

MORE THAN “INK ON PAPER”

TAKING STOCK TWO YEARS AFTER THE
ADOPTION OF THE YAZIDI [FEMALE]
SURVIVORS LAW*

* Merely “ink on paper” was the term used by some survivors of ISIL crimes to voice their doubts about the government’s commitment to deliver long-awaited reparations guaranteed under the Yazidi [Female] Survivors Law (YSL).



Jiyan Foundation
for Human Rights



Jiyan Foundation for Human Rights is a charitable organization supporting survivors of human rights violations, defending fundamental freedoms, and promoting democratic values throughout the world. In addition to human rights awareness raising and advocacy, Jiyan Foundation provides, mental health and medical treatment as well as other support services to survivors of trauma, terror, domestic violence and human rights violations throughout Kurdistan-Iraq, Iraq, & Syria.

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Coalition for Just Reparations (C4JR) is an alliance of Iraqi NGOs calling for comprehensive reparations for civilian victims of atrocity crimes perpetrated during the ISIL conflict in Iraq. C4JR 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.

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LIST OF ACRONYMS

ABA	American Bar Association Center for Human Rights
C4JR	Coalition for Just Reparations
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CoM	Council of Ministers
CoR	Council of Representatives
CRSV	Conflict-related sexual violence
CSO	Civil society organization
Emergency Law	Emergency Law for Food Security and Development
GDSA	General Directorate for Survivors Affairs
Gol	Government of Iraq
ICL	International Criminal Law
IHL	International Humanitarian Law
IHRL	International Human Rights Law
IILHR	Institute for International Law & Human Rights
IOM	International Organization for Migration
ISIL	The self-declared Islamic State in Iraq and the Levant
KRG	Kurdistan Regional Government
KRI	Kurdistan Region of Iraq
Law No. 20	Law No. 20 on Compensation for Victims of Military Operations, Military
MHPSS	Mistakes and Terrorist Actions Mental Health and Psycho-Social Support
MoLSA	Ministry of Labour and Social Affairs
UN	United Nations
UNAMI	United Nations Assistance Mission for Iraq
UNITAD	United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL
YSL	Yazidi [Female] Survivors Law

EXECUTIVE SUMMARY

The passing of the Yazidi [Female] Survivors Law (YSL) by the Government of Iraq (GoI) on March 1, 2021 marked an important milestone in Iraq's post-conflict recovery period, as it promises to deliver long-awaited relief not only to Yazidi women but also to survivors belonging to several other ethnoreligious communities targeted by the self-declared Islamic State of Iraq and the Levant (ISIL). It is also one of the very few precedents of states taking deliberative action to specifically address the rights and needs of survivors of conflict-related sexual violence (CRSV). The YSL mandates a number of critical state-sponsored reparative measures including financial support; medical and psychological care; 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, and mandates memorialization, the search for those still in captivity, opening of mass graves, identification of remains and their return to the families, and calls Iraqi institutions to ensure that perpetrators of genocide and crimes against humanity are held accountable.

The cumulative effect of these individual benefits and collective measures, if properly implemented, can not only significantly improve survivors' quality of life, but also restore their dignity and ensure they remain in or return to their native lands. Despite the fact that YSL has its shortcomings, such as leaving certain groups of ISIL survivors out of its scope (e.g. Christian, Shabak and Turkmen children abducted by ISIL; survivors from the Kaka'i minority group, as well as other components of Iraqi society harmed by ISIL, such as Sunni, Shia, etc.; men and boys who survived CRSV) and not addressing the contested issue of children born as a result of CRSV, it does provide a solid base to work on the realization of rights for those included in the law. 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 authorized to review and decide on applications and appeals.

This legislation was not created in a vacuum, but was the outcome of concerted efforts from a range of stakeholders (including survivors, civil society organizations (CSOs) and international organizations) to reach out to decision makers, propose concrete solutions and communicate main concerns and preferences coming from survivors, their families and communities. Such efforts remain vital for ensuring effective implementation of the YSL. Therefore, to make the most of its potential, implementation of this law, including, but not limited to, necessary institutional infrastructure, capacity, and collaboration, as well as the ways to ensure effectiveness, sustainability, financing and compliance with standards and best practices, needs to be supported and closely monitored. Moreover, the ability of interested actors, above all CSOs, to identify implementation challenges and potential pitfalls, mobilize and react in a timely manner will be crucial. One such pitfall, a Committee introduced requirement making success of applications submitted under the YSL contingent on the submission of official investigation documents, may effectively prevent thousands of eligible survivors from realizing their rights under the YSL. Though fair and survivor-friendly application and review procedures are a crucial first step towards effective implementation, one must not forget that the distribution of reparative services stipulated in the law (rehabilitation, monthly salary, education, employment, land and housing) will largely determine its success. It is also the case that the pursuit of justice by holding members of ISIL accountable is a priority for survivors. To deliver on this, the GoI should, in addition to adopting adequate domestic legislation on international crimes, acknowledge individual survivors, their families and communities and put in place legislative and institutional frameworks enabling their participation in prospective criminal proceedings. This report outlines a number of recommendations to ensure effective implementation of the YSL. Whereas the complete list of recommendations is presented at the end of the report, most critical suggestions are as follows:



ISIL survivors showing solidarity during making the film “Seeking Solidarity: A Story of Christian Preservation in Iraq” , Mosul
 Photo: Jiyon Foundation

Iraqi authorities should:

- Stop the practice of asking survivors to submit investigation documents together with their YSL application and evaluate applications against a relaxed evidentiary standard;
- Put in place safeguards to avoid stigmatization and re-traumatization of survivors;
- Regularly publish information about the YSL implementation especially the application and review process;
- Ensure adequate financing and staffing of the GDSA and the Committee;
- Create a timeline for making the diverse reparative services (including but not limited to quality medical and MHPSS services) specified in the YSL available and accessible to survivors;

International stakeholders should:

- Strengthen the GDSA’s capacity to fulfill its mandate through capacity building, technical guidance, access to best practices, material assistance etc;
- Strengthen the CSOs capacity to sustainably engage in YSL implementation by regularly providing funding opportunities for YSL related activities;

Civil society organizations should:

- Monitor and report on YSL implementation, conduct outreach, awareness raising and support survivors in submitting applications;
- Empower survivors and survivors groups to conduct self-advocacy;
- Prioritize networking and information sharing to maximize impact of activities and avoid overlap;
- Include YSL related activities in their programming;

I.

INTRODUCTION

Since 2003, Iraq has suffered internecine conflict and state collapse, degrading a once rich cradle of ancient ethno-religions and cultures. During the ISIL-created conflict in Iraq, at least 30,000 civilians were killed, 55,000 injured and more than 3 million were displaced. Minority communities including Christians, Yazidis, Sabeian-Mandaeans, Turkmen, Kaka’i, and Shabaks were particularly targeted and faced existential threats. Moreover, ISIL waged a genocidal campaign against these minorities across the Sinjar region and the Nineveh plains seeking to erase their presence in Iraq altogether, and particularly that of the Yazidis, who were decried by ISIL as devil-worshippers. The sheer size and extreme nature of sexual violence committed in Iraq primarily by the self-proclaimed Islamic State in Iraq and the Levant (ISIL) from 2014 onwards shocked the international public to the core. Victory over ISIL has been declared but work on addressing past atrocities and their consequences has, up to now, not yielded concrete support for survivors and their families, many of whom still linger in IDP camps or live under the poverty line, traumatized, without access to services, and without recognition.

This report examines the implementation of the Yazidi [Female] Survivors Law (YSL), a unique piece of legislation passed with the intent of recognizing and repairing, to the extent possible, harm inflicted by ISIL on Iraqi minority communities, especially women. The YSL has the potential to, if properly implemented, rearrange the Iraqi transitional justice landscape, contribute to advancing the status of minorities, curbing sexual and gender-based violence, and laying the groundwork for broader community-based reconciliation efforts and processes leading to positive peace. It can also serve as a blueprint for addressing other gross human rights violations through the language of reparations.

This report will first provide a brief overview of the concept of reparations for gross human rights violations under international law and then proceed to outline the applicable Iraqi legal framework. After a short summary of ISIL committed atrocities in Iraq, the circumstances and engagement of different actors that led to the YSL being passed in March 2021, the content of the law and international reactions to its enactment will be portrayed. The next segment consists of an overview of the post-adoption phase with an emphasis on designing secondary legislation, a critical assessment of the application process, and progress achieved in the delivery of benefits, services and other entitlements. The report concludes with final remarks and recommendations for relevant stakeholders.

Views around the old city of Sinjar, after war with ISIL
Photo: Levi Clancy



II.

THE RIGHT TO REPARATION UNDER INTERNATIONAL LAW

State duty to provide reparations for a wrongful breach of an international obligation is well established under international law. A state must make full reparations for any injury or loss caused by an illegal act for which it is internationally responsible.¹ This general principle is also customary international law governing relations between states. The Permanent Court of International Justice ruled back in 1928 in the *Chorzów Factory* case that:

“It is a principle of international law, and even a general conception of the law, that any breach of an engagement involves an obligation to make reparation ... Reparation must, so far as possible, wipe out all the consequences of the illegal act, and reestablish the situation which would have existed if that act had not been committed.”

Today it is the case that a state has an obligation to provide reparations not only to another state but also individuals when it has violated their rights, irrespective of their nationality. Thus the cited *Chorzów* principle originally articulated in the interstate context applies to reparations for injuries against individuals as well.²

However, state obligation to provide reparations to affected individuals stems not only from customary international law but also from international human rights treaties. It has been stipulated explicitly in the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and the *International Convention for the Protection of All Persons from Enforced Disappearance*. What concerns other human rights treaties, notably the *International Covenant on Civil and Political Rights* and regional human rights treaties, the right to reparations was derived from the right to an effective remedy.³ By contrast, International Humanitarian Law (IHL) imposes obligations on states to provide compensation only and just in the context of international armed conflict. In addition, recipients of compensation under IHL would, all things considered, be states, not individuals. However, as International Human Rights Law (IHRL) applies at all times, affected individuals could claim reparations under this body of law. It is also the case that, as the *Rome Statute of the International Criminal Court* recognizes the right of victims to reparations (rehabilitation, restitution and compensation) this legal avenue is available as well.⁴

The framework for redressing violations of human rights and humanitarian law was set forth in the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (Basic Principles) adopted by General Assembly resolution 60/147 of 16 December 2005.⁵ This document consolidates the current state of international law governing reparations by specifying that victims have a right to “adequate, effective and prompt reparation for harm suffered”⁶ and clearly outlining specific forms of reparations: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁷ Basic Principles, although possessing no binding force, serve as a main point of reference when discussing the obligation of states to redress violations of international human rights and humanitarian law norms.⁸

Considering the context and prevailing type of international crimes committed, namely conflict-related sexual violence (CRSV), the *UN Secretary-*

General’s Guidance Note on Reparations for Conflict-Related Sexual Violence is of particular relevance.⁹ It complements the Basic Principles by outlining international standards and best practices when dealing with CRSV, stigmatization and its effect on individuals and communities.

Enforcement of the right of the affected individuals to reparation for violations of international human rights and humanitarian law can be pursued at the inter-state level (through diplomatic protection),

international level (international courts, tribunals, human rights treaty bodies etc.) and at the domestic level (through domestic courts or administrative reparation programs).¹⁰ The provision of the Basic Principles asking states to work towards establishing “national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations”¹¹ is clearly applicable in the context of ISIL conflict in Iraq.

*ISIL survivors showing solidarity during making the film “Seeking Solidarity: A Story of Christian Preservation in Iraq” , Mosul
Photo: Jiyan Foundation*



III.

