

STATE RESPONSIBILITY AND THE GENOCIDE OF THE YAZIDIS

SUMMARY FINDINGS PAPER

PRIVATE & CONFIDENTIAL
UNTIL 6 JULY 2022



ACCOUNTABILITY UNIT
WOMEN FOR JUSTICE
IBA HUMAN RIGHTS INSTITUTE
BAR HUMAN RIGHTS COMMITTEE
GEOFFREY NICE FOUNDATION

AARIF ABRAHAM
LEYLA FERMAN **PATRONS**
TATYANA EATWELL BARONESS HELENA KENNEDY QC
ALDO ZAMMIT-BORDA LORD DAVID ALTON
EWELINA OCHAB SIR GEOFFREY NICE QC

SUMMARY FINDINGS

STATE RESPONSIBILITY AND THE GENOCIDE OF THE YAZIDIS

A. EXECUTIVE SUMMARY

1. The Yazidi Justice Committee (“Committee”) has, since March 2020, been investigating and assessing evidence of State responsibility and the genocide of the Yazidis in Iraq and Syria.
2. This is a summary of the findings from the Report on ‘State Responsibility and the Genocide of the Yazidis’ (“Report”).
3. The Report concerns acts taken and condoned by the Islamic State in Iraq and Syria (“ISIS”), on the territory of the Syrian Arab Republic and the Republic of Iraq, against members of the Yazidi protected group, as a distinct ethnic and/or religious group. These acts, which include killing, causing serious bodily and mental harm, inflicting conditions of life that are calculated to destroy, imposing measures to prevent births, and forcibly transferring children from the Yazidi group to other groups, are genocidal in character because they are intended, by the perpetrators, to destroy the Yazidi group, in whole or in part. They have been perpetrated in manifest violation of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (“Genocide Convention”).ⁱ
4. The Report has identified that, on the evidence available to date, the Syrian Arab Republic, the Republic of Iraq, and the Republic of Turkey, as States Parties to the Genocide Convention, have failed to comply with their obligations under the Convention with respect to the genocide (which is continuing) of the Yazidi protected group. There is substantial evidence, allowing reasonable grounds to believe, the following:
 - i. Syria failed to discharge its obligation to prevent the genocide of the Yazidis on Syrian territory, leading to the substantial commission of prohibited acts on Syrian and Iraqi soil by ISIS from, at least April 2013, and, in particular, August 2014. ISIS began and developed in Syria and crossed over into Iraq. As such, Syria bears responsibility for failing to take any steps reasonably available to it to prevent the commission of genocide by ISIS including:
 - a. failing to provide pre-emptive protection, humanitarian and other assistance to civilians, for example by evacuating at-risk groups, and/or providing military, diplomatic or other assistance that would have prevented commission of prohibited acts.
 - b. failing to identify, investigate and/or punish any perpetrators of the Yazidi genocide, despite repeated pleas from the international community, following the commission of prohibited acts of genocide by perpetrators predominantly belonging to, or affiliated with, ISIS.
 - c. failing - notwithstanding resource constraints and up to and including the present day - to give effect to the duty to enact relevant domestic laws, practices and policies to ensure compliance with the Genocide Convention.
 - ii. Iraq failed to discharge its obligation to prevent the genocide of the Yazidis on Iraqi soil notwithstanding significant knowledge of the serious risk of genocide of the Yazidis because of prohibited acts committed against members of the group in Syria and Iraq beginning at least from April 2013. As such, Iraq bears responsibility for failing to take any steps reasonably available to it to prevent the commission of genocide by ISIS including:

