

r a s h í d

Research Assessment & Safeguarding
of the Heritage of Iraq in Danger



E A M E N A



DESTROYING THE SOUL OF THE YAZIDIS

Cultural Heritage Destruction During the Islamic
State's Genocide Against the Yazidis



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Co-Published by RASHID International, Yazda and the EAMENA Project (August 2019)

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Cover Image

Photo of the destroyed shrine of Ismaeel Bek in Sinjar, Iraq (June 2018)

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Note on the Title

The title of the report was inspired by the words of a witness in the International Criminal Court proceedings against Ahmed Al-Faqi Al-Mahdi, an Islamist who was instrumental in the destruction of nine mausolea and the Sidi Yahia mosque in Timbuktu, Mali. The witness called the actions of the Islamic militants in Mali 'a war activity aimed at breaking the soul of the people of Timbuktu'. See ICC, *Prosecutor v Al-Mahdi* (Judgment and Sentence) [Trial Chamber] ICC-01/12-01/15-171 (27 December 2016), para 80.

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EXECUTIVE SUMMARY - ENGLISH

Discussions of the genocide committed against the Yazidi people by the Islamic State (IS) from 2014 onwards have generally focused on murder, slavery and sexual exploitation. In this report we analyze the destruction of Yazidi tangible and intangible cultural heritage as a significant facet of the Islamic State's policy of ethnic cleansing and genocide. Evidence of destruction is collected and presented in context with other criminal acts. We present the results of our investigation to the international community in order for these deeds to not go unacknowledged and unpunished.

Section 1 introduces the Yazidi (Êzîdî being the preferred term) people and their strong connection to their cultural heritage. The Yazidis are an endogamous community at home in northern Iraq for more than 6,500 years, for whom faith and ethnic belonging are inextricably linked. Belief in God and Tawûsê Melek (the highest angel), and reverence for Lalish as the holiest place on earth are the defining features of the Yazidi faith. Nature and seasonal changes feature prominently. Historic and sacred places are an essential part of the Yazidi identity and are considered vital to life by the local population. The destruction of Yazidi cultural heritage significantly threatens the survival of the community.

Section 2 provides an overview of the genocide against the Yazidis. The Islamic State made no secret of its intention to eradicate the Yazidi community and commenced a coldly calculated policy of ethnic cleansing and genocide on 3 August 2014. All victims were abused and tortured. Male Yazidis above the age of 12 were killed. Female Yazidis were enslaved and traded in a complex and public network of sexual slavery. Those who fled to Mount Sinjar were besieged in order to ensure death from starvation, thirst and the blazing sun. Bases of economic support, such as olive groves and irrigation wells, were systematically destroyed and many areas of the Yazidi homeland were sown with landmines and improvised explosive devices (IEDs) to prevent the population from returning.

Section 3 analyzes the relevant framework of international criminal law. It focuses on crimes contained in the Rome Statute of the International Criminal Court (ICC), but customary international law is substantially the same and applicable to all States in the world. The destruction of tangible cultural heritage is most easily prosecuted as a war crime, which only requires showing an attack (or destruction under customary law) against a protected site without military justification. Several convictions were obtained before the ICTY, as well as one conviction (Al-Mahdi) and one indictment (Ag Mahmoud) before the ICC. Attacks against tangible heritage may also be prosecuted as the crime of persecution, a crime against humanity, as part of a widespread or systematic attack on a civilian population. Numerous indictments and convictions before the International Criminal Tribunal for the Former Yugoslavia (ICTY) and other courts attest to the viability of this approach. Finally, destruction of tangible heritage also serves as evidence of the special intent to destroy (*dolus specialis*) a protected group as part of the crime of genocide. The International Court of Justice (ICJ), the ICTY and German national courts all accept the value of heritage destruction as evidence of intent to commit genocide. Matters of jurisdiction and possible

fora for prosecuting Islamic State fighters are explained. Report on Cultural Heritage Sites in the Bahzani and Sinjar Areas.

Section 4 provides original research, evidence and context on the destruction of Yazidi tangible cultural heritage in the Bahzani/Bashiqa and Sinjar areas of northern Iraq. We present satellite imagery analysis conducted by the EAMENA project, drawing on data provided by Yazidi representatives. According to the Department of Yazidi Affairs in the Ministry of Awqaf and Religious Affairs in the Kurdistan Regional Government 68 Yazidi sites were destroyed by IS. We consider 16 sites in the Bahzani/Bashiqa area and 8 in the Sinjar area to which access was possible and which could be documented.

Section 5 offers conclusions and recommendations. We conclude that the destruction of the cultural heritage of the Yazidi people constitutes a war crime, a crime against humanity (persecution) and further evidence of genocide. We recommend that the ICC and national prosecutors open investigations wherever jurisdiction allows. We further recommend the consideration of cultural heritage destruction in any prosecution of international crimes, especially the crime of genocide. Adding Lalish Temple and its surroundings to the World Heritage List and the List of Cultural Property under Enhanced Protection should be a priority. We urge the international community to assist with the reconstruction of Sinjar and Bahzani/Bashiqa to prevent Yazidi culture from being lost forever.

منظمة رايشيد العالمية- منظمة يزدا - تقرير عن تدمير الإرث الثقافي | ملخص تنفيذي

تركزت المناقشات حول الإبادة الجماعية التي ارتكبتها الدولة الإسلامية ضد اليزيديين منذ عام ٢٠١٤ بشكل عام على القتل، العبودية والاستغلال الجنسي. في هذا التقرير نحلل عملية تدمير التراث الثقافي المادي او الملموس والغير الملموس للايزيديين، كأداة فعالة لسياسة الدولة الإسلامية في التطهير العرقي والابادة الجماعية. لقد تم جمع الأدلة حول هذا الدمار وتم عرضها في سياق الأعمال الإجرامية أخرى. نعرض نتائج التحقيق الذي أجريناه الى المجتمع الدولي حتى لا تهمل و تمر مثل هذه الأفعال دون إعراف و دون عقاب.

القسم الأول: يعرف الأيزيدي (ايزيدي هو الاسم المفضل) بارتباطه القوي بتراثه الثقافي. الأيزيديون هم السكان الأصليين في مناطق شمال العراق حيث عاشوا هناك منذ أكثر من ٦٥٠٠ سنة، وهم تربطهم روابط وثيقة بالدين والانتماء العرقي. الإيمان بالله وطاووسي ملك (رئيس الملائكة) وتقديس معبد لالش، كأقدس مكان على وجه الأرض من أهم الأركان البارزة و المميّزة للدين الأيزيدي. كما ان للدين الأيزيدي علاقة وطيدة بالطبيعة والتغيرات الموسمية، وتشكل الأماكن التاريخية والمقدسة جزءاً أساسياً من هوية الأيزيديين، وتعتبر ضرورية للحياة من قبل السكان المحليين. ان تدمير التراث الثقافي الأيزيدي يهدد بشكل كبير بقاء هذا المجتمع.

القسم الثاني: يعرض لمحة عامة عن الإبادة الجماعية ضد الأيزيديين. لم تخف الدولة الإسلامية بوضوح عزمه وإصرارها الكامل للقضاء على الدين و المجتمع اليزيدي وبدأ سياسة متشددة و محسوبة بدقة نحو إرتكاب أفضع جرائم التطهير العرقي والابادة الجماعية في ٣ اب/أغسطس عام ٢٠١٤ بحق الأيزيديين، حيث تعرض جميع الضحايا الى الاعتداء والتعذيب. الذكور الأيزيديين اللذين تجاوز أعمارهم الـ(١٢) عاما تم قتلهم جميعاً، فيما الإناث الأيزيديات تم استعبادهن وتمن المتاجرة بهن و تداولهن ضمن شبكة عامة ومعقدة من العبودية الجنسية. أولئك الذين فروا الى جبل سنجار تم تطويقهم و محاصرتهم من أجل ضمان موتهم المحتوم من الجوع والعطش تحت أشعة الشمس الصيف الحارقة. علاوة على ذلك، تم تدمير مصادر الدعم الاقتصادي للمجتمع الأيزيدي بشكل ممنهج، كالمزارع و البساتين و خصوصاً بساتين التين و الزيتون ومشاريع الري وتم زرع الكثير من الألغام الأرضية والمواد المتفجرة في الأراضي الأصلية للأيزيدية وذلك لمنعهم من العودة الى ديارهم.

القسم الثالث: يحلل الهيكلية الخاصة او الإطار المعني للقانون الجنائي الدولي. إذ يركز على الجرائم الواردة في نظام روما الأساسي للمحكمة الجنائية الدولية، لكن القانون الدولي المعتاد، هو بالأساس نفسه و الذي ينطبق الى حد كبير على جميع الدول في العالم. إن تدمير التراث الثقافي المادي او الملموس من السهل إدانته و مقاضاته كجريمة حرب، والتي لا تتطلب سوى إظهار هجوم (او التدمير بموجب القانون العرقي)، ضد موقع محمي دون ان يكون هناك مبرر عسكري. هناك العديد من التهم التي تم إدانتها أمام المحكمة الجنائية الدولية ليوغسلافيا السابقة، و كذلك حالة إدانة (المهدي) و تهمة (اج محمود) امام المحكمة الجنائية الدولية. يمكن اعتبار الهجمات ضد التراث المادي الملموس بانها أيضاً جريمة الإضطهاد، وهي جريمة ضد الإنسانية، كجزء من حملة و هجوم واسع النطاق او ممنهج ضد السكان المدنيين. حيث تشهد العديد من لوائح الإتهام والإدانات امام المحكمة الجنائية الدولية ليوغسلافيا السابقة والمحاكم الأخرى على صلاحية هذا النهج. أخيراً، يعد تدمير التراث المادي الملموس بمثابة دليل على النية المستتبعة لتدمير مجموعة محمية كجزء من جريمة الإبادة الجماعية. تتفق و تقبل كل من محكمة العدل الدولية، المحكمة الجنائية الدولية ليوغسلافيا السابقة، و المحاكم الوطنية في ألمانيا على أهمية و قيمة تدمير التراث كدليل على النية المستتبعة لإرتكاب جريمة الإبادة الجماعية. لقد تم شرح المسائل القضائية والأليات المناسبة لمقاضاة مقاتلي الدولة الإسلامية.

القسم الرابع: تقدم بحث أصيل، الأدلة و المضمون على تدمير الأثر الثقافي المادي الملموس للأيزيديين في مناطق بعشيقية وبحزاني وسنجان في شمال العراق. نعرض تحليل صور الأقمار الصناعية الذي اجراه مشروع ” ايمينا“ بالاعتماد على البيانات المقدمة من قبل الممثلين الأيزيديين. وفقاً لدائرة شؤون الأيزيديين في وزارة الأوقاف والشؤون الدينية في حكومة إقليم كردستان، فإن الدولة الإسلامية قامت بتدمير ٦٨ موقعاً دينياً و أثرياً للأيزيديين، من ضمنهم ١٦ موقعاً في منطقة بعشيقية وبحزاني و ٨ موقعاً في منطقة سنجان موثقاً في هذا التقرير بعد إمكانية الوصول الى هذه المواقع وتوثيقها.

القسم الخامس: تقديم التوصيات والاستنتاجات. نستنتج بان تدمير التراث الثقافي للشعب الأيزيدي يشكل جريمة حرب وجريمة ضد الإنسانية (الأضطهاد) وكدليل آخر على الإبادة الجماعية. نوصي المحكمة الجنائية الدولية والمدعوون العامون على المستوى الدولي و الوطني بفتح التحقيقات أينما يسمح القضاء بذلك، كما نوصي كذلك بالنظر الى عمليات تدمير التراث الثقافي في أي محاكمة للجرائم الدولية وخاصة جريمة الإبادة الجماعية. بالإضافة الى ذلك نحث على ادراج معبد لالش والمناطق المحيطة به ضمن لائحة التراث العالمي وقائمة الممتلكات الثقافية وتوفير الحماية لها كأولوية قصوى. نحث المجتمع الدولي على تقديم المساعدة في إعادة إعمار سنجار، بعشيقه وبحزاني لمنع ضياع الثقافة الأيزيدية الى الابد.

راپورتته ك ده رباره ي وپرانكرن و خراپكرن و بنبركرنا شوينه وارين كلتوري / پيشگوتنه ك ژ لايي ده سته كا ريفه به ريي.

كه نكه شه كرنا ته و تاوانين هاتينه ته نجام دان دژي ئيزيديان ژ لايي ريكرخراوا تيروريستي ل سالا ۲۰۱۴ و تاييه ت تاوانين درندانه و خولامي و خزمه تكاري و توندو تيزيا سيكسي دزي كچ و زنيته ئيزيدي. دفتي راپورتتي دا چه وانيا خراپكرن و وپرانكرنا خويا و نه خويا يا شوينه واريني كلتوري كوي كه ژ مه ره مين ده وله تا ئيسلامي بو بنبر كرنا ئولي و ئايني و كومه ل كوژيه كه درندانه، به لگه يين كومه لكوژي و خراپكرني ل روزانيت پيتفي و هه روه ها ته نجامين فان كومه گه هاندين بو كومه لگه ها نيف دولتي كو ته ف تاوان و نه ف كارين درندانه روزه كي بهين سزادان ته و كه سين ته نجام داين.

به ش ۱: ملله تي ئيزيدي ب شيوه يه كي گشتي په يوه نديه كا موكم ب شوينه وارين كلتوري فه هه يه. ملله تي ئيزيدي ميژوويا وان دزفريت بو ۶۵۰۰ سالا ل باكوورتي عراقتي وتينه گرندان ب گرندانه كا موكم نافيه را ئيمان وئولي دا. و باوه ري و ئيمان ئيزيديا ب خودي و تاووسي مه لك دهيت و ديين دباوه ريا مه دا لالش بوهه شتا في ته رده يه. ب شيوه يه كي گه له ك ديار جياوازيين سروشتي و وه رزي دياردين. هه روه ها جهين ميژووي و پيروز ناسناما هه ر ملله ته كي ديداكه ن ژ لايي ته كه سين لوپرتي ژيانتي بسه ر دبه ن. خراپكرن و وپرانكرنا كلتوري ملله تي ئيزيدي گه فه كا مه زنه لسه ر هيلانا ئيزيديان.

به ش ۲: ده رباره ي كومكوژي و جينوسايدا بسه ري ملله تي ئيزيدي :. ده وله تا ئيسلامي ب يه ك جاري هيفيا خو كيم نه كر ژبوي ژنافرنا ملله ت و ئولا ئيزيديان ژبه ر هندی ده ست پيكرن كومكوژي و ژنافرنا ملله ت وئولا ئيزيدي. هه موو كه س توشي توندوتيزيين بو. دهات گوتن ته و كه سي ژيي وي ژ ۱۲ سالا بوري با دهات كوشتن ژلايين ده وله تا ئيسلامي فه. وكه چ و زنيته ئيزيدي كاري ب زوري پي دهات كرن و هاتن بكاريئنان وه كو خزمه تكار (عبد). ته و كه سين هه ولدان بو چياي شنگالي فه بجن هاتين دورپيچ كرن ته وي خه لك چيا هه لبارت پيخه مه ت ره فين ژ مرني و برسي و تينيتي و روژا گه رما هافيني. تابووري ده فه ري ژي هات وپرانكرن، بو نموونه بيستانين زه يتونا و سه رچاوين ئاقتي، ته ردين چاندني و ماله ن خه لك ي هاتن ته فه مه ني كرن و بويه ريگره ك كو خه لك نه فه گه ريته مالين خو.

به ش ۳ : ياسايا دادگه ها به رايي. ته كه سي لسه ر تاوانين رژها روما دهين كرن يين تاييه ت ل دادگه ها به راي يا وي وه لاتي به لام ياسايا پاراستنا ئولي دهيته چه سپاندين لسه ر هه موو وه لاتين جيهاني . و بشيوه يكي ئاسان دهينه دادگه هكرن و ديبته يه ك ژ تاوانين شه ري دژي بنبرنا ئولي، و پيتفي داخويانه ك ناكه ت لسه ر بنبركرنا ئولي. به رامبه ر دادگه ها به رايي يا يوغسلافي گه له ك داخوياني هاتن ب ده ست فه ئينان، لگه ل داخويانا (مهدي) و(محمود) به رامبه ر دادگه ها به رايي. هه روه ها هيرشا لسه ر كلتوري مادي ين هه ر ملله ته كي ديبته تاوانه كا دژي مروفايه تي و كه سين وي ده فه ري. وزنده باري گه له ك تاوانباري و به لگه يين به رامبه ر دادگه ها يوغسلافي يا به ري و هه موو دادگه هين دي. ل دوماهيني ژنافرنا كلتوري مادي يي ملله ته كي بيته تاوانه كا گشتي و كومكوژه يه ك گشتي به رامبه ر وي ملله تي. په سه ندرن ژ لايي دادگه هين جيهاني و دادگه ها يوغسلافي و ته لماني و ژنافرنا كلتوري مادي ديبته تاوانه ك گشتي و بشيوه كومكوژه ك گشتي.

به ش ۴: فه كولين وبه لگه يين ده رباره ي خراپكرن و وپرانكرنا شوينه وارين كلتوري ل ده فه رين باشيك و بحزاني و شنگالي ل باكووري عراقتي. بريكا پروژه تي EAMENA، دهينه شروقه كرن وب پشته فانيا ريفه به ريا ته وقاف و كاروبارين ئيزيديا ته و داتايين هاتين پيشكيشكرن، ده وله تا ئيسلامي ۶۸ جهين ئايني يين ئيزيديان وپرانكرن. بومه ديارديت كو ۱۶ ژفان جهان ل ده فه را باشيك و بحزاني و ۸ جهين دي ل دهقه را شنگالي كو دشيان دايه بينن و بهينه دوكمومنت كرن.

به ش ۵ ته نجام و پيداويستي. . ته نجام خراپكرن و وپرانكرنا شوينه واري كلتوري هه ر ملله ته كي تاوانه كه شه ري و تاوانه كه دژي مروفايه تي يه و ژ نافرنا ملله تي ئيزيدي. هيفيي ژ دادگه هين پيشكه فتني و دادوه ر و كه سين تاييه تمه ند. هه روه ها داخواري ژ دادگه هين نيف ده وله تي دكه ين بينه ده نك لسه ر شوينه وارين ئيزيدي، بشيوه يه كي تاييه ت تاوانين كومكوژين. داخواري دكه ين په رستگه ها پيروزا لالش و ده فه رين ده وروبه ر بجيته ريزا جهين شوينه واري يين نيف ده وله تي و بهيته پاراستن. داخواري ژ كومه لگه ها نيف ده وله تي دكه ين كودوباره ئافاكرنا شنگالي و باشيك و بحزاني بيت كرن و كلتوري ئيزيدي بهيته پاراستن ژ وندابوون و وپرانكرن.



Main entrance to the shrine in Khanek, Dohuk Governorate, June 2017 (©Georgia Ramirez/All Rights Reserved)

ABOUT RASHID INTERNATIONAL

RASHID International e.V. is a worldwide network of archaeologists, cultural heritage experts and professionals dedicated to safeguarding and promoting the cultural heritage of Iraq, ancient Mesopotamia. We are committed to developing the history and archaeology of Iraqi cultures, for we believe that understanding the past is key to addressing the present and to building a prosperous future.

Much of Iraq's heritage has been lost forever. Militant groups have destroyed mosques, churches and shrines, smashed artifacts, bulldozed archaeological sites and illegally trafficked antiquities on an almost industrial scale. Iraqi cultural heritage has suffered grievous and in many cases irreversible harm.

To assist our Iraqi colleagues, we collect and share information, research and expert knowledge, work to raise public awareness, and both develop and execute strategies to protect heritage sites and other cultural property through international cooperation, advocacy and technical assistance. RASHID International is non-profit organization registered in Germany with special charitable status under German tax law.

ABOUT YAZDA

Yazda is a global organization that strives to bring justice, sustenance, healing and rejuvenation to Yazidis and other vulnerable ethno-religious minorities who have suffered under or are affected by the ISIS genocidal campaign in Iraq and Syria. Yazda was founded by Yazidi students and professionals in the US and Europe in response to the genocide that began on August 3, 2014. Yazda is a registered as a nonprofit in the United States, Germany, Iraq, Sweden, the United Kingdom. Since its establishment in 2014, Yazda continues to be the central engine of raising awareness and advocating for the rights of victims of a 2014 genocide perpetrated ISIS. Yazda implements a multidisciplinary approach to support ISIS victims.

