the form of forced marriages and sexual slavery.² These violations have had devastating medical, psychological, and social effects on survivors' lives, most of whom still remain displaced today, almost ten years on, as the anniversary of August 3, 2014, approaches.

As the liberation of large swathes of Iraq revealed the magnitude of ISIL crimes, [Joint Communiqué between the Republic of Iraq and the United Nations on the Prevention and Response to Conflict-Related Sexual Violence](#) was concluded in 2016. This “Joint Communiqué has 6 priority areas including legislative and policy reform to strengthen protection, ensure accountability and reparations for survivors of sexual violence committed in the context of ISIL created conflict in Iraq.”³

In 2017, in a landmark response to the calls for transitional justice for the victims of ISIL crimes, the United Nations Security Council (UNSC), at the request of the Government of Iraq (GoI), unanimously adopted [Resolution 2379](#), mandating the establishment of the United Nations Investigative Team to promote accountability for crimes committed by ISIL/Da'esh (UNITAD). [UNITAD](#) was set up to support Iraqi domestic efforts to hold ISIL accountable for crimes it committed in the country by, “*collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by the terrorist group ISIL (Da'esh) in Iraq, to the highest possible standards... to ensure the broadest possible use before national courts, and complementing investigations being carried out by the Iraqi authorities, or investigations carried out by authorities in third countries at their request.*” Finally, it also mandated the Special Advisor to “*work with survivors, in a manner consistent with relevant*

¹ A detailed overview of grave crimes committed by ISIL in Iraq since 2014 is available in biannual and thematic UNAMI/OHCHR human rights reports from 2014 to 2018 (UNAMI/OHCHR, 2014; UNAMI/OHCHR, 2015; UNAMI/OHCHR, 2016a; UNAMI/OHCHR, 2016b; UNAMI/OHCHR, 2017a; UNAMI/OHCHR, 2017b).

² For a detailed overview of sexual violence against women and girls ISIL committed in Iraq see UNITAD, “Report on sexual violence against women and girls committed by ISIL in Iraq,” 2023, available at: https://www.unitad.un.org/sites/www.unitad.un.org/files/scgb_report_e-report_en-.pdf.

³ UNAMI, OHCHR, (2017) [Promotion and Protection of Rights of Victims of Sexual Violence Captured by ISIL/or in Areas Controlled by ISIL in Iraq](#), P.6.

*national laws, to ensure that their interests in achieving accountability for ISIL are fully recognized”.*⁴

In October 2018, UNITAD began its activities in Iraq to implement its mandate to support domestic accountability efforts through the collection of evidence of ISIL crimes in Iraq, in line with international standards. Due to the explicit requirement that evidence of crimes secured through the work of UNITAD are to be used only “*in fair and independent criminal proceedings, consistent with applicable international law, conducted by competent national-level courts,*” UNITAD did not share the evidence it collected with national courts conducting trials under Iraq’s anti-terrorism laws as they do not comply with international fair trial standards and may impose the death penalty.⁵ Today, more than five years since the deployment of UNITAD in Iraq, a lack of an appropriate national legal framework to try international crimes still impedes efforts to end impunity for ISIL-committed atrocities in the country. Moreover, the GoI’s decision in September 2023 to request the UNSC to conclude UNITAD’s mandate by September 2024, undermined strides towards justice and accountability for ISIL crimes against different Iraqi communities and peoples achieved thus far. This abrupt decision was taken without consultation with any ISIL survivors and civil society organisations (CSOs).

In the meantime, national trials for ISIL crimes in Iraq carried out for terror-related offences frequently raise concerns relating to the right to a fair trial, prohibition of torture, and the rule of law. As a consequence, they cannot provide justice that is urgently needed, nor be relied upon to have delivered justice in previous cases, with numerous examples of falsely accused men still detained in prisons in Iraq, as a result of the post-ISIL judicial system.⁶

Since the end of the ISIL occupation of Iraq in 2017 and the widespread arrests of many who lived under ISIL occupation, accused of being affiliated with the terrorist group, tens of thousands of Iraqis have been prosecuted under anti-terrorism laws, and hundreds sentenced to the death penalty. The Iraqi Federal Judiciary reportedly has prosecuted approximately 70,000 cases since 2012 under the broad provisions of Iraq’s Anti-Terrorism law of 2005, without significant international assistance, and as of 2021, more than 20,000 Iraqis have been convicted on terror-related charges.⁷ Moreover, trials of ISIL fighters in Iraq are rarely monitored, to ensure that the rule of law is upheld, and the rights of victims properly observed. Systematic monitoring of trials in Iraq is needed, but difficult to accommodate as information on trials is often not available to the public, through a lack of media freedom or lack of publicly available information.⁸

⁴ UN Security Council. (2017). SC. Res. 2379, Para 2,5,3.

⁵ Security Council Report. (2020). <https://www.securitycouncilreport.org/monthly-forecast/2020-09/iraq-unitad-2.php>.

⁶ B. Gavrilovic, S. Schweininger, “A Criminal Tribunal and a Wide-Ranging Reparation Programme is Necessary for the Victims of Sexual Violence and Torture in Iraq,” *Torture Journal: Journal on Rehabilitation of Torture Victims and Prevention of Torture*, 29(1), 2019, 110-124, P.118: <https://tidsskrift.dk/torture-journal/article/view/109995/163015>; <https://www.hrw.org/news/2024/01/24/iraq-unlawful-mass-executions-resume>.

⁷ “More Than “Ink on Paper”: Taking Stock Two Years After the Adoption of the Yazidi [Female] Survivors Law (March 2023),” P.26: <https://c4jr.org/wp-content/uploads/2023/03/More-than-Ink-on-Paper-two-years-after-YSL-adoption-report-FIN-ENG.pdf>.

⁸ Justice and Accountability for the Atrocities of Daesh - Progress Made and the Way Forward, IBAHRI, 2023, P.18 <https://www.ibanet.org/document?id=justice-and-accountability-for-the-atrocities-of-daesh>.

In addition, fear and stigma surrounding accused affiliation with ISIL members prevents many from seeking international support in cases of demonstrable injustice. Many of those sentenced in Iraq today are victims of violations of fair trial standards, notably due to the complex and urgent post-conflict situation in Iraq, the context of high insecurity, the heavy caseload of ISIL-related prosecutions, and the lack of human and financial resources of Iraqi judiciary. They have suffered grave violations of their fundamental human rights, including protection against torture, inhuman and degrading treatment, and execution. To our knowledge, only one case in Iraq involved a Yazidi survivor and led to the conviction of her perpetrator for rape in addition to membership of a terrorist group. The trial was however largely instrumentalised and publicised in a way which is harmful to the survivor, with the confrontation between victim and perpetrator broadcast.⁹

While criminal accountability is essential to ensure justice for all victims and survivors of the grave ISIL committed crimes, prosecutions must be done in respect of fair trial guarantees, the Iraqi Constitution, and Iraq's obligations under international law. In conclusion, due to insufficient preparation on the part of Iraqi authorities, much of the evidence UNITAD collected cannot, at present, be shared with Iraqi authorities considering that the UN, as a matter of policy and consistent with agreed [Terms of Reference](#), can share evidence it collected only "in accordance with United Nations policies and best practice and relevant international law, including international human rights law, rules and standards." This would necessitate ensuring non-applicability of the capital punishment, observance of fair trial rights and explicit approval of survivors and other witnesses (information providers), despite the wishes of the GoI.¹⁰

⁹ Rubin, Alissa. "She faced her ISIS rapist in court, then watched him sentenced to death," The New York Times, March 2020. Available at: <https://www.nytimes.com/2020/03/02/world/middleeast/isis-iraq-trial.html>.

¹⁰ Report of the Secretary-General - Implementation of resolution 2697 (2023), PP.3-4, 10-11. Available at: https://www.unitad.un.org/sites/www.unitad.un.org/files/general/report_of_the_secretary_general-english.pdf.

