Sex-Slavery: One Aspect of the Yezidi Genocide*

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Abstract
Even though almost three years have passed since the black banners of the terror organisation, calling themselves the “Islamic State of Iraq and Syria” (ISIS) were first hoisted throughout the Yezidi heartland of Sinjar, the Yezidi community continues to be targeted by ISIS, militias. 300,000 vegetate in camps as Internally Displaced Persons (IDP) in Iraqi Kurdistan; thousands of others have been killed, are missing, or remain in captivity where they are subjected to unspeakable sexual and physical abuse. With deference for these victims of violence, and without detracting from the collective suffering and trauma of the entire Yezidi community of Sinjar (families, women, men, and children alike), the authors have chosen to focus the present article on the plight and misery of the females; who were, and still are, facing despicable sexual abuses, unfathomable atrocities, and unfettered human rights violations. In doing so, they highlight the views of the fundamentalist Islam practiced by ISIS that encourages sex-slavery, while elaborating on the complacent acceptance of ISIS terror tactics by the local Sunni population of the territories they control. The work goes on to describe how survivors escaped, as well as how they are received and treated by the Yezidi community and state authorities. This discussion includes an overview of the national and international mechanisms available for prosecuting ISIS members for their crimes of genocide against the Yezidi people. The authors further stress that the genocide has contributed to, and even accelerated the process of the Yezidi self-identification as a unique ethno-religious entity; which, in turn, has produced changes to their religious traditions. These changes will be briefly covered by examining a new approach to the institution of the Kerāfat.

Keywords  
Genocide, Genocide Convention, Honour Killings, ICC, ISIS, Kerāfat, Return of ISIS-Survivors, Security Council, Sex-Slaves, Slavery in Islam, Yezidis

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INTRODUCTION

The persecution of Yezidis is most probably as old as their religion. The Yezidis themselves refer to 72 other nations and to 72 events from which they suffered atrocities and major persecution, thereby, indirectly implying that the Yezidis have faced hostilities from all other nations. From the late 1800s and well into the last century, the world has observed the persecution of the adherents to the Yezidi faith with interest and feigned pity, but never with a lasting outrage such torments deserved from the public at large. The interested population in Europe—far removed from the territories where the Yezidis suffered persecution—agreed with Goethe:

\[\text{On holidays there's nothing I like better} \\
\text{Than talking about war and war's display,} \\
\text{When in Turkey far away,} \\
\text{People one another batter.}\]

This attitude changed significantly with regard to the plight of the Yezidis in Northern Iraq, which is, more than two years after the initial ISIS attack, still being prominently featured in the media. A growing array of articles and books on the subject continue to be published. However, Buffon and Allison (2016: 191) caution that the genocide is becoming more and more gendered within the international media, and “not only the suffering of Yezidi men, but their very voices are effaced”; while the Yezidis themselves emphasise the collective nature of the genocide taking place “within a historical framework of persecution and marginalisation” (cf. also Dulz 2016: 133). Bearing this caveat in mind, and with deference for these victims of violence, and without detracting from the collective suffering and trauma of the entire Yezidi community of Sinjar, the present

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1 After the Sinjar massacre they added a new genocide and count 73, or even 74 genocides (cf. Kingery 2016: KL 455, 1253)—in the latter case the 73 relates either to Saddam Hussein’s Anfal campaigns (cf. Dulz 2016: 136), or to the Yezidi communities bombings in 2007 (cf. Six-Hohenbalken 2016b: 5).

2 Faust, Part I: Scenes II, 860.

3 Although, in October 2016, Amnesty International complained that the global community has abandoned and forgotten many of the Yezidi survivors, particularly women and girls who escaped imprisonment and rape by ISIS (cf. Amnesty International 10/10/2016).
article focuses, nevertheless, on the plight and misery of the females. They have suffered and are still suffering the most. Their engineered anguish is certainly a central aspect of the present Yezidi genocide. The enslavement of the Yezidi women is undeniably a cornerstone of ISIS’s strategy to eradicate Yezidis and Yezidism from the face of the earth.

The Persecution

After the fall of Mosul, the ISIS terrorists attacked and took the Sinjar district, one of the two major centres of the Yezidi population in Iraq, in August 2014 (Sinjar town was taken on 3 August). This caused more than ninety-six percent of the populace to flee. Several villages resisted, but were overpowered within a few hours. In these villages, ISIS immediately separated those, who did not escape, according to their gender and age. Yezidi villages that did not resist, mainly those with mixed populations or with an Arab village in close proximity, were set ultimata to surrender and convert within three days. Most chose to risk an escape, but some stayed, trusting that their Muslim neighbours would protect them. Unfortunately, they did not. On the contrary, they turned against them (cf. Dulz 2016: 142), and those who did not escape were treated the same as the populations of the villages taken by force; i.e. they were separated according to their gender and age.

In most places, those elderly and disabled Yezidi unfit for work were simply allowed to leave—though there were quite a few instances where they were offered the cynical choice to convert and leave, or to be executed. However, survivors report that some elderly women were kept captive, and moved from prison to prison for no apparent reason, (cf. Voice of America 06/12/2016); while others were executed, like the old women in Kocho (cf. Shirin/Cavelius/Kizilhan 2016: Kindle Location (KL) 2076).

Males, including boys who had just reached puberty, were ordered to convert to Islam. Those who converted became slaves, and some of them were forcibly drafted into ISIS fighting units; whilst the ones who resisted were executed instantly. In most cases, trucks took them to a pit that was previously excavated by ISIS. Then they were either shot, or buried alive—so far some 30 mass graves have been discovered.5

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4 Every male child that had armpit hair was considered an adult.
5 Speaking about the 29 mass graves known at the end of 2016, the mayor of Sinjar,
Females past puberty were also ordered to convert, but were enslaved regardless of their answer. Babies, toddlers, and young children (below the age of eight) could stay with their mothers; while most of the slightly older female children were separated from their mothers and pressed into slavery. On the other hand, the boys were coerced into training camps with the aim of educating and transforming them into fanatical ISIS fighters.

Although some of the females were sold to the local Sunni population, which used them as domestic or field slaves, the fate of the majority, including the female children, was to be abused as sex slaves. ISIS commanders awarded a smaller number of the latter to individual fighters, while the majority of girls were sold: either to ISIS members or to males among the local population. Reportedly, some of them were also sold to “civilians from Syria, Saudi Arabia, Egypt, Qatar, Tunisia, and other countries, who took them along” (cf. Omarkhalili 2016: 150). In October 2014, ISIS even established price lists taking into account the age, appearance, and virginity of their female victims. Currently, some trade for as little as 13 USD, while others fetch as much as 12,500 USD; and some are still

Mahma Khalil, said that they contain “nearly 1,600 bodies” (Kurdistan24 29/11/2016); for the Kocho massacre, which resulted in the execution of some 400 male Yezidis, cf. Mato 2016.

This did not guarantee that these very young girls would be safe from sexual molestation. “Another survivor recounted how she was ‘bought and sold’ to six men in a row—ISIS members from Turkey, Syria, Tunisia, Egypt and Saudi Arabia. She said her seven-year-old daughter was also not spared as one ISIS member tried to rape her, too” (International Business Times 20/08/2016).

However, this and the following reports/statements seem to be exaggerations not confirmed by any other sources: “Those Yazidis still held captive are being transferred to Syria and even Saudi Arabia and northern Africa where they may be permanently lost” (Kurdistan Tribune 25/09/2016); “Sex slaves captured by ISIS terrorists are being sold at sickening auctions in Saudi Arabia” (The Sun 20/09/2016); “ISIS has sold 3,000 Yezidi women to buyers in the UAE, where they work as domestic helpers or in nightclubs” (MP Nahla al-Hibabi, member of the Iraqi parliament’s Immigration and Displacement Committee, 10/08/2016).

