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**Reparations for child survivors of sexual exploitation conducted by the self-declared Islamic State of Iraq and the Levant (ISIL) in Iraq**

input for the report of the Special Rapporteur on the sale and sexual exploitation of children on reparation for child victims and survivors of sale and sexual exploitation

Submitted by:

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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 centers across Iraq, including special departments for traumatized women and children and a clinic for Yazidi women who survived ISIS captivity.*

*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 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.*

**Background**

The armed conflict that spread across Iraq with the advent of the self-declared Islamic State of Iraq and the Levant (ISIL) at the beginning of 2014 accelerated the already existing spiral of violence to an unprecedented level.[[1]](#footnote-1) Gross violations of IHRL, IHL and ICL were well documented by the UN Assistance Mission for Iraq (UNAMI) as well as other actors such as Human Rights Watch, Amnesty International, Minority Rights Group.[[2]](#footnote-2) The Yazidi community, together with other minorities (Christians, Kurds, Shabak, Turkmens), were especially targeted by ISIL. After ISIL established control over the Sinjar area, entire Yazidi families were taken captive. Separation of women and children from men and boys older than twelve followed. Men and boys were given a choice between being shot on the spot or converting to Islam. Those who refused to convert were executed, sometimes within the hearing range of their families. Girls and younger women together with their small children were sold into sexual slavery. Those who kept resisting were exposed to extreme violence (rape, severe beatings, killing of their children) or executed. Boys above seven years of age were sent to ISIL camps to receive military training. From the survivors´ accounts, it transpires that all females, including those as young as nine, were subjected to various forms of sexual violence including virginity tests, rape, sexual slavery, forced prostitution, forced pregnancy and forced abortions. Sexual violence played a key role in ISIL´s reign of terror. The majority of those exposed to systematic sexual abuse are reportedly women and girls of the Yazidi faith, but also other religious and ethnic minorities. Yezidi children and young girls were particularly targeted and subjected to abduction, sexual enslavement, human trafficking, torture, rape and other grave human rights violations by ISIL.[[3]](#footnote-3) To date, more than 2,700 Yazidi women and children remain missing, probably still in ISIL captivity.[[4]](#footnote-4) According to a report by Reuters, 1.3 million children have been displaced due to ISIL-created conflict in Iraq.[[5]](#footnote-5)

The posting of Yezidi children on social media for the purpose of sexual and economic exploitation and human trafficking constitutes a form of online sexual exploitation of children (OSEC). As part of its genocidal campaign, ISIL terrorists posted numerous hateful and violent images online to facilitate human trafficking and sexual explanation. These should be “presumed to have been sexually and/or economically exploited and human trafficked by ISIS fighters, not just once, but many times over. These social media postings have caused grave emotional distress and despair to the families of Yezidi captives held by ISIS as well as to the entire Yezidi community displaced by ISIS.”[[6]](#footnote-6)

**Relevant developments**

By signing a Joint Communiqué with the United Nations on the Prevention and Response to Conflict-Related Sexual Violence(2016),[[7]](#footnote-7) the Government of Iraq pledged to strengthen protection, ensure accountability and reparations for survivors of sexual violence committed in the context of ISIL created conflict in Iraq.[[8]](#footnote-8)

On 1 March 2021, members of the Iraqi Parliament passed the Yazidi Women Survivors Law (YSL)[[9]](#footnote-9) thus honoring their obligation to provide reparation to survivors of ISIL atrocities committed on its territory. Iraqi civil society, facilitated by the [C4JR](https://c4jr.org/), 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 in March 2019. To that end C4JR composed a [Draft Law of its own](https://c4jr.org/wp-content/uploads/2020/10/C4JR-DRAFT-CRSV-REPARATION-LAW-final-version-english-with-logo.pdf) and carried out an intensive advocacy campaign via traditional and online media. It also conducted a series of virtual and in-person briefings for Iraqi MPs and other officials, raised awareness on the importance of addressing consequences of wartime sexual violence in Iraq and abroad, and collaborated with the United Nations Assistance Mission for Iraq (UNAMI) and the International Organization for Migration (IOM) mission in Iraq to promote survivor-friendly solutions. The main aim was to include, to the greatest extent possible, international standards and best practices in the forthcoming legislation.

