

## **Cultural Heritage Destruction during the Islamic State's Genocide against the Yazidis**

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### **Abstract**

Discussions of the 2014 genocide committed by the Islamic State against the Êzîdîs (also known as 'Yazidis' or 'Yezidis') have generally focused on murder, slavery and sexual exploitation. In this paper we analyze the destruction of Êzîdî tangible and intangible cultural heritage as a significant facet of the Islamic State's policy of ethnic cleansing and genocide. Evidence of destruction is collected and presented in context with other criminal acts.

In international discourse the destruction of cultural heritage sites is most often placed under the heading of war crime. Several convictions by the ICTY and the conviction of Malian Islamist Al-Mahdi by the ICC are well-known. However, heritage destruction may also be prosecuted as the crime of persecution, a crime against humanity. Numerous indictments and convictions before international courts attest to the viability of this approach. Finally, as per explicit caselaw of the ICJ and ICTY, destruction of tangible heritage also serves as evidence of the special intent to destroy a protected group under the crime of genocide.

The Êzîdî are an endogamous community at home in northern Iraq for whom faith and ethnic belonging are inextricably linked. Belief in God and Tawûsê Malek (the highest angel), and reverence for Lalish as the holiest place on earth are the defining features of the Êzîdî faith. Historic and sacred places are an essential part of the Êzîdî identity and are considered vital to life by the local population. The Islamic State made no secret of its intention to eradicate the Êzîdî community and commenced a policy of ethnic cleansing and genocide on 3 August 2014. All victims were abused and tortured. Male Êzîdîs above the age of 12 were killed. Female Êzîdîs were enslaved and traded in a complex and public network of sexual slavery. Boys were trained in ISIS camps and militarized. Those who fled to Mount Sinjar were besieged in order to ensure death from starvation, thirst and the blazing sun. Bases of economic support, such as olive groves and irrigation wells, were systematically destroyed and many areas of the Êzîdî homeland were sown with landmines and improvised explosive devices (IEDs) to prevent the population from returning.

We provide original research, evidence and context on the destruction of Êzîdî tangible cultural heritage in the Bahzani/Bashiqa and Sinjar areas of northern Iraq. We present satellite imagery analysis conducted by the EAMENA project, drawing on data provided by Êzîdî representatives. According to the Department of Yazidi Affairs in the Ministry of Awqaf and Religious Affairs in the Kurdistan Regional Government 68 Êzîdî sites were destroyed by the Islamic State. We consider 16 sites in the Bahzani/Bashiqa area and 8 in the Sinjar area to which access was possible and which could be documented. We conclude that the destruction of the cultural heritage of the Êzîdî people constituted a war crime, a crime against humanity (persecution) and compelling evidence of genocidal intent. We recommend the consideration of cultural heritage destruction in any prosecution of atrocity crimes, especially the crime of genocide.

## **Keywords**

Genocide – Cultural Heritage Destruction – Iraq – Yazidis – Islamic State – Satellite Imagery Analysis

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## **Introduction<sup>1</sup>**

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

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

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<sup>1</sup> This paper is an abridged and updated version of the report entitled 'Destroying the Soul of the Yazidis: Cultural Heritage Destruction during the Islamic State's Genocide against the Yazidis', published by RASHID International, Yazda and the Endangered Archaeology in the Middle East and North Africa Project (EAMENA) in August 2019. The full report may be consulted here: <https://doi.org/10.5281/zenodo.3826126>

Êzidî is the correct and original name of the Êzidî people, though they are often termed 'Yazidis' or 'Yezidis' in international discourse. The term Êzidî derives from the Sumerian root Ê Zi Dî which means 'the ones who are on the right path and have the good and unspoiled spirit'. A variation is Êzdai, which means 'the one who created me', the King God, in the Êzidî language.

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

Êzidîsm is divided into three sects: Merid, the general population, and the religious Pir and Sheikh sects. Marriage between different Êzidî sects or between Êzidîs and adherents of other religions is not permitted. Just as it is important for the Êzidî community to follow the sect system, crucial to their heritage is the practice of Êzidîsm and the participation in high holy days, festivals and social events, many of which are held around holy places or shrines. Historic and sacred places are an essential part of the Êzidî identity and are considered vital to life by the local population, as they are sites for ritual practice, the sharing of memories and oral histories, as well as the maintenance of culture and traditions. Some include space for graveyards. These sites provide a space for the construction of

community cohesion, particularly on visits during holy days and festivals, but are also critical to preserving the unique identity of the Êzidîs.

