

The Yazidi Genocide: Between Legal Text and Judicial Implementation: A Study of the Iraqi and International Experience

Mohammed Ismael Jumaah

University of Baghdad /

College of Law

mohammed.ismail1104a@uobaghdad.edu.iq

olaw.uobaghdad.edu.iq

Yassir Ammar Nouri

University of Baghdad /

College of Law

Receipt Date: 30/11/2025. Conference Date: 9/12/2025. Publication Date: 20/7/2026.



This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/)

Abstract

The Yazidi minority in Iraq suffered one of the gravest crimes in modern history, through by the attack launched by armed terrorist groups in 2014, during which acts amounting to the crime of genocide were committed according to the 1948 Genocide Convention. These crimes included systematic killing, enslavement, forced displacement, and sexual violence, particularly against women and children. This study examines the international legal framework for the crime of genocide and its elements, analyzing its applicability to the crimes committed against the Yazidis and highlighting the challenges of proving the Mens Rea and "special intent" on the part of the perpetrators. The study also reviews judicial practices at the national and international levels, including trials in Iraq, which were often conducted under terrorism charges, compared to trials in some European countries that explicitly described the acts as "genocide." The research aims to assess the gap between legal text and practical application, and to propose solutions to strengthen international criminal justice and ensure that perpetrators of these crimes do not escape punishment.

Keywords :(Yazidis, Genocide, Judicial accountability, Universal jurisdiction, Documentation of international crimes.)

الإبادة الجماعية للإيزيديين: بين النص القانوني والتطبيق القضائي: دراسة في التجربتين العراقية والدولية

ياسر عمار نوري**
جامعة بغداد/ كلية
القانون

محمد إسماعيل جمعة*
جامعة بغداد/ كلية القانون

mohammed.ismail1104a@colaw.uobaghdad.edu.iq

تاريخ الاستلام: 2025/11/30. تاريخ انعقاد المؤتمر: 2025/12/9. تاريخ النشر: 2026/7/20.
المستخلص

تعرضت الأقلية الإيزيدية في العراق لواحدة من أبشع الجرائم في التاريخ الحديث، إثر الهجوم الذي شنته جماعات إرهابية مسلحة في عام 2014، والتي ارتكبت خلاله أفعال ترقى إلى جريمة الإبادة الجماعية وفقاً لـ اتفاقية منع جريمة الإبادة الجماعية والمعاقبة عليها لعام 1948. وقد شملت هذه الجرائم القتل المنهجي، والاستعباد، والتهجير القسري، والعنف الجنسي، لا سيما ضد النساء والأطفال.

تبحث هذه الدراسة في الإطار القانوني الدولي لجريمة الإبادة الجماعية وأركانها، مع تحليل مدى انطباقها على الجرائم المرتكبة ضد الإيزيديين، وتسليط الضوء على تحديات إثبات الركن المعنوي والقصد الخاص لدى الجناة. كما تستعرض الدراسة الممارسات القضائية على الصعيدين الوطني والدولي، بما في ذلك المحاكمات التي جرت في العراق—والتي غالباً ما استندت إلى تهمة الإرهاب—مقارنة بالمحاكمات في بعض الدول الأوروبية التي كُفّرت هذه الأفعال صراحةً بوصفها "إبادة جماعية". تهدف الدراسة إلى تقييم الفجوة بين النص القانوني والتطبيق العملي، وطرح حلول لتعزيز العدالة الجنائية الدولية وضمان عدم إفلات مرتكبي هذه الجرائم من العقاب.

الكلمات المفتاحية: الإيزيديون، الإبادة الجماعية، المساءلة القضائية، الولاية القضائية العالمية، توثيق الجرائم الدولية.

* مدرس
** محامي

Introduction

The crimes committed by the ISIS terrorist organization against the Yazidis have reignited fundamental questions about the capacity of the legal system, both national and international, to address crimes of a genocidal nature. While international law has established a clear framework for the crime of genocide, its application in the courts often encounters obstacles related to defining the crime and proving intent to target the group. This directly impacts the type of charges brought against the perpetrators and the judicial outcomes reached by the courts. The importance of this research lies in examining the consistency of legal standards related to genocide with what happened to the Yazidis, analyzing how Iraqi and European courts have dealt with these events, and ultimately assessing the effectiveness of judicial application in achieving justice for this grave crime. The study hypothesizes that the legal characterization of crimes committed against the Yazidis in Iraq has remained confined to the framework of terrorist crimes due to the absence of specific provisions for genocide in Iraqi legislation, while international law and European courts have treated the same acts as constituting a fully-fledged crime of genocide.

The study also posits that this discrepancy between the Iraqi position and international and European practices reflects a legislative and normative gap that hinders the achievement of criminal justice and the precise determination of legal responsibility.

The research is divided into two main sections. The first section addresses the historical and legal background of the crime of genocide, examining the history of the Yazidis, the legal definition of genocide, and the distinction between genocide, war crimes, and crimes against humanity. The second section focuses on the genocide against the Yazidis from a practical perspective,

analyzing the crimes committed in 2014 and the legal proceedings at the national and international levels to prosecute the perpetrators.

Section One: The Historical and Legal Background of the Crime of Genocide

This section examines the historical and legal background of genocide, exploring the historical situation of the Yazidis and the international legal foundations that define genocide and distinguish it from other crimes. It also aims to provide a comprehensive framework for understanding the nature of this crime before moving on to a practical analysis of crimes committed against the Yazidis.

I- The Historical Background of the Yazidis

The Yazidis are a religious-ethnic group concentrated primarily in northern Iraq, in the Nineveh Governorate and the city of Sinjar, the area where the Yazidis have lived since their emergence. Smaller communities also exist in Turkey, Armenia, and Syria. Although their total population is uncertain, estimates range from 500,000 to 750,000, most of them in Iraq, with the remainder scattered around the world. (Allison, 2017) The origins of the Yazidis are a matter of intense debate among researchers. This is due to the lack of historical records of the origins of this group. What makes research even more difficult is that, until recently, Yazidi teachings were passed down strictly orally through generations by religious figures, relying on their memorization and memory, and naturally subject to their interpretation. The Yazidi religion forbids its followers from learning to read and write. Consequently, obtaining conclusive evidence regarding the origins of the Yazidi identity is extremely difficult, almost impossible. (Nicolaus, 2012) However, it is certain that the first mention of the Yazidis in history appeared after the arrival of Sheikh Adi bin Musafir al-Umawi (1072-1162) to the Lalish Valley. He was a Sufi

Muslim whom the Yazidis consider a saint. The historical mention goes back to the "Book of Genealogies" by Abdul Karim al-Samani, who was a contemporary of Sheikh Adi and recorded a meeting between a group of Muslims and Yazidis in Halwan (a city north of Mosul in Iraq) in the twelfth century.(Yazigi, 2011)After that, the opinions of researchers are divided about their origins. Some of them see that Yazidism is one of the ancient religions derived from the ancient Babylonian religions, or from the Zoroastrian religion (an ancient Persian religion considered one of the oldest organized religions in the world) and Manichaeism (a religion that appeared in the third century AD in the Sassanid Empire). (Spät, 2018)Other scholars and Muslim jurists argue that they are a group that emerged from Muslims who deviated from Islam. They base this claim on what is mentioned in the book "Al-Ansab" by Abdul Karim al-Samani, who described them as an "isolated sect," indicating that they were originally Muslims. This is consistent with some traditional Islamic practices and customs. Furthermore, researchers point out that the Yazidis have lived in areas under Islamic rule since the Islamic conquests, which reinforces the hypothesis that they were influenced by Islamic culture.

On the other hand, some researchers believe that Yazidism began as a Sufi order within Islam, and was later influenced by local cultures and religions due to their isolation in areas such as the Lalish Valley. This cultural intermingling led to the development of a distinct religious identity, combining Islamic and local elements..(Spat, 2018) What undermines the validity of this analysis is the assumption that the Yazidis were truly Muslims to begin with, which is not certain, especially given the way in which the inhabitants of the region in which they lived, the Sassanian Empire, converted to Islam. Here, the importance of Yazidi

religious symbols is highlighted, most notably the "Peacock Angel," "Tawusî Melek" who is considered the supreme angel in their beliefs and has been the cause of much misunderstanding and historical accusations of devil worship. This symbol, along with the sanctity of the Lalish Valley as a holy land and a site of annual pilgrimage, has contributed to the establishment of an independent religious identity distinct from surrounding religions.

The Kurdish language has also played a fundamental role in preserving Yazidi identity, serving as the vehicle through which oral religious texts were transmitted and as a means by which the community survived attempts at assimilation and persecution.

After examining these opinions and historical evidence, we can say that Yazidism is a religion that began to take shape in the seventh century and reached its final form in the twelfth century after the death of Adi ibn Musafir. It was not, in principle, true Islam. This is evident in the fact that the regions inhabited by Yazidis, namely Sinjar and Hulwan, were part of the Sassanid Empire, where the majority of the population was Zoroastrian, with some following Manichaeism.