However, this list may be a fake (cf. The Independent 07/11/2014).

According to age: 260 USD for up to 9 years old, 130 USD for 10 to 20 years old, 85 USD for 20 to 30 years old, and 65 USD for 30 to 40 years old.

“Virgin. Beautiful. 12 years old. Her price has reached $12,500, and she will be sold soon”, an advertisement reads (cf. Bas News 11/07/2016).
“gifted” to ISIS fighters who lack the wherewithal to buy them (cf. BBC 03/08/2016).

The treatment these women and girls suffered is beyond comprehension and beneath contempt. They became chattel: sold in auction houses (inspected by potential buyers like livestock); raped on a daily basis, sometimes while their toddlers watched in terror (cf. Kurdistan Tribune 26/09/2016); physically and mentally tortured, only to be resold once their tormentors lost interest. Some of them were even forced to undergo hymen reconstruction before being resold. In addition, they often suffered torture from the jealous wives of their owners.

THE TRAGEDY IN NUMBERS

In 2014, the estimated population of Sinjar District was 308,315, comprised mainly of members of the Yezidi community. It is estimated that:

- About 96 percent of the population managed to flee to the Kurdistan Region of Iraq (KRI), the overwhelming majority of which are now in the 18 IDP camps or with host families in the Dohuk governorate, where they constitute about eighty-five percent of the 345,000 IDPs living in the governorate (cf. Dulz 2016: 140ff.).
- At the end of 2016, only 3,220 families had returned to their places of origin.

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11 According to the Special Representative of the UN Secretary General on Sexual Violence in Conflict, “girls are stripped naked, tested for virginity and examined for breast size and prettiness” (PUKmedia 25/05/2015).
12 “I was sold 14 times. I was bought by Saudi and Libyan and Kuwaiti men” (CTV National News 27/04/2016).
13 Four survivors, Khalaf, Jinan, Shirin, and the child Samira (12 years old when she fell into the hands of ISIS and had to watch the execution of her parents) have narrated their horrific stories, including the details of their capture, enslavement, sexual abuse, and liberation (cf. Khalaf/Hoffmann 2016; Jinan/Oberlé 2016; Shirin/Cavelius/Kızıltepe 2016; Samira/Winterfeld 2016).
14 Local doctors confirmed that the sex slaves, before being married to ISIS fighters, were made to go through surgical procedure under local anesthetic to ‘repair’ the hymen using dissoluble stitches (cf. PUKmedia 21/05/2015).
15 “I was sold to a militant named Abu Jaafar, whose wife often beat me out of jealousy, thinking that I supposedly wanted to take her husband” (Al Alam 04/11/2016).
16 All figures, if not indicated otherwise, are taken from UNHCHR/UNAMI 2016 (with the exception of a calculation error on page 7), though these UN Agencies have not been in a position to independently verify these figures.
origin in Sinjar, where most of them live in informal camps north of Mt. Sinjar (cf. Dulz 2016: 145).

- Up to 5,500 Yezidi were murdered by ISIS.
- 6,396 Yezidi, were abducted by ISIS (3,537 women and 2,859 men).
- By mid-May 2016, 2,587 Yezidi had reportedly succeeded in escaping ISIS captivity (934 women; 325 men; 658 girls; 670 boys).

In October 2016, some 3,799 remained in ISIS captivity (1,935 females and 1,864 men). Meanwhile, the Committee to Locate and Rescue Kurdish Yezidi Abductees of the Kurdish Regional Government (KRG) updated their figures and reported that "2,782 Yezidis have so far been rescued while 3,639 others still remain in IS [ISIS] captivity" (cf. Bas News 20/11/2016). This number is fortunately steadily—albeit too slowly—increasing; on 7 January 2017, Bas News reported that “14 Yezidi women were freed in the last ten days”.

THE VIEWS OF FUNDAMENTALIST ISLAM

The Qur'an and the Hadiths do not institute slavery or concubinage with slave females. However, they do regulate the practice of these institutions, and thus implicitly accept them (cf. Lewis 1994: 5). Hence, conservative Muslims perceive slavery as God-given, and have always confirmed that to forbid what God permits is just as great an offence as to permit what God forbids. Nevertheless, modern Islamic states, or states with an overwhelming Muslim majority, have all abolished slavery in their national legislation. Yet, most of these states did not achieve this by explicitly abrogating the Shari'a law ex tunc as violating basic human rights, but by simply not allowing the practice of slavery ex nunc. Along a similar vein,

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67 The Qur'an recognises the basic inequality between master and slave, and the rights of the former over the latter (Suras 16: 71; 30: 28). It also recognises concubinage with female slaves (Suras 4: 3; 23: 6; 33: 50-52; 70: 30). Gordon (1989: 19) points out that “by lending the moral authority of Islam to slavery, Muhammed assured its legitimacy”.

68 For instance, the Sultan of Morocco to the British Consul General in a letter dated 27 March 1842 (apud Lewis 1994: 156).

69 This approach fundamentally differs from the one embraced in Europe and the US, where slavery is considered an institution that has always been contrary to human rights and human dignity. “In den modernen Kodifikationen des Rechts in islamischer Staaten ist keine dem § 16 Satz 2 ABGB vergleichbare Bestimmung, die die Sklaverei für rechtswidrig erklären würde, zu finden. Allerdings lassen sich auch keine Regelungen feststellen, die
more than 120 Muslim scholars wrote an open letter to ISIS on 24 September 2014. In this letter they confirmed that slavery was “abolished by universal consensus” (cf. Huffington Post 24/09/2016). However, no Islamic authority and “no Muslim country has labelled ISIS as an infidel group within Islam”. Furthermore, this view that slavery and concubinage with female slaves, while no longer practiced, is in accordance with the Qur’an and Shari’a law has inadvertently supported the teachings of ISIS. This is evinced by a statement from their chief theologian and ideologist, Turki al-Binali, who emphasised: “One should remember that en-slaving the families of the [nonbelievers] and taking their women as concubines is a firmly established aspect of Shari’a, that if one were to deny or mock, he would be denying or mocking the verses of the Qur’an and the narrations of the Prophet” (Al-Monitor 14/09/2016). Consequently, ISIS believes that they are adhering to Islamic religious law when they enslave others; so long as they follow the principles of religious law set out below:21

a) Slaves can only be taken in times of war, and Muslims are entitled to the sexual enjoyment of their slave women. According to the Shari’a, slavery can only arise in an Islamic society from two circumstances, namely, being born to a slave mother or being captured in war (cf. Gordon 1989: 24).22 ISIS always stressed that they were waging jihad against non-believers, and that the enslavement of these infidels was their legitimate right (cf. ISIS 2014b: 15). The Qur’an (Sura 23: 5f.) explicitly permits sexual relations between a master and his female slave outside of marriage. Thus, there is no doubt that, according to Shari’a law, Muslim men can lawfully enjoy sexual intercourse with their female slaves (cf. Lewis 1994: 14). ISIS laconically refers to Sura 23: 5-6 and states: “It is permissible to have sex-
sich auf Sklaven beziehen würden oder gar die Sklaverei ausdrücklich zuließen”. The authors are obliged to Professor Willibald Posch (Graz) for this clarification.