GOOD PRACTICE: YAZIDI SPIRITUAL LEADERSHIP ISSUING AN OFFICIAL DECREE WELCOMING AND ACCEPTING THE RETURN OF WOMEN SURVIVORS OF CRSV INTO THE COMMUNITY.

IN A DECISION MADE IN 2014, YAZIDI RELIGIOUS AUTHORITIES WELCOMED THE YAZIDI WOMEN SURVIVORS OF CRSV BACK INTO THEIR COMMUNITY.¹¹ PREVIOUSLY, ANYONE WHO MARRIED OR HAD SEXUAL INTERCOURSE OUTSIDE THE FAITH, IRRESPECTIVE OF WHETHER IT WAS CONSENSUAL OR NOT, WOULD HAVE BEEN EXCOMMUNICATED. YAZIDI SPIRITUAL LEADER BABA SHEIKH ISSUED A DECREE AT THE TIME STATING THAT FEMALE SURVIVORS SHOULD BE WELCOMED BACK BECAUSE THEY WERE SEIZED AGAINST THEIR WILL. THE DECREE EASED THE SIGNIFICANT CHALLENGE OF REINTEGRATION. HOWEVER, AN ATTEMPT ALONG THE SAME LINES FROM 2019, TO EXTEND THE WELCOME TO CHILDREN CONCEIVED THROUGH CRSV AND ACCEPT THEM BACK IN THE COMMUNITY FAILED.¹²

THIS ACT OF YAZIDI RELIGIOUS LEADERSHIP FACILITATED YAZIDI SURVIVORS TO PROVIDE STATEMENTS AND COLLABORATE WITH THE AUTHORITIES AND THE UN IN DOCUMENTING CRSV FOR ACCOUNTABILITY PURPOSES. THE SITUATION OF NON-YAZIDI SURVIVORS OF ISIL-PERPETRATED CRSV IN IRAQ IS MORE PRECARIOUS, AS NO COMPARABLE RELIGIOUS DECREE HAS BEEN ISSUED. CONSEQUENTLY, THE LEVEL OF STIGMA THAT INDIVIDUAL SURVIVORS FROM THESE COMMUNITIES FACE IS HIGHER (IN SHABAK, TURKMEN, AND CHRISTIAN COMMUNITIES, ETC.), WHEREAS THE CORRESPONDING ABILITY TO PROVIDE EVIDENCE FOR PURSUING CRIMINAL ACCOUNTABILITY OF THE PERPETRATORS IS LOWER.

¹¹ “Yazidi women welcomed back to the faith,” UNHCR (2015). <https://www.unhcr.org/news/stories/yazidi-women-welcomed-back-faith>.

¹² Cathy Otten, “A Broken Homecoming; Iraq’s Yazidis struggle with the future of the children of rape by Islamic State fighters,” Foreign Policy, 2019. Available at: <https://foreignpolicy.com/2019/05/02/a-broken-homecoming-isis-rape-yazidi/>.

2. **Regulatory frameworks – civilian and military codes:** Does the national legislative or regulatory framework account for sexual torture inflicted during armed conflict?

Sub-questions:

- How is torture of a sexual nature (and related forms of cruel, inhuman or degrading treatment or punishment, as applicable) prohibited and criminalized in national legislation? *Please refer to both general criminal code, as well as any applicable military laws.*
- Is “sexual torture” defined explicitly in national law? If so, is it a separate offence, or has your national law defined ‘discrimination’ as contained in the definition of torture in Article 1 of the UN Convention against Torture?
- If there is no explicit crime of sexual torture, does the general crime of torture include the sexualized nature of the torture as an aggravating factor that may increase any criminal penalties? Does the law incorporate any other approaches that specifically address the sexualized nature of the crime?
- Please provide examples (and copies) of national laws, or leading judgments, that criminalize sexual torture (and related forms of cruel, inhuman or degrading treatment or punishment, as applicable), and the penalties applied.

Iraqi Constitution

Iraq has a federal system, and under its Federal Constitution, the Kurdistan Region of Iraq (KRI) has some delegated executive, legislative and judicial powers. This means that different legal provisions may apply in the KRI. Article 37 (1) (c) of the Constitution states: “All forms of psychological and physical torture and inhuman treatment are prohibited. Any confession made under duress, threat or torture shall not be admitted, and the victim shall have the right to seek compensation for material and moral damages incurred, in accordance with the law.”

Iraqi Criminal Code and Criminal Procedure Code

Acts of torture are explicitly criminalized under article 333 of the 1969 Criminal Code: “Any public official or public servant who tortures or orders the torture of an accused person, a witness, or an expert in order to compel him or her to confess to an offence, make a statement or provide information, or to withhold information or give a particular opinion in respect thereof, shall be liable to imprisonment. The use of force or threats shall be deemed as tantamount to torture.” However, Iraqi legislators did not define torture in the Criminal Code.

Iraqi penal and criminal procedure laws display significant deficiencies as to what concerns the effective prosecution of perpetrators and redress of victims of sexual violence. As rape is considered a private offence, the state cannot take legal action against the alleged perpetrator without the consent of a victim or its legal guardian, marital rape is not criminalised.¹³ Legal proceedings against an alleged rapist are to be discontinued if he marries his victim.¹⁴ Furthermore, a husband’s prerogative to punish his wife is considered his legal right rather than an offence.¹⁵ In addition, honourable motives for committing an offence constitute mitigation grounds.¹⁶

¹³ Iraqi Criminal Procedure Code, Article 3.

¹⁴ Iraqi Criminal Procedure Code, Article 398.

¹⁵ Iraqi Criminal Code, Article 41.

¹⁶ Iraqi Criminal Code, Article 128.

While there have been numerous attempts in Iraq to enact legislation criminalising core international crimes, including conflict-related sexual violence (CRSV), these efforts have so far fallen short. Despite these setbacks, there is a renewed commitment from the Office of the Prime Minister, as outlined in Iraq's letter to the UN in December 2023, expressing the intention to make another attempt at adopting such crucial legislation. This commitment is further underscored by the inclusion of CRSV crimes in Iraq's National Human Rights Action Plan. The acknowledgement of CRSV within this plan reflects a growing recognition of the urgent need to address the widespread and egregious violations perpetrated against vulnerable populations during times of conflict. Moving forward, it is imperative that Iraq follows through on its commitment to enact comprehensive legal frameworks that not only criminalise international crimes but also ensure accountability for perpetrators and justice for survivors.

Yazidi [Women] Survivors Law (YSL)

On March 1, 2021, members of the Iraqi Parliament passed the Yazidi [Women] Survivors Law (YSL), which promised to deliver long-awaited relief not only to Yazidi, Shabak, Turkmen and Christian women that ISIL subjected to CRSV, but also, men and women from these communities that survived mass killings, as well as captured Yazidi children.¹⁷ The YSL is one of the very few examples of states taking deliberate action to specifically address the rights and needs of survivors of ISIL inflicted sexual violence by explicitly referring to several forms of CRSV, including sexual slavery, forced marriage, forced pregnancy, and forced abortion. In addition, it refers to selling in slavery markets, separation from family, forced conversion, and inflicting physical and psychological harm.¹⁸

The YSL mandates a number of critical reparations for indicated beneficiaries, including:

- Compensation in the form of monthly salary;¹⁹
- A residential plot of land with a real estate loan or a free housing unit;²⁰
- Exemption from the age requirement if the survivors choose to return to study;²¹
- Priority in public employment;²²
- Access to rehabilitation services (the official aim of the YSL is to rehabilitate survivors and integrate them into society).²³ This is to be done by opening health and psychological rehabilitation centres to treat the survivors;²⁴
- Official recognition that ISIL committed genocide and crimes against humanity against Yazidis, Turkmen, Christian and Shabak minority groups. Moreover, the Iraqi Ministry of Foreign Affairs (MOFA) has been mandated to disclose these crimes in international forums;²⁵

¹⁷ The YSL is available in English at: <https://c4jr.org/ysl>.

