

Open Letter to Council of Europe on Foreign Daesh Members

19 January 2023

Dear Members of the Parliamentary Assembly of the Council of Europe,

During the session to be held on Monday, 23 January 2023, the Parliamentary Assembly shall debate and vote on the report “Addressing the issue of Daesh foreign fighters and their families returning from Syria and other countries to the member States of the Council of Europe” authored by the Special Rapporteur, Mr Pieter Omtzigt (document 15591).

We, the undersigned, represent groups of Yazidi, Christian and other Iraqi and Syrian communities, who have lost family members and have suffered from atrocities committed by Daesh, as well as organizations and individuals supporting the recovering communities. Hundreds of thousands of survivors still live in makeshift camps or struggle to rebuild their lives in their areas of origin. In some cases, more attention is paid to foreign Daesh perpetrators, their families, and their efforts to return to Europe, than to the plight of our communities, who are once again forgotten. The afflicted communities have lived through this genocide and gross human rights violations, and warn of the inhumane nature of Daesh, which is composed of ideologically committed men and women alike. And sadly, their children are heavily indoctrinated.

We, the undersigned, have issued this letter in support of the report and resolution by Special Rapporteur Mr Pieter Omtzigt. The report and the draft resolution have already received the support of the Committee on Legal Affairs and Human Rights.

Your Parliamentary Assembly took the courageous step to recognize the atrocities as genocide, and was the first major international actor to do so. Yet convictions for genocide remain extremely rare, and there is still no coordinated international process for bringing the perpetrators to justice. The draft resolution correctly identifies that "the best solution would be the prosecution of Daesh foreign fighters before an international tribunal, given the international nature of the crimes committed, including genocide, and also given that Daesh fighters come from over 100 countries." Unfortunately, this has not yet been achieved.

That is why we agree with the recommendations in this report, in particular:

- to set up an international tribunal to prosecute genocide
- to prosecute the perpetrators in domestic courts.

We welcome the report, stressing the need to "prioritise where possible cumulative prosecution of Daesh foreign fighters for both terrorism-related offences and international crimes such as genocide, crimes against humanity and war crimes, following recent examples in Germany and the Netherlands, duly reflecting the gravity and the different nature of the offences committed." Here, we also wish to thank Germany for its leadership in prosecuting Daesh fighters for a litany of crimes, including crimes against humanity and genocide, based on the principle of universal jurisdiction.

It is essential that every individual who perpetrated or was complicit in these international crimes be held responsible wholly and completely for his or her actions. Unfortunately, as we have seen over recent years, a trend has emerged in parts of Europe and North America in which members of Daesh - particularly female members - seek to escape accountability for their actions by falsely claiming ignorance or victimhood, and by relying on legal manoeuvres to obtain better outcomes for themselves without repentance or remorse. While the children of the perpetrators cannot be blamed for the actions of their parents, the perpetrators and their accomplices also cannot be allowed to abuse the system designed for family reunification to escape justice.

The draft resolution correctly states that Daesh foreign fighters continue to pose a serious threat to society: "foreign fighters who are suspected of having taken part in genocide or other serious international crimes constitute a serious threat to society. It is an ideology that drove them to commit such crimes, including genocide against the Yazidis...having taken into account the ongoing threat posed by Daesh fighters, it is crucial to consider that they have forfeited their right to family life...separation from their children may also be necessary for the best interest of the child. States should therefore consider repatriating foreign fighters' children to their State of nationality to be with family members, without repatriating their parents."

The ongoing threat posed by Daesh fighters, and the omnipresent ideology that drove them to genocidal atrocities, cannot be undermined. As such, ensuring justice and accountability are key. Without it, the growing impunity will only enable further crimes.

The European Court of Human Rights has made clear that there is no general right for Daesh fighters to return. Yet, if countries decide that parents can rejoin their children after the children are allowed to return, then adult Daesh members with children could effectively take advantage of this to return to Europe and live with their children. We believe that this is dangerous and grants excessive rights to perpetrators. We, therefore, urge you to agree with the draft resolution, as outlined in paragraph 11, that the right to family life should not automatically exist for individuals who committed or contributed to genocide, and that that is also in the interest of the child and of society.