20 Nadia Murad in her speech at the US Congress on 21/06/2016 (CNN 21/06/2016). She added: “I have asked Sheikh of Azhar in Cairo to recognize IS as an infidel group within Islam, but he refused to do so” (Ekurd.Net Daily News 22/06/2016). Cf. also Tekkal (2016: 147-162) urging the Muslim communities to “scrutinize their values”.

21 For the psychology and the logic of ISIS and its followers cf. Kizilhan 2016.

22 This did not apply to slaves arriving from non-Muslim lands. Lewis (1994: 9) explains that “the slave population was recruited in four main ways: by capture [during war], tribute, offspring, and purchase”.


ual intercourse with the female captive” (ISIS 2014a: Answer to Question 4).

b) No Muslim can be enslaved. This explains why followers of the Shi’a, Ahl-e Haqq (Kaka’i), and Shabak (Gorani) were generally not taken as slaves. ISIS considered them as apostates and strictly applied Shari’a law (Sura 9: 11). They either repented and converted to the ISIS version of Islam, or faced execution. Although the majority of the members of these sects managed to flee or resorted to taqiya, many suffered death or severe persecution. Take, for instance, the Shi’a Turkmen women who were allegedly burnt alive (cf. Al-Nahar 10/08/2016; Kul Al-Akhbar 10/08/2016), or others who are still imprisoned by ISIS (cf. Bas News 08/07/2016). Some Shi’a girls and women were even coerced into sex slavery (cf. Bas News 10/01/2017), in direct contravention of the stated rules of ISIS (cf. ISIS 2014a). Those Christians that did not manage to escape fared no better. According to Shari’a law, Christians and Jews (dhimmis) “were free from the threat of enslavement by paying the tax” (cf. Gordon 1989: 25). Hence, ISIS ordered them either to convert, to pay the jizyah (toleration or protection tax), to leave, or face death. Subsequently, most of them left, but those who stayed and paid the jizyah were, nonetheless, subject to severe persecution; for example, a number of girls and young Christian women, whose families paid the tax, were still, and again contrary to ISIS’ own rules, taken as slaves (cf. WorldWatch Monitor 21/11/2016).

24 ISIS (2016: 35) refers to followers of the Shi’a as raﬁda (rejectionists) and apostates.
25 The Hanbali school of Islamic law (widely followed by ISIS) recommends execution as punishment for both genders, which may be performed immediately after the apostate has refused to repent and without granting him/her time to consider repentance (cf. Forte 2011: 93, 97f.).
26 ISIS circulated statements and messages in the villages and towns where these religious minorities lived (even before they attacked and occupied the area); they denounced them as “apostates” who must reconvert to Islam (cf. the statement made by a Kaka’i representative vis-à-vis ARA News on 04/09/2016).
27 Some families from the Shabak minority stayed “relying on passing as Sunni Shabaks” (The Guardian 27/12/2016).
28 Cf. OHCHR/UNAMI 2014: 11; as well as CNN 15/12/2016, on the sufferings of the Christians in Bakhdida (Qaraqosh). Recently, a mass grave containing the bodies of murdered Christians has been found near Mosul (cf. Bas News 14/02/2017).
c) To convert non-believers. Islam is a proselytising religion, and as slavery was perceived as an opportunity to convert non-Muslims, “one task of the master, therefore, was religious instruction” (cf. Lovejoy 2012: 16). Almost all Yezidi female survivors report about the cruel and cynical attempts of their torturers to make them good Muslims. “Self-righteous Muslim men often prayed before or after raping the girl or woman, and sometimes explained how they were saving her soul by making her Muslim through sex rather than her willing conversion” (Kingery 2016: KL 3228). In this way, ISIS members and local Sunnis certainly disregarded Sura 16:125, which asks Muslims to “invite to the way of your Lord with wisdom and beautiful preaching”. Rather, they applied force as prescribed by a hadith addressing pagans and ordering them to “testify that none has the right to be worshipped except Allah, or else I will chop off your neck” (Sahih al-Bukhari 59: 643). Consequently, it is no surprise that ISIS succeeded in converting almost all of the Yezidi slaves to Islam (cf. ISIS 2014b: 15), a spurious conversion born of coercion rather than faith.39 Kızılhan states in this context: “The women were forced to convert to Islam and to pray in Arabic every day” (apud Omarkhali 2016: 150). This is further corroborated by a religious stricture regarding marriage, which also applies to concubinage with a female slave: “a man [can] take a Muslim, Christian, or Jewish slave as a concubine, but not a Zoroastrian or a pagan” (Ali 2016: 62; cf. also Katz 2014). ISIS and its members have not necessarily adhered to this rule, but strove, nevertheless, to convert their victims to Islam. This did not limit their power over these slaves, since the conversion of a slave to Islam does—according to Shari’a law—not affect his/her slave status (cf. Ali 2016: 56; Gordon 1989: 27; Lewis 1994: 9) and so the owners could still enjoy the “services” of their slaves.

d) Compliance with the law governing marriage and progeny. According to the prohibitions on marriage,30 no Muslim could legally marry his own slave (cf. Gordon 1989: 43), and was “required to manumit them first”

30The Washington Post (21/10/2014) reported that 7,000 Yezidis had been forced to convert. This figure does not seem accurate as it is higher than the figure of all Yezidis abducted by ISIS (i.e. 6,396), but it highlights that almost all enslaved Yezidis converted.

39These prohibitions also cover marriage/concubinage with two sisters, mother and sister, as well as intercourse between multiple men and one woman (cf. Lovejoy 2012: 2; ISIS 2015).
This may explain why very few ISIS members or local Sunnis married their concubine slaves, though they themselves, most of their victims, and the Yezidi community refer to the forced sexual intercourse as “marriage”. For the same reason (i.e. to keep control over their slaves), many ISIS fighters resorted to coitus interruptus, and forced their Yezidi slave concubines—though overtly prohibited by Shari’a law—to partake in unconventional sexual acts, like anal and oral intercourse. In the case of pregnancy, they coerced them into undergoing abortion. With these measures they apparently tried to avoid procreating offspring, as this would have resulted in a free-born child (cf. Ali 2010: 67). It would have further granted the slave concubine the status of an umm walad (mother of the child); one who could no longer be sold, and would be freed upon her master’s death (cf. Gordon 1989: 43; Lovejoy 2012: 7f., 17). Consequently, Fatwa 64 (ISIS 2015) stipulates: “If the female captive becomes pregnant by her owner, he cannot sell her and she is released after his death”.

Most of the aforementioned principles of Islamic law were summarised in the ISIS Fatwa 64 of 29 January 2015 (cf. ISIS 2015), as well as detailed and explained in the pamphlet “Questions and Answers on Taking Captives and Slaves” issued in Muharram 1436 (October/November 2014). The latter was written in the form of 27 questions and answers related to

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ISIS (2015) condones this practice: “A man is allowed [to use] al-`azl [i.e. coitus interruptus] during intercourse with his female slave with or without her consent”.

Explicitly prohibited by ISIS Fatwa 64 (cf. ISIS 2015). Cf. also Ali 2010: 182. Shirin was subject to buggery several times (cf. Shirin/Cavelius/Kizilhan 2016: KL 2029, 2442).

The child Samira describes her horrible experience when she was forced to perform oral intercourse (cf. Samira/Winterfeld 2016: 80).

Although abortion is explicitly prohibited by Fatwa 64 (cf. ISIS 2015).