¹⁸ YSL, Art. 1. Para. 2.

¹⁹ YSL, Art. 6, Para 1.

²⁰ YSL, Art. 6, Para 2.

²¹ YSL, Art. 6, Para 3.

²² YSL, Art. 6, Para 4.

²³ YSL, Art. 4. Para. 2.

²⁴ YSL, Art. 5. Para. 6.

²⁵ YSL, Art. 7.

- Designation of 3 August²⁶ as a national day to reveal the crimes committed against the Yazidis and other minorities specified in the law during which commemorative events including unveiling monuments and statues, and organising exhibitions, will be organised;²⁷
- Search for all those still missing and coordinate efforts to open mass graves, identifies the victims and return them to their families for proper burial;²⁸
- Obligation on the part of the authorities to investigate and prosecute crimes covered under the YSL, protect witnesses and exclude possibility of granting general or special amnesty for crimes covered under the YSL;²⁹
- In addition, the associated bylaws expanded these obligations even further, including, for instance, an obligation for government agencies to develop specialised curricula on the ISIL conflict designed to promote peaceful coexistence and the renunciation of violence.³⁰ Finally, the YSL explicitly stipulates an objective to, inter alia, prevent the recurrence of the violations that occurred against the indicated minorities.³¹

Two bodies, both established under the auspices of the Federal Ministry of Labour and Social Affairs (MoLSA), are envisaged to implement the YSL: the General Directorate for Survivors' Affairs (GDSA) and the Committee for Verification of Applications. Whereas the role of the GDSA is to coordinate outreach, application, and verification processes as well as the distribution of services,³² the Committee is tasked with verifying the submitted applications within 90 days from the moment of the submission.³³

Anti-Terrorism Legislation

Finally, both the Federal Anti-Terrorism Law No. 13 of 2005 and the Kurdistan Region (KRI) Anti-Terrorism Law (No. 3) of 2006 contain a broad definition of terrorism, inadequate legal safeguards, and mandatory death sentences for a range of offences labelled as terrorist acts.³⁴ Rape and other acts of sexual violence are not criminalized under the respective legislation.³⁵

Joint Communiqué of the Republic of Iraq and the United Nations on Prevention and Response to Conflict-Related Sexual Violence.

The Joint Communiqué of the Republic of Iraq and the United Nations on Prevention and Response to Conflict-Related Sexual Violence underscores the shared commitment to combatting and

²⁶ On August 3, 2014, ISIL invaded the Yazidi homeland of Sinjar, and started their genocidal campaign against them.

²⁷ YSL, Art. 8.

²⁸ YSL, Art. 5. Para. 8.

²⁹ YSL, Art. 9. Para. 1.

³⁰ YSL bylaws, Art. 3, Para. 1b.

³¹ YSL, Art. 4. Para. 2.

³² YSL, Art. 5; YSL bylaws, Art. 2-3.

³³ YSL, Art. 10. Para. 2.

³⁴ For a critical assessment of KRG and GoI Anti-Terrorism Laws No.3 of 2006 respectively, see UN Assistance Mission for Iraq (UNAMI), Report on Human Rights in Iraq: January to June 2017, 14 December 2017, P.7-9; UN Special Rapporteur on extrajudicial, summary or arbitrary executions. Report on her official visit to Iraq (14-23 November 2017). A/HRC/38/44/Add. 1, P.12.

³⁵ Human Rights Watch (2017), "Flawed Justice: Accountability for ISIS crimes in Iraq." P.29. Available at: <https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq>.

addressing the pervasive issue of sexual violence in conflict, emphasising the importance of prevention, protection, and accountability measures.³⁶

Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD)

The Security Council resolution 2379 (2017)³⁷, mandating the Secretary-General to establish UNITAD, headed by a Special Adviser, to support domestic efforts to hold ISIL accountable by collecting, preserving and storing evidence in Iraq of acts that might amount to war crimes, crimes against humanity and genocide committed in Iraq and associated Terms of Reference.³⁸

Report of the Secretary-General - Implementation of resolution 2697 (2023).

This report establishes what Iraq needs to do in order to receive and effectively use the evidence UNITAD has collected from survivors and witnesses of ISIL atrocities. Namely, it must meet the requirements laid out in international law, UN best practices, and set up an internal system for the proper handling of such evidence. In addition, to be able to share evidence with any state including Iraq, UNITAD must obtain informed consent from information providers. Finally, the UNSG calls for a UN repository to ensure the effective use of such evidence in Iraq and elsewhere.³⁹

³⁶ Joint Communique of the Republic of Iraq and the United Nations on Prevention and Response to Conflict-Related Sexual Violence. (2016). [https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communicue/join-communicue-of-the-republic-of-iraq-and-the-united-nations-on-prevention-and-response-to-crsv/Joint Communique of the Govt of Iraq and UN 9 2016 ENG.pdf](https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communicue/join-communicue-of-the-republic-of-iraq-and-the-united-nations-on-prevention-and-response-to-crsv/Joint%20Communique%20of%20the%20Govt%20of%20Iraq%20and%20UN%209%202016%20ENG.pdf).

³⁷ United Nations Security Council resolution 2379 (2017). https://www.unitad.un.org/sites/www.unitad.un.org/files/general/s_res_23792017_e_7.pdf

³⁸ Letter dated 9 February 2018 from the Secretary-General addressed to the President of the Security Council. https://www.unitad.un.org/sites/www.unitad.un.org/files/general/tor_1.pdf.

³⁹ United Nations Security Council Report of the Secretary-General - Implementation of resolution 2697 (2023). Available at: https://www.unitad.un.org/sites/www.unitad.un.org/files/general/report_of_the_secretary_general-english.pdf.

3. **Victim participation and protection during investigation and prosecution:** What special arrangements (procedures, standards, protocols, good practices) and protections are available for victims of sexual torture and related ill-treatment in armed conflicts? Are there any consultation and/or discussion platforms to enable victims and survivors of sexual torture crimes committed in armed conflicts to actively participate in the design, implementation and evaluation of the legal and/or administrative processes specifically established for justice and reparations of such crimes?

National efforts

As international crimes (war crimes, crimes against humanity and genocide) are not incorporated into Iraqi national legislation, ISIL crimes, including CRSV, are processed under anti-terrorism legislation and, exceptionally, national criminal code. No headways concerning CRSV investigation and prosecution have been accomplished for crimes committed by other parties to the ISIL conflict in Iraq. Whereas criminal proceedings aimed at punishing ISIL supporters are taking place in both federal and KRI courts under their respective anti-terrorism legislation, they could hardly contribute to vindicating the rights of victims by facilitating their active involvement in the investigation and trial phase of the criminal proceedings. Namely, as mere association and/or affiliation with ISIL in any capacity suffices for conviction and subsequent sentencing, alleged ISIL militants are not being charged with specific crimes, but with supporting terrorism in general.⁴⁰

Moreover, no efforts have been made to enable the participation of victims in the ongoing trials.⁴¹ This is contrary to CAT Art. 14 requirements and practice of the Committee against Torture as the importance of victim participation in criminal proceedings and other available redress avenues has been continually highlighted as a fundamental aspect of its victim-centered approach.⁴² In addition, as ISIL members are charged with affiliation to a terrorist group only, victims of ISIL, lacking the status of an offended party, are prevented from submitting a claim for compensation in the course of judicial proceedings. Only one trial specifically for rape has been thus far reported (See above).⁴³ Therefore, it follows that sexual violence crimes committed by ISIL have still not been adequately prosecuted in Iraq nor have survivors been adequately involved in the investigation phase.

