

# An Introduction to the Nations International Criminal Tribunal

## The Case of the Yezidi People

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### ABSTRACT

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This article outlines the mechanisms of the Nations International Criminal Tribunal and the Yezidi nations' case from which it emerged as a legal framework. It underlines the channels created by the NICT and their potential to alter global approaches to justice by providing localized and culturally appropriate legal processes. Beginning with a critique of current international governance systems, the article uses the ISIS genocide of the Yezidi peoples to articulate the necessity of a system that foregrounds Indigenous sovereignty in achieving justice. Incorporating legal evidence and highlights from his personal interviews and correspondence with Dr. Rýser, the author explores the NICT's charter and the intentions behind its design. Ultimately, the NICT is a comprehensive organizational model for promoting Indigenous rights locally and globally.

**Keywords:** International Criminal Tribunal, Indigenous justice, Genocide, International law, Justice mechanisms, Global governance, Indigenous sovereignty, Human rights, Yezidi nation, Nations International Criminal Tribunal (NICT)

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### Figure 1

*Yezidis celebrating the New Year*



Note. Lalish, Nineveh Governorate, Iraq. (Photograph by Levi Clancy, 2018). Public Domain.

## **Background: United Nations Declaration on the Rights of Indigenous People (UNDRIP)**

The most ubiquitous articulation of Indigenous rights worldwide is the United Nations Declaration on the Rights of Indigenous People (UNDRIP). Adopted by the United Nations General Assembly in 2007, the ratification of the UNDRIP was an immense victory for the bedrock nations of the world. Finally, there was a vehicle for the widespread international recognition of Indigenous peoples as human beings and a “guarantee” of their fundamental civil rights, among them the right to self-determination, the right to control their lands and resources, the right to protect and practice their cultural traditions and customs, and the right to protection against discrimination by states.

While not legally binding, the UNDRIP has functioned as a baseline in advocating for the rights of Indigenous people internationally and as an ideal model for nation-to-state government-to-government relations. Likewise, in the years since its UN adoption, some states have incorporated its principles into their national laws.

However, while the UNDRIP is undoubtedly an important policy achievement in the centuries-long struggle between Indigenous nations and the states that colonized their ancestral homelands, it is not enforceable. Instead, it serves more as a moral guideline than international law, and moral guidelines do not militate against the ongoing fights over land and resources between Indigenous nations, multinational corporations,

and states, where profit is favored with little regard to its effects on Indigenous nations.

No instrument in international law has consistently demonstrated its willingness and ability to convict organizations, groups, or states accused of crimes against Indigenous nations. This infrastructural deficiency makes the November 2025 ratification of the Nations International Criminal Tribunal (NICT) by 66 Indigenous nations and the Iraqi state all the more significant.

The NICT holds the potential to provide Indigenous nations around the world with an effective avenue to seek justice — to charge, try, and convict those responsible for historical injustices against Indigenous peoples and ongoing conflicts between nations and states, such as religious genocide, water supply contamination, extractive industrial practices, and land disputes.

Once established, according to the charter, the NICT will “have the power to exercise its jurisdiction over persons, organizations, and governments for the gravest offenses of concern to all peoples, as referred to in this charter, and its jurisdiction shall be complementary to criminal jurisdictions of nations and states.”

This will result in the NICT having the power to prosecute criminal charges in the jurisdictions of the nations and states that are party to the charter. While this is similar in function to that of the International Criminal Court (ICC), which also hears cases alleging genocide, crimes of aggression, and crimes against humanity,

the ICC primarily focuses on charging individuals, not groups or organizations. Since it was established in 2002, the ICC has only investigated a handful of cases advanced by Indigenous nations and has prosecuted none.

It is difficult to calculate the total number of ongoing conflicts between nations and states, particularly with extractive industries, because these hostilities are often localized incidents in remote locations and thus are underreported. However, to add some perspective, the number of current conflicts between nations and states (and multinational corporations) is estimated to be in the thousands. One study documented 1044 environmental conflicts involving Indigenous Peoples with at least 740 distinct Indigenous groups affected (Scheidel, Fernández-Llamazares, Bara, et al 2023). The study recognized the dearth of data from Central Asia, Russia, and the Pacific. Even if these cases are heard, they are generally in local or national courts, where historically, the odds of a fair trial are poor, even in UNDRIP signatory states.