- a. failing to commission evacuations, provide military, diplomatic or consular assistance or pre-emptive protection that would have prevented the commission of prohibited acts.
 - b. failing to punish perpetrators of the Yazidi genocide, despite repeated pleas from the international community, following the commission of prohibited acts of genocide by perpetrators predominantly belonging to, or affiliated with, ISIS.
 - c. failing - notwithstanding continued engagement with the UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL ("UNITAD") in the investigation of crimes committed by ISIS against the Yazidi in Iraq, to the present day - to give effect to the duty to enact relevant domestic laws, practices and policies to ensure compliance with the Genocide Convention.
- iii. Turkey failed to discharge its obligation to prevent the genocide of the Yazidis in Iraq and Syria despite having knowledge of the serious risk of genocide, from July 2014 at the latest, and most likely from April 2013 onwards, by, inter alia:
 - a. failing to stop and/or allowing ISIS fighters in conducting business, training, and operations from within its territory at a time when Turkey knew or should have known of the serious risk of genocide or, indeed, after ISIS fighters had begun to commit prohibited acts against the Yazidis.
 - b. failing to stop and/or allowing ISIS fighters to freely cross the Turkish border and allowing the supply of oil, materiel and resources to ISIS within Iraq and Syria at the time where prohibited acts were occurring, thereby facilitating the commission of such acts.
 - c. failing to take action to curtail the sale, transfer, trafficking and/or enslavement in its territory of women and girls taken by ISIS or ISIS-affiliated persons.
5. Turkey, *prima facie*, was also complicit in the commission of genocide (which is ongoing) by allowing fighters to cross its borders to join ISIS and allowing this group to smuggle oil and other significant resources to fund and fuel its operations and commit prohibited acts against the Yazidis up to and including July 2015. Moreover, Turkey's conduct after July 2015 and continuing today, in particular its airstrikes in regions of Iraq and Syria where there are large numbers of Yazidis, further compounds the harm that the Yazidi victims suffered in northern Syria and northern Iraq, preventing the community's regrowth and recovery and allowing the continuation of prohibited acts against Yazidi, which have contributed to the continued destruction of this protected group. Furthermore, while Turkey has prosecuted some ISIS fighters on terrorism-related charges, it has failed to identify, investigate and/or punish any perpetrators of the Yazidi genocide - either in its territory or extra-territorially - under Article 76 of its domestic Turkish Penal Code, which criminalises genocide.
6. The Committee wishes to note that Iran, France Saudi Arabia, Gulf Cooperation Council ("GCC") States (Kuwait, Qatar, the UAE, Oman and Bahrain), Russia, and the United Kingdom are the other States that have not made a reservation to the Genocide Convention in respect of which the following allegations were made by NGOs, media outlets, international organisations, and academics:
 - i. Saudi Arabia and GCC States (primarily Qatar) are alleged to have materially supported ISIS or its affiliates as an organisation prior to, during or after the alleged genocide in Iraq and Syria – i.e., during the period in which genocide took place circa 2014 and continuing thereafter.
 - ii. All the above States are alleged to have failed to prevent genocide as and when it was occurring in Iraq and Syria.
 - iii. All the above States are alleged to have failed to apprehend or take any action (by way of legislation, policy, or practice) to punish possible perpetrators knowing that they could have been perpetrators of genocidal acts.

7. However, as indicated in the Report, the publicly available information does not provide a sufficient evidential basis to support a finding that there are reasonable grounds to conclude that the above States are in breach of their obligations to prevent genocide, or have been complicit in the Yazidi genocide. It appears that Saudi Arabia has not enacted legislation necessary to give effect to its obligations under the Convention, including the obligation to punish, and that Russia, has demonstrated an unwillingness to take steps to investigate and prosecute alleged members of ISIS in its territory for genocide.

B. EVIDENCE AND METHODOLOGY

8. The Committee is particularly aware of the important role of third States as guardians of the Genocide Convention when there is no international criminal tribunal with territorial jurisdiction over individuals responsible for acts of genocide described in this Report. For this reason, and to assist any prospective Applicant State in the exercise of its grave responsibility, the Report provides a more detailed account of the relevant facts and their context than might otherwise have been necessary.
9. Those facts are extensively documented by independent investigative efforts conducted under the auspices of the United Nations and corroborated by international human rights organisations and other credible sources. This Report utilises all publicly available evidence to substantiate its analysis, identifying relevant methodology behind the evidence sources, to make factual findings. The Committee understands that this publicly available evidence is only a fraction of the evidence available privately and confidentially as collected, catalogued and assessed by non-governmental and international organisations. It is important, therefore, to see this Report as a first step whereby engagement of a State to support the work of the Committee will allow access to a great body of evidence currently not accessible.