Yazda documents the genocide through various means and provides immediate and long term support; including support to undertake international and national awareness and advocacy campaigns. Yazda has sponsored and supported several survivors to undertake their international advocacy campaigns, including Nobel Peace Prize Laureate Nadia Murad and Farida Abbas Khalaf, author of the book 'The Girl Who Escaped ISIS'. Yazda's advocacy led to the formal recognition of genocide by the United States, the United Kingdom, Australia, Armenia, Canada, France, and Scotland, the European Union, the Parliamentary Assembly of the Council of Europe and the United Nations Independent International Commission of Inquiry on the Syrian Arab Republic.

Yazda's advocacy campaign further led to the passage of UN Security Council Resolution 2379, which allowed the creation of a team to investigate ISIS and collect evidence of international crimes. In addition, Yazda and its legal counsel Amal Clooney are seeking to hold ISIS accountable for the crimes committed against the Yazidi community in Iraq and Syria. The crimes include genocide,

war crimes and crimes against humanity; including mass executions, sexual enslavement and trafficking, recruitment of child soldiers, destruction of cultural heritage and forced displacement.

Yazda's humanitarian mission is to provide trauma counselling, case management, health and medical care, livelihood and emergency support, education. To this end Yazda is works with many UN, International and local NGOs to provide necessary services to survivors, IDPs, refugees and other vulnerable groups.

ABOUT EAMENA

Supported by the Arcadia Fund and the Cultural Protection Fund and based at the Universities of Oxford, Leicester, and Durham, the Endangered Archaeology in the Middle East and North Africa Project (EAMENA) was established in January 2015 to respond to the increasing threats to archaeological heritage in the Middle East and North Africa. EAMENA uses satellite imagery to rapidly record and evaluate the status of archaeological sites and landscapes which are under threat. It seeks to create accessible data which can be used by national and international heritage professionals to target those sites most in danger, and to better plan and implement the preservation and protection of this heritage.

Not all damage and threats to the archaeology can be prevented, but they can be mitigated. Accordingly, at the core of our project is the desire for excellence in heritage management. To this end, EAMENA works with relevant authorities on the ground to limit likely damage, share information and skills, strengthen networks and raise awareness. Fieldwork and outreach are essential components of the project and the EAMENA team will target investigations at the most threatened sites, visiting (where possible) to assess site conditions, make detailed records and work with national authorities to share data and findings.



Anzal Bridge in Lalish, the holiest place in Yazidism, Duhok Governorate, September 2017 (©Levi Clancy/CC BY-SA 4.0)

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Issued on behalf of

RASHID International

Yazda



Entrance to the sacred part of the shrine at Khanek, Duhok Province (©Georgia Ramirez/All Rights Reserved)

PREFACE I

HIS HOLINESS THE BABA SHEIKH



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PREFACE I - ENGLISH

The 3rd of August 2014 is a dark day in the history of the Yazidis. On this day, at 1 am, ISIS first attacked the southern side of Mount Sinjar. At the beginning of the attacks, in the villages of Tel-Azir, Sibai and Ger Zarek, the people resisted and fought fiercely to defend their lives, properties and temples. However what ensued for the Yazidis was disaster. Men were killed, women and girls were enslaved, while children died from thirst and hunger on the slopes of Mount Sinjar.

The damage inflicted by ISIS did not end, but continued much further. They blew up our shrines, temples and everything sacred to the Yazidis. They did all this, thinking that Sinjar would become theirs. They even told the boys and women that they had exterminated all Yazidis. If they thought they won, they were wrong, the Yazidis are staying, they will not give up, they will not leave their religion, whatever happens.

ISIS blew up the Amadin shrine on the southern side of the Sinjar mountains and, as I have been told, they imprisoned a man in the shrine and blew him up along with it. They also blew up the shrine of Sheikh Hassan in Kabara, Mam Rashan and Sheikh Mend. ISIS did the same in the north, they blew up some of the shrines but they could not reach the shrine of Perry Ora because of the fighting spirit of the young and the courage of those who defended it.

In Bashiqa and Bahzani we did not give our lives, but the material damage that took place there was not less than what happened in Sinjar. ISIS destroyed houses and looted and blew up factories and shops, but we thank God because our daughters did not fall into captivity there and our men were not killed.

After the defeat of ISIS and its banishment from our lands, the Yazidis reconstructed, repaired and rebuilt what shrines they could. After the liberation of Bashiqa and Bahzani, the people refused to return to their homes before the reconstruction of their shrines, thus demonstrating the strength of the Yazidi faith and showing the world their resilience. In Babire they did the same, for which I myself attended the ceremony to renovate the shrine.

In Sinjar there are now around 100,000 people living in the area, according to statistics of the Iraqi State, yet so far they have not rebuilt the shrines, which sets a poor and dangerous precedent. For if they do not rebuild the shrines which were destroyed by ISIS, they will be forgotten over time and the existence of the Yazidis in these areas will be forgotten. Therefore I strongly support the rebuilding of Yazidi shrines, as the presence of these shrines and temples serves to preserve the Yazidi culture in these areas.

The shrines and temples that were blown up in Bashiqa, Bahzani, Sinjar and Walat Sheikh number 68, including Amadin, Sheikh Hassan in Kabara, Sheikh Mand, Mahma Rashaan, Malak Fakhreddin as well as Shishmas and Birafay in the north of Sinjar. ISIS could not reach Beri Ura and Sharfdin. Shrines remain important symbols of the existence of Yazidis. For example, when you enter Shikhan and see Shikhali Shamsa, you know that these are Yazidi lands. In the past, the presence of the Yazidis vanished from many areas due to shrines not being rebuilt following previous genocides.

I remember that when all this happened I thought within myself 'I wish I had not seen this day in my life, I wish I had died before I saw what happened to our people'.


Baba Sheikh
Head of the Yazidi Faith



منظمة رايشيد العالمية- منظمة يزدا - تقرير عن تدمير الإرث الثقافي | ملخص تنفيذي

تركزت المناقشات حول الإبادة الجماعية التي ارتكبتها الدولة الإسلامية ضد اليزيديين منذ عام ٢٠١٤ بشكل عام على القتل، العبودية والاستغلال الجنسي. في هذا التقرير نحلل عملية تدمير التراث الثقافي الملموس والغير الملموس لليزيديين، كوجه مهم لسياسة الدولة الإسلامية في التطهير العرقي والإبادة الجماعية. تم جمع الأدلة حول هذا الدمار وتم عرضها في سياق أعمال إجرامية أخرى. نقدم نتائج التحقيق الذي أجريناه الى المجتمع الدولي حتى لا تهر مثل هذه الأفعال دون اعتراف ودون عقاب.

القسم الأول: يعرف الأيزيدي (ايزيدي هو الاسم المفضل) بارتباطه القوي بتراثه الثقافي. اليزيديون هم السكان الأصليين في مناطق شمال العراق حيث عاشوا هناك منذ أكثر من ٦٥٠٠ سنة، وهم تربطهم روابط وثيقة بالاعتقاد والانتماء العرقي. الإيمان بالله وطاووسي ملك (رئيس الملائكة) وتقديس معبد لالش، كأقدس مكان على وجه الأرض هم العلامات المميزة للاعتقاد اليزيدي. الطبيعة والتغيرات الموسمية من المميزات البارزة، تشكل الأماكن التاريخية والمقدسة جزءاً أساسياً من هوية اليزيديين، وتعتبر ضرورية للحياة من قبل السكان المحليين. ان تدمير التراث الثقافي اليزيدي يهدد بشكل كبير بقاء المجتمع.

القسم الثاني: لمحة عامة عن الإبادة الجماعية ضد اليزيديين. الدولة الإسلامية لم يخف عزمه للقضاء على المجتمع اليزيدي وبدأ سياسة محسوبة نحو جرائم التطهير العرقي والإبادة الجماعية في ٣ اب/أغسطس عام ٢٠١٤، حيث تعرضت جميع الضحايا الى الاعتداء والتعذيب. الذكور الذين تجاوزوا عمر ال(١٢) عاماً تم قتلهم، فيما الاناث تم استعبادهن وتداولهن ضمن شبكة عامة ومعقدة من العبودية الجنسية. أولئك الذين فروا الى جبل سنجار تم محاصرتهم من اجل ضمان موتهم من الجوع والعطش تحت اشعة الشمس الحارقة وكذلك تم تدمير مصادر الدعم الاقتصادي بشكل منهجي، كبساتين الزيتون ومشاريع الري وتم زرع الكثير من الأعغام الأرضية والمواد المتفجرة في الأراضي الأصلية لليزيديين وذلك لمنعهم من العودة الى ديارهم.

القسم الثالث: يحلل الإطار المعني للقانون الدولي. وهو يركز على الجرائم الواردة في نظام روما الأساسي للمحكمة الجنائية الدولية، لكن القانون الدولي المعتاد، هو نفسه والى حد كبير ينطبق على جميع الدول في العالم. تدمير التراث الثقافي الملموس من السهل مقاضاته كجريمة حرب، والتي لا تتطلب سوى اظهار هجوم (او التدمير بموجب القانون العرقي)، ضد موقع محمي دون ان يكون هناك مبرر عسكري. تم الحصول على العديد من الادانات أمام المحكمة الجنائية الدولية ليوغسلافيا السابقة، إضافة الى إدانة واحدة (المهدي) وتهمة واحدة (اج محمود) امام المحكمة الجنائية الدولية. أيضا يمكن اعتبار الهجمات ضد التراث الملموس بانها جريمة الاضطهاد، وهي جريمة ضد الإنسانية، كجزء من هجوم واسع النطاق او منهجي ضد السكان المدنيين. حيث تشهد العديد من لوائح الاتهام والادانات امام المحكمة الجنائية الدولية ليوغسلافيا السابقة والمحاكم الأخرى على صلاحية هذا النهج.

أخيراً، يعد تدمير التراث الملموس بمثابة دليل على النية الخاصة لتدمير مجموعة محمية كجزء من جريمة الإبادة الجماعية. تقبل كل من محكمة العدل الدولية، المحكمة الجنائية الدولية ليوغسلافيا السابقة، المحاكم الوطنية في ألمانيا قيمة تدمير التراث كدليل على النية في ارتكاب جريمة الإبادة الجماعية. يتم شرح المسائل المتعلقة بالاختصاصات القضائية والمنتديات المحتملة لمقاضاة مقاتلي الدولة الإسلامية.

القسم الرابع: تقدم البحوث والأدلة والسياق الأصلي حول تدمير التراث الثقافي الملموس لليزيديين في مناطق بعشيقية وبحزاني وسنجار في شمال العراق. نقدم تحليل صور الأقمار الصناعية الذي اجراه مشروع " امينا" بالاعتماد على البيانات المقدمة من قبل الممثلين اليزيديين. وفقاً لدائرة شؤون اليزيديين في وزارة الأوقاف والشؤون الدينية في حكومة إقليم كردستان، فان الدولة الإسلامية قامت بتدمير ٦٨ موقع لليزيديين، من ضمنهم ١٦ موقعا في منطقة بعشيقية وبحزاني و٨ مواقع في منطقة سنجار موثوق في هذا التقرير، حيث كان الوصول الى هذه المواقع وتوثيقها ممكناً.

القسم الخامس: تقديم التوصيات والاستنتاجات. نستنتج بان تدمير التراث الثقافي للشعب الايزيدي يشكل جريمة حرب وجريمة ضد الإنسانية (الاضطهاد) ودليل اخر على الإبادة الجماعية. نوصي بان تفتح المحكمة الجنائية الدولية والمدعوون العامون على المستوى الوطني التحقيقات حيثما يسمح الاختصاص بذلك، نوصي كذلك بالنظر الى عمليات تدمير التراث الثقافي في أي محاكمة للجرائم الدولية وخاصة جريمة الإبادة الجماعية. بالإضافة الى ذلك نحث على ادراج معبد لالش والمناطق المحيطة به ضمن لائحة التراث العالمي وقائمة الممتلكات الثقافية وتوفير الحماية له كأولوية. نحث المجتمع الدولي على تقديم المساعدة في إعادة اعمار سنجار، بعشيقه وبحزاني لمنع ضياع الثقافة الايزيدية الى الابد.

پیشہ کی / بابا شیخ

روژا ۳ یی ته باخنی روژہ کہ ره شه د میژووویا ئیزیدیاتیی دا. دقنی روژی دا، ده مژمیر ۱ یی سپیدی، ریکخراوا تیروریستی داعش ل ده ستپیکی هیرش کره لایئ باشووری چیا شیگالی. ل ده ست پیکا هیرشی، ل کومه لگه هین تل عزیر و سیبا شیخ خدر و گرزہ رک، به ره فانی هاته کرن ژ لایئ خه لکی فه به ره فانی کرن ژ زیان و مال و مه زارگه و پیروزیی وان. ههتا گه هشت وی راده ی بیته فه رمان وکاره سات. زه لام هاتن کوشتن، که چ و ژن هاتن ئیخسیر کرن و توندوتیژیہ کا گران، هه روه ها زاروک ژ ی گه رما و تینی و برسیه یی ل سه ری چیا شیگالی گیانی خو ژ ده ست دان.

تالان کرن و ویرانکرنا داعش ل دوپف خو هیلا بدوماهیک نه هاتیه و هیشتا به رده وامه. رابون ب ویرانکرنا و تالان کرنا جهین پیرو زیی ئیریدیان و هزرکرنا کوشنگال دی بیته یا وان. گوتن زاروک وژتین ئیزیدی کومه ئیزیدی ب دوماهیک ئینان. هزرکرنا ب سه رکه فتی، به لئ د خه له ت بوون ئیزیدی ب هیچ ره نگه کی نا که فن و ب هیچ ره نگه کی ئیزیدی ناهیلن.

ریکخراوا داعش رابوون ب ته قاندنا قوبا نامادین ل باشووری چیا شیگالی، بومن هات گوتن، که سه ک هات زیندان کرن دناقا قوبی دا و هات ته قاندن. هه روه ها قوبا شیخ حه سه ن ل گابارا ومام ره شان و شیخ مه ند. هه مان تاوان ل باکووری چیا شیگالی هات کرن، گه له ک قوبین دی هاتن ته قاندن به لئ نه دشیان قوبا پیری نه ورا بته قینن ژ نه گه ری به رخودان و به ره فانی گه نجین ئیزیدی.

ل باشیک و بحرانی زیانا وان نه هات راده ست کرن، به لئ زینان مادی نه کیتر بوون ژ شیگالی و ده فه ری. داعش مالین خه لکی ویرانکرنا و دزی ژیهات کرن هه روه ها کارگه و کارین خه لکن هاتن ته قاندن و ویرانکرنا، به لئ سوپاسی بو خودای مه زن که چین مه نه هاتن ئیخسیرکرنا و زه لام نه هاتن کوشتن.

پشتی شکه ستنا داعش و ده ریخستنا وان ژ ده فه ری مه، خه لکی ئیزیدی رابوون ب ئافکرنا و چاک کرن و دوباره ئافکرنا قوبان و مه زارگه هان. پشتی رزگارکرنا باشیک و به حرانی، خه لکی ده فه ری نه رازی بوون فه گه رن بو زفرینا مالین خو به ری ئافکرنا مه زارگه و قوبین ئینی، وی چه ندی دیاردکه ت باوه ری و ئیمان و هیزا ملله تن ئیزیدی بو جهانی. ل بابیری هه مان تشت هات دیارکرنا، ناماده بووم ب فه کرن، دوباره ئافکرنا یه ک ژ مه زارگه هین پیروز.

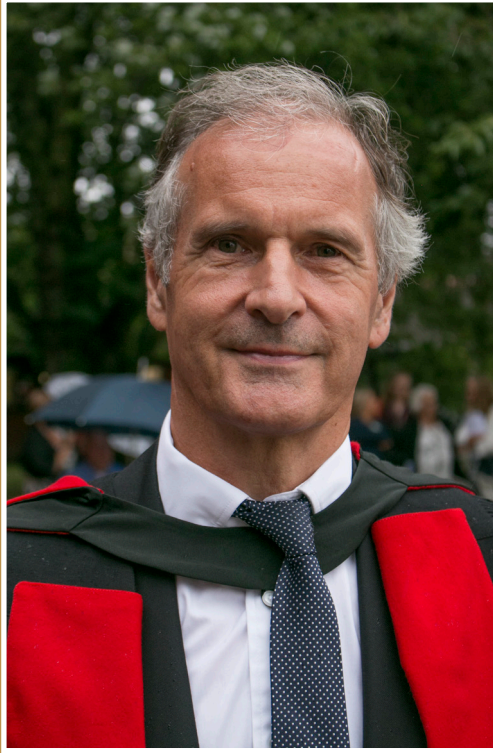
ل شیگالی، ئیزیکی ۱۰۰۰۰۰ که س ل وی ده فه ری دژین، زیده ر ژ حکومه تا نافه ندی یا عیراقی، به لئ هه تا نوکه یه ک ژ مه زارگه و قوبین ده فه ری نه هاتیه ئافکرنا، خه له کا نیگه تیف بو خه لکی ده فه ری رانه بن ب ئافکرنا وان مه زارگه هین داعش ویرانکرنا، بقی چه ندی دی بیته نه گه ری ژیرکرنا لوی ده فه ری و ژیرکرنا ناسناما ئیزیدیاتی. بقی چه ندی هیقی دکه م ژ خه لکی وی ده فه ری ب نه نجام دانا گافه کا گرنک سه باره ت ئافکرنا ناسناما ملله تن ئیزیدی نه و ژ ی مه زارگه و قوبین پیروز، و نه گه ری هه بوونا فان جهین پیروز نه گه ری مان و پاراستنا کلتور و شوینه وارین ئیزیدیان.

مه زارگه و قوبین ئیزیدیان نه وین هاتن ویرانکرنا ل باشیک و به حرانی و وه لات شیخ دگه هنه ۶۸ مه زارا، ژوان ژ نامادین، و شیخ حه سه ن ل گابارا، و شیخ مه ند، و مه همه د ره شان، و ملک فه خره دین، و هه روه ها شیخمس و پیرافات ل باکووری شیگالی. داعش نه شیان بگه هن پیری نه ورا و شه رفه دین. هه بوونا فان مه زار و جهین پیروز هه بوونا ئیزیدیاتی نه. بو نمونه، ده م تو دچی ده فه را شیخان مه زاری شیخ شیخمس بینی دیاردیت ده فه را ئیزیدی. د رابردو دا هه بوونا ئیزیدیان گه له ک لاواز بوو ژ نه گه ری نه بوونا مه زار و جهین پیروز و ناسناما وی ملله تی ژنه گه ری کاره سات و فه رماتین بوری دا.

ل ببرا منه نه و روژ، من هزر د خودا کر - من هیفی دکر نه قی روژی نه بینم، من ژ خودی خوه ست مرم و قی روژی نه بینم و هوسا تیت سه ری ملله تی من.

PREFACE II

PROFESSOR ROGER MATTHEWS PRESIDENT OF RASHID INTERNATIONAL



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PREFACE II - ENGLISH

Amongst the many misfortunes and tragedies to befall Iraq over the past 40 years, the systematic persecution of Iraq's ethnic, cultural and religious minorities has to be evaluated as one of the most devastating episodes in Iraq's history. One of the many negative impacts of western interference over the past generation and more has been the disruption of settled patterns of tolerance and mutual respect that had existed for preceding decades. No group has suffered more from this breakdown in law and order, and the subsequent violent exploitation of the socio-political vacuum, than the Yazidis.

This landmark report is published to mark the fifth anniversary of the 3rd August 2014 genocide of the Yazidis, epitomised in the immediate slaughter or enslavement of 12,000 Yazidis in northern Iraq and the merciless besiegement of 250,000 Yazidis trapped on Mount Sinjar. In total, more than 400,000 Yazidis were murdered, forced into slavery or driven from their cherished homeland. Prior to these terrible events, Yazidi communities of northern Iraq had been deliberately targeted in August 2007 by coordinated suicide bomb attacks that killed almost 800 people, one of the deadliest terrorist attacks in history.