The fatwa is, in certain respects, somewhat contradictory. E.g., it first states that “if the owner of a female captive releases her, only he can have intercourse with her”, but continues a few lines later that “if the owner releases his female captive then he is not permitted to have intercourse with her afterwards”.
taking captives and slaves (cf. ISIS 2014a). In addition, both pieces address issues, such as former marriages of the female slaves, sex with young slave children, and the treatment of slave concubines. Following, but not quoting, Sura 4: 24,38 ISIS 2014a states in their answer to Question 5: “If she is a virgin, he [her master] can have intercourse with her immediately after taking possession of her. However, if she isn’t, her uterus must be purified [first]”. In other words, for ISIS the decisive question is whether the female slave is pregnant, and not whether she is married to another man. Thereby, they implicitly follow the Shari’a law, which permits intercourse with a married female captive, as her marriage with a non-Muslim husband is considered annulled when she is captured (cf. Sahih Muslim, Book 8, Hadith 3432). With regard to sex with prepubescent girls, the answer to Question 13 stipulates: “It is permissible to have intercourse with the female slave who hasn’t reached puberty if she is fit for intercourse; however if she is not fit for intercourse, then it is enough to enjoy her without intercourse”. Fatwa 64 also prescribes the treatment of sex slaves. It stipulates that the owners “should show compassion” and “be kind” to their “female captives”, and should not sell them to individuals who will treat them badly or “do unto [them] what Allah has forbidden” (ISIS 2015). The ISIS pamphlet cynically adds that it is permissible to give a female slave a disciplinary beating, that a slave running away from the master “is among the gravest of sins”, and that “she is [to be] reprimanded [in such a way that] deters others like her from escaping” (ISIS 2014a: Answers to Questions 20 and 21).

THE ACCEPTANCE OF SLAVERY IN THE TERRITORY CONTROLLED BY ISIS

Under occupation, the Sunni population has had no choice but to accept the enslavement of the Yezidi minority as a minor evil. Some of the Sunnis helped the Yezidi slaves escape purely for monetary gain, while others risked life and limb for runaway Yezidi slaves out of the kindness of their hearts; and there were still more who actively collaborated with ISIS, and sought to take advantage of the subjugation. As mentioned above, these elements colluded with ISIS during their advance; they persuaded their

38 “And also forbidden to you are wedded wives of other people except those who have fallen in your hands”.
Yezidi neighbours not to flee, promising to protect them. Once ISIS arrived, they assisted the militiants in disarming and rounding up the Yezidis (cf. New York Times 26/08/2014). These Sunni non-combatants also took advantage of the situation by purchasing Yezidi slaves, and keeping them as domestic servants, field labourers and sex slaves. In this context, one of the survivors reported that when she escaped from her ISIS torturer (captors), she took a taxi—“but the driver brought her to his family. His wife told him to kill her. He locked her in a room, and the next day sold her to a man in Mosul. ‘That guy beat me, raped me and kept me in a locked room’” (Maclean’s 30/08/2016).

This trade in Yezidi women and girls has given rise to an extensive infrastructure: comprised of a network of warehouses, where the victims were held; viewing rooms where they could be inspected and marketed; and a fleet of buses used to transport them (cf. New York Times 13/08/2015). Since all of this also involved local Sunnis affiliated with ISIS, there is no doubt that this illicit trade benefited the local economy, and was, therefore, met with hardly any criticism. Those ISIS defectors and locals who escaped from the ISIS held territory focused their objections on the violence suffered by Sunni Muslims, “whose rights they believed should have been protected. Brutality, therefore, didn’t seem to be a universal concern: it was seen through a sectarian lens, and caused outrage mostly when its victims were fellow Sunnis” (Neumann 2015: 10).

THE ESCAPE

Very few of the Yezidi female slaves were able to escape unaided. Those who managed to reach the safety of Iraqi Kurdistan were bought back by their families and friends through Muslim middlemen. These middlemen pretend that they are buying Yezidi slaves for themselves, since ISIS prohibits both their members and the general population from selling slaves into freedom. After the purchase, the slaves have to be smuggled out of ISIS control. This involves large amounts of money, and a rescue can cost up to 20,000 USD. Smuggling humans out of ISIS held territories has proven to be far more lucrative than handling other such contraband, and

39 Schmidinger (2016: 37) sees this differently, as he indicates that ISIS is increasing the prices in order to make the redemption of slaves a lucrative business.
so within no time vast networks of “flight assistants” emerged. By mid 2016, the standard rate for a liberation operation was between 10,000 and 20,000 USD. This had a devastating effect on the already impoverished Yezidi families. Although the KRG allocated funds through the Directorate of Yazidi Abductees Affairs to assist the poorest families in purchasing back their relatives, many Yezidi families became encumbered by enormous debts. The head of said Directorate complained “neither the Iraqi government nor the international community made any contributions to the process of rescuing Yazidis” (Al-Monitor 09/06/2016).

Furthermore, non-Iraqi nationals and NGOs involved in these rescue operations must work secretively; either for fear of prosecution under their national anti-terrorism laws (cf. Kurdistan Tribune 26/09/2016), or because of the danger of losing their funding. The former happened to a British housewife that was organising and paying for rescue operations (she sold her jewellery and raised funds to free Yezidi sex slaves). The UK anti-terror police accused her of assisting ISIS by paying the ransoms (cf. The Mirror 26/08/2016). The latter occurred to the British Rev. Andrew White, acclaimed as the Anglican “Vicar of Baghdad” for his outreach among Iraqi Christians. His charity was placed under official investigation over allegations that money used to redeem sex slaves ended up in the hands of the Islamic State (cf. Religion News Services 23/06/2016).

ISIS reacted to these rescue operations by executing captured fugitive slaves, and by prohibiting the sale of slaves to areas outside their territory, where they would be freed. They also established a database containing the personal information and pictures of their captives. The data and pictures are shared with ISIS checkpoints, creating yet another obstacle for those attempting to escape their seemingly indomitable nightmare (cf. Bas News 11/07/2016).

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40 However, funding has dried up since September 2015.
41 Rudaw (16/10/2016) reported in October 2016 that the investigation was still ongoing.
42 The same article reports on a complaint filed with the US Attorney General alleging an NGO of breaking federal law by providing “material support” to ISIS.
The concept of honour (namûs) is deeply enshrined in Yezidi society and is, although “by no means peculiar to Yezidism,” nevertheless closely associated with ‘religion’ (Kreyenbroek/Omarkhali 2016: 124). It is rooted within the strict endogamous rules that govern Yezidi marriage, as well as in the prohibition of extra and premarital sexual relations. Hence, Yezidis, in particular females, are expected to avoid any behaviour that would cast doubt upon their chastity or, if married, their fidelity. Furthermore, it is irrelevant in the eyes of the Yezidi community whether the woman concerned entered into a sexual relation voluntarily, or whether she was compelled by physical or psychological violence (rape). A “loss of honour”, even if it is only presumed, leads to a “loss of honour” for the entire family. It can only be restored by either subsequent marriage (if the female is not married, and both belong to the same endogamous caste), or by the execution of the transgressors, in particular the female involved. This has led, and still leads, to “honour killings” carried out by close male relatives of the woman. The most infamous “honour killing” took place in Bashika on 7 April 2007, where a seventeen year old Yezidi girl was stoned to death by her family with the participation of the local Yezidi population (cf. The Guardian 13/12/2007; Kingery 2016: KL 660-739). Just as the