C. FINDINGS OF GENOCIDE AND STATES' KNOWLEDGE OF THE SERIOUS RISK

10. The Committee considers that there are strong grounds to conclude that from at least April 2013 perpetrators belonging to, or affiliated with, ISIS carried out a whole range of prohibited acts against the Yazidis, as a protected religious group, *as such*. These prohibited acts included:
 - i. the commission of killings of Yazidi men of fighting age and young boys including those who refused to convert;
 - ii. the commission of acts of serious bodily and mental harm against detained Yazidi men and boys and, in particular, women and girls. These acts of harm included widespread and extensive acts of sexual violence including but not limited to sexual slavery, forced marriage, enforced pregnancy, rape, and sexual assault;
 - iii. the creation of conditions of life calculated to destroy by detention or siege or by placing into bondage, slavery or indentured labour women and girls and forcing, at the pain of death, men and young boys to convert;
 - iv. the transfer of children from the Yazidi group into ISIS families through forced conversion and/or assimilation or through sale. Young boys were frequently forced to convert and fight on the frontlines with ISIS perpetrators. Young girls were either forcibly married and then raped and/or placed into sexual slavery or sold for the same purpose; and
 - v. the imposition of measures intended to restrict births through the acts described in ii. to iv. above. These acts included: the commission of rape so that Yazidi women would give birth to children considered Muslim and not Yazidi, in accordance Iraq's patrilineal nationality law, or would choose not to have children after years of sexual slavery, rape and other abuse.

11. Multiple investigations (including under the auspices of the United Nations) have set out unequivocally the genocidal or "specific" intent of these crimes.ⁱⁱ
12. By way of example, based on its meticulous collection and review of the evidence, the United Nations Human Rights Council, supported by the Independent International Commission of Inquiry on the Syrian Arab Republic ("UN Col"), has found that "ISIS has committed the crime of genocide as well as multiple crimes against humanity and war crimes against the Yazidis"ⁱⁱⁱ The UN Col Report 2016 found that "ISIS sought to destroy the Yazidis" through all manner of prohibited acts including killings, sexual slavery, enslavement, torture, measures to restrict births through forced separation and conversion and the erasing of the Yazidi identity".^{iv} The finding on specific intent was unambiguous: "public statements and conduct of ISIS and its fighters clearly demonstrate that ISIS intended to destroy the Yazidis of Sinjar, composing the majority of the world's Yazidi population, in whole or in part."^v The report concluded, ominously, that the "genocide of the Yazidis is on-going." At the time of publication on 15 June 2016, its report found that thousands of women were still being held captive in the Syrian Arab Republic where they were subjected, as the report identified "to almost unimaginable horrors". To date, many thousands of Yazidis remain missing (with estimates of women missing ranging upwards of 2,000). On 3 August 2017, the UN Col reiterated that "genocide is on-going and remains largely unaddressed, despite the obligation of States Party the Genocide Convention".^{vi} Those conclusions have been supported unequivocally by UNITAD in May 2021.^{vii}
13. The United Nations Assistance Mission for Iraq ("UNAMI") issued a report in 2016 ("UNAMI Report 2016") finding that evidence from witness and survivors and mass killings of Yazidi along with other acts show that prohibited acts "appear to have been committed as part of a systematic pattern of similar conduct carried out with the intent to destroy the Yezidi as a group."^{viii} The report concluded by finding that "[ISIS] also expressed its intention in relation to either annihilate [sic] the Yezidi, either by killing them or forcibly converting them. In many cases, the intent to destroy the Yezidi as a group can be inferred not only from the acts themselves and their circumstances, but also from statements and positions openly taken by ISIL."^{ix}
14. In March 2016, then US Secretary of State, Senator John Kerry and his office, noted that, on the basis of a review of the information gathered by the US State Department, by the intelligence community, and by outside groups, he had reached the view that "Daesh is genocidal by self-proclamation, by ideology, and by actions – in what it says, what it believes, and what it does."^x That determination in 2016 was presaged by then US President Barack Obama, who had warned of genocide of the Yazidis on 7 August 2014 when he authorised airstrikes against ISIS who were boasting of the killing and/or ethnic cleansing of the Yazidis.^{xi}
15. In 2015 the UN Human Rights Council issued a report^{xii} which found that evidence "pointed to the intent of [ISIS] to destroy the Yazidi as a group when perpetrating those acts and to the existence of a manifest pattern of attacks against that community, whose identity is based on its religious beliefs. If confirmed, such conduct may amount to genocide"^{xiii} ("UN Human Rights Council Report 2015"). As identified above, confirmations from many sources have followed. The report also identified "a manifest pattern of conduct aimed at the destruction of the group",^{xiv} and concluded that "[m]embers of [ISIS] may have perpetrated genocide against the Yezidi community by killing, causing serious bodily or mental harm and forcibly transferring members of the group, including children."^{xv}
16. The UN Col, based on over 300 interviews with victims and witnesses, as early as November 2014, in its report ("UN Report Living under ISIS in Syria") concluded that "[t]he nature of [ISIS's] attacks on the Yazidis, taken together with ISI[S]'s public statements over social media, suggests a denial of this religious group's right to exist."^{xvi} It noted that the "[e]vidence shows a manifest pattern of violent acts directed against certain groups with the intent to curtail and control their presence