The Commission for Investigation and Gathering Evidence (CIGE) is a body established by the Kurdistan Regional Government (KRG) in September 2014, with the mandate to investigate and gather evidence of international crimes ISIL committed against ethnic and religious groups in Iraq. To date, CIGE has collected more than 3,000 testimonies from victims and witnesses of ISIL crimes, 3,065 DNA samples, and records related to more than 2,700 missing persons, hoping to

⁴⁰ Human Rights Watch (2017), “Flawed Justice: Accountability for ISIS Crimes in Iraq”, P.3; Human Rights Watch (2019), “Everyone Must Confess: Abuses against Children Suspected of ISIS Affiliation in Iraq”, P.20; Mara Revkin (2018), “The Limits of Punishment: Transitional Justice and Violent Extremism-Iraq Case Study”, PP.18-19.

⁴¹ Human Rights Watch (2017), “Flawed Justice: Accountability for ISIS Crimes in Iraq,” P.22-23; “Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL,” UNAMI/OHCHR, January, 2020. P.13.

⁴² M. Nowak, M. Birk and G. Monina, “The United Nations Convention Against Torture and its Optional Protocol: A commentary,” (Oxford: Oxford University Press, 2019), PP.388-390.

⁴³ IBAHRI, 2019, “Justice and accountability for the atrocities of Daesh - Progress made and the way forward,” PP.2-3, 20. Available at: <https://www.ibanet.org/document?id=justice-and-accountability-for-the-atrocities-of-daesh>.

support the identification process undertaken at the federal level. CIGE staff have received training on trauma-informed communication with survivors. The gathered evidence is stored at CIGE in a secured manner, digitised with its own server that is not connected to the internet. In addition, hard copies are stored in a separate room with special fire protection. The gathered evidence is not shared with any Iraqi or Kurdish authorities. Once it comes to sharing the stored evidence with third parties, such as UNITAD or European war crimes prosecutors, the informed consent of the witness and victims is obtained. CIGE also, upon the request of the survivor, may provide a certificate indicating an individual's eligibility for reparations under the YSL.⁴⁴ In 2019/20 CIGE conducted consultations with more than 200 Yazidi women survivors of ISIL crimes in 14 IDP camps and published a report: "Consultations for Reparations: Enhancing Victims Participation Towards the Development of a Comprehensive Reparation Policy". The goal was to inform the decision-makers of the reparations needs of survivors.⁴⁵

Two months into the YSL application process, an extra-legal evidentiary requirement necessitating YSL applicants to file a criminal complaint to be deemed eligible for reparations was introduced.⁴⁶ This requirement, which had not been envisaged in the YSL itself, is highly prohibitive as some survivors will refrain from making criminal complaints in order to not expose themselves to the mistreatment, humiliation, shame, and stigma that might transpire in the process. Many survivors will also not file complaints due to protection risks, because they lack, justifiable, trust in the Iraqi judiciary to maintain confidentiality. This is true for all eligible survivors under the YSL, but especially for Yazidi, Turkmen, Christian, and Shabak female survivors of sexual violence and Yazidi children who were forcibly conscripted by ISIL. Abusive practices by the judiciary have been extensively reported.⁴⁷ In July 2023, the UN Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence together with the UN Rapporteurs of other special procedures with the mandate to address human rights issues covered by the YSL, made public a follow-up communication sent to Iraq, regarding the imposition of additional criminal complaint requirements for applications to the YSL.⁴⁸

Civil Society Organizations

The Coalition for Just Reparations (C4JR), an alliance of 34 Iraqi NGOs calling for comprehensive reparations for survivors of atrocity crimes perpetrated during the ISIL conflict in Iraq, took the lead in reviving the public debate on reparations for survivors of the ISIL conflict in Iraq and improving the initial bill submitted by the Iraqi presidency. C4JR seeks to provide a collaborative and safe space where grievances of survivors belonging to all affected groups will be adequately addressed. To that end, C4JR supports the implementation of the YSL through monitoring,

⁴⁴ See FAQs section, Commission for Investigation and Gathering Evidence (CIGE), accessible at: <https://cige.gov.krd/?p=1553>.

⁴⁵ See "Consultations for Reparations: Enhancing Victims Participation towards the development of a Comprehensive Reparation Policy", August 2020. Available at: <https://cige.gov.krd/files/517675d046381ba8a52420341bc72652.pdf>.

⁴⁶ "More Than "Ink on Paper": Taking Stock Two Years After the Adoption of the Yazidi [Female] Survivors Law (March 2023)," P.24: <https://c4jr.org/wp-content/uploads/2023/03/More-than-Ink-on-Paper-two-years-after-YSL-adoption-report-FIN-ENG.pdf>.

⁴⁷ See "C4JR Urges Committee Established Under Yazidi Survivors Law to Drop Requirement of Filing Criminal Complaint to Receive Reparations," Coalition for Just Reparations (C4JR), April 6, 2023. Available at: <https://c4jr.org/0604202327288>.

⁴⁸ Communication is available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28060>

reporting, consultations with survivors, capacity building and mobilisation of CSOs and activists.⁴⁹ As currently no survivor-centred accountability avenues for ISIL atrocity crimes, including CRSV, are available in Iraq, in August 2022 C4JR published a Position Paper on an ISIL Accountability Mechanism in Iraq outlining basic legal, policy and practical contours of a mechanism to bring ISIL members to justice for their crimes.⁵⁰ This Position Paper was the outcome of year-long consultations between C4JR members aimed at identifying principles on which the long overdue criminal accountability mechanism for ISIL should be based. The discussion was informed by the views of survivors and by past experiences of accountability processes for atrocity crimes in Iraq, and grounded in Iraqi as well as international law and best practices. Its purpose is to provide fresh momentum to the pursuit of criminal accountability for international crimes committed by ISIL in Iraq.

As a key priority, C4JR members overwhelmingly want to ensure that, regardless of what sort of mechanism is established, it puts survivors at the front and centre, and fully respects their rights. The position paper reflects these priorities and draws on best practice and precedents developed through accountability mechanisms elsewhere, as well as drawing on the experience of UNITAD. Section 4 of the position paper calls for survivors and civil society to be consulted when the legal framework is being designed, and then again in implementation. Sections 6, 7 and 8 call for the participation of survivors in the proceedings, reparation and protection of the safety and well-being of victims.⁵¹ In response to Iraq's request to the UNSC to not renew the mandate of the UNITAD after September 2024, C4JR urgently conducted consultations, including an in-person meeting in Iraq. As it is essential that input be sought from survivors, C4JR actively consulted four networks: Hope Givers, the Survivors' Voices Network (SVN) and the Yazidi Survivors Network (YSN), as well as families of victims of the Speicher massacre committed by ISIL. Their input was incorporated into the final report titled: "Iraqi Civil Society and Survivor Networks Position on the Request of Iraq to Terminate UNITAD's Mandate in September 2024" in the form of direct quotes so that their views are expressed fully and accurately.⁵² In addition to being published as a stand-alone report, the first version of this report was shared with UN Office of Legal Affairs to inform the upcoming UN Secretary General's report Implementation of resolution 2697 (2023).⁵³

⁴⁹ See C4JR's website: <https://c4jr.org/>.

⁵⁰ See C4JR's Position Paper on an ISIL Accountability Mechanism in Iraq (2022): https://c4jr.org/wp-content/uploads/2022/08/Final-position-paper-ISIL-mechanism-ENG_FINAL_Hyperlinks-1.pdf.

⁵¹ Collaborative process of arriving at the position paper and its content is available at the website: <https://www.justice-iraq.com>.

⁵² "Iraqi Civil Society and Survivor Networks Position on the Request of Iraq to Terminate UNITAD's Mandate in September 2024," Coalition for Just Reparations (C4JR), (2022). Available at: https://c4jr.org/wp-content/uploads/2022/08/Final-position-paper-ISIL-mechanism-ENG_FINAL_Hyperlinks-1.pdf.