Without having suffered them, it is hard for us to imagine the ordeals faced by Yazidi men, women and children during recent years. We have to rely on their eye-witness and personal accounts which we must keep before us, for all time, both as reminders of the evils that humans are capable of inflicting on other people who do not share their warped and self-centred worldviews, and as beacons of hope insofar as they illustrate the indomitable human spirit of the Yazidi community in the face of truly abhorrent circumstances.

Our organisation, RASHID International, works to highlight and address the challenges faced by the heritage of all Iraq. To this end we conduct international heritage diplomacy and work with Iraqi and international partners on a wide range of projects, including cataloguing of monuments under threat, emergency reconstruction efforts, enhancing museum collections and displays, and contributing specialist reports on heritage matters and cultural rights to UN bodies including the Office of the High Commission for Human Rights. We are honoured and proud to have assisted with the production of this important report and we stand ready to help our friends and colleagues among the Yazidis in future collaborative projects.

Roger Matthews, President RASHID International
Professor of Near Eastern Archaeology, University of Reading, UK

مقدمة رئيس منظمة رشيد الدولية (دراسة وتقييم وحماية للتراث العراقي المهدد)

ان الاضطهاد المنهجي للأقليات الإثنية والثقافية والدينية في العراق يُعد واحد من أكثر الأحداث تدميراً من بين المحن والمآسي العديدة التي مرّ بها العراق خلال الاعوام الأربعين الماضية. ان الاخلال بأتماط التسامح والاحترام المتبادل التي كانت قائمة طوال عقود سابقة يُعد أحد الآثار السلبية الكثيرة الناجمة عن التدخلات الغربية على مدى الجيل السابق وأكثر. لم تعاني أية جماعة من هذا الانهيار في القانون والنظام والاستغلال العنيف للفراغ الاجتماعي والسياسي، أكثر مما عاناه اليزيديون.

جاء نشر هذا التقرير البارز ليؤشر الذكرى السنوية الخامسة للإبادة الجماعية لليزيديين في 3 أغسطس 2014 ، والتي تجسدت في اعمال القتل الفوري أو الاستعباد لـ 12000 يزيدي في شمال العراق ومحاصرة عديمة الرحمة لـ 250.000 يزيدي مُحاصر في جبل سنجار. مجموعاً، قُتل أو أرغم على العبودية أو طُرد من وطنه العزيز أكثر من 400000 يزيدي. وقبل وقوع هذه الأحداث الفظيعة، وفي واحدة من أكثر الهجمات الإرهابية دموية في التاريخ، تعرضت الجماعة اليزيدية في شمال العراق الى هجمات انتحارية مقصودة ومنسقة في أغسطس / آب 2007، التي أسفرت عن مقتل حوالي 800 انسان.

من دون المرور في تلك المعاناة، يصعب علينا تخيل المحن التي واجهها رجال ونساء وأطفال اليزيديين خلال الاعوام الأخيرة. علينا أن نعتمد على شهود العيان والشهادات الشخصية، التي يجب أن نبقىها أمامنا دوماً لا كتذكير فقط بالافعال الشريرة التي يقدر البشر على ارتكابها ضد الأشخاص الآخرين ممن لا يشاركونهم معتقداتهم عن العالم والمتمحورة حول الذات، وإنما أيضاً بوصفها منارات أمل تُشير الى الروح الإنسانية التي لا تقهر لدى المجتمع الإيزيدي في مواجهة ظروف بغضبة.

تعمل منظمنا، رشيد الدولية، من اجل تسليط الضوء ومعالجة التحديات التي يواجهها تراث العراق بأكمله. ومن اجل تحقيق هذه الغاية ، نلجأ الى دبلوماسية التراث الدولي ونعمل مع شركاء عراقيين ودوليين على مجموعة واسعة من المشاريع ، بما في ذلك فهرسة الآثار المهددة، وجهود إعادة الإعمار الطارئة ، وتعزيز مجموعات ومعروضات المتاحف، والاسهام في اعداد تقارير تخصصية عن امسائل التراث والحقوق الثقافية لصالح دوائر الأمم المتحدة، بما في ذلك مكتب المفوضية العليا لحقوق الإنسان. إننا نتشرف ونفتخر بما قدمناه من مساعدة في إنتاج هذا التقرير المهم ، ونحن على أهبة استعداد لمساعدة أصدقائنا وزملائنا من الأيزيديين في مشاريع تعاونية مستقبلاً.

روجر ماثيوس ، رئيس منظمة رشيد الدولية
أستاذ علم آثار الشرق الأدنى في جامعة ريدينج، المملكة المتحدة

پێشه‌کیه‌ک له لایه‌ن سه‌رۆکی دامه‌زراوه‌ی په‌شیدی نێوده‌وله‌تیه‌وه (تۆیژینه‌وه‌کردن، هه‌له‌سه‌نگاندن، پارێزگاریکردنی که‌له‌پووری عێراقی که‌له‌مه‌ترسی دایه)

له‌ ئێوان زۆریک له‌و تراژیدیا و کۆژانه‌ی که‌ له‌ عێراقدا قه‌وماون له‌ ماوه‌ی ٤٠ ساڵی رابردوودا، چه‌وساندنه‌وه‌ی سیستماتیکیانه‌ی که‌مینه‌ نه‌ژادی، کولتووری، و ئاینیه‌کان به‌یه‌کیک له‌ چیرۆک و قۆناغه‌ و پێرانکارییه‌کانی میژووی عێراق دادنه‌ری. یه‌کیک له‌و کاریگه‌رییه‌ نه‌رێنانه‌ی ده‌ستیه‌ردانی خۆرئاوایی له‌سه‌ر نه‌وه‌ی رابردوو و پێشتر بووه‌ته‌ هۆی تیکچوونی ئه‌و بنهما و شێوازه‌ جێگیرانه‌ی لێبوورده‌یی و رێزگرتنی هاوبه‌ش که‌ له‌ سه‌ده‌کانی پێشووه‌وه‌ بوونیان هه‌بووه‌. هه‌یچ گروویک هه‌نده‌ی ئێزیدییه‌کانی نازاری نه‌چه‌شتوو له‌م دارووخانه‌ی که‌ روویداوه‌ له‌ ژێرخانی یاسا و سیستم، و به‌کارهێنانی تووندوتیژی دواتری ئه‌م بۆشاییه‌ سیایی- کۆمه‌لاتیه‌دا.

ئهم راپۆرته‌ میژووییه‌ بڵاوکراوه‌ته‌وه‌ له‌ یادکردنه‌وه‌ی پێنجه‌مین ساڵیادی کۆمه‌لکوژی ئێزیدییه‌کان که‌ له‌ ٣ ئابی ١٩٢٤ روویدا، که‌ بووه‌ هۆی ده‌سته‌جێ سه‌ربرین یان کۆیله‌کردنی ١٢٠٠٠ ئێزیدی له‌ باکووری عێراق و گه‌مارۆدانی بێهه‌یه‌یه‌کانی ٢٥٠٠٠ تر که‌ له‌ چیا‌ی شنجال (سنجار) گیریان خواردبوو. کۆی گشتی، زیاتر له‌ ٤٠٠٠٠ ئێزیدی کۆژران، فشاریان خرایه‌سه‌ر بۆ ئه‌وه‌ی ببن به‌ کۆیله‌ یان ده‌ربه‌ده‌رکران له‌ نیشتمانه‌ شیرینه‌که‌یان. پێش ئهم رووداوه‌ سامناکانه‌، کۆمه‌لگه‌ ئێزیدییه‌کانی باکووری عێراق به‌ ده‌ستی نه‌نقه‌ست تیوه‌گلان و بوونه‌ ئامانجی هه‌رشه‌ خۆکوژییه‌کان که‌ زیاتر له‌ ٨٠٠ که‌س تێیدا بوونه‌ قوربانی له‌ مانگی ئابی ١٩٢٠٧، که‌ رووداوه‌که‌ به‌یه‌کیک له‌ کوشنده‌ترین هه‌رشه‌ تیرۆستییه‌کان هه‌ژمارکرا له‌ میژوودا.

به‌بێ چه‌شتیان له‌م باروودوخانه‌دا، قورسه‌ بۆ ئیمه‌ که‌ تێگه‌ین و خه‌یالی ئه‌و ته‌نگانه‌ و قورسیانه‌ بکه‌ین که‌ رووبه‌رووی پیاوان، ژنان، و مندالانی ئێزیدی بوونه‌ته‌وه‌ له‌ ماوه‌ی ئهم چه‌ند ساڵه‌ی داویدا. پێویسته‌ پشت به‌ستین به‌ شایه‌ت‌حال و به‌لگه‌ که‌سییه‌کانیان و بیانپاریژین له‌گه‌ل خۆمان بۆ هه‌میشه‌، وه‌کو بیرخستنه‌وه‌کانی ئه‌و خراپه‌کاریانه‌ی که‌ مرۆف له‌ توانایه‌ دروستی بکات له‌سه‌ر خه‌لکانی تر که‌ مل نادن و ناچه‌مینه‌وه‌ بۆ دونیایه‌یه‌ نامۆ و خۆپه‌رستیه‌کانیان وه‌هه‌روه‌ها وه‌کو نیشانه‌کانی هیوا به‌ پاده‌یه‌ک که‌ رووحی خۆبه‌ ده‌سته‌وه‌نه‌دانی مرۆفی کۆمه‌لگه‌ی ئێزیدییه‌ له‌ رووبه‌روو بوونه‌وه‌ی باروودوخه‌ قیزه‌ونه‌کاندا.

رێکخراوه‌که‌مان، په‌شیدی نێوده‌وله‌تی، کارده‌کات بۆ تیشک خستنه‌سه‌ر و چاره‌سه‌رکردنی ئه‌و به‌ره‌نگاریانه‌ی که‌ رووبه‌رووی که‌له‌پووری هه‌موو عێراق بووه‌ته‌وه‌. بۆ کۆتایه‌ینان به‌مه‌ ئیمه‌ دیپلۆماسیه‌تی که‌له‌پووری نێوده‌وله‌تیمان دروستکردوو و کارده‌که‌ین له‌گه‌ل هاوبه‌شه‌ عێراقی و نێوده‌وله‌تیه‌که‌مان له‌ مه‌ودایه‌کی فراوانی پڕۆژه‌ی جیاوازا، له‌ نێویشیاندا که‌ته‌لوگکردنی ئه‌و مۆنیومنتانه‌ی که‌ له‌ ژێر هه‌ره‌شه‌دان، هه‌وله‌کانی بنیادناوه‌ له‌ دۆخ و باری له‌ناکاودا، باشکردنی کۆکراوه‌ی موزه‌خانه‌کان و ئه‌میشه‌کان، و به‌شداریکردن له‌ نووسین و ناردنی راپۆرتی پێشڕیانه‌ له‌سه‌ر بابته‌کانی په‌یوه‌ست به‌ که‌له‌پوور و مافه‌ کولتورییه‌کان بۆ دامه‌زراوه‌کانی نه‌ته‌وه‌ یه‌کگرتوووه‌کان له‌ نێویشیاندا بۆ نووسینه‌گه‌ی کۆمیسۆنی بالای مافه‌کانی مرۆف. ئیمه‌ شه‌ره‌فمه‌ندین و شانزیده‌که‌ین که‌ هاوکار و یارمه‌تیده‌ربووین له‌ به‌ره‌مه‌یه‌نانی ئهم راپۆرته‌ گرنگه‌دا و ئاماده‌شده‌بین بۆ یارمه‌تیدانی هاوڕێ و هاوکاره‌که‌مان له‌ نێو ئێزیدییه‌کاندا له‌ پڕۆژه‌ هه‌روه‌زییه‌کانی داهاوتوودا.

رۆجه‌ر ماتیوس، سه‌رۆکی دامه‌زراوه‌ی په‌شیدی نێوده‌وله‌تی
پروفسۆری شوێنه‌وارناسی پۆژه‌لاتی نزیك، زانکۆی رێدینگ، شانشین یه‌کگرتوو

SECTION 1

INTRODUCTION

View of Lalish, the holiest site in Yazidism (©2017 Levi Clancy/CC BY-SA 4.0)



On 3 August 2014, the Islamic State (IS)¹ launched the opening attacks of a genocidal campaign against the Yazidi community in Iraq. Sinjar, the ancient homeland of the Yazidi community, became a death trap for the targets of the Islamic State's persecution. The militants went to considerable lengths to destroy the Yazidi people, but their purpose went far beyond the destruction of the mere physical. They specifically targeted the cultural and the spiritual, the very bonds that hold a community together and which are of supreme importance to the Yazidis.

The Yazidi people are one of the most ancient nations in the world, but much of their history and faith has not yet been revealed to the public.

The Yazidi people are one of the most ancient nations in the world, but much of their history and faith has not yet been revealed to the public. Their unique ethno-religious identity originated in ancient Mesopotamian civilizations (especially Sumer and Babylon) and is steeped in a history of more than 6500 years. The Yazidi homeland, correspondingly, is located in what was once ancient Mesopotamia, modern-day Iraq. The holiest place and center of the Yazidi religion is Lalish Temple in Northern Iraq. Currently there are about one and a half million Yazidis around the world, a majority of whom live in Iraq, with diaspora in Germany, Russia, Belgium, Armenia, Georgia, France, Sweden and Turkey, as well as the US, Canada, and, more recently, Australia. Smaller communities exist in the United Kingdom, the Netherlands, Norway and Denmark.

Êzidî is the correct and original name of the Êzidî people.

Êzidî is the correct and original name of the Êzidî people in spite of the fact that they are known as 'Yazidis' by others.² The term Êzidî derives from the Sumerian root Ê Zi Dî which means the ones who are on the right path and have the good and unspoiled spirit. A variation is Êzdai, which means 'the one who created me', the King God, in the Êzidî language.

Belief in God and Tawûsê Melek and reverence for Lalish as the holiest place on earth are the defining features of the faith.

A core tenet of the monotheistic Yazidi faith is the belief that Xuada (God) created the world, including Lalish, in seven days and entrusted it to seven holy angels, including Tawûsê Melek, who Yazidis believe to be the head of the angels. According to tradition, Yazidis have existed as a religion and a people since the creation of the world. They inherited their identity, faith, culture and tradition from their ancestors through strict endogamy, i.e. the only way to become Yazidi is to be born from two Yazidi parents. Ethnic belonging and adherence to the Yazidi faith, Yazidism, are inextricably linked. One cannot be Yazidi without believing in Yazidism and one cannot adhere to Yazidism without being born Yazidi. Belief in God and Tawûsê Melek and reverence for Lalish as the holiest place on earth are the defining features of the faith. Nature and seasonal changes feature prominently. Sun, fire, soil, water and the wild red flower are frequent symbols and sacred elements in Yazidism.

Yazidism is divided into three sects: Merid, the general population, and the religious Pir and Shix sects. Marriage between different Yazidi sects or between Yazidis and adherents of other religions is not permitted. Just as it is important

1 Also known as Daesh, ISIS or ISIL.

2 The term 'Yazidi' is used throughout the report to enhance accessibility for international readers. We encourage readers to take into account the correct terminology and use it where appropriate.

IS systematically targeted the culture, identity and heritage of Iraqi Yazidis in a planned and coldly calculated policy of ethnic cleansing and genocide.

The destruction of tangible cultural heritage is more than just the destruction of property, it threatens the unique identity and survival of the community, and represents an international crime on its own.

for the Yazidi community to follow the sect system, crucial to their heritage is the practice of Yazidism and the participation in high holy days, festivals and social events, many of which are held around holy places or shrines. Historic and sacred places are an essential part of the Yazidi identity and are considered vital to life by the local population, as they are sites for ritual practice, the sharing of memories and oral histories, as well as the maintenance of culture and traditions. Some include space for graveyards. These sites provide a space for the construction of community cohesion, particularly on visits during holy days and festivals, but are also critical to preserving the unique identity of the Yazidis.

In a planned and coldly calculated policy of ethnic cleansing and genocide, the Islamic State specifically and systematically targeted the culture, identity and heritage of Iraqi Yazidis. Not just murdered, Yazidis were enslaved, forced into sexual servitude, brainwashed and/or forcibly converted to Islam. Many historic sites and holy places were destroyed. Tens of thousands of Yazidis were forced to flee their homeland. Despite these hardships, thousands of Yazidi women and children persevered, returned from captivity and were warmly welcomed by the Yazidi community.

Mass displacement has significantly impacted memory, social experience, worship and cultural practice by denying Yazidis access to essential heritage sites. The mass migration of Yazidis to the West and their integration into other cultures is another set of factors threatening the unique identity and survival of the community. The destruction of tangible cultural heritage is more than just a destruction of property easily eclipsed by human suffering, it is a grave cause of human suffering itself. The cohesion of the Yazidi community has been significantly affected and there is considerable risk that Yazidi cultural identity and the memories and practices central to their ancient culture will disappear forever.

This violation of Yazidi cultural heritage is no footnote in the story of the suffering of the Yazidi community. It represents an international crime on its own and ties deeply into other international crimes committed. Attacks on cultural heritage can be relevant in all three areas of international criminal law: war crimes, crimes against humanity and genocide.

Islamists in other modern contexts have been held accountable. In 2016, the Islamic militant Ahmad Al-Faqi Al-Mahdi was tried and sentenced by the International Criminal Court (ICC) to nine years of imprisonment for the war crime of directing attacks against nine mausolea and the Sidi Yahia mosque in Timbuktu, Mali.³ Al-Mahdi was charged with only these crimes, no others. One of the witnesses testified that the actions of the Islamic militants in Mali were '*a war activity aimed at breaking the soul of the people of Timbuktu*'.⁴

3 ICC, *Prosecutor v Al-Mahdi* (Judgment and Sentence) [Trial Chamber] ICC-01/12-01/15-171 (27 December 2016), para 109.

4 ICC, *Prosecutor v Al-Mahdi* (Judgment and Sentence) [Trial Chamber] ICC-01/12-01/15-171 (27 December 2016), para 80.

Fellow Malian Islamist Al-Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud is currently in the custody of the ICC and has been indicted on charges of, inter alia, directing attacks against religious sites, persecution and the sexual enslavement of women and girls.⁵

The Islamic State attempted to break the soul of the Yazidi people with measures of war. Now is the time to hold commanders, fighters and supporters accountable for their actions.

We present the results of our investigation to the international community in order for these deeds to not go unacknowledged and unpunished. Section 2 provides an overview of the genocide against the Yazidis. Section 3 analyzes the framework of international criminal law applicable in cases of attacks on cultural heritage. Section 4 provides evidence and context on the destruction of tangible cultural heritage. Section 5 draws conclusions from the previous sections and issues recommendations to ensure accountability of perpetrators and assist the Yazidi community in recovering.

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- Nadia Murad and Jenna Krajeski, *The Last Girl: My Story of Captivity and My Fight Against the Islamic State* (Penguin Books 2017)
- Sa'ad Salloum, *Êzidîs in Iraq: Memory, Beliefs, and Current Genocide* (2016) <https://www.academia.edu/33292077/ÊZIDÎS_IN_IRAQ> (open access)

⁵ ICC, *Prosecutor v Al-Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (Case Information Sheet) ICC-01/12-01/18 (June 2019) <<https://www.icc-cpi.int/CaseInformationSheets/al-hassanEng.pdf>>

SECTION 2

THE GENOCIDE AND ATTACKS OF AUGUST 2014

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From the moment it began acknowledging the Yazidis of the region, IS has never hidden its intention of eradicating them.

IS killed or abducted 12,000 Yazidis within days. Captives suffered abuse and torture. The adult men were killed from the outset. Girls and women were forced into sexual slavery through online auctions where the price of a human life ranged from 200 USD to 1,500 USD.