within ISIS areas.”^{xvii} The report also clarified that in “sexually enslaving” Yazidi women and girls and/or forcing them to bear children “prevents another generation of Yazidis from being born”^{xviii} and that these practices “affect the ethnic and religious composition of the group.”^{xix}

17. The UNAMI Report 2016 in its conclusions specifically referenced its previous public reports and, in particular, its second 2014 report on the protection of civilians (“UNAMI POC Report No. 2 of 2014”) which found sufficient, and contemporaneous, evidence (considering prohibited acts by ISIS only began on 3 Aug 2014) that in “targeting diverse ethnic and religious communities, these appear to have been deliberately and systematically perpetrated with the intention of suppressing these communities or cleansing them permanently from areas under [ISIS] control, or in some instances of destroying some communities.”^{xx}
18. On 18 June 2014, the Special Advisers to the Secretary-General on the Prevention of Genocide, Adama Dieng, and on the Responsibility to Protect, Jennifer Welsh, expressed deep concern at the situation of the Yazidis and the risk to them from ISIS and called on all States to comply with their obligations under international law.^{xxi}
19. UNAMI was specifically mandated by the UNSC to promote the protection of human rights and strengthen the rule of law in Iraq.^{xxii} Even before ISIS started carrying out prohibited acts against the Yazidi in 2014, UNAMI had put on notice all States (and specifically the Government of Iraq)^{xxiii} and the bodies of the United Nations of the very serious risks to the Yazidis from the ISIS taking over parts of Iraq after its recent ‘successes’ and documented crimes in Syria, in its 1st report in 2014 on the protection of civilians (“UNAMI POC Report No. 1 of 2014”).^{xxiv} The report specifically outlined that international law binding on the Government of Iraq required it to protect civilians from international crimes and to prevent them through appropriate means and in a prescient warning stated: “imposition of misinterpretations of Shari’a law (particularly takfiri) by [ISIS] and associated armed groups within areas under their control does not bode well for the respect and protection of the rights of members of minority groups within those areas. Many of the minority groups could face dire consequences given [ISIS’s] past attitude and behaviour concerning members of non-Sunni religious groups or those not conforming to their strict interpretation of Islam.”^{xxv} That warning was not heeded and by December of 2014 in its third successive report on the protection of civilians (“UNAMI POC Report No. 3 of 2014”), had warned of genocide: “UNAMI/OHCHR notes that many of the violations and abuses perpetrated by [ISIS] may amount to war crimes, crimes against humanity and possibly genocide.”^{xxvi} In respect of the Yazidis in particular it stated: “[ISIS] targeting of these communities appears to be part of a systematic policy aimed at destroying, suppressing or expelling these communities permanently from areas under its control.” Even in March 2014, the UN Col accused ISIS of committing crimes against humanity in the northern Syrian provinces of Raqqa.^{xxvii} A UNAMI Human Rights Report concerning the period from 1 January – 30 June 2014 that the Yazidi were being directly targeted by ISIS in Iraq and that no protection was offered to them as the “draft law on the Protection of Religious and Ethnic Minority Group Rights remained stalled before the Committee for Minority Rights of the Council of Representatives.”^{xxviii} The Report provided three separate incidents of killings of Yazidis in early May 2014.^{xxix}
20. These warnings and notifications of risks were not hypothetical. A whole series of UNAMI Human Rights Reports published before 2014 document meticulously the continuous commission of prohibited acts against the Yazidis, such as killings, including by ISIS and/or affiliated groups. In addition, it was reported that the Yazidis, among other minorities, had to directly contend with being ignored or discriminated against by the Iraqi and/or regional governments.^{xxx} These reports often came with recommendations to the State on protecting minorities.^{xxxi}
21. A series of reports emanating from the UN Col in 2013 addressed to members of the General Assembly had also indicated the commission of prohibited acts by ISIS in Syria including

discriminatory targeting of Yazidis, Kurds, Christians and those of other ethnicities and urging Member States to protect civilians.^{xxxii} For instance, in July 2013, during joint a raid by ISIS, Jabhat Al-Nusra, the Islamic Front and FSA battalions on Al-Asadia, fighters killed a Yazidi man who refused to convert to Islam.^{xxxiii}

22. The UNHCR May 2012 Eligibility Guidelines, relied upon by all State border agencies, noted that groups such as ISl were specifically targeting Yazidis and minorities such as them “faced extinction” at their hands.^{xxxiv} The April 2009 Eligibility Guidelines noted that the Yazidis were being targeted repeatedly for prohibited acts since at least 2003 in Iraq and Syria^{xxxv} by Islamic extremists.^{xxxvi} Even as early as August 2007, the the UNHCR Eligibility Guidelines referred to discrimination against the Yazidis and "severe treatment", including unlawful killings, based on "the widespread perception that Yazidis are 'unclean' or 'non-believers'."^{xxxvii}

D. CONCLUSION AND RECOMMENDATIONS

23. Any suggestion that States such as Syria, Iraq, and Turkey did not know, or could not have known, of the serious risk of genocide of the Yazidis, at least from a date as late as April 2013, cannot be properly countenanced, as evidenced in this Report. The failure by some States to take all measures reasonably available to them to prevent genocide also cannot be properly countenanced nor the failure by them to legislate for the prosecution of, and/or indeed prosecute, known perpetrators of the genocide in their territory. The same can be said of the lamentable complicity of at least one State, Turkey, in the commission of the genocide of the Yazidis at the hands of ISIS.
24. The Committee urges prospective Applicant States, mindful of the *jus cogens* character of the prohibition of genocide and the *erga omnes* and *erga omnes partes* character of the obligations that are owed under the Genocide Convention, to institute proceedings – individually and/or collectively – to establish State’s responsibility for violations of the Genocide Convention, to hold them accountable under international law for genocidal acts against the Yazidi group, and to have recourse to the International Court of Justice to ensure the fullest possible protection for those who remain at grave risk from future acts of genocide.
25. The Committee makes the following detailed recommendations.

FOR ALL STATES GENERALLY

- i. As a matter of grave urgency, institute steps preparatory to proceedings, and proceedings themselves, against any of the Respondent States before the International Court of Justice to ensure the proper interpretation, application and fulfilment of the obligations under the Genocide Convention in relation to their obligations to prevent and punish genocide, in this case against the Yazidi protected group, and ensure provisional measures are obtained to protect the Yazidis in the context of their ongoing genocide.
- ii. Take all measures reasonably available, including the use of available offices and legal means, to protect the Yazidis from ongoing and future acts of genocide and prevent further violations of international law.
- iii. Identify, document, and preserve all evidence relating to alleged perpetrators and use all available offices and legal means to investigate and prosecute those individuals allegedly responsible for prohibited acts of genocide against the Yazidis.
- iv. Condemn the targeted attacks, including airstrikes, against the Yazidis by Turkey, and call upon Turkey to immediately cease such attacks.
- v. Take concrete steps to implement an effective atrocity prevention strategy that includes a continuous assessment of the risk of genocide in times of peace and in times of conflict.

- vi. Ensure that atrocity prevention is a core principle of the conduct of international relations.
- vii. Take steps to ensure the responsibility of all States whose acts or omissions undermine the integrity of the Convention, and in particular, Iraq, Syria and Turkey for the failure to fulfil their obligations under the Convention with respect to the genocide of the Yazidis.
- viii. Specifically, call upon all responsible States to:
 - a. cease and desist all and any violations of its obligations and responsibilities under the relevant treaties and customary international law;
 - b. make effective in domestic law the provisions of the relevant treaties in order to honour obligations to respect, protect and fulfil the obligations and responsibilities thereof;
 - c. investigate - and permit, support, and strengthen independent and impartial investigation by others - all allegations of prohibited acts of genocide; and
 - d. provide 'just satisfaction' to survivors/victims in the form of individual and/or general measures which may, inter alia, include remedial actions, reparations, and commitments for non-repetition.
- ix. Create and apply Magnitsky-style sanctions on individuals, whether state or non-state actors, where there are reasonable grounds to suspect the person is involved in serious human rights violations against Yazidis in Turkey, Iraq and/or Syria.
- x. Invoke responsible States' international responsibility for alleged violations of peremptory norms of international law, engaging relevant dispute resolution mechanisms under relevant treaties including the Genocide Convention.

FOR INTERNATIONAL ORGANISATIONS AND THE INTERNATIONAL COMMUNITY

- i. Publicly condemn the responsible States' actions as grave violations of international law and of their obligations to use all means reasonably available to prevent the ongoing genocide against the Yazidis.
- ii. Call upon all States to take prompt and effective action in accordance with their obligations under the Genocide Convention to prevent and punish acts of genocide, to not be complicit in genocide in any way, and their general responsibility to act against crimes under international law, including by:
 - a. taking all steps to prevent the commission of prohibited acts of genocide by State organs, agents or officials or non-state actors within their jurisdiction and/or control;
 - b. condemning all and any forceful operations against Yazidi civilians or civilian infrastructure and calling for the immediate cessation of all military operations against Yazidi defence forces absent strong and cogent evidence indicating an immediate and present risk of attack against their State or their nationals (which to date has been wholly without basis).
- iii. Urge all States, and in particular those with a capacity to effectively influence the situation, to cooperate to bring the serious breaches relating to genocide committed by ISIS against the Yazidis to an end.
- iv. Urge all States to ensure all victims, survivors, and witnesses of possible violations of international law have immediate access to: psycho-social support, independent legal representation and processes/procedures that will allow full and meaningful remedies and legal redress including compensation, restitution and reparations in accordance with international law.
- v. Call upon Turkey to comply with its obligations under international human rights law, and to immediately cease the unlawful targeting of, and indiscriminate attacks against, civilians and civilian objects, and persons hors de combat, in northern Iraq and northern Syria.

- vi. Call upon Turkey to immediately cease all forceful operations against the Sinjar Resistance Units (“YBS”) - which are ostensibly characterised as ‘counter-terrorism’ operations - that have resulted in the unlawful targeting of civilians and persons hors de combat, in violation of international human rights law and, where applicable, international humanitarian law, absent strong and cogent evidence indicating an immediate and present risk of armed attack against the Turkey or its nationals (which to date has been wholly without basis), and that the use of lethal force is necessary and proportionate.
- vii. Draw the attention of the UN High Commissioner for Human Rights to this serious situation that warrants immediate attention, and in particular Turkey’s targeting of Kurdish and Yazidi civilians and/or persons hors de combat in violation of international human rights law, and Turkey’s obligation to prevent the ongoing genocide against the Yazidis.
- viii. Include the situation and the concerns raised herein in the annual reports of Special Rapporteurs to the Human Rights Council and the General Assembly.

FOR SYRIA, IRAQ AND TURKEY

- i. Take immediate steps to prevent, by using all means reasonably available, ongoing and continuing acts of genocide against Yazidis.
- ii. Take prompt and effective action in accordance with their obligations under the Genocide Convention to prevent and punish acts of genocide, to not be complicit in genocide in any way and, generally, to comply with their obligations under the Genocide Convention and customary international law, including by:
 - a. taking all steps to prevent the commission of prohibited acts of genocide by State organs, agents or officials or non-state actors within their jurisdiction and/or control;
 - b. immediately ceasing all and any operations against Yazidi civilians or civilian infrastructure and ceasing all military operations against Yazidi defence forces except where there is a lawful basis for such operations (which to date has been wholly without basis).
- iii. Cooperate to bring the serious ongoing breaches relating to genocide committed by ISIS against the Yazidis to an end.
- iv. Comply with their obligations under international law, and immediately cease the targeting of Yazidis in Iraq, Turkey or Syria, either directly or indirectly, except where lawful grounds exist.
- v. Ensure all victims, survivors, and witnesses of possible violations of international law have immediate access to: psycho-social support, independent legal representation and processes/procedures that will allow full and meaningful remedies and legal redress including compensation, restitution and reparations in accordance with international law.
- vi. Take all steps to enact and implement domestic criminal legislation necessary to document, investigate and prosecute genocide according to international best practice in line with international human right law.
- vii. Take proactive steps to investigate and prosecute genocide, in particular where victims and/or alleged perpetrators are within jurisdiction and/or control of the State.

This summary findings paper, drafted by [Aarif Abraham](#), and [Tatyana Eatwell](#) is provided as an explanatory note only to the Report of the Yazidi Justice Committee.

The Report itself was authored by a number of contributors and was edited by Aarif Abraham, Tatyana Eatwell and Aldo Zammit Borda who were also the principal contributing authors.

For further information, and press inquiries, please contact: Yazidi Justice Committee, FAO Aarif Abraham and/or Leyla Ferman.

Email: contact@yazidijustice.org

Website: www.yazidijustice.com

Alt: <https://accountabilityunit.org/contact>

YAZIDI JUSTICE COMMITTEE

website: yazidijustice.com

twitter: [@yazidijustice](https://twitter.com/yazidijustice)

The YJC is an *ad hoc* committee formed of members of the following organisations: Accountability Unit; Women for Justice; International Bar Association; Geoffrey Nice Foundation; Bar Human Rights Committee (UK).

Patrons: Baroness Helena Kennedy QC; Lord David Alton
Sir Geoffrey Nice QC, Chair

Aarif Abraham, Founder; Dr Leyla Ferman, Co-Founder
Tatyana Eatwell, Convener, States Sub-Committee
Aldo Zammit-Borda, Convener, Research Sub-Committee
Ewelina Ochab, External Advisor
Aswini Weeraratne QC, Member

REFERENCES

- i Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951), 78 UNTS 277.
- ii The *mens rea* required for genocide is a specific intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. The term 'destroy' is limited to the physical or biological destruction of the group. Krstic Appeal Judgment, para. 25.
- iii UN Human Rights Council, "They came to destroy": ISIS crimes against the Yazidis, UN Doc. A/HRC/32/CRP.2, 15 June 2016 ("Human Rights Council Report 2016") at Summary.
- iv Ibid at Summary.
- v Ibid.
- vi UN CoI / OHCHR, Commission of Inquiry on Syria calls for justice on the occasion of the third anniversary of ISIL's attack on the Yazidis, Statement, 2 August 2017.
- vii UN News, ISIL crimes against Yazidis constitute genocide, UN investigation team finds, 10 May 2021. See also, UNITAD, Sixth 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, S/2021/419, 3 May 2021.
- viii UNAMI, A Call for Accountability and Protection: Yazidi Survivors of Atrocities Committed by ISIL, August 2016, p 12.
- ix Ibid, p 18.
- x US Secretary of State John Kerry, 'Remarks on Daesh and Genocide', Press Briefing Room, Washington, DC, 17 March 2016, available at: <http://www.state.gov/> (Last accessed 1 June 2016). See also an academic paper considering those remarks: Saeed, Vian Dakhil Shekh and Zammit Borda, Aldo and Murray, Alexander R. J. (2017) 'Calling ISIL Atrocities Against the Yazidis by their Rightful Name': Do they Constitute the Crime of Genocide? *Human Rights Law Review*, 17 (2). pp. 261-283. ISSN 1744-1021.
- xi President Obama said this: "As ISIL has marched across Iraq it has waged a ruthless campaign against innocent Iraqis. And these terrorists have been especially barbaric towards religious minorities, including Christians and Yazidis, a small and ancient religious sect. Countless Iraqis have been displaced and chilling reports describe ISIL militants rounding up families, conducting mass executions, and enslaving Yazidi women. In recent days, Yazidi women, men, and children from the area of Sinjar have fled for their lives. And thousands, perhaps tens of thousands, are now hiding high up in the mountain with little but the clothes on their backs. They're without food. They're without water. People are starving and children are dying of thirst. Meanwhile, ISIL forces called for the "systematic destruction of the entire Yazidi people below which would constitute genocide..." ISIS Dabiq: "A Call to Hijrah", Al-Hayat Media Center [An Islamic State production], Issue 3, September 2014, 29, available at: <https://www.ieproject.org/projects/dabiq3.pdf> (last accessed 10 April 2021).
- xii UN Human Rights Council Report 2015, at paras 9-11. In its methodology section, the report states '[t]he mission reviewed all available information, including testimony from witnesses and victims and documentation from the Government of Iraq Member States, and relevant United Nations and non-governmental organisations. It followed up on reports of violations of international human rights and humanitarian law in Iraq to verify their veracity and establish further facts. The mission conducted investigations in Chamchamal, Dohuk, Erbil, Kalar, Suleimaniyah, and Zakho and camps for internally displaced persons (IDPs) in these areas': Ibid.
- xiii UN Human Rights Council, Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups, A/HRC/28/18, 13 March 2015.
- xiv UN Human Rights Council Report 2015, para. 78.
- xv Ibid.
- xvi UN Human Rights Council, 'Report of the Independent International Commission of Inquiry on the Syrian Arab Republic: Rule of Terror: Living under ISIS in Syria' A/HRC/27CRP.3, 19 November 2014, para. 57.
- xvii Ibid, para. 24.
- xviii Ibid, para. 55.
- xix Ibid, para. 57.

- xx UNAMI / OHCHR, Report on the Protection of Civilians in Armed Conflict in Iraq: 6 July - 10 September 2014, 26 September 2014, p 5. See also, p 11 and the Summary.
- xxi United Nations, Statement by Adama Dieng, Special Adviser to the Secretary-General on the Prevention of Genocide, and Jennifer Welsh, Special Adviser to the Secretary-General on the Responsibility to Protect, on the situation in Iraq, 14 June 2014.
- xxii In resolution 1770 of 10 August 2006, the United Nations Security Council, at paragraph 2(c) specifically requested UNAMI to “promote the protection of human rights and judicial and legal reform in order to strengthen the rule of law in Iraq.” UNAMI mandate was extended in the same terms for 2014/2015 by Security Council resolution 2169 of 30 July 2014. In accordance with its mandate, UNAMI Human Rights Office conducted a range of activities aimed at promoting the protection of civilians in armed conflict, including undertaking independent and impartial monitoring of, and reporting on, armed violence and its impact on civilians and violations of international humanitarian law and international human rights law.
- xxiii UNAMI / OHCHR, Report on the Protection of Civilians in the Non-International Armed Conflict in Iraq: 5 June – 5 July 2014, 18 July 2014, pp. 6-7, 21-22.
- xxiv UNAMI / OHCHR, Report on the Protection of Civilians in the Non-International Armed Conflict in Iraq: 5 June – 5 July 2014, 18 July 2014.
- xxv UNAMI POC Report No. 1 of 2014, p 18.
- xxvi UNAMI / OHCHR, Report on the Protection of Civilians in Armed Conflict in Iraq: 11 September – 10 December 2014, 15 December 2014.
- xxvii UNAMI POC Report No. 1 of 2014, p 9.
- xxviii UNAMI, Report on Human Rights in Iraq: 1 January – 30 June 2014, August 2014, p iii. See further reports accessible at <https://www.ohchr.org/EN/Countries/MENARegion/Pages/UNAMIHRReports.aspx>
- xxix Ibid, p 19.
- xxx The first of these reports is: UNAMI, Report on Human Rights in Iraq: July - December 2013, June 2014. Reports such as one from 2009 stated this: “Minorities, however, continued to report frequent attacks on their members, some of which appear to have been perpetrated by state or political party organs with an explicit aim to influence their political affiliations and votes. Representatives of the Yezidi, a group that inhabit the mountainous regions of northern Iraq, have informed UNAMI that their population has been reduced to 300,000 from more than 500,000 prior to March 2003. During the reporting period, sporadic attacks occurred against Yezidi villages in the area of Sinjar, west of Mosul by the Peshmerga, the armed forces of the KRG.” UNAMI, Report on Human Rights in Iraq: 1 January – 30 June 2009, p 15.
- xxxi See for instance, UNAMI, Report on Human Rights in Iraq: July - December 2013, June 2014, pp. vii, 23.
- xxxii See further reports accessible at <https://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx>
- xxxiii UN CoI, 7th report of the Commission of Inquiry on the Syrian Arab Republic, A/HRC/25/65, 12 February 2014 (published on 5 March 2014).
- xxxiv UN High Commissioner for Refugees (UNHCR), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq, 31 May 2012, HCR/EG/IRQ/12/03, available at <https://www.refworld.org/docid/4fc77d522.html> (accessed 30 December 2021).
- xxxv The UNHCR Syria reports referred to minorities being targeted on religious grounds generally by sectarian groups including ISIS and ISIS precursors. See, for instance, UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013, available at: <https://www.refworld.org/docid/5265184f4.html> (accessed 30 December 2021); UN High Commissioner for Refugees (UNHCR), International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update III, 27 October 2014, available at <https://www.refworld.org/docid/544e446d4.html> (accessed 30 December 2021).
- xxxvi UN High Commissioner for Refugees (UNHCR), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers, April 2009, available at <https://www.refworld.org/docid/49f569cf2.html> (accessed 30 December 2021), p. 171.
- xxxvii United Nations High Commissioner for Refugees, UNHCR’s Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers, August 2007, p.80, <https://www.refworld.org/pdfid/46deb05557.pdf> (accessed 5 November 2021).