45 “There are specific parameters of belonging to Ezdikhana, which are determined by the Farzé brätîyê, ‘The Canon of the Spiritual Guidance (lit. Brotherhood)’, and actually define the character and specificity of the Yezidi community” one of them being “the prohibition of marriage with adherents of a different faith” (Arakelova 2010: 12).
46 This practice also continues in the diaspora, in particular Germany, where “honour killings” do not seem to be the rare exception (cf. Die Welt 11/12/2011). Ayşê (2004: 25-27) provides an account of the murder of a young Yezidi woman by her own father in Germany (she was taken into a forest and forced to kneel in front of her father who shot her in the head with a handgun). The girl was assassinated because she fell in love with a Pakistani Muslim. He was forced to watch the “execution”, and then dragged to the Yezidi family’s home where boiling water was poured over his head and body—he survived but was terribly disfigured. That this assassination was condoned, or rather approved, by the entire family is evidenced by the fact that her mother, brothers, and an uncle witnessed and assisted in the murder. The son of the murderer volunteered to plead guilty. He made a false confession so that he could spare his father from long-term imprisonment, and ensure the latter could continue providing for the family. This was acceptable to the family, as the father had, in their eyes, done the right thing.
rapist perceives his victim as a sexual “object”, so too does her family view her as merely an “object” to be dispensed with in order to redeem their “lost honour”—the question of “guilt” does not arise. Yezidis interviewed by one of the authors in June 2003 explained this with the following paradigm: “We also cast off an apple penetrated by a worm—the apple is not guilty, but it has to be separated from the other, non-infested ones”.

Against this backdrop it is made clear why many of the young women who escaped captivity were either afraid or too ashamed to face their families, friends, and neighbours (cf. Omrankahi 2016:149).

Although the families of the victims, as well as the Yezidi community at large, perceived the sex-slavery as a loss of honour, the reaction of their leadership was exemplary. They broke with the tradition, and disregarded the pertinent religious rules. The Yezidi Religious Council (the *Majlis-i Ruhanî*) adopted a revolutionary policy, which culminated in an edict signed by the Baba Sheikh on the 6 February 2015. It endorsed returning victims of ISIS as full-fledged and “pure” members of the Yezidi society. It further prohibited any hostile acts or measures against the victims, stressing that all Yezidis have to get back to normal life and must overcome their traumatic experiences. Both Baba Sheikh and Baba Chawish (the guardian of Sheikh ‘Adi) arranged a ritual cleansing of the victims in the waters of Zem-Zem at Sheikh ‘Adi. Finally, Baba Sheikh reached out to the victims, comforting and speaking individually to each survivor (cf. Kingery 2016: KL 3395; Shirin/Cavelius/Kizilhan 2016: KL 3130-3727). This approach was endorsed and reinforced by Mir Tahseen Said, the hereditary spiritual and secular leader of all Yezidis. He stated, in London in September 2016, that “the Yazidi community would provide all the mental and health support for these girls until they recover from the atrocities and what they have been suffering”, and that “every woman who comes back, we respect her. If they got married [to an ISIS militant or supporter], everything is ok” (Reuters 21/09/2016). The outrage of the Yezidi audience during the film “The Dark Wind”, 48 presented at the International Film Festival in Dohuk

47 “Officially, the incidents [are] reported to police as suicides to prevent incarceration of the perpetrators. In fact, in no case was any perpetrator ever put in jail [in Iraq] for such a crime” (Kingery 2016: KL 3050).

48 One part of the movie depicts the Yezidi community in an IDP camp ganging up against a returned sex-slave for having had sexual intercourse (rape) with a non-Yezidi, as
well as the mistreatment she suffers from her father and brother (the former attempting to kill her). The Yezidi audience strongly objected to these scenes, and left the cinema (cf. Rudaw 20/09/2016).
in September 2016, demonstrated that, at least among the liberals and educated, the message of the religious leadership is bearing fruits. Furthermore, no “honour killings” have been reported so far. However, there are still stories where the victims are not acknowledged by their families,\textsuperscript{49} as well as a high suicide rate among survivors.\textsuperscript{50} These seem to indicate that it will take time for the Yezidi community to overcome the collective trauma of having “lost their honour”, and fully admit the survivors back into their midst. Nevertheless, the actions of the religious leaders, as well as the reaction of the Yezidis in general, show the ability of the Yezidi society and religion to “indeed begin to undo the damage it has suffered by allowing the possibility of change” (Dulz 2016: 144).

This wound is slowly healing—a process that is accelerated by a resettlement programme for traumatised victims of ISIS violence. Within its framework, 1,100 Yezidi female survivors (among them a few Christian women and their children) have been taken to Germany.\textsuperscript{51} Meanwhile, a new problem has emerged, challenging Yezidi traditions and fundamental beliefs—albeit on a smaller scale. Speaking on this, Ghafoori from the NGO Joint Help for Kurdistan remarked: “In the first phase, we received raped women; in the second phase, we received pregnant women; in the third phase, now, they are coming home with infants” (Voice of America 20/08/2016). To accept these children into the Yezidi religious community seems impossible, as this would shake one of the very fundamental tenants of the Yezidi belief, i.e., that only a person whose parents are both Yezidis can be considered a member of the Yezidi community. This concept is predicated on the belief that the Yezidi do not descend from both

\textsuperscript{49} Shirin reports one such incident: after crossing into the safety of Kurdistan, a returning victim calls her father, who tells her that if she has lost her virginity she should go back to ISIS (cf. Shirin/Cavelius/Kizilhan 2016: KL 3291; cf. also Blume 2016: 68).

\textsuperscript{50} In this context, Kizilhan stresses: “Die patriarchalische jesidische Gesellschaft tut sich weiter schwer, mit einem Tabu wie Vergewaltigung umzugehen. Die Familien sind völlig überfordert. Viele der sexuell misshandelten Frauen sind akut selbstmordgefährdet. [...] Mir sind allein 20 Fälle bekannt, in denen sich Mädchen nach der Flucht umgebracht haben” (Shirin/Cavelius/Kizilhan 2016: KL 3295).

\textsuperscript{51} For the special resettlement programme and quota for women and children from Northern Iraq particularly in need of protection (“Sonderkontingente für besonders schutzbedürftige Frauen und Kinder aus dem Nordirak”) established by the federal state of Baden-Württemberg in 2014, cf. Blume 2016; and Kizilhan apud Omarkhali 2016: 15f.
Adam and Eve, but rather only from Adam, through his asexually reproduced son Shahid bin Jarr. Shahid went on to marry a *houri* with whom he fathered the first Yezidis.\(^52\) Baba Sheikh made this stance very clear when he emphasised: “The victims are our daughters and sisters, but it is unacceptable in our religion to allow the birth of any children if not both parents are Yazidis. It is also tribally unacceptable and a source of shame” (Voice of America 20/08/2016). Consequently, the women concerned have only two options: either be expelled from Yezidi society, or undergo an abortion and, if the child is already born, abandon their offspring. The dilemma facing these females is compounded by the fact that abortion is criminalised in Iraq;\(^53\) not to mention that the victim, as an unmarried mother, and the child born out of wedlock would be stigmatised and discriminated against by the local population,\(^54\) regardless of where mother and child may move inside Iraq (cf. Al-Monitor 30/03/2016). Even the aforementioned statement by the Mir, sometimes interpreted as meaning that “babies who are ISIL babies can be brought back” (Reuters 21/09/2016), has not helped the situation. Most of the females concerned resort to abortion or abandoning their babies (cf. Shirin/Cavelius/Kizilhan 2016: KL 2700). This sometimes means giving them to Muslim families.\(^55\) Also, the Yezidis in the diaspora (i.e., the ones interviewed by one of the authors in Armenia, Georgia, and Germany in autumn 2016) agreed with the approach of the Yezidi leadership. They conceded that former sex slaves should be welcomed, and should not face any kind of discrimination.\(^56\) However, they found it absolutely unacceptable to integrate their offspring into Yezidi society.