REPARATIONS UNDER IRAQI LEGAL SYSTEM

Transitional justice and reparations, notably compensation, is not new to Iraq. In the aftermath of the downfall of Saddam’s regime in 2003, a number of institutions and mechanisms were established to restore rights and compensate individuals from different groups targeted by the previous regime.¹²

The *Iraqi Constitution of 2005* guarantees compensation to the families of the martyrs and those injured as a result of terrorist acts.¹³

In the context of reparations for survivors of ISIL created conflict in Iraq, most relevant is the *Law No. 20 on Compensation for Victims of Military*

Operations, Military Mistakes and Terrorist Actions (Law No. 20) passed by the Iraqi parliament in 2009¹⁴ and amended in 2015¹⁵ and 2020.¹⁶ This law provides a framework by means of which victims of ISIL atrocities could claim material compensation in the form of one-time payment, award of family rent or plot of land. Beneficiaries are civilian victims of war or their family members in cases when the direct victim is no longer alive. Compensation is to be provided in case of death, enforced disappearance, disability, injuries, damaged property and/or disadvantage related to job or education. Compensations for property damages are handled on a case-by-case basis and cover damaged vehicles, houses, farming lands, furniture, shops and companies. Finally, those that lost their jobs ought to be reinstated and their salaries recompensed.¹⁷ However, the entire framework of reparations envisaged in Law No. 20 is conceptualized too narrowly. Only material compensation, and to some extent restitution, have been envisaged, leaving out other forms of reparation. Put differently, this statute fails to formulate specific modes of reparations necessary for addressing brutal crimes and their shattering consequences – such as CRSV, slavery, and the recruitment and use of child soldiers – as well as their large-scale and systematic nature amounting to atrocity crimes including, but not limited to, genocide.

ISIL survivors giving a statement during a press conference, Baghdad
 Photo: Jiyon Foundation





On March 1, 2021, the Iraqi Parliament enacted the Yazidi Survivors' Law
 Photo: Iraqi Parliament Media

What concerns available and effective judicial avenues to claim compensation, a civil claim for ‘direct material or ethical damage’ can be made as part of the criminal proceedings in Iraq against an accused.

Civil claim may be filed by petition or oral request confirmed in the written record, at any time during the gathering of evidence, initial investigation up to the point the judgement is issued.¹⁸ Whereas criminal proceedings aimed at punishing ISIL supporters are taking place in both federal and Kurdistan Region of Iraq (KRI) courts under their respective 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.¹⁹ This, in addition to depriving the survivors of an official acknowledgement of the wrongs committed against them, which is often a crucial element in the reparations process, prevents them from submitting compensation claims in the course of judicial proceedings.

There is also lack of awareness among survivors about this possibility, and no support or protection mechanisms in place with trained staff to facilitate their participation in court proceedings, whether as witnesses or civil plaintiffs, in a safe and dignified manner.

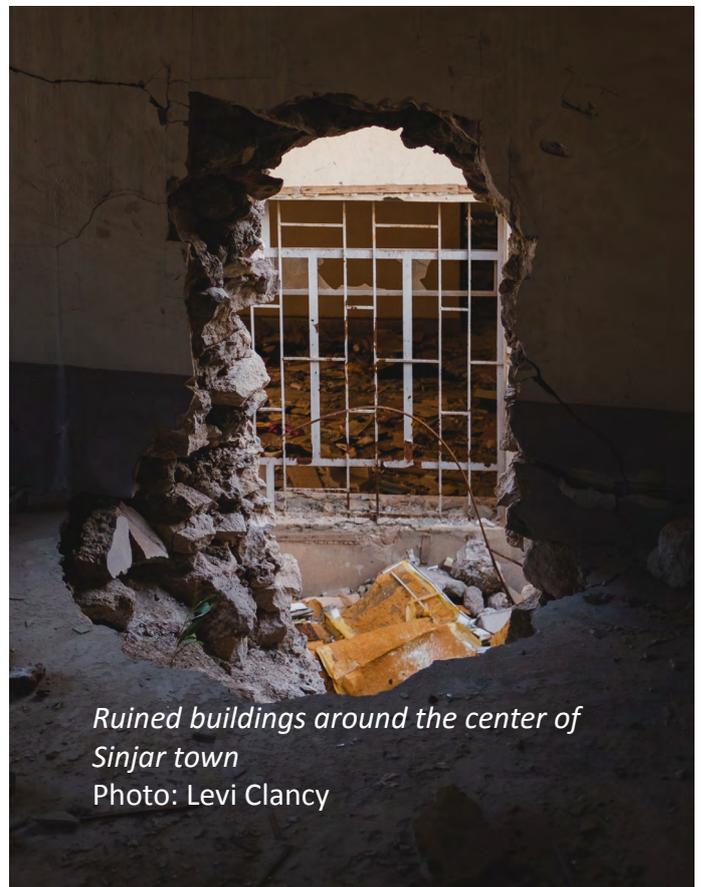
IV.

HUMAN RIGHTS VIOLATIONS UNDER ISIL RULE

The armed conflict that spread across Iraq with the advent of ISIL at the beginning of 2014 accelerated the already existing spiral of violence to an unprecedented level.²⁰ 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, and Minority Rights Group²¹. The Yazidi community, together with other minorities (Christians, Kurds, Shabak, Turkmen), 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 (e.g. rape, severe beatings, killing of their children) or even executed. Boys above seven years of age were sent to ISIL camps to receive military training.

From the survivors' accounts, it transpires that women and girls, 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 were reportedly women and girls of the Yazidi faith, but members of other religious and ethnic minority groups were also affected. Women were

coerced into sexual intercourse by being severely beaten, or by being threatened with gang rape, death, or the beating or selling of their children. Multiple consistent allegations of the brutality of the sexual act itself, leading to bleeding, cuts and bruises, have been recorded. Escape attempts were severely punished. Victims were denied medical care for injuries incurred, inter alia, by sexual violence. People were forced to attend public executions following which corpses of those executed were publicly displayed. ISIL utilized varied methods of pain infliction such as beating (including with blunt objects such as sticks or cables); lashing; severing limbs; depriving of food and water; stress positions (being forced to kneel with hands tied behind backs for 24 hours); being forced to witness the executions, torture or rape of family members and/or members of same ethnic/religious group; threatening to shoot, kill or rape victims or their family members (including children); holding in a dark cell in deplorable conditions (i.e. flooded with dirty water) for prolonged periods; insulting (i.e. calling the Yazidi victims "infidels" and "pigs"), and conducting involuntary medical interventions (taking of blood). To date, more than 2,700 Yazidi women and children remain missing, probably still in ISIL captivity.²²



Ruined buildings around the center of Sinjar town
Photo: Levi Clancy

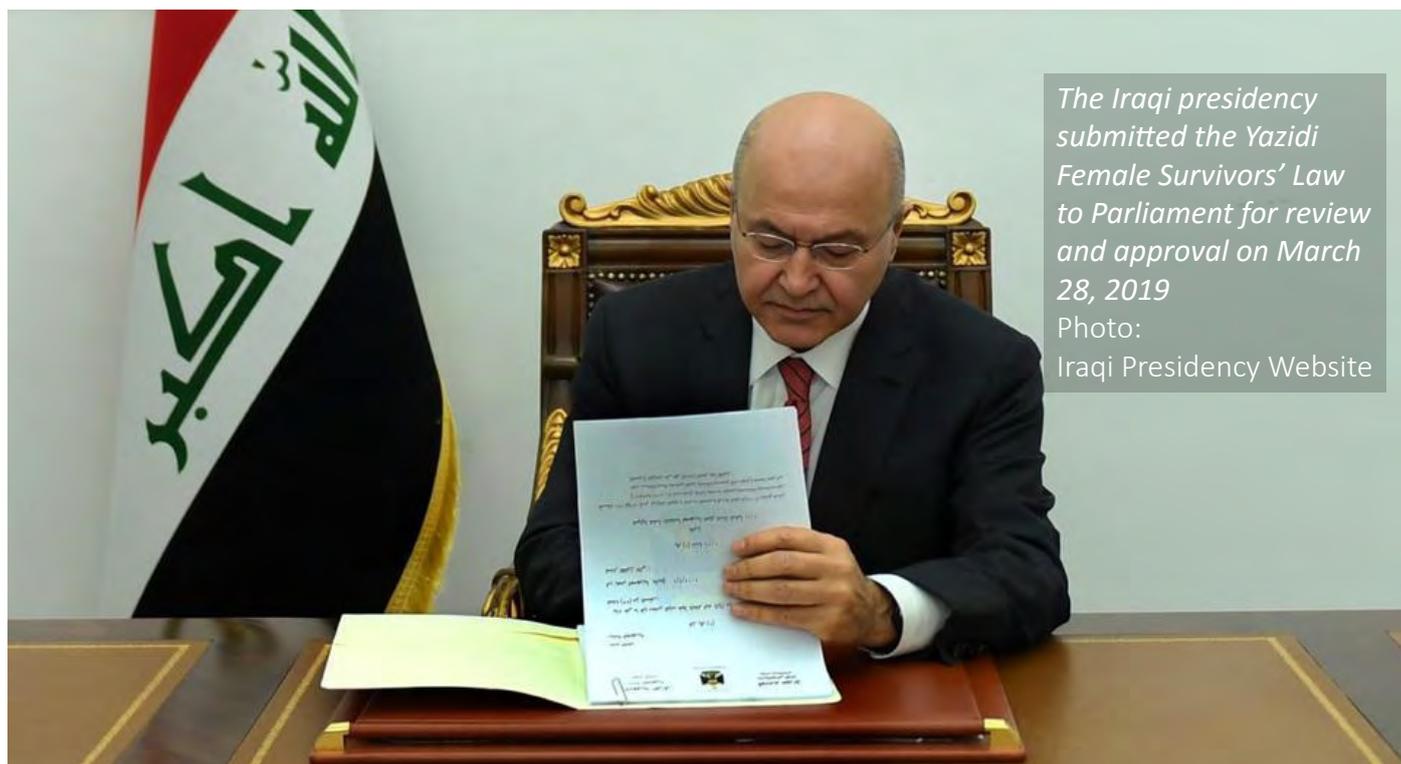
V.

CONTEXT PRECEDING ENACTMENT OF THE YAZIDI [FEMALE] SURVIVORS LAW

By signing a Joint Communiqué with the United Nations on the Prevention and Response to Conflict-Related Sexual Violence (2016),²³ the GoI pledged to provide reparations to survivors of sexual violence and their children. 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.

The process got off the ground in April 2019 when the Iraqi President Barham Salih submitted a Yazidi Female Survivors’ Bill (Initial Bill) to the Iraqi parliament for review and approval.²⁴ The Initial Bill was a step in the right direction as it embraced a holistic concept of reparations by including provisions that address, in addition to compensation, other forms of reparations, in line with the Basic Principles. More precisely, it envisaged psychological and medical care, housing, land, compensation, education, and livelihood measures, as well as commemoration and memorialization activities. However, the scope of the eligible survivors was unclear, and the violations they were subjected to were completely omitted.²⁵ In addition, the process of consultation with survivors, CSOs, experts and other stakeholders was absent altogether.²⁶

This being said, the Initial Bill managed to mobilize both survivors and CSOs to work with Iraqi authorities and international organizations on improvements.²⁷ In addition, IOM-Iraq, in coordination with IOM-Kosovo and IOM-Croatia, organized 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.²⁸ Workshops were held with survivors and policymakers to address the gap between the Initial Bill and survivors’ demands.²⁹



*The Iraqi presidency submitted the Yazidi Female Survivors’ Law to Parliament for review and approval on March 28, 2019
Photo: Iraqi Presidency Website*



C4JR representatives meeting with Iraqi parliamentarian Saib Khidir at the Council of Representatives, Baghdad, November 2020.

An alliance of Iraqi civil society organizations, the Coalition for Just Reparations (C4JR), and its constituent members took a leading role by formulating suggestions for improving the initial bill and advocating for the enactment of YSL. To that end, C4JR composed a draft law of its own, Law on Reparations for Survivors of Conflict Related Sexual Violence Committed During the ISIL Conflict in Iraq, to revive the public debate on reparations for Conflict-related Sexual Violence (CRSV) survivors.³⁰ The main goal was to promote an inclusive and survivor-oriented reparations plan in-line with international human rights standards and best practices. Another draft law to improve the Initial Bill, Law on Reparations for Victims of Sexual Violence, was prepared by the American Bar Association Center for Human Rights (ABA).³¹ Advocacy efforts of the C4JR and ABA had separate trajectories but were coordinated. C4JR organized several virtual and in-person briefings of Iraqi parliamentarians, including a visit to the Legal Committee of the Iraqi Council of Representatives and, in collaboration with UNAMI, a virtual conference. The Institute for International Law and Human Rights (IILHR), working with members of parliament, as well

as the Human Rights, Legal and Women, Family and Childhood Committee also raised the importance of passage during this period. To that end it provided a comprehensive review of the Initial Bill as well as further research support in response to evolving issues in lead up to passage.

One must not forget the Yazidi women survivors themselves, who spoke in favor of broadening the eligibility criteria so as to include not only Yazidi women who died during ISIL captivity and their closest relatives, as well as other Yazidi men, children, girls and women, but also women from other minority groups who were subjected to ISIL crimes.³² According to Iraqi laws, the bill must go through three “readings” before it is voted on by the Council of Representatives, during which amendments to the text can be introduced. The bill’s first reading was completed in July 2019, and the second in November 2020. Such a long break was, presumably, caused, at least in part, by the COVID-19 pandemic. In December 2020, IOM-Iraq facilitated the final legislative deliberations among lawmakers, survivors, CSOs and other stakeholders.³³

This led to a revised draft of the bill, prepared by the parliamentary Women, Family and Childhood Committee and the Martyrs, Victims and Political Prisoners Committee. The bill was ultimately adopted in March 2021 following agreement before the final third reading that the law would apply to not only Yazidi, but also Christian, Turkmen and Shabak minority groups. Main points of contention have been corrected, namely: the definition of crimes, fairly aligned with the UN definition of CRSV,³⁴ has been provided; the scope of eligible survivors was broadened to include, in addition to Yazidi women, Christian, Turkmen and Shabak women survivors, Yazidi children abducted by ISIL, as well as survivors of mass killings, irrespective of gender and age. Also, recognition of the genocide no longer explicitly refers to Yazidi women (as was the case in the Initial Bill) but to the Yazidi community, thus including crimes committed against men and boys. In addition, recognition of genocide is now more inclusive as it refers, in addition to Yazidis, to Christian Turkmen and Shabak survivors, as well as adding crimes against humanity. An appeal procedure has also been outlined.

The greatest flaw of this law is not addressing the contentious and sensitive issue of children born of sexual violence, although such provision was envisaged in the Initial Bill. Similarly, men and boys

exposed to sexual violence³⁵ as well as survivors belonging to some minorities targeted by Daesh, such as Kakai, but also both Shia and Sunni Arabs were not recognized as eligible. It is also regrettable that the law does not include individuals harmed through crimes committed by all parties to the ISIL conflict in Iraq. An additional weakness was that eligible survivors have been defined as those being subjected to enumerated violations since August 3, 2014 and freed afterwards. This is different to the Initial Bill, where the cut-off date has been set at June 10, 2014, the day when ISIL took control of Mosul. As many non-Yazidi survivors were abducted before August 3, 2014, it is uncertain whether they are going to be considered eligible. Although the change of the date was not meant to exclude non-Yazidi survivors from the scope of the law but, possibly, respond to Yazidi sensitivities, it aroused confusion and distrust among the members of affected minority communities. Considering that a large majority of those taken captive before August 3, 2014 were still held captive on and after that date, their eligibility should not be brought into question.³⁶ Ultimately, the Committee designated in the YSL to verify the claims submitted will have the final say on this.

In conclusion, the final outcome, though by no means ideal, does provide a sound basis for the important work ahead: repairing the harm done to survivors of ISIL crimes in Iraq.



IOM-Iraq facilitated workshop bringing together legislators, survivors, CSOs and other stakeholders to discuss YSL improvements, Erbil, December 2020

VI.

SCOPE AND CONTENT OF THE YAZIDI [FEMALE] SURVIVORS LAW

Yazidi [Female] Survivors Law (YSL)³⁷ was finally adopted on 1 March 2021 and ratified on 8 March 2021.³⁸ The YSL is a federal law and the GoI is solely responsible for its implementation. This law promised to deliver long-awaited relief not only to Yazidi, Shabak, Turkmen and Christian women that ISIL subjected to CRSV, but also, to men and women from

these communities that survived mass killings as well as captured Yazidi children. More precisely, survivors eligible for reparations under the YSL are:

- Yazidi, Turkmen, Christian and Shabak 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 ISIS since the date 3.8.2014 and was freed afterwards”;³⁹
- Yazidi children “who were under the age of eighteen at the time of their kidnapping”;⁴⁰
- Yazidi, Turkmen, Christian and Shabak (irrespective of gender and age) who survived “mass killings and mass elimination carried out by ISIS in their areas”;⁴¹

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

- Compensation in the form of monthly salary⁴² (amount not less than twice the minimum pension salary stipulated in the Unified Pension Law, which



IDPs from different ethnic and backgrounds together participate in dialogue and pro-environment activities by Jiyan Foundation in Arbat IDP camp, Sulaymaniyah
 Photo: Jiyan Foundation

- currently amounts to around 800.000 IQD)
- A residential plot of land with a real estate loan or a free housing unit;⁴³
- Exemption from the age requirement if the survivors choose to return to study;⁴⁴
- Priority in public employment;⁴⁵
- Access to rehabilitation services (official aim of the YSL is to rehabilitate survivors and integrate them into society).⁴⁶ This is to be done by opening health and psychological rehabilitation centers to treat the survivors;⁴⁷
- 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;⁴⁸
- Designation of 3 August⁴⁹ 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;⁵⁰
- Commitment to search for all those still missing and coordinate efforts to open mass graves, identify the victims and return them to their families for proper burial;⁵¹
- 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;⁵²
- 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.⁵³

Two bodies, both established under the auspices of the Federal Ministry of Labour and Social Affairs (MoLSA), are envisaged to implement the YSL: General Directorate for Survivors Affairs (GDSA) and

the Committee authorized to review and decide on applications and appeals. Whereas GDSA is to coordinate outreach, application, and verification processes as well as the distribution of services,⁵⁴ the Committee is tasked with verifying the submitted applications within 90 days from the moment of the submission⁵⁵ and determining the amount of the monthly salary according to the material or moral damage suffered by the eligible survivor.⁵⁶ Applications are to be submitted to the Committee in one of the following ways: directly, through the GDSA through the online portal.⁵⁷ Neither the YSL or associated bylaws set the deadline for submission of applications.

The Committee consists of 8 persons: a Judge nominated by the Supreme Judicial Council (President), GDSA Director-General Elias within the Ministry of Labor and Social Affairs (Vice President), and representatives of the Ministry of Interior, Ministry of Health, Ministry of Justice, National Retirement Authority, High Commission for Human Rights and the Kurdistan Regional Government (KRG).⁵⁸ It shall meet at least twice a week with an absolute majority of members and make decisions with the present majority.⁵⁹ During the application review procedure, the Committee shall first resort to the official documents and address relevant authorities to prove that crimes stipulated in the YSL took place, before resorting to other indicated verification files (outcomes of documentation of crimes conducted by international organizations and/or NGOs).⁶⁰ The applicant can, in the case of an unfavorable decision, file an appeal within 30 days to the same Committee. The Committee's decision on the appeal request may be challenged before the Court of First Instance whose ruling on the matter is to be considered final and binding.⁶¹ Considering that all ISIL survivors, among others, may claim compensation for property losses, personal injuries and the loss of family members under Law No. 20, the explicit stipulation that survivors eligible under YSL are not prevented from submitting compensation claims under other local laws or international decisions related to them is very important.⁶²

VII.

INTERNATIONAL REACTIONS

Passage of the YSL was exceptionally well-received, not only by UN officials and mechanisms, but also by states and international human rights NGOs.

UN Secretary-General António Guterres, on the seventh anniversary of the 2014 ISIL attacks on Yazidis and other communities in Iraq, commended enactment of the YSL and called for its swift implementation.⁶³ IOM-Iraq called the passage of the YSL “a watershed moment in efforts to address the legacy of ISIL crimes against Yazidis and other minority groups” which “places Iraq among the first countries in the Middle East and North Africa region to recognize CRSV survivors and take steps to redress their grievances in line with international standards.”⁶⁴ United Nations Assistance Mission for Iraq (UNAMI)⁶⁵ defined the adoption of the YSL as a “a major step in addressing the needs of survivors”.

The Special Representative of the Secretary-General on Sexual Violence in Conflict praised the YSL as a “remarkable achievement...[having] the potential to become the gold standard for future reparation schemes, setting an example for other governments in how to honor their obligations to survivors”.⁶⁶

The Special Adviser of the Secretary-General on the Prevention of Genocide referred to the YSL as “an important signal that accountability, reparations and return’s needs of ISIL’s victims matter” and urged the GoI to prioritize its implementation.⁶⁷

Whereas Human Rights Committee commended⁶⁸ the GoI for adopting the YSL, the Committee Against Torture in its Concluding Observations for Iraq went a step further by asking GoI to:

“...ensure effective and timely implementation of the Yazidi Survivors Law by (i) allocating sufficient funds, (ii) enhancing the processing of claims, (iii) ensuring the active participation of women from conflict-impacted communities in its implementation, for example through consultation or inclusion as staff, and (iv) conducting regular capacity building of all staff working on its implementation, including on ethical and trauma-informed engagement with victims.”⁶⁹



United Nations Headquarters
Photo: World Tourism Organization



Follow-up event to the Concluding Observations on Iraq of the Human Rights Committee and the Committee Against Torture Dialog on Reparative Justice: Ensuring Effective Reparations in Iraq, Erbil, June 2022
Photo: Jiyon Foundation

The UN Security Council in its annual Resolutions renewing UNAMI’s mandate in Iraq added the following paragraph in the preamble:

“ Welcoming the adoption of the Yazidi Female Survivors Law, recognizing the efforts to accelerate the implementation of its provisions, underlining the importance of its effective and timely implementation, and the need to hold perpetrators of conflict-related sexual and gender-based violence accountable, to provide mental health and psychosocial support to victims, and to provide reparations and redress measures for all survivors identified in the law, and calling upon the Government of Iraq to extend its provisions to all victims”.⁷⁰

In a communication to Iraq, jointly sent by a number of the Human Rights Council’s Special Procedures mandate holders,⁷¹ the progress achieved towards

recognizing and redressing the harm suffered by Yazidi, Christian, Turkmen, and Shabak communities through the adoption of the YSL was welcomed, but complemented with calls to broaden the scope of eligible survivors as well as to ensure effective and prompt implementation.

In an unanimously passed resolution recognizing ISIL atrocities against Yazidis in Iraq as genocide, members of the German Parliament on January 19, 2023 asked the German Federal Government to urge the Government of Iraq to promptly implement the YSL and to provide the survivors of ISIL crimes with the reparations stipulated in the law.

Last but not least, Amnesty International commended passage of the YSL and called for more progress in implementation⁷², whereas Minority Rights Group International labeled it as a great milestone and one of the few examples of legislation in the world to specifically address the rights and needs of conflict-related sexual violence (CRSV) survivors.⁷³

VIII.

IMPLEMENTATION EFFORTS

Despite the YSL’s landmark features, any law is only as good as its implementation. For this reason, special attention needs to be put on following up on implementation and flagging challenges and opportunities.

The first port of call for YSL implementation was specified in the law itself, as the text mandated the

Council of Ministers (CoM) to issue implementing regulations (bylaws) to facilitate implementation within 90 days from the publication of the YSL in the Official Gazette.⁷⁴ Timely development of bylaws is not only crucial for enabling reparations to reach survivors without undue delay, but also to fill the gaps and clarify YSL provisions so that application, review and distribution of benefits is implemented in a survivor-centered and trauma-informed manner.

To highlight best practices, C4JR developed and published Key Recommendations to the Iraqi Council of Ministers for consideration in the development of Implementing Regulations associated with the Yazidi [Female] Survivors Law.⁷⁵ These recommendations were sent to the Ministry of Labour and Social Affairs, Council of Ministers, and the working group established to develop a first draft of the Regulations. A summary of the key points elaborated in the C4JR Recommendations are as follows:

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

On May 14, 2021, C4JR started its social media campaign highlighting daily one of its 21 Key Recommendations to Iraqi authorities for a survivor centered YSL bylaws.⁷⁶ Recommendations were designed to highlight certain aspects for improvement in the implementing regulations.

IOM-Iraq took the lead on supporting the GoI’s efforts to draft and endorse the YSL bylaws by organizing a meeting with the MoLSA Deputy Minister and other key government bodies in early May, 2021. It also facilitated meetings of a working group⁷⁷ tasked by the Council of Ministers (CoM) to develop the YSL bylaws. The working group met in early June 2021 to create a first draft of the bylaws, which was discussed with CSOs and survivors during a second working group meeting in Erbil on June 29 and 30, 2021.

The C4JR Recommendations were sent beforehand and presented in person to officials attending the working group meeting. The bylaws were finalized in July 2021 and sent to the CoM for approval. The final version, however, left many of the most critical issues unaddressed, whereas C4JR Key recommendations were largely ignored.⁷⁸ YSL implementing bylaws were, eventually, enacted in September 2021 (after some 3 months delay).

Apart from enacting secondary legislation, some steps have already been taken to implement the YSL, including the appointment of the Director-General of the General Directorate for Survivors’ Affairs or GDSA (a special body established to facilitate implementation of the law), and the opening of an office in Mosul to accommodate this Directorate. CoM appointed Sarab Elias, a Yazidi lawyer, as the head of the Directorate. The Directorate was officially opened in August 2021 in Mosul, in a ceremony attended by survivors, Prime Minister Mustafa al-Kadhimi and Director-General Elias. One year later, in August 2022, GDSA’s branch office was officially opened in Sinjar as well.⁷⁹ Up until the end of drafting this report no progress has been reported on opening further branches of the Directorate, notably in Dohuk (KRI) and Tal Afar (Nineveh), as initially planned, where large numbers of survivors eligible under the YSL reside.⁸⁰ GDSA is currently operating with 17 employees, whereas the staffing necessary for its regular operations is assessed to go beyond 100 employees.⁸¹

Opening of the GDSA headquarters in Mosul was not received well by some of the survivors, as many of them have been held captive, tortured and trafficked in that very city. Due to this trauma, they could hardly imagine going back to submit a claim. This makes the case for further well-positioned GDSA branches, as well as CSO’s support throughout the application process, even stronger.

a) Collaboration and Advocacy

Though great progress has undoubtedly been made through the passage of the YSL, without sustained dedication this law will remain on paper and its promised reparative measures will not reach survivors in need. In view of this, it is paramount that Iraqi authorities remain committed to honoring and supporting ISIL survivors in practice by moving forward with YSL implementation. Consistent engagement of survivors themselves, civil society, international organizations and others is therefore necessary, so that opportunities made possible through YSL don’t remain unrealized. In what follows, an overview of collaboration and advocacy initiatives (this is not meant to be an exhaustive list) around YSL implementation to date is presented.

There is strong interest (international and within Iraq) in supporting YSL implementation, and modalities for direct support to the GDSA through the Ministry of Labor and Social Affairs are being determined. Shortly after the adoption of the YSL, on March 15, 2021, IOM-Iraq and UNAMI organized a virtual workshop with C4JR members to examine the YSL’s main features and discuss building blocks for its effective implementation. To foster implementation, the British Ambassador in Baghdad, supported by the IILHR and IOM-Iraq, convened a meeting of 14 diplomatic missions and international organizations in March 2022. The meeting focused on coordinating diplomatic support through a “group of friends” on issues such as the budget, as well as provision of material and technical support for implementation. On July 3, 2021, C4JR organized a panel discussion in Erbil where GDSA Director-General, representatives of UNAMI, IOM-Iraq, members of C4JR’s Survivors’ Council, and CSOs discussed how to establish effective collaboration on implementing the YSL.⁸²

To mark six months from the adoption of the YSL, C4JR presented its media statement at an in-person



C4JR panel discussion where NGOs, GDSA Director-General, international organizations and survivors discussed establishing effective collaboration pathways on YSL implementation, Erbil, July 2021

Photo: Jiyan Foundation

press conference held in Baghdad on September 1, 2021. This statement, produced in collaboration with survivors, and supported by international partners such as Amnesty International and Genocide Watch, flagged lack of readiness to create survivor-centered YSL secondary legislation and the need to step up YSL implementation efforts.⁸³

On September 30 2021, C4JR, together with Nadia’s Initiative, UN Office on Sexual Violence in Conflict, IOM-Iraq and UNAMI co-hosted a virtual high-level side-event on the margins of the 76th Session of the United Nations General Assembly titled “Yazidi Women Survivors Law: Ensuring Effective Reparations Program in Iraq”. This event provided a platform to mobilize all stakeholders to renew their commitment and take concrete action towards effective and survivor-centred implementation of the YSL.⁸⁴

On March 1, 2022, to mark the first anniversary of passing the YSL, C4JR and IOM-Iraq organized a press event in Baghdad in the presence of GDSA Director-General Elias, representatives of UNITAD, IOM-Iraq, survivors, CSOs, diplomatic representatives and activists to call for a survivor centred approach, swifter implementation, and adequate financing.⁸⁵

In the mid-2022 IILHR advocated with the Iraqi members of parliament to include YSL financing in the Emergency Law.

On the International Day in Support of Victims of Torture, June 26, 2022, Jiyan Foundation for Human Rights, C4JR, GDSA, IOM-Iraq and UNAMI co-hosted an event in Erbil titled: “Dialog on Reparative Justice: Ensuring Effective Reparations in Iraq”. This event gathered Iraqi officials, representatives of international organizations, CSOs and survivors to discuss implementation of concrete suggestions to advance reparations and transitional justice in Iraq made by the Committee Against Torture and Human Rights Committee (both treaty bodies issued concluding observations on Iraq in 2022). C4JR previously, in the context of regular review of Iraq’s implementation of CAT, submitted an alternative report focusing on realization of the right to redress (CAT Art. 14) for survivors of ISIL crimes in Iraq.⁸⁶

On October 17 and November 14, 2022, C4JR organized virtual YSL Implementation coordination meetings to serve as a platform for exchange of information and coordination of activities on YSL implementation among actors invested in YSL implementation (CSOs, GDSA, IOM-Iraq etc.) This format will be used in the future to facilitate exchange of information, networking and collaboration.

Finally, Jiyan Foundation for Human Rights, C4JR and members of its Survivors Council produced two



C4JR representative attends Committee against Torture session to review Iraq's second periodic report on implementation of the UN Convention against Torture, Geneva, April 2022
 Photo: Jiyan Foundation

short videos to raise awareness of the plight of ISIL survivors, shed light on survivors of other atrocities and encourage solidarity among them. In both videos, released in August and December 2022, the survivors demanded swift and survivor-centred implementation of the YSL.⁸⁷

b) Funding YSL Implementation

Though it stands beyond doubt that YSL as federal legislation is to be funded from a federal budget, a concrete funding modality was addressed neither in primary nor secondary legislation. There was also no publicly available calculation of costs (for staff, services, establishing rehabilitation centers, memorialization activities etc.), nor was there an assessment of the universe of survivors (inside and outside of Iraq) that might indicate an estimated number of potential applicants and beneficiaries. Such actions are, of course, necessary to inform effective financial planning and budgeting. It is also the case that protracted, yearlong, government formation and related political frictions following Iraqi elections in October 2021, was hardly conducive to thorough planning and budgeting. This being said, it should be recognized that in the summer of 2021 Prime Minister's Office effected an emergency allocation as an initial startup funding of the GDSA.

Iraqi Parliamentarians Prioritize Funding for YSL implementation

On June 8, 2022 the Iraqi parliament passed the Emergency Law for Food Security and Development (Emergency Law) which allows the government to use public funds for urgent food security and development needs.⁸⁸ 25 billion IQD was allocated for financing implementation of the YSL.⁸⁹ However, according to the text of the Emergency Law, only allocations for several urgent sectors are to be funded in full and immediately, whereas other allocations (within which YSL funding falls) are to be completed in two steps: 50% of the allocated sum is to be funded by the Ministry of Finance immediately and the remaining 50% by the upcoming government. According to the GDSA, for the purpose of the YSL implementation 500 million IQD has been made available in 2021, 25 billion IQD in 2022 whereas funding for 2023 is included in the 2023 Budget Bill.⁹⁰ This being said, Minister of Labour and Social Affairs on February 11, 2023 indicated that 16 billion IQD, allocated via the Emergency Law, is currently deposited at the MoLSA bank account awaiting to be distributed for salaries of survivors.⁹¹

c) Outreach, Awareness Raising and Capacity Building

The enactment of the YSL was not only well received by the international community and Iraqi CSOs, but also, unsurprisingly, by survivors themselves. However, it soon became apparent that survivors and their communities are not well informed about the exact scope of the YSL, eligibility requirements, available benefits and the timing of distribution. This, on the other hand, contributed to false expectations and misinformation around the YSL’s scope and content. For example, a survivor, eligible to receive reparations under YSL, but already receiving compensation under Law No. 20 for death of a family member, was misinformed that she will need to choose between monthly financial compensations under these two laws. In addition, some survivors voiced unrealistic expectations concerning the anticipated amount of financial compensation, procedural requirements, and the swiftness of its allocation, etc.⁹² In retrospect, from the outreach perspective, it was also not helpful that the title of the law referred to Yazidi survivors only, although specific categories of survivors from Christian, Turkmen and Shabak communities are also eligible to apply and make use of individual reparative measures.⁹³

IOM-Iraq, in addition to playing an important role in the adoption and implementation of the YSL, has, since 2021, been providing much needed training to NGOs on how to conduct YSL awareness raising sessions. By mid 2022, the focus of the trainings shifted to the YSL application process and how to effectively assist survivors in that regard. By the end of 2022, IOM-Iraq had trained 22 NGOs whereas the total number of individuals trained was 53.⁹⁴ Likewise, IOM-Iraq has also trained GDSA staff on the YSL, implementing regulations, and the application process, as well as survivor-centred approaches to dealing with survivors.⁹⁵ Following the capacity building, GDSA, with the support of IOM-Iraq and local CSOs, conducted more than a dozen YSL awareness raising sessions in the field (IDP camps, Sinjar, Tal Afar, Bashiqa, Dohuk). In some of these events, members of Survivors Voices Network (local association of survivors) participated by presenting the YSL to the target audience.