The passing of the YSL marked an important milestone in Iraq’s post-conflict recovery period, as it promises to deliver long-awaited relief not only to Yazidi, Shabak, Turkmen and Christian women and girls that ISIL subjected to the conflict-related sexual violence (CRSV), but also, men and women from these communities that survived mass killings as well as captured Yazidi children. The YSL mandates a number of critical reparations for indicated beneficiaries, including:

* Compensation in the form of monthly salary;[[10]](#footnote-10)
* A residential plot of land with a real estate loan or a free housing unit;[[11]](#footnote-11)
* Exemption from the age requirement if the survivors choose to return to study;[[12]](#footnote-12)
* Priority in public employment;[[13]](#footnote-13)
* Access to rehabilitation services (official aim of the YSL is to rehabilitate survivors and integrate them into society).[[14]](#footnote-14) This is to be done by opening health and psychological rehabilitation centers to treat the survivors;[[15]](#footnote-15)
* Official recognition that ISIL committed genocide and crimes against humanity against Yazidis, Turkmen, Christian and Shabak minority groups. Moreover, Iraqi Ministry of Foreign Affairs has been mandated to disclose these crimes in international forums;[[16]](#footnote-16)
* Designation of 3 August[[17]](#footnote-17) 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 organizing exhibitions, will be organized;[[18]](#footnote-18)
* 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;[[19]](#footnote-19)
* 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;[[20]](#footnote-20)
* In addition, the associated bylaws expanded these obligations even further, including, for instance, an obligation for government agencies to develop specialized curricula on the ISIL conflict designed to promote peaceful coexistence and the renunciation of violence. Finally, the YSL explicitly stipulates an objective to, inter alia, prevent the recurrence of the violations that occurred against the indicated minorities.[[21]](#footnote-21)

This law is one of the very few examples of states taking deliberate action to specifically address the rights and needs of survivors of CRSV. It specifies harms and violations women survivors have been exposed to covering a large spectrum of forms of sexual violence such as: sexual slavery, selling in slavery markets, separation from family, forced conversion, forced marriage, forced pregnancy and forced abortion and inflicting physical and psychological harm.[[22]](#footnote-22)

The final outcome, a joint effort of the Iraqi Government, international organizations, CSOs and survivors themselves, though not ideal, does provide a sound basis for the important work ahead: repairing the harm done to survivors of ISIL crimes in Iraq.

Thegreatest flaw of this law is not addressing the contentious and sensitive issue of children born of sexual violence. Similarly, men and boys exposed to sexual violence as well as survivors belonging to some minorities targeted by Daesh such as Kakai but also both Shia and Sunni Arabs were left out. It is also regrettable that the law does not include individuals harmed through crimes committed by all parties to the ISIL conflict in Iraq**.**

More than one and a half years after the adoption of the YSL, small but important steps towards implementation have already been taken.

* Director General of the Directorate for Survivors’ Affairs-GDSA (a special body established to facilitate implementation of the YSL) has been appointed
* Office of the GDSA has been established in Mosul and a branch office in Sinjar.
* Implementing regulations to lay the groundwork for effective implementation have been enacted.
* State funding has been allocated for YSL implementation in 2022
* Application process started in September 2022

**Developments Concerning Criminal Accountability**

Whereas criminal proceedings aimed at punishing ISIL supporters are taking place in Iraq under its antiterrorism legislation, they could hardly contribute to vindicating the right of victims to reparation/compensation. Namely, as mere affiliation or supporting 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.[[23]](#footnote-23) It has been reported that even when the accused admitted to having perpetrated crimes of sexual nature, no separate charge under this head has been brought.[[24]](#footnote-24) This deprives the survivors of an official acknowledgement of the wrongs committed against them, which is often a crucial element in the reparations process.

Despite the fact that the UN Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL (UNITAD) has made progress in collecting evidence of ISIL crimes against Yazidis, Shia, Sunni, Christian, Kaka’i, Shabak and Turkmen Shia and even established a separate unit to ensure effective investigation of sexual and gender-based crimes and crimes against children committed by ISIL in Iraq,[[25]](#footnote-25) no tangible progress has been made in the past eight years in Iraq to prosecute those responsible for these horrific crimes in line with international standards.