In the early hours of 3 August 2014, armed units of the self-declared Islamic State (IS), launched a planned and coordinated attack across the Sinjar region of northern Iraq, homeland of the Yazidi ethno-religious minority. Prior to the attacks, several IS theologians were tasked with researching the Yazidis, upon which they concluded that they were 'devil-worshippers' and 'infidels'. Thus IS began its campaign of anti-Yazidi propaganda, spread across the internet via videos and other publications. From the moment it began acknowledging the Yazidis of the region, IS has never hidden its intention of eradicating them, using Sharia law drawn from the Quran and Hadiths as pretext for their genocidal ambitions.¹ In an article published in its propaganda magazine 'Dabiq', IS declared that:

upon conquering the region of Sinjar (...) the Islamic State faced a population of Yazidis, a pagan minority existent for ages in the regions of Iraq and Sham [Syria]. Their continual existence to this day is a matter that Muslims should question as they will be asked about it on Judgment Day.²

The attack came from the directions of Mosul and Tal Afar in Iraq, Al-Shaddadi, and the Tel Hamis region in Syria, thus besieging the civilian population from all four sides. The Kurdish Peshmerga forces mandated to protect the area abandoned their bases and checkpoints without warning, leaving the local population unprotected and largely defenseless in the face of the IS advance. In the hours and days that followed, approximately 12,000 Yazidis were killed or abducted by IS.

The crimes of IS were well-organized: Yazidis were subjected to criminal acts targeted to their demographic, namely whether they were man, woman or child. All Yazidi captives suffered abuse and torture, but IS reserved distinctive atrocities for each group. Male Yazidis above the age of twelve were killed from the outset and to date around seventy mass graves have been found. However, one of IS's most systematic and coordinated criminal policies was directed against girls and women through an organized network of sexual slavery.³ After selectively interpreting both the Quran and Sharia law to justify sexual slavery,⁴ IS put in place strict rules surrounding the practice of slavery, built databases containing name, age, marital status and photos of the victims, and set up markets where the price of a human life ranged from 200 USD to 1,500 USD. The international community has rarely faced such an organized and public sexual trade in modern times.

Testimony collected by Yazda from multiple sources further describes forced conversion of women, men and children. All were obligated to say the 'shahada',

1 This becomes especially clear in issues of Dabiq, the Islamic State's official propaganda magazine, see The Islamic State, 'The Revival of Slavery Before the Hour', *Dabiq*, Issue 4 (October 2014) <<http://www.ieproject.org/projects/dabiq4.html>>

2 Ibid.

3 UN Independent International Commission of Inquiry on the Syrian Arab Republic, 'They Came to Destroy': *ISIS Crimes Against the Yazidis* (15 June 2016) UN Doc A/HRC/32/CRP.2.

4 The Islamic State, 'The Revival of Slavery Before the Hour', *Dabiq*, Issue 4 (October 2014) <<http://www.ieproject.org/projects/dabiq4.html>>

an Islamic creed declaring the belief in Islam and the oneness of God, to study the Quran and to pray daily. The practice of Yazidi customs was not permitted and captives were given new names. Any resistance was punished. Even after conversion, Yazidis were subjected to the most egregious crimes, as they were still viewed as Yazidis and qualified as infidels by their perpetrators. By the standards of the IS's warped ideology, killing, torturing and raping Yazidis would bring IS members closer to God. Escaped Yazidi women described how their tormentors used to pray before and after raping them, explaining how the rape was considered to purify both the victim and the rapist. Yazidi women and girls in captivity were subjected to constant verbal and psychological abuse, with severe punishment for speaking their own language or practicing Yazidi traditions. Insults were particularly directed at their faith – captives were accused of being 'devil worshippers' and referred to derogatorily as 'kuffar' (infidels) and told to forget their families and their God.

Yazidis who managed to escape IS to Mount Sinjar became trapped and were forced to endure daytime temperatures above 40°C (104°F) with no access to food, water and medical care.

A further estimated 250,000 Yazidis who managed to escape capture or death during the initial IS attack fled for their lives up the rocky upper slopes of Mount Sinjar (Jabal Sinjar). There they were surrounded and trapped by IS forces for days on the open mountainside in the blazing sun with daytime temperatures of over 40 °C (104 °F). To further their genocidal campaign, IS besieged the area to prevent access to food, water and medical care for those trapped on Mount Sinjar, in an attempt to ensure the deaths of many more Yazidis. Between 7 and 13 August 2014 a rescue operation commenced as a coordinated effort that included Yazidi volunteer defenders, the Syrian Kurdish forces (YPG), the Kurdistan Workers Party (PKK), and an international coalition that opened a safe corridor from Mount Sinjar to Syria, along which many Yazidis were able to escape.

The atrocities that took place in Sinjar were not the only IS attack on Yazidi communities in Northern Iraq in the summer of 2014. The twin towns of Bashiqa (Ba'shiqa/Beshiqe) and Bahzani (Behzane) to the north-east of Mosul, with predominately Yazidi populations, were occupied by IS, forcing approximately 35,000 inhabitants to flee in fear for their lives. The attacks were launched on 6 August, but the population, aware of the attacks on Sinjar, fled Ba'shiqa on 3 August. There were fortunately no human casualties.

IS embarked on the intentional destruction of Yazidi spiritual and cultural sites in Sinjar and Bashiqa-Bahzani, employing explosives and bulldozers to raze 9 sites in Sinjar and all 38 sites and shrines in Bashiqa-Bahzani.

On top of the human cost wreaked by the group's atrocities, in a textbook campaign of ethnic cleansing, IS embarked on the intentional destruction of Yazidi spiritual and cultural sites as well as shrines in Sinjar and Bashiqa-Bahzani. In Sinjar, a total of 9 shrines were destroyed by IS, eight on the south side of Mount Sinjar and one on the north side. The south side of Mount Sinjar was attacked first and inhabitants barely had time to defend themselves or to flee. The north side was attacked later, as Yazidi men had been blocking access to the mountain through armed resistance. In Bashiqa-Bahzani all 38 sites and shrines were destroyed. Indeed, as all the inhabitants had fled their homes before the arrival of IS forces in order to avoid certain slavery and death, no one was present to defend the holy places. IS propaganda pictures and videos showed that IS used two primary methods to destroy the structures: explosives and bulldozers.

After the attacks, IS left the district heavily sown with landmines and IEDs to prevent those who survived from returning. These explosives continue to constitute a significant threat as of 2019.

IS also targeted the economic bases of the Yazidi community's existence in the Sinjar region and Bashiqa-Bahzani. Yazidi homes and properties were destroyed or looted. In rural regions where agriculture and animal husbandry were the main source of livelihood, irrigation wells were sabotaged and infrastructure installations destroyed. Furthermore, there was large scale theft of livestock and an almost total destruction of agricultural equipment. Thus, 'by the time the north side of the mountain was liberated in December 2014, and the south side in November 2015, thousands of years of Yazidi life had been more or less obliterated'.⁵ Olive groves, an important source of income, were chopped down, burnt or otherwise destroyed. Before the depredations of IS the Bashiqa-Bahzani area had been home to the majority of Nineveh province's olive production.

After their overwhelming and comprehensive attempt to destroy the Yazidi community in Sinjar and all bases of its existence, IS left the district heavily sown with landmines and improvised explosive devices (IEDs) in a concluding effort to try to prevent those who survived from returning. Landmines, IEDs and unexploded ordnance (UXOs) still constitute a significant threat in 2019.⁶

On 15 June 2016 the Human Rights Council of the United Nations, releasing the findings of a report of the Independent International Commission of Inquiry on the Syrian Arab Republic on IS crimes against the Yazidis, declared that IS actions against Yazidis in the Sinjar region amounted to genocide, as well as multiple war crimes and crimes against humanity.⁷ Many States and international organizations have concurred and recognized that the crimes committed by IS against the Yazidis constitute genocide. These include the United Nations, the European Union,⁸ the Council of Europe,⁹ the United States,¹⁰ the United

5 See Amnesty International, 'Dead Land: Islamic State's Deliberate Destruction of Iraq's Farmland' (Amnesty International 2018) <<https://www.amnesty.org/en/documents/mde14/9510/2018/en/>>, p.10; see also Welthungerhilfe (WHH), 'Rapid Capacity Assessment of Agricultural Extension Workers in Sinjar and Al-Hamdaniya Districts' (Welthungerhilfe 2018) <<https://www.humanitarianresponse.info/en/operations/iraq/assessment/rapid-capacity-assessment-agricultural-extension-workers-sinjar-and-al-0>>

6 Geographical, 'Removing Landmines in Sinjar, Iraq' (Geographical, 28 June 2019) <<https://geographical.co.uk/nature/geophoto/item/3250-removing-landmines-in-sinjar>>

7 UN Independent International Commission of Inquiry on the Syrian Arab Republic, 'They Came to Destroy': ISIS Crimes Against the Yazidis (15 June 2016) UN Doc A/HRC/32/CRP.2; see the many other reports and statements referred to in the above report, p3, n3, including: OHCHR, *Report of the Office of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Iraq in the Light of the Abuses Committed by the So-Called Islamic State in Iraq and the Levant and Associated Groups* (27 March 2015) UN Doc A/HRC/28/18.

8 European Parliament, *Resolution of 4 February 2016 on the Systematic Mass Murder of Religious Minorities by the so-called 'ISIS/Daesh'*, Doc No 2016/2529 (RSP) <http://www.europarl.europa.eu/doceo/document/TA-8-2016-0051_EN.html>

9 Council of Europe Parliamentary Assembly, *Resolution 2091* (2016).

10 On 14 March 2016, the US House of Representatives voted unanimously for a resolution recognizing that the atrocities perpetrated by IS against the Yazidis constituted genocide, see H.Con.Res.75 <<https://www.congress.gov/bill/114thcongress/house-concurrent-resolution/75>>

The international community, from the UN Human Rights Council to national governments, have condemned IS actions against Yazidis as amounting to genocide.

Kingdom,¹¹ Australia,¹² France,¹³ Scotland,¹⁴ and Armenia.¹⁵ Furthermore, Canada's Minister of Foreign Affairs in 2016, Stéphane Dion, recognized the IS atrocities as genocide on behalf of his government.¹⁶ So have the Kurdistan Regional Government's President and Minister of Foreign Relations, Nechirvan Barzani and Falah Mustafa.¹⁷ Yazda continues to advocate for the international recognition of IS crimes against the Yazidis as amounting to genocide, not only in acknowledgement of the victims, but also as a step towards a judicial reckoning against those who perpetrated the crime of genocide.

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- Rita Izsák-Ndiaye, *Report of the Special Rapporteur on Minority Issues on Her Mission to Iraq* (9 January 2017) UN Doc A/HRC/34/53/Add.1

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<https://static1.squarespace.com/static/5771830a5016e1a544ba4318/t/5ac63dda88251b8bef460c7b/1522941415946/Status_of_Sinjar_Report.pdf>
- William Spencer et al, 'Crossroads: The Future of Iraq's minorities after ISIS' (Institute for International Law and Human Rights et al. 2017).
<https://www.kas.de/wf/doc/kas_49330-1522-2-30.pdf?170622104113>

11 UK House of Commons, Debate on 20 April 2016, 'Daesh: Genocide of Minorities', Volume 608, Columns 998-1000 <<https://hansard.parliament.uk/commons/2016-04-20/debates/16042036000001/DaeshGenocideOfMinorities>>

12 Australian Parliament, Motion in House of Representatives, 26 February 2018.

13 French National Assembly, Resolution of 8 December 2016 <<http://www.assemblee-nationale.fr/14/cr/2016-2017/20170075.asp>>

14 Scottish Parliament, Motion S5M-04130, 23 March 2017 <<http://www.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S5M-04130>>

15 Armenian Parliament, Declaration Recognising the Yazidi genocide, 16 January 2018.

16 Hon. Stéphane Dion (Minister of Foreign Affairs), Canadian House of Commons, Debates, Volume 148, No 74, p. 1420 <<https://www.ourcommons.ca/DocumentViewer/en/42-1/house/sitting-74/hansard>>

17 Statement of Prime Minister (now President) Nechirvan Barzani on 3 August 2018 <<http://previous.cabinet.gov.krd/a/d.aspx?s=010000&l=12&a=57020>> ; Department of Foreign Affairs of the Kurdistan Region of Iraq, 8 November 2014 <<https://dfr.gov.krd/a/d.aspx?l=12&a=44239>>

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- Susan Shand, *Sinjar: 14 Days that Saved the Yazidis from Islamic State* (Rowan and Littlefield 2018)

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- Al-Marashi, 'The Impact of the Islamic State of Iraq and Syria's Campaign on Yazidi Religious Structures and Pilgrimage Practices' in M. Leppakari and K.Griffin (eds) *Pilgrimage and Tourism to Holy Cities: Ideological and Management Perspectives* (Cabi 2017)
- Beth Van Schaack, 'The Iraq Independent Investigative Team & Prospects for Justice for the Yazidi Genocide' [2018] SSRN <<https://ssrn.com/abstract=3099932>>
- Jérémy André, 'How the Yazidis Tried to Save their Temple' (*La Croix International*, 10 February 2017) <<https://international.la-croix.com/news/how-the-yazidis-tried-to-save-their-temple/4656#>>
- Amanda J Rothschild, 'ISIS and Genocide' (*Foreign Affairs*, 28 February 2016) <<https://www.foreignaffairs.com/articles/syria/2016-02-28/isis-and-genocide>>
- Emma Kromm, 'ISIS' Most Wanted: A Quest to Save the Yazidis' (*Harvard Political Review*, 12 May 2015) <<https://harvardpolitics.com/world/isis-wanted-quest-save-yazidis/>>

SECTION 3

INTERNATIONAL LEGAL FRAMEWORK

At the shrine of Malak Naserddin in Lalish, August 2018 (©2018 Levi Clancy/CC BY-SA 4.0)



GENERAL REMARKS

For clarity's sake the exact definitions of international crimes discussed in this section are drawn from the Rome Statute of the International Criminal Court (Rome Statute),¹ an international treaty, which binds only States who are Party to it. However, the same crimes also exist in customary international law with minor, practically unimportant, deviations.² Customary international law binds any and all States and individuals in the world, regardless of whether the territorial State is a Party to the Rome Statute.³ National courts of States not Party to the Rome Statute can rely on customary international law to prosecute international crimes, if relevant treaty law or statutory law is not present.

National courts of States not Party to the Rome Statute can rely on customary international law to prosecute international crimes, if relevant treaty law or statutory law is not present.

Members of armed non-state actors (ANSAs), such as the Islamic State (IS), are not treated any differently under international criminal law than the armed forces or representatives of States. International crimes remain international crimes, regardless of the position of the person who committed them. Prosecuting ANSAs poses mainly evidentiary challenges, for example certain modes of liability refer to facts that are easier to show for agents of States (such as command responsibility, which requires the existence of a command structure), but nonetheless apply to ANSAs as well.

It should be noted that crimes against humanity and genocide can be committed during peacetime,⁴ though both occur most frequently in wartime. Only war crimes require showing the existence of an armed conflict.

WAR CRIMES

First and most clearly, the destruction of tangible cultural heritage, when committed during armed conflict, constitutes a war crime. Article 8 (2) (b) (ix) and Article 8 (2)(e)(iv) of the Rome Statute of the International Criminal Court forbid:

Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives

The simplicity of this crime is its greatest attraction. Under the Rome Statute,

¹ Rome Statute of the International Criminal Court [Rome Statute], adopted 17 July 1998, in force 1 July 2002, 2187 UNTS 3 <<https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>>

² For example, the war crime of destroying cultural property under customary international law is somewhat wider under the Rome Statute ('directing attacks' against buildings as opposed to destruction of property). In practice this is mostly irrelevant, as resources will primarily be devoted to prosecuting acts of destruction.

³ On customary status, see ICTY, *Prosecutor v Tadic* (Opinion and Judgment) [Trial Chamber] IT-91-1-T (7 May 1997), paras 608-613 (war crimes) and paras 618-623 (crimes against humanity).

⁴ ICTY, *Prosecutor v Tadic* (Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction) [Appeals Chamber] IT-95-1-A (2 October 1995), para 141.

The attack must have been carried out during armed conflict, but the International Criminal Court (ICC) does not require that it forms part of the 'conduct of hostilities'.

directing an attack is sufficient, no damage is required.⁵ The protected status of a building is easily established, hinging on its dedication and whether it represented a valid military objective during the time of attack. A 'military objective' is defined as *'those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage'*.⁶ It should be noted that the concept of tangible cultural heritage under international criminal law is more encompassing than that of 'cultural property' under the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954 Hague Convention).⁷ Article 1 of the 1954 Hague Convention limits the scope of the treaty (and therefore also its two Protocols) to 'cultural property', which, *inter alia*, is defined as *'movable or immovable property of great importance to the cultural heritage of every people'*. The 'great importance' condition was explicitly disavowed by the International Criminal Tribunal for the former Yugoslavia (ICTY) Appeals Chamber.⁸

The attack must have been carried out during armed conflict, but the International Criminal Court (ICC) does not require that it forms part of the 'conduct of hostilities'. Attacks of armed non-state actors against objects in territory controlled by their own forces are just as culpable, for the Rome Statute makes no distinction between the two.⁹ Convictions for specific counts alleging the destruction of tangible cultural heritage have, for example, been obtained at the ICTY in the cases of Kordić & Čerkez,¹⁰ Strugar¹¹ and Blaskić.¹² The ICC convicted Al-Mahdi in 2016.¹³ Fellow Malian Islamist Al-Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud is in the custody of the ICC and currently awaits trial for directing attacks against religious sites, persecution and the sexual enslavement of women and girls.¹⁴

It has been argued, contrary to the ICC's ruling in *Al-Mahdi*, that an 'attack' as defined under customary international humanitarian law 'means acts of

5 This is different under customary international law. Article 3 (d) of the Statute of the ICTY requires *'seizure of, destruction or wilful damage'*.

6 Article 52 (2) of the 1977 Additional Protocol I to the Geneva Conventions; see also International Committee of the Red Cross, *International Humanitarian Law Database, Customary International Humanitarian Law, Rule 8* <https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule8>.

7 Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted 14 May 1954, in force 7 August 1956, 249 UNTS 215.

8 ICTY, *Prosecutor v Kordić & Čerkez* (Judgment) [Appeals Chamber] IT-95-14/2-A (17 December 2004), para 92.

9 ICC, *Prosecutor v Al-Mahdi* (Judgment and Sentence) [Trial Chamber] ICC-01/12-01/15-171 (27 December 2016), para 15

10 ICTY, *Prosecutor v Kordić & Čerkez* (Judgment) [Trial Chamber] IT-95-14/2-T (26 February 2001), paras 834 (d), 836 (c).

11 ICTY, *Prosecutor v Strugar* (Judgment) [Trial Chamber] IT-01-42-T (31 January 2005), para 478.

12 ICTY, *Prosecutor v Blaskić* (Judgment) [Trial Chamber] IT-95-14-T (3 March 2000), p. 267.

13 ICC, *Prosecutor v Al-Mahdi* (Judgment and Sentence) [Trial Chamber] ICC-01/12-01/15-171 (27 December 2016), para 109.

14 ICC, *Prosecutor v Al-Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (Case Information Sheet) ICC-01/12-01/18 (June 2019) <<https://www.icc-cpi.int/CaseInformationSheets/al-hassanEng.pdf>>

The Rome Statute leaves no room for doubt: the destruction or seizure of property of an adversary beyond military necessity constitutes war crime.

violence against the adversary, whether in offence or in defence”¹⁵ and the Rome Statute must be interpreted in line with this definition.¹⁶ Therefore, in cases of destruction of tangible cultural heritage by a party to the conflict in territory controlled by that same party, Article 8 (2) (b) (ix) and Article 8 (2)(e)(iv) Rome Statute would be inapplicable.¹⁷ However, the issue is one of semantics only. If these provisions were not applicable, Article 8 (2) (e) (xii) Rome Statute, the war crime of ‘Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict’ would criminalize the same behavior. Either way, at the end stands a war crimes conviction.

CRIMES AGAINST HUMANITY

Article 7 (1) of the Rome Statute of the International Criminal Court reads:

1. For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;

The destruction of tangible cultural heritage is a key indicator of the crime of persecution.