The obstacles faced by the Yezidi underscore the shortcomings of international law, highlighting the urgent need to develop a mechanism that departs from the inequitable legal frameworks governing interstate relations. Thus while the NICT was conceived in response to the immediate and specific needs of the Yezidi, the NICT is iterative and adaptable to any Indigenous community seeking justice.

**Figure 2**

*Yezidi survivor of ISIL's attacks in Sinjar*



*Note. The man in the picture fled Sinjar with his family members. (Photograph by dumanyasin).*

## **The Yezidi Genocide and the Roots of the NICT**

In August 2014, the Islamic State of Iraq and Syria (ISIS), a Sunni- Muslim fundamentalist organization, raided the Yezidi city of Sinjar (Shingal) in northern Iraq. Its aim was to wipe out the Yezidi Nation, which had occupied the region for the past 6000 years. The catalyst for this genocidal act was ISIS's misinterpretation of the Yezidi name, which they believed to mean "of the devil," and thus, they considered the Yezidi to

be heretics and targets for extermination. In fact, the Yezidi name means “followers of the Peacock” or “followers of God,” and they have long been a peaceful nation of farmers and herders.<sup>1</sup>

The attack was barbaric in execution. During the raid, ISIS murdered an estimated 5000 Yezidis, raped and enslaved more than 6000 Yezidi women and young girls, and forcibly recruited countless Yezidi boys, who they later indoctrinated and forced to serve them. They destroyed homes and sites of cultural and religious significance to the Yezidi people. Those who survived were forced to run and hide while ISIS hunted them and blocked humanitarian aid to the region. The Yezidi were deeply traumatized and many died from exposure and starvation (Kizilhan, Berger, Sennhauser, & Wenzel, 2023). The attack was part of a targeted plan to eliminate the Yezidi people and their culture (Cetorelli, Sasson, Shabila & Burnham, 2017).

The genocide devastated the social structures of the Yezidi Nation and displaced thousands, with reports of abductions and enslavement continuing to the present.<sup>2</sup>

ISIS also targeted other Indigenous tribes, leveling entire villages and destroying cultural and sacred sites. Their shared grief led to an important bond when, in the future, the Yezidi sought justice.

Global institutions such as the United Nations, the European Parliament, and the US Congress widely condemned the Yezidi genocide; however, none attempted to prosecute those responsible. In the aftermath, the Yezidi survivors and diaspora began their own quest for justice, reaching out to international human rights organizations, the UN, and the International Criminal Court. In all cases, the responses were ineffectual. Although sympathetic, these organizations and institutions were unable to help in any tangible way (S. Stoker, personal communication, December 2023).

The International Criminal Court (ICC)—the international organization established to deal with the magnitude of genocidal crimes—was unable to make any substantial progress with the Yezidi case. The ICC Prosecutor stated that because ISIS was a fast-growing military and political organization primarily led by nationals of Iraq and Syria, neither of which were parties to the Rome Accord, the prospects of his office investigating and prosecuting those responsible were limited (Bensouda, 2015).

Most of the genocide occurred in Iraq, where the courts and the judicial system were too unstable, obscured, and compromised to provide meaningful reparative justice.

<sup>1</sup> According to Rob Leutheuser (BBC, 2015), “The ongoing persecution in their heartland of the Mt. Sinjar region West of Mosul is based on a misunderstanding of their name. Sunni extremists, such as ISIS, believe it derives from Yazid ibn Muawiyah (647-683), the deeply unpopular second caliph of the Umayyad dynasty. Modern research, however, has clarified that the name has nothing to do with the loose-living Yazid, or the Persian city of Yazd, but is taken from the modern Persian “ized,” which means angel or deity. The name Izidis simply means “worshippers of god,” which is how Yezidis describe themselves.”

