



REPARATIONS FOR VICTIMS OF ISIL CREATED CONFLICT IN IRAQ

A REPORT TO THE UNITED NATIONS COMMITTEE AGAINST TORTURE 73RD SESSION, GENEVA, SWITZERLAND

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SUBMITTED BY:

JIYAN FOUNDATION FOR HUMAN RIGHTS

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COALITION FOR JUST REPARATIONS

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The Jiyān Foundation for Human Rights is a non-profit organization promoting the mental well-being, physical rehabilitation, and social reintegration of survivors of violence, torture and trauma in Iraq. Today the Jiyān Foundation runs a network of eleven trauma rehabilitation centers across northern Iraq, including special departments for traumatized women and children and a clinic for Yazidi women who survived ISIS captivity. Clients receive free-of-charge psychotherapeutic treatment, medical care and socio-legal counselling regardless of ethnicity, religion, gender or political affiliation. In addition, the Jiyān Foundation seeks to protect survivors of human rights violations and prevent future acts of abuse through professional training, human rights education, public awareness-raising and political advocacy.

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.

International Rehabilitation Council for Torture Victims (IRCT): As a network of over 160 torture rehabilitation centres in 76 countries, the IRCT is the world's largest membership-based civil society organisation specialised in the field of torture rehabilitation. The IRCT provided technical support to the development of the present report.

CONTENTS

| | | |
|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| I. | Introduction | 4 |
| II. | Human rights violations under ISIL rule..... | 4 |
| III. | Scope of the state obligation to provide redress under the CAT | 5 |
| IV. | Redress and reparations for victims..... | 6 |
| V. | Legal analysis..... | 6 |
| | <i>A. The UN Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL (UNITAD) - mandated to collect and preserve evidence of ISIL crimes in Iraq</i> | <i>6</i> |
| | <i>B. Joint Communiqué between the Republic of Iraq and the United Nations on the Prevention and Response to Conflict-Related Sexual Violence</i> | <i>6</i> |
| | <i>C. Iraqi Constitution.....</i> | <i>6</i> |
| | <i>D. Anti-Terrorism Legislation</i> | <i>7</i> |
| | <i>E. Law No. 20 on Compensation for Victims of Military Operations, Military Mistakes and Terrorist Actions</i> | <i>7</i> |
| | <i>F. Yazidi Women Survivors Law.....</i> | <i>7</i> |
| VI. | Analysis of state practice/implementation problems..... | 9 |
| | <i>A. Compensation and restitution</i> | <i>9</i> |
| | <i>a. Judicial avenues</i> | <i>9</i> |
| | <i>b. Administrative avenues</i> | <i>10</i> |
| | <i>B. Satisfaction, guarantee of non-repetition and rehabilitation.....</i> | <i>11</i> |
| VII. | Recommendations | 12 |

LIST OF ACRONYMS

| | |
|------------|--------------------------------------------------------------------------------------------------------|
| C4JR | Coalition for Just Reparations |
| CAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| CoM | Council of Ministers |
| Committee | Committee Against Torture |
| CRSV | Conflict-related sexual violence |
| CSO | Civil society organization |
| Gol | Government of Iraq |
| ICL | International Criminal Law |
| IHL | International Humanitarian Law |
| IHRL | International Human Rights Law |
| IOM | International Organization for Migration |
| IPCC | Iraq Property Claim Commission |
| ISIL | Islamic State of 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 Mistakes and Terrorist Actions |
| 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 |

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, Sabeen-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 of the Yazidis, 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. Eight years later, victory over ISIL has been asserted but work on addressing past atrocities and their consequences up to now remained inadequate.

This report examines the realization of the right to redress enshrined in CAT Art. 14. It concludes that, though considerable headways have been made on creating a legal framework conducive to realization of the right to redress for survivors of ISIL atrocities, effective and swift implementation of specific provisions, in line with survivor centred approach, still lacks. It proposes a series of recommendations for the Government of Iraq (GoI) to properly implement relevant legal provisions of administrative reparations programs and reform and improve access to justice and reparations through judicial avenues.