In a planned and coldly calculated policy of ethnic cleansing and genocide, IS specifically and systematically targeted the culture, identity and heritage of Iraqi Êzidîs. Not just murdered, Êzidîs were enslaved, forced into sexual servitude, brainwashed and forcibly converted to Islam. Many historic sites and holy places were destroyed. Tens of thousands of Êzidîs were forced to flee their homeland. Despite these hardships, thousands of Êzidî women and children persevered, returned from captivity and were warmly welcomed by the Êzidî community. Baba Sheikh, the highest Êzidî spiritual leader, in consultation with the Êzidî Spiritual Counsel, issued an edict stating that rescued captives '*remain pure Yazidis*' and called on '*everyone to cooperate so that the victims can return to their normal lives and integrate into society*'.<sup>2</sup>

Mass displacement has significantly impacted memory, social experience, worship and cultural practice by denying Êzidîs access to essential heritage sites. The mass migration of Êzidîs to the West and their integration into other cultures is another set of factors threatening the unique identity and survival of the community.

The destruction of tangible cultural heritage is more than just a destruction of property easily eclipsed by human suffering — it is a grave cause of human suffering itself. The cohesion of the Êzidî community has been significantly affected and there is considerable risk that Êzidî cultural identity and the memories and practices central to their ancient culture will disappear forever. To date, only two Êzidî temples have been established outside of Iraq - one in Georgia (June 2015) and one in Armenia

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2 Reuters, 8 December 2016 <<https://www.reuters.com/article/us-mideast-crisis-iraq-yazidis/yazidi-leader-seeks-protection-for-community-after-genocide-idUSKBN13X11G>>.

(September 2019).

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

## **Legal Framework**

### **War Crimes**

In public and academic discourse the destruction of cultural heritage sites is primarily - and often exclusively - considered a war crime. The simplicity of this crime is its greatest attraction.

Under Article 8 (2) (b) (ix) and Article 8 (2) (e) (iv) of the Rome Statute,<sup>3</sup> directing an attack against a protected building is sufficient, no damage is required.<sup>4</sup> The protected status is easily established, hinging on its dedication and whether it represented a valid military objective during the time of attack. A 'military objective' is defined as *“objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage”*<sup>5</sup>.

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3 Rome Statute of the International Criminal Court, adopted 17 July 1998, in force 1 July 2002, 2187 UNTS 3.

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

5 Article 52 (2) of the 1977 Additional Protocol I to the Geneva Conventions; see also International Committee of the Red Cross, *International Humanitarian Law Database, Customary International Humanitarian Law, Rule 8* <[https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule8](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule8)>.

It should be noted that the concept of cultural heritage sites under international criminal law is more encompassing than that of 'cultural property' under the 1954 Hague Convention<sup>6</sup>. Article 1 of the 1954 Hague Convention limits the scope of the treaty to 'cultural property', which, inter alia, is defined as “*movable or immovable property of great importance to the cultural heritage of every people*”. This 'great importance' condition was disavowed by the International Criminal Tribunal for the Former Yugoslavia's (ICTY) Appeals Chamber in relation to educational buildings.<sup>7</sup> As the relevant language in the Rome Statute and Article 3 (d) of the ICTY Statute reads "dedicated to" for all types of protected sites and does not include an importance qualifier, the same argument applies.

The attack must have been carried out during armed conflict, but the International Criminal Court (ICC) does not require that it formed part of the 'conduct of hostilities'; attacks of armed non-state actors against objects in territory controlled by their own forces are just as culpable, for the Rome Statute makes no distinction between the two.<sup>8</sup> Convictions for specific counts alleging the destruction of cultural heritage sites have been obtained before the ICTY in the cases of Kordić & Čerkez,<sup>9</sup> Strugar<sup>10</sup> and Blaškić<sup>11</sup>. The ICC convicted Al-Mahdi in 2016.<sup>12</sup> Fellow Malian Islamist Al-Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud is in the custody of the ICC and currently standing trial for, inter alia, directing attacks against religious sites, persecution and the sexual enslavement of women and girls.<sup>13</sup>

It has been argued, contrary to the ICC's ruling in *Al-Mahdi*, that an 'attack' as defined under

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

7 ICTY, *Prosecutor v Kordić & Čerkez* (Judgment) IT-95-14/2-A (17 December 2004), paras 85-92.

8 ICC, *Prosecutor v Al-Mahdi* (Judgment and Sentence) ICC-01/12-01/15-171 (27 December 2016), para 15.

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

10 ICTY, *Prosecutor v Strugar* (Judgment) IT-01-42-T (31 January 2005), para 478.

11 ICTY, *Prosecutor v Blaškić* (Judgment) IT-95-14-T (3 March 2000), p. 268.

12 ICC, *Prosecutor v Al-Mahdi* (Judgment and Sentence) ICC-01/12-01/15-171 (27 December 2016), para 63.

13 ICC, *Prosecutor v Al-Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (Case Information Sheet) ICC-01/12-01/18 (October 2020) <<https://www.icc-cpi.int/CaseInformationSheets/al-hassanEng.pdf>>