Finally, GDSA produced two videos⁹⁶ with instructions on how to fill-out the application form (Arabic and Kurdish) and a factsheet.⁹⁷ Collaboration between

IOM-Iraq and GDSA on YSL implementation was formalized on 10 October, 2022 when the two parties signed a Cooperation Agreement.⁹⁸

Other NGOs were also conducting outreach and awareness raising around the YSL in the course of their ongoing projects and funding possibilities. It is, however, difficult to give an assessment of these outreach activities as no information is available on scope and content of such activities.

d) Submitting and Processing of Applications

Designing an adequate and functional reparations application form is usually a key phase in any administrative reparations program. The application form will largely determine whether the reparations process meets the international standard of providing “adequate, effective and prompt reparation for harm suffered,” as articulated in the Basic Principles.⁹⁹ In recognition of that fact, IOM-Iraq jointly with IILHR organized a workshop on November 21, 2021 in Erbil to discuss designing a victim-centered application form with experts and interested stakeholders including the GDSA General-Director. The first draft of the application form was sent to attendees beforehand to facilitate feedback and discussion. Moreover, in December 2021, IOM-Iraq organized a second study visit for GDSA staff to Kosovo in order to discuss and learn from the application procedure established under the scheme offering recognition and welfare benefits to survivors of sexual violence committed during the Kosovo war.¹⁰⁰

Overview of Available Figures Concerning YSL Application and Review Process¹⁰¹

From the start of the YSL application process (September 7, 2022) until February 23, 2023, **1600 applications** (840 in-person to the GDSA offices and 760 through an online portal) **were submitted**. **Number of approved applications is 346**, number of **rejected applications is 11**, whereas no appeals were, thus far, submitted to the Committee. No gradation of the amount of monthly salary has been applied as all successful applicants received fixed minimum salary amount (800,000 IQD) guaranteed under the YSL article 6.¹⁰² Overall **number of interviews** conducted by the Committee, all of them in-person, is **50**. No survivors currently residing outside Iraq have, thus far, applied.

Unnecessary Evidentiary Standards Re-traumatize, Stigmatize and Put Survivors in Harm's Way

The Committee formed under YSL Article 10 is authorized to review and decide on applications and appeals. Despite the initial indications that the Committee will adopt a relaxed evidentiary standard where official court documents, though accorded due evidentiary weight, will not be considered a prerequisite for a positive decision,¹¹⁹ practice of the Committee proved otherwise.

Namely, **two months into the application process, survivors started being asked to first file a criminal complaint with an anti-terrorism court in Federal Iraq and submit relevant investigation documents together with their YSL application. The applications of survivors who do not submit investigation documents will be rejected, regardless of the plethora of pre-existing evidence collected by official bodies and NGOs and the possibility for the Committee to interview survivors itself. This requirement is not in line with the letter or the spirit of the YSL and associated bylaw as submission of a wide range of supporting documents such as government records, NGO reports, and eyewitness testimony, among others, have been explicitly allowed without according formal primacy to any of them.**¹²⁰ The Committee is only obliged to first exhaust official evidence before resorting to other proof¹²¹ and may, if deemed necessary, interview applicants who lack sufficient evidence.¹²²

This requirement may effectively prevent thousands of eligible survivors from accessing their rights under the YSL. This is because many survivors will refrain from making criminal complaints in order not to expose themselves to the mistreatment, humiliation, shame, and stigma perpetuated by the judicial system. Many survivors will also not file complaints for fear of safety because they lack 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. The latter also, under current Iraqi law, risk self-incrimination and even prosecution.

After almost a year of preparations, on September 7, 2022, the application process was officially launched.¹⁰³ Applications can be submitted: directly through the online portal specially designed for this purpose; in-person with the support of the Directorate's staff (appointments can be scheduled through the portal for Mosul and Sinjar offices); and by submitting a completed hard copy of the application form directly to the Directorate. In addition to filling out the application form and enclosing supporting documentation, survivors need to submit 2 photos, and colored copies of a number of official identification documents (civil status identity card, Iraqi nationality card, residence card and ration card).¹⁰⁴ Each applicant will receive a unique registration number issued by the GDSA Secretariat. Applicants can follow the progress / status of their applications through the online portal: <https://ysl.ur.gov.iq/>. At the launch of the application process, it was communicated that eligible survivors residing in third countries will also be able to submit applications through the online portal, but at a later stage due to technical problems.¹⁰⁵ At the moment of finalizing this report, testing of the online portal's feature enabling submission of applications from

abroad is in progress and this service will shortly be made available.¹⁰⁶

Examples of Abusive Practices by the Judiciary Witnessed by C4JR Members Include:

- A female Yazidi survivor was screamed at by an investigator who told her that she is "lying" and that he "will put her in prison for that". The survivor later said that she will "never come back [to provide a statement], even if they give her all the money in the world".
- Female Shabak survivors were called "Majida" by court employees, a derogatory word used to insult women and girls.
- One female survivor was simply ignored and not issued any documents.

e) Distribution of Benefits, Services and other Entitlements

Considering that the YSL guarantees a number of individual and collective reparative measures such as salaries, psychological and medical assistance, land, housing, educational opportunities, and memorialization, to name but a few, the question is how GDSA will coordinate efforts of different institutional actors with a view of ultimately delivering on the YSL's promises. From the text of the primary and secondary legislation it follows that GDSA's main role in this respect is to coordinate the work of different institutions (Ministry of Justice, Education, Interior, Health, National Retirement Authority, KRG etc.) who are to dispense respective services. In the initial phase of implementation, such activities seemed not to be the primary focus of the GDSA nor of other stakeholders.

While distribution of monthly salaries might seem rather straightforward, safeguards need to be put in place to ensure that individual survivors can safely access and benefit from the financial means they are entitled to. No information on such safeguards has officially been provided. However, in mid-February 2023, GDSA, via its Facebook page, notified those survivors whose applications have been approved, to expect to be contacted in order to be provided with bank cards through which they are to receive monthly salaries.¹⁰⁷ At the end of February 2023, GDSA Director-General stated that 420 survivors, whose

applications have been approved, will receive several monthly salaries (calculated from June 2022) at once. After settling these dues, they will be receiving salaries on a monthly basis.¹⁰⁸ In addition, providing access to education, job opportunities, land and housing necessitates developing separate roadmaps, taking into consideration factors that may obstruct effective enjoyment such as existing patriarchal structures within the affected communities, physical access to relevant institutions, safety and freedom of movement, etc.¹⁰⁹ This is especially true concerning rehabilitation centres that are expected to provide a range of specialized services to mitigate, to the greatest extent possible, the consequences of enduring trauma.

Going beyond services and benefits designed to meet the existential needs of individual survivors, things are becoming even more convoluted. Namely, memorialization activities, coordinating efforts to search for those still in ISIL captivity, return of the remains and ensuring accountability for ISIL crimes in Iraq, though part and parcel of the YSL, have been left largely unaddressed.

The Iraqi Federal Supreme Court has in mid 2021 declared that a KRG draft law to establish a criminal tribunal for ISIL crimes in the Kurdistan Region of Iraq could not move forward on constitutional grounds.¹¹⁰ In July 2021, Iraq adopted a five year Human Rights National Action Plan¹¹¹ that envisages action on both

GDSA on Coordinating Efforts to Deliver YSL Reparative Services and Benefits¹²³

Contact with the Ministry of Foreign Affairs of Iraq has been established to hold seminars and conferences to commemorate the victims of genocide, as well as with the embassies of countries where some survivors currently reside in order to provide support. In collaboration with the Ministry of Higher Education, a committee was formed to identify survivors' needs and the possibility of supporting them to continue their education. Approval was obtained to return the survivors to schools, excluding the age condition and looking for the possibility of getting special classes for them. Consultations with the Ministry of Health were held to provide medical services to survivors and consider the possibility of opening departments in Tal Afar, Sinjar, and Sinuni to provide psychosocial support and therapy. As GDSA itself constitutes part of the Ministry of Labor and Social Affairs, the coordination is ongoing, facilities have been provided as well as employees and financial means. In cooperation with the Ministry of Interior a special committee was formed to issue identification documents (more than 300 survivors have been provided with documents necessary in the YSL application process). Cooperation was established with the human rights department at the Ministry of Justice to collaborate, share information and expertise. GDSA works with the Supreme Judicial Council and the Nineveh Court of Appeal to support the survivors and facilitate their procedures in Nineveh courts. Finally, cooperation with KRG is established to ensure that survivors residing in IDP camps in KRI have access to YSL application procedure and to examine the possibility of sharing data and investitive documents in possession of KRG affiliated bodies.

incorporating international crimes in domestic Iraqi legislation and establishing mechanisms to investigate and prosecute ISIL for these crimes.¹¹² However, thus far, the GoI has not acted on these points, in spite of UNITAD’s readiness to support any national initiative aimed at adopting legislation on core international crimes.¹¹³

Both the 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 in Iraq and ensure perpetrators are punished and the victims or members of their families accorded full reparation. The Committee Against Torture highlighted that Iraq should guarantee the victims’ right to participate in criminal proceedings effectively, accompanied by safeguards to avoid stigmatization and re-traumatization.¹¹⁴

Since February 2022, GDSA, with the support of IOM-Iraq, has taken the initiative to facilitate deliberations among civil society, government actors, national legal experts and international actors about the possible institutional modalities for prosecuting ISIL members for genocide and other international crimes. The Draft Law on the Establishment of the Iraqi Criminal Court Competent to Prosecute Da’esh Elements, submitted by the former member of Iraqi parliament from Yazidi quota Mr. Saib Khidir in 2021, was taken as a basis for further discussions.

Within this initiative, two consultative round tables have been organized to facilitate feedback and signpost the way forward. The first meeting took place on March 7, 2022, gathering representatives of international organizations and Iraqi CSOs to discuss possible institutional modalities for prosecuting ISIS members for genocide and other international crimes.

The second meeting, which took place on March 27-28, 2022, brought together members of the Iraqi legal community and international experts to clarify the legal aspects of establishing a criminal accountability mechanism in Iraq for international crimes committed by ISIL. General understanding has been achieved to revise Mr. Khidir’s draft law in line with the outcomes

of deliberations and present it to the Council of Ministers Secretariat, judicial and political actors, CSOs and survivors. Further activities are planned in 2023.¹¹⁵

On August 15, 2022, C4JR published a Position Paper on an ISIL Accountability Mechanism in Iraq¹¹⁶ with the aim of bringing fresh momentum to the pursuit of criminal accountability in Iraq for international crimes committed and breathing life into the YSL article 7. Suggestions laid out in the Position Paper are an outcome of year-long consultations among experts, survivors, and NGOs, drawing on best international practices, survivors’ preferences, and the insights of national actors to pave the way towards homegrown and survivor-centered justice in Iraq. The Position Paper was presented to the international public during a virtual event, “Options for Survivor-centered Justice in Iraq”, held on December 19, 2022. UN stakeholders, experts, activists, and survivors discussed practical suggestions on how ISIL Accountability Mechanism in Iraq can best serve the cause of justice and the interests of survivors and their communities.¹¹⁷

In conclusion, the commitment of the CoR and the incumbent GoI to pass a Federal law that criminalizes war crimes, crimes against humanity and genocide, or lays out a plan for federal prosecution of ISIL crimes appears uncertain. UNITAD, while providing technical assistance, has not shared evidence with the Iraqi judiciary to further Iraqi investigations and prosecutions, attributing their decision to not share evidence to the application of the death penalty in Iraq. In the meantime, 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.¹¹⁸

IX.

FINAL REMARKS

Despite the clear potential of the YSL to be a game changer in Iraq’s coming to terms with past human rights abuses and establishing a new paradigm for transitional justice and reparations, one needs to recognize the multitude of obstacles and pitfalls along the implementation path.

More precisely, gaps in the YSL and associated bylaw, combined with past negative experiences of following through with reparation programs, may lead to falling into old ineffective implementation patterns.