II. 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.¹ Gross violations of IHRL, IHL and ICL were well documented by the UN Assistance Mission for Iraq (UNAMI) as well as other actors such as Human Rights Watch, Amnesty International, Minority Rights Group². 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 (gang 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 all females, including those as young as nine, were subjected to various forms of sexual violence including virginity tests, rape, sexual slavery, forced prostitution, forced pregnancy and forced abortions. Sexual violence played a key role in ISIL's reign of terror. The majority of those exposed to systematic sexual abuse are reportedly women and girls of the Yazidi faith, but also other religious and ethnic minorities. Women were coerced into sexual intercourse by being severely beaten, threatened with gang rape, death, 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. For instance, some women were handcuffed behind their backs or had each leg tied to the side of the bed while being raped. Escape attempts were severely punished.

¹ According to UNAMI from beginning of 2014 until the end of July 2018 number of civilian casualties of hostilities in Iraq amounted to 86522 (30605 killed and 55917 injured) (UNAMI, 2018).

² The sources upon which the following factual overview of sexual related and other violence in Iraq since 2014 is based are, if not otherwise indicated, biannual and thematic UNAMI/OHCHR human rights reports from 2014 to 2018 (UNAMI/OHCHR, 2014; UNAMI/OHCHR, 2015; UNAMI/OHCHR, 2016a; UNAMI/OHCHR, 2016b; UNAMI/OHCHR, 2017a; UNAMI/OHCHR, 2017b) available [here](#)

Victims were denied medical care for injuries incurred, inter alia, by sexual violence. There are accounts of women being raped hundreds of times during their captivity. Even pregnant women were not spared. In addition to this, ISIL used the following methods of execution: beheading, cutting throats, hanging, throwing victims off buildings, shooting in the head, crushing with a bulldozer, electrocuting, burning to death, stoning, crucifying, drowning (in water or other liquids such as nitric acid), dragging to death after tying to a vehicle, starving to death etc. 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 the hand tied behind their backs for 24 hours), being forced to witness executions, torture or rape of family members and/or members of same ethnic/religious group, threats to shoot, kill or rape victims or their family members i.e. children, holding in a dark cell in deplorable conditions (i.e. flooded with dirty water) for prolonged periods, insults (i.e. calling the Yazidi victims “infidels” and “pigs”), involuntary medical interventions (taking of blood). To date, more than 2,700 Yazidi women and children remain missing, probably still in ISIL captivity.³

Almost eight years after these events only limited progress has been made in combating impunity for ISIL crimes and providing reparations to survivors and other victims.

III. Scope of the state obligation to provide redress under the CAT

The main purpose of the duty to redress victims of ill-treatment under CAT Art. 14 is to, as far as possible, restore their dignity by providing adequate reparations. This is to be done by making available legal remedies capable of providing appropriate relief (procedural) and restoring dignity via adequate modes of reparation (substantive). Both procedural and substantive aspect of the state obligation to provide full and effective redress are equally valid irrespective of the form of ill-treatment.⁴

The framework for redressing violations of human rights and humanitarian law, including but not limited to torture and other forms of ill-treatment, 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). This document, although without binding force, serves as a main point of reference when discussing obligation of states to redress violations of international human rights and humanitarian law norms.

The Basic Principles have been explicitly endorsed by the Committee against Torture in its General comment No. 3 (2012) to guide its engagement with reparation as part of its mandate.⁵ It has been acknowledged that the notion of redress, stipulated in CAT Art. 14 para 1, includes “*the following five forms of reparation: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition*”.⁶

³ Yazda, [Interim Relief Program for CRSV in Iraq: Survivors’ Grant Scheme in Practise and Recommendations for its Improvement](#), 2021, p 4; see also Knox Tames, [Increasing Calls to Find Missing Yazidis](#), LSE Blog, November 8, 2021.

⁴ UN Committee Against Torture (CAT), General comment no. 3, 2012 : Implementation of article 14 by States parties, 13 December 2012, para 1; For the practice of the Committee confirming this see M. Nowak, M. Birk and G. Monina, *The United Nations Convention Against Torture and its Optional Protocol: A commentary* (Oxford: Oxford University Press, 2019), p. 386-388.