customary international law “*means acts of violence against the adversary, whether in offence or in defence*” and the Rome Statute must be interpreted in line with this definition.<sup>14</sup> Therefore, in cases of destruction of cultural heritage sites by a party to the conflict in territory controlled by that same party, Article 8 (2) (b) (ix) and Article 8 (2) (e) (iv) Rome Statute would be inapplicable.<sup>15</sup> However, the issue is one of semantics only. If these provisions were not applicable, Article 8 (2) (e) (xii) Rome Statute, the war crime of “[d]estroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict” would criminalize the same behavior. Either way, at the end stands a war crimes conviction.

## Crimes Against Humanity

Amongst crimes against humanity, the crime of persecution is of special significance in the protection of minorities. Its key purpose is to guard against patterns of discriminatory attacks on civilian populations, which rank among “*the most serious crimes of concern to the international community as a whole*”<sup>16</sup>. The destruction of cultural heritage sites is key evidence of such a discriminatory attack. Accordingly, the International Military Tribunal at Nuremberg (IMT), the ICTY and the International Law Commission (ILC) viewed “*the destruction of religious buildings as a clear case of persecution as a crime against humanity*”.<sup>17</sup>

Numerous precedents exist in which the destruction of tangible cultural heritage was indicted as the crime of persecution. At the ICTY, this was done in the indictments of Blaškić,<sup>18</sup> Kordić & Čerkez,<sup>19</sup>

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14 R O’Keefe, 'Cultural Property Protection and the Law of War Crimes' (2017) NATO Legal Gazette, Issue 38 <[https://www.act.nato.int/images/stories/media/doclibrary/legal\\_gazette\\_38.pdf](https://www.act.nato.int/images/stories/media/doclibrary/legal_gazette_38.pdf)>, p. 45.

15 Ibid.

16 Article 5 Rome Statute.

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

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

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

Vasiljević,<sup>20</sup> Naletilić and Martinović,<sup>21</sup> Krajišnik and Plavšić,<sup>22</sup> Stakić,<sup>23</sup> Milošević,<sup>24</sup> Brđanin,<sup>25</sup> Milutinović et al.,<sup>26</sup> Prlić et al.,<sup>27</sup> Karadžić<sup>28</sup> and Mladić<sup>29</sup>.

In the Trial of the Major War Criminals before the IMT Nuremberg the “*burning and demolishing of synagogues, the looting of Jewish businesses*” formed part of the evidence for the conviction of crimes against humanity.<sup>30</sup> In the Eichmann trial the large-scale and systematic destruction of more than two hundred synagogues during *Reichskristallnacht* was cited as evidence of persecution.<sup>31</sup> The ICTY relied on the destruction of cultural heritage in the convictions for persecution of Blaškić,<sup>32</sup> Stakić,<sup>33</sup> Deronjić<sup>34</sup> Krajišnik,<sup>35</sup> and Karadžić<sup>36</sup>.

As we explain below, the pattern of conduct shown by IS towards the Êzidî community easily rises to the standard of 'widespread or systematic attack' and the defenseless Êzidîs could not be classified as anything but a 'civilian population'. We are confident that the satellite imagery analysis we conducted provides further proof of a widespread *and* systematic attack against Êzidîs as a group.

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

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

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

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

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

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

26 ICTY, *Prosecutor v Milutinović et al* (Third Amended Joinder Indictment) IT-05-87-PT (21 June 2006), paras 76, 77(d).

27 ICTY, *Prosecutor v Prlić et al* (Second Amended Indictment) IT-04-74-T (11 June 2008), paras 39(c), 229.

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

29 ICTY, *Prosecutor v Mladić* (Fourth Amended Indictment) IT-09-92-PT (16 December 2011), para 52.

30 IMT Nuremberg, *Trial of the Major War Criminals* (Judgment), (1947) 41(1) AJIL 172, 244.

31 District Court of Jerusalem, *Attorney General of the Government of Israel v Eichmann*, Case No. 40/61 (12 December 1961), (1968) 36 ILR 5, para 57.

32 ICTY, *Prosecutor v Blaškić* (Judgment) IT-95-14-T (3 March 2000), p. 267.

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

34 ICTY, *Prosecutor v Deronjić* (Sentencing Judgment) IT-02-61-S (30 March 2004), paras 117, 122.

35 ICTY, *Prosecutor v Krajišnik* (Judgment) IT-00-39-T (27 September 2006), paras 836–840.

36 ICTY, *Prosecutor v Karadžić* (Judgment) IT-95-5/18-T (24 March 2016), paras 2548–2559.



Furthermore, Êzîdîs were targeted on ethnic and religious grounds. An explicit justification of enslaving Êzîdîs with reference to Shariah law was published by IS in its *Dabiq* magazine.<sup>37</sup> Isakhan and Zarandona have argued that the iconoclasm of IS is directly related to its religious and ideological program, especially concerning Êzîdîs.<sup>38</sup> Cunliffe and Curini conducted social media sentiment analysis and concluded that “*the main intended audience [of heritage destruction] is local or internal, and the primary positive reason for support relates to ISIS’s humiliation of targeted communities*”<sup>39</sup>.