Amongst crimes against humanity, the crime of persecution is of special significance in the protection of minorities. Its key purpose is to guard against patterns of discriminatory attacks on civilian populations, which rank among ‘the most serious crimes of concern to the international community as a whole’.¹⁸ The destruction of tangible cultural heritage is a key indicator of such a discriminatory attack. Concurrently, the International Military Tribunal at Nuremberg, the ICTY and the International Law Commission (ILC) viewed ‘the destruction of religious buildings as a clear case of persecution as a crime against humanity’.¹⁹

Numerous precedents exist in which the destruction of tangible cultural heritage was indicted as the crime of persecution. At the ICTY, this was done

15 Article 49 (1) of the 1977 Additional Protocol I to the Geneva Conventions, adopted 8 June 1977, in force 7 December 1978, 1125 UNTS 3.

16 Roger O’Keefe, ‘Cultural Property Protection and the Law of War Crimes’ [2017] NATO Legal Gazette, Issue 38 <https://www.act.nato.int/images/stories/media/doclibrary/legal_gazette_38.pdf>, p. 45.

17 Roger O’Keefe, ‘Cultural Property Protection and the Law of War Crimes’ [2017] NATO Legal Gazette, Issue 38 <https://www.act.nato.int/images/stories/media/doclibrary/legal_gazette_38.pdf>, p. 45.

18 Rome Statute, Article 5.

19 ICTY, *Prosecutor v Kordić & Čerkez* (Judgment) [Trial Chamber] IT-95-14/2-T (26 February 2001), para 206.

20 ICTY, *Prosecutor v Blaškić* (Second Amended Indictment) IT-95-14 (25 April 1997), para 6.3.

in the indictments of Blaškić,²⁰ Kordić & Čerkez,²¹ Vasiljević,²² Naletilić & Martinović,²³ Krajišnik,²⁴ Stakić,²⁵ Milošević,²⁶ Brđanin,²⁷ Šainović et al.,²⁸ Prlić et al.,²⁹ Karadžić³⁰ and Mladić.³¹

In the Trial of the Major War Criminals before the International Military Tribunal at Nuremberg the ‘burning and demolishing of synagogues, the looting of Jewish businesses’ formed part of the evidence for the conviction of crimes against humanity.³² In the Eichmann trial the large-scale and systematic destruction of more than two hundred synagogues during ‘Reichskristallnacht’ was cited as evidence of persecution.³³ The ICTY relied on the destruction of cultural heritage in the convictions for persecution of, among others, Blaškić,³⁴ Stakić,³⁵ Deronjić³⁶ Krajišnik,³⁷ and Karadžić.³⁸

IS justified the enslavement of Yazidis in their publications through reference to Sharia Law and spread their ideological message of targeted humiliation across the internet.

As we explained in Section 2, the pattern of conduct shown by the Islamic State towards the Yazidi community easily rises to the standard of ‘widespread or systematic attack’ and the defenseless Yazidis could not be classified as anything but a ‘civilian population’. We are confident that the evidence presented in Section 4 provides further proof of a widespread and systematic attack against Yazidis as a group. It is further of little doubt that Yazidis were targeted on ethnic and religious grounds. An explicit justification of enslaving Yazidis with reference to Shariah law was published by the Islamic State in its Dabiq magazine.³⁹ Isakhan and Zarandona explain how the iconoclasm of the Islamic State is directly related to its religious and ideological program,

21 ICTY, *Prosecutor v Kordić & Čerkez* (Amended Indictment) IT-95-14/2 (30 September 1998), para 37(k).

22 ICTY, *Prosecutor v Vasiljević* (Amended Indictment) IT-98-32-PT (12 July 2001), paras 9, 40

23 ICTY, *Prosecutor v Naletilić & Martinović* (Second Amended Indictment) IT- 98-34-PT (28 September 2001), paras 34(c), 56.

24 ICTY, *Prosecutor v Krajišnik and Plavšić* (Consolidated Amended Indictment) IT-00-39 & 40-PT (7 March 2002), para 19(k) and Schedule D.

25 ICTY, *Prosecutor v Stakić* (Fourth Amended Indictment) IT-97-24-PT (10 April 2002), para 54 (3)(b).

26 ICTY, *Prosecutor v Slobodan Milošević* (Amended Indictment ‘Bosnia and Herzegovina’) IT-02-54-T (22 November 2002), paras 35(j), 42.

27 ICTY, *Prosecutor v Brđanin* (Sixth Amended Indictment) IT-99-36-T (9 December 2003), para 47(3)(b).

28 ICTY, *Prosecutor v Šainović et al* (Third Amended Joinder Indictment) IT-05-87-PT (21 June 2006), para 76.

29 ICTY, *Prosecutor v Prlić et al* (Second Amended Indictment) IT-04-74-T (11 June 2008), para 39(c).

30 ICTY, *Prosecutor v Karadžić* (Prosecution’s Marked-Up Indictment) IT-95-5/18-PT (19 October 2009), para 53.

31 International Military Tribunal at Nuremberg, *Trial of the Major War Criminals* (Judgment), [1947]

32 International Military Tribunal at Nuremberg, *Trial of the Major War Criminals* (Judgment), [1947] 41(1) American Journal of International Law 172, p. 244.

33 District Court of Jerusalem, *Attorney General of the Government of Israel v Eichmann, Case No. 40/61* (12 December 1961), [1968] 36 International Law Reports 5, para 57.

34 ICTY, *Prosecutor v Blaškić* (Judgment) [Trial Chamber] IT-95-14-T (3 March 2000), p. 267.

35 ICTY, *Prosecutor v Stakić* (Judgment) [Trial Chamber] IT-97-24-T (31 July 2003), paras 765–768 and p. 253.

36 ICTY, *Prosecutor v Stakić* (Judgment) [Trial Chamber] IT-97-24-T (31 July 2003), paras 765–768 and p. 253.

37 ICTY, *Prosecutor v Krajišnik* (Judgment) [Trial Chamber] IT-00-39-T (27 September 2006), paras 1148, 1182.

38 ICTY, *Prosecutor v Karadžić* (Judgment) [Trial Chamber] IT-95-5/18-T (24 March 2016), para 6071.

39 ‘This large-scale enslavement of mushrik (idolator) families is probably the first since the abandonment of Shariah law’, quoted in: Reuters, ‘Islamic State Seeks to Justify Enslaving Yazidi Women and Girls in Iraq’ (Reuters, 13 October 2014) <<https://www.reuters.com/article/us-mideast-crisis-iraq-yazidis/islamic-state-seeks-to-justify-enslaving-yazidi-women-and-girls-in-iraq-idUSKCN0121H620141013>>

especially concerning Yazidis.⁴⁰ Cunliffe and Curini conducted social media sentiment analysis and concluded that *'the main intended audience [of heritage destruction] is local or internal, and the primary positive reason for support relates to ISIS's humiliation of targeted communities'*.⁴¹

Article 7 (2) (g) of the Rome Statute further explains:

(g) 'Persecution' means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;

Now, it is unsurprising that rape, slavery and torture are violations of fundamental rights. Why is the destruction of cultural heritage comparable to these heinous acts?

The right to access and retain cultural heritage is acknowledged as a human right under international law.

First of all, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural rights (ICESCR) and other human rights standards are the basis of the concept of 'fundamental rights' in international criminal law.⁴² The right to access and retain cultural heritage is acknowledged as a human right under international law. The UN Human Rights Council has stated so in two of its recent resolutions, Resolution 33/20 of 2016⁴³ and 37/17 of 2018.⁴⁴ The Committee on Economic, Social and Cultural Rights has interpreted Article 15 (1)(a) ICESCR in a manner that includes a right to access to and protection of cultural heritage.⁴⁵ The UN Security Council has concerned itself with the protection of cultural heritage as a matter of peace and security in its resolutions 2199⁴⁶ and 2347.⁴⁷ The UN Special Procedures in the field of cultural rights have devoted three of their thematic reports to study and confirm the link between cultural heritage and cultural rights.

There are no separate lists of fundamental rights and human rights – the gravity of the violation is the defining characteristic of the crime of persecution.

Violations of human rights become a violation of fundamental rights when these acts are 'of an equal gravity or severity to the other acts enumerated [in the provisions concerning crimes against humanity]'.⁴⁸ There are no separate lists of fundamental rights and human rights – the gravity of the violation is the defining characteristic of the crime of persecution.⁴⁹ The destruction of cultural

40 Benjamin Isakhan and José Antonio González Zarandona, 'Layers of Religious and Political Iconoclasm under the Islamic State: Symbolic Sectarianism and Pre-Monotheistic Iconoclasm' [2018] 24 (1) International Journal of Heritage Studies 1.

41 Emma Cunliffe and Luigi Curini, 'ISIS and Heritage Destruction: A Sentiment Analysis' [2018] 92 (364) *Antiquity*, 1094-1111, p. 1106.

42 ICTY, *Prosecutor v Kupreškić et al* (Judgment) [Trial Chamber] IT-95-16-T (14 January 2000), para 621.

43 UN Human Rights Council, *Resolution 33/20* (6 October 2016) UN Doc A/HRC/RES/33/20.

44 UN Human Rights Council, *Resolution 37/17* (19 March 2018) UN Doc A/HRC/RES/37/17.

45 CESCR, *General Comment No 21* (21 December 2009) UN Doc E /C.12/GC/21, paras 49, 50, 53, 54.

46 UN Security Council, *Resolution 2199* (12 February 2015) UN Doc S/RES/2199.

47 UN Security Council, *Resolution 2347* (24 March 2017) UN Doc S/RES/2347.

49 ICTY, *Prosecutor v Kupreškić et al* (Judgment) [Trial Chamber] IT-95-16-T (14 January 2000), para. 619; repeated in ICTY, *Prosecutor v Blaškić* (Judgment) [Appeals Chamber] IT-95-14-A (29 July 2004), para 138.

50 *'The Trial Chamber reiterates its view that there is no list of established fundamental rights and that such decisions are best taken on a case by case basis'*, *Prosecutor v Brđanin* (Judgment) [Trial Chamber] IT-99-36-T (1 September 2004), para 1031.

heritage is an attempt to eradicate the common ground a community stands on. It is an attempt to break the bonds that bind individuals together and form a common whole. It is more than just an attack on objects, it is an attack on the identity of the individual and the community, a tearing of the soul. In sentencing Plavšić, the ICTY held that 'a crime of utmost gravity' had been committed and the 'gravity is illustrated by (...) the scope of the wanton destruction of property and religious buildings', mentioned on par with murder, deportations and expulsions.⁵⁰

The grave import of cultural heritage is underlined in other times of crisis. The attacks on the World Trade Center, in addition to the horrific loss of life, wounded the very identity of every American, a wound which still has not healed. The fire in the Cathedral of Notre-Dame de Paris made the people of France and the wider world instantly feel an acute sense of loss, a loss of shared history. The cultural heritage of the Yazidi people is of similar importance. Its destruction and loss are of the utmost gravity and concern. Such heritage can never be returned to its original state, since at least some of the historical material has been destroyed.⁵¹

A Trial Chamber of the ICTY, referring to a string of attacks on mosques, summarized this sentiment perfectly:

This act, when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of a people. As such, it manifests a nearly pure expression of the notion of 'crimes against humanity', for all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects.⁵²

GENOCIDE

Cultural heritage destruction may provide evidence for the special intent, the *dolus specialis* required to convict, one of the most challenging criteria in any genocide prosecution.

Finally, and most critically, does the destruction of cultural heritage constitute genocide under international law? The Rome Statute reads:

Article 6 – Genocide

For the purpose of this Statute, '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.

⁵¹ ICTY, *Prosecutor v Plavšić* (Sentencing Judgment) [Trial Chamber] IT-00-39&40/1-S (27 February 2003), para 52.

⁵² See also ICTY, *Prosecutor v Miodrag Jokić* (Judgment) [Trial Chamber] IT-01-42/1-S (18 March 2004), para 52.

⁵³ ICTY, *Prosecutor v Plavšić* (Judgment) [Trial Chamber] IT-95-14/2-T (26 February 2001), para 207.

A Trial Chamber of the ICTY in *Karadžić & Mladić* invited the Prosecution to pursue the destruction of religious sites under the heading of genocide.

Two distinctions are important: the first is between the acts of genocide (*actus reus*) and the intent (*mens rea*). The latter requires a special 'intent to destroy (...) a group' (*dolus specialis*). The list of acts of genocide repeats verbatim the definition of genocide included in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.⁵³ The list of genocidal acts is final and the *actus reus* clearly does not include the destruction of cultural heritage.

However, such destruction is nonetheless important in assessing the intent (*mens rea*) to commit the crime of genocide and analyzing whether a genocidal plan existed. It may provide evidence for the special intent, the *dolus specialis* required to convict, one of the most challenging criteria in any genocide prosecution.⁵⁴

The second distinction then asks what it means to destroy a group: is intent only concerned with physical destruction or is it sufficient to show that the destruction of the group as a socio-cultural unit was intended?

In *Karadžić & Mladić* before the ICTY the Prosecution originally indicted the razing of mosques and churches under the heading of the crime of persecution. Upon review of the indictments, the Trial Chamber considered:

The intent which is peculiar to the crime of genocide need not be clearly expressed. (...) the intent may be inferred from a certain number of facts such as the general political doctrine which gave rise to the acts possibly covered by the [definition of genocide] or the repetition of destructive and discriminatory acts. The intent may also be inferred from the perpetration of acts which violate, or which the perpetrators themselves consider to violate, the very foundation of the group – acts which are not in themselves covered by the [definition of genocide] but which are committed as part of the same pattern of conduct.⁵⁵

It continued:

The systematic rape of women, to which material submitted to the Trial Chamber attests, is in some cases intended to transmit a new ethnic identity to the child. In other cases, humiliation and terror serve to dismember the group. The destruction of mosques or Catholic Churches is designed to annihilate the centuries long presence of the group or groups; the destruction of the libraries is intended to annihilate a culture which was enriched through the participation of the various national components of the population.⁵⁶

The Trial Chamber then invited the Prosecution to pursue these crimes under

⁵⁴ Convention on the Prevention and Punishment of the Crime of Genocide, adopted 9 December 1948, in force 12 January 1951, 78 UNTS 277.

⁵⁵ 'Genocide is one of the worst crimes known to humankind, and its gravity is reflected in the stringent requirement of specific intent. Convictions for genocide can be entered only where that intent has been unequivocally established', ICTY, *Prosecutor v Krstić* (Judgment) [Appeals Chamber] IT-98-33-A (19 April 2004), para 134.

⁵⁶ ICTY, *Prosecutor v Karadžić & Mladić* (Review of the Indictments Pursuant to Rule 61 of the Rules of Procedure and Evidence) [Trial Chamber] IT-95-5-R61 and IT-95-18-R61 (11 July 1996), para 94.

⁵⁷ ICTY, *Prosecutor v Karadžić & Mladić* (Review of the Indictments Pursuant to Rule 61 of the Rules of Procedure and Evidence) [Trial Chamber] IT-95-5-R61 and IT-95-18-R61 (11 July 1996), para 94.

the heading of genocide.⁵⁷ However, the Prosecution ultimately did not charge heritage destruction under the two counts of genocide, but only as the crime of persecution.⁵⁸

The domestic courts of Germany took a bolder stance. Nikola Jorgić, a commander of paramilitary forces during the Bosnian genocide, was charged with the involvement in the execution of Bosnian Muslims and convicted of genocide by the Higher Regional Court in Düsseldorf (Oberlandesgericht Düsseldorf) and sentenced to imprisonment for life, a conviction which was upheld by the Federal Court of Justice (Bundesgerichtshof) and the Federal Constitutional Court (Bundesverfassungsgericht).⁵⁹ The Düsseldorf Higher Regional Court held that the intent to destroy a group meant the intent to destroy a group as a *social unit*.⁶⁰ This reading was confirmed by the German Federal Court of Justice.⁶¹ The Federal Constitutional Court found no fault with this approach.⁶² Support was drawn from General Assembly Resolution 47/121 which stated its concern regarding the ‘*abhorrent policy of “ethnic cleansing”, which is a form of genocide*’ and listed several non-destructive acts.⁶³ The European Court of Human Rights explicitly stated that the ‘*national courts’ interpretation of the crime of genocide could reasonably be regarded as consistent with the essence of that offence and could reasonably be foreseen by the applicant at the material time*’⁶⁴ and did not find a violation of Article 7 (1) ECHR and the principle of *nullum crimen sine lege*.

‘Where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group’

A narrower reading was adopted by the ICTY and the International Court of Justice (ICJ). The Trial Chamber of the ICTY, in *Krstić*, concurred with prevailing opinion that attacks on the social and cultural features of a group alone cannot give rise to the charge of having committed an *actus reus* of genocide, but considered them important in evaluating the special intent:

The Trial Chamber is aware that it must interpret the Convention with due regard for the principle of *nullum crimen sine lege*. It therefore recognises that, despite recent developments, customary international law limits the definition of genocide to those acts seeking the physical or biological destruction of all or part of the group. Hence, an enterprise attacking only the cultural or sociological characteristics of a human group in order to annihilate these elements which give to that group its own identity distinct from the rest of the community would not fall under the definition of genocide. *The Trial Chamber however points out that where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an*

(ICTY)

58 ICTY, *Prosecutor v Karadžić & Mladić* (Review of the Indictments Pursuant to Rule 61 of the Rules of Procedure and Evidence) [Trial Chamber] IT-95-5-R61 and IT-95-18-R61 (11 July 1996), para 95.

59 ICTY, *Prosecutor v Karadžić* (Third Amended Indictment) IT-95-5/18-PT (27 February 2000), para 60 (j).

60 Oberlandesgericht Düsseldorf, Case No IV-26/96 (26 September 1997); Bundesgerichtshof, Case No 3 StR 215/98 (30 April 1999); Bundesverfassungsgericht, Case No 2 BvR 2190/99 (12 December 2000).

61 Oberlandesgericht Düsseldorf, Case No IV-26/96 (26 September 1997).

62 Bundesgerichtshof, Case No 3 StR 215/98 (30 April 1999).

63 Bundesverfassungsgericht, Case No 2 BvR 2190/99 (12 December 2000).

64 UN General Assembly, *Resolution 47/121* (18 December 1992) UN Doc A/RES/47/121.

65 ECtHR, *Case of Jorgić v Germany* (Judgment) App No. 74613/01 (12 July 2007), para 114.

*intent to physically destroy the group. In this case, the Trial Chamber will thus take into account as evidence of intent to destroy the group the deliberate destruction of mosques and houses belonging to members of the group.*⁶⁵ (emphasis added)

(...)

Intent by the Bosnian Serb forces to target the Bosnian Muslims of Srebrenica as a group is further evidenced by their destroying homes of Bosnian Muslims in Srebrenica and Potočari and the *principal mosque in Srebrenica* soon after the attack.⁶⁶ (emphasis added)

The Appeals Chamber of the ICTY confirmed the Trial Chamber's approach, explaining that even acts which are outside of the scope of the *actus reus* can be relied on to establish genocidal intent:

The fact that the forcible transfer does not constitute in and of itself a genocidal act does not preclude a Trial Chamber from relying on it as evidence of the intentions of members of the VRS Main Staff. The genocidal intent may be inferred, among other facts, from evidence of 'other culpable acts systematically directed against the same group'.⁶⁷

The ICJ endorsed the ICTY'S view that the intentional destruction of cultural heritage may amount to evidence of intent to commit the crime of genocide.

The International Court of Justice concurred:

In other words, whether a particular operation described as 'ethnic cleansing' amounts to genocide depends on the presence or absence of acts listed in Article II of the Genocide Convention, and of the intent to destroy the group as such. In fact, in the context of the Convention, the term 'ethnic cleansing' has no legal significance of its own. That said, it is clear that acts of 'ethnic cleansing' may occur in parallel to acts prohibited by Article II of the Convention, and may be significant as indicative of the presence of a specific intent (*dolus specialis*) inspiring those acts.⁶⁸

(...)