⁵ UN Committee Against Torture (CAT), General comment no. 3, 2012 : Implementation of article 14 by States parties, 13 December 2012, para. 6.

⁶ Ibid, para. 2, 6.

IV. Redress and reparations for victims

The normative and practical measures the Government of Iraq has taken to ensure that victims of ISIL atrocities in Iraq can obtain redress before judicial and administrative bodies are insufficient and flawed. Moreover, Iraq did not take measures to implement existing legislation swiftly, properly and in line with survivor-centred approach. As a consequence, survivors of ISIL atrocities, many of whom still linger in IDP camps or live under the poverty line, traumatised, without access to services and recognition, cannot realize their right to reparation guaranteed under, inter alia, CAT Art. 14.

The following will examine how the Government of Iraq (GoI) has implemented all five forms of reparations for survivors of torture and other international crimes inflicted by ISIL members through an assessment of the applicable legal and policy frameworks and the States actions to implement them.

V. Legal analysis

Existing national and international legal frameworks and practices relevant to survivors of ISIL crimes and the exercise of their right to reparations in Iraq.

A. The UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) - mandated to collect and preserve evidence of ISIL crimes in Iraq

UNITAD was set up through UNSC Resolution 2379 of 21 September 2017 to support Iraqi domestic efforts to hold ISIL accountable for crimes it committed in the country by *“collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by the terrorist group ISIL (Da’esh) in Iraq, to the highest possible standards ... to ensure the broadest possible use before national courts, and complementing investigations being carried out by the Iraqi authorities, or investigations carried out by authorities in third countries at their request.”* Due to explicit requirement that evidence of crimes secured through the work of UNITAD are to be used only *“in fair and independent criminal proceedings, consistent with applicable international law, conducted by competent national-level courts”* UNITAD cannot share evidence it collected with national courts conducting trials under the anti-terrorism laws as they do not comply with international fair trial standards and may impose the death penalty.⁷ Finally, the Special Advisor is mandated to *“work with survivors, in a manner consistent with relevant national laws, to ensure that their interests in achieving accountability for ISIL are fully recognized”*.⁸

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

This “Joint Communiqué”, concluded in 2016 to address the critical issue of conflict-related sexual violence (CRSV) in Iraq, has 6 priority areas including legislative and policy reform to strengthen protection, ensure accountability and reparations for survivors of sexual violence committed in the context of ISIL created conflict in Iraq.⁹

C. Iraqi Constitution

The Iraqi Constitution from 2005 guarantees compensation to the families of the martyrs and those injured as a result of terrorist acts.¹⁰

⁷ <https://www.securitycouncilreport.org/monthly-forecast/2020-09/iraq-unitad-2.php>

⁸ UN Security Council. (2017). [SC. Res. 2379](#). Para 2,5,3.

⁹ UNAMI, OHCHR, (2017) [Promotion and Protection of Rights of Victims of Sexual Violence Captured by ISIL/or in Areas Controlled by ISIL in Iraq](#), p. 6.

¹⁰ [Iraq's Constitution of 2005](#), Art. 132. Para.2.

D. Anti-Terrorism Legislation

Both Federal Anti-Terrorism Law No. 13 of 2005 and the Kurdistan Region (KRI) Anti-Terrorism Law (No. 3) of 2006 contain broad definition of terrorism, inadequate legal safeguards and mandatory death sentences for a range of offences labelled as terrorist acts.¹¹ Rape and other acts of sexual violence are not even criminalized under respective legislation.¹²

E. Law No. 20 on Compensation for Victims of Military Operations, Military Mistakes and Terrorist Actions

Law No. 20 on Compensation for Victims of Military Operations, Military Mistakes and Terrorist Actions (Law No. 20) passed by the Iraqi parliament in 2009 and amended in 2015 and 2020 provides a framework by means of which victims of ISIL atrocities could claim material compensation in 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.¹³

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, using child soldiers as well as their large-scale and systematic nature amounting to atrocity crimes including but not limited to genocide. Other avenues need to be established that take account of the specific nature of CRSV, especially its consequences for the survivors and their families. This has been to a significant extent remedied with legislating Yazidi Women Survivors Law in 2021.