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\(^52\) For the importance of Shahid bin Jarr with regard to the Yezidi belief, cf. Spät 2002.

\(^53\) Article 417 (i) Penal Code: “A woman who intentionally performs an abortion on herself through any means or consents to make it possible for another person to do so shall be punished with up to one year’s imprisonment and/or a fine of up to 100 dinars”.

\(^54\) The view that a survivor could not legally raise her child if it was conceived by an ISIS rapist (cf. CARE 2016) does not find any legal basis in Iraqi law.

\(^55\) However, there are exceptions like “a Yazidi woman who was pregnant for eight months when she escaped IS, she wanted to keep her baby, but her husband insisted on divorcing her if she refused to have an abortion. The couple finally separated. The woman is now living in a refugee camp with her 5-month-old child”. And “some women are so resolute on keeping their children that ‘they’ve indicated they would rather stay under IS slavery if returning home meant losing their babies” (cf. Voice of America 20/08/2016).

\(^56\) The Armenian counterparts stressed that it would still be against fundamental religious beliefs, but considered it an act of humanity.
THE COPING OF THE YEZIDI SOCIETY

Dulz (2016) and Spät (2016) have covered in detail the present situation distressing the Yezidi community, their collective mourning, and the gradual merging of two religious traditions (the one of the Sinjar IDPs with the Sheikhan tradition of their host community). They also examined the coping mechanisms that formed within Yezidi society in reaction to the suffering of the last decades, and, in particular, in the aftermath of the genocide. This leaves only one additional unmentioned aspect that should be discussed regarding coping, namely the relation of the Yezidis with the Muslim majority. In this context, there are two recurrent themes that come up in almost all conversation with Yezidis in Northern Iraq: the betrayal by their Muslim neighbours in Sinjar, and the withdrawal of the Peshmerga on the eve of the ISIS attack.

Many of the survivors reported that their Muslim neighbours and friends, even their kerîfs (blood-brothers), not only refrained from protecting them against the atrocities, but were among the gleefully complacent mobs that watched their persecution and even cooperated with ISIS. It was many of their Arab Sunni neighbours who welcomed ISIS in. It was the same people they said good morning to every day who stood by as ISIS dragged Yazidi women off into sexual slavery and decapitated their children” (cf. The Guardian 17/03/2016). Some even led ISIS to the hideouts of their Yezidi blood-brothers, and actively participated in heinous crimes and human rights violations (cf. Nicolaus 2016: 330f.). It is interesting to note that during interviews utilising Muslim Kurdish interpreters, the Yezidi IDPs refer to their unfaithful friends and neighbours as “Arabs”; whilst in interviews not involving interpreters they stress that

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57 Rodziewicz (2016: 186) emphasises that “in 2015, after the Sinjar massacre, the Qawwals did not intone hymns” during the Çarşemiya sor festival. And interlocutors of Spät (2016: 163) stress that “it was not possible to celebrate while the voices of the kidnapped girls echoed in their ears”. Spät (2016: 166f.) further accounts that some Yezidis, when mourning their dead, change the wording of the dirges. Instead of the traditional words, they sing of the slaughter, of the kidnapping of the girls and of the pain of the refugees in strange lands: “Our daughters fell into the hands of the kafirs / Our house (family) is in the hands of the kafirs / Our families are destroyed / They sold the girls and women to strange nations ...”.

58 Shirin was betrayed by her schoolteacher who had become an ISIS supporter and who stated “I want to have her” (cf. Shirin/Cavelius/Kizilhan 2016: KL1440).
they were betrayed by “Muslims”. They make the same distinction when talking about their persecutors and owners. In the presence of Muslim Kurds the IDPs never mention that there were Kurds amongst the ranks of ISIS (cf. Rudaw 23/01/2017)—such statements are only made outside the KRI. This seems to indicate that the Yezidis have a general distrust of Muslims regardless of their ethnicity. In turn, most of the Kurdish Muslims consider the Yezidis to be unclean infidels (cf. Tekkal 2016: 18), which has led to grave incidents like the stoning and subsequent shooting of a Yezidi by his co-workers in Sulaymaniyah (cf. ARA News 13/05/2015).

This feeling is aggravated by the fact that the KRG let the Yezidis of Sinjar down by withdrawing the Peshmerga assigned to protect the Yezidi population. The Peshmerga retreated with no warning, leaving the local population to defend themselves, refusing to leave them even a modicum of weapons, and preventing families from evacuating shortly before the ISIS onslaught (cf. NRT 31/01/2017; Dulz 2016: 139; Schmidinger 2016: 39). It is otiose to speculate about the reasons, but one should bear in mind that between 15 and 20 percent of the Muslim population in the KRI were sympathetic towards ISIS and their cause at this time, and that a weakening of the Nineveh Governorate (under direct administration of the Iraqi Government in Baghdad) would allow the KRG to make a claim for Sinjar, inhabited mainly by a Kurdish speaking population, after the defeat of ISIS (arguing that the Federal Government in Baghdad was unable to protect the area).

59 There were, however, exceptions like Ali Awni (a member of the KDP Leadership Board in Erbil) who, though outnumbered by ISIS combatants, held an outpost near the border of KRI with his Peshmerga fighters.

60 The official reasons for the withdrawal (the ISIS invasion of Sinjar was a surprise attack; the Peshmerga lacked adequate weaponry; the Peshmerga defended but ISIS was just too powerful and the front line collapsed) were in refuted detail by the former Head of the Yazda NGO, Mathew Barber (cf. NRT 31/01/2017).

61 These figures were provided during an informal discussion one of the authors had with high-ranking KRG officials in June 2016. A cleric from Komal (Kurdistan Islamic Group—KIG), declared the acts of ISIS as in accordance with Islam and Shari’a Law and demanded the execution of apostates in KRI (cf. Bas News 03/02/2017).

62 This scenario is apparently playing out at present, as minorities (Ahl-e Haqq, Christians, Shabak and Yezidis) are pleading for territories under their own control; all the while the KRG is wrestling with the Kurdistan Workers’ Party (PKK), supported and allegedly funded by the central government in Baghdad, over control of the Sinjar region—im-
Such mistrust between Yezidis and Muslims has led to the formulation of a new approach to the institution of the kerāfat. Following an ancient and well-established Kurdish/Iranian tradition, Yezidis select a kerīf or blood-brother for their sons—a man on whose lap the boy sits during circumcision, and who becomes his kerīf after a few drops of blood from the operation drip onto his clothing. The two blood-brothers owe one another mutual support, and each is obliged to protect the other. In Northern Iraq most Yezidi families chose Muslims as blood-brothers, since this provided protection from and built alliances with their Muslim neighbours (cf. Nicolaus 2016: 326-30). As this approach has failed in Sinjar, the Yezidis have begun to select kerīfs for those sons born after the genocide from members of Yezidi society. It is safe to assume that among the over 15,000 Yezidi children born into IDP camps in KRI (cf. Ekurd.Net Daily News 17/08/2016), very few of the male children have Muslim blood-brothers.

This change in the approach towards the kerāfat also reflects an increasing trend for the Yezidis to perceive themselves as a distinct ethnoreligious entity; one that has nothing more in common with the Kurds than language. This process has been completed in Transcaucasia (cf. Arakelova 2007: 153f.), where, during the armed conflict between Armenia and Azerbaijan, the Yezidis sided with Armenia, while the Muslim Kurds supported Azerbaijan—a political constellation, which made the separation of the two ethnicities an imperative. A similar process can be observed in Russia, as the Yezidi population there originates from Transcaucasia. In other words, the Yezidi identity prevails—only those among the approximately 40,600 (2010 census) who are members of the PKK, posing an unofficial economic blockade on Sinjar and preventing Yezidi IDPs from returning as long as PKK forces remain present (cf. Human Rights Watch 2016; NRT 31/01/2017).