One of the key elements of the crime of persecution in Article 7 (2) (g) of the Rome Statute is the “*intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity*”. It will surprise no one that rape, slavery and torture are violations of fundamental rights. Why is the destruction of cultural heritage comparable to these heinous acts?

First of all, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural rights (ICESCR) and other human rights standards are the primary sources for the concept of ‘fundamental rights’ in international criminal law.<sup>40</sup> The right to access and retain cultural heritage is acknowledged as a human right under international law. The UN Human Rights Council has stated so in two of its recent resolutions, Resolution 33/20 of 2016<sup>41</sup> and 37/17 of 2018<sup>42</sup>. The Committee on Economic, Social and Cultural Rights has interpreted Article 15 (1)(a) ICESCR in a manner that includes a right to

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37 IS, ‘The Revival of Slavery Before the Hour’ (October 2014) *Dabiq* Issue 4 <<https://clarionproject.org/islamic-state-isis-isil-propaganda-magazine-dabiq-50/>>.

38 B Isakhan and JA González Zarandona, ‘Layers of Religious and Political Iconoclasm under the Islamic State: Symbolic Sectarianism and Pre-Monotheistic Iconoclasm’ (2018) 24 (1) *IJHS* 1.

39 E Cunliffe and L Curini, ‘ISIS and Heritage Destruction: A Sentiment Analysis’ (2018) 92 (364) *Antiquity* 1094, 1106.

40 ICTY, *Prosecutor v Kupreškić et al* (Judgment) IT-95-16-T (14 January 2000), para 621.

41 UN Doc A/HRC/RES/33/20 (6 October 2016).

42 UN Doc A/HRC/RES/37/17 (9 April 2018).

access to and protection of cultural heritage.<sup>43</sup> The UN Security Council has concerned itself with the protection of cultural heritage as a matter of peace and security in its resolutions 2199<sup>44</sup> and 2347<sup>45</sup>. The UN Special Procedures in the field of cultural rights have devoted three of their thematic reports to study and confirm the link between cultural heritage and cultural rights.<sup>46</sup>

Violations of human rights become a violation of 'fundamental rights' when these acts are “*of an equal gravity or severity to the other acts enumerated [in the provisions concerning crimes against humanity]*”<sup>47</sup>. There are no separate lists of fundamental rights and human rights – the gravity of the violation is the defining characteristic of the crime of persecution.<sup>48</sup> The destruction of cultural heritage is an attempt to eradicate the common ground a community stands on. It is an attempt to break the bonds that bind individuals together and form a common whole. It is more than just an attack on objects, it is an attack on the identity of the individual and the community, a tearing of the soul. In sentencing *Plavšić*, the ICTY held that “*a crime of utmost gravity*” had been committed and the “*gravity is illustrated by (...) the scope of the wanton destruction of property and religious buildings*”, mentioned on par with murder, deportations and expulsions.<sup>49</sup>

The grave import of cultural heritage is underlined in other times of crisis. The attacks on the World Trade Center, in addition to the horrific loss of life, wounded the very identity of every American, a wound which still has not healed. The 2019 fire in the Cathedral of Notre-Dame de Paris made the people of France and the wider world instantly feel an acute sense of loss, a loss of shared history. The cultural heritage of the Êzidi people is of similar importance. Its destruction and loss are of

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43 UN Doc E/C.12/GC/21 (21 December 2009), paras 49, 50, 53, 54.

44 UN Doc S/RES/2199 (12 February 2015), paras 15-17.

45 UN Doc S/RES/2347 (24 March 2017).

46 UN Doc A/HRC/17/38 (2011); UN Doc A/HRC/31/59 (2016); UN Doc A/71/317 (2016).

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

48 *Prosecutor v Brđanin* (Judgment) IT-99-36-T (1 September 2004), para 1031.

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

the utmost gravity and concern. Such heritage can never be returned to its original state through reconstruction, since at least some of the historical material has been destroyed.<sup>50</sup>

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

This act, when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of a people. As such, it manifests a nearly pure expression of the notion of ‘crimes against humanity’, for all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects.<sup>51</sup>

## Genocide

Whether cultural heritage destruction should be considered genocide under international law has been a hotly debated issue since the drafting of the 1948 Genocide Convention.<sup>52</sup> Two distinctions are important: the first is between the *acts of genocide (actus reus)* and the *intent (mens rea)*. The acts which may constitute genocide are now settled in international law. Article II of the 1948 Genocide Convention and Article 6 of the Rome Statute contain identical definitions of reference. In these, the *actus reus* clearly does *not* include the destruction of cultural heritage.