The Court concludes that the destruction of historical, religious and cultural heritage cannot be considered to be a genocidal act within the meaning of Article II of the Genocide Convention. At the same time, it also endorses the observation made in the *Krstić* case that '*where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group*'.⁶⁹

One common thread is apparent in both the narrower (ICTY and ICJ) and wider (German Federal Court of Justice and German Constitutional Court)

66 ICTY, *Prosecutor v Krstić* (Judgment) [Trial Chamber] IT-98-33-T (2 August 2001), para 580.

67 ICTY, *Prosecutor v Krstić* (Judgment) [Trial Chamber] IT-98-33-T (2 August 2001), para 595.

68 ICTY, *Prosecutor v Krstić* (Judgment) [Appeals Chamber] IT-98-33-A (19 April 2004), para 580.

69 ICJ, *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* (Judgment) [2007] ICJ Reports 46, para 190.

70 ICJ, *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* (Judgment) [2007] ICJ Reports 46, para 344.

In light of the legal consensus that the destruction of cultural heritage, especially religious property, can play a critical role in establishing genocidal intent, the evidence presented in Section 4 of this report must be seen as part of the larger mosaic that constitutes the genocide of the Yazidi people.

interpretation of the 'intent to destroy': the destruction of cultural heritage, especially religious property, can play a critical role in establishing genocidal intent. The evidence we present in Section 4 therefore must be seen as part of the larger mosaic that constitutes the genocide of the Yazidi people. The evidence proving conventional acts of genocide under Article II of the Genocide Convention committed against Yazidis is beyond reasonable doubt – the destruction of Yazidi cultural heritage ties into the larger genocidal campaign as proof of *dolus specialis*.

While the caselaw of the ICTY and the International Court of Justice will no doubt continue to prove influential due to their prestigious provenance, it should be noted that judgments of international courts do not bind other international and national courts – there is no doctrine of precedent in international law. They stand or fall based on their persuasiveness and quality of reasoning. No court is barred from adopting the German courts' interpretation of the 'intent to destroy' as aimed at the destruction of a social group. Such an approach would be eminently reasonable, given that it is hard to conceive of a group identified by, for example, religious or ethnic commonalities, as merely a collection of individuals for whom social and cultural bonds have no meaning. Even the actus reus of the Genocide Convention does not exclusively deal with physical destruction, as Article 2 (e) shows, which prohibits '*forcibly transferring children of the group to another group*'. A wider reading, understood to mean the 'intent to destroy' a socio-cultural group, might plausibly be adopted by the International Criminal Court or a national court called on to judge genocidal acts committed by the Islamic State.

INTERNATIONAL JURISDICTION

Accountability requires more than acknowledgement of crimes committed. Accountability requires that the perpetrators are brought to justice. One of the key questions to be answered: where?

Primary responsibility for prosecuting international crimes lies with the territorial State in which they were committed. In the case of the Islamic State, this would generally be Iraq or Syria. However, Syria is embroiled in an unending civil war and the legal system of Iraq is groaning under its burdens. Many fighters of the Islamic State have fled abroad. Some have escaped the reach of justice through death, but many yet still live.

Territorial Jurisdiction

The International Criminal Court would be the prime international forum to prosecute crimes committed by the Islamic State, but neither Syria nor Iraq are State Parties to the Rome Statute, so the ICC has no territorial basis (Article 12 (2) (a) of the Rome Statute) for prosecuting crimes committed in these countries. Yet, this would still be possible if either of the countries accepted ad-hoc jurisdiction as per Article 12 Rome Statute and made a declaration

allowing retroactivity under Article 12 (3) Rome Statute. We encourage both Iraq and Syria to do so or become a State Party to the Rome Statute.

Where a perpetrator is a national of a State Party to the Rome Statute, the ICC may exercise its jurisdiction.

Personal Jurisdiction

Despite territorial jurisdiction being an unlikely basis for prosecutions brought before the ICC, another powerful basis remains: the active personality principle. Where a perpetrator is a national of a State Party to the Rome Statute, the ICC may exercise its jurisdiction as per Article 12 (2) (b) of the Rome Statute. This most especially concerns foreign fighters, but where regional fighters have nationalities other than Syrian or Iraqi, or even dual nationalities, this opens up opportunities for the ICC to intervene. To give an example: had a German national traveled to Iraq to fight for the Islamic State, the ICC would, in principle,⁷⁰ have jurisdiction over any crimes committed by this person, by virtue of him or her being a national of Germany, a State Party to the Rome Statute. Given the large number of foreign fighters among the ranks of the Islamic State, this option is of great practical relevance. This principle is also implemented in domestic law. Beginning in April 2019, Jennifer W., a German citizen and Islamic State adherent, has stood trial before the Higher Regional Court in Munich on charges of the war crime murder of a five-year old child.⁷¹ French company Lafarge and a number of its executives have been charged in French courts with being complicit in crimes against humanity and terrorist financing due to the provision of millions of dollars to the Islamic State for the purpose of maintaining a cement plant in Syria.⁷²

Where nationals of a foreign State are harmed, the passive personality principle applies. The indictment of Umm Sayyaf in the courts of Virginia (US) was brought based on this principle and the death of American hostage Kayla Mueller.⁷³

Every national court in the world may exercise universal jurisdiction over war crimes, crimes against humanity and genocide.

Universal Jurisdiction

Finally, every national court in the world may exercise universal jurisdiction over war crimes, crimes against humanity and genocide.⁷⁴ These are crimes that shock the conscience of humankind, break universal customary international law and are therefore prosecutable before every national court in the world. Universal jurisdiction requires no territorial or personal link to the country prosecuting. The mere act is enough for a country to assert its jurisdiction under international law and bring a case against defendants.

71 Subject to the principle of complementarity.

72 Amal Clooney, 'ISIS Militant on Trial in Munich for Membership of a Foreign Terrorist Organization and War Crime of Murder of 5-Year-Old Yazidi Child' (*Doughty Street Chambers*, 8 April 2019 <<https://www.doughtystreet.co.uk/news/isis-militant-trial-munich-membership-foreign-terrorist-organization-and-war-crime-murder-5>>

73 Amal Clooney, 'Yazidi Survivors Apply to Participate in Criminal Case against French Company for Complicity in Crimes against Humanity Committed by ISIS' (*Doughty Street Chambers*, 30 November 2018) <<https://www.doughtystreet.co.uk/news/yazidi-survivors-apply-participate-criminal-case-against-french-company-complicity-crimes>>

74 US District Court for the Eastern District of Virginia, *US v Nisreen Assad Ibrahim Bahar aka 'Umm Sayyaf* (Criminal Complaint) (8 February 2016) <<https://www.justice.gov/opa/file/822211/download>>

75 For an overview of international case law and national implementation, see ECtHR, *Case of Jorgic v Germany* (Judgment) App No. 74613/01 (12 July 2007), paras 48-54.

The German Federal Court of Justice issued an arrest warrant for an as-of-yet unnamed Islamic State commander for alleged genocide, crimes against humanity and war crimes.

In practice, this will only happen if a member of the Islamic State is apprehended in a country willing to invest the resources in prosecuting such crimes. Vigilance enables these prosecutions. Refugees and witnesses of crimes in Iraq and Syria are key to securing justice by informing authorities if former Islamic State fighters have found sanctuary among the flows of refugees.

This option is far more than a mere hypothetical. The Higher Regional Court in Munich is currently hearing a case against Afghan national Zaheer D. for war crimes.⁷⁵ Recall that Nikola Jorgić was tried for and convicted of genocide by German national courts. In December 2016, the German Federal Court of Justice issued an arrest warrant for an as-of-yet unnamed Islamic State commander for alleged genocide, crimes against humanity and war crimes.⁷⁶

FURTHER READING

- Elisa Novic, *The Concept of Cultural Genocide: An International Law Perspective* (Oxford University Press 2016)
- *Assembly of States Parties to the Rome Statute of the International Criminal Court, Elements of Crimes* (International Criminal Court 2011) <<https://www.icc-cpi.int/nr/rdonlyres/336923d8-a6ad-40ec-ad7b-45bf9de73d56/0/elementsofcrimeseng.pdf>>
- Serge Brammertz et al, 'Attacks against Cultural Heritage as a Weapon of War: Prosecutions at the ICTY' [2016] 14(5) *Journal of International Criminal Justice*, 1143-1174
- Human Rights Watch, 'Genocide, War Crimes and Crimes Against Humanity: A Topical Digest of the Case Law of the International Criminal Tribunal for the Former Yugoslavia' (Human Rights Watch 2006) <<https://www.hrw.org/reports/2006/icty0706/ICTYweb.pdf>>
- Amal Clooney, 'UN Security Council Open Debate on Women, Peace and Security – Sexual Violence in Conflict: Remarks by Amal Clooney, 23 April 2019, New York' (*Doughty Street Chambers*, 23 April 2019) <<https://www.doughtystreet.co.uk/sites/default/files/media/document/FINAL%20Security%20Council%20speech%20230419%20.pdf>>

⁷⁵ OLG München, 'Pressemitteilung 24 vom 06.06.2019: Strafverfahren gegen Ahmad Zaheer D. wegen Verdachts eines Kriegsverbrechens' <<https://www.justiz.bayern.de/gerichte-und-behoerden/oberlandesgerichte/muenchen/presse/2019/24.php>>

⁷⁶ Amal Clooney, 'Arrest Warrant against ISIS Militant in Germany Recognises Crimes Committed against Yazidis as Genocide' (*Doughty Street International*, 20 February 2017) <<http://www.doughtystreetinternational.com/news/arrest-warrant-against-isis-militant-germany-recognises-crimes-committed-against-yazidis>>



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SECTION 4

EVIDENCE REPORT

The shrine of Ismeel Bek in the Sinjar area, after destruction, June 2018
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EDITORIAL NOTE

This section presents satellite imagery analysis conducted by the EAMENA Project, drawing on data provided by Yazda. The text of the analysis was supplied by the EAMENA Project and has only been lightly modified by the editor for readability. Site descriptions were authored by Yazda and edited for clarity. Images are provided by the photographers indicated in each caption, who are not necessarily associated with any of the publishers of this report. Satellite imagery could not be included in the report due to licensing limitations, but remains on file with the EAMENA Project. Readers should be mindful of the limitations of on-the-ground photography and contact RASHID International or Yazda if in doubt whether certain conclusions can be drawn from imagery presented in this section.

We do not provide a complete accounting of all sites destroyed by the Islamic State (IS). According to the Department of Yazidi Affairs in the Ministry of Awqaf and Religious Affairs in the Kurdistan Regional Government 68 Yazidi sites were destroyed by the IS. This number may need to be adjusted as more information becomes available. We consider a total of 24 sites, 16 sites in the Bahzani/Bashiqa area and 8 in the Sinjar area, to which access was possible and which could be documented to a satisfactory standard. A full accounting may be published in the future, if conditions allow.

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THE YAZIDI FAITH AND ITS RELIGIOUS SITES

Since the 10th century, the ancient Yazidi faith has undergone significant changes in response to religious and military campaigns conducted against its adherents by Turks, Kurds and Arab Muslims. The theology of the Yazidi faith and its veneration of holy figures has been influenced by historical events and grievances. Nonetheless, it is important to separate theology and historical issues when investigating Yazidism. Key holy figures in Yazidism are known as 'Xua'dan', which translates to 'righteous person'. Most are descended from one of the four main religious lines of ancestry: Pir'ani, Sham'sani, Qatani or Adani. Xua'dan can be male or female and the identity of many Xua'dan are known to Yazidis. Some Xua'dan have divine characteristics and are recognized as angels ('Malak' or 'Melek'), for example She'shems or Malak Fakhraddin. Others are humans who played an important role in Yazidi history and are taken to be of divine descent. Consequently, Yazidi religious shrines and sites are given the names of holy angels or historical figures. Some sites are memorial sites for people who dedicated their life to their faith and people.

GENERAL REMARKS

GENERAL REMARKS CONCERNING THE ANALYSIS OF SATELLITE IMAGERY IN THIS REPORT (EAMENA)

At the request of RASHID International and Yazda we were asked to undertake a desk-based assessment of the condition of sixteen shrines and temples in the area of the village of Bahzani and eight shrines and temples in the area of the town of Sinjar. We were supplied with a list containing site names, coordinates in latitude and longitude, and the dates the sites reported to have been destroyed.

None of the freely accessible images on the Google Earth platform were of high enough resolution to enable a condition assessment of the shrines and temples. We therefore purchased high resolution panchromatic and multispectral images (the latter which we subsequently pansharpened) from Airbus. Images were chosen based on their coverage and date. Our aim was to obtain images that allowed us to view each site both prior and subsequent to its reported destruction. The specifications of the imagery are detailed in the following table:

Imagery Type	Region*	Date of Acquisition	Resolution
Pleiades 1A	Bahzani	2016-10-01	0.5 m (Pansharpened)
Pleiades 1B		2013-04-17	
Pleiades 1A		2013-04-11	
Pleiades 1B	Sinjar	2015-11-28	
Pleiades 1B		2015-11-18	
Pleiades 1B		2014-08-31	
Pleiades 1B		2013-10-04	
Pleiades 1B		2013-10-04	

* Note that each image does not cover the entire area of interest for each region

The identification of the temples and shrines on the imagery were aided by the coordinates and photographs provided by Yazda international. In several cases, we could not clearly identify a site on the imagery. These instances are clearly specified in the analysis.

The following sections describe the shrines and temples as they appeared on the imagery prior to, and following the reported date of destruction. We also provide a condition assessment using the EAMENA methodology (see appendix 1) based on our observations of the imagery.

SINJAR

View of Sheikh Abdul Aziz shrine in the Sinjar area before destruction, October 2012 (©Robert Leutheuser/All Rights Reserved)



DESCRIPTION OF SITE (YAZDA)

Location

Skenie, Sinjar Mountains, Nineveh, Iraq

Importance to Yazidis

Malak Fakhraddin is one of the most fundamental theological symbols in Yazidism and is mentioned in religious texts. He represents the moon and his name has been adopted by some Xua'dan from Sham'sani descent who worked to preserve Yazidi theology and texts. Most Baba Sheikhs, the highest religious authority in Yazidism (equivalent to the Pope in Catholic Christianity), including the current Baba Sheikh, are said to be descended from Fakhraddin. Numerous sites in the Yazidi homeland and diaspora are dedicated to Fakhraddin.

ANALYSIS (EAMENA)

This site was reported destroyed on 23 October 2014.

This site was difficult to locate with confidence on the imagery acquired on 31 August 2014. The coordinate provided did not clearly correspond to a structure(s) that could be identified as the shrine. The closest structures are a collection of small structures c. 200m to the south southwest and another set of buildings c. 200m to the northwest of the coordinate. However, none of the structures can be clearly identified as a shrine and all appear to be still standing on the image acquired on 28 November 2015. The images supplied by Yazda indicate considerable damage to the temple.

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION



Figure 1a: The shrine of Malak Fakhraddin post-destruction, June 2018 (©Faris Mishko/Used With Permission)



Figure 1b: The shrine of Malak Fakhraddin post-destruction, June 2018 (©Faris Mishko/Used With Permission)



Figure 2a: The shrine of Malak Fakhraddin post-destruction, December 2018 (©Faris Mishko/Used With Permission)



Figure 2b: The shrine of Malak Fakhraddin post-destruction, December 2018 (©Faris Mishko/Used With Permission)

AFTER RECONSTRUCTION

No photos showing the site post-reconstruction were available at the time of publication.

DESCRIPTION OF SITE (YAZDA)

Location

Hayali, Sinjar Mountains, Nineveh, Iraq

Importance to Yazidis

Sheikh Abdul Qader was said to be a friend of Sheikh Adi and is from Qatani descent.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 24 October 2014.

On the imagery acquired on 4 October 2013, a small square building with a pointed roof is clearly visible. It sits within a walled rectangular courtyard. There is a flat roofed building along the north wall of the courtyard. There are regular rectangular areas of soil discolouration immediately north and east of the shrine. These could be the remains of a field system.

On the images acquired on 31 August 2014 and 28 November 2015, the shrine appears to have been almost completely demolished. In its place is an area of soil discolouration (wider than the area of the original shrine). This is probably rubble or foundations. The courtyard wall and attached buildings appear intact. There are likely field systems to the north and east of the courtyard.

Table 1: Condition assessment of Sheikh Abdul Qader

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	61-90% (based on the horizontal area covered by the courtyard)	Military - Cause: Demolition Occurred Between 2013-10-04 and 2014-08-31	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-10-04 and 2014-08-31	High	High

BEFORE DESTRUCTION



Figure 3a: The shrine of Sheikh Abdul Qader pre-destruction, October 2012 (©Robert Leutheuser/All Rights Reserved)



Figure 3b: The shrine of Sheikh Abdul Qader pre-destruction, October 2012 (©Robert Leutheuser/All Rights Reserved)

AFTER DESTRUCTION



Figure 4: The shrine of Sheikh Abdul Qader post-destruction, December 2018 (©Faris Mishko/Used With Permission)

AFTER RECONSTRUCTION

No photos showing the site post-reconstruction were available at the time of publication.

3. SHEIKH ABDUL AZIZ

DESCRIPTION OF SITE (YAZDA)

Location

Majnonia, Sinjar, Nineveh, Iraq

Importance to Yazidis

A Xua'dan, a 'righteous person' in Yazidism, who is from Qatani descent.

ANALYSIS (EAMENA)

This site shares the same coordinates with Sheikh Abdul Qader (see previous page).

BEFORE DESTRUCTION



© Robert Leutheuser /beyondbordersphotography
Figure 5a: The shrine of Sheikh Abdul Aziz pre-destruction, October 2012
(©Robert Leutheuser/All Rights Reserved)



© Robert Leutheuser /beyondbordersphotography
Figure 5b: The shrine of Sheikh Abdul Aziz pre-destruction, October 2012
(©Robert Leutheuser/All Rights Reserved)

AFTER DESTRUCTION



Figure 6a: The shrine of Sheikh Abdul Aziz post-destruction, June 2018
(©Faris Mishko/Used With Permission)



Figure 6b: The shrine of Sheikh Abdul Aziz post-destruction, June 2018
(©Faris Mishko/Used With Permission)

AFTER RECONSTRUCTION

No photos showing the site post-reconstruction were available at the time of publication.

DESCRIPTION OF SITE (YAZDA)

Location

Jedaly, Sinjar Mountains, Nineveh, Iraq

Importance to Yazidis

Sheikh Mand is both a historical figure and a holy person venerated in the Yazidi faith. He is a Xua'dan, a 'righteous person' in Yazidism, from Sham'sani descent and the son of the angel Fakhradeen. He ruled Aleppo (Syria) and the castle of Aleppo bears his name. Yazidis view him as a savior, for he protected them in times of need. Many sites in the Yazidi homeland and diaspora are dedicated to Sheikh Mand.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 24 August 2014.

On the image acquired to 4 October 2013, a polygonal building is visible (c. 345m²). It is flat roofed and built over the west side of a walled courtyard. Attached to its southern end is a small sub-rectangular structure with a pointed roof. This is likely the shrine itself. The courtyard is five-sided and extends c. 60m to the east of the building. There are many graves to the north, west and southeast of the courtyard.

On the image acquired on 31 August 2014 and 28 November 2015, the small sub-rectangular building with the pointed roof is no longer visible. The polygonal building that was attached to the shrine also appears altered. A much smaller structure (c.170 -185 m²) of roughly the same shape is visible in this location. This might be part of the internal structure of the larger building. This interpretation is supported by the photos of the shrine following its destruction (see figs. 27–30).

