

## The Yazidi Survivors' Law:

### *A step towards reparations for the ISIS conflict*

On 1 March 2021, after nearly two years of deliberations, Iraq's parliament passed the [Yazidi Female Survivors' Law](#), a major step forward in addressing the legacy of violations committed by ISIS against members of religious minorities in Iraq. The law (Law No. 8 of 2021) provides a comprehensive programme of reparations to Yazidi, Christian, Shabak, and Turkmen survivors of sexual violence and other ISIS crimes, including both individual and collective measures.

The law comes in the aftermath of more than three years of armed conflict in Iraq, which left thousands dead and millions displaced. While ISIS [targeted many of Iraq's ethnic and religious minorities](#) during the conflict, the group's treatment of the Yazidi community was particularly brutal. It is estimated that around 6,800 Yazidis were abducted and around 3,100 killed over a few days in early August 2014. Men and boys were massacred and buried in mass graves while thousands of women and girls were forced into sexual slavery, in a campaign that has been recognized as genocide by numerous international bodies.

Since the end of the conflict, there has been extensive debate about the criminal prosecution of the perpetrators of these violations, and a wave of actual prosecutions of mostly junior suspects on terrorist charges. However, the duty to provide reparation to survivors of violations is an equally important part of recovery from the conflict. Reparations are among the most victim-centric of transitional justice measures, and when properly designed, can have a transformative effect on those victimized and the societies in which they live.

While [Iraq has significant experience in administering reparations programmes](#), the Yazidi Survivors' Law is the only initiative that is specific to the conflict with ISIS and is the first to provide reparations to survivors of sexual violence. In Iraq and many other contexts, acts of sexual violence have long been viewed as a side effect of war and excluded from the harms addressed by post-conflict reparations schemes. By enacting the law, Iraq has become part of a steadily growing field of practice in redressing the harm inflicted on individuals as a result of conflict-related sexual violence.

The Ceasefire Centre for Civilian Rights has been closely involved over recent years in supporting civilians in documentation and advocacy and in providing technical advice to parliamentarians on the new law (together with our partner the [Institute for International Law and Human Rights](#)). As we continue working on its implementation, this briefing describes who and what is covered by the law, how it will work, and outlines the gaps that remain as Iraq takes an important step towards delivering reparations to survivors.

### **Who is covered by the law?**

Article 1 of the law defines a female survivor as 'each woman or girl who has been subjected to crimes of sexual violence, including: abduction, sexual slavery, being sold in slave markets, being separated from her family, forced religious conversion, forced marriage, forced pregnancy and forced abortion, or physical and

psychological harm by ISIS.’ To be eligible, the female survivor must have been subjected to these violations on or after 3 August 2014 and have been subsequently rescued.

While the law was originally intended only for Yazidi women and girls, subsequent changes expanded the scope of the law to include survivors from other communities who suffered violations of a similar nature. Accordingly, Article 2 states that Turkmen, Christian, Shabaki women and girls who were subjected to the crimes mentioned in Article 1 are also covered by the law. The same article also extends coverage to Yazidi child survivors who were under the age of eighteen when they were abducted, and Yazidi, Turkmen, Christian, and Shabaki survivors of mass killings and exterminations that carried out by ISIS in their areas, including men and boys.

Article 3 of the law establishes a Directorate-General under the Ministry of Labour and Social Affairs responsible for administering services to survivors. The Directorate will be headed by a Yazidi who has at least ten years’ experience, appointed by Council of Ministers. Its headquarters will be based in Nineveh Governorate but it will have the right to open additional branches where required. The latter point is crucial to ensure the law reaches its aims since many Yazidis and other communities currently reside outside of Nineveh.

## **Types of reparation**

[The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#) set out five forms of reparation: restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition. The design of the Yazidi Survivors’ Law is quite comprehensive in this regard, as it contains measures corresponding to all five categories:

*Compensation:* The law provides monetary compensation in the form of a monthly salary of not less than twice the minimum pension stipulated in the [Unified Retirement Law No. \(9\) of 2014](#), as amended. Issuing compensation in the form of a monthly pension rather than a one-off payment is considered a best practice, as it makes it more likely that claimants will be able to control the income themselves and use it to meet their ongoing living needs.

*Rehabilitation:* The law tasks the Directorate-General with opening health and psychological rehabilitation centres for female survivors, both inside and outside of Iraq. The inclusion of centres focused on mental health is a positive step; however, the law is silent on whether these services will be provided free of charge, and whether they will also be made available to male survivors.

*Restitution:* The law includes forms of restitution in the areas of education, employment and property. In the area of education, survivors covered by the law are entitled to resume their studies in exception to age requirements. In previous drafts, an exception for GPA requirements was also included; however, in the final draft it was omitted. In terms of employment, survivors are given priority in appointment to public functions, with a quota 2%. In addition, survivors are entitled to a free housing unit or a residential plot of land with a mortgage loan.

*Satisfaction:* Satisfaction measures, which tend to be collective and symbolic in nature, contribute to recognizing the truth of what happened, dignifying survivors and supporting them in their process of recovery. In this vein, the law contains measures to search for members of the Yazidi, Turkmen, Christian, and Shabaki communities who are still missing and to locate and excavate mass graves and return the remains to their families. The law also contains an explicit recognition that the crimes committed against Yazidis and other communities constitute genocide and crimes against humanity. It designates the third of August a national day

for remembrance of all crimes committed by ISIS and calls for the establishment of monuments, statues and exhibitions for this occasion.

*Guarantees of non-repetition:* One of the stated aims of the law is to ‘prevent the reoccurrence of violations’ against survivors. That being said, the law does not directly address legal reform or enable prosecution, measures that could contribute to deterring future violations. However, it does prevent the application of amnesties or the remission of legally prescribed sentences for certain crimes and requires the Directorate-General to coordinate with investigative and judicial bodies and international committees to facilitate documentation and prosecution.

## **Processes and evidence**

The law is fairly silent on the processes that will be followed in the submission and review of reparations claims, including evidentiary requirements and thresholds. These matters are expected to be clarified later in the implementing instructions for the law. However, the law does specify that claims will be assessed by a semi-judicial committee, headed by a judge and formed of members drawn from seven different government institutions, with 30% female membership. Moreover, a website will be created to receive claims from inside and outside Iraq.

The timeframe set for the claims to be decided upon is 90 days from the day of submission, which is quite reasonable as the Committee will not work on a full-time basis. However, the government should take care [to avoid the mistakes that were made in previous reparation programs](#) (e.g. Law No. 20 on Compensation for Victims of Military Operations, Military Mistakes and Terrorist Actions) such as understaffing, requesting many evidentiary documents, slow implementation and lack of funding. Many dimensions of the harm caused by sexual violence in particular are immaterial in nature, which calls for the adoption of more flexible application procedures and evidentiary requirements.

## **Gaps and shortcomings**

Despite its merits, the law remains at best a partial approach to reparations for the conflict with ISIS. For one thing, the law only covers a narrow subset of the conflict’s victims, defined in restrictive terms. Those who do not belong to the communities specifically named will not have access to reparation – excluding, for example, Sunni or Shia Arab or Kaka’i survivors of sexual violence. The same applies to survivors of similar violations perpetrated by other parties to the conflict, since the law only covers ISIS acts. Moreover, the law only provides measures to direct victims of their crimes, leaving out indirect victims such as widows and orphans.

Further, the lack of clear protections in the text of the law raises questions over whether it will be implemented in a survivor-centric manner. The law does not include any articles covering confidentiality or protection of survivors’ privacy throughout the reparations process, which is crucial for survivors to come forward. There is no mention of training staff to deal with such sensitive cases and to operate on “do no harm” principle. Likewise, there is no mention of providing a safe haven or a secure housing during the process of claiming reparations, which non-governmental organisations have been criminalised for previously.

Moreover, the law does not contain any measures to address the situation of children born of rape. Under existing procedures in Iraq, Yazidi women who have borne children as a result of rape by ISIS fighters must register their children as Muslim. Otherwise, their children are left undocumented, preventing them from registering for education and other basic services. Previous draft versions of the law contained articles attempting to address this issue, but due to a lack of consensus, these articles were removed from the final version. Consequently, a major issue facing the community remains unresolved.

Finally, it must be noted that reparation programmes are not sufficient by themselves to enable survivors to move forward from the conflict. Reparations must be understood as part of a wider programme of transitional justice, which includes the obligation to investigate and prosecute the perpetrators of the crimes that took place. Fully addressing the criminal dimension of transitional justice is beyond the scope of the Yazidi Survivors Law, as it requires a more comprehensive programme of reform to Iraqi criminal law to ensure that these crimes can be prosecuted domestically.

The adoption of the law is a great step forward, but without effective implementation and parallel measures, it will be another additional struggle for these communities in their process not only to receive reparations, but to move forward with their lives.



Two Yazidi survivors in Nineveh, Iraq, 2016

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