F. Yazidi Women Survivors Law

By signing a Joint Communiqué with the United Nations on the Prevention and Response to Conflict-Related Sexual Violence (2016),¹⁴ the GoI pledged to provide reparations to survivors of sexual violence and their children. On 1 March 2021, members of the Iraqi Parliament passed the Yazidi Women Survivors Law (YSL)¹⁵ thus honoring their obligation to provide reparation to survivors of ISIL atrocities committed on its territory. The YSL is a federal law and 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, men and women from these communities that survived mass killings as well as captured Yazidi children. The YSL mandates a number of critical reparations for indicated beneficiaries, including:

¹¹ For critical assessment of KRG and GoI Anti-Terrorism Laws No.3 of 2006 respectively see UN Assistance Mission for Iraq (UNAMI), [Report on Human Rights in Iraq: January to June 2017](#), 14 December 2017, p. 7-9; UN Special Rapporteur on extrajudicial, summary or arbitrary executions. Report on her official visit to Iraq (14-23 November 2017). A/HRC/38/44/Add. 1, p. 12.

¹² Human Rights Watch. (2017). *Flawed justice: Accountability for ISIS crimes in Iraq*, p. 29.

¹³ For a detailed analysis of the forms of reparation envisaged by the law, and practice of state organs authorized to work on its implementation see C. Sandoval and M. Puttick, M. (2017, November) [Reparations for the Victims of Conflict in Iraq: Lessons learned from comparative practice](#). Ceasefire Centre for Civilian Rights and Minority Rights Group International, pp.17-21 and Ceasefire Centre for Civilian Rights and Minority Rights Group International, (2020, January) [Mosul after the Battle: Reparations for civilian harm and the future of Ninewa](#) pp.12-19.

¹⁴ https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communication/join-communication-of-the-republic-of-iraq-and-the-united-nations-on-prevention-and-response-to-crsv/Joint_Communique_of_the_Govt_of_Iraq_and_UN_9_2016_ENG.pdf

¹⁵ YSL is available in English language [here](#)

- Compensation in the form of monthly salary;¹⁶
- A residential plot of land with a real estate loan or a free housing unit;¹⁷
- Exemption from the age requirement if the survivors choose to return to study;¹⁸
- Priority in public employment;¹⁹
- Access to rehabilitation services (official aim of the YSL is to rehabilitate survivors and integrate them into society).²⁰ This is to be done by opening health and psychological rehabilitation centers to treat the survivors;²¹
- 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;²²
- Designation of 3 August²³ 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;²⁴
- Search for all those still missing and coordinate efforts to open mass graves, identifies the victims and return them to their families for proper burial;²⁵
- 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;²⁶
- 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.²⁷

This law is one of the very few examples of states taking deliberate action to specifically address the rights and needs of survivors of CRSV. It specifies harms and violations women survivors have been exposed to covering a large spectrum of forms of sexual violence such as: sexual slavery, selling in slavery markets, separation from family, forced conversion, forced marriage, forced pregnancy and forced abortion and inflicting physical and psychological harm.²⁸

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

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

¹⁶ YSL, Art. 6, Para 1.

¹⁷ YSL, Art. 6, Para 2.

¹⁸ YSL, Art. 6, Para 3.

¹⁹ YSL, Art. 6, Para 4.

²⁰ YSL, Art. 4, Para. 2.

²¹ YSL, Art. 5, Para. 6.

²² YSL, Art. 7.

²³ On August 3rd 2014 ISIL invaded Yazidi homeland on Mount Sinjar and started a genocidal campaign against them.

²⁴ YSL, Art. 8

²⁵ YSL, Art. 5, Para. 8.

²⁶ YSL, Art. 9, Para. 1.

²⁷ YSL, Art. 4, Para. 2.

²⁸ YSL, Art. 1, Para. 2.

VI. Analysis of state practice/implementation problems

While the legal framework governing redress and reparation provides a series of rights to survivors, the implementation of these rights have so far been scattered and for some rights and certain groups completely absent. The following provides an overview of the GoI implementation efforts.

A. Compensation and restitution

a. *Judicial avenues*

A civil claim for 'direct material or ethical damage' can be made as part of the criminal proceedings in Iraq against an accused. It is made by petition or oral request confirmed in the written record, at any time during the gathering of evidence, initial investigation and before the criminal court up to the point the judgement is issued.²⁹

Whereas criminal proceedings aimed at punishing ISIL supporters are taking place in both federal and 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.³⁰ It has been reported that even when the accused admitted to having perpetrated crimes of sexual nature, no separate charge under this head has been brought.³¹ This deprives the survivors of an official acknowledgement of the wrongs committed against them, which is often a crucial element in the reparations process.

Moreover, no efforts were made to enable the participation of victims in the ongoing trials.³² This is clearly contrary to CAT Art. 14 requirements and practice of the Committee as importance of victim participation in criminal proceedings and other available redress avenues has been continually highlighted as a fundamental aspect of its victim-centered approach.³³ In addition, as ISIL members are charged with affiliation to a terrorist group only, victims of ISIL, lacking the status of an offended party, are prevented from submitting a claim for compensation in the course of judicial proceedings. The Committee, however, has made it clear, that, judicial remedies for compensation should remain effective irrespective of legal avenues for redress made available under other transitional justice mechanisms.³⁴

²⁹ Criminal Procedure Code No. 23 of 1971 (As Amended to 14 March 2010). (1971). Art. 9-10. (Republic of Iraq).

³⁰ Human Rights Watch. (2017), [Flawed Justice: Accountability for ISIS Crimes in Iraq](#), p. 3; Human Rights Watch. (2019), [Everyone Must Confess" Abuses against Children Suspected of ISIS Affiliation in Iraq](#), p. 20; Mara Revkin (2018), [The Limits of Punishment: Transitional Justice and Violent Extremism-Iraq Case Study](#), pp. 18-19.

³¹ Human Rights Watch. (2017), [Flawed Justice: Accountability for ISIS Crimes in Iraq](#), p. 30.

³² Human Rights Watch. (2017), [Flawed Justice: Accountability for ISIS Crimes in Iraq](#), p. 22-23; [Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL](#), UNAMI/OHCHR January, 2020. P. 13.

³³ M. Nowak, M. Birk and G. Monina, The United Nations Convention Against Torture and its Optional Protocol: A commentary (Oxford: Oxford University Press, 2019), p. 388-390.

³⁴ M. Nowak, M. Birk and G. Monina, The United Nations Convention Against Torture and its Optional Protocol: A commentary (Oxford: Oxford University Press, 2019), p. 399.

b. Administrative avenues

Implementation of Law No. 20 has a number of practical problems such as high evidentiary requirements where victims need to submit a number of official documents and incur relatively high costs.³⁵ This creates an insurmountable obstacle for most of those residing in camps wanting to file a claim.³⁶ In addition, insufficient amount of financial means annually allocated by the GoI, shortage of qualified staff, exclusion of certain groups of victims due to their perceived association with ISIL,³⁷ complicated and protracted³⁸ procedures hinder swift and effective implementation. Moreover, there are indications that the entire procedure is perceived as marred by sectarianism (rigged to benefit primarily Shia)³⁹ and corrupt (allegations of bribery to speed up the verification of claims).⁴⁰ Finally, according to Human Rights Watch, some of the victims are not even aware of the existence of a compensation scheme.⁴¹ These deficiencies make Law No. 20 unable to compensate the victims of serious violations of human rights and humanitarian law committed on such a massive scale.

The GoI funded some ad-hoc measures, resembling interim reparations, in order to provide financial aid to victims of CRSV committed by ISIL. Namely, the Iraqi Ministry of Social Affairs authorized Dohuk based NGO Yazda to process applications and select women subjected to CRSV by ISIL⁴² eligible for award of a relatively modest sum of around 145 euros per every two months. This financial aid is not temporally limited and is being allocated through cards (so-called Bataqa card system). The final number of women issued with such a card is not clear as the GoI claims that 1529 women⁴³ have benefited from it whereas other sources suggest that around 760 cards have been issued.⁴⁴ The Ministry of Migration and Displacement, for its part, provided one off payments of 2 million IQD (approximately 1200 euros) to 858 Yazidi female survivors. This program is currently stopped due to lack of funds.⁴⁵ Whereas the GoI's prompt reaction on the plight of one of the most vulnerable groups affected by ISIL is to be commended, many aspects of the intervention left much to be desired. More precisely, lack of transparency, comprehensive outreach and clear communication of eligibility/prioritization criteria employed led to confusion and distrust within the affected communities. As a consequence, many survivors were not aware that these payments were being made. Furthermore, limited reach of these measures and insufficient funding left out thousands of survivors, especially those from Christian, Turkmen, Shabak and other communities targeted by ISIL.

Some steps have already been taken to implement the YSL, such as the appointment of the Director General of the Directorate for Survivors' Affairs (a special body established to facilitate implementation of the YSL), opening of a temporary office in Mosul to accommodate this Directorate and allocating preliminary emergency funding in 2021. Though regulations to lay the groundwork for effective implementation have been enacted, regrettably, GoI largely ignored significant survivor-

³⁵ C. Sandoval and M. Puttick, M. (2017, November) [Reparations for the Victims of Conflict in Iraq: Lessons learned from comparative practice](#). Ceasefire Centre for Civilian Rights and Minority Rights Group International. p. 19.

³⁶ HLP Sub-cluster Iraq. (2019) Note on Property Compensation Scheme in Iraq, p. 5.

³⁷ Ibid.

³⁸ REACH. (2019) Hawija City area-based assessment October-November 2018, p. 21-22 and Telafar area-based assessment September 2018, p. 31.

³⁹ Mara Revkin (2018), [The Limits of Punishment: Transitional Justice and Violent Extremism-Iraq Case Study](#), pp. 26-27.

⁴⁰ Ceasefire Centre for Civilian Rights and Minority Rights Group International, (2020, January) [Mosul after the Battle: Reparations for civilian harm and the future of Ninewa](#). p.19.

⁴¹ Human Rights Watch. (2017), [Flawed Justice: Accountability for ISIS Crimes in Iraq](#), pp. 60-61.

⁴² <https://sunforcesisters.org/iraq/>

⁴³ UN Special Rapporteur on extrajudicial, summary or arbitrary executions. (2018). Report on her official visit to Iraq (14-23 November 2017): Comments by State. UN Doc. A/HRC/38/44/Add.4. para 16

⁴⁴ Bor, Güley (2019) [Response to and reparations for conflict-related sexual violence in Iraq: the case of Shi'a Turkmen in Tel Afar](#), LSE Middle East Centre Reports (October 2019). LSE Middle East Centre, London, UK, p.25.

⁴⁵ Yazda, [Interim Relief Program for CRSV in Iraq: Survivors' Grant Scheme in Practise and Recommendations for its Improvement](#), 2021.

friendly solutions⁴⁶ suggested by the C4JR.⁴⁷ These suggestions to Gol include but are not limited to the following concrete proposals:

- Create, clear, fair and effective application and verification procedures;
- Utilize existing sources of information during verification of claims in order to mitigate the risk of re-traumatization of survivors through further documentation;
- Envisage that a survivor may be accompanied by a trusted person during the interview;
- Specify that claims are evaluated against a relaxed evidentiary standard;
- Clarify which specialized rehabilitation services will be made available to survivors;
- Establish a code of conduct and mechanism of its enforcement, detailing concrete obligations for all those working with survivors;
- Create safeguards to avoid stigmatization and re-traumatization of survivors;
- Envisage regular consultations with survivors.

However, one year after the adoption, insufficient progress towards implementation has been made. Among the main problems are:

- Process of application, verification of claims, and delivery of services has not been defined;
- Application form to collect and process data from survivors has not been finalized;
- Relevant safeguards to protect privacy, avoid stigmatization and re-traumatization of survivors during outreach, application, review, and delivery of services are not in place;
- Outreach efforts are limited and some survivors are not aware of the YSL;
- Sub-offices of the directorate to receive and process claims have not been set up;
- Sufficient number of qualified staff is not employed;
- Code of conduct and mechanism of its enforcement, detailing concrete obligations for all those working with survivors are not established;
- Trainings of all those participating in the application and review procedures and delivery of services are not carried out;
- No effective mechanism to coordinate state efforts to search and rescue those that are still in ISIL captivity is established;
- No state funding has been allocated for YSL implementation in 2022.

For these reasons, survivors have not been able to realize their rights to compensation, land, housing, and education and a quota in public sector employment as stipulated in the YSL.

B. Satisfaction, guarantee of non-repetition and rehabilitation

Convicting wrongdoers in itself constitutes satisfaction for the victims. However, due to flawed nature of criminal trials conducted under the anti-terrorism laws, survivors were denied a satisfaction of witnessing their tormentors being brought to justice.

Though UNITAD was deployed to Iraq more than 3 years ago, no tangible progress has been made to set up a court in Iraq to prosecute those responsible for these horrific crimes.⁴⁸ After Iraq's Federal Supreme Court blocked a KRG initiative to establish a hybrid tribunal in the KRI to try ISIL crimes,⁴⁹ likelihood of an international or hybrid court being established in Iraq was significantly decreased.

⁴⁶ [Key Recommendations to the Iraqi Council of Ministers for Implementing Regulations of the Yazidi \[Female\] Survivors Law](#)

⁴⁷ Amnesty International, [Yezidi reparations law progress welcome, but more must be done to assist survivors](#), November 2021.

⁴⁸ UNITAD has reported ongoing work with the Gol in the codification of international crimes. [Fifth report of the Special Adviser and Head of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant](#), 2020; Beth Van Schaack, [The Iraq Investigative Team and Prospects for Justice for the Yazidi Genocide](#), *Journal of International Criminal Justice* 16(1), 2018.

⁴⁹ See [Open Letter of the Coalition for Just Reparations to Iraqi Authorities and the International Community](#) on the Occasion of 17 July 2021, Day of International Criminal Justice

Interestingly, survivors of ISIL crimes prefer an international court to try ISIL militants in line with fair trial standard and following international criminal law to “achieve the full and public disclosure of the truth, allowing for the full extent of the harm to come to light”.⁵⁰ Similarly, no progress has been made to implement the accountability component of the YSL stipulating that judicial and administrative authorities will arrest and try ISIL members and take measures to protect witnesses and victims.

Yazidi survivor and a member of the C4JR Survivors Council, Ms. Salwa Saido Omar while speaking at the UNITAD-NGO Dialogue Forum on 15 February 2022⁵¹ highlighted the following:

“I hope that evidence collected by UNITAD will be put to proper use. While it is a blessing to see that German court found that what happened to Yazidis amounts to genocide, I would like to see a court in Iraq arrive at the same conclusion after detailing particular crimes against Yazidis and other minorities so that those responsible are adequately punished. Finally and most importantly I use this opportunity to call all those that may help to intensify search and Rescue efforts of our missing mothers, fathers, brothers and sisters. We cannot heal without being reunited with them. Our hearts and minds are with them always.”

Due to lack of administrative capacity and funding no commemorative activities have been organized on national day of remembrance - August 3 nor had actions been taken aimed at searching for those missing or in ISIL captivity.

Most importantly, provision of medical and mental health services as a crucial reparative measure to facilitate rehabilitation of survivors is, at this point, not only unavailable but not in sight. The reason for this is that Iraq has no capacities to provide advanced mental health services to successfully treat severe trauma especially in close proximity to where survivors live.⁵² This would entail setting up new rehabilitation centers with qualified and experience staff able to properly treat such conditions.

Consequences of unaddressed trauma combined with harsh living conditions in IDP camps and effects of COVID-19 pandemic in Iraq led to an increase of suicide cases within the Yazidi community. Among those at heightened risk are the women and girls who experienced systemic sexual violence, and the boys who were forcibly recruited by ISIL.⁵³ It is therefore of profound importance that concrete reparation measures envisaged under the YSL, especially mental health and psychosocial support, reach those in need without undue delay.