In August 2022 C4JR published a Position Paper on an ISIL Accountability Mechanism in Iraq[[26]](#footnote-26) outlining basic legal, policy and practical contours of a mechanism to bring ISIL members responsible for genocide, war crimes and crimes against humanity to justice for their crimes. The paper calls for, inter alia, a robust transitional justice mechanism capable of accurately capturing the nature and extent of the crimes committed by ISIL, including sexual violence and crimes against children.[[27]](#footnote-27) It also suggest that crimes prosecuted should, at a minimum, include all crimes of sexual and gender-based violence as well as crimes against children included in the Rome Statute.[[28]](#footnote-28) The C4JR Position Paper argues that prospective criminal accountability mechanisms for ISIL crimes in Iraq should be authorised to award individual or collective reparation to victims and their families, in line with international standards for these types of crimes. It further suggests establishing a Trust Fund to complement reparations awards ordered by the criminal accountability mechanism where those convicted do not have sufficient means to make full reparation to the survivors.[[29]](#footnote-29)

This Position Paper was the outcome of ten months of intensive discussion 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 twofold:

* to bring in fresh momentum to the pursuit of criminal accountability for international crimes committed by ISIL in Iraq by delineating best international practices on involving survivors and respecting their rights and needs during a criminal proceedings against the perpetrators
* to provide a platform for Iraqi and international NGOs and activists through which substantive and informed advocacy may be conducted with Iraqi and international partners suggesting concrete solutions, rather than general demands, on how to respect and acknowledge individual survivors, their families and communities in the prospective criminal proceedings.

**Prospects and lessons learned**

It remains to be seen whether the decision making body established under the YSL (a distinct panel consisting of representatives of different state bodies) will process claims in a timely manner and utilize flexible standard of evidence thus making the whole process survivor centric. Also, it is to be hopped that Iraqi authorities will deliver on their promise by developing internal structures and facilitating access to rehabilitation services, land, housing, employment, education and ensuring criminal accountability.

Though reparations as such especially monetary compensation, access to rehabilitation services, memorialization and genocide recognition are equally important for all survivors, exemption of age requirement in order to go back to study is especially important for those harmed as children as it can facilitate their recovery through fulfilment of their “life plans” (*proyecto de vida*). It is also to be hoped that rehabilitation programs to be developed will take special consideration of child survivors of sexual exploitation.

YSL, as a reparation law focused pre-dominantly on conflict related sexual violence, carries the potential to concretely improve the lives of some of the most marginalized survivors of the ISIL conflict in Iraq, including child survivors of sexual exploitation. Iraq’s vibrant civil society, allied in C4JR together with survivors played a significant role in the advocating for and shaping the YSL.[[30]](#footnote-30) C4JR continues to be engaged in coordinating efforts of Iraqi NGOs to ensure effective, swift and survivor centric implementation of the YSL. It is to be hopped that newly formed Government of Iraq will seriously consider calls for reparations, justice and accountability for ISIL crimes voiced by survivors, C4JR but also the United Nations Human Rights Treaty Bodies.[[31]](#footnote-31)

Major lesson learned is that collaboration between survivors, grassroots activists and wider civil society with international organizations (in Iraq case IOM provided hands-on support and expertise to Iraqi authorities and supported civil society and survivors) has a potential to move things forward and pressure national authorities to act.

Such collaboration should be supported and facilitated in other contexts. In particular, adequate funds should be made available from the international donor community to facilitate similar activities and projects.

1. According to UNAMI from beginning of 2014 until the end of July 2018 number of civilian casualties of hostilities in Iraq amounted to 86522 (30605 killed and 55917 injured) (UNAMI, 2018). [↑](#footnote-ref-1)
2. The sources upon which the following factual overview of sexual related and other violence in Iraq since 2014 is based are, if not otherwise indicated, 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) available [here](https://www.ohchr.org/en/Countries/MENARegion/Pages/UNAMIHRReports.aspx) [↑](#footnote-ref-2)
3. Amnesty International. (2020, July), [Iraq: Legacy of terror: the plight of Yezidi child Survivors of ISIS.](file:///C:\Users\Microsoft\Downloads\MDE1427592020ARABIC.pdf) UK: Amnesty International. [↑](#footnote-ref-3)
4. Yazda, [Interim Relief Program for CRSV in Iraq: Survivors’ Grant Scheme in Practise and Recommendations for its Improvement](https://irp.cdn-website.com/16670504/files/uploaded/Yazda_Publication_2021-03_ReliefProgramCRSVIraq_28062021_Download_EN_vf.pdf), 2021, p 4; see also Knox Tames, [Increasing Calls to Find Missing Yazidis](https://blogs.lse.ac.uk/religionglobalsociety/2021/11/increasing-calls-to-find-missing-yazidis/), LSE Blog, November 8, 2021. [↑](#footnote-ref-4)
5. Reuters Staff. (2018, January), [1.3 million children displaced by Iraq's war with Islamic State: UNICEF.](https://www.reuters.com/article/us-mideast-crisis-iraq-children-idUSKBN1F81II) Geneva: Reuters. [↑](#footnote-ref-5)
6. Call and demand for an international investigation into and prosecution of global technology and social media companies for aiding and abetting ISIS in the persecution, torture, enslavement, human trafficking and exploitation of Yezidis and for facilitating terrorism financing through the human trafficking of Yezidis, et al, p.34-5. <https://img1.wsimg.com/blobby/go/43ab8240-b257-4d94-ba26-e83119d1a4c4/REPORT%20FOR%20YEZIDI%20GENOCIDE%20JUSTICE%20CAMPAI-0001.pdf> [↑](#footnote-ref-6)
7. <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communique/join-communique-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> [↑](#footnote-ref-7)
8. UNAMI, OHCHR, (2017) [Promotion and Protection of Rights of Victims of Sexual Violence Captured by ISIL/or in Areas Controlled by ISIL in Iraq](https://www.ohchr.org/Documents/Countries/IQ/UNAMIReport22Aug2017_EN.pdf), p. 6. [↑](#footnote-ref-8)
9. YSL is available in English language [here](https://ekurd.net/yazidi-female-survivors-law-2021-03-04)