Deeply discouraging strict evidentiary requirements unexpectedly introduced in the second half of 2022,

and lacking legal basis in text of the law, cannot be seen otherwise than as yet another manifestation of such patterns. On a more positive note, financing of the YSL implementation through the Emergency Law passed in June 2022 indicates that the members of Iraqi CoR elected in 2021 consider YSL implementation a priority. All things considered, before jumping to conclusions and passing judgments on the achievements of the first two years of putting the YSL into practice, one needs to recognize the complexity of the processes, services, benefits and broader transitional justice measures packed into this law. In addition, external factors such as the pandemic, post electoral crisis, regional tensions, to name but a few, were not conducive to effective implementation. Nevertheless, one needs to carefully consider the main challenges of the first two years in order to build up strategies, mechanisms, know-how and support necessary for a comprehensive and survivor-centred implementation process. If anything, the report clearly demonstrates dedication, persistence, potential and enthusiasm of all actors involved to work together in ensuring that survivors realize their right to reparations.



Lalish, the holiest temple of the Yazidis in Shekhan, Duhok Governorate, Iraq.
 Photo: Goran Salah

X.

RECOMMENDATIONS

To Iraqi Authorities (Gol, MoLSA, GDSA, Committee and KRG):

1. Stop the practice of asking survivors to submit investigation documents together with their YSL application and evaluate applications submitted against a relaxed evidentiary standard;
2. Create and publish official rules of evidence; criteria for determining the amount of monthly salary, clear guidelines outlining the appeal process and a roadmap/timeline for making the diverse reparative measures and services specified in the YSL available and accessible to survivors;
3. Set up regular channels of communication with the CSOs and survivors, to share updates regarding the implementation process;
4. Facilitate access to application process and delivery of reparative measures to those eligible survivors that currently reside outside of Iraq;
5. Establish GDSA branches in close proximity to survivors, especially in Dohuk (KRI) in whose vicinity a large number of eligible survivors reside;
6. Hire staff and especially women from conflict-impacted communities for the implementation of the YSL;
7. Conduct regular mandatory training on ethical and trauma informed engagement with survivors, including basic trauma understanding and awareness, confidentiality requirements, do-no-harm, and informed consent for all staff working on YSL;
8. Regularly consult survivors from all four eligible communities during all stages of YSL implementation process;
9. Create and enforce codes of conduct for ethical engagement with survivors, including by setting up accessible, confidential, impartial, and accountable reporting and complaints mechanisms for applicants;
10. Intensify efforts to set up a viable system for providing quality medical and MHPSS services in line with best practices on the ground within reach of survivors and their families;
11. Introduce and enforce effective safeguards (privacy protection, legal and psychological support) to avoid renewed exposure to trauma and stigmatization in the course of outreach, application and review process as well as during the distribution of benefits;
12. Provide and regularly publish statistical and other information outlining disaggregated data on applications received, application approved, first and second instance appeals, number and type of reparative measures granted and actually provided (including but not limited to monetary compensation, psychological and health services, education, land and housing, employment), rehabilitation facilities made available including their locations and measures to search for those missing, return of the remains to families, and efforts to ensure that perpetrators are held accountable for international crimes before a court of law;
13. Secure regular and adequate financing of YSL implementation through annual budgetary allocations based on realistic calculation of costs for the upcoming financial year;
14. KRG should enhance cooperation with GDSA by appointing a focal point, speeding up opening GDSA branch office in Dohuk and taking all other necessary measures to facilitate swift access to application, verification and distribution of reparative services;

To International Organizations and Third States:

1. Continue supporting capacity of the GDSA and the Committee to fulfill their mandates, including through capacity building, technical guidance, material assistance etc;
2. Continue supporting CSOs and survivors in constructive engagement with GDSA, supporting YSL implementation by monitoring and reporting, conducting awareness raising sessions on YSL and providing assistance to survivors in submitting applications;
3. Ensure effective coordination between international actors and consider supporting

specific aspects relevant for YSL implementation (application process, survivor participation and consultation, memorialization, search for missing, criminal justice etc.) based on mandate and urgent needs rather than addressing multiple issues/topics;

4. Consider supporting Iraqi authorities to build up capacities to sustainably deliver certain YSL specified reparative measures in a survivor-centred manner (rehabilitation services, land and housing, etc.);
5. Inquire about the YSL implementation during bilateral diplomatic contacts with Iraq but also consideration of Iraq during the Universal Periodic Review (UPR) and other relevant UN fora such as Security Council, etc;

To Civil Society Organizations:

1. Monitor implementation of the YSL and advocate for accessible application and fair review process, swift and proper distribution of benefits;
2. Insist with the authorities to swiftly clarify details surrounding financing and operations;
3. Include YSL implementation support and pertaining activities in your regular programming;

4. Invest in networking with other CSOs and relevant stakeholders by sharing information to avoid duplication of activities, identifying synergies and creating partnerships for projects supportive of YSL implementation;
5. Conduct joint advocacy with fellow CSOs, but also other institutional actors to address the pressing issues around YSL implementation;
6. Support survivors and survivors groups to conduct self-advocacy, include them in the relevant trainings, and provide space for them to speak at relevant national and international fora;
7. Pursue ethical engagement with survivors by employing a survivor centered, trauma-informed, and human-rights based approach in your dealings with survivors, including in supporting individual applications under the YSL and advocacy efforts;
8. Prioritize certain aspect(s) of YSL implementation (criminal justice, rehabilitation, application process, education, memorialization, land and housing etc.) based on effective coordination with other stakeholders and include them in your programming;

XI

ANNEXES

Shrine of Shekhse Bate in Babera village near Fayidah between Duhok and Mosul. It was destroyed by ISIS in 2014, but rebuilt when the village was repopulated again by Yezidis
Photo: Levi Clancy

ANNEX I: YAZIDI [FEMALE] SURVIVORS’ LAW

In the name of the People Presidency of the Republic

Based on what was approved by the House of Representatives in accordance with the provisions of first clause of Article 61 and the third clause of Article 73 of the Constitution.

The President of the Republic decided on / / 2021 the issuance of the following Law

No. () for the year 2021

Yazidi [Female]¹²⁴ Survivors’ Law¹²⁵

Article 1

For the purpose of this law, the following terms shall have the meaning ascribed to them below:

First - The [female] survivor: Every woman or girl who has been subjected to crimes of sexual violence from her 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 ISIS since the date 3/8/2014 and was freed afterwards.

Second - The Directorate: The General Directorate of Yazidi Female Survivors’ Females Affairs.

Article 2:

The provisions of this law apply to:

First - Every Yazidi [female] survivor kidnapped by Daesh and was freed afterwards.

Second - Women and girls from the (Turkmen, Christian, Shabak) components who were subjected to the same crimes mentioned in Article 1 (First) of this law.

Third - Yazidi children survivors who were under the age of eighteen at the time of their kidnapping.

Fourth: Yazidi, Turkmen, Christian and Shabak survivors from the mass killings and mass elimination carried out by ISIS in their areas.

Article 3

First: General Directorate shall be established to care for female survivors’ affairs and will be linked to the Ministry of Labor and Social Affairs and is based in Nineveh Governorate and has the right to open branches in the areas where female survivors are present, whenever necessary.

Second: The General Directorate stipulated in the first clause of this article is managed by an employee under the title of Director General, from the Yazidi component, who holds at least a first university degree in the field of law or administration and has experience and practice of no lesser than ten years in his field of work and shall be appointed by the Council of Ministers.

Article 4

This law aims to:

First: Compensate the [female] survivors and those covered by the provisions of this law financially and morally and to secure a decent life for them.

Second: 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 and prevent the recurrence of the violations that occurred against them.

Article 5

The Directorate undertakes the following means to achieve its goals:

First: Statistics and preparation of [female] survivors’ data and those included in the provisions of this law based on information issued by governmental and non-governmental institutions working in this field.

Second: Providing the necessary care for [female] survivors and groups covered by the provisions of this law.

Third: Coordinating with all government institutions, local and international organizations in order to support [female] survivors and groups covered by the provisions of this law.

Fourth: Providing educational opportunities for [female] survivors and their children.

Fifth: Securing employment and job opportunities to enable [female] survivors to achieve their economic and social well-being.

Sixth: Opening health and psychological rehabilitation centers to treat [female] survivors and working to open health clinics inside and outside Iraq.

Seventh: Searching for the kidnapped of Yazidis, Turkmen, Christians, and Shabaks men, women and children, whose fate is still unknown. This work shall be done in coordination with the competent authorities inside and outside Iraq and the victims' families, treating their conditions legally and granting them benefits and compensating them or their families in accordance with the relevant laws.

Eighth: Coordination with the Martyrs Foundation / Department of Mass Graves' Affairs and Protection in relation to mass graves to complete all procedures related to searching and investigating, opening mass graves, revealing the identity of the remains and return them to their families in order to bury them in a manner befitting their sacrifices.

Ninth: Coordination with investigative and judicial bodies and international committees concerned with investigation and gathering evidence, and providing them with all statistics, data and evidence that contribute to documenting and establishing crimes committed by ISIS in a way that helps prosecute the perpetrators of these crimes.

Article 6

First – The [Female] survivors and those covered by the provisions of this law shall be given a monthly salary that shall not be less than twice the minimum pension salary stipulated in the Unified Pension Law No. 9 of 2014 and its amendments.

Second – [Female] Survivors and those covered by the provisions of this law shall be granted a residential plot of land with a real estate loan and shall be exempted from the provisions of laws and decisions of the (dissolved) Revolutionary Command Council no 120 of 1982 or a free housing unit.

Third– [Female] survivors and those covered by the provisions of this law have the right to return to study and shall be exempted from the age requirement.

Fourth– [Female] survivors and those covered by the provisions of this law shall be given a priority to public employment at a rate of 2%.

Article 7

First – Crimes committed by Daesh against the Yazidis and other components, (Turkmen, Christians and Shabaks) shall be considered crimes of genocide and crimes against humanity.

Second – The Ministry of Foreign Affairs, in coordination with the official concerned institutions, undertakes to reveal the crimes mentioned in the first paragraph in international forums, especially those committed against [female] survivors and those covered by the provisions of this law.

Third – The Ministry of Foreign Affairs, in coordination with the official concerned institutions, shall undertake initiating criminal proceedings against the perpetrators of the crimes in the first clause, and cooperate for the extradition of criminals in order to be tried before the competent courts.

Article 8

First: The 3rd of August of each year shall be considered a national day to reveal the crimes committed against the Yazidis and other components and media shall provide all programs for this date and clarify the abuse, kidnapping, sexual violence, captivity and displacement committed by Daesh.

Second – The Ministry of Culture, Baghdad Municipality and the concerned authorities shall take the necessary measures to immortalize the Yazidi victims and other components and to build monuments, statues and exhibitions on this occasion.

Article 9

First: The perpetrators of the crimes of kidnapping and captivity of Yazidis shall not included in any general or special amnesty.

Second: Punishment prescribed by law for perpetrators of the crimes mentioned in the first clause of this article shall not be dropped, and the judicial and administrative authorities are obligated to follow up to arrest the perpetrators and accomplices in committing these crimes, as well as implementing the provisions of the law and provide protection for witnesses and victims.

Article 10

First – A committee shall be formed by the Ministry of Labor and Social Affairs to consider the requests of survivors and groups covered by the provisions of this law, and it shall consist of

- | | |
|---|----------------|
| 1. a judge nominated by the Supreme Judicial Council. | Chairman |
| 2. Director General of Women Survivors’ Affairs (MOLSA) | Vice President |
| 3. A representative of the Ministry of Interior | member |
| 4. A representative of the Ministry of Health | member |
| 5. A representative of the Ministry of Justice | member |
| 6. A representative of the National Retirement Authority | member |
| 7. A representative of the High Commission for Human Rights | member |
| 8. A representative of the Kurdistan Regional Government | member |

Second – The committee decides on the validity of the requests submitted to it within a maximum period not exceeding 90 days from the date of receiving the request.