VII. Recommendations

1. Expand the scope of the YSL provisions to cover all victims of ISIL conflict in Iraq or create an alternative reparation scheme for survivors not eligible to receive reparations under the YSL.
2. Ensure effective and timely implementation of the YSL through the following measures:
 - a. Allocate sufficient funds for swift and proper implementation;
 - b. Accelerate application process and verification of claims;
 - c. Evaluate claims against a relaxed evidentiary standard;

⁵⁰ Commission for Investigation & Gathering Evidence (2020), [Consultations for Reparations](#): Analysis and Recommendations based on Consultations with Yazidi women survivors of ISIL crimes conducted in 14 IDP camps across Duhok Governorate between October 2019 and February 2020, p. 18.

⁵¹ <https://c4jr.org/170220223829>; <https://c4jr.org/170220223836>

⁵² <https://www.epic-usa.org/iraq-mental-health/>

⁵³ [Joint NGO Statement on Increased number of Suicide cases and the Deteriorating Mental Health Crisis facing Atrocity Crimes Survivors in Iraq](#), published on January 2021; see also Médecins Sans Frontières, [MSF warns of mental health crisis among Yazidis in Iraq](#), 2019; Nicky Harley, [Yazidi campaigners call for suicide strategy in Iraq after 11 found dead in 10 days](#), *The National News*, 2021.

- d. Facilitate access to application process and delivery of reparative measures to those eligible survivors that currently reside outside of Iraq;
 - e. Equip the Directorate to effectively search and rescue those individuals that are still in ISIL captivity;
 - f. Establish branches of the Directorate in close proximity to survivors;
 - g. Hire staff and especially women from conflict-impacted communities for the implementation of the YSL;
 - h. Put in place safeguards to avoid stigmatization and re-traumatization of survivors during outreach, application, review, and delivery of services;
 - i. 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;
 - j. Regularly consult survivors from all four communities during all stages of YSL implementation process;
 - k. Provide survivors with credible information on application, review and other YSL related procedures at all times;
 - l. Create and enforce codes of conduct for ethical engagement with survivors;
 - m. Ensure that services envisaged under the YSL are made available;
 - n. 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;
3. Strengthen the efforts to ensure proper and straightforward access to compensation under Law No. 20;
 4. Continue and expand interim reparation programmes, in an accountable and transparent manner, until benefits under the YSL are distributed;
 5. Considering that the YSL and the Law No. 20 together cover a substantial number of violations committed during the ISIL conflict and have different eligibility criteria, ensure that the two reparations programs are implemented coherently and by complementing one another;
 6. Establish a survivor-friendly criminal accountability mechanism to use the evidence collected by UNITAD and try perpetrators of ISIL atrocities in Iraq in line with fair trial standards. Such mechanism should ensure an effective outreach, free of charge legal representation and advice for survivors, include a trust fund to facilitate awarding individual and/or collective reparations to survivors and a survivor protection unit to safeguard well-being of survivors;
 7. Ensure that the right of victims to seek judicial remedies for redress and meaningfully participate in investigations and any criminal proceedings against alleged ISIL perpetrators in Iraq is effective;
 8. Introduce and enforce effective safeguards (privacy protection, legal and psychological support) to avoid re-victimization and renewed exposure to trauma and stigmatization in the course of judicial proceedings and/or administrative reparations proceedings;
 9. Urgently initiate rescue operations for more than 2700 survivors who still remain in ISIL captivity through coordination with local and international bodies;
 10. Undertake reconstruction, development, and legal and security sector reform in harmony with reparation programs to address entrenched inequalities faced by women and victimized communities, and guarantee non-repetition of such atrocities;
 11. Provide statistical and other information outlining disaggregated data on available mechanisms to grant redress including applications received, the number and type of reparation measures granted and actually provided (including but not limited to monetary compensation), rehabilitation facilities made available and measures to ensure effective redress for marginalized and vulnerable groups.