⁵³ United Nations Security Council Report of the Secretary-General - Implementation of resolution 2697 (2023). Available at: https://www.unitad.un.org/sites/www.unitad.un.org/files/general/report_of_the_secretary_general_english.pdf.

GOOD PRACTICE: DEVELOPING CULTURALLY SENSITIVE GUIDELINES FOR INTERVIEWING SURVIVORS

TO AVOID UNINFORMED OR IGNORANT ENGAGEMENT WITH YAZIDI SURVIVORS, MOST OF WHOM WERE SUBJECTED TO CRSV, THE NGO YAZDA DEVELOPED THE “GET TO KNOW ME FIRST” BOOKLET, A SURVIVOR-INFORMED GUIDE PROVIDING PRACTICAL GUIDANCE ON HOW TO ENGAGE WITH YAZIDI SURVIVORS FROM SINJAR IN A CULTURALLY SAFE AND TRAUMA-INFORMED WAY. A SECTION OF THE GUIDE OUTLINES SPECIFIC CONSIDERATIONS THAT ONE SHOULD BEAR IN MIND WHEN INTERACTING WITH SURVIVORS OF SEXUAL AND GENDER-BASED VIOLENCE. THE GUIDE HAS BEEN DESIGNED TO SUPPORT STAKEHOLDERS WHO CONDUCT INTERVIEWS WITH YAZIDIS AS PART OF THEIR MANDATE TO PROMOTE ACCOUNTABILITY AND TRANSITIONAL JUSTICE RELATED PROCESSES, INCLUDING UN MECHANISMS AND LAW ENFORCEMENT AGENCIES, INTERNATIONAL AND NATIONAL ORGANISATIONS DELIVERING PROJECTS TARGETING THE YAZIDI COMMUNITY, AND JOURNALISTS, FILMMAKERS AND ACADEMIC RESEARCHERS.⁵⁴

International trials

Yazda has played a pivotal role in supporting the prosecution of nine cases in Germany for Genocide, Crimes against Humanity, War Crimes, including crimes of conflict-related sexual violence (CRSV). Through its advocacy efforts and collaboration with legal experts, Yazda has provided crucial assistance to survivors in navigating the complex legal processes involved in seeking justice for the atrocities committed against the Yazidi community by ISIL. By facilitating access to legal representation, gathering evidence, and offering support to witnesses, Yazda has contributed significantly to the advancement of these cases, which represent a landmark step in holding perpetrators accountable for their heinous actions. Moreover, Yazda's efforts have helped amplify the voices of survivors and shed light on the widespread and systematic nature of the crimes perpetrated against the Yazidi people, thereby advocating for broader recognition and condemnation of these atrocities on the international stage.

Partnership between CVT and Jiyar Foundation to support C4JR efforts

Center for Victims of Torture (CVT) has supported C4JR's work on trauma-informed approaches through: Training modules currently available for member organisations involved in documenting survivor stories and seeking justice through various avenues, such as criminal accountability, advocacy, and memorialisation. These trainings are adaptable to the specific needs of each organisation and include topics such as informed consent, confidentiality, survivor-centred decision-making, interviewing skills, trauma-informed referrals, basic psychological first aid (PFA), and establishing boundaries. Self-care and staff-care components are also incorporated to address vicarious or secondary trauma.

UNITAD's Witness Protection and Support Unit (WPSU)

UNITAD has adopted a victim-centered approach in its activities in line with the witness protection strategy, and international practices. One of the guiding principles in this regard is that no further harm is caused to witnesses as part of the collection of testimonial evidence. Working practices and methods for interviewing victims of CRSV, and violence against children have been developed. The highest level of confidentiality has been ensured in order to limit the potential

⁵⁴ Yazda's "Get To Know Me First Guide" is available online at: https://irp.cdn-website.com/16670504/files/uploaded/2023.09.29_Yazda_Guide_Final_ENG-ba22cca4.pdf.

exposure of witnesses to identified threats. UNITAD seeks to obtain from witnesses and other sources their informed consent before it shares evidence with Iraqi and other domestic investigative, prosecutorial and judicial authorities, and with any other competent authorities as determined in agreement with the Government of Iraq.

Appropriate measures are also taken to ensure respect for the privacy, interests and personal circumstances of victims, in light of their age, sex, sexual orientation, gender and health, and considering the nature of the crime, in particular where it involves sexual violence, gender violence or violence against children. In this regard, the procedures and methods of work adopted ensure that victims and witnesses, and any other persons who cooperate with UNITAD can do so in safety, full confidentiality, and security.⁵⁵

The "Trauma-Informed Investigations Field Guide " documents the trauma-informed approach adopted by UNITAD in an effort to share leading, actionable practice for domestic and international investigators with respect to their engagement with vulnerable survivors and witnesses. Engaging with witnesses and survivors in a manner sensitive to the trauma they may have suffered has been a central priority of UNITAD. In addition to mainstreaming a psycho-social approach in the collection of testimonial evidence, the UNITAD Witness Protection and Support Unit has developed guidance documents and in-house training to enhance the ability of investigators to engage with vulnerable witnesses in a manner aligned with best practice. This area of work has benefited from collaboration with the Human Rights in Trauma Mental Health Program at Stanford University, who have further supported UNITAD in the development of expert impact reports synthesising available mental health data pertaining to those affected by crimes committed by ISIL.⁵⁶

International Organization for Migration (IOM)

Since January 2019, IOM Iraq has been working to build the capacity of government officials as well as civil society on reparations for survivors of CRSV. As part of a project dedicated to reparations for CRSV, a number of studies mapping services for CRSV survivors and efforts to document CRSV have been completed, as well as several activities aimed at raising awareness on the right to reparation. Furthermore, IOM organised a study visit for members of the Iraqi Council of Representatives to Kosovo and Croatia to review the framework and implementation of their respective reparations programmes.⁵⁷ Workshops were held with the attendance of survivors and policy makers to bridge the gap between the first draft of the bill and survivor demands. IOM Iraq is the main technical partner of the MOLSA/Directorate for implementation of the YSL and in this

⁵⁵ UNITAD Psychosocial Support: <https://www.unitad.un.org/content/psychosocial-support>.

⁵⁶ UNITAD, "Trauma-Informed Investigations Field Guide" (2021). Available at: https://www.unitad.un.org/sites/www.unitad.un.org/files/general/2104429-trauma-informed_investigations_field_guide_web_0.pdf.

⁵⁷ IOM, Yazidi survivors in Germany and Iraq's Reparation Programme: "I want for us to have a share in Iraq" (2021), P.10. Available at: https://iraq.iom.int/sites/g/files/tmzbd11316/files/documents/Yazidi%20Survivors%20in%20Germany%20and%20Iraq%27s%20Reparations%20Programme_2.pdf.

capacity, it provides technical and expert assistance to the Directorate.⁵⁸ It also supports the work of the survivors networks and CSOs.⁵⁹

⁵⁸ IOM, “IOM, MOLSA Sign Cooperation Agreement to Support Implementation of Yezidi Survivors Law” (2022). Available at: <https://iraq.iom.int/news/iom-molsa-sign-cooperation-agreement-support-implementation-yezidi-survivors-law>.

⁵⁹ IOM, “Bringing Survivors Together For The Common Goal Of Transitional Justice,” (2023). Available at: <https://iraq.iom.int/stories/bringing-survivors-together-common-goal-transitional-justice>.

4. **Evidence collection and documentation pursuant to the Istanbul Protocol:** What are the practical, logistical or other challenges in evidence collection of sexual torture in armed conflict? What good practices are used to address such challenges?

Please provide examples of the specialized policies, protocols and practices used to identify, document and secure evidence collection in respect of crimes of sexual torture in armed conflict and related ill-treatment and the damages caused to individuals, families, and communities. Please provide information on any specialist skills sets or interviewing techniques applied. Has your country recognised the Istanbul Protocol? Have your authorities identified any specific challenges with applying the Istanbul Protocol to victims and survivors of sexual torture or related ill-treatment? What are some of their best practices in implementing the Istanbul Protocol to victims and survivors of sexual torture?