<sup>2</sup> “The consequences of genocide have endured long after ISIS’ occupation of Sinjar. Genocide is not a singular event. It is a process of marginalization, violence, and resource deprivation. ISIS knew this; for they did not stop at destroying Yezidi lives. They also systematically dismantled agricultural lands and basic resources to prevent the community from ever returning home. While ISIS’ military occupation was defeated by an international coalition in 2019, their genocide against Yezidis has yet to be stopped” (from Nadia’s Initiative, The Genocide).

After exhausting numerous avenues, the Yezidi reached out to the Center for World Indigenous Studies (CWIS) and began consultations with Dr. Rudolph Rýser, who had spent his life working toward the cause of Indigenous self-determination and agreed to help them.

“I asked them to identify what they considered to be the two most important tasks before them and suggested that we start with those,” said Rýser. Their goals were to establish their own Yezidi government to represent them on the world stage and to find a way to hold ISIS accountable for the genocide (S. Stoker, personal communication, December 2023).

In 2016, the Yezidi began working with Dr. Rýser to establish the autonomous Government of Ezidikhan - the name given to their ancestral homelands. They established a provisional government, identified boundaries, and drafted a legal code. The development of Ezidikhan and its ministers was the first step in the process of seeking justice for the genocide. Ezidikhan Minister of Justice Nallein Sowilo asserts, “Ezidikhan provided us with a political base and a framework through which to exert our rights, manage our resources, and seek justice on our own terms” (S. Stoker, personal communication, August 21, 2023).

During the process of forming the Ezidikhan government and recognizing shared experiences among surrounding Indigenous communities, Rýser suggested that the provisional government reach out to other Indigenous nations in West Asia to form a coalition.

This led to the creation of the Confederation of Indigenous Nations of the Middle East and North Africa—a coalition of 57 bedrock tribes committed to advancing the rights of Indigenous nations in the region (Harrigan, 2022).

In 2020, the provisional government of Ezidikhan was formalized by a vote for independence, and in December of 2024—after years of discussions—Ezidikhan was formally recognized by Iraq with the ratification of the Republic of Iraq and the Government of Ezidikhan Intergovernmental Accord (Harrigan, 2024).

Throughout the process, a core part of the Yezidi’s work was building the NICT. The NICT fulfilled the second priority identified with Dr. Rýser: to hold ISIS accountable for the genocide. The sentiment was that if the current justice systems were unable to hold ISIS accountable for the Yezidi Genocide, they would build one that could — a new international mechanism that Indigenous peoples around the world could use to seek reparations for both historical and ongoing threats to their human rights.

The NICT is similar to the ICC in that its jurisdiction is derived from the member parties of its charter which currently includes 66 nations and the state of Iraq. However, unlike the ICC, which is built upon states, the NICT focuses on the needs of Indigenous nations, who have been historically excluded from the political and legal policy making process.

The focus on Indigenous nations alleviates the barriers to justice that the Yezidi experienced



in their appeals to national and international institutions like the ICC. According to Dr. R yser, the issue extends beyond the obstacles posed by ICC requirements; it is frequently undermined by global political and strategic interests—particularly those affecting Indigenous nations—given the pivotal role of the state in the Rome Statute.<sup>3</sup>

Indigenous nations need a justice system that holds aggressors accountable and also recognizes the significance of their cultural traditions and values. Too often, the crimes perpetrated against Indigenous communities affect their identity and very existence through genocide, forced displacement from their homelands, and the destruction of their livelihoods, traditions, cultural values, and social structures. Indigenous justice must address all of these issues.

R yser suggests that “For Indigenous communities, justice is more than a matter of punishment; it needs to be restorative.” The Yezidi seek justice that is reparative, and restorative where the guilty are held accountable, and the survivors have the opportunity to return to their ancestral homelands to rebuild their lives and society.