Third – The applicant has the right to appeal to the same committee its decision within a period of 30 days from the date of issuance of the decision in order to reconsider it. And in case of refusal for the second time, the applicant can appeal the decision before the court of first instance, and its decision shall be final and binding.

Fourth – The committee may open an electronic platform to receive and consider applications from inside and outside Iraq, and the approval for being covered by the provisions of the law takes place after conducting the interview for the applicant before the committee that was formed in the first clause of this article, to facilitate receiving their entitlements according to this law.

Fifth – The percentage of women in the committee to be formed in the first clause of this article shall not be less than 30%.

Sixth – The number of meetings of the committee formed in the first clause of this article shall not be less than two meetings per week.

Seventh – The committee holds its meeting when the presence of the absolute majority of its members is achieved.

Eighth – the decision to be covered by the provisions of the law shall be voted on by a simple majority, and in case the votes are equal, the side on which the chairman is will prevail.

Article 11

Compensation for [female] survivors and those included in the provisions of this law does not prevent them from receiving compensations according to local laws or special international decisions related to them.

Article 12

The Council of Ministers shall issue instructions to facilitate the implementation of the provisions of this law within a period not exceeding 90 days from the date of its publication in the Official Gazette.

Article 13

This law shall be enacted from the date of its publication in the Official Gazette.

The Rationale

Crimes committed by ISIS against the Yazidis and the rest of the components (Christians, Turkmen and Sha-

bak), shall be considered genocide crimes and crimes against humanity, and given the physical, psychological, social and material damage that these crimes have resulted on all victims, especially women and children, and with the aim of addressing these damages and the negative effects resulting from them and granting the necessary rights for [female] survivors and those covered by the provisions of this law, their rehabilitation and reintegration into society, and as reparations and compensation for what happened to them, and [female] survivors in particular, and to protect them and their areas.

This law is promulgated.

ANNEX II: BYLAWS FACILITATING THE IMPLEMENTATION OF THE PROVISIONS OF YAZIDI [FEMALE] SURVIVORS LAW

Based on the provisions of Article (12) of the Yazidi [Female] Survivors' Law No. 8 of 2021, we issued the following bylaws:

No. (4) of 2021

Bylaws Facilitating the Implementation of the Provisions of Yazidi [Female] Survivors Law No. (8) of 2021¹²⁶

Article 1

These bylaws apply to victims of crimes committed by ISIS against the groups stipulated in Articles 1 and 2 of the Yazidi [Female] Survivors' Law No. 8 of 2021.

Article 2

The Directorate of [Female] Survivors' Affairs is linked to the Minister Ministry of Labor and Social Affairs and shall, in addition to the tasks entrusted to it under Article 5 of the Yazidi [Female] Survivors' Law No. 8 of 2021, undertake the following:

First- Receiving the decisions of those covered by the provisions of the law, registering decisions in a special register, and following up on their implementation with relevant bodies.

Second- Communicating with those covered by the provisions of these bylaws and following up on their social, health and psychological affairs with relevant bodies.

Third- Setting a specific timetable for completion of applications of those who are eligible in accordance with the law.

Fourth- Addressing all inquiries submitted by those who are eligible when visiting the Directorate.

Fifth- Submitting a monthly report to the Minister of Labor and Social Affairs including the number of accomplished applications for those eligible, the obstacles preventing the completion of their registration and proposing solutions for addressing them.

Sixth- Preparing training and development programs related to the work of the committee formed pursuant to the law, its secretariat and its employees, in coordination with ministries, bodies not affiliated with a ministry, and international and local organizations.

Seventh- Holding conferences, seminars and workshops to reveal the crimes committed against those covered by the provisions of the law.

Article 3

First: The Directorate of Survivors' Affairs shall, in coordination with the Ministry of Higher Education and Scientific Research and the Ministry of Education, undertake the following:

A- Providing opportunities for educational attainment and ensuring the return of those covered by the provisions of these bylaws to their studies and shall be exempted from the age requirement.

B- Developing specialized curricula to reveal the crimes of ISIS committed against components of the Iraqi society and emphasis on peaceful coexistence and renunciation of violence.

Second: The Directorate of Survivors' Affairs shall, in coordination with the Ministry of Health, undertake the following:

A- Opening health centers and psychological rehabilitation departments for survivors and working on opening health clinics inside and outside Iraq.

B - Coordinating with the Directorate of [Female] Survivors' Affairs to facilitate the provision of health and psychological services to those covered by these bylaws.

Third: The General Directorate of Survivors' Affairs shall coordinate between relevant authorities to grant

those covered by the provisions of this law a residential plot of land with a real estate loan, as an exception to the provisions of the laws and the (dissolved) Revolution Command Council Resolution No. 120 of 1982, or a free housing unit.

Article 4

First: The Ministry of Labor and Social Affairs is responsible for disbursing the salary amount based on Article 6- First Clause of the aforementioned law to those covered by the provisions of these bylaws, and the salary shall be disbursed to the care provider or guardian of the entitled child if he has not completed eighteen years of age, taking into consideration the provisions of the Minor's care law no78 of 1980.

Article 5

The Federal Public Service Council shall secure job opportunities for those covered by these bylaws and shall be prioritized in public employment with a ratio of 2%.

Article 6

The Kurdistan Regional Government, federal ministries, bodies not related with a ministry and civil society organizations shall be in charge of providing the Directorate of [Female] Survivors' Affairs with information, data and documents for those covered by the provisions of these bylaws, and the directorate shall protect the confidentiality of the information, data and documents received.

Article 7

First- The committee formed under Article 10 of the Yazidi [Female] Survivors' Law No. 8 of 2021 shall convene at least twice a week upon the call of its chairperson or deputy, in presence of the absolute majority of its members.

Second- The committee shall issue its decisions with the simple majority of its members and if the votes are equal, the side with which the president voted shall prevail.

Third- The committee may seek the expertise of whom it deems is of experience and competence, and the latter shall not be entitled to vote.

Fourth- The Supreme Judicial Council, ministries and other bodies represented in the committee shall name a chair and members for the committee who are of expertise and competence.

Article 8

The committee stipulated in Article 4 7 of these bylaws shall undertake the following tasks:

First- Receiving requests of those covered by the provisions of these bylaws either directly or through the Directorate of [Female] Survivors' Affairs, or through the electronic portal accompanied with their legally considered written proofs of eligibility , including official records of competent governmental bodies, reports and international documents and non-governmental organizations, and can be proved by eyewitness testimony enhanced with evidence or resorting to proofs of evidence prescribed in Evidence Law No. 107 of 1979.

Second- Exhausting official evidence and addressing the relevant authorities to prove the exposure to the crimes stipulated in the Yazidi [Female] Survivors Law No. 8 of 2021 before resorting to the proofs of evidence stipulated in clause (First) of this article.

Third- Conducting the interview with the requester applying through the electronic portal and verifying the validity of the documents and proof of identification of the eligible.

Fourth- Deciding on requests of eligibility within a maximum period of 90 days from the date of receiving the request.

Fifth- Determining the amount of the monthly salary according to the material or moral damage suffered by the eligible.

Article 9

First- The committee shall have a secretariat run by an employee with a primary university degree at minimum, and shall be of experience and competence, assisted by a number of employees assigned from the

Directorate of [Female] Survivors' Affairs, and shall report to the chair of the committee, performs his orders and guidance, and is in charge of preparing and organizing requests presented to the committee and coordinating the relationship between the committee and the directorate and following up on decisions and appeals.

Second- The secretariat shall take into account, when accomplishing the tasks entrusted to it, the privacy of the cases brought before it, and the confidentiality of the documents related to those covered by the provisions of these bylaws.

Article 10

These bylaws shall be implemented from the date of publication in the Official Gazette.

Mustafa Al-Kathimi
Prime Minister
/09/2021

ANNEX III: YAZIDI [FEMALE] SURVIVORS LAW APPLICATION FORM



Yazidi Survivors' Law No. (8) of 2021 Application form

Important information to know:

- This application form is used to help survivors who are covered by the provisions of the Yazidi Survivors' Law No. (8) for the year 2021 to submit an official application for inclusion in the benefits and rights stipulated in the above-mentioned law.
- This application form is an official document by the Directorate General of Survivors' Affairs and the Special Committee for the examination of the applications of survivors and those Covered by the provisions of the Law, which is the only application form approved and no other application forms will be accepted by the Directorate and the Committee.
- The form is available for survivors and other groups covered by the law from the Yazidi, Turkmen, Shabak, and Christian communities in Iraq and outside Iraq, and for non-governmental organizations approved by the Directorate. The form is also available on the Directorate's official website.
- The form can be submitted directly by submitting it to the Directorate or submitting it electronically/online through the directorate's portal

Who are covered by law?

According to Article 1 of the law, the survivors covered by the provisions of the Survivors' Law are as follows:

Every woman or girl who has been subjected to crimes of sexual violence such as kidnapping, sexual slavery, sale in slave markets, separated from her family, forced to change her religion, forced marriage, forced pregnancy, forced abortion, or been subjected to physical and psychological abuse by ISIS since August 3, 2014 and subsequently liberated.

According to Article 2 of the Law, the provisions of the Law shall apply to:

- Every Yazidi survivor who was kidnapped by ISIS and subsequently liberated.
- Women and girls from the Turkmen, Christian and Shabak communities who were subjected to the crimes mentioned in Article 1 of the law.
- Survivors of Yazidi children who were under eighteen years of age at the time of their abduction.
- Male Yazidis, Turkmen, Christians and Shabak survivors of the mass killings and mass cleansing carried out by ISIS in their areas.

What will happen after the application is submitted?

- The General Directorate will provide a special registration number for each valid application submitted by the applicant to the General Directorate and the Committee.
- The General Directorate provides the applicant with a receipt for the application, attached with a serial number.
- If the application is submitted through the portal, the committee will conduct an interview with you to verify your identity, either directly or online.
- After the application is completed and complies with the official requirements, it will be submitted to the committee established under Article 10 of the Yazidi Survivors' Law.
- The committee will review your application with supporting documents within a maximum period of 90 days from the date of receiving the application, and decide your eligibility.
- In the event of insufficient evidence and supporting documents for your request, the Committee has the right to conduct an interview with you, and then submit your application with its recommendations to the committee.
- If your application is approved by the Committee, your file will be sent to the data room in the General Directorate of Survivor's Affairs to be covered with the benefits established by law.
- If the application is rejected, you have the right to appeal to the committee within 30 days from the date of the decision
- The committee may approve or cancel its original decision, and in the event the committee rejects the application for the second time, you have the right to appeal the decision before the Court of First Instance.

Note:

All employees of the General Directorate and members of the Committee are signatories to the document maintaining the confidentiality of procedures and the protection of your personal data.