- Sara Ferro Ribeiro and Danaé van der Straten Ponthoz on behalf of the UK Foreign & Commonwealth Office, International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Best Practice on the Documentation of Sexual Violence as a Crime or Violation of International Law, Second Edition: March 2017, available at: https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/06/report/international-protocol-on-the-documentation-and-investigation-of-sexual-violence-in-conflict/International_Protocol_2017_2nd_Edition.pdf.
- Institute for International Criminal Investigations, Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Guidance for Practitioners in Iraq, March 2018, available at: https://iici.global/0.5.1/wp-content/uploads/2018/03/Iraq-IP2-Supplement_English_Online.pdf.
- The Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence (Murad Code), 2022, available at: <https://www.muradcode.com/murad-code>.
- There is a lack of information on whether the Iraqi government recognises the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). It is also the case that no training programs on Istanbul Protocol for medical personal and other relevant staff could be identified.⁶⁰ As a result of this, there is a lack of capacity in both forensic expertise and an understanding of how health professionals working in rehabilitation centres and organisations can support in the identification and documentation of assessment findings to support these processes.

⁶⁰ See: [Committee Against Torture, Concluding observations on the second periodic report of Iraq, CAT/C/IRQ/CO/2, June 15, 2022, para 42-43.](#)

5. **Rehabilitation:** What specialist rehabilitation approaches and services are provided to victims, witnesses, families and communities that have been impacted by sexual torture and related ill-treatment in armed conflict? How do these differ from other rehabilitation support provided to victims of torture? How do they differ from rehabilitation provided in non-armed conflict situations? How should the nature or process of rehabilitation be tailored to different groups of victims (e.g. take into account intersecting characteristics as sex/gender, age, other health circumstances, civilian versus military victims, etc.), or the types of sexual torture suffered during armed conflict? How do these relate to the provision of other forms of reparation (compensation, restitution, satisfaction, and non-repetition)?

Whereas crimes committed by ISIL can, in most cases, be characterized as sexual torture and other ill-treatment, the underlying nature is better reflected through international crimes framework. Namely, crimes committed against Iraqi minorities meet the criteria for crimes against humanity and even genocide. It has been demonstrated that ISIL planned to annihilate at least Yazidis, whereas it committed massive and systematic crimes to expel others. It follows that these crimes had a much greater impact on the affected communities whereas stigma related issues play a central role in attempts to end impunity and provide holistic rehabilitation care.

Sexual torture used against men and boys is not explicitly covered by the YSL and is surrounded with stigma. Whereas the extent of violations committed against the Yazidi women led to normalisation and pushed the community into dealing and acknowledging the crimes committed, this is hardly the case concerning survivors coming from other affected communities. Therefore, the stigma surrounding CRSV committed against women from Christian, Turkmen and Shabak communities is higher. In the same vein, explicit acceptance of survivors from the side of the religious authorities transpired only in the case of the Yazidi community. Therefore, non-Yazidi communities are in urgent need of more activities around reducing stigma.

The pioneering Yazidi [Female] Survivors Law (YSL), enacted on 1st March, 2021, envisages, for the first time in Iraq, rehabilitation as a form of reparation for survivors of the ISIL conflict and atrocities.⁶¹ The passing of the YSL marked an important milestone in Iraq's post-conflict recovery period, as it promised to deliver long-awaited relief to Yazidi, Shabak, Turkmen and Christian women that ISIL subjected to conflict-related sexual violence (CRSV).⁶² It also promised to deliver support to men and women from these communities that survived mass killings⁶³, as well as captured Yazidi children.⁶⁴

It is also one of the very few precedents of a state taking deliberate action to specifically address the rights and needs of survivors of CRSV. More precisely, Article 4.2 of the YSL states that the law aims to “rehabilitate and take care of [female] survivors and those covered by the provisions of this law and to prepare the necessary means to integrate them into society”. Article 5.6 further

⁶¹ Yazidi [Female] Survivors' Law No. 8 of 2021, available at <https://c4jr.org/wp-content/uploads/2022/01/Yazidi-Female-Survivors-Law-March-24-2021.pdf>.

⁶² Indicated beneficiaries are defined as women and girls who survived “sexual violence, kidnapping, sexual slavery, selling her in slavery markets, separating her from her family, forcing her to change her religion, forced marriage, pregnancy and forced abortion or inflicting physical and psychological harm to her by ISIL since the date 03.08.2014 and was freed afterwards,” YSL, Art. 1, Art. 2 Para 1, Art. 2, Para 2.

⁶³ YSL, Art. 2, Para 4.

⁶⁴ YSL, Art. 2, Para 3.

stipulates that GDSA will open “health and psychological rehabilitation centers to treat [female] survivors.”

To facilitate YSL implementation, C4JR drafted a set of Key Recommendations to inform the Iraqi government when designing the YSL implementing regulations (bylaws). In this document, C4JR suggested clarifying the content of rehabilitation and suggested that:

“In addition to medical and psychological services, rehabilitation of survivors indicated in Article 4(2) of the Law shall encompass a range of specialised 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 such as counselling and physiotherapy support; in many NGOs, case management (CM) is the first step in which clients can access these services. CM is a collaborative process of a comprehensive and holistic assessment to identify needs, coordinate services, educate, advocate, and support survivors.

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

e) Livelihood programs including offering vocational training 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 re-establishing 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, neighbours, 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.”⁶⁵

C4JR also advocated for including family members of survivors as a stand-alone category of receivers of rehabilitation services.⁶⁶ Regrettably, enacted by-laws did not follow C4JR’s recommendation concerning rehabilitation.⁶⁷ In order to address the current gap in the provision of mental health services by institutions, GDSA signed agreements with eight NGOs on March 28, 2023 with a view to creating a referral system to support survivors both during the application process and afterwards.⁶⁸ However, such a referral system, though indispensable as a transitional solution, cannot substitute a sustainable state-sponsored rehabilitation system guaranteed under the YSL. In addition, such system cannot be reduced to MHPSS (mental health and psychosocial) services alone, but requires a multidisciplinary approach to deliver a range of rehabilitation services and interventions to mitigate, as far as possible, “ripples of harm” caused by an initial wrongdoing adversely affecting individuals, families and communities concerned.⁶⁹ According to the UN Committee Against Torture: “Rehabilitation for victims should aim to restore, as far as possible, their independence, physical, mental, social and vocational ability; and full inclusion and participation in society”.⁷⁰ It goes without saying that this cannot be achieved through MHPSS services alone, and a trauma-informed care approach, with therapy sessions provided by a clinical psychologist or specialist, is required along with other measures and support. The role of trauma-focused physiotherapists is a critical part of the multidisciplinary team. Access to medical OB-GYN (obstetrician-gynecologist) services is limited in Iraq, and physiotherapists as an accessible workforce have limited capacity to provide supportive interventions to survivors of sexual violence who suffer a range of symptoms related to pelvic dysfunction.

The Agreement has so far facilitated the referral of 86 survivors for MHPSS through Farida Global Organization, Free Yezidi Foundation, Jesuit Refugee Services, Jiyan Foundation, SEED Foundation, and Yazda. Through this referral mechanism, beneficiaries of the YSL can access support services in their current areas of residence, thus bridging the current institutional gap in MHPSS services available to survivors. The GDSA has initiated the strategic planning of MHPSS facilities for YSL beneficiaries in collaboration with the Iraqi and Kurdistan Region’s Ministry of Health and other relevant institutions.⁷¹

⁶⁵ “Key Recommendations to the Iraqi Council of Ministers for Implementing Regulations of the Yazidi [Female] Survivors Law”, C4JR, para. 2.3. Available at: <https://c4jr.org/wp-content/uploads/2021/06/C4JR-Rec-to-CoM-ENG.pdf>.