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

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

51 ICTY, *Prosecutor v Kordić & Čerkez* (Judgment) IT-95-14/2-T (26 February 2001), para 207.

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

genocide prosecution.<sup>53</sup>

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

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

The intent may also be inferred from the perpetration of acts which violate, or which the perpetrators themselves consider to violate, the very foundation of the group – acts which are not in themselves covered by the [definition of genocide] but which are committed as part of the same pattern of conduct. (...) The destruction of mosques or Catholic Churches is designed to annihilate the centuries long presence of the group or groups;<sup>54</sup> (emphasis ours)

The Trial Chamber then invited the Prosecution to pursue these crimes under the heading of genocide.<sup>55</sup> However, the Prosecution ultimately did not charge heritage destruction under the two counts of genocide, but only as the crime of persecution.<sup>56</sup>

The domestic courts of Germany took a bolder stance. Nikola Jorgić, a commander of paramilitary forces during the Bosnian genocide, was charged with the involvement in the execution of Bosnian Muslims, convicted of genocide by the Higher Regional Court in Düsseldorf and sentenced to imprisonment for life, a conviction which was upheld by the Federal Court of Justice and the Federal Constitutional Court.<sup>57</sup> The Düsseldorf Higher Regional Court held that the intent to destroy a group

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53 ICTY, *Prosecutor v Krstić* (Judgment) IT-98-33-A (19 April 2004), para 134.

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

55 *Ibid*, para 95.

56 ICTY, *Prosecutor v Karadžić* (Third Amended Indictment) IT-95-5/18-PT (27 February 2009), para 60 (j).

57 OLG Düsseldorf, IV-26/96 (26 September 1997); BGH, 3 StR 215/98 (30 April 1999); BVerfG, 2 BvR 2190/99 (12

meant the intent to destroy a group *as a social unit*.<sup>58</sup> This reading was confirmed by the German Federal Court of Justice (BGH)<sup>59</sup> and the Federal Constitutional Court (BVerfG).<sup>60</sup> The BVerfG drew on General Assembly Resolution 47/121 which expressed its concern regarding the “*abhorrent policy of 'ethnic cleansing', which is a form of genocide*” and listed several non-destructive acts.<sup>61</sup> The European Court of Human Rights explicitly stated that the “*national courts’ interpretation of the crime of genocide could reasonably be regarded as consistent with the essence of that offence and could reasonably be foreseen by the applicant at the material time*”<sup>62</sup> and did not find a violation of Article 7(1) ECHR and the principle of *nullum crimen sine lege*.

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

[A]n enterprise attacking only the cultural or sociological characteristics of a human group in order to annihilate these elements which give to that group its own identity distinct from the rest of the community would not fall under the definition of genocide. The Trial Chamber however points out that where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group. In this case, the Trial Chamber will thus take into account as evidence of intent to destroy the group the deliberate destruction of mosques and houses belonging to members of the group.<sup>63</sup> (emphasis ours)

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December 2000).

58 OLG Düsseldorf, IV-26/96 (26 September 1997).

59 BGH, 3 StR 215/98 (30 April 1999).

60 BVerfG, 2 BvR 2190/99 (12 December 2000), paras 26-34.

61 UN Doc A/RES/47/121 (18 December 1992), Preamble, para 9.

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

63 ICTY, *Prosecutor v Krstić* (Judgment) IT-98-33-T (2 August 2001), para 580.

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

The fact that the forcible transfer does not constitute in and of itself a genocidal act does not preclude a Trial Chamber from relying on it as evidence (...) The genocidal intent may be inferred, among other facts, from evidence of 'other culpable acts systematically directed against the same group'.<sup>64</sup>

The International Court of Justice concurred:

The Court concludes that the destruction of historical, religious and cultural heritage cannot be considered to be a genocidal act within the meaning of Article II of the Genocide Convention. At the same time, it also endorses the observation made in the Krstić case that “*where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group*”.<sup>65</sup> (*emphasis ours*)

One common thread is apparent in both the narrower (ICTY and ICJ) and wider (German national courts) interpretation of the 'intent to destroy': the destruction of cultural heritage, especially religious property, can play a critical role in establishing genocidal intent. The distinction between both interpretations may even prove irrelevant in practice, since all of the above courts accept such destruction as evidence for their specific reading of genocidal intent.

The evidence we present in this paper must therefore be seen as part of the larger mosaic that constitutes the genocide of the Êzidî people. Conventional acts of genocide against Êzidîs have been established beyond reasonable doubt – the destruction of Êzidî cultural heritage then ties into the larger

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<sup>64</sup> ICTY, *Prosecutor v Krstić* (Judgment) IT-98-33-A (19 April 2004), para 33.

<sup>65</sup> ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* (Judgment) [2007] ICJ Reports 43, para 344.

genocidal campaign as persuasive evidence of *dolus specialis*.

## **The Genocide and Attacks of August 2014**

In the early hours of 3 August 2014 armed units of IS launched a planned and coordinated attack across the Sinjar region of northern Iraq, homeland of the Êzidî ethno-religious minority.<sup>66</sup> Prior to the attacks, several IS theologians were tasked with researching the Êzidîs, upon which they concluded that they were 'devil-worshippers' and 'infidels'. Thus IS began its campaign of anti-Êzidî propaganda, spread across the internet via videos and other publications. From the moment it began acknowledging the Êzidîs of the region, IS never hid its intention of eradicating them, using Sharia law drawn from the Quran and Hadiths as pretext for its genocidal ambitions.<sup>67</sup> In an article published in its propaganda magazine 'Dabiq', IS declared that “[u]pon conquering the region of Sinjar (...) the Islamic State faced a population of Yazidis, a pagan minority existent for ages in the regions of Iraq and Sham [Syria]. Their continual existence to this day is a matter that Muslims should question as they will be asked about it on Judgment Day”.<sup>68</sup>

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

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<sup>66</sup> UN Doc A/HRC/32/CRP.2 (15 June 2016), para 23.

<sup>67</sup> IS, 'The Revival of Slavery Before the Hour' (October 2014) Dabiq Issue 4 <<https://clarionproject.org/islamic-state-isis-isisil-propaganda-magazine-dabiq-50/>>.

<sup>68</sup> Ibid.

crimes were well-organized: Êzîdîs were subjected to criminal acts targeted to their demographic, namely whether they were man, woman or child. All Êzîdî captives suffered abuse and torture, but IS reserved distinctive atrocities for each group. Male Êzîdîs above the age of twelve who refused to convert to Islam were summarily executed.<sup>69</sup> To date around seventy mass graves have been found, of which around twenty were excavated by Iraqi authorities. However, one of IS's most systematic and coordinated criminal policies was directed against girls and women through an organized network of sexual slavery.<sup>70</sup> After selectively interpreting both the Quran and Sharia law to justify sexual slavery,<sup>71</sup> IS put in place strict rules surrounding the practice of slavery, built databases containing name, age, marital status and photos of the victims, and set up markets where the price of a human life ranged from 200 USD to 1,500 USD. The international community has rarely been confronted with such an organized and public forced sex trade in modern times.

Testimony collected by Yazda from multiple sources further describes forced conversion of women, men and children. All were obligated to say the 'shahada', an Islamic creed declaring the belief in Islam and the oneness of God, to study the Quran and to pray daily. The practice of Êzîdî customs was not permitted and captives were given new names. Any resistance was punished. Even after conversion, Êzîdîs were subjected to the most egregious treatment, as they were still viewed as Êzîdîs and categorized as infidels by their perpetrators. By the standards of IS's warped ideology, killing, torturing and raping Êzîdîs would bring IS members closer to God. Escaped Êzîdî women described how their tormentors used to pray before and after raping them, explaining how rape was considered to purify both the victim and the rapist. Êzîdî women and girls in captivity were subjected to constant verbal and psychological abuse, with severe punishment for speaking their own language or practicing

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69 UN Doc A/HRC/32/CRP.2 (15 June 2016), para 33.

70 *Ibid*, paras 42-80.

71 IS, 'The Revival of Slavery Before the Hour' (October 2014) Dabiq Issue 4 <<https://clarionproject.org/islamic-state-isis-isis-propaganda-magazine-dabiq-50/>>, p. 14.



Êzîdî traditions. Insults were particularly directed at their faith – captives were accused of being 'devil worshippers' and referred to derogatorily as 'kuffar' (infidels) and told to forget their families and their God.

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

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

In addition to the human cost incurred by the group's atrocities, in a textbook example of ethnic cleansing, IS embarked on the intentional destruction of Êzîdî spiritual and cultural sites as well as

temples in Sinjar and Bashiqa-Bahzani. In Sinjar, a total of nine temples were destroyed by IS. Eight temples located on the south side of Sinjar mountain and one on the north side. The south side of Sinjar mountain was attacked first and inhabitants barely had time to defend themselves or to flee. The north side was attacked at a later time, as Êzidî men had been blocking access to the mountain through armed resistance, often using Êzidî temples and structures at the base of the mountain as cover against IS assaults. In Bashiqa-Bahzani all 38 sites and temples were destroyed. Indeed, as all the inhabitants had fled their homes before the arrival of IS forces in order to avoid certain slavery and death, no one was present to defend the holy places. IS propaganda pictures and videos showed that IS used two primary methods to destroy the structures: explosives and bulldozers.

IS also targeted the economic bases of the Êzidî community's existence in the Sinjar region and Ba'shiqa-Bahzani. Êzidî homes and properties were destroyed or looted. In rural regions where agriculture and animal husbandry were the main source of livelihood, irrigation wells were sabotaged and infrastructure installations destroyed. Furthermore, there was large scale theft of livestock and an almost total destruction of agricultural equipment. Thus, *'[b]y the time the north side of the mountain was liberated in December 2014, and the south side in November 2015, thousands of years of Yezidi life had been more or less obliterated'*.<sup>72</sup> Olive groves, an important source of income, were chopped down, burnt or otherwise destroyed. Before the depredations of IS the Ba'shiqa-Bahzani area had been home to the majority of Nineveh province's olive production.

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

After IS' comprehensive attempt to destroy the Êzidî community in Sinjar and all bases of its existence, IS fighters left the district heavily sown with landmines and improvised explosive devices (IEDs) in a final effort to try to prevent those who survived from returning. Landmines, IEDs and unexploded ordnance (UXOs) still constituted a significant threat in 2019.<sup>73</sup>

## **Evidence of the Destruction of Êzidî Heritage in Iraq**

### **Introduction**

We (Hopper, Philip, Lawrence) undertook a desk-based assessment of the condition of 16 shrines and temples in the area of the village of Bahzani and 8 shrines and temples in the area of the town of Sinjar. We were supplied with a list containing site names, coordinates in latitude and longitude, and the dates the sites were reported to have been destroyed. We do not provide a complete accounting of all sites destroyed by IS. According to the Department of Yazidi Affairs in the Ministry of Awqaf and Religious Affairs in the Kurdistan Regional Government 68 Êzidî sites were destroyed by IS. This number may need to be adjusted as more information becomes available.

None of the freely accessible images on the Google Earth platform were of high enough resolution to enable a condition assessment of the shrines and temples. We therefore purchased high resolution panchromatic and multispectral images (the latter which we subsequently pansharpened) from Airbus. Images were chosen based on their coverage and date. Our aim was to obtain images that

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<sup>73</sup> Geographical, 'Removing Landmines in Sinjar, Iraq' (28 June 2019)  
<<https://geographical.co.uk/nature/geophoto/item/3250-removing-landmines-in-sinjar>>.

allowed us to view each site both prior and subsequent to its reported destruction. The specifications of the imagery are detailed in the following table:

Imagery Type	Region*	Date of Acquisition	Resolution
Pleiades 1A	Bahzani	2016-10-01	0.5 m (Pansharpened)
Pleiades 1B		2013-04-17	
Pleiades 1A		2013-04-11	
Pleiades 1B	Sinjar	2015-11-28	
Pleiades 1B		2015-11-18	
Pleiades 1B		2014-08-31	
Pleiades 1B		2013-10-04	
Pleiades 1B		2013-10-04	
* Note that each image does not cover the entire area of interest for each region			

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

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

## **Bahzani**

### **Pir Bob**

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

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

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

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

## She'shems

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

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

The temple is no longer visible on the image acquired on 1 October 2016. The surrounding courtyard wall appears to be intact and graves are still visible outside the courtyard wall. The condition of the graves are difficult to assess on the image.

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

## Mer Sjadeen

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

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

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

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

### Sheikh Hassan

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

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

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

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

### Malek Naserddin

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

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

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



<b>Overall condition of resource</b>	<b>Overall disturbance extent</b>	<b>Types of disturbances affecting the resource</b>	<b>Cause certainty</b>	<b>Effect certainty</b>
Very bad	61-90% (based on the horizontal area covered by the two buildings mentioned above)	Military - Cause: Demolition Occurred Between 2013-04-17 and 2016-10-01	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-04-17 and 2016-10-01	High	High

### **Sheikh Mand**

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

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

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

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

### Sheikh Abdul Qader

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

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

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

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

### Gava'ni Zar'za

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

On the imagery dated 17 April 2013 a small rectangular building with a pointed roof sits on an otherwise bare patch of land. The bare area of land on which the shrine sits is bordered on the south, west and north by roads, and on the east by other structures. The nearest structure is c. 25 m to the east.

By the time the image dated 1 October 2016 was acquired, the shrine is no longer standing. The location where the shrine once sat is marked by a soil discolouration, perhaps indicative of rubble.

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

### **Shekh U Bakr**

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

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

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

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

## **Kha'fouri Reya**

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

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

By the time the image was acquired on 1 October 2016, the building with the cone-shaped roof is no longer visible. Some small areas of relief in the former location of the shrine may indicate rubble.

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

## Seed U Mas'ud

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

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

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

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

## Sheikh Babek

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

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

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

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

### **Mahamad Batin, Stiya Khaji and Stiya Habib**

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

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

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

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

## Abdi Rash

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

We could not confidently identify this site on the imagery based on the supplied information. It appears to be in a densely settled area.

## **Sinjar**

### **Malek Fakhraddin**

This site was reported destroyed on 23 October 2014.

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

### **Sheikh Abdul Qader**

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

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

On the images acquired on 31 August 2014 and 28 November 2015, the shrine appears to have been



almost completely demolished. In its place is an area of soil discolouration (wider than the area of the original shrine). This is probably rubble or foundations. The courtyard wall and attached buildings appear intact. The likely field systems to the north and east of the courtyard are also still visible.

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

### **Sheikh Abdul Aziz**

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

### **Sheikh Mand**

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

On the image acquired on 4 October 2013, a polygonal building is visible (c. 345m<sup>2</sup>). It is flat-roofed and built into the west side of a walled courtyard. Attached to its southern end is a small sub-rectangular structure with a pointed roof. This is likely the shrine itself. The courtyard is five-sided

and extends c. 60m to the east of the building. There are many graves to the north, west and southeast of the courtyard.

On the image acquired on 31 August 2014 and 28 November 2015, the small sub-rectangular building with the pointed roof is no longer visible. The polygonal building that was attached to the shrine also appears altered. A much smaller structure (c. 170 -185 m<sup>2</sup>) of roughly the same shape is visible in this location. This might be part of the internal structure of the larger building. This interpretation is supported by photos of the shrine following its destruction.

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

### **Sheikh Hassan**

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

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

The remains of field systems are visible to the north and south of the shrine.

On the imagery acquired on 18 November 2015, the shrine appears to have suffered significant damage. The outline of the shrine is no longer visible, but several areas of relief probably representing rubble or foundations are visible in the former location of the shrine. This appears to be supported by the image supplied by Yazda.

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

## **Mahma Rshan**

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

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

By the time the image dated to 18 November 2015 was acquired several of the structural features, particularly those that appear to correspond to the highest level, are no longer clearly visible. That the

top-most part of the shrine/structure is the most heavily affected corresponds to the photo provided by Yazda.

Overall condition of resource	Overall disturbance extent	Types of disturbances affecting the resource	Cause certainty	Effect certainty
Very Bad	31-60% (Based on the horizontal area covered by the structure on the summit of the hill)	Military - Cause: Demolition Occurred Between 2013-10-04 and 2015-11-18	High	High
		Military - Cause: Clearance (Unclassified) Occurred Between 2013-10-04 and 2015-11-18	High	High

## Amadin

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

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

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

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

### Ismaeel Bek

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

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

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

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

## Conclusions

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

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

We further argue that the destruction of tangible cultural heritage and the policies intended to destroy intangible cultural heritage discussed above represent a violation of the fundamental rights of Êzidîs in a widespread *and* systematic manner. These acts must therefore be qualified as the crime of

persecution, a crime against humanity, under Article 7 (1) (h) of the Rome Statute of the International Criminal Court and customary international law.

Finally, we hold that the attempts to destroy and successful destruction of tangible and intangible cultural heritage presented above represent evidence of the special intent to destroy (*dolus specialis*) a protected group as part of the crime of genocide under Article 6 of the Rome Statute of the International Criminal Court and customary international law. We ground this conclusion in the caselaw of the ICJ, the ICTY, ECtHR and the highest courts of the Federal Republic of Germany.

Islamists in other modern contexts have been held accountable. In 2016, the Islamic militant Ahmad Al-Faqi Al-Mahdi was sentenced by the ICC to nine years of imprisonment for the war crime of directing attacks against nine mausolea and the Sidi Yahia mosque in Timbuktu, Mali. Fellow Malian islamist Al-Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud is currently in the custody of the ICC and has been indicted on charges of, inter alia, directing attacks against religious sites, persecution and the sexual enslavement of women and girls.

IS atrocity crimes are currently being investigated by numerous national and international authorities. The first trials, against Jennifer W. and Taha A.-J., are underway in Germany. Prosecutors and judges alike should take into account the destruction of cultural heritage in order to paint the full picture of the Yazidi genocide. We therefore present the results of our investigation to the international community in order for these deeds to not go unacknowledged and unpunished.

## Appendix – Definitions for categories used in the condition assessment

### Overall condition of resource

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

### Overall disturbance extent

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

### Types of disturbances affecting the resource

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



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

#### **Cause certainty**

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

#### **Effect Certainty**

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

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