\(^{63}\) Yezidis carry out circumcision at quite an early age—in contrast to the traditional circumcision among Muslim Kurds, who perform it between the ages of six and ten.

\(^{64}\) One of the authors interviewed 26 Yezidi male refugees from Sinjar in Dohuk and Sheikhan in June 2015. They recounted the cruelties they had witnessed or been exposed to, and none of them had anything positive to report with regard to their respective Arab or Kurdish kerīfs. They also stressed that they would never again choose a Muslim blood-brother for their sons.

\(^{65}\) During the latest flare-up of this conflict, Azerbaijani soldiers beheaded an Armenian Yezidi soldier (cf. Six-Hohenbalken 2016a: 82; Ekurd.Net Daily News 04/04/2016).
KDP, or PUK identify as Kurds or Yezidi-Kurds (cf. Al-Monitor 11/11/2016). The process is ongoing in Germany, because both Yezidis and Muslim Kurds see themselves as victims of Turkish suppression. In this way they share substantial common ground. Furthermore, PKK offshoots are working hard to bring Yezidis into the Kurdish fold. The Yezidis in Northern Iraq have always considered their religion to be unique, but they paid little attention to ethnic delineation and actively participated in the social life of their Kurdish and Arab neighbours. Yet, the present genocide has changed this attitude, and has led the Yezidis to struggle with their identity. Although some still believe that Yezidis and Kurds are kin, the vast majority rejects this notion (cf. Schmidinger 2016: 33). They claim that they do not feel like an accepted part of the Kurdish community (cf. Telesur 15/07/2016). They no longer participate in social events “such as visits to other ethnic and religious communities on the occasion of religious festivities, holidays and other traditional practices” (cf. Dulz 2016: 143). The religious leaders emphasise that Yezidis cannot be Kurds or Arabs, as they originate only from the line of Adam. Such an inclination can be observed on the political stage as well. For instance, Breen Tahseen, a son of the ruling Mir, stressed the political differences between the Yezidis, Kurds, and Arabs; implying a different Yezidi ethnos, and emphasising that the Kurdish and Arab political elites would not take the genocide of people outside their ethnic groups seriously—“all they care about is whether our areas will be part of the federal government or the KRG” (Al-Monitor 14/08/2016).

Haider Shasho, the Commander of the Ezidkhan Protection Units, though in favour of his fighters being integrated into the Kurdish Peshmerga, brought it to the point, when he emphasised the difference between Yezidis and Kurds: We as Yezidis see ourselves as Kurdistani and not as Kurds; but our language is Kurdish and we don’t want to isolate ourselves from Kurdistan, which is our homeland (cf. Kurdistan24 10/02/2017).

THE REACTION OF IRAQ

Beyond the failings they faced from the KRG, the Yezidis are also deeply disappointed by the manner in which the Iraqi Federal Government has,

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66 Barber (NRT 31/01/2017) highlights that the relationship between Yezidis and the KRG was already broken before the genocide.
up until now, dealt with the issue of the genocide. Iraq has officially declared the persecution of the Yezidis in Sinjar to be an act of genocide (cf. Res. 92 (2014) of the Council of Ministers). However, although Iraq is party to the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) since 1959, the government has failed to implement it with regard to the present genocide.\(^6\) Part of the problem lies on the fact that the Genocide Convention is not self-executing, and Iraq currently lacks legislative and judicial recourse specifically aimed at preventing and punishing genocide.\(^6\) If genocidal acts are tried under a different name,\(^6\) not only is the larger and more sinister crime ignored, but also the accused may escape justice by means of a derisory and biased judicial structure powered by antiquated jurisprudence.\(^7\) In a recent statement released by the spokesman for the Supreme Judicial Council it was announced that the judiciary is looking into more than 5,000 complaints, filed since 2015, regarding crimes committed by ISIS against the Yezidi community (cf. Al-Mada 27/12/2016; Beladi 27/12/2016). Of these 5,000 complaints being investigated, not one will be prosecuted for the

\(^6\) Article V of the Genocide Convention leaves the details of implementation to the states, thereby creating in Iraq a “glaring discrepancy between the scope of domestic provisions concerning the definition of genocide and its prosecution” (Ochab 2016: KL 340).

\(^6\) “Since Iraq first acceded to the Genocide Convention, it has gone through a very difficult series of judicial and political changes, the last one stemming from the US invasion of Iraq. A new Iraqi constitution was voted in by popular referendum in October 2005; while the Penal Code of 1969 still serves as the bases for the prosecution of crimes, with amendments made in 2010 by the provisional government. Neither contains any overt definitions, reflections or discussions of penalizing genocide; thereby failing to differentiate it from other domestic crimes” (Yuce 2017).

\(^6\) There are legislative and constitutional proscriptions for crimes that could fall under the elements of Article 2 and 3 of the Genocide Convention: Article 7 of the Constitution outlaws the establishment of groups that would, among other things, incite and act upon ethnic cleansing; Article 37, the first enumeration provides that the state will protect against religious coercion, while the second provides guaranteed protection from sex slavery, trafficking and other such acts. Article 372 of the Penal Code criminalises attacking a minority religion or to “pour scorn upon it”. None of these encompass genocidal acts to the extent provided by the Genocide Convention.

\(^7\) Cf. Iraqi penal code Articles 398 (regarding rape mitigation), 409 (regarding a shorter sentence for men who kill their wives/girlfriends when they commit adultery), and 417 (regarding punishment of women who seek abortions), etc.
specific crime of genocide; at least not under the current penal model\textsuperscript{71} or without a major legislative amendment. Yet, the Iraqi Constitution does provide a possibility for the appropriate domestic prosecution of these crimes. Article 108 states that the Legislative branch of the government may institute independent investigatory tribunals as “need and necessity require”. A tribunal, a remnant of the Coalition Provisional Authority known as the Iraqi High Tribunal (IHT), with the mandate to punish genocide domestically does exist\textsuperscript{72}—unfortunately, the IHT’s temporal jurisdiction is limited to acts that occurred between 17 July 1968 and 1 May 2003,\textsuperscript{73} thereby ruling out its jurisdiction over atrocities committed by ISIS. The decision not to extend the scope of the IHT, and the failure of the legislature to create another tribunal to confront the systematic destruction of the Yezidis seems to indicate that religious and political bias are impacting the policy of the Federal Government, including the judicial branch. After all, while minority groups, such as Yezidis, are specifically named as citizens of Iraq in Article 1 of the Constitution, and, therefore, due its full protection, the official national religion is Islam (cf. Article 2 of the Constitution), or as Ochab (2016: KL 2554) puts it: “It is in the realm of domestic politics that the battle to stop genocide is lost”.