Historical facts reveal that the Yazidis have been subjected to numerous crimes since their emergence, which today can be classified as international crimes. Many researchers attribute this to religious persecution of the Yazidis by Muslims. They also claim that there were 74 genocides against the Yazidis.(Muhammad Usman, 2022)

It is important to note that this number (74) is used in the Yazidi discourse as a symbol of collective memory rather than an accurate statistic, as many of those events were closer to repression campaigns or local massacres, but in the Yazidi consciousness they were linked to the idea of repeated genocide. As for religious persecution, it is in fact a superficial view of the geopolitical

reality. The Yazidis were treated sometimes as infidels, and other times as an Islamic sect, and this depended on their political position. When they stood in the face of the control of the Ottoman state, for example, they were considered infidels to justify their extermination, and when it controlled their lands, they considered them an Islamic sect and did not accept the petition they submitted to consider them a separate religion.(Nicolaus, 2012)

Compared to other minorities in the region, such as the Kakai or the Shabak, it appears that the Yazidis were more vulnerable to systematic genocide. Between the twelfth and twentieth centuries, its members were subjected to at least one genocide in every century, including:

1. The extermination of the Yazidis by Hulagu in Mosul in 1261-1262 CE and the destruction of their villages in Sinjar, after an Yazidi sheikh had led a small army in resisting the Mongols the previous year.
2. The extermination carried out by the Ottoman authorities in 1414 CE, following the emergence of Yazidi political influence in Syria and Egypt. This campaign resulted in the killing of Yazidis, the imprisonment of others, and the destruction of the shrine of Sheikh Adi.(Ahmed & Heun, 2023)
3. The extermination of 1570 CE during the rule of Sultan Suleiman the Magnificent. This occurred after the Ottomans had allied with the Yazidis against the Safavids, but then shifted their policy towards them following the alliance's success. The chief Mufti of the Ottoman Empire at the time, Abu Saud al-Amadi, issued a fatwa permitting the killing of Yazidis and the enslavement and sale of their women in markets, after being asked about the permissibility of fighting them.(Ali & Mho, 2018)This fatwa is often cited as

evidence of Islamic violence against minorities—a conclusion we do not support for two simple reasons. First, conflating the theoretical validity of a legal system (Sharia) with the competence and motives of its implementers is a grave analytical error. Second, this was the first fatwa of its kind against the Yazidis in their four centuries of existence up to that point, which strongly supports the interpretation that religion was used here as a political tool rather than being applied in its proper, doctrinal context.

4. The extermination carried out by the governor of Baghdad against the Yazidis in 1715 for their control of Sinjar, which resulted in the killing of many men, the capture of women and children, and the transfer of Sinjar's rule to the Bedouins.(Nicolaus, 2012)
5. The genocide that began with Meri Kor in 1831, which led to the massacre of the Yazidis and their displacement to neighboring areas. Then, the genocide was completed by Muhammad Rashid Pasha and Hafiz Pasha in two separate campaigns until three-quarters of the Yazidis were exterminated.(Orpak, 2021)

Yazidi identity was formed through a long and complex interaction between ancient religions (Zoroastrianism and Manichaeism) and Sufi Islamic influences, emerging in its distinctive form after the twelfth century with the figure of Sheikh Adi ibn Musafir. This identity was not merely a religious affiliation; it became a solid cultural and social framework that preserved the community's uniqueness despite ongoing waves of persecution. The successive campaigns of genocide, which recurred almost regularly over the centuries, deepened the Yazidis' sense of "eternal victimhood" and consolidated a collective memory narrative that views history as a series of genocidal attempts. Therefore, understanding the

historical background of the Yazidis is not limited to identifying their religious origins alone; it also encompasses recognizing the symbolic and mental dimensions of these repeated experiences in shaping their collective consciousness and resilience to this day.

II- The Legal Definition of the Crime of Genocide

In 1946, the United Nations General Assembly issued Resolution No. 96, which affirmed that genocide is a crime under international law and called for international cooperation to combat it. The resolution also contained the essential elements for the final definition of genocide. (United Nations General Assembly, 1946) The aforementioned resolution tasked the Economic and Social Council with conducting the necessary studies within the framework of drafting a treaty on genocide, which produced the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide, which defined genocide in Article 2:

“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.” (United Nations, 1948)

This definition has been transferred to subsequent treaties or decisions of relevant international courts in the field of international criminal law, and has become a customary rule for criminalizing genocide. The International Court of Justice stated in the case of *Bosnia v. Serbia* that Article 1 of the Convention, which obligates the signatory parties to prevent and punish genocide,

imposes a dual obligation. It is positive through taking measures to prevent and punish the crime, and negative through the obligation to refrain from the crime by the states themselves.(Cassese & Gaeta, 2013)

The crime of genocide was not mentioned in the founding documents of the Tokyo and Nuremberg tribunals, as they were contemporaneous with the early stages of the concept's emergence, and issuing a genocide conviction at that time would have been a violation of the principle of criminal legality. However, the definition contained in the 1948 UN Convention has been repeated verbatim in all subsequent international and hybrid tribunals. This is evident from the following articles:

- Article 4/2 of the Statute of the International Criminal Tribunal for the Former Yugoslavia of 1993.(Statute of the International Tribunal for the Former Yugoslavia, 1993)
- Article 2/2 of the Statute of the International Criminal Tribunal for Rwanda of 1994.(Statute of the International Criminal Tribunal for Rwanda, 1994)
- Article 6 of the Rome Statute of the International Criminal Court of 1998.(Rome Statute of the International Criminal Court, 1998)

This repetition reflects the international community's adoption of a unified definition of genocide as a basis for prosecuting its perpetrators in international courts, which strengthens individual criminal responsibility and ensures international justice.

As for the elements of the crime of genocide, they are as follows:

The crime of genocide consists of two basic elements: the material (objective) element and the mental (mental) element. The material element (actus reus) represents the external aspect of the crime,

while the mental element (*mens rea*) embodies the criminal will or special intent necessary for the crime to be committed.

The material element (*Actus Reus*)

The material element of the crime of genocide refers to the physical acts that cause the criminal result, and includes the conduct, the result, and the causal link)(Al-Zeer, 2024)However, the specificity of this crime lies in the fact that the conduct is directed against a specific human group with the intent of destroying it in whole or in part, which makes the result collective in nature. The International Criminal Tribunal for Rwanda confirmed this in *Prosecutor v. Akayesu* .(*Prosecutor v. Jean-Paul Akayesu (Case No. ICTR-96-4-T)*, 1998a)

The conduct of genocide can only be understood within its collective context, aimed at destroying the group. The causal link is essentially the same as that of other crimes, but in this context, it is based on a sequence of interconnected actions that together lead to the final result as Werle noted in his analysis of international mass crimes.

When analyzing conduct in the crime of genocide, a distinction must be made between two types of acts:

- Active conduct (act), such as killing, serious harm, or imposing deadly living conditions.

- Passive conduct (omission), such as the deliberate failure to provide food, medicine, or shelter to members of the group with the intent of destroying them in whole or in part.

The conduct is not limited to the physical act alone; rather, it extends to include the object of the conduct, its perpetrator, and every objective or material circumstance connected to the crime. Thus, the material element encompasses everything that has a tangible or factual nature. (Werle, 2020)

Physical conduct includes several elements:

1. Criminal acts.

Based on the definition of the crime of genocide contained in the 1948 (United Nations, 1948) Convention on the Prevention and Punishment of the Crime of Genocide, the conduct leading to the commission of the crime includes five main categories of acts:

A. Killing members of the group, meaning more than one person.

The killing of a single person alone does not constitute genocide, regardless of the importance of the person killed, whether a political or tribal leader. International law requires that the crime of genocide be constituted by a special intent (*dolus specialis*) targeting the group as a whole or a substantial part thereof. However, the killing of a single individual—even a leader—may still constitute a minor criminal offense, a war crime, or the beginning of an attempt at genocide if accompanied by other evidence. The killing of a significant individual becomes strong evidence of genocidal intent when it coincides with organized and repeated acts aimed at dismantling the group or erasing its identity, such as systematic attacks against its members, the destruction of its social or religious institutions, the issuance of inflammatory statements, or the adoption of policies that prevent the return of displaced persons or prevent natural reproduction. In this case, the killing rises to constitute an element of genocide. However, if there is no coherence and systematic policy, the act remains bound by other, more general crimes, such as war crimes or crimes against humanity. (Zian Boubaker, 2013)

B. Causing serious bodily or mental harm to members of the group: This includes torture and any treatment or persecution resulting in severe harm. The International Criminal Tribunal for Rwanda added that this includes “inhuman treatment, persecution, rape, and mutilation.” Some scholars also point out

that forced displacement or the imposition of inhumane living conditions can be considered part of the crime of genocide if there is the necessary special intent (*dolus specialis*) of targeting the group as a distinct entity or a significant part thereof. This element constitutes essential evidence of genocidal intent when documenting a systematic series of acts aimed at the total or partial destruction of the group.

C. Subjecting the group to living conditions intended to bring about its physical destruction, in whole or in part. This element includes subjecting members of the group to harsh conditions that go beyond the mere difficulties of daily life, and includes practical examples such as establishing concentration camps, imposing a siege, spreading disease, or even poisoning essential water sources. It is worth noting that international legal texts use the term "calculated" to refer to a mental level that exceeds ordinary intent, approaching premeditation or deliberation. However, international judicial practice has established that proving this high level of planning is not a prerequisite for establishing the occurrence of genocide. Rather, it is sufficient that the conduct be intentional and result in the physical destruction of the group, in whole or in part, with the aim of erasing its existence or ability to survive. (Adam Jones, 2006)

d) Imposing measures aimed at preventing reproduction within the group:

This element includes actions that contribute to limiting the group's ability to reproduce and maintain its future existence, such as gender segregation, forced abortion, or forced sterilization. These measures must be implemented before or during pregnancy; if they occur after birth, they are classified as other acts of genocide, but they still indicate an intent to eliminate the group, either partially or completely.

E. Forcible Transfer of Children from One Group to Another:

This practice represents the most blatant example of cultural genocide under the Genocide Convention. It aims to destroy the group's identity by erasing its cultural and social characteristics. This includes depriving children of learning their native language and the customs and traditions of their group, and forcibly assimilating them into other groups, thus severing their connection to their original identity. It is part of a broader strategy to destroy the group by erasing elements of its cultural and social fabric.(Adam Jones, 2006)

2. Protected Categories

The Genocide Convention explicitly and exclusively protects specific groups: national, ethnic, racial, and religious. The stated aim of this definition was to exclude political groups or any groups not falling within these categories from the protection afforded by the crime of genocide. However, international judicial practice, as seen in the rulings of the International Criminal Tribunal for Rwanda, the International Criminal Tribunal for the former Yugoslavia, and the International Criminal Court, has shown that the actual interpretation of protected categories tends to be broader and more inclusive than the literal text of the Convention, encompassing the protection of “any stable and established group”. This broad interpretation of the category "national" is based on the original intent of the Convention's drafters, as the jurist Hopkins points out. He emphasizes that the criterion for protection is not limited to belonging to the literally defined categories, but rather rests primarily on the stability and cohesion of the group as a social or cultural entity. In other words, a protected group is one that possesses a coherent identity, a continuous social existence, and specific cultural, religious, or ethnic patterns that make it recognizable as an independent entity, whether or not this group is

explicitly mentioned in the four articles of the Convention.(Alison Hopkins, 2010)

Therefore, this interpretation indicates that the scope of protection can include other groups not explicitly classified under traditional provisions, provided that there is stability and consistency in their social or cultural composition, which enhances the ability of international law to effectively address acts of genocide and prevents circumvention of legal texts by targeting groups not included in the official list.