⁶⁶ Ibid, para. 2.1.

⁶⁷ English translation of the YSL bylaws is available at: https://c4jr.org/wp-content/uploads/2024/01/Survivors-Law-prepress_3mm-full-bleed_231122_185532.pdf.

⁶⁸ See First C4JR YSL Newsletter available at: https://c4jr.org/wp-content/uploads/2023/07/C4JR-NL_1_English.pdf.

⁶⁹ See Second C4JR YSL Newsletter available at: https://c4jr.org/wp-content/uploads/2023/09/C4JR-NL_2ENG.pdf.

⁷⁰ Committee against Torture, General comment No. 3 (2012), Implementation of article 14 by States parties, para. 11.

⁷¹ “More Than “Ink on Paper”: Taking Stock Three Years After the Adoption of the Yazidi [Female] Survivors Law (March 2024),” P.28: <https://c4jr.org/wp-content/uploads/2024/03/C4JR-Report-2024-Three-Years-After-YSL-1.pdf>.

C4JR, in collaboration with the International Centre for Health and Human Rights (ICHHR), organised a series of consultations in June 2023 with female survivors, male survivors, and their families, as well as key national stakeholders, to discuss their views on rehabilitation as reparation. A stakeholder workshop was held to discuss the right to rehabilitation as reparation in international law, holistic and specialist rehabilitation, the interdisciplinary nature of the concept and its relationship with justice and impunity, and rehabilitation service delivery. Following these workshops, Dr. Nimisha Patel, Executive Director of the International Centre for Health and Human Rights and Professor of Clinical Psychology at the University of East London, adapted and contextualised indicators on the right to rehabilitation in Iraq, in keeping with Iraqi and international human rights law.⁷² The final set of indicators includes structural indicators to monitor legal and constitutional measures and safeguards taken at the state level to implement the right to rehabilitation, process indicators that examine state interventions towards realising rehabilitation as reparation, and outcome indicators that explore whether services available to survivors meet standards for rehabilitation as a form of reparation under international law. A guide to using human rights indicators to monitor the implementation and realisation of the right to rehabilitation guaranteed under the YSL has been published and will be officially presented to the GDSA and relevant stakeholders in the upcoming period.⁷³

A summary of some findings that can be drawn from Dr. Patel's meetings with survivors:

- Length of intervention: short term and insufficient numbers of sessions, some clients had only seen the psychologist only once. Given the fact that the trauma is ongoing with missing people and unresolved issues on mass graves, this is not enough;
- Capacity of services delivery: survivors reported that it wasn't enough to meet the severity of their trauma. There are ongoing needs for training, mentorship and supervision, in line with supporting those teams with specialised support for vicarious traumas while doing this work where many Iraqis have been affected by conflict over the past years.
- Sustainability of these services and instability due to funding;
- Accessibility and availability of services for survivors in locations such as Tal Afar;
- Trauma-informed care and implementing the principles in the work with victims;
- Stigmatisation of communicates affected, and the need to prepare staff who will work directly with survivors;
- Narrow pathological look at survivors where they are over diagnosed with mental health disorders and take prescriptions with less psychoeducation or therapy to incubate healing;
- Survivor-centred approaches need to be more implemented and the integration of their voices in the type of services, whether individual, group, family or community;
- The need to work with children, men within the community since this was a collective trauma and those people will also need services;
- There are also needs to tailor any intervention that was used in other contexts, considering the unique aspects of Iraq's context and communities. We need to reflect, pilot and continue the learning process in the guidance of survivors.

⁷² More Than "Ink on Paper": Taking Stock Three Years After the Adoption of the Yazidi [Female] Survivors Law (March 2024), P.29: <https://c4jr.org/wp-content/uploads/2024/03/C4JR-Report-2024-Three-Years-After-YSL-1.pdf>.

⁷³ See "Right to Rehabilitation as Reparation for Survivors of Grave Human Rights Violations: A guide to using human rights indicators to monitor implementation and realization of the right to rehabilitation for survivors of ISIL crimes in Iraq guaranteed under the Yazidi [Female] Survivors Law," available at: c4jr.org/wp-content/uploads/2024/02/Right-to-Rehabilitation-as-Reparation-for-Survivors-of-Grave-Human-Rights-Violations-final-english.pdf.

GOOD PRACTICE: JIYAN CLINIC FOR WOMEN

IN RESPONSE OF THE NEEDS OF WOMEN SURVIVORS OF SEXUAL TORTURE JIYAN FOUNDATION FOR HUMAN RIGHTS OPENED THE TRAUMA CLINIC FOR WOMEN IN KURDISTAN REGION OF IRAQ. FEMALE SURVIVORS OF VIOLENCE AND ABUSE (ALL OF THE CLIENTS HAVE BEEN YAZIDI WOMEN SURVIVORS OF CRSV), POSSIBLY TOGETHER WITH THEIR CHILDREN. A COMMUNITY FACILITATOR WHO IS A YAZIDI WOMAN IS WORKING IN GATHERING CLIENT GROUPS IN IDP CAMPS AND SURROUNDED AREA IN ORDER TO VISIT THE CLINIC BASED ON A SCREENING TOOL TO GENERAL IDENTIFICATION OF THEIR CURRENT PSYCHOLOGICAL SYMPTOMS. THEY ALL TAKE PART IN A SPECIALISED FOUR-WEEK STABILISATION PROGRAM WHERE THEY ENGAGE IN INDIVIDUAL AND GROUP PSYCHOTHERAPY, COMMUNITY LIVING AND LIVE-IN SUPPORT TO ADDRESS SOMATIC SYMPTOMS. THEY ALSO ATTEND 12 SESSIONS ON PSYCHOEDUCATION ABOUT TRAUMA AND PTSD SYMPTOMS, COPING STRATEGIES, GROUNDING, RELAXATION TECHNIQUES AND ENGAGE IN GARDEN, ART, PLAY, SPECIAL GROUPS BASED ON THE PARTICIPANT'S AGE (ADULT, ADOLESCENT AND CHILDREN), AND INDIVIDUAL THERAPIES. THEY ALSO PARTICIPATE IN SEWING, MAKEUP, HANDCRAFTING, SPORT AND YOGA CLASSES. ENTERTAINMENT ACTIVITIES ARE PART OF THEIR STAYING SCHEDULE SUCH AS VISITING PUBLIC WELL KNOWN PARKS, RESTAURANTS, BAZAARS AND PICNICS. DURING THE ENTIRE DURATION OF THEIR STAY WOMEN SURVIVORS AND THEIR FAMILIES ARE PROVIDED WITH FOOD, NECESSITIES, AND A COMMUNITY OF SUPPORT BY SPECIALLY TRAINED ALL FEMALE STAFF. ALL PATIENTS ARE PROVIDED WITH MEDICAL, PSYCHIATRIC, PHYSIOTHERAPY AND SOCIAL CARE. AFTER THESE FOUR WEEKS, PATIENTS RETURN HOME TO RECEIVE LONG-TERM TREATMENT AT THEIR LOCAL JIYAN FOUNDATION TREATMENT CENTRE. PATIENTS' FAMILIES ARE ALSO PROVIDED WITH INFORMATION AND OPPORTUNITIES TO FURTHER UNDERSTAND THEIR LOVED ONE'S CONDITION. HELPING THEM FEEL EMPOWERED AND ABLE TO MANAGE THESE CONDITIONS AS THEY MOVE FORWARD.⁷⁴ SINCE ITS INCEPTION IN 2015, MORE THAN 1,000 PATIENTS HAVE BEEN TREATED WHEREAS APPROXIMATELY HALF OF THE BENEFICIARIES ARE WOMEN, AND HALF ARE CHILDREN OR ADOLESCENTS STAYING AT THE CLINIC WITH THEIR MOTHERS. PATIENTS' PSYCHOLOGICAL SYMPTOMS ARE ASSESSED AT THE BEGINNING AND END OF THE FOUR- WEEK STABILISATION PROGRAM USING STANDARD SYMPTOM SCALES TO ENSURE THAT TREATMENTS ARE HAVING THE INTENDED EFFECT. JIYAN FOUNDATION'S ASSESSMENTS SHOW THAT OVER THE COURSE OF THEIR TREATMENT, MOST PATIENTS EXPERIENCE REDUCTIONS IN THEIR PSYCHOLOGICAL SYMPTOMS, SUCH AS DEPRESSION AND SOMATIC SYMPTOMS.⁷⁵

Reparations made available under the YSL go well beyond rehabilitation to encompass a mix of individual and collective reparative measures.⁷⁶ The YSL mandates a number of critical, State-sponsored, reparative measures including financial support;⁷⁷ medical and psychological care⁷⁸;

⁷⁴ "The Trauma Clinic for Yazidi Women," Jiyana Foundation for Human Rights. Available at: <https://jiyan.org/yazidi-clinic-for-women/>.