### The NICT Charter

The establishment of the NICT as an Indigenous-led international legal system can serve as a significant tool for Fourth World nations seeking justice from a system that has been historically biased toward states. R yser asserted, “The NICT model calls for a more inclusive approach to international justice that

**Figure 3**

*Yezidi Genocide Memorial Day*



Note. Diyarbakır, Turkey. (Photograph by Mahmut Bozarslan, 2015). Public Domain

acknowledges Indigenous sovereignty, the diversity of legal traditions, and the importance of cultural autonomy.” It is a response to the failures of existing systems and a framework for addressing historical injustices as well as preventing future ones. The NICT Charter Preamble summarizes these matters:

The Nation and State Parties to this Charter,

Understanding that all peoples share a common inheritance from Mother Earth,

Recognizing that for centuries the Nations of the world have suffered horrific acts in which millions of children, women, and men and whole peoples have been victims of horrific atrocities of invasions, religious oppression, colonization, trauma, ethnic

<sup>3</sup> The Rome Statute is the treaty that established the International Criminal Court (ICC), defining its jurisdiction over crimes like genocide, crimes against humanity, war crimes, and the crime of aggression.

cleaning, economic destruction, forced removal of children, sexual violence against women, starvation and food insecurity, occupations and forced settlements, forced denial of sexual orientation, forced assimilation, uprooting, mass murders, forced demographic change, expulsions, exploitation, apartheid, slavery, torture, and physical, ecological, and cultural genocide, denial of sovereignty, denial of self-determination of nations,

Accepting that the international agreements and treaties between States' governments and other legal instruments adopted to protect against and punish crimes carried out against peoples have failed to provide the Nations of the world with due process, redress, or remedy or criminal acts either by denying Nations' access to justice, denial of due process by granting immunity to officials and citizens of States or by politicizing judicial systems,

Guaranteeing that the international legal order recognizes that the Nations of the world and customary laws are fully entitled to the full recognition and dignity, political equality with States, basic rights, freedom from inhuman and degrading treatment,

Thoughtful that such grave crimes undermine sustainability and survival and peaceful relations, security, and health between nations and states,

Concerned that since the 1914 - 1925 genocide committed against Armenians,

Yezidi, Assyrians, Zoroastrians and Roma including men, women and children; and since 1945 more than 160 alleged crimes of genocide as understood under international state-based law have been committed against Nations in North America, Central America, South America, Asia, Melanesia, Oceania, Africa and Europe —acts committed by States, organizations, militias, or Nations remain unheard by judges or resolved by an objective judicial forum-- Justice was not achieved or the victims, and impunity for the perpetrators of these crimes was entrenched,

Ensuring comity between Nations and States and the rights of Nations to self-determination and self-government and controlling their natural resources not only to protect their people from abhorrent crimes and atrocities but also to prevent criminal offenses and punish those who commit criminal offenses against Nations in accordance with the punishments set out in the Universal Declaration of Mother Earth and in this charter,

Granting that every Nation or State may exercise international jurisdiction to try to repair through restorative justice any harms resulting from the commission of a crime under this Charter wherever located, (As set forth in ANNEX E)

Affirming that it is the duty of all Nations and States to exercise lawful jurisdiction over States or Nations, persons,

business organizations, government and non-government organizations, intergovernmental organizations, armed groups, and other entities responsible for internationally recognized crimes,

Confirming each Nation and State's commitment to uphold the purpose and principles of this Charter and the International Covenant on the Rights of Indigenous Nations (as set forth in ANNEX D of the Charter),

Resolute in the commitment to achieve these ends for all people, we do establish the Nations International Criminal Tribunal with jurisdiction over all crimes of concern to all peoples,

Affirming that the Nations' International Criminal Tribunal established by this charter shall be complementary to Nation and State criminal jurisdiction in accord with their sovereign and territorial integrity and consistent with the sovereignty of the Republic of Armenia and the sovereignty of the Nation of Ezidikhan as set forth in ANNEX A and ANNEX B of this Charter),

Resolved to guarantee lasting respect for and the enforcement of international accountability and justice.

The nearly 97-page NICT Charter, authored by the Ezidikhan Charter Panel of International Experts, is organized into thirteen sections grouped under six major categories: Foundational Principles and Framework; Tribunal Structure

and Administration; Investigation and Prosecution Process; Trial Process, Penalties, Appeals and Revisions; Judicial Assistance and Enforcement; and International Cooperation. These are followed by six annexes. The following section offers concise summaries of each category, with particular attention to the NICT's efforts to balance the roles of states and nations within its legal framework.