3- Perpetrators of the crime:

It is not required that the perpetrators of the crime of genocide or the accomplices in it have special characteristics or specific descriptions in order for the personal element of the crime to be fulfilled, as the general rules of criminal responsibility apply to them as stipulated in international and national law alike. However, the unique nature of the crime of genocide imposes, in practical reality, that its perpetrators be persons who possess a certain degree of power, influence, or impact, whether political, military, religious, or social, that enables them to carry out the acts that lead to the intended genocidal result, which is the total or partial destruction of a protected group.

Accordingly, the scope of responsibility in genocide cases is not limited to the direct perpetrators who carried out the physical acts of the crime, but also extends to leaders, instigators, and indirect accomplices who contributed to the crime through issuing orders, public incitement, or even deliberate silence regarding acts they could have prevented or countered.(Mangku et al., 2022) International courts have affirmed this trend, particularly the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, where criminal responsibility was held against individuals who did not actually

participate in carrying out the killing or destruction, but who contributed to creating the environment that enabled the crime to occur, whether through incitement, logistical support, or political backing(Statute of the International Criminal Tribunal for Rwanda, 1994; Statute of the International Tribunal for the Former Yugoslavia, 1993)

4- The International Element:

Genocide is a crime of organized mass persecution by its very nature, and is often committed within an organized framework. This justifies broadening the scope of the accusation to include all those who contributed to achieving the genocidal goal, directly or indirectly. For genocide to be classified as an international crime, it must possess a set of characteristics known as the international element, which consists of two essential components. The personal element is the commission of the crime by natural persons, whether they carried it out on behalf of a state, with the support of a state, or for the benefit of an international organization. It is required that these individuals committed the act with the power or authority to achieve the genocidal objective of the crime, such that their conduct contributes to the destruction of a group protected under international law, whether their role was direct in carrying out the act or indirect through incitement or contributing to the environment that enabled the crime to occur. The objective element lies in the fact that the criminal conduct violates a general international interest, often linked to fundamental human rights. This violation results in a breach of international public order, as genocide is considered an attack on all of humanity, not just on the targeted individuals or group. This makes it an international crime that the international community has the right to address directly through international courts or international justice mechanisms. Therefore, the simultaneous fulfillment of both the subjective and

objective elements establishes the international nature of the crime of genocide and lays the groundwork for holding its perpetrators accountable under international criminal law. This reflects the international community's commitment to protecting groups from total or partial destruction and ensuring respect for human rights globally, whether directly, through action, or through omission (Kress, 2007)

As for why the international element is included within the material element rather than considered a separate element, this stems from the fact that it is, in essence, a material characteristic of the conduct in the case of the personal element, and a material characteristic of the result in the case of the objective element. Furthermore, the concept of the material element is inherently broad, encompassing all the material elements of the crime, thus allowing it to include these characteristics without diminishing their legal significance. From this perspective, these characteristics are termed the international element due to their profound importance, not because they represent an essence independent of the material element. In addition, Western criminal jurisprudence does not typically make a strict distinction between the element, the component, or the sub-component within the components of a crime; rather, they are all viewed within the general framework.

As for the criminal outcome, it is a fundamental element in the commission of the crime of genocide and represents a direct reflection of the perpetrator's conduct toward the targeted group. It is important to emphasize that this outcome does not necessarily imply the complete or partial annihilation of the protected group, but can be achieved through any actual effect resulting from the acts defined in the Convention's definition of genocide, such as killing a number of individuals, inflicting serious physical or

mental harm, or creating conditions of extreme hardship that threaten the life or stability of the group(Kress, 2007)

The importance of the criminal outcome lies in its ability to distinguish genocide from other international crimes, as it focuses not only on the perpetrator's intent but also on the impact of their actions on the targeted group. It reflects the causal link between the criminal conduct and the harm inflicted on the group, requiring that this harm be of a nature that threatens the group's existence as an independent entity or significantly impairs its vital structure. Therefore, the criminal outcome serves as a measure for assessing the gravity of the crime and its conformity with the objective elements of genocide under international criminal law.

Second: The Mental Element

The crime of genocide, like other international crimes, requires the presence of the mental element, which includes a specific level of awareness and discernment on the part of the perpetrator. This translates into the ability to distinguish between right and wrong, and to possess the free will to make a decision based on this awareness. This means that the perpetrator must be fully aware of the elements of the physical element of the crime, that is, they must be aware of their physical actions and the potential consequences of their actions on the targeted group, and their will must be directed towards achieving this genocidal outcome. Although perpetrators of genocide are often considered human instruments for carrying out a plan of extermination devised by other individuals, a political authority, or an organization, this does not absolve those who planned or ordered the crime from criminal responsibility, provided they had a clear intent to achieve the genocidal objective of the crime. At the same time, individuals who carry out the physical acts of the crime are also held responsible if the mental element is found to be present in their actions, that is, if

they were aware that their actions were part of a plan aimed at destroying a group protected under international law, and that they chose to proceed with these actions intentionally and willfully.(Kress, 2007)

Therefore, the mental element of the crime of genocide is not limited to a general intent to do something wrong, but includes a specific intent to harm a particular group, which is known in international criminal law as "genocidal intent" (*dolus specialis*). This element is essential to distinguish genocide from other international crimes, such as war crimes or crimes against humanity, where a general intent to harm is sufficient, whereas in genocide the objective must be the total or partial destruction of a group according to international legal standards(Ambos, 2009)

III- The Distinction Between Genocide, War Crimes, and Crimes Against Humanity

Genocide, along with crimes against humanity and war crimes, is among the most serious crimes addressed by international criminal law. All three represent grave violations of fundamental human values. However, each has a distinct legal nature that necessitates clarifying the subtle differences between them in terms of their elements, components, and criminal intent. Furthermore, the importance of distinguishing between genocide, war crimes, and crimes against humanity lies in their overlap in practice. Genocide rarely occurs without the occurrence of a war crime or a crime against humanity. Moreover, the distinction is sometimes so subtle as to be virtually nonexistent, while in other instances it is quite clear. In this comparison, we will rely on the Rome Statute, as it represents a codification of customary international law and marks a significant milestone in the development of international criminal law.

First: Distinguishing between the crime of genocide and war crimes.

Article 8 of the Rome Statute defines war crimes as: "Grave breaches of the Geneva Conventions of 12 August 1949, that is, any of the following acts against persons or property protected by the provisions of the relevant Geneva Convention:..." The article goes on to list several acts, such as murder, torture, and the destruction of property, which are considered "grave breaches of international humanitarian law." This is another definition of war crimes outside the scope of the Rome Statute. Grave breaches are violations of the substantive rules of the Geneva Conventions, such as those prohibiting attacks on unarmed civilians or inhumane treatment of prisoners of war.(Rome Statute of the International Criminal Court, 1998)Therefore, the most important aspects of the distinction between the two crimes are as follows:

First, the distinction in terms of the material element:

1. Conduct: The Rome Statute defines, in both war crimes and genocide, a set of acts that constitute the crime exclusively. Naturally, the conduct constituting war crimes is far more extensive than that constituting genocide, depending on the source of criminalization for each. Genocide is criminalized internationally based on the 1948 United Nations Convention, which is the starting point for customary international law criminalizing genocide. Thus, customary law and the international text are identical in their scope of criminalization. War crimes, however, being grave breaches of international humanitarian law, differ in international custom from the text provided by the Statute. The Statute defines these crimes in two ways: first, that they are grave breaches of the Geneva Conventions only, and not all of international humanitarian law; and second, that they are

enumerated in paragraphs 8(2)(a) to 8(2)(e). (Rome Statute of the International Criminal Court, 1998)

2. The target of the crime: Genocide is committed against human beings only, either directly, such as through killing and forcible transfer, or indirectly, by creating conditions that lead to the destruction of the group. War crimes, however, may be committed against human beings or against public or private property protected under international humanitarian law. (Palević et al., 2019)

3. Context - Objective Circumstance: Genocide, like war crimes, requires specific circumstances under which the crime occurred for it to be considered a crime. This is an objective criterion, unlike the modern approach to punishment in national laws, which relies on a subjective criterion by determining whether a crime exists or not based on the perpetrator's intent. The choice of the objective criterion stems from the gravity of these crimes and the difficulty of exceeding national jurisdictions for punishment. In the crime of genocide, the criminal conduct must be part of several organized or widespread acts that, together, constitute the crime of genocide, or it must constitute genocide in itself. In contrast, in a war crime, the conduct must occur in an international or non-international armed conflict; that is, there must be a context for the application of international humanitarian law, and then a violation of the provisions of this law, for the war crime to be established. (International Criminal Court, 2013)

Apart from the above, the two crimes do not differ in that they do not require specific characteristics in the perpetrator of the crime, its result, or the causal link between the conduct and the result.