⁷⁵ Jiyana Foundation for Human Rights, Bi-annual Report 2021/2022, (2023), P.10-11. Available at: <https://jiyan.org/wp-content/uploads/2023/11/Jiyan-Foundation-for-Human-Rights-Bi-Annual-Report-2021-2022.pdf>.

⁷⁶ For a detailed overview of state of implementation of diverse YSL reparative measures see "More Than "Ink on Paper": Taking Stock Three Years After the Adoption of the Yazidi [Female] Survivors Law (March 2024)," P.24-31: <https://c4jr.org/wp-content/uploads/2024/03/C4JR-Report-2024-Three-Years-After-YSL-1.pdf>.

⁷⁷ Amount no less than 800,000 IQD which amounts to approximately 570 EUR, YSL, Art. 6, Para 1.

⁷⁸ YSL, Art. 4. Para. 2 and Art. 5. Para. 6.

the provision of land, housing, education and a quota in public sector employment. Moreover, it officially recognizes that ISIL committed genocide and crimes against humanity against Yazidi, Christian, Turkmen and Shabak minority groups,⁷⁹ and mandates memorialization,⁸⁰ the search for those still in captivity, opening of mass graves, identification of remains and their return to the families⁸¹ and calls Iraqi institutions to ensure that perpetrators of genocide and crimes against humanity are held accountable.⁸² Furthermore, the associated bylaws included an obligation to develop specialized curricula on the ISIL conflict, designed to promote peaceful coexistence and the renunciation of violence.⁸³

The YSL stipulates that individual monthly compensation payments shall amount to not less than twice the minimum pension salary stipulated in the Unified Pension Law (currently amounting to around 800,000 IQD or approximately \$600), thus setting the floor but not the ceiling of the guaranteed financial payments.⁸⁴ It seems that delivery of land and housing has been limited to one per family, in case there are multiple survivors, though this limitation has legal basis in the text of neither the YSL nor its by-laws.

Though YSL does not explicitly impose limits on enjoying all reparative measures simultaneously, monthly compensation payments, which in the original Arabic text is termed monthly salary, cannot be realised together with public employment obtained through the YSL as a reparative measure. The reason for this is that Iraqi legislation explicitly prohibits receiving a dual salary.⁸⁵

⁷⁹ YSL, Art. 7.

⁸⁰ YSL, Art. 8

⁸¹ YSL, Art. 5. Para. 8.

⁸² YSL, Art. 9. Para. 1.

⁸³ YSL bylaws, Art. 3, Para. 1b.

⁸⁴ YSL, Art. 10. Para. 2.

⁸⁵ More Than “Ink on Paper”: Taking Stock Three Years After the Adoption of the Yazidi [Female] Survivors Law (March 2024), P.24: <https://c4jr.org/wp-content/uploads/2024/03/C4JR-Report-2024-Three-Years-After-YSL-1.pdf>.

GOOD PRACTICE: ESTABLISHMENT OF THE INSTITUTE FOR PSYCHOTHERAPY AND PSYCHOTRAUMATOLOGY (IPP) AT THE UNIVERSITY OF DUHOK, IRAQ

IPP AND ITS MASTER PROGRAM OF PSYCHOTHERAPY AND PSYCHOTRAUMATOLOGY (MASPP) WERE ESTABLISHED IN 2017 WITH AN AIM TO BUILD UP CAPACITIES OF IRAQI PSYCHOLOGISTS IN PSYCHOTHERAPY TO SUPPORT THE PROVISION OF LOCAL MENTAL HEALTH SERVICES FOR COUNTLESS SURVIVORS OF SEXUAL TORTURE AND OTHER GRAVE HUMAN RIGHTS VIOLATIONS ISIL COMMITTED IN NORTH IRAQ.⁸⁶ THE IPP IS LOCATED IN DUHOK, A REGION WITH AROUND 1.5 MILLION INHABITANTS THAT CURRENTLY STILL HOUSES AROUND 240 000 IDPS FROM IRAQ AND AROUND 85 000 REFUGEES MOSTLY FROM SYRIA THAT ARE LIVING IN 24 REFUGEE CAMPS AROUND THE CITY OF DUHOK.⁸⁷ IPP IS A JOINT PROGRAM BETWEEN THE UNIVERSITY OF GERMAN FEDERAL STATE OF BADEN-WÜRTTEMBERG, UNIVERSITY OF TUBINGEN IN GERMANY AND UNIVERSITY OF DUHOK IN IRAQ.

IPP WAS CONCEIVED TO COMPLEMENT THE STATE OF BADEN-WÜRTTEMBERG'S GROUND-BREAKING SPECIAL QUOTA HUMANITARIAN ADMISSION PROGRAMME ANNOUNCED IN 2014. SPECIAL QUOTA PROGRAM AIMED TO PROVIDE SPECIALIZED PSYCHOSOCIAL AND MEDICAL SUPPORT THAT AT THE TIME WAS UNAVAILABLE IN IRAQ TO WOMEN AND CHILDREN WHO SURVIVED ISIL VIOLENCE. A TOTAL OF 1,100 YAZIDI SURVIVORS ARRIVED IN 22 CITIES IN GERMANY IN 2015 AND 2016.⁸⁸ TO REMEDY THE LACK OF SUFFICIENT MENTAL HEALTH PROFESSIONALS IN IRAQ AND KRI WITH FUNDING FROM THE GERMAN GOVERNMENT AND THE STATE OF BADEN-WÜRTTEMBERG IPP AND MASPP WERE ESTABLISHED. UP UNTIL NOW 69 STUDENTS SUCCESSFULLY COMPLETED MASPP, ACQUIRED THEIR DEGREES AND CURRENTLY SERVE THE COMMUNITY AND SURVIVORS WHO SUFFER FROM PSYCHOLOGICAL BURDEN AFTER WAR AND TRAUMA. ADDITIONAL 22 STUDENTS, ADMITTED TO THE MASPP IN 2023, ARE IN THE PROCESS OF COMPLETING THEIR STUDIES AT THE IPP.

⁸⁶ See web page of the University of Duhok's Institute for Psychotherapy and Psychotraumatology (IPP) available at: <https://uod.ac/ac/institutes-and-centers/ipp-institute/>

⁸⁷ See <https://data.unhcr.org/en/country/irq>

⁸⁸ See Güley Bor, Yazidi survivors in Germany and Iraq's Reparation Programme: "I want for us to have a share in Iraq", IOM-Iraq, 2021, page 12, available at: https://germany.iom.int/sites/g/files/tmzbd1806/files/documents/iom_yazidi-survivors-in-germany-and-iraq-reparations-programme.pdf

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- 2nd C4JR Annual Report, March 2024: <https://c4jr.org/wp-content/uploads/2024/03/C4JR-Report-2024-Three-Years-After-YSL-1.pdf>
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