We, the undersigned, respectfully call upon Members of the Parliamentary Assembly of the Council of Europe to endorse the draft resolution in its current format. The draft resolution provides for a comprehensive response to the horrific atrocities perpetrated by Daesh. Unfortunately, eight years after the atrocities, the international community is still failing to ensure justice and accountability for the crimes of Daesh. This is a glaring mistake that needs to be rectified. It must be rectified as it violated the dignity of victims and survivors. It must also be rectified as impunity for past atrocity crimes is a risk factor, and a failed response to Daesh atrocities can enable future atrocities.

We furthermore ask you to not forget our people and to fight for real justice. Perpetrators of genocide returning to Europe with their families, while escaping accountability for their crimes, is a travesty of justice - especially as the surviving communities struggle to rebuild their homeland and remain in camps or makeshift shelters. Affected communities in Iraq and Syria, including Yazidi, Christian, and other religious and ethnic minority components, rely on the Parliamentary

Assembly of the Council of Europe members to act in solidarity and support of the victimized populations - not the perpetrators - and ensure Daesh members do not escape justice.

We welcome the report and draft resolution by the Special Rapporteur Mr Pieter Omtzigt as a comprehensive response to the Daesh atrocities, and one that puts victims and survivors first.

Sincerely,

Organizations

A Demand for Action (Iraq, Sweden)
Capni Organization (Iraq)
Coalition for Genocide Response (UK)
Dak Organization for Yazidi Women's Development (Iraq)
Emma Organization (Iraq)
Eyzidi Organization for Documentation (Iraq)
Farida Global Organization (Iraq, Germany)
Free Yezidi Foundation (Iraq, USA, Netherlands)
Genocide Watch (USA)
Ghasin Al-Zaiton Organization for Youth (Iraq)
Hammurabi Human Rights Organization (Iraq)
Harikar Organization (Iraq)
Hawar Help (Germany, Iraq)
Jinda Organization (Iraq)
Jiyan Foundation for Human Rights (Iraq)
Justice Organization for Minority Rights (Iraq)
Mithra Organization for Yarsani Culture and Development (Iraq)
Mosul Eye (Iraq, France)
Nadia's Initiative (Iraq, USA)
Sustainable Peace Organization (Iraq)
Tajdid Foundation for Economic Development (Iraq)
To Reconcile Organization (Iraq)
Voice of Ezidis (France)
Women for Justice (Germany)
Women's Legal Assistance Organization (Iraq)
Yazda Global Organization (Iraq, USA, other countries)
Yezidi Emergency Support Organization (Iraq, UK)
Youth Bridge Organization (Iraq)

Individuals

Lord Alton of Liverpool, Peer at the UK House of Lords
Dr Aldo Zammit Borda, Associate Professor, The City Law School
Baroness D'Souza, Peer UK House of Lords
Ryan D'Souza, Curator of "Nobody's Listening: Forgotten Voices of Sinjar" Art and VR Exhibition
Mia Hasenson-Gross, Coalition for Genocide Response

Professor Mark Hill KC, Vice President, International Consortium for Law and Religion Studies
Murad Ismael, Sinjar Academy President; Yazda co-founder
Nadine Maenza, President, International Religious Freedom (IRF) Secretariat
Anne Norona, Founder of Yezidi Emergency Support
Dr Ewelina Ochab, programme lawyer, International Bar Association's Human Rights Institute
Brendan O'Hara MP, Member of the UK Parliament
Emily Prey, Foreign Policy Analyst
Dr Gregory H Stanton, Founding President, Genocide Watch

- To download the Council of Europe report and draft resolution, please visit:
<https://pace.coe.int/en/files/30219>
- For more information or for media inquiries, please contact info@freeyezidi.org

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