Second: Distinction Regarding the Mental Element

Knowledge in the Crime of Genocide: A distinction must be made between two cases: when the conduct is part of an organized attack,

or when it is a single, widespread act. If the act is part of an organized attack, the knowledge must include facts constituting this attack as a necessary material element of the crime. However, if the conduct is single but widespread enough to amount to genocide, the degree of knowledge of the act and its reasonable consequence is sufficient to establish the mental element of genocide .(Aydin, 2014)In war crimes, the requirement for establishing the mental element is the perpetrator's knowledge of the context of the armed conflict. The perpetrator's legal assessment of the nature of the conflict (international or internal) at the time of the act is irrelevant; rather, it suffices that they were aware of the circumstantial facts constituting an armed conflict, regardless of their legal evaluation of those facts. This is subject to the rules regarding the absence of the mental element in cases of ignorance . (Cox, 2020)

The Required Intent

Traditionally, the two crimes are distinguished by the fact that genocide requires specific intent, while war crimes do not. After reconsidering the concept of specific intent, the legal terminology can be clarified. In genocide, the perpetrator's intent must be directed towards the complete or partial destruction of the group. That is, the intent must target the group itself and end its existence, not merely the direct result of the act (such as killing or torturing a specific individual). In war crimes, however, the crime does not require intent that extends beyond the direct result of the act. In other words, it is sufficient for the intent to be related to achieving the direct result (such as causing the death of individuals or destroying facilities) without extending to the intent of genocide. Traditionally, the two crimes are distinguished by the fact that genocide requires specific intent, while war crimes do not. After reconsidering the concept of specific intent, the legal terminology

can be clarified. In genocide, the perpetrator's intent must be directed towards the complete or partial destruction of the group. That is, the intent must target the group itself and end its existence, not merely the direct result of the act (such as killing or torturing a specific individual). In war crimes, however, the crime does not require intent that extends beyond the direct result of the act. In other words, it is sufficient for the intent to be related to achieving the direct result (such as causing the death of individuals or destroying facilities) without extending to the intent of genocide. (Triffterer, 2001)

Second: Distinguishing between genocide and crimes against humanity.

Crimes against humanity are defined as “crimes that shock the conscience of humanity,” an expression that refers to the objective standard used to classify certain acts as violating the fundamental values of the entire international community. (Cassese & Gaeta, 2013). It should be noted that this definition lacks complete conceptual precision, as it does not accurately express the nature of the crimes themselves or the objective basis upon which the behaviors included in this classification were determined. (Wisam Suleiman Ahmed Al-Saghaie, 2020)

Generally, the term "crimes against humanity" refers to acts committed as part of a widespread or systematic attack directed against a civilian population. These crimes cannot be committed through isolated or incidental acts outside of this context.

The crime of genocide differs from crimes against humanity in that it involves a specific intent (*dolus specialis*) to destroy, in whole or in part, a national, ethnic, religious, or racial group as such. Crimes against humanity, on the other hand, are based more on a pattern of attack than on the intent to exterminate a specific group.

First: Distinction in Terms of the Material Element

Crimes against humanity encompass all the acts stipulated in Article 6 concerning the crime of genocide, but extend beyond it to include a wider range of conduct, depending on its interpretation and evolving application. Genocide itself is considered a form of crime against humanity in some legal and jurisprudential approaches.

As for the target of the crime, genocide is directed against a specific and stable protected group, whether national, religious, racial, or ethnic. No additional characteristics are required of members of this group beyond their membership. In contrast, crimes against humanity are committed exclusively against civilian populations, and the civilian nature of the act is a fundamental condition for distinguishing them from war crimes. International humanitarian law contributes to defining this distinction through its rules that differentiate between civilians and combatants.

In terms of context or objective circumstances, crimes against humanity presuppose that the constituting conduct is part of a widespread or systematic attack directed against a civilian population, meaning that an isolated individual act, however grave, is insufficient to establish them. Genocide, on the other hand, can be committed by even a single act if that act is sufficient to threaten the very existence of the protected group, in whole or in part.

(Cassese & Gaeta, 2013)

Second: Distinction in Terms of the Mental Element

The difference between genocide and crimes against humanity lies in the elements of knowledge and intent.

Regarding knowledge, in genocide, the awareness must encompass the context and objective circumstances surrounding the act, whether the conduct is isolated or part of a widespread attack. The perpetrator must be aware that their conduct contributes to a policy or pattern of actions directed against a protected group or the

civilian population, or intend for their act to be part of such an attack; the presence of intent itself constitutes proof of knowledge. As for the required intent, the difference between genocide and crimes against humanity is similar to the difference between extermination and war crimes. Genocide requires a specific intent (*dolus specialis*) directed towards the total or partial destruction of the protected group, an intent that transcends the immediate result of the criminal conduct. In contrast, crimes against humanity do not require this specific intent; it suffices that the perpetrator's intent is directed towards achieving the immediate result of their conduct, such as killing or torturing victims, within the context of a widespread or systematic attack .(Clark, 2015)

International case law demonstrates the importance of the element of intent in distinguishing between these two crimes. In the case of *Prosecutor v. Akayesu*, the International Criminal Tribunal for Rwanda explained that genocide goes beyond mere acts of killing or persecution; it represents a destructive project targeting the entire group, which constitutes "the distinguishing feature between genocide and crimes against humanity."(*Prosecutor v. Jean-Paul Akayesu* (Case No. ICTR-96-4-T), 1998)

William Schabas also argues that genocide represents an attack on "the very existence of the group," while crimes against humanity affect "the fundamental rights of individuals within civil society." "(Schabas, 2009) Conceptually, some jurists have broadened the scope of "special intent to destroy" to include non-material forms of extermination, such as eliminating the cultural or social identity of a group by imposing harsh living conditions or prohibiting its religious or linguistic practices.(Ambos, 2009) This interpretation is consistent with the modern development in international criminal law jurisprudence, which views genocide not merely as a mass

killing, but as a systematic and deliberate destruction of collective identity, whether by physical, cultural, or symbolic means.

Section Two: The Crime of Genocide Against the Yazidis – An Applied Study

This section examines the genocide committed against the Yazidis from a practical perspective, analyzing the crimes perpetrated in 2014 and the judicial responses to them at both the national and international levels. The study also seeks to assess the effectiveness of legal procedures in achieving justice and holding the perpetrators of these crimes accountable.

I. Crimes Committed Against the Yazidis in 2014.

August 2014 witnessed one of the most horrific crimes committed against a religious group in modern times, when the so-called Islamic State (ISIS) swept through Sinjar and the surrounding areas, home to the majority of the Yazidi population. Local forces collapsed rapidly, leaving tens of thousands of civilians vulnerable to attack, which allowed the group to carry out a series of systematic abuses targeting the Yazidi community in a manner that clearly demonstrated genocidal intent, (United Nations Human Rights Council, 2016) The first of these crimes was mass murder. The United Nations Assistance Mission for Iraq (UNAMI) and the Office of the High Commissioner for Human Rights documented that nearly 5,000 Yazidis were killed during the first days of the Sinjar offensive, with mass executions of men and boys, often by shooting them in isolated locations and dumping their bodies in mass graves . (UNAMI & OHCHR, 2014) Subsequent academic studies have confirmed that the killings were not random, but rather specifically targeted adult males in order to undermine the Yazidi community's ability to survive. (Cetorelli et al., 2017) In addition to the sexual enslavement and systematic rape of Yazidi women and girls, ISIS abducted thousands of women, distributing them among

slave markets established in Mosul and Raqqa. These women were subjected to repeated rape, forced marriage, and forced conversion, which Amnesty International classified as a systematic policy aimed at humiliating women and destroying the social fabric of the targeted community,(Amnesty International, 2014) Furthermore, academic reports have shown that the use of rape as a weapon was not merely an isolated incident, but a deliberate policy aimed at inflicting lasting societal trauma and preventing the group's recovery after the conflict. This was in addition to the crimes of forced displacement and the siege imposed on tens of thousands of Yazidis fleeing to Mount Sinjar. The organization imposed a suffocating siege that led to food and water shortages, and the deaths of hundreds of children and elderly people from thirst and starvation. Reports from the UN Security Council considered this further evidence of the deliberate intent to exterminate the group by subjecting them to deadly living conditions.(United Nations Security Council, 2016) Field studies show that this siege was not just a side effect of the military operation, but was carefully planned to ensure the greatest possible number of civilian deaths.(Kizilhan, 2017)

Among the crimes committed by this terrorist organization is the kidnapping and forced recruitment of children. The organization separated hundreds of children from their families and subjected them to indoctrination and military training, attempting to transform them into what is known as the "Cubs of the Caliphate." These children were used in combat, some were sent to carry out suicide attacks, while others were used as propaganda tools by being filmed committing acts of violence ,(United Nations Human Rights Council, 2016) Field studies indicate that this behavior represents a kind of "cultural genocide" because it cuts the new

generation off from its religious and cultural roots and forcibly reshapes its identity.(Ahmad & Langer, 2024)

In addition to the cultural and religious destruction of the Yazidi identity, ISIS destroyed Yazidi religious shrines such as the Sheikh Mand Shrine and the Malik Fakhr al-Din Shrine, and bombed dozens of smaller temples and sacred sites in the Sinjar region. Furthermore, manuscripts and religious books passed down through generations within the Yazidi community were burned, an act that academic reports have deemed a deliberate attempt to erase the group's cultural and religious identity .(Harmanşah, 2015)

Legal literature suggests that this type of destruction can be classified as "cultural genocide," although the term was not formally included in the 1948 Convention. However, many scholars argue that it should be recognized as an integral part of the crime of genocide (Novic, 2016) Legally, all these acts fall under the definition of genocide according to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Article II of the Convention states that genocide is committed when any of the following acts are carried out with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group: killing; causing serious bodily or mental harm; deliberately inflicting on the group conditions of life conducive to human destruction; imposing measures intended to prevent births within the group; and forcibly transferring children and other members of the group. In the case of the Yazidis, all of these acts were committed deliberately and systematically. For example, the mass killings in Sinjar fall under paragraph (a), sexual slavery and rape fall under paragraph (b), the siege of Mount Sinjar falls under paragraph (c), and the abduction of children falls under paragraph (e). (Schabas, 2009)

The Independent International Commission of Inquiry on Syria has confirmed that what ISIS committed against the Yazidis constitutes genocide, not only in terms of the nature of the crimes, but also due to the group's clear intent to eliminate the Yazidi religious community. This intent was evident in the propaganda speeches issued by the group's leaders, which labeled the Yazidis as "apostates" who must be killed or enslaved .(United Nations Human Rights Council, 2016) Some European courts, such as the Frankfurt Higher Regional Court, have considered these crimes to amount to genocide, in an important legal precedent that has strengthened international recognition of the legal nature of these crimes .(Judgment, Case No. 5-3, 2021)Survivors' testimonies added a human dimension to this tragedy. Women and girls who managed to escape recounted details of systematic sexual violence and harsh captivity conditions, while men spoke of losing their entire families in mere moments. These testimonies played a pivotal role in bolstering international investigations and academic research, providing direct evidence of the systematic and deliberate nature of these crimes.(Murad, 2017)

Psychological studies have also confirmed that survivors suffer from high levels of post-traumatic stress disorder and depression, further indicators of the profound and lasting impact of these crimes on the entire community .(Ibrahim et al., 2018)

In conclusion, it is clear that the crimes committed against the Yazidis in 2014 were not isolated incidents or random violations, but rather constituted a coherent system of systematic acts that clearly meet the criteria for the crime of genocide as defined by international law. Mass killings, enslavement, forced displacement, abduction of children, and the cultural and religious destruction of Yazidi shrines were all carried out with the explicit intent to eliminate a specific religious group. Therefore, classifying these

acts as genocide is not merely a legal or academic matter, but a fundamental requirement for achieving justice, ensuring criminal accountability, and preventing the recurrence of such crimes in the future.

II. Judicial Remedies at the National Level.

Since ISIS invaded Sinjar district on August 3, 2014, and the subsequent atrocities committed against the Yazidis, including murder, displacement, and sexual slavery, the Iraqi judiciary has found itself facing a historic challenge: holding the perpetrators of these crimes accountable and providing compensation to the victims. However, the judicial process has been characterized by a disparity between the criminal track related to the trial of ISIS members and the civil track related to compensating and rehabilitating the victims.

First: The criminal track

In most of its trials against ISIS members, Iraqi courts relied on the Anti-Terrorism Law No. 13 of 2005, which punishes with death or life imprisonment anyone who belongs to, assists, or finances a terrorist organization .(Counter-Terrorism Law No. 13, Republic of Iraq, 2005) This has led to the majority of crimes committed against the Yazidis being described simply as "terrorism," without the term "genocide" being used in the rulings, despite overwhelming evidence that ISIS's actions aimed to eliminate an entire religious group. For example, the Nineveh Criminal Court began hearing cases related to the Kocho massacre in 2017, where ISIS executed approximately 600 Yazidi men and buried them in mass graves, while women and children were taken to camps for sexual slavery. The court issued death sentences by hanging for a number of Iraqi defendants proven to have participated in the killings, while sentencing others to life imprisonment, but it did not classify the crimes as genocide .(United Nations Investigative

Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD), 2020)

The court also ruled in cases related to the villages of Tal Afar and Baaj, where defendants were convicted of mass murder and the forced displacement of dozens of Yazidi families. Some of the verdicts were issued in 2018 and 2019, including a death sentence for an ISIS member known as "Abu Walid al-Iraqi" after he was found guilty of running a prison for Yazidi women.(Human Rights Watch, 2017)

In 2018, the Baghdad Criminal Court sentenced ISIS members to life imprisonment after convicting them of displacing Yazidi families from Sinjar to Mosul. However, the court only classified the acts as acts of terrorism and did not classify them as crimes against humanity .(Human Rights Watch, 2017)In July 2024, the court sentenced Asma Mohammed Hassan, the former wife of ISIS leader Abu Bakr al-Baghdadi, to death after convicting her of participating in the enslavement of Yazidi women and their transfer between the organization's homes. This ruling was a significant step because it included the characterization of the crimes as genocide and crimes against humanity, and it was the first Iraqi ruling to officially document this crime against the Yazidis.(Reuters, 2024)

In 2018, the Central Criminal Court in Baghdad sentenced a German woman of Moroccan origin to death after convicting her of joining ISIS, making her the first foreign woman to be sentenced to death in Iraq for her ties to the organization. The court based its ruling on Article 4 of the Counter-Terrorism Law No. 13 of 2005, merely classifying the acts as terrorist crimes without classifying them as crimes against humanity or genocide. This sparked widespread criticism from human rights organizations and calls for reform of the legal framework for accountability. Between 2017

and 2021, courts in Baghdad and Nineveh also considered cases involving foreign fighters from France, Turkey, and Russia who had joined ISIS. Some received death sentences, such as the Frenchwoman Lamia B., sentenced in 2018, while others were sentenced to life imprisonment. Despite the gravity of their involvement in the enslavement of Yazidi women, the rulings did not classify the crimes as genocide, prompting international organizations to call for alternative international trials. (Rudaw, 2018)

In the same context, Iraqi courts continued to hear cases against hundreds of foreign fighters affiliated with ISIS throughout 2018. The judiciary announced that it had tried 616 individuals, including 466 women and 108 minors. More than 300 were sentenced to death, while over 300 others received life sentences. These individuals came from various nationalities, most notably Turkey and the former Soviet republics, in addition to France, Germany, Belgium, and Russia. Three French nationals (one man and two women) were sentenced to life imprisonment, while a German woman, a Belgian man, and a Russian man were convicted and sentenced to death. Despite the gravity of the acts, the Iraqi judiciary continued to classify the crimes as acts of terrorism. (NDTV, 2018)

International press reports have detailed the trials of foreign fighters who joined ISIS. In 2019, the British newspaper The Guardian highlighted the case of Frenchman Mustafa Marzouki, who was tried before the Central Criminal Court in Baghdad on charges of joining the organization and providing it with logistical support. His trial concluded with a death sentence under Article 4 of the Counter-Terrorism Law No. 13 of 2005. The report raised serious questions about fair trial standards, particularly given the continued near-exclusive reliance on the Counter-Terrorism Law

without classifying the crimes as genocide or crimes against humanity(Foltyn, 2019)

Despite the importance of the trials conducted by Iraqi courts against ISIS members, there are legal concerns regarding their operational mechanisms. It has been observed that the judiciary relied primarily on the Counter-Terrorism Law No. 13 of 2005 in defining the acts, without expanding the application of international legal frameworks pertaining to crimes against humanity or genocide. This has limited the symbolic value of these trials in documenting the scale of the violations committed against the Yazidi community, especially given the complexity of these cases and the involvement of both local and foreign parties. Furthermore, victims have limited access to criminal and civil justice mechanisms, necessitating the development of a more comprehensive legislative and judicial framework that reflects the exceptional nature of these crimes.

Second: The Civil Track

Iraq enacted Law No. 20 of 2009, the Compensation Law for Victims of Terrorist Operations and Military Errors (Law No. 20 of 2009: Compensation for Victims of Military Operations, Military Mistakes, and Terrorist Actions, 2009)Initiated to provide a legal framework enabling victims to obtain compensation for losses suffered as a result of armed conflict, the law was later amended to broaden the scope of beneficiaries. This law, along with the 2021 Yazidi Survivors Law, established a formal mechanism for submitting compensation claims to specialized judicial committees in the provinces, with the possibility of appealing their decisions to the courts of appeal. Although thousands of victims from the Yazidi community and others have submitted compensation claims, and some have partially benefited from these laws, the practical results remain limited compared to

the scale of the losses. The procedures have been extremely slow and bureaucratically complex, preventing most victims from receiving effective redress.

In this context, Human Rights Watch noted in its 2023 report that Iraqi authorities have failed to effectively disburse compensation despite receiving thousands of applications. Since the opening of the Sinjar Compensation Subcommittee in 2021, more than 10,500 applications have been submitted, but only a limited number have been disbursed so far, due to procedural delays in Nineveh and Baghdad. The report highlighted that beneficiaries face complex documentation requirements, forcing some to pay exorbitant sums to complete the process, while the compensation amounts do not reflect the actual extent of the losses. For example, an affected individual might receive only ten million dinars for property valued at over fifty million(Human Rights Watch, 2023)

Under the amended Law No. (20) of 2009, the Nineveh Court of Appeals has approved more than (63,000) compensation claims since June 2020 for damages resulting from terrorist operations and the war against ISIS, with a maximum value of (30) million Iraqi dinars per claim. Higher claims are referred to the federal government. However, the disbursement of these compensations has been hampered by procedural delays and insufficient funding, despite the urgent need to rebuild approximately (250,000) damaged homes in Mosul alone. The compensation stipulated by the law covers victims of human and material losses, with families of martyrs and the wounded receiving financial payments and monthly stipends. However, the extent of the damage on the ground far exceeds the allocated funds(KirkukNow, 2023)

On March 1, 2021, the Iraqi parliament passed the Yazidi Survivors Law following a local and international lobbying campaign. The law recognizes the crimes committed against Yazidi women as

genocide and grants survivors monthly stipends, land for housing, priority in employment, and health and psychological support. (Rudaw, 2024)

By the end of 2024, the number of beneficiaries had exceeded 2,200 survivors, but estimates from organizations indicate that more than 6,000 women were subjected to sexual slavery by ISIS, meaning that a significant percentage have not yet received their rights. The law has also been criticized for being limited to women and not including men and children who were also subjected to mass killings and abduction(.Rudaw, 2024)The head of the Nineveh Court of Appeals pointed out that the most significant obstacle lies in the absence of investigation files for approximately 1,400 survivors residing outside Iraq, which has prevented them from benefiting from the provisions of the law. This legislation grants survivors from the Yazidi community and other groups (Turkmen, Christians, and Shabak) a monthly stipend of one million Iraqi dinars, in addition to psychological and social support. The court also addressed another aspect of the conflict's impact: the smuggling and destruction of antiquities. ISIS destroyed prominent archaeological sites such as Nimrud, Hatra, and the Al-Hadba Minaret, and smuggled thousands of artifacts to finance its activities. Iraqi authorities have so far succeeded in recovering approximately 3,817 artifacts from several countries.(KirkukNow, 2023)

In 2023, Amnesty International noted that many survivors had not received salaries or land due to bureaucratic red tape and insufficient funding, rendering the law incomplete. The Iraqi judiciary was criticized for focusing on punitive deterrence through death sentences but failing to achieve symbolic justice for victims by classifying the crimes as genocide. Furthermore, compensation programs addressed only limited material needs while neglecting

essential psychosocial support. Field studies have shown that survivors of sexual violence perpetrated by ISIS suffer from severe social stigma, preventing many from accessing appropriate medical and psychological care. Some, after disclosing their experiences, have been ostracized by their husbands or families, deepening their sense of isolation. Researchers indicate that the lack of structured psychosocial support has hindered the reintegration of survivors into their communities and weakened the prospects for long-term social reconciliation (Louise Monique Janssens, 2018)

Poor coordination between Iraqi authorities and the United Nations investigative team (UNITAD) has also slowed the integration of international evidence into trials, even though the team has documented hundreds of mass graves and files of sexual slavery (United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD), 2020)

In the Kurdistan Region, however, no large-scale trials were held for ISIS members responsible for crimes against the Yazidis, as jurisdiction remained with the federal courts in Baghdad and Mosul. Nevertheless, the courts in Duhok and Erbil played a crucial role in documenting the testimonies of survivors, in cooperation with the United Nations Investigative Team (UNITAD), which documented hundreds of mass graves and cases of sexual slavery. On the civilian front, the region received tens of thousands of displaced Yazidis in camps in Duhok, Erbil, and Zakho, providing them with essential humanitarian assistance in coordination with UN agencies such as UNHCR and UNICEF. The regional government also established specialized psychosocial support programs for survivors, most notably the Layla Qasim Center in Duhok, which provided safe spaces for psychological treatment and rehabilitation in collaboration with local and international

organizations such as Yazda and Doctors Without Borders. Furthermore, the regional authorities worked with international human rights organizations to highlight the demands of survivors and to advocate for the recognition of ISIS crimes as genocide in international forums (Human Rights Watch, 2017)

Thus, we can say that the Iraqi judiciary has made tangible efforts at both the criminal and civil levels to address crimes against the Yazidis, but it still lacks a comprehensive legal framework that allows for the crimes to be accurately classified as genocide. Furthermore, while compensation programs are important, they remain insufficient and incomplete, and psychological and social support is almost entirely absent. This necessitates broader legislative and institutional reforms to guarantee justice for the victims.

III. Judicial Remedies at the International Level

The case for holding perpetrators of crimes against the Yazidis accountable since 2014 has witnessed the emergence of a complex international legal process. This process encompasses European courts that have applied the principle of universal jurisdiction, UN mechanisms that have sought to document the crimes and present evidence, and legal initiatives to establish a special tribunal. While this process has extended national efforts in Iraq, it has been distinguished by clearer steps toward classifying the crimes as genocide and crimes against humanity, thus granting the victims long-awaited legal recognition.

First: European Courts and Universal Jurisdiction

Germany has been the most active country in prosecuting ISIS terrorists and their associates based on the principle of universal jurisdiction enshrined in the German International Crimes Act (VStGB). On November 30, 2021, the Frankfurt Higher Regional Court (Oberlandesgericht Frankfurt am Main) issued a landmark

ruling against Iraqi Taha al-Jumaili, an ISIS member, sentencing him to life imprisonment after convicting him of genocide against the Yazidis, along with crimes against humanity, war crimes, and membership in a foreign terrorist organization. The case dates back to 2015 when the defendant bought a five-year-old Yazidi girl and her mother from a slave market in Fallujah. He forced the mother to do housework and subjected the child to cruel punishment by tying her up in the yard under the scorching sun until she died of thirst. The court found that this crime was not an isolated act but part of a systematic campaign waged by ISIS to eliminate the Yazidi community as a religious group, thus constituting the material and moral elements of the crime of genocide under the German Crimes Against International Law Act (VStGB). This ruling represents the first conviction in the world to classify ISIS's crimes against the Yazidis as genocide, thereby strengthening international legal recognition of the genocidal nature of these crimes and confirming the possibility of prosecuting the perpetrators before European national courts based on the principle of universal jurisdiction. (Oberlandesgericht Frankfurt, Case No. 5-3, 2021)

On October 25, 2021, the Higher Regional Court of Munich (Oberlandesgericht München) in Germany sentenced Jennifer W., the wife of Taha al-Jumaili and a member of ISIS, after convicting her of participating in the enslavement of Yazidi women and girls and in the murder of the aforementioned Yazidi child. The court found her actions to constitute crimes against humanity, in addition to her membership in a foreign terrorist organization. She was initially sentenced to ten years in prison, but after an appeal and retrial in August 2023, the sentence was increased to fourteen years. This case highlights how the German judiciary has treated women returning from ISIS as principal perpetrators of crimes, not

merely “followers” or “wives,” reflecting a growing trend in European judicial practice toward holding all those involved in international crimes accountable, regardless of their roles within the organization.(Oberlandesgericht München., 2021)

The trials in Germany did not stop at these two cases, but also included other defendants involved in the enslavement of Yazidi women or in supporting ISIS's logistical infrastructure. These trials affirmed the role of the German judiciary in establishing the principle of no impunity for international crimes, while also granting the Yazidis official legal recognition that what they endured constituted genocide.

In another landmark ruling by Germany’s Koblenz Higher Regional Court, Nadine K. was sentenced to nine years and three months in prison for her role in the enslavement and torture of a young Yazidi woman. She failed to intervene to stop the abuses committed by her husband, thereby supporting ISIS’s genocidal goals against the Yazidis. The victim appeared in court as a “co-plaintiff,” with legal support from Amal Clooney, Sonka Mehner, and Natalie von Westinghausen. The Yazda organization played a pivotal role in securing her participation.(Doughty Street Chambers, 2023)

Another similar case is that of Jalda A., a German citizen who joined ISIS in Syria in 2014. She was later convicted in July 2022 by a German court of aiding and abetting genocide, crimes against humanity, and war crimes, after she enslaved and tortured a young Yazidi woman. She was sentenced to 5 years and 6 months in prison.(Ewelina U. Ochab, 2022)

The trials were not limited to Germany. In 2022, Sweden saw the trial of a Swedish woman who had returned from Syria after being found guilty of participating in the enslavement of Yazidi girls in Raqqa between 2014 and 2016. The Stockholm District Court

adopted the characterization of "genocide," making Sweden the second European country, after Germany, to use this legal framework. The court found that the woman was aware of ISIS's intent to eliminate the Yazidis as a religious group, and that her actions—detaining women and children, forcing them into labor, and compelling them to convert to Islam—were part of this systematic campaign. She was sentenced to 12 years in prison, a significant step toward strengthening international justice for Yazidi victims and affirming that crimes against the Yazidis are not merely individual acts of terrorism but fall under the purview of international humanitarian law(.Reuters, 2025)

In France, judicial authorities faced complex legal and political challenges in dealing with ISIS fighters returning from conflict zones. While some trials were held against fighters and their family members, most of these cases were handled under anti-terrorism laws, without classifying the acts as genocide or crimes against humanity. This approach drew criticism from French and international human rights organizations, which argued that limiting the definition to "terrorism" diminishes the symbolic dimension of justice for Yazidi victims.

However, there is one significant exception: the case of Frenchman Sabri Asid, also known as Abu Dujana al-Faransi. In October 2024, the War Crimes Unit in Paris decided to indict Asid on charges of genocide and crimes against humanity committed against Yazidi women and children in Syria between 2014 and 2016. Asid is accused of murder, enslavement, imprisonment, torture, rape, and persecution, as well as complicity in these crimes during 2015. Although he is believed to have been killed in Syria in 2018, French courts have determined that he can be tried in absentia, a procedure followed in many terrorism cases. Human rights organizations such as the International Federation for Human Rights (FIDH), the

French League for Human Rights (LDH), and Kinyat played a crucial role in gathering evidence and testimonies, and in providing legal support to victims who agreed to testify before the French courts. This trial is an important step towards combating impunity for major international crimes and delivering justice to the Yazidi victims.(International Federation for Human Rights (FIDH), 2024) In Sweden, on February 11, 2025, the Stockholm District Court sentenced Lina Ishaq, a Swedish citizen of Iraqi origin, after convicting her of genocide, crimes against humanity, and serious war crimes against Yazidi women and children during her time with ISIS in Syria. The court found that Ishaq voluntarily traveled to Syria in 2013 with her family to join ISIS and that she participated in the enslavement of nine Yazidis, including seven children, whom she held captive in her home, forcing them into labor and religious practices, and selling them as sex slaves. According to the verdict, these acts were part of ISIS's systematic campaign to exterminate the Yazidi community. The court sentenced her to 12 years in prison and ordered her to pay 150,000 Swedish kronor (approximately US\$14,700) in compensation to each victim. This is the first case of its kind in Sweden in which the characterization of genocide has been adopted against the Yazidi victims of ISIS, reflecting an evolution in the application of international humanitarian law at the national level(Hofverberg, 2025)

On December 11, 2024, a Dutch court in The Hague sentenced Hesna Arab, a 33-year-old Dutch citizen, to 10 years in prison after convicting her of belonging to ISIS and participating in the enslavement of a Yazidi woman between 2015 and 2016 while living in Raqqa, Syria, with her ISIS terrorist husband and her young son. The victim, known as "Z.," was forced to work in the family's home and was subjected to sexual exploitation. The court

considered these acts to be part of a widespread and systematic attack on the Yazidi community, describing them as among the most serious possible international crimes. She was also convicted of joining a terrorist organization, enabling terrorist acts, and endangering the life of her child(Reuters, 2024)

The trials of ISIS crimes against the Yazidis represent a significant development in the field of international justice. The European legal community is relying on a hybrid (national/international) model to ensure accountability, serving two purposes: deterring perpetrators through prosecution and granting victims symbolic justice through official recognition of their suffering. These proceedings collectively affirm that ISIS crimes constitute grave violations of international law, reinforcing the principle of accountability and laying the foundation for justice for targeted minorities.

Second: The Role of the United Nations.

The United Nations played a significant role in documenting the crimes committed by the ISIS terrorist organization against the Yazidis through several mechanisms. In 2017, the Security Council established the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD), which focused on collecting forensic evidence related to mass graves, sexual slavery, and the recruitment of child soldiers. The team collected thousands of documents and testimonies proving that ISIS committed genocide and crimes against humanity against the Yazidis(.United Nations Team Investigating Da'esh/ISIS (UNITAD), 2024) The UN Human Rights Council also issued a report entitled They Came to Destroy: ISIS Crimes Against the Yazidis, which concluded that ISIS committed genocide against the Yazidis. This report later became an important legal reference

for European courts, particularly in Frankfurt and Munich(United Nations Human Rights Council, 2016)

In 2017, the UN Security Council established the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD), at the request of the Iraqi government. The team's objective was to gather evidence related to potential crimes such as war crimes, crimes against humanity, and genocide committed by Da'esh/ISIL against the Yazidis and other communities in Iraq. Despite the team collecting thousands of pieces of evidence and testimonies, the Iraqi government requested in 2024 that UNITAD's mandate be terminated(United Nations Security Council, 2024)

Calls are growing for the establishment of an international tribunal to try ISIS fighters in Europe, given the difficulties European countries face in dealing with the hundreds of European terrorist fighters who joined ISIS and their families detained by the Syrian Democratic Forces (SDF) in northeastern Syria. Reports indicate that European fighters constitute a small fraction of those detained, and European countries are hesitant to repatriate them due to the difficulty of prosecuting them domestically and the potential security risks. While the idea of an international tribunal is appealing from a criminal justice perspective, it faces significant challenges. These include defining the scope of crimes the tribunal would cover—whether only ISIS crimes, all jihadist groups, or all crimes committed in Syria—and determining its location. Establishing an international tribunal in an area controlled by a non-state actor without the Syrian government's consent appears difficult, leading to the consideration of Iraq as a possible location. The tribunal could be purely international or a hybrid (Iraqi-international), but it faces constitutional challenges in Iraq, as well as complications related to the potential application of the death

penalty, which is unacceptable to European countries. Establishing the tribunal would be a lengthy and costly process, and it would not address the issue of all detained European fighters. Furthermore, the United States appears opposed to the idea, which could complicate the adoption of a resolution through the Security Council. Overall, the European ambition to create an international tribunal remains more political than a concrete action plan, and European states should not hinder their efforts to find other solutions for dealing with detainees. Ultimately, an international tribunal could ensure that those primarily responsible for ISIS crimes are held accountable, but it would not be a complete solution to the problem of European fighters detained in Syria. (Dworkin, 2019)

Despite political and legal challenges, the United Nations played a pivotal role in documenting the crimes committed by ISIS against the Yazidis through the establishment of UNITAD, the collection of forensic evidence, and the publication of reports such as "They Came to Destroy," which have been adopted by European courts. While national and international courts may have limited capacity to prosecute all those responsible, these efforts have contributed to the formal recognition of genocide and crimes against humanity, providing victims with legal and symbolic recognition and paving the way for future initiatives to promote international justice and accountability.

Conclusions

1. The prosecution of ISIS crimes in Iraqi courts was primarily limited to the counter-terrorism law, with a clear disregard for applying the frameworks of crimes against humanity and genocide as defined in international law. This deficiency diminished the symbolic value of the trials and obscured a full recognition of the scale of the crimes committed against the Yazidis.
2. Compensation programs for victims faced significant obstacles, including severe bureaucratic delays, insufficient funding, and difficulty for victims to access the courts. These obstacles combined deprived the vast majority of victims of any material or moral compensation commensurate with their suffering.
3. Courts in several European countries, such as Germany and Sweden, played a pivotal role in bridging the gap left by the domestic approach. They explicitly recognized these crimes as genocide and crimes against humanity, thus providing victims with international legal recognition and reinforcing the principle of no impunity for perpetrators.
4. The lack of organized psychosocial support, particularly for Yazidi women survivors of sexual slavery, exacerbated their suffering. This neglect increased their social stigma and isolation, significantly hindering their chances of community reconciliation and effective reintegration.
5. The efforts of the United Nations and the UNITAD team were crucial in accurately documenting the crimes, collecting forensic evidence, and documenting mass graves and crimes of sexual slavery. These efforts contributed significantly to advancing international justice, despite the considerable challenge of not being able to prosecute all those responsible.

Recommendations

1. Iraqi laws must be amended to broaden the definition of crimes, explicitly including genocide and crimes against humanity, and local trials must be conducted in accordance with relevant international standards.
2. Complex bureaucratic procedures must be streamlined, financial allocations for compensation increased, and the base of beneficiaries expanded to ensure that all victims are included without exception, including men and children from all affected communities.
3. Comprehensive and sustainable national programs must be established to provide psychological treatment and social rehabilitation, taking into account the cultural specificities of local communities to mitigate social stigma and support the effective reintegration of survivors.
4. Ongoing coordination mechanisms between the Iraqi government and international organizations, such as UNITAD and European courts, must be strengthened to ensure the use of international evidence in local judicial proceedings and to achieve more comprehensive justice for victims.
5. The possibility of establishing an international or hybrid court to prosecute senior ISIS officials must be explored, with a focus on ensuring effective accountability and preventing impunity, while considering potential legal and political obstacles.

References

- I. Law No. 20 of 2009: Compensation for Victims of Military Operations, Military Mistakes, and Terrorist Actions (2009).
- II. Adam Jones. (2006). *Genocide: A Comprehensive Introduction* (3th ed.). Routledge.
- III. Ahmad, A.-N., & Langer, P. C. (2024). Through Their Eyes: Contextualized Analysis of Drawings by Former ISIS Child Soldiers in Iraq. *Social Inclusion*, 12. <https://doi.org/10.17645/si.8672>
- IV. Ahmed, D. R., & Heun, R. (2023). The prevalence of psychiatric disorders among Yazidi people results from ISIS invasion and consecutive trauma: A systematic review. *Asian Journal of Psychiatry*, 88, 103703. <https://doi.org/10.1016/j.ajp.2023.103703>
- V. Ali, M., & Mho, A. (2018). Sabī al-nisā' al-'Izīdīyāt wa 'istib'ādihun minthu al-'ahd al-'uthmānī 1514 'ilā ghazū Dā'ish li Sinjār 2914 [The captivity and slaves of Yazidi women from the Ottoman Empire in 1814 to the invasion of Sinjar by ISIS 2014)]. *SSRN Electronic Journal*, 10, 76–106.
- VI. Alison Hopkins. (2010). Defining the Protected Groups in the Law of Genocide: Learning from the Experience of the International Criminal Tribunal for Rwanda. *Dalhousie Journal of Legal Studies*, 19(1), 33–36. <https://digitalcommons.schulichlaw.dal.ca/djls/vol19/iss2/2/>
- VII. Allison, C. (2017). The Yazidis. In *Oxford Research Encyclopedia of Religion*. Oxford University Press. <https://doi.org/10.1093/acrefore/9780199340378.013.254>
- VIII. Al-Zeer, D. H. (2024). The International Court of Justice and the Case of Genocide in the Gaza Strip/Palestine.

- EL BIBANE Journal for Legal and Political Studies*, 9(2), 187–222. <https://asjp.cerist.dz/en/article/257850>
- IX. Ambos, K. (2009). What does ‘intent to destroy’ in genocide mean? *International Review of the Red Cross*, 91(876), 833–858. <https://doi.org/10.1017/S1816383110000056>
- X. Amnesty International. (2014). *Escape from hell: Torture and sexual slavery in Islamic State captivity in Iraq*. <https://www.amnesty.org/en/documents/mde14/021/2014/en/>
- XI. Aydin, D. (2014). The Interpretation of Genocidal Intent under the Genocide Convention and the Jurisprudence of International Courts. *The Journal of Criminal Law*, 78(5), 423–441. <https://doi.org/10.1350/jcla.2014.78.5.943>
- XII. Cassese, A., & Gaeta, P. (2013). *Cassese’s International Criminal Law*. Oxford University Press. <https://doi.org/10.1093/he/9780199694921.001.0001>
- XIII. Cetorelli, V., Sasson, I., Shabila, N., & Burnham, G. (2017). Mortality and kidnapping estimates for the Yazidi population in the area of Mount Sinjar, Iraq, in August 2014: A retrospective household survey. *PLOS Medicine*, 14(5), e1002297. <https://doi.org/10.1371/journal.pmed.1002297>
- XIV. Clark, J. N. (2015). Elucidating the Dolus Specialis: An Analysis of ICTY Jurisprudence on Genocidal Intent. *Criminal Law Forum*, 26(3–4), 497–531. <https://doi.org/10.1007/s10609-015-9260-5>
- XV. Counter-Terrorism Law No. 13, Republic of Iraq (2005). https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq?utm_source=chatgpt.com

- XVI. Cox, B. (2020). Recklessness, Intent, and War Crimes: Refining the Legal Standard and Clarifying the Role of International Criminal Tribunals as a Source of Customary International Law. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3703858>
- XVII. Doughty Street Chambers. (2023, June 21). *German court delivers third genocide verdict against ISIS member for the enslavement and abuse of Yazidi woman in Syria and Iraq*. <https://www.doughtystreet.co.uk/news/german-court-delivers-third-genocide-verdict-against-isis-member-enslavement-and-abuse-yazidi>
- XVIII. Dworkin, A. (2019, May 21). A tribunal for ISIS fighters? *European Council on Foreign Relations*. https://ecfr.eu/article/commentary_a_tribunal_for_isis_fighters/
- XIX. El-Masri, S. (2018). Prosecuting ISIS for the sexual slavery of the Yazidi women and girls. *The International Journal of Human Rights*, 22(8), 1047–1066. <https://doi.org/10.1080/13642987.2018.1495195>
- XX. Ewelina U. Ochab. (2022, August 2). How one Yazidi woman helped to secure the second genocide conviction of a Daesh member. *Forbes*. <https://www.forbes.com/sites/ewelinaochab/2022/08/02/how-one-yazidi-woman-helped-to-secure-the-second-genocide-conviction-of-a-daesh-member>
- XXI. Foltyn, S. (2019, June 2). Inside the Iraqi courts sentencing foreign ISIS fighters to death. *Guardian News & Media Limited*. <https://www.theguardian.com/world/2019/jun/02/inside-the-iraqi-courts-sentencing-foreign-isis-fighters-to-death>

- XXII. Harmanşah, Ö. (2015). ISIS, Heritage, and the Spectacles of Destruction in the Global Media. *Near Eastern Archaeology*, 78(3), 170–177. <https://doi.org/10.5615/neareastarch.78.3.0170>
- XXIII. Hofverberg, E. (2025, March 17). Sweden: Woman convicted for international crimes against Yazidis in Syria and Iraq. *Global Legal Monitor, Law Library of Congress*. <https://www.loc.gov/item/global-legal-monitor/2025-03-17/sweden-woman-convicted-for-international-crimes-against-yazidis-in-syria-and-iraq>
- XXIV. Human Rights Watch. (2017). *Flawed Justice: Accountability for ISIS Crimes in Iraq*.
- XXV. Human Rights Watch. (2023, May 9). Iraq: Compensation Law Fails Yazidi Survivors. *Human Rights Watch*. <https://www.hrw.org/ar/news/2023/05/09/iraq-compensation-isis-victims-too-little-too-late>
- XXVI. Ibrahim, H., Ertl, V., Catani, C., Ismail, A. A., & Neuner, F. (2018). Trauma and perceived social rejection among Yazidi women and girls who survived enslavement and genocide. *BMC Medicine*, 16(1), 154. <https://doi.org/10.1186/s12916-018-1140-5>
- XXVII. International Criminal Court. (2013). *Elements of Crimes*. International Criminal Court. <https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf>
- XXVIII. International Federation for Human Rights (FIDH). (2024). *A hope for justice for Yezidi victims: French national Sabri Essid to stand trial for genocide and crimes against humanity*. Fédération Internationale des Ligues des Droits de l'Homme. <https://www.fidh.org/en/region/north-africa->

- middle-east/syria/syria-french-national-sabri-essid-to-stand-trial-for-genocide-and
- XXIX. Judgment, Case No. 5-3 (November 30, 2021).
- XXX. KirkukNow. (2023, April 27). Nineveh court approves over 63,000 compensation claims for ISIS war victims. *KirkukNow*. <https://kirkuknow.com/en/news/69380>
- XXXI. Kizilhan, J. I. (2017). The Yazidi—Religion, Culture and Trauma. *Advances in Anthropology*, 07(04), 333–339. <https://doi.org/10.4236/aa.2017.74019>
- XXXII. Kress, C. (2007). The International Court of Justice and the Elements of the Crime of Genocide. *European Journal of International Law*, 18(4), 619–629. <https://doi.org/10.1093/ejil/chm039>
- XXXIII. Louise Monique Janssens. (2018). *TRANSITIONAL JUSTICE IN IRAQ Justice and reconciliation for the Yazidi minority in northern Iraq for crimes committed by ISIS*. UNIVERSITY OF VIENNA.
- XXXIV. Mangku, D. G. S., Yuliartini, N. P. R., Gayatri, A. N., & Monteiro, S. (2022). Crimes of Genocide in the Viewpoint of International Criminal Law. *IJCLS (Indonesian Journal of Criminal Law Studies)*, 7(1), 27–54. <https://doi.org/10.15294/ijcls.v7i1.34648>
- XXXV. Muhammad Usman, S. (2022). History of Yazidi Genocides, Mass Atrocities, Forced Conversions and Persecutions in the Middle East. *Journal of Kurdistan for Strategic Studies*. <https://doi.org/10.54809/jkss.viSpecial.138>
- XXXVI. Murad, N. (2017). *The last girl: My story of captivity, and my fight against the Islamic State*. Tim Duggan Books.
- XXXVII. NDTV. (2018, December 31). *Iraq sentences more than 600 foreign ISIS fighters in 2018*.

- <https://www.ndtv.com/world-news/iraq-sentenced-616-foreigners-for-isis-links-in-2018-1970612>
- XXXVIII. Nicolaus, P. (2012). The Yezidis. The History of a Community, Culture and Religion. *Iran and the Caucasus*, 16(1), 129–133.
<https://doi.org/10.1163/160984912X13309560274253>
- XXXIX. Novic, E. (2016). *The Concept of Cultural Genocide*. Oxford University Press.
<https://doi.org/10.1093/acprof:oso/9780198787167.001.0001>
- XL. Orpak, O. (2021). A DESCRIPTIVE EFFORT ON THE OTTOMANS-YEZIDIS' UNJUST RELATIONS: A RELATIONSHIP IN THE SHADE OF VIOLENCE. *Kurdiname*, 5, 1–20.
<https://dergipark.org.tr/en/pub/kurdiname/issue//954235>
- XLI. Palević, M., Milisavljević, B., & Spalević, Ž. (2019). Actus reus of genocide and types of genocidal destruction. *Ekonomika*, 65(4), 63–73.
<https://doi.org/10.5937/ekonomika1904063P>
- XLII. Prosecutor v. Jean-Paul Akayesu (Case No. ICTR-96-4-T) (1998). <https://unictr.irmct.org/en/cases/ictr-96-4>
- XLIII. Prosecutor v. Jean-Paul Akayesu (Case No. ICTR-96-4-T) (December 2, 1998).
- XLIV. Prosecutor v. Jennifer W. (October 2021).
- XLV. Reuters. (2024a, July 10). *Iraq issues death sentence against wife of late Islamic State leader*. Reuters.
<https://www.reuters.com/world/middle-east/iraq-issues-death-sentence-against-wife-late-islamic-state-leader-2024-07-10/>
- XLVI. Reuters. (2024b, December 11). Dutch woman jailed for 10 years for keeping Yazidi slave in Syria. *Reuters*.

- <https://www.reuters.com/world/europe/dutch-woman-jailed-10-years-keeping-yazidi-slave-syria-2024-12-11/>
- XLVII. Reuters. (2025, February 11). Sweden sentences woman to 12 years in prison for genocide and war crimes. *Reuters*. <https://www.reuters.com/world/europe/sweden-sentences-woman-12-years-prison-genocide-war-crimes-syria-2025-02-11/>
- XLVIII. Rome Statute of the International Criminal Court, United Nations (1998).
- XLIX. Rudaw. (2018, January 21). Iraqi court sentences first foreign woman affiliated with ISIS to death. *Rudaw*. <https://www.rudaw.net/english/middleeast/iraq/21012018>
- L. Rudaw. (2024, December 29). Iraq pays salaries to over 2,000 Yazidi ISIS survivors. *Rudaw*. <https://www.rudaw.net/english/middleeast/iraq/29122024>
- LI. Schabas, W. A. (2009). *Genocide in International Law*. Cambridge University Press. <https://doi.org/10.1017/CBO9780511575556>
- LII. Spät, E. (2018). Changing Perceptions of Yaz?d ibn Mu??wiya in Yezidi Oral Tradition. *Numen*, 65(5–6), 562–588. <https://www.jstor.org/stable/26566272>
- LIII. Spät, E. (2018). Yezidi Identity Politics and Political Ambitions in the Wake of the ISIS Attack. *Journal of Balkan and Near Eastern Studies*, 20(5), 420–438. <https://doi.org/10.1080/19448953.2018.1406689>
- LIV. Statute of the International Criminal Tribunal for Rwanda, United Nations (1994).
- LV. Statute of the International Tribunal for the Former Yugoslavia, United Nations (1993).
- LVI. Triffterer, O. (2001). Genocide, Its Particular Intent to Destroy in Whole or in Part the Group as Such. *Leiden*

- Journal of International Law*, 14(2), 399–408.
<https://doi.org/10.1017/S0922156501000206>
- LVII. (UNAMI & OHCHR, : 6 July – 10 September 2014, 2014). (2014). *Report on the Protection of Civilians in Armed Conflict in Iraq*.
<https://www.ohchr.org/en/documents/country-reports/report-protection-civilians-non-international-armed-conflict-iraq-6-july>
- LVIII. United Nations. (1948). *Convention on the Prevention and Punishment of the Crime of Genocide*.
- LIX. United Nations General Assembly. (1946). *Resolution 96(I) on the Prevention and Punishment of the Crime of Genocide*.
- LX. United Nations Human Rights Council. (2016). *They came to destroy”: ISIS crimes against the Yazidis*. A/HRC/32/CRP.2
- LXI. United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL (UNITAD). (2020a). *Fifth report of the Special Adviser and Head of the Investigative Team*.
- LXII. United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL (UNITAD). (2020b). *Fifth report of the Special Adviser and Head of the Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL (UNITAD)*.
<https://undocs.org/S/2020/386>
- LXIII. United Nations Security Council. (2016). *Report of the Secretary-General on conflict-related sexual violence*. S/2016/361

- LXIV. United Nations Security Council. (2024). *Report of the Secretary-General on the Situation in Iraq*.
<https://docs.un.org/ar/S/2024/20>
- LXV. United Nations Team Investigating Da'esh/ISIS (UNITAD). (2024). *About UNITAD*.
<https://www.unitad.un.org/>
- LXVI. Werle, G. (2020). *Principles of International Criminal Law* (3rd edition). Oxford University Press.
- LXVII. Wisam Suleiman Ahmed Al-Saghaye. (2020). The Concept of Crimes Against Humanity: Definition and Elements. *Journal of Legal Researches*, 7(11), 1–44.
- LXVIII. Yazigi, M. (2011). A Claim of Tajdīd for the Sixth/Twelfth Century? al-Samānī, his Kitāb al-Ansāb and a Legacy Contested. *Oriens*, 39(2), 165–198.
<https://doi.org/10.1163/187783711X588105>
- LXIX. Zian Boubaker, M. S. (2013). *The Crime of Genocide in International Humanitarian Law* [Master's Thesis]. Abdel Rahman Mira University – Bejaia.