### **Foundational Principles and Framework**

The foundational principles of the NICT are laid out in *Section One: Establishment of the Tribunal* and *Section 2: Jurisdiction, Admissibility and Applicable Law*.

*Section 1* of the charter establishes the NICT as an instrument for addressing serious crimes that endanger global communities, including crimes against humanity, war crimes, and crimes against nature and culture. It defines terms of reference used throughout the NICT Charter, including aggression, apartheid, colonization, ecocide, and cultural genocide. It outlines the meaning of acts such as forced deportation, enslavement, gender-based violence, and persecution.

This section also explains key principles about the NICT's authority to hold individuals, organizations, and governments accountable for committing these crimes, abetting them, or failing to prevent them. It also includes the ability to prosecute offenses beyond national borders when applicable.

The tribunal complements existing national and international legal frameworks and can



collaborate with other international bodies through formal agreements as described in *Article 7: Legal Status and Powers of the Tribunal*:

The court shall have international legal personality exercising its functions and powers as provided in this charter on the territory of any State or Nation Party by formalized agreement on the territory of any other State or Nation. It shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

This article ensures it has the legal authority necessary to fulfill its mission globally, ensuring that no crime goes unpunished, regardless of political status or borders.

*Section 2* elaborates extensively on the types of crimes within the jurisdiction of the court such as colonization, aggression, genocide, military occupation, apartheid, war crimes, among other crimes against nature and humanity.

The section also contains *Article 16* and *Article 17* which identify key information concerning the exercise of jurisdiction that is particularly helpful for those unfamiliar with international law to understand the sources of NICT authority.

#### Article 16. Preconditions to the Exercise of Jurisdiction

1. A State or Nation which becomes a Party to this charter thereby accepts the jurisdiction of the Court with respect to the crimes referred to in Article 7.

2. In the case of Article 17, Paragraph (a) or (c), the court may exercise its jurisdiction if one or more of the following States or Nations are Parties to this Charter or have accepted the jurisdiction of the court in accordance with Paragraph 3:

- a. The State on the territory of which the conduct in question occurred or, if the crime was committed on board a vessel or aircraft, the state of registration of that vessel or aircraft;
- b. The State of which the person accused of the crime is a national.

3. If the acceptance of a State or Nation which is not a Party to this charter is required under Paragraph 2, that State or Nation may, by declaration lodged with the Registry, accept the exercise of jurisdiction by the court with respect to the crime in question. The accepting state or Nation shall cooperate with the court without any delay or exception in accordance with Section 9.

#### Article 17. Exercise of Jurisdiction

The tribunal may exercise its jurisdiction with respect to a crime referred to in Article 7 in accordance with the provisions of this charter if:

1. A situation in which one or more of such crimes appears to have been committed is referred to the Principal by a State and or Nation Party in accord with Article 18;

2. A situation in which one or more of such crimes appears to have been committed is referred to the Principal by the Tribunal Commission; or

3. The Principal has initiated an investigation in respect of such a crime in accordance with Article 15.

The NICT's jurisdiction derives from the jurisdictions of the member parties, which include both states and nations. The more states and nations that ratify it, the larger its jurisdictional area becomes and the more legitimacy it gains on the international stage.

### **Tribunal Structure and Administration**

*Charter Section 3: Composition and Administration of the Tribunal and Section 4: General Principles of Criminal Law* comprise this section on tribunal structure and administration.

*Section 3* provides an overview of the NICT structure and details the roles and responsibilities of the key organs responsible for its governance and judicial functions. These include: the International Commission of Parties (the main body appointing judges and managing the budget); the Prosecution Review Commission (a lay advisory body that reviews prosecutorial decisions); the Judicial Principal; and divisions for trials, appeals, and pre-trial proceedings. Local judicial systems in the plaintiff's nation or state are also incorporated. Finally, the Office of the Principal handles investigations and prosecutions, and the Registry oversees administrative functions.

The section also discusses the guidelines for appointing judges based on moral character, experience, and geographic diversity. It explains how the NICT balances the representation of gender and legal systems, stