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Left Unprotected: Children Born as a Result of Sexual Violence in Conflict and the Gap in Transitional Justice in Iraqi Law

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Abstract:

This study addresses the issue of the 'invisible victims'—children born as a result of conflict-related sexual violence perpetrated by ISIS against the Yazidi community and other groups in Iraq in 2014. Whilst the Yazidi Survivors Act represents an important acknowledgement of the crimes of genocide, it suffers from a legislative gap regarding the legal status of these children. The study argues that this legislative omission leads to secondary victimisation, thereby hindering efforts towards transitional justice and social integration.

Keywords : Conflict-Related Sexual Violence (CRSV) ,Reproductive Violence & Forced Pregnancy , Legislative Gaps & Transitional Justice , Genocide & Crimes Against Humanity , Legal Identity & Social Stigma , Invisible Victims (Children Born of War) .

Research Problem

The research problem centres on the stark contrast between the legal recognition of Yazidi survivors and the exclusion of their children from the legal system of protection and compensation. This problem can be analysed through the following dimensions:

- The normative legal dimension: This is reflected in the failure of the Iraqi Penal Code No. 111 of 1969 to recognise sexual violence as a weapon of war or an instrument of genocide, as it continues to be based on concepts of public morality rather than human dignity.

- The identity and religious dimension: the contradiction between the Iraqi Personal Status Law of 1959, which attributes the child to the father (who is Muslim in the case of perpetrators), and the specific nature of the Yazidi faith, which requires both parents to be Yazidi, leaving children in a state of legal and social limbo.

- Accountability gap: The absence of legislation criminalising reproductive violence (forced pregnancy) as a distinct offence within the national legal framework, despite its recognition under the Rome Statute.

1. Introduction: The Legal and Practical Gap in Iraq's Response to Conflict-Related Sexual Violence

The Republic of Iraq stands at a critical crossroads in the post-conflict phase. Whilst the state seeks to consolidate peace following years of systematic terror perpetrated by the terrorist organisation ISIS, it faces an unprecedented legal and moral crisis: the criminal justice mechanisms designed to protect Iraqi citizens remain fundamentally inadequate to address the horrific scale and nature of the conflict-related sexual violence committed during that period. At the heart of this crisis lies a profound anachronism; the Iraqi Penal Code No. 111 of 1969, a legacy of the 1960s and rooted in concepts centred on 'public morality' rather than 'human dignity', leaving the Iraqi penal code today facing legislative gaps created by a modern-day genocide [1].

This study confirms that traditional criminal laws based on morality are incapable of capturing the essence of conflict-related sexual violence as a deliberate method of warfare, a mechanism for ethnic cleansing, and a key element of genocide, as is clearly evident from the testimonies and experiences of Yazidi survivors in Iraq.

The consequences of this legislative shortcoming are dire. Between August 2014 and December 2017, ISIS committed one of the most extensively documented acts of genocide of the 21st century against the Yazidi community in Sinjar [2].

Women and girls were systematically abducted and subjected to gang rape, sexual slavery and forced pregnancy. Many were forcibly separated from their families, held captive, and subjected to beatings and psychological torture.

The targeting was clear and deliberate: as one of the mechanisms of genocide aimed at destroying the Yazidi community through physical extermination, biological destruction (preventing reproduction), and the erasure of cultural identity [3].

Thousands remain displaced; many survivors are raising unrecognised children born as a result of rape; and the majority have received neither justice nor adequate compensation for these violations. Nevertheless, the Iraqi legal system has largely failed to respond proportionately to these abuses.

Penal Code No. 111 of 1969 criminalises sexual offences primarily through provisions governing 'morals' and 'public decency' – categories designed for crimes committed in peacetime, not during armed conflict or systematic genocide [1].

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[1] - Mohamed Elewa Badar ,Laying the groundwork for prosecuting ISIS for core international crimes before an Iraqi criminal tribunal 2.0. International Criminal Law Review ,25 (2025),pp. 939–1001.

[2] - Annekathryn Goodman , Hannah Bergbower, Violette Perrotte & Arun Chaudhary , Survival after Sexual Violence and Genocide: Trauma and Healing for Yazidi Women in Northern Iraq, Health, Scientific Research Publishing, Wuhan, China, Health , Vol.12 No.6, June 2020, 12, 612-628 .

[3] - Larissa Peltola , Rape and sexual violence used as a weapon of war and genocide, Claremont Colleges, 2018,p.34.

The provisions of Iraqi criminal law relating to rape are few and narrow in scope, focusing on the context of marital and family relationships rather than on the nature of rape as a weapon of war during armed conflicts.

More importantly, Iraqi criminal legislation does not recognise genocide as a distinct domestic crime in its own right; Iraqi law contains no provisions addressing sexual violence as a war crime or a crime against humanity, nor does it provide any protection for victims or meet the specific needs of survivors of mass atrocities.

This legislative gap has persisted despite significant developments in relevant international law, which has evolved to provide a more sophisticated framework for understanding and prosecuting perpetrators of sexual violence in armed conflicts. The discrepancy between the current Iraqi criminal law and the evolving standards of international humanitarian and criminal law has led to the systematic impunity of perpetrators of genocide.

The enactment of the Yazidi Survivors Act No. 2 of 2021 represents an important, albeit incomplete, step towards addressing this crisis. This Act formally recognises the genocide against the Yazidis and provides an initial framework for investigation, prosecution, victim recognition and reparations. However, even this legislation faces enormous obstacles to its implementation: institutional capacity shortfalls, chronic underfunding, political resistance, and the absence of coordinated amendments to the basic criminal code.

Without a comprehensive reform of Iraq's substantive criminal law – and without the political commitment to implement such a reform – the Yazidi Survivors' Law remains, in many respects, merely a symbolic gesture rather than an effective mechanism for achieving justice.

This brief study offers a critical analysis of how traditional Iraqi criminal laws, based on 'morals', have failed to address conflict-related sexual violence as a method of warfare and a key element of genocide. It examines the case of the Yazidis as a case study grounded in international criminal law and assesses the adequacy of existing transitional justice mechanisms. It proceeds from the firm conviction that providing effective protection for women survivors of conflict-related violence requires not merely the amendment of specific provisions, but a radical rethinking of how Iraqi criminal law understands sexual violence, by shifting from a framework centred on individual morality and family honour to one centred on human dignity, gender equality and accountability for mass atrocities.

2. An Approach to Understanding Reproductive Violence: A Legal and Conceptual Framework

Despite extensive evidence of reproductive violence in the context of mass atrocities occurring during international or internal armed conflicts, transitional justice and international criminal law have been slow to formally recognise [2] these violations and prosecute their

[1] – Articles 393, 394, 396, 399, 400, 401, 402 and 403 of the amended Iraqi Penal Code No. 111 of 1969.

[2] – Ariana Zachariades Borda, Unpacking the Harms of Reproductive Violence in Mass Atrocities: Developing a New Typology Oxford University Press,2025.

perpetrators, Reproductive violence extends beyond the act of rape as a physical act; it encompasses its intended and actual consequences, including cases of forced pregnancy resulting from violence [1].

The accountability gap here can be summarised as what might be described as a methodological gap; whilst existing definitions classify the concept of sexual violence as a violation of bodily autonomy, they fail to unpack the distinct and intergenerational harms inflicted by such violence[2].

There is no doubt that international humanitarian law provides a basis for recognising sexual violence as genocide when committed with the intent to exterminate. The recognition in the 1998 Rome Statute of rape as a war crime, a crime against humanity, or genocide (in specific contexts)[3] creates a legal framework for criminalisation and punishment; however, the specific situation regarding the protection of children born as a result of such violence remains unclear [4].

This ambiguity is not limited to legal texts; it has profound humanitarian consequences, as these children face a distinct set of challenges that differ fundamentally from those faced by child survivors of violence [5]; These children not only carry the trauma inherited from their mothers, but also face acute identity crises rooted in the very essence of their existence as the living, tangible embodiment of the perpetrator's violence [6].

Sexual Violence as a Weapon of War: Conceptual and Legal Foundations

A. Defining Conflict-Related Sexual Violence: From a Side Effect to a Strategy

[1] - Ariana Zachariades Borda, Putting Reproductive Violence on the Agenda: A Case Study of the Yazidis, Taylor & Francis Group, 2022.

[2] - Ariana Zachariades Borda, Unpacking the Harms of Reproductive Violence , Op. cit.

[3] - Zamula A.Yu & Bushok O.O , International mechanisms for addressing the consequences of sexual violence in the post-conflict recovery period, Uzhhorod National University Herald, Series: LAW ,Issue 92, Part 5,2025, pp. 174 – 180.

[4] - Josephine Mionki ,Children Born of Conflict-Related Sexual Violence as Direct , Victims under International Criminal Law, Journal of International Criminal Justice 22, no. 1 ,2024,pp. 125–148.

[5] - Chloé A. Foussiakda , Kirsten Anderson , Loris Pasquero & Adélaïde Blavier , Children born of conflict-related sexual violence: A review of interdisciplinary responses to their needs and experiences. Journal of Human Trafficking, Enslavement and Conflict-Related Sexual Violence, Volume 4 , Issue (1),2023,pp. 105–131.

[6] - Sarah Kahn & Myriam Denov , We are children like others ; Pathways to mental health and healing for children born of genocidal rape in Rwanda, Transcultural Psychiatry, vol. 56, no. 6,2019,pp. 1133–1158.

Throughout most of the 20th century, international law and humanitarian discourse treated sexual violence in armed conflict as an unfortunate side effect of war, committed by undisciplined soldiers in contexts of state collapse[1] .

This understanding reflected deeper assumptions about armed conflicts (as primarily a matter of fighting between armed men), about women (as marginal to the military sphere), and about sexual violence (as primarily a private, individual violation rather than a strategic tactic).

However, a distinction must be made between different forms and contexts of conflict-related sexual violence: some acts are committed by individuals exploiting the chaos of conflict; others are committed by organised armed groups as a tactic of terror, resource control or military recruitment; whilst others are practised systematically as part of broader strategies of ethnic cleansing, cultural destruction or genocide[2].

This classification is of paramount importance in both investigations and prosecutions. It demonstrates that sexual violence is not merely a crime against individuals, but a crime inherent in the strategy and structure of the conflict.

The case of ISIS and the Iraqi Yazidi women epitomises strategic deployment in its most extreme form; extensive documentation reveals that ISIS established specific policies regarding the treatment of Yazidi women and girls in captivity.

These women were categorised according to age and marital status; they were distributed among ISIS fighters as ‘wives’ or concubines; they were subjected to systematic rape; they were forced to become pregnant; and their children were incorporated into ISIS’s indoctrination programmes or sent for military training[3].

This was not random violence; rather, it was organised, systematic and integral to ISIS’s broader strategic objective of destroying Yazidi society. The targeting was clear: the Yazidis were not chosen because their women had committed any crime, but because they belonged to a group that ISIS had designated for extermination.

B. Sexual violence as genocide: the legal framework and evidential challenges

Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide [4]defines genocide as acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group.

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[1] - Marian Lief Palley, Medicalization versus demedicalization of women”s health care, Political Science and Politics 37(01) ,Cambridge University Press, 2004.

[2] - - Saugat Subedi, Weaponizing the Body: The Strategic Use of Sexual Violence by Non-State Armed Groups and the Gaps in International Humanitarian Law, The Geopolitics,2021.

[3] - Aldo Zammit Borda, Putting Reproductive Violence on the Agenda: A Case Study of the Yazidis, Journal of Genocide Research ,Volume 26,Issue 1, 2024,pp. 94-114 .

[4] - Adopted by General Assembly Resolution 260 (III) of 9 December 1948 (entered into force on 12 January 1951).

The Convention identifies five categories of acts constituting genocide: killing; causing serious bodily or mental harm; deliberately inflicting conditions of life calculated to bring about physical destruction; imposing measures intended to prevent births; and forcibly transferring children.

It is notable that sexual violence does not appear explicitly on this list, a significant omission that reflects the political negotiations surrounding the Convention and the marginalisation of gender-based violence in early international criminal law[1].

Through the acts committed by this terrorist organisation—the most extensively documented genocide of the 21st century—the systematic nature of these attacks went beyond mass killings to include targeted sexual violence against women and girls[2].

In 2016, the United Nations confirmed that ISIS's actions constituted crimes of genocide, crimes against humanity, and war crimes. What distinguishes this genocide is not merely the scale of the violence, but the deliberate use of rape as an explicit mechanism for ethnic destruction[3].

The psychological and physical trauma suffered by survivors has been extensively documented; research indicates that Yazidi survivors suffer from post-traumatic stress disorder and depression. Yet this overwhelming evidence of sexual violence and its traumatic consequences obscures a victim who remains entirely invisible, a victim whose very existence is a product of this genocide: the children born as a result of sexual violence during the conflict.

3. Grey areas in international humanitarian law: children born during wars as a case study

Children born in the context of war face serious legal vulnerabilities despite existing international protections, with the key legal frameworks governing their protection including the Convention on the Rights of the Child (CRC), the 1949 Geneva Conventions, and international humanitarian law (IHL) more broadly. These children benefit from the general protection afforded to civilians, as well as age-specific safeguards in recognition of the fragility of their exceptional situation.

However, a critical gap emerges when children are born as a result of conflict-related sexual violence or displacement.

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[1] - Ana Škundrić , Forced pregnancy in the international criminal law, Arhiv za Pravne i Društvene Nauke, Arhiv za Pravne i Društvene Nauke ,Federation of Jurists' Associations of Serbia 120(1),2024,pp. 183-204.

[2] - Annekathryn Goodman , Hannah Bergbower, Violette Perrotte & Arun Chaudhary , Survival after Sexual Violence and Genocide: Trauma and Healing for Yazidi Women in Northern Iraq, Health, Scientific Research Publishing, Wuhan, China, Health , Vol.12 No.6, June 2020, 12, 612-628 .

[3] - Faruk Hadžić , Religious and cultural violence; the 21st-century genocide against the Yazidis June 2021Philosophy Economics and Law Review, Volume 1, 2021,pp.172 – 181.

When tracing the development of international criminal law regarding sexual violence, the Ongwen Case[1] before the International Criminal Court was the first to classify forced pregnancy and forced 'marital slavery' as separate crimes against humanity, combining individual responsibility with command responsibility during armed conflicts. This judicial development established important jurisprudential principles in recognising forced pregnancy as a distinct international crime requiring appropriate classification and punishment.

The legal consequences of forced pregnancy extend beyond criminal liability to include reparations and victim protection. Children born as a result of forced pregnancy are protected persons under international law; however, the practical implementation of their protection remains inconsistent across different conflict zones.

The interaction between national jurisdiction and international mechanisms, governed by the principle of complementarity in the Rome Statute, means that robust national legal frameworks are essential to ensure justice and effective protection for both children and their mothers.

A comparative analysis of post-conflict societies reveals a deeply concerning pattern. In Rwanda, following the 1994 genocide, for example, children born of rape as an act of genocide became 'invisible populations' within transitional justice mechanisms[2]. In a society where the label 'son of a woman' (Umwana w'umugore) carries a deep social stigma, these children faced challenges relating to identity, belonging, multiple forms of violence, and economic marginalisation. Girls born as a result of rape as an act of genocide also suffered distinct patterns of targeting, including sexual violence and social exclusion[3].

However, there has been a significant development recognising children born as a result of conflict-related sexual violence as victims in their own right under international criminal law[4]. Nevertheless, this significant development remains inconsistently applied across national legal systems, particularly in post-conflict societies that lack robust mechanisms for victim protection.

Historically, the normative framework for children born during wars has been understood primarily through the lens of their mothers' experiences[5], due to the specific

[1] - Ongwen Case, The Prosecutor v. Dominic Ongwen ,ICC-02/04-01/15 ,Reparation/Compensation imes against humanity and war crimes allegedly committed after 1 July 2002 in northern Uganda, On 15 December 2022.

[2] - Myriam Denov & Dalia Saad, Umwana w'umugore: The gendered realities of girls born of conflict-related sexual violence and their mothers in post-genocide Rwanda , Journal of Health Psychology, Vol. 29(13), 2024,pp. 1503 –1518.

[3] - Ibid.

[4] - Josephine Mionki ,Children Born of Conflict-Related Sexual Violence , Op. cit.

[5] - Ingvill C. Mochmann & Sabine Lee, The human rights of children born of war: Case analyses of past and present conflicts ,GESIS ,Leibniz-Institute for the Social Sciences ,Issue No.: 2010/07, Cologne, Germany,2010,pp. 3- 29.

harms these children suffer arising from the circumstances of their conception, the ambiguity of their legal status, and prevailing social stigma. This normative framing excludes them as a primary group of legal concern, rendering their harm secondary and derivative rather than the direct cause.

4. The Yazidi Survivors Act No. 8 of 2021: A Legal Assessment of Legislative Gaps

The Yazidi Survivors Act No. (8) of 2021 represents a fundamental shift in criminal and social policy in Iraq, as the rationale behind this legislation was to provide victims with material and moral compensation, and to provide care and rehabilitation to facilitate their reintegration into society. It derives its constitutional legitimacy from Articles 61(1) and 73(3) of the Iraqi Constitution.

From the perspective of international criminal law, the Iraqi legislature has taken a significant step forward in Article 7 of the Act by classifying the crimes committed by the 'ISIS' organisation against the Yazidis and other communities (Turkmens, Shabaks, Christians) as crimes of 'genocide' and 'crimes against humanity' [1].

This legal characterisation is consistent with Articles 6 and 7 of the 1998 Rome Statute of the International Criminal Court. Nevertheless, a legal question arises regarding the "principle of legality" (no crime or punishment except by law), as the Iraqi Criminal Code (Penal Code No. 111 of 1969) does not contain explicit provisions defining genocide, meaning that referral to the competent courts (Article 7(3)) requires more extensive legislative harmonisation to ensure that there is no impunity or evasion of responsibility.

Furthermore, Article 9 explicitly stipulates that perpetrators of crimes of abduction and enslavement shall not be covered by any general or special amnesty, and that the statute of limitations shall not apply to such offences; this provision enshrines the peremptory norms of international law (jus cogens) which prohibit amnesty for heinous international crimes.

Law No. 8 of 2021 represents a significant step forward in criminal accountability for the post-genocide phase in Iraq, as it recognises Yazidi victims, codifies institutional support mechanisms, and establishes avenues for compensation[2]. However, a critical review of this

[1] – The scope of the definition of victims in this law gives rise to internal legal contradictions, as Article 1 defines a victim as any woman or girl who has been subjected to crimes of sexual violence. However, this definition raises what might be termed a double standard, as Article 2 broadens the scope to include children and other minorities (Turkmens, Christians, Shabaks), yet Article 1 restricts the basic definition to women and girls, which may lead to the marginalisation of male and boy survivors who have survived mass executions in the enforcement mechanisms.

[2] – – Awara Hussein Ahmed, Jamal Mohammed Ameen &Rebar Akram Faiq, Compensation for the victims of the halabja genocide in the perspective of international and iraqi law,JUSTICES, Journal of Law, 4(2) ,2025,pp. 78–100.

law reveals its legislative shortcomings regarding children born as a result of sexual violence through a number of points:

• Exclusion in the definition: The law determines beneficiary status through the definition of a 'direct victim' — specifically identifying individuals who were subjected to abduction, sexual violence, or forced displacement by the terrorist organisation ISIS. This definition does not extend to include children born as a result of sexual violence; they are not defined by this law as direct victims of the crime of genocide, nor are they recognised within the framework of protection or the compensation scheme provided for in the law.

• Evidentiary barriers: This law implicitly requires proof of direct harm suffered by the victim. Consequently, children born as a result of sexual violence face challenges in documenting or proving their connection to the genocide and their status as victims of reproductive violence.

• Gaps in psychological and social support: Whilst the law mandates psychological and social support for recognised survivors, it does not extend this protection to children born as a result of sexual violence — who face profound psychological consequences including stigma, identity crises, and complex trauma that matches or exceeds that of their mothers[1].

• Legal and religious issues (the question of identity and parentage)

Although the law covers survivors who have been subjected to forced pregnancy and abortion, it has encountered what might be described as legislative silence regarding one of the most complex legal and religious issues within the Yazidi community.

A. The issue of children born as a result of rape: The law does not explicitly address the legal status of children born to victims of sexual violence. Legally, in accordance with relevant Iraqi legislation[2], the child is registered as belonging to the father's religion (Muslim

[1] – Sarah Kahn & Myriam Denov , We are children like others, Op. cit.

[2] – The registration of a child based on the Muslim father's religion is not grounded in a single legal provision alone, but is the result of a comprehensive legislative framework that enshrines the principle of 'a minor's adherence to Islam' in accordance with the prevailing legal interpretation in Iraq. For example, Article (26/II) that minor children shall follow the religion of whichever parent has embraced Islam, whereby this provision is considered the strongest legal instrument obliging the civil registry departments in Iraq to change the religion of the minor or register them as Muslim simply because one of the parents is Muslim. In the case under consideration, involving the children of Yazidi survivors, and given that the father (an ISIS member) is presumed to be Muslim, the law requires the child to be registered as Muslim regardless of the Yazidi mother's religion.

On the other hand, Article 11 of the Juvenile Welfare Act No. 76 of 1983 deems a foundling or child of unknown parentage to be Muslim and of unknown parentage unless proven otherwise. This provision creates a legal dilemma in cases involving the children of survivors, as the father is often of unknown official identity (despite being known to have been an ISIS fighter), prompting the authorities to apply Article 11 and deem the child of unknown parentage, thereby registering them as Muslim by default.

in the case of ISIS fighters) under the Personal Status Law No. 188 of 1959 [1], which conflicts with the specific nature of the Yazidi faith, which only accepts conversion if both parents are Yazidi [2].

B. The humanitarian contradiction: whilst the law seeks to integrate survivors, the failure to resolve the fate of these children places the survivor before a catastrophic choice: to abandon her child to return to her community, or to remain an outcast with him, thereby undermining the objectives of 'psychological and social rehabilitation' set out in Articles 4 and 5 of the law [3].

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[1] - From a strictly technical point of view, there is no explicit provision in the Personal Status Law No. 188 of 1959 stating that a child must follow the religion of his Muslim father; nevertheless, the Iraqi judiciary applies this principle on the basis of Article 1 of the same law, which stipulates that if there is no applicable legislative provision, reference shall be made to the principles of Islamic Sharia most consistent with the provisions of this law.

See Dr Ahmed Al-Kubaisi, Commentary on the Iraqi Personal Status Law, Part 1, Al-Qada Press, p. 42.

For example, Federal Court of Cassation Decision No. 1265/Appeals Panel/2017 affirmed that provisions relating to religion and lineage are matters of public policy, and therefore may not be agreed upon to the contrary; a minor legally follows his Muslim father as soon as his lineage is established or if he is of unknown lineage in an Islamic environment.

The problem lies not in a lack of legislation, but in the encroachment of the general religious texts of other faiths upon the religious particularities of minorities. The Law on Yazidi Survivors remains criminally deficient because it has failed to address the civil implications of lineage and religion, placing it in direct conflict with the principles of international humanitarian law, which reject the forced alteration of the religious identity of war victims.

[2] - Anthropological and historical studies on the Yazidis confirm that it is a closed ethno-religious group, which adheres to the principle of endogamy—or strict marriage within the community—and rejects proselytising or the acceptance of new adherents; it also stipulates that both parents must be Yazidis for their offspring to be considered Yazidi. See , Sebastian Maisel, Yezidis in Iraq: Common Identity and Process of Ritual Homogenisation, Cambridge University Press, 2017, p. 33.

[3] - The legal-religious conflict arises in this regard on two fundamental points:

* The rejection of compulsory affiliation: in the Yazidi faith, religious affiliation is a matter of jus sanguinis, requiring both parents to be Yazidi. Whereas Iraqi law, as set out in Article 26 above, imposes Islam as the religion, which the Yazidi faith considers to place these children entirely outside the religious system.

* The problem with Article 1 of the Survivors' Law: whilst Law No. 8 of 2021 on Survivors acknowledges the occurrence of physical and psychological harm, including forced pregnancy, it has

5. Legal and humanitarian dimensions from a comparative perspective

International humanitarian law provides important concepts for addressing this domestic legislative gap; the 1998 Rome Statute recognises coercive impregnation as a crime against humanity (Article 7(1)(g)) and it may be considered genocide if committed with the intent to exterminate[1]. This recognition affirms that the coercive impregnation of women and girls is in itself a grave violation requiring separate legal attention.

The principle of victim protection, as enshrined in UN Security Council Resolution 2467 (2019) and previous resolutions on conflict-related sexual violence such as Resolution 1325 of 2000 and Resolution 1820 of 2008, which posits that effective responses to sexual violence must go beyond prosecuting the direct perpetrators to address the lasting consequences of such acts, including those affecting children born as a result of this violence[2]. This principle indicates that the principles of redress and compensation must take into account the intergenerational harm inflicted on subsequent generations, namely children born as a result of these crimes.

6. The humanitarian implications of invisible suffering and systematic marginalisation

Research on Yazidi survivors reveals what can be described as a clinical condition known as complex trauma, which is not limited to direct violence alone, but extends to include social rejection and economic marginalization [3], For the mothers of these children, this trauma is exacerbated by the precarious legal status of their children and their social exclusion. Consequently, these mothers bear the burden of intergenerational suffering, as the trauma of their own victimisation intersects with anxiety regarding their children's survival, identity and access to their inherent rights.

Children born as a result of conflict-related sexual violence inherit multiple burdens: the biological and psychological legacy of trauma resulting from pregnancy in a context of

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failed to overcome the impasse created by Article 26 of the National ID Card Law, thereby leaving the child legally Muslim and 'non-Yazidi in terms of faith'.

[1] - K. S. Stepanchuk & R. O. Maksymovych, Sexual violence during armed conflicts: international legal mechanisms of accountability , Uzhhorod National University Herald Series Law 4(89),2025, ,pp.226-231.

[2] - Klearchos A. Kyriakides and Andreas K. Demetriades, Survivor-centered approaches to conflict related sexual violence in international humanitarian and human rights law , AMA journal of ethics, Volume 24, Number 6, 2022,pp. E495-517.

[3] - Pegah Seidi , Nazdar Abas ,Dilshad Jaff & Raven Dunstan , Assessment of Perinatal Depression Risk among internally displaced Yazidi Women in Iraq: a descriptive cross-sectional study ,BMC Pregnancy and Childbirth, April 2022 , p.2-8.

violence, the social stigma associated with their paternity, the legal uncertainty of their status, and the lack of institutional recognition of their suffering [1]. Within the Yazidi community in Iraq, these burdens are compounded by cultural frameworks that may further marginalise children who are viewed as bearing the 'stigma' of enemy perpetrators.

7. Recommendations for legal and institutional reform in Iraq

To address this legislative gap in a substantive and effective manner, we propose the following reforms:

Firstly, explicit legal recognition of the children: Law No. 8 should be amended to explicitly recognise children born as a result of sexual violence committed during the genocide as direct victims entitled to recognition, protection and compensation. This recognition must not be conditional upon proof of paternity, but rather based on evidence demonstrating that their mothers were subjected to sexual violence during the genocide.

Secondly, a comprehensive definition of victims: the law must establish clear categories acknowledging that victimhood spans generations and takes various forms, including reproductive violence.

Thirdly, tailored support mechanisms: psychological and social support services provided for by law must explicitly include children born as a result of sexual violence, with regulations adopted that take cultural specificities into account to address their particular needs regarding identity formation, recovery and social integration.

Fourthly, flexibility in the burden of proof: specific provisions must be established governing how the victim status of children born as a result of conflict-related sexual violence is established, taking into account evidentiary and documentation challenges and considering the mother's testimony as sufficient evidence of the circumstances of the child's conception.

Fifth, coordination with international mechanisms: Iraq should engage with international accountability mechanisms, particularly the International Criminal Court, to ensure that crimes of reproductive violence and their consequences receive appropriate judicial attention, thereby reinforcing the message that these crimes constitute grave violations warranting a distinct legal status.

8. Conclusion: Justice Deferred, Justice Lost

The legislative gap concerning children born as a result of sexual violence in Iraq's 'Yazidi Survivors Act' perpetuates the very injustice and profound injustice resulting from the genocide, namely the erasure of the victims from public memory and the lack of legal recognition of them. These children are not an incidental by-product of the genocide; rather, they are among the most vulnerable survivors. Their legal absence or lack of legislative recognition is not an inevitable fate, but rather the result of political choices and conceptual frameworks that must be reviewed and reformed.

[1] – Myriam Denov & Antonio Piolanti,Though My Father was a Killer, I Need to Know Him ,Children born of genocidal rape in Rwanda and their perspectives on fatherhood , International Journal of Child Abuse & Neglect, Volume 107, September 2020.104616 .

International humanitarian law recognises that meaningful accountability requires addressing the lasting effects of violence, not merely prosecuting its direct perpetrators, particularly when these effects affect the most vulnerable groups: children born as a result of genocide-related rape, who were forcibly brought into existence through violence, and thus raise profound questions about human dignity, group identity, and the intergenerational perpetuation of harm. Iraqi legislation must address these questions through explicit recognition and comprehensive protection.

Amending Law No. 8 to address this gap will not merely be a technical legal exercise; it is a humanitarian and legislative commitment to recognise all victims of genocide, including those whose suffering as victims began before their birth. This recognition is a prerequisite for genuine healing and for preventing the recurrence of marginalisation and harm; it affirms the principle that genocide not only destroys individual lives, but also tears apart the fabric of societies and the future of generations yet to be born. Iraqi law therefore has the opportunity today to acknowledge this profound truth and deliver justice to those whom the current law renders invisible.