If not domestically, then another avenue for the Iraqi Federal Government to apply the Genocide Convention would be to refer the issue to the International Criminal Court (ICC). Although Iraq has not acceded to the Rome Statute of the International Criminal Court (Rome Statute),\textsuperscript{74} the Federal Government can still refer the situation, with regard to genocide, to the ICC. Article 12 (3) of the Rome Statute allows for two excep-
tions for a non-party state to involve the ICC. First, a party state, in acceding, may extend jurisdiction by explicitly consenting, through the registrar’s office at the ICC, to the investigation of crimes that were committed prior to its accession; or second, a non-party may ad hoc accept jurisdiction solely for the crime(s) in question. Although Iraq could, by availing itself of one of these options, limit the jurisdiction of the ICC by introducing a timeframe (e.g., the last 3 years), a location (e.g., Northern Iraq), and/or a particular situation (e.g., genocide on minorities) and even specific crimes (e.g., the slaughter of Yezidi men in Kocho), it is unlikely that Iraq would use either method to self-refer. In their fight against ISIS the Shi’a militias have committed atrocities against the Arab Sunni population (e.g., in Fallujah and Tikrit). By agreeing to refer the Yezidi genocide to the ICC, the Federal Government may face unrest from the Iraqi Sunni population demanding that the conduct of the Shi’a militias should be scrutinised by the ICC too (cf. Ortac 2016: 23). Furthermore, the Federal Government also seems to be reluctant to bring the Yezidi genocide to the international mainstage because of the worldwide publicity this would trigger—the exposure the Yezidis plead for may provoke fundamentalists to stir up anti Iraqi sentiments of Muslims worldwide. This reluctance of the Federal Government certainly impacts the restoration of normalcy, as well as the speed of reconciliation—just as with any crime, the victims demand swift justice. Along these lines, the Secretary General of the Assyrian Democratic Movement, who is also a member of the Iraqi parliament, criticised the national reconciliation projects for their failure to provide clear guarantees to bring the criminals who committed genocide against minorities, such as the Yezidis and Christians, to justice.

THE REACTION OF THE INTERNATIONAL COMMUNITY

Several governments (or at least parliaments) in Europe and North America, as well as the Parliamentary Assembly of the Council of Europe

77 E.g., in the UK only the House of Commons concluded that the acts equaled genocide, but the government abstained to follow suit.
(Res. 2091 (2016)), and the European Parliament (2016/2529(RSP)) have affirmed that the actions of ISIS amount to genocide. Muslim countries and Islamic international organisations78 have been less forthcoming in decrying the acts of ISIS as genocide. So far, Iraq stands alone in its official stance that genocide has and is taking place (cf. Res. 92 (2014) of the Council of Ministers). The same holds true for the United Nations (UN)—the General Assembly and the Security Council have thus far failed to adopt any resolution cementing the crimes committed by ISIS as genocide. UN Agencies involved with the crISIS restrict themselves to general phrases like “may constitute genocide” (OHCHR 2015: 5; OHCHR/UNAMI 2016: 7).79 The policy of the UN is, to a certain extent, understandable, as they have previously faced criticism by member states claiming that “it is not within the competence of the United Nations to decide whether a certain act constitutes an act of genocide” (Ochab 2016: KL 2632). However, it is unfathomable that the UN Security Council, which has already determined ISIS to be a threat to international peace and security, and has already condemned the acts of ISIS as gross and systematic abuses of human rights (cf. S/RES/2170 (2014)), would fail to exercise its power to refer the issue of genocide to the ICC when there is clearly nothing else being done about it on a larger scale.

At a first glance, such a referral seems to be the only viable option for bringing all ISIS perpetrators to international justice, and some much needed international attention on the Yezidi genocide. Article 13 (b) of the Rome Statute allows for the Security Council to refer, in accordance with chapter VII of the UN Charter,80 a situation to the ICC (i.e., to the Prosecutor of the ICC), regardless of whether or not the state in which the situation occurred is a signatory to the Rome Statute, or even agrees to it.

78 Though Nabil Elaraby, the previous Secretary-General of the Arab League, described the atrocities as “terrorist crimes equal to crimes against humanity” (cf. Medafrica Times 12/08/2014).

79 The commission reporting to the UN Human Rights Council and explicitly referring to the ISIS atrocities as “genocide” is not part of the UN, and consists of independent members (cf. Commission of Inquiry on the Syrian Arab Republic 2016: 3).

80 “The Security Council may investigate any dispute, or any situation, which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security” (Art 34 UN Charter).
Unfortunately, this approach has a major flaw. Any of the Permanent Members of the Security Council can block resolutions, including referrals to the ICC. This was the case with China and Russia during the mulling of resolutions related to the conflict in Syria. Simply because the Security Council can refer cases to the ICC does not mean that they will, especially when politics takes a preferential seat over human rights. Although the present situation is less politically complex than the one in Syria, any such referral of the ongoing Yezidi situation by the Security Council, to the ICC, would rest upon the political motivations of its members. Those states allied with Iraq in the fight against ISIS, in particular the USA, may also have concerns similar to the ones, which keep Iraq from seeking the assistance of the ICC or the UN. They do not want to contribute to sectarian discord (i.e., the Arab Sunni populace of Iraq demanding a similar action targeting the Shi'a militias), or agitate the Sunni states within the alliance by trying Sunni Muslims (albeit fundamentalist ones) in the ICC; all the while allowing the alleged mass crimes of the Shi'a militias to remain outside the realm of international justice.

In light of the above, there seems only one avenue left to bring at least some of the ISIS perpetrators to the ICC. According to Articles 13 (c), 15 and 53 (1) of the Rome Statute, the ICC Prosecutor has the right to initiate investigations, with regard to such international crimes as genocide, in proprio motu (on his own motion). The prosecution may then subsequently take cases, where he/she finds a reasonable basis to proceed with an investigation, to the ICC. However, this option is again curtailed by Article 12 (2) of the Rome Statute, which extends jurisdiction of the court, for purposes of such investigations, to state parties only. This means that only those ISIS perpetrators who hold the nationality of a signatory state

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81 “Between 2011 and 2014 the UN Security Council considered four separate resolutions related to the conflict in Syria. The last draft resolution contained the referral of the conflict in Syria to the ICC. None were passed, the latter being blocked by China and Russia, who both have interests aligned with the Assad regime. Over the span of the four SC resolutions the death toll in Syria grew exponentially: The approximate death toll increased from 3,000 at the time of the first draft resolution to 7,500 at the time of the second. When the third draft resolution was rejected, the death toll stood at 13,000. When Russia and China vetoed the fourth resolution it was estimated that at least 150,000 people had died” (Yuce 2017).

82 A lengthy procedure involving a Pre-Trial Chamber.
to the Rome Statute can be subject to investigations of the ICC Prosecutor, as well as subsequently prosecuted through the ICC. It is unfortunate that the ICC Prosecutor has yet to take up such cases. On 8 April 2015, he declared “the jurisdictional basis for opening a preliminary examination” of the cases submitted to him by Yezidi activists as “too narrow” (Ochab 2016: KL 3111). His reasons for declining to assume responsibility, as well as his reluctance to re-evaluate his stance in light of new evidence\(^83\), as requested by the UN Special Rapporteur on Minority Issues,\(^84\) remain unclear.\(^85\)

The inactivity and inefficiency of the international community to address their plight is perceived, by the Yezidis as a whole, as utter neglect, and even betrayal. It caused Nadia Murad, a Yezidi ISIS survivor, human rights activist, Sakharov laureate, Nobel Peace Prize nominee, and the first Goodwill Ambassador for the Dignity of Survivors of Human Trafficking of the UN, to slam the world leaders at the UN Summit for Refugees and Migrants for their failure to act in the face of Yezidis decimation, and bring the inhuman perpetrators of their genocide to justice: “If beheading, sexual enslavement, child rape, and all those acts will not force you to act, what will?”.\(^86\)

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\(^85\) Ortac (2016: 24) presumes that the prosecution intends to wait until proceedings against the highest echelons of ISIS can be initiated.

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