Table 2: Condition assessment of Sheikh Mand

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	91-100% (based on the horizontal area covered by the shrine)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION



© Robert Leutheuser /beyondbordersphotography

Figure 7a: The shrine of Sheikh Mand pre-destruction, October 2012
(©Robert Leutheuser/All Rights Reserved)



© Robert Leutheuser /beyondbordersphotography

Figure 7b: The shrine of Sheikh Mand pre-destruction, October 2012
(©Robert Leutheuser/All Rights Reserved)

AFTER DESTRUCTION



Figure 8a: The shrine of Sheikh Mand post-destruction, June 2016 (©Jérémy André/All Rights Reserved)



Figure 8b: The shrine of Sheikh Mand post-destruction, June 2016 (©Jérémy André/All Rights Reserved)



Figure 9a: The shrine of Sheikh Mand post-destruction, April 2017 (©Robert Leutheuser/All Rights Reserved)



Figure 9b: The shrine of Sheikh Mand post-destruction, April 2017 (©Robert Leutheuser/All Rights Reserved)



Figure 10a: The shrine of Sheikh Mand post-destruction, June 2018 (©Faris Mishko/Used With Permission)



Figure 10b: The shrine of Sheikh Mand post-destruction, June 2018 (©Faris Mishko/Used With Permission)



Figure 10c: The shrine of Sheikh Mand post-destruction, June 2018 (©Faris Mishko/Used With Permission)



Figure 10d: The shrine of Sheikh Mand post-destruction, June 2018 (©2018 Faris Mishko/Used With Permission)



Figure 10e: The shrine of Sheikh Mand post-destruction, June 2018 (©2018 Faris Mishko/Used With Permission)



Figure 11a: The shrine of Sheikh Mand post-destruction, December 2018 (©Faris Mishko/Used With Permission)



Figure 11b: The shrine of Sheikh Mand post-destruction, December 2018 (©Faris Mishko/Used With Permission)

AFTER RECONSTRUCTION

No photos showing the site post-reconstruction were available at the time of publication.

DESCRIPTION OF SITE (YAZDA)

Location

Gabara, Sinjar, Nineveh, Iraq

Importance to Yazidis

A Xua'dan, a 'righteous person' in Yazidism, he is the son of Sheikh Adi II. He played a vital role in reforming the Yazidi faith and giving it its modern form. An educated person, he united the Yazidis. He came to control most of the Nineveh plains, yet this did not last long, as the Abbasid Caliphate attacked Lalish and the Yazidis, killing Sheikh Hassan and thousands of Yazidis. Others were enslaved and forcibly converted to Islam. Numerous sites in the Yazidi homeland and diaspora are dedicated to Sheikh Hassan.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 12 July 2015.

On the imagery acquired on 4 October 2013 a small polygonal building, with what appears to be a pointed roof, is visible. An area of high reflectance borders it to the south. There is a collection of other rectilinear buildings in the area. What are likely graves are visible to the east of the shrine. The remains of field systems are visible to the north and south of the shrine.

On the imagery acquired on 18 November 2015, the shrine appears to have suffered significant damage. The outline of the shrine is no longer visible, but several areas of relief probably representing rubble or foundations are visible in the former location of the shrine. This appears to be supported by the images supplied of the shrine following its destruction (see figs. 32–33).

Table 3: Condition assessment of Sheikh Hassan

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	91-100% (based on the horizontal area covered by the shrine)	Military - Cause: Demolition Occurred Between 2013-10-04 and 2015-11-18	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-10-04 and 2015-11-18	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION



Figure 12: The shrine of Sheikh Hassan post-destruction, June 2016
(©Jérémy André/All Rights Reserved)



Figure 13a: The shrine of Sheikh Hassan post-destruction, April 2017
(©Robert Leutheuser/All Rights Reserved)



Figure 13b: The shrine of Sheikh Hassan post-destruction, April 2017
(©Robert Leutheuser/All Rights Reserved)

AFTER DESTRUCTION



Figure 14a: The shrine of Sheikh Hassan post-destruction, June 2018 (©Faris Mishko/Used With Permission)



Figure 14b: The shrine of Sheikh Hassan post-destruction, June 2018 (©Faris Mishko/Used With Permission)



Figure 14c: The shrine of Sheikh Hassan post-destruction, June 2018 (©Faris Mishko/Used With Permission)



Figure 15: The shrine of Sheikh Hassan post-destruction, December 2018 (©Faris Mishko/Used With Permission)

AFTER RECONSTRUCTION

No photos showing the site post-reconstruction were available at the time of publication.

DESCRIPTION OF SITE (YAZDA)

Location

Solagh, Sinjar Mountains, Nineveh, Iraq

Importance to Yazidis

Mahma Rashan is a Xua'dan, a 'righteous person' in Yazidism, from Pir'ani descent and is venerated as the patron saint of rain and wishes. During times of drought special ceremonies are held at sites dedicated to Mahma Rashan to pray for rain and the blessing of cultivated lands. Many Mahma Rashan shrines exist in the Yazidi homeland and diaspora.

ANALYSIS (EAMENA)

This site was reported to have been destroyed 16 October 2014.

On the image acquired on 4 October 2013 a structure is visible on the summit of a hill in the location indicated by the provided coordinates. The structure appears to be sub-circular and contains several levels.

By the time the image dated to 18 November 2015 was acquired several of the structural features, particularly those that appear to correspond to the highest level, are no longer clearly visible. That the top-most part of the shrine/structure is the most heavily affected corresponds to the images provided by Yazda.

Table 4: Condition assessment of Mahma Rashan

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	91-100% (based on the horizontal area covered by the shrine)	Military - Cause: Demolition Occurred Between 2013-10-04 and 2015-11-18	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-10-04 and 2015-11-18	High	High

BEFORE DESTRUCTION



Figure 16a: The shrine of Mahma Rashan pre-destruction, October 2012
(©Robert Leutheuser/All Rights Reserved)



Figure 16b: The shrine of Mahma Rashan pre-destruction, October 2012
(©Robert Leutheuser/All Rights Reserved)

AFTER DESTRUCTION



Figure 17: The shrine of Mahma Rashaan post-destruction, June 2016
(©Jérémy André/All Rights Reserved)



Figure 18a: The shrine of Mahma Rashaan post-destruction, April 2017
(©Robert Leutheuser/All Rights Reserved)



Figure 19b: The shrine of Mahma Rashaan post-destruction, April 2017
(©Robert Leutheuser/All Rights Reserved)



Figure 20: The shrine of Mahma Rashaan post-destruction, June 2018
(©Faris Mishko/Used With Permission)



Figure 21: The shrine of Mahma Rashaan post-destruction, December 2018
(©Faris Mishko/Used With Permission)

AFTER RECONSTRUCTION

No photos showing the site post-reconstruction were available at the time of publication.

DESCRIPTION OF SITE (YAZDA)

Location

Solagh, Sinjar, Nineveh, Iraq

Importance to Yazidis

Amadin is a Xua'dan, a 'righteous person' in Yazidism, who is from Sham'sani descent and the son of She'shems. He is often venerated as the patron saint of medicine and healing. Numerous sites in the Yazidi homeland and diaspora are dedicated to Amadin.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 14 October 2014.

On the image acquired on 4 October 2013 a circular structure with a pointed roof (the temple) is visible on the summit of a hill. There is a small rectangular courtyard wall surrounding the temple.

The temple is no longer visible on the image acquired on 18 November 2015 and appears to have been destroyed. The courtyard wall has also been mostly destroyed; a faint trace of the southern wall is still detectable.

Table 5: Condition assessment of Amadin

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	91-100% (based on the horizontal area within the courtyard)	Military - Cause: Demolition Occurred Between 2013-10-04 and 2015-11-18	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-10-04 and 2015-11-18	High	High

BEFORE DESTRUCTION



Figure 22a: The shrine of Amadin pre-destruction, October 2012
(©Robert Leutheuser/All Rights Reserved)



Figure 22b: The shrine of Amadin pre-destruction, October 2012
(©Robert Leutheuser/All Rights Reserved)

AFTER DESTRUCTION



Figure 23: The shrine of Amadin post-destruction, June 2016
(©Jérémy André/All Rights Reserved)



Figure 24a: The shrine of Amadin post-destruction, April 2017
(©Robert Leutheuser/All Rights Reserved)



Figure 24b: The shrine of Amadin post-destruction, April 2017
(©Robert Leutheuser/All Rights Reserved)

AFTER DESTRUCTION

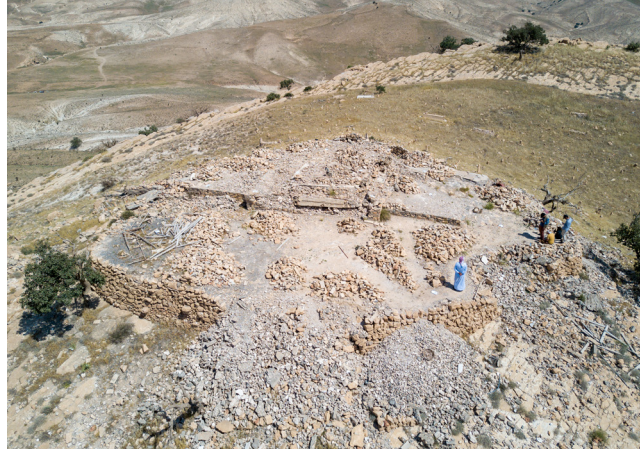


Figure 25a: The shrine of Amadin post-destruction, June 2018
(©Faris Mishko/Used With Permission)



Figure 25b: The shrine of Amadin post-destruction, June 2018
(©Faris Mishko/Used With Permission)



Figure 25c: The shrine of Amadin post-destruction, June 2018
(©Faris Mishko/Used With Permission)



Figure 26: The shrine of Amadin post-destruction, December 2018
(©Faris Mishko/Used With Permission)

AFTER RECONSTRUCTION

No photos showing the site post-reconstruction were available at the time of publication.

DESCRIPTION OF SITE (YAZDA)

Location

Qandil, Sinjar Mountains, Nineveh, Iraq

Importance to Yazidis

This site was built to symbolize and commemorate the Yazidi prince Ismaeel Jol Bek who was born in 1882 in Ba'athra, Shixan, Mosul. He was the grand cousin of the Yazidi Prince Tahseen Saeed Ali, who died in 2019.

Prince Ismaeel built a coalition with Iraqi Christians and established a strong relationship with the British in 1918 to end Ottoman rule over Yazidi and Christian lands. His network of friends extended far and wide outside of Iraq and he traveled to many locations with a Yazidi diaspora, such as the Caucasus, Syria, Turkey and Lebanon. He was a strong proponent of education and championed autonomy for Yazidis and Christians in their homelands. He is the author of the book 'Yazidis - Ancient and Modern' (published in Lebanon in 1934 in three parts), which included an autobiography and important information about the Yazidi faith and Yazidi history. He died in April 1933 and was buried in Shingal.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 3 August 2014.

On the image acquired on 4 October 2013 at least two rectilinear structures are visible on the summit of a hill. Within the largest rectilinear structure (probably a courtyard), a small, tall, rounded structure is visible. This is probably the shrine. Another structure is located to the immediate west of the courtyard.

While the rectilinear structures are still visible, the structure identified above as the shrine is no longer clearly visible on the image acquired on 18 November 2015. Neither is the structure to the west of the courtyard. However, some relief and soil discolouration is visible in the location previously occupied by the shrine. This could be rubble or foundations.

Table 6: Condition assessment of Ismaeel Bak

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	31-60% (of the area covered by the structures discussed above)	Military - Cause: Demolition Occurred Between 2013-10-04 and 2015-11-18	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-10-04 and 2015-11-18	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION



Figure 27a: The shrine of Ismaeel Bek post-destruction, June 2018 (©Faris Mishko/Used With Permission)



Figure 27b: The shrine of Ismaeel Bek post-destruction, June 2018 (©Faris Mishko/Used With Permission)

AFTER DESTRUCTION



Figure 27c: The shrine of Ismaeel Bek post-destruction, June 2018
(©Faris Mishko/Used With Permission)



Figure 27d: The shrine of Ismaeel Bek post-destruction, June 2018
(©Faris Mishko/Used With Permission)



Figure 28: The shrine of Ismaeel Bek post-destruction, December 2018
(©Faris Mishko/Used With Permission)

AFTER RECONSTRUCTION

No photos showing the site post-reconstruction were available at the time of publication.

BAHZANI

The shrine of Sheikh Hassan in the Bashiqa-Bahzani area after reconstruction, April 2018 (©Faris Mishko/Used With Permission)



DESCRIPTION OF SITE (YAZDA)

Location

Bahzani

Importance to Yazidis

A Xua'dan, a 'righteous person' in Yazidism, Pir Bob is often viewed as the patron saint of medicine and healing, particularly of skin diseases. Many sites in the Yazidi homeland and diaspora were built in the honor of Pir Bob.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

Visible on the imagery acquired on 17 April 2013 is a large polygonal compound. Within the compound is a small shrine positioned between the east external wall of the compound and a rectangular building that sits roughly in the centre of the compound. The shrine is identifiable by the shadow cast by its cone shaped roof.

In the image acquired on 1 October 2016, the shrine is no longer visible, though the rectangular building it was attached to appears to still be standing. The walls of the compound and several other internal buildings appear also to be extant.

Table 7: Condition assessment of Pir Bob

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	11-30% (based on an assessment of the horizontal area within the compound)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
	91-100% (of the shrine)	Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 29a: The shrine of Pir Bob post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 29b: The shrine of Pir Bob post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 29c: The shrine of Pir Bob post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bahzani

Importance to Yazidis

She'shems is one of the most fundamental theological symbols in Yazidism. She'shems represents the sun as a source of light and life, the divine light of God.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

In the image acquired 17 April 2013, the temple, identifiable by the shadow cast by its cone-shaped roof, is visible within a courtyard. Outside the courtyard is a cemetery.

The temple is no longer visible on the image acquired on 1 October 2016. The surrounding courtyard wall appears to be intact. Graves are still visible outside the courtyard wall that surrounds the temple. Their condition is difficult to assess on the image.

Table 8: Condition assessment of She'shems

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Destroyed	91-100% (based on an assessment of the horizontal area within the courtyard)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 30a: The shrine of She'shems post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 30b: The shrine of She'shems post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bahzani

Importance to Yazidis

A Xua'dan, a 'righteous person' in Yazidism, who is from Sham'sani descent and the son of She'shems. Many sites in the Yazidi homeland and diaspora were built in the honor of Mer Sjadeen.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the image acquired on 17 April 2013, the shrine is visible within a courtyard. There are graves surrounding the shrine within the walls of the courtyard. More graves are visible outside the courtyard.

By 1 October 2016, the shrine appears to have been completely demolished. The graves within the walled area may also have been disturbed, but this is difficult to confirm based on this image. Graves are still visible outside the walled area. The courtyard wall appears to still be intact.

Table 9: Condition assessment of Mer Sjadeen

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Destroyed	91-100% (based on the assessment of the horizontal area covered by the shrine).	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 31a: The shrine of Mer Sjadeen post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 31b: The shrine of Mer Sjadeen post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Gabara, Sinjar, Nineveh, Iraq

Importance to Yazidis

A Xua'dan, a 'righteous person' in Yazidism, he is the son of Sheikh Adi II. He played a vital role in reforming the Yazidi faith and giving it its modern form. An educated person, he united the Yazidis. He came to control most of the Nineveh plains, yet this did not last long, as the Abbasid Caliphate attacked Lalish and the Yazidis, killing Sheikh Hassan and thousands of Yazidis. Others were enslaved and forcibly converted to Islam. Numerous sites in the Yazidi homeland and diaspora are dedicated to Sheikh Hassan.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the image acquired on 17 April 2013, the shrine is visible. It sits within a square courtyard. There are some features which may represent graves located within the courtyard immediately north of the shrine. This square courtyard appears to be contained within a larger polygonal courtyard. Within this larger outer courtyard, features which likely represent graves are visible.

By the time the image dated to 1 October 2016 was acquired, the shrine is no longer visible and appears to have been completely destroyed. The possible graves immediately north of the shrine (within the smaller square courtyard), and some of the graves within the larger polygonal courtyard may have also been disturbed.

Table 10: Condition assessment of Sheikh Hassan

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Destroyed	91-100% (of the horizontal area covered by the shrine)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION



Figure 32: The shrine of Sheikh Hassan post-destruction, November 2016 (©Nasir Haji and Mohand Sinjar/Used With Permission)

AFTER RECONSTRUCTION



Figure 33a: The shrine of Sheikh Hassan post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 33b: The shrine of Sheikh Hassan post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bahzani, Nineveh, Iraq

Importance to Yazidis

The angel Naserddin is one of the highest angels in the Yazidi faith. Naserddin is from Sham'sani descent. Naserddin also appears as the archangel Azrael and both are identified as the 'Angel of Death and Renewal'. Many other sites in the Yazidi homeland and the diaspora abroad are dedicated to Naserddin.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the image acquired on 17 April 2013 two buildings, attached to one another, are visible. One has a red roof and one has a white roof. They are surrounded by an enclosure wall. There are graves visible to the west and south outside of the enclosure wall.

By the time the image dated 1 October 2016 was acquired, both buildings appear to have been demolished. Soil discolouration, probably representing rubble or foundations of the structures, is visible in their former location. The enclosure wall is still intact. Graves are still visible to the west, but those to the south of the enclosure may have been disturbed.

Table 11: Condition assessment of Malak Naserddin

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	91-100% (based on the horizontal area covered by the two buildings mentioned above)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site post-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 34a: The shrine of Malak Naserddin post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)



Figure 34b: The shrine of Malak Naserddin post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Locations

Bahzani, Nineveh, Iraq

Importance to Yazidis

Sheikh Mand is both a historical figure and a holy person venerated in the Yazidi faith. He is a Xua'dan, a 'righteous person' in Yazidism, from Sham'sani descent and the son of the angel Fakhradeen. He ruled Aleppo (Syria) and the castle of Aleppo bears his name. Yazidis view him as a savior, for he protected them in times of need. Many sites in the Yazidi homeland and diaspora are dedicated to Sheikh Mand.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

Visible on the imagery acquired on 17 April 2013 is a small square building with a pointed roof. It is located immediately east of a tree. The shrine and the tree are within a courtyard.

On the image acquired on 1 October 2016, the shrine appears to have been destroyed. There is soil discoloration within the courtyard which could be rubble or foundations. The courtyard wall is intact.

Table 12: Condition assessment of Sheikh Mand

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	91-100% (based on the horizontal area covered by the shrine)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site post-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 35a: The shrine of Sheikh Mand post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)



Figure 35a: The shrine of Sheikh Mand post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Hayali, Sinjar Mountains, Nineveh, Iraq

Importance to Yazidis

Sheikh Abdul Qader was said to be a friend of Sheikh Adi and is from Qatani descent.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the imagery acquired 17 April 2013 a small, tall square building is visible within a courtyard.

By the time the image dated to 1 October 2016 was acquired, the building appears to have been destroyed. Most of the west and south wall of the courtyard are no longer extant.

Table 13: Condition assessment of Sheikh Abdul Qader

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	61-90% (based on the horizontal area within the courtyard)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site post-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 36a: The shrine of Sheikh Abdul Qader post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 37b: The shrine of Sheikh Abdul Qader post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bahzani

Importance to Yazidis

Gava'ni Zar'za is a Xua'dan, a 'righteous person' in Yazidism, from Pira'ni descent. Gava'ni Zar'za is mentioned in the holy texts of Yazidism and is said to be the patron saint of animals, whom he protects and whose fertility he increases. He is also a source of happiness to humans, giving presents and supporting persons in poverty. Many Gava'ni Zar'za sites exist in the Yazidi homeland and diaspora.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the imagery dated 17 April 2013 a small rectangular building with a pointed roof sits on an otherwise bare patch of land. The bare area of land on which the shrine sits is bordered on the south, west and north by roads, and on the east by other structures. The nearest structure is c. 25 m to the east. By the time the image dated 1 October 2016 was acquired, the shrine was no longer standing. The location where the shrine once sat is marked by a soil discolouration perhaps indicative of rubble.

Table 14: Condition assessment of Gava'ni Zar'za

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Destroyed	91-100% (based on the horizontal extent of the shrine)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site post-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 38a: The shrine of Gava'ni Zar'za post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)



Figure 38b: The shrine of Gava'ni Zar'za post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bahzani, Nineveh, Iraq

Importance to Yazidis

Sheikh U Bakr is a Xua'dan, a 'righteous person' in Yazidism, who is from Qatani descent and was said to be a friend of Sheikh Adi. He is identified as the bearer and protector of the Xar'qa, a holy black textile. The Xar'qa is a symbol of asceticism in Yazidism.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the image acquired on 17 April 2013 a tall rectangular building is visible within a courtyard. In the courtyard are many trees. Several walls are visible within the courtyard.

The shrine is no longer visible on the image acquired on 1 October 2016. Some of the internal walls of the courtyard are still visible. Most of the trees are gone. The exterior courtyard wall appears intact.

Table 15: Condition assessment of Sheikh U Bkr

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very bad	31-60% (based on the horizontal area within the courtyard)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site post-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 39a: The shrine of Sheikh U Bakr post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)



Figure 39b: The shrine of Sheikh U Bakr post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bashiqa and Bahzani, Nineveh, Iraq

Importance to Yazidis

Kha'fourī Reya is the guardian of roads and travelers in the Yazidi faith. A special prayer invoking the name of Kha'fourī Reya is spoken during journeys to receive a divine blessing and ensure safe travels.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the image acquired on 17 April 2013 a small, tall, square building with a cone-shaped roof is visible. It is built up against flat roofed structures located to its south and north. To the west and east is a walled courtyard.

By the time the image was acquired on 1 October 2016, the structure was no longer visible. Some small areas of relief in the former location of the shrine may indicate rubble.

Table 16: Condition assessment of Kha'fourī Reya

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Destroyed	91-100% (based on the horizontal extent of the shrine)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site post-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 40a: The shrine of Kha'foura Reya post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 40b: The shrine of Kha'foura Reya post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 40c: The shrine of Kha'foura Reya post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bahzani (Darawesh village), Nineveh, Iraq

Importance to Yazidis

Seed u Mas'ud is a simple shrine with local relevance. No special information is available for this site.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the image acquired on 17 April 2013 a small, tall, square building is located in an otherwise flat area. There is a courtyard surrounding it on three sides. There is a path leading to the shrine.

On the image acquired on 1 October 2016, the building is no longer visible. Some soil discolouration is visible in the location formerly occupied by the shrine. This may be rubble.

Table 17: Condition assessment of Seed u Mas'ud

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Destroyed	91-100% (based on the horizontal extent of the shrine)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site post-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 41a: The shrine of Seed u Mas'ud post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)



Figure 41b: The shrine of Seed u Mas'ud post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bahzani, Nineveh, Iraq

Importance to Yazidis

Sheikh Babek is a Xua'dan, a 'righteous person' in Yazidism. He is from Sham'sani descent and the son of She'shems. The name of Sheikh Babek is a powerful symbol in Yazidism and, accordingly, many sites in the Yazidi homeland and diaspora are dedicated in his honor.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the image acquired on 17 April 2013 a small, tall, rectangular building is visible within a courtyard. The shrine appears to be surrounded by graves, with the greatest density to its north. Further graves are visible in a walled courtyard attached to the east side of the courtyard surrounding the shrine.

By the time the image dated to 1 October 2016 was acquired, the shrine is no longer visible. There is soil discolouration in the former location of the shrine. A new building has been constructed less than c. 10 m to the south east of the former location of the shrine. The courtyard walls appear to still be intact. Some of the graves located near the shrine may have been disturbed but this is difficult to determine based on this image.

Table 18: Condition assessment of Sheikh Babek

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Destroyed	91-100% (based on the horizontal extent of the shrine)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site post-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 42a: The shrine of Sheikh Babek post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 42b: The shrine of Sheikh Babek post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 42c: The shrine of Sheikh Babek post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Locations

Bahzani, Nineveh, Iraq

Importance to Yazidis

Mahamad Batin is a Xua'dan, a 'righteous person' in Yazidism, who is from Qatani descent.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the image acquired on 17 April 2013, three small, tall, square buildings are visible. There is an area of high reflectance immediately south of the shrines (possibly a paved courtyard or associated building?). There are possible graves immediately to the north. A walled cemetery is visible to the east.

On the image acquired on 1 October 2016 none of the three shrines are visible. The area of high reflectance is also no longer visible. Some of the graves in the immediate area of the shrines may also have been disturbed.

Table 19: Condition assessment of Mahamad Batin

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Destroyed	91-100% (based on the horizontal extent of the shrine)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION



Figure 43: The shrine of Mahamad Batin post-destruction, November 2016
(©Nasir Haji and Mohand Sinjar/Used With Permission)

AFTER RECONSTRUCTION



Figure 44a: The shrine of Mahamad Batin post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)



Figure 44b: The shrine of Mahamad Batin post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bahzani, Nineveh, Iraq

Importance to Yazidis

Stiya Khaji is a female Xua'dan, a 'righteous person' in Yazidism. She is viewed as a symbol of equality and stands for religious commitment.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the image acquired on 17 April 2013, three small, tall, square buildings are visible. There is an area of high reflectance immediately south of the shrines (possibly a paved courtyard or associated building?). There are possible graves immediately to the north. A walled cemetery is visible to the east.

On the image acquired on 1 October 2016 none of the three shrines are visible. The area of high reflectance is also no longer visible. Some of the graves in the immediate area of the shrines may also have been disturbed.

Table 20: Condition assessment of Stiya Khaji

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Destroyed	91-100% (based on the horizontal extent of the shrine)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site post-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 45a: The shrine of Stiya Khaji post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)



Figure 45b: The shrine of Stiya Khaji post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bahzani, Nineveh, Iraq

Importance to Yazidis

Abdi Rush is a ritual symbol in Yazidism and is venerated as the patron saint of water, seas and springs.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

We could not confidently identify this site on the imagery based on the supplied information.

It appears to be in a densely settled area.

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION

No photos showing the site post-destruction were available at the time of publication.

AFTER RECONSTRUCTION



Figure 46a: The shrine of Abdi Rush post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)



Figure 46b: The shrine of Abdi Rush post-reconstruction, April 2018 (©Faris Mishko/Used With Permission)

DESCRIPTION OF SITE (YAZDA)

Location

Bahzani, Nineveh, Iraq

Importance to Yazidis

Stiya Habib is a female Xua'dan, a 'righteous person' in Yazidism, who dedicated her life to serving the faith and the community.

ANALYSIS (EAMENA)

This site was reported to have been destroyed on 15 August 2014.

On the image acquired on 17 April 2013, three small, tall, square buildings are visible. There is an area of high reflectance immediately south of the shrines (possibly a paved courtyard or associated building?). There are possible graves immediately to the north. A walled cemetery is visible to the east.

On the image acquired on 1 October 2016 none of the three shrines are visible. The area of high reflectance is also no longer visible. Some of the graves in the immediate area of the shrines may also have been disturbed.

Table 21: Condition assessment of Stiya Habib

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Destroyed	91-100% (based on the horizontal extent of the shrine)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

BEFORE DESTRUCTION

No photos showing the site pre-destruction were available at the time of publication.

AFTER DESTRUCTION



Figure 47: The shrine of Stiya Habib post-destruction, November 2016
(©Nasir Haji and Mohand Sinjar/Used With Permission)

AFTER RECONSTRUCTION



Figure 48a: The shrine of Stiya Habib (foreground) post-reconstruction, April 2018
(shrines of Stiya Khaji and Mahamad Batin in background)
(©Faris Mishko/Used With Permission)



Figure 48b: The shrine of Stiya Habib post-reconstruction, April 2018
(©Faris Mishko/Used With Permission)

APPENDIX

1. Overall condition of resource

Condition Scale	Definitions
Very Bad	A site or element shows serious signs of active deterioration and/or signs of severe structural instability, and/or large areas of disruption and/or the majority of features of interest are so damaged as to be not surveyable or are missing.
Destroyed	A site or element has been impacted very severely and it no longer retains integrity or sound archaeological data. This includes demolished buildings unless foundations, basements etc. exist which are of interest, for which use very bad.

2. Overall disturbance extent

Damage/ Disturbance Extent	Definitions
61-90%	A substantial proportion of the horizontal extent of the site has been visibly damaged
91-100%	Nearly all of the horizontal extent of the site has been visibly damaged

3. Types of disturbances affecting the resource

Threat/ Disturbance (Cause)	Definitions
Clearance (Unclassified)	The act of clearing and/or flattening/destroying ground or archaeological features/modern buildings etc., where it is not clear whether this has been carried out using mechanised machinery or by hand.
Demolition	The act of destruction or tearing down of archaeological structures. This act can be carried out both in a controlled and uncontrolled manner, but also using both mechanised and/or hand machinery.

Functional Category	Definitions
Military	Relating to an organised and/or official group of armed forces

4. Cause certainty

Disturbance Cause Certainty	Definitions
High	The investigator has little reason to doubt their identification, it may or may not be confirmed by published sources/other imagery specialists or multiple imagery sources.

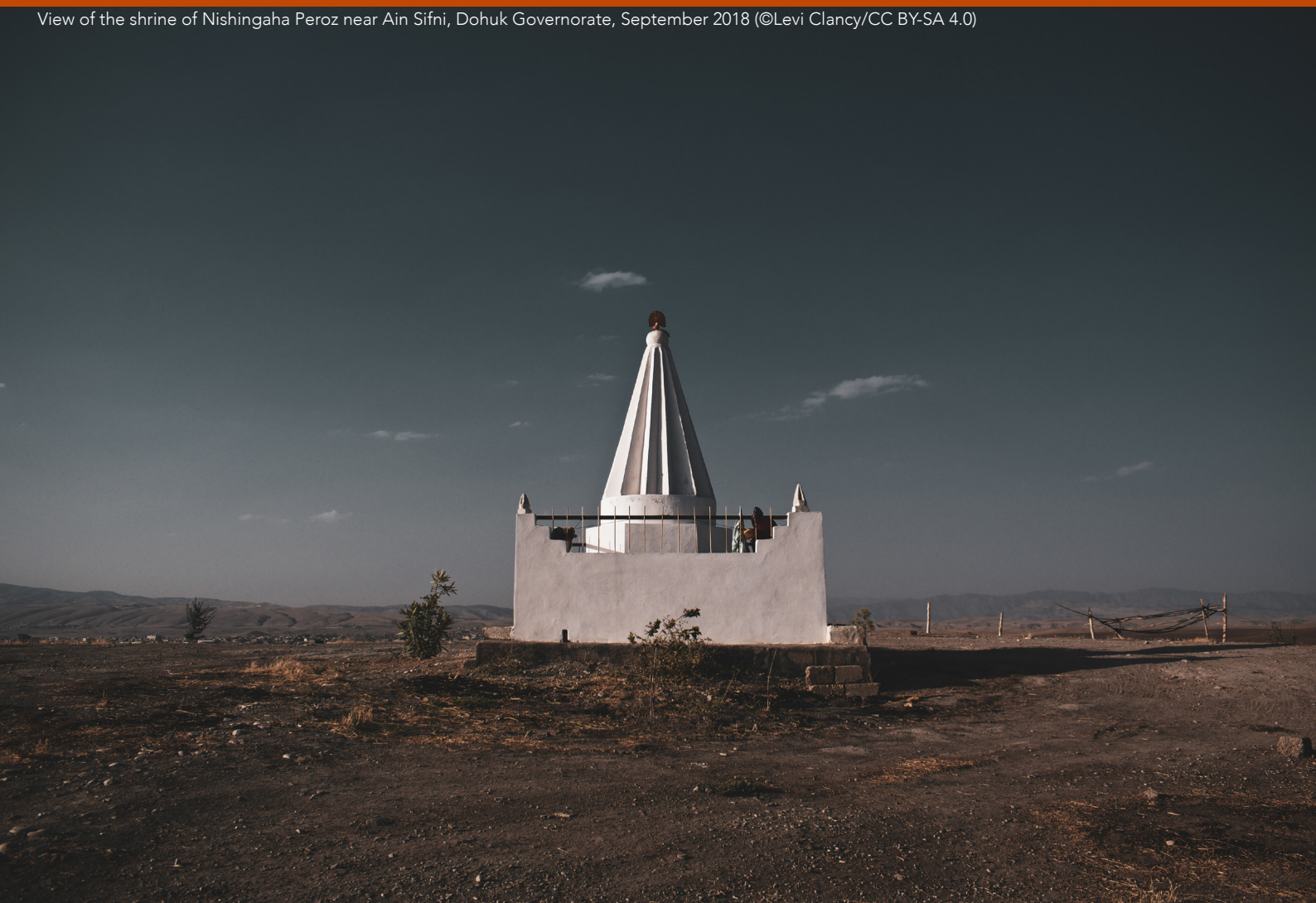
5. Effect Certainty

Disturbance Effect Certainty	Definitions
High	The investigator has little reason to doubt their identification, it may or may not be confirmed by published sources/other imagery specialists or multiple imagery sources.

SECTION 5

CONCLUSIONS AND RECOMMENDATIONS

View of the shrine of Nishingaha Peroz near Ain Sifni, Dohuk Governorate, September 2018 (©Levi Clancy/CC BY-SA 4.0)



CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

Section 1 introduced the Yazidi people.

Section 1 introduced the Yazidi (Êzidi being the preferred term) people and their strong connection to their cultural heritage. Historic and sacred places are an essential part of the Yazidi identity and are considered vital to life by the local population. The destruction of Yazidi cultural heritage significantly threatens the survival of the community.

Section 2 provided an overview of the genocide against the Yazidis.

Section 2 provided an overview of the genocide against the Yazidis. The Islamic State (IS) made no secret of its intention to eradicate the Yazidi community and commenced a coldly calculated policy of ethnic cleansing and genocide on 3 August 2014. All victims were abused and tortured. Male Yazidis above the age of 12 were killed. Female Yazidis were enslaved and traded in a complex and public network of sexual slavery. Those who fled to Mount Sinjar were besieged in order to ensure death from starvation, thirst and the blazing sun. Bases of economic support, such as olive groves and irrigation wells, were systematically destroyed and many areas of the Yazidi homeland were sown with landmines and improvised explosive devices (IEDs) to prevent the population from returning.

Section 3 analyzed the relevant framework of international criminal law.

Section 3 analyzed the relevant framework of international criminal law. It focused on crimes contained in the Rome Statute of the International Criminal Court (ICC), but noted that customary international law is substantially the same and applicable to all States in the world. The destruction of tangible cultural heritage is most easily prosecuted as a war crime, which only requires showing an attack (or destruction under customary law) against a protected site without military justification. Several convictions have been obtained before the International Criminal Tribunal for the Former Yugoslavia (ICTY), as well as one conviction (Al-Mahdi) and one indictment (Ag Mahmoud) before the ICC. Attacks against tangible heritage may also be prosecuted as the crime of persecution, a crime against humanity, as part of a widespread or systematic attack on a civilian population. Numerous indictments and convictions before the ICTY and other courts attest to the viability of this approach. Finally, destruction of tangible heritage also serves as evidence of the special intent to destroy (*dolus specialis*) a protected group as part of the crime of genocide. The International Court of Justice (ICJ), the ICTY and German national courts, with some variations, all accept the value of heritage destruction as evidence of intent to commit genocide. Matters of jurisdiction and possible fora for prosecuting IS fighters were explained.

Section 4 provided original research on the destruction of Yazidi heritage in northern Iraq.

Section 4 provided original research, evidence and context on the destruction of Yazidi tangible cultural heritage in the Bahzani/Bashiqa and Sinjar areas of northern Iraq. We presented satellite imagery analysis conducted by the EAMENA project, drawing on data provided by Yazidi representatives. According to the Department of Yazidi Affairs in the Ministry of Awqaf and Religious Affairs in the Kurdistan Regional Government 68 Yazidi sites were destroyed by IS. We considered a total of 24 sites (16 sites in the Bahzani/Bashiqa area and 8 in the Sinjar area) to which access was possible and which could be documented.

Conclusion: Systematic intentional destruction of cultural heritage by the Islamic State.

We believe that the destruction of cultural heritage in Iraq was a war crime, a crime against humanity and is evidence of genocidal intent.

We conclude that there is strong evidence of the systematic intentional destruction of tangible cultural heritage by the Islamic State, coupled with the systematic attempt to destroy Yazidi traditions, memories, customs and other forms of intangible cultural heritage through a coordinated policy of murder, slavery, sexual exploitation and brainwashing of children. The existence of a policy to this effect is confirmed by official publications of the Islamic State and scholarly analysis.

We believe that acts of destruction of tangible cultural heritage, at the very minimum concerning the sites analyzed in this report, represent a war crime under Article 8 (2)(e)(iv) of the Rome Statute of the International Criminal Court and customary international law.

We further believe that the destruction of tangible cultural heritage and the policies intended to destroy intangible cultural heritage discussed in sections 2 and 4 represent a violation of the fundamental rights of Yazidis in a widespread and systematic manner. These acts must therefore be qualified as the crime of persecution, a crime against humanity, under Article 7 (1)(h) of the Rome Statute of the International Criminal Court and customary international law.

Finally, we believe that the attempts and successful destruction of tangible and intangible cultural heritage presented in this report represent evidence of the special intent to destroy (*dolus specialis*) a protected group as part of the crime of genocide under Article 6 of the Rome Statute of the International Criminal Court and customary international law. We ground this conclusion in the caselaw of the ICJ, the ICTY and the highest courts of the Federal Republic of Germany. Any discussion of the genocide of the Yazidis must also take into account the destruction of culture attempted by the Islamic State.

We call on the international community to not let these deeds go unacknowledged and unpunished.

RECOMMENDATIONS

The Office of the Prosecutor (OTP) of the International Criminal Court should:

- Take into account all information presented in this report
- Open investigations **proprio motu** into the destruction of the cultural and religious sites presented in this report
- Explore the **active personality principle** as a basis for prosecuting Islamic State fighters
- Consider all forms of criminal responsibility under Article 25 of the Rome Statute, especially joint criminal enterprises, command responsibility and the aiding and abetting of crimes

- Contact Yazda or RASHID International for further evidence:
 - Ahmed Khudida Burjus, Deputy Director of Yazda: info@yazda.org
 - Seán Fobbe, Chief Legal Officer of RASHID International: legal@rashid-international.org

National Prosecutors should:

- Take into account all information presented in this report
- Open investigations **proprio motu** into the destruction of the cultural and religious sites presented in this report
- Explore **universal jurisdiction**, the **active personality principle** and the **passive personality principle** as a basis for prosecuting crimes committed against the Yazidis
- Consider all forms of criminal responsibility, especially secondary criminal responsibility, including incitement and aiding and abetting
- Contact Yazda or RASHID International for further evidence:
 - Ahmed Khudida Burjus, Deputy Director of Yazda: info@yazda.org
 - Seán Fobbe, Chief Legal Officer of RASHID International: legal@rashid-international.org

The UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant (UNITAD) should:

- Take into account all information presented in this report
- Consider all forms of criminal responsibility when collecting evidence, especially secondary criminal responsibility, including incitement and aiding and abetting
- Ensure that evidence of ethnic cleansing and genocide against Yazidis is given sufficient attention
- Contact Yazda or RASHID International for further evidence:
 - Ahmed Khudida Burjus, Deputy Director of Yazda: info@yazda.org
 - Seán Fobbe, Chief Legal Officer of RASHID International: legal@rashid-international.org

Individuals and organizations with further **knowledge of these crimes** should:

- Reach out to the UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant (UNITAD):
 - UNITAD Office: unidad-fipoc@un.org

- UN Assistance Mission in Iraq (UNAMI):
unami-information@un.org
 - UNITAD Facebook: <https://www.facebook.com/UNITADIraq/>
 - UNITAD Twitter: https://twitter.com/UNITAD_Iraq
- Reach out to Yazda or RASHID International:
 - Ahmed Khudida Burjus, Deputy Director, Yazda:
info@yazda.org
 - Seán Fobbe, Chief Legal Officer, RASHID International:
legal@rashid-international.org

The Republic of Iraq, in close cooperation with the **international community** should:

- Make every effort to nominate, include and maintain **Lalish Temple** and the surrounding landscape on the **World Heritage List** to ensure that the heart of Yazidism survives
- Ensure that the Republic of Iraq becomes a State Party to the **1999 Second Protocol** to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict
- Make every effort to nominate, include and maintain **Lalish Temple** on the **List of Cultural Property under Enhanced Protection** as per the 1999 Second Protocol
- Ensure adequate domestic safeguards for the protection and conservation of Lalish Temple and surrounding landscape
- Guarantee that Yazidi representatives remain the sole guardians of Lalish Temple and the holy lands surrounding it and register the lands in the name of the Yazidi community

States should:

- Provide financial assistance to help the Yazidi community recover from its ordeals in order to prevent an ancient culture from vanishing from the world
- Provide technical assistance with the reconstruction of Yazidi cultural and religious sites

Conclusions and Recommendations are issued on behalf of

RASHID International

Yazda