Application number:

(To be filled out by the General
Directorate of Survivor's Affairs)

Section one Personal information

a) Information about the applicant (female survivor/male survivor)

1. APPLICATION SUBMISSION DATE:

2. THE FULL NAME OF THE APPLICANT: (IN CASE THERE ARE SECURITY CONCERNS TO MENTION THE FULL NAME, THE FIRST NAME SHOULD BE MENTIONED)

3. DATE AND PLACE OF BIRTH:

5. MARITAL STATUS: SINGLE, MARRIED, DIVORCED, WIDOWED

6. GENDER OF THE APPLICANT: FEMALE MALE

7. NUMBER OF CHILDREN _____

8. THE APPLICANT HAS A CIVIL ID: YES NO

9. IF YES, ID NUMBER, DATE AND PLACE OF ISSUANCE _____

10. THE APPLICANT HAS A NATIONALITY/CITIZENSHIP CARD: YES NO

11. IF YES, ID NUMBER, DATE, PLACE OF ISSUANCE _____

12. THE APPLICANT HAS A UNIFIED ID: YES NO

13. IF THE ANSWER IS YES, ID NUMBER, DATE, PLACE OF ISSUANCE _____

14. PREVIOUS RESIDENCE

15. CURRENT RESIDENCE:

16. CONTACT INFORMATION:

FULL ADDRESS: _____

PHONE NUMBER: _____

ANOTHER PHONE NUMBER: _____

E-MAIL ADDRESS, IF ANY: _____

b) This part is to be filled in if the applicant is a minor or is unable to submit the application himself

17. RELATIONSHIP TO THE APPLICANT: (FATHER, RELATIVE, HUSBAND, ETC.)

18. FULL NAME

19. DATE AND PLACE OF BIRTH: _____

20. THE NUMBER AND DATE OF THE IRAQI CIVIL ID OR NATIONALITY/CITIZENSHIP CARD:

21. THE NUMBER AND DATE OF THE PROBATE OR POWER OF ATTORNEY IS

22. STATE THE REASON FOR THE APPLICANT'S INABILITY TO SUBMIT

23. CONTACT INFORMATION:

FULL ADDRESS: _____

PHONE NUMBER: _____

ANOTHER PHONE NUMBER: _____

E-MAIL ADDRESS, IF ANY: _____

Section Two Social and Economic status

The purpose of this section is to collect information that can be useful for determining educational and employment needs.

1. EDUCATIONAL QUALIFICATIONS

2. DROPPED OUT BECAUSE OF THE KIDNAPPING YES NO

3. PREVIOUS WORK OR JOB

CURRENT (IF ANY)

4. NUMBER OF CHILDREN SUPPORTED BY THE FEMALE SURVIVOR/MALE SURVIVOR (IF ANY) _____

FULL NAME

AGE _____

Section Three:

The crimes committed by the Islamic State (ISIS) against the female/male survivor

The purpose of this section is to assist the committee in making its decision and tracking data relating to atrocities committed against Iraqi minorities

1. DATE OF KIDNAPPING BY ISIS:

DAY _____ MONTH _____ YEAR _____

KIDNAPPING LOCATION:

DISTRICT _____ SUB-DISTRICT _____

CITY OR VILLAGE _____

2. DATE AND PLACE OF ESCAPE (ESCAPE/RESCUE)

DAY _____ MONTH _____ YEAR _____

ESCAPE/RESCUE LOCATION _____

DISTRICT _____ SUB-DISTRICT _____

CITY OR VILLAGE _____

3. THE CRIMES YOU HAVE BEEN SUBJECTED TO: [CHECK THE BOX]

- | | | |
|--|---|---|
| <input type="checkbox"/> Kidnapping | <input type="checkbox"/> Forced marriage | <input type="checkbox"/> Psychological harm |
| <input type="checkbox"/> Sexually enslaved | <input type="checkbox"/> Forced pregnancy | <input type="checkbox"/> Murder and mass killing |
| <input type="checkbox"/> Sold in slave markets | <input type="checkbox"/> Forced abortion | <input type="checkbox"/> Compulsory military conscription |
| <input type="checkbox"/> Separated from the family | <input type="checkbox"/> Physical harm (beating, torture, etc.) | <input type="checkbox"/> Other (explain) |
| <input type="checkbox"/> Forced to change religion | | |

4. PLACES WHERE THE SURVIVOR WAS DETAINED AND EXPOSED TO THE CRIME(S) WHEN HE/SHE WAS ABDUCTED

5. IN THE EVENT THAT YOU ARE A SURVIVOR OF A MASS KILLING OR CLEANSING, PLEASE INDICATE THE PLACE OF EXECUTION:

THE DATE OF ITS EXECUTION:



**Yazidi Survivors' Law
No. (8) of 2021
Application form**

6. NUMBER OF KIDNAPPED/MISSING FAMILY MEMBERS OR RELATIVES _____

FULL NAME _____

AGE _____ DATE OF BIRTH _____

GENDER _____ RELATION _____

LAST DATE YOU CONTACTED HIM/HER _____

ANY OTHER ADDITIONAL INFORMATION:

7. DESCRIBE WHAT HAPPENED TO YOU AFTER THE KIDNAPPING (THIS INFORMATION AND LEVEL OF DETAIL ARE OPTIONAL AND NOT REQUIRED IF THE SURVIVOR PROVIDED A STATEMENT TO A GOVERNMENT AGENCY OR ORGANIZATION, HOWEVER, THE SURVIVOR MAY PROVIDE DETAILS HERE IF HE/SHE WANTS TO).

ADDITIONAL PAPERS CAN BE USED

Section IV:

Evidentiary and supporting documents for the application

The General Directorate of Survivor Affairs will approach all the parties referred to by the applicant to request a copy of the survivor's statement and attach it with the form to be submitted to the committee.

- Court documents
- Documents issued by the security authorities and police stations at the time of the kidnapping or rescue or proof to that.
- At least 4 eyewitnesses who can testify
- Documents issued by ISIS proving the kidnapping
- Medical reports issued by official authorities
- Registration with the Commission for Investigation and Gathering Evidence (CIGE)
- Registration with the Abductee and Rescue Office
- Registration for the Survivors' Grant at the Ministry of Migration and Displacement
- Registration for resettlement
- Pictures, videos, or articles proving the kidnapping or survival incident.

8. HAVE YOU GIVEN A STATEMENT TO AN NGO: YES NO

9. IF THE ANSWER IS YES, PLEASE MENTION THE ORGANIZATION/S

Section Five

Physical and psychological harm

(check the appropriate boxes)

The purpose of this section is to determine the survivor's need for referral to the medical or mental health services provided by the General Directorate and its support agencies.

- | | | |
|--|---|---|
| <input type="checkbox"/> body injuries | <input type="checkbox"/> bruises | <input type="checkbox"/> psychological disturbances |
| <input type="checkbox"/> Wounds and scars | <input type="checkbox"/> Complications from physical abuse or torture | <input type="checkbox"/> Other (please specify) |
| <input type="checkbox"/> Gynaecological diseases | <input type="checkbox"/> Nutritional problems | |
| <input type="checkbox"/> fractures | | |

10. DID YOU RECEIVE ANY KIND OF MEDICINE OR MEDICAL SERVICES DURING THE KIDNAPPING BY ISIS

- Yes No

IF THE ANSWER IS YES, PLEASE SPECIFY:

11. DID YOU RECEIVE ANY KIND OF MEDICINE OR MEDICAL SERVICES FROM ANY PARTY AFTER THE KIDNAPPING?

Yes

No

IF YOUR ANSWER IS YES, STATE THE AGENCY:

12. WHAT URGENT MEDICAL AND PSYCHOLOGICAL SERVICES DO YOU THINK YOU NEED?

Section Six Legal Accountability

*This information will help the General Directorate to support the official and international investigative committees in proving and holding accountable the perpetrators of these crimes under the Yazidi Survivors Law No. 8 of 2021
Lack of knowledge of any of this information will not affect the committee's decision*

13. DID YOU FILE A LAWSUIT AFTER THE SURVIVAL?

- Yes No

14. DO YOU KNOW THE IDENTITY OF ONE OF THE ISIS MEMBERS WHO COMMITTED THESE CRIMES?

- Yes No

15. IF THE ANSWER IS YES, PLEASE PROVIDE THE FOLLOWING INFORMATION

REAL NAME _____ NICKNAME _____
GENDER _____ AGE _____ NATIONALITY _____
LAST TIME SEEN _____ ANY OTHER PERSONALLY IDENTIFIABLE
INFORMATION THAT YOU THINK IS USEFUL _____

16. DO YOU HAVE ANY ORIGINAL DOCUMENTS BELONGING TO ISIS?

- Yes No

IF THE ANSWER IS YES, PLEASE MENTION THEM:

17. DO YOU HAVE INFORMATION ABOUT THE WHEREABOUTS OF THE KIDNAPPERS?

- Yes No

IF THE ANSWER IS YES, PLEASE MENTION IT:

18. ARE YOU READY TO COOPERATE WITH THE GENERAL DIRECTORATE AND THE INVESTIGATIVE AUTHORITIES TO PROVIDE YOUR STATEMENT?

- Yes No

Section Seven Pledge and signature

In the event that false information is provided, the applicant will be subject to legal accountability, and the General Directorate has the right to recover all the financial dues provided to him/her under this form.

I (THE NAME OF THE APPLICANT) _____
SUPPORT THE TRUTHFULNESS/ACCURACY OF THE INFORMATION I PROVIDED IN THIS FORM AND BEAR ALL THE
LEGAL CONSEQUENCES ESTABLISHED BY LAW IN THE EVENT THAT THE INFORMATION IS FALSE.

I HAVE READ, UNDERSTOOD AND TAKEN RESPONSIBILITY FOR THE INFORMATION ON THIS FORM

SURVIVOR'S SIGNATURE/FINGERPRINT

DATE:

SIGNATURE OF THE GUARDIAN OR REPRESENTATIVE.

DATE:

Attached documents:

1. 2 personal photos of the applicant
2. A copy of the civil status identity card (coloured)
3. A copy of the Iraqi nationality card (coloured)
4. A copy of the residence card (coloured)
5. A copy of the ration card (coloured)
6. Supporting and evidentiary documents (section four of the form)

End of the Form

ANNEX IV: LIST OF C4JR MEMBERS



1. ASUDA
2. Better World Organization for Community Development (BWO)
3. CAPNI for Humanitarian Aids in Iraq
4. Civil Development Organization (CDO)
5. Dak Organization
6. Emma
7. Eyzidi Organization for Documentation
8. Farida global organization
9. Ghasin Alzaiton
10. Hammurabi Human Rights Organization (HHRO)
11. Harikar
12. HÁWAR. help
13. Iraqi Educational Association AL Basra
14. Iraqi Institution for Development (IID)
15. Jinda Organization
16. Justice Organization for Minority Rights (JOMR)
17. Methra Organization
18. Nadia's Initiative (NI)
19. National Centre for Human Rights (NHCR)
20. Nisha Organization
21. Peace and Freedom Organization
22. SEED Foundation
23. Sustainable Peace Foundation
24. TAJDID Iraq
25. The Free Yezidi Foundation
26. The Jiyan Foundation for Human Rights
27. The Lotus Flower
28. The Observer Human Rights Center (OHRC)
29. To Reconcile Organization (TRO)
30. Turkmen Rescue Foundation
31. Women Leadership Institute (WLI)
32. Women Legal Assistance Organization (WOLA)
33. Yazda

ENDNOTES

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44 YSL, Art. 6, Para 3.

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- 119 Sherizaan Minwalla, In Iraq, Minority Survivors of ISIS Genocide Cautiously Anticipate Reparations, WMC, Women Under Siege, August 26, 2022. Available at: <https://womensmediacenter.com/women-under-siege/eight-years-after-the-genocide-survivors-in-iraq-cautiously-anticipate-reparations>
- 120 YSL bylaws, Art. 8. Para. 1.
- 121 YSL bylaws, Art. 8. Para. 2.
- 122 YSL bylaws, Art. 8. Para. 3, YSL Application Form, p.1.
- 123 GDSA provided the indicated data on 23 February, 2023 by completing a short survey sent on 7 February, 2023.
- 124 IOM comment: The term female is put between bracket to mean that while the term is not mentioned per se in the original text of the law, it is used in this translation to replace the suffix added to the term survivors in the Arabic text, to refer to female (women, girls) survivors.
- 125 Translation from Arabic (unofficial): IOM Iraq (revised version: March 24, 2021)
- 126 Translation from Arabic (unofficial): IOM Iraq (revised version: March 24, 2021)



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