   <https://c4jr.org/ysl> [↑](#footnote-ref-9)
10. YSL, Art. 6, Para 1. [↑](#footnote-ref-10)
11. YSL, Art. 6, Para 2. [↑](#footnote-ref-11)
12. YSL, Art. 6, Para 3. [↑](#footnote-ref-12)
13. YSL, Art. 6, Para 4. [↑](#footnote-ref-13)
14. YSL, Art. 4. Para. 2. [↑](#footnote-ref-14)
15. YSL, Art. 5. Para. 6. [↑](#footnote-ref-15)
16. YSL, Art. 7. [↑](#footnote-ref-16)
17. On August 3rd 2014 ISIL invaded Yazidi homeland on Mount Sinjar and started a genocidal campaign against them. [↑](#footnote-ref-17)
18. YSL, Art. 8 [↑](#footnote-ref-18)
19. YSL, Art. 5. Para. 8. [↑](#footnote-ref-19)
20. YSL, Art. 9. Para. 1. [↑](#footnote-ref-20)
21. YSL, Art. 4. Para. 2. [↑](#footnote-ref-21)
22. YSL, Art. 1. Para. 2. [↑](#footnote-ref-22)
23. Human Rights Watch. (2017), [Flawed Justice: Accountability for ISIS Crimes in Iraq](https://www.hrw.org/sites/default/files/report_pdf/iraq1217web.pdf), p. 3; Human Rights Watch. (2019), [Everyone Must Confess” Abuses against Children Suspected of ISIS Affiliation in Iraq](https://www.hrw.org/sites/default/files/report_pdf/iraq0319_web_1.pdf), p. 20; Mara Revkin (2018), [The Limits of Punishment: Transitional Justice and Violent Extremism-Iraq Case Study](https://i.unu.edu/media/cpr.unu.edu/attachment/3384/LoPIraq050119.pdf), pp. 18-19. [↑](#footnote-ref-23)
24. Human Rights Watch. (2017), [Flawed Justice: Accountability for ISIS Crimes in Iraq](https://www.hrw.org/sites/default/files/report_pdf/iraq1217web.pdf), p. 30. [↑](#footnote-ref-24)
25. <https://www.unitad.un.org/content/supporting-victims-sexual-and-gender-based-violence> [↑](#footnote-ref-25)
26. Position Paper on an ISIL Accountability Mechanism in Iraq available at <https://c4jr.org/wp-content/uploads/2022/08/Final-position-paper-ISIL-mechanism-ENG_FINAL_Hyperlinks.pdf> [↑](#footnote-ref-26)
27. Ibid, Article 1. [↑](#footnote-ref-27)
28. Ibid, Article 5, paragraph 1. [↑](#footnote-ref-28)
29. Ibid, Article 7. [↑](#footnote-ref-29)
30. <https://www.newtactics.org/resource/story-success-survivors-conflict-related-sexual-violence-iraq> [↑](#footnote-ref-30)
31. Both Human Rights Committee and the Committee Against Torture in their Concluding Observations on Iraq issued in March and May 2022 respectively called the Iraqi Government to investigate and prosecute sexual offences committed by ISIL members during the armed conflict against women and girls, ensure perpetrators are punished and the victims or members of their families accorded full reparation by inter alia implementing the YSL. These Concluding Observations for Iraq are available through the links bellow:

    <https://c4jr.org/110420224235>

    <https://c4jr.org/1305202225921> [↑](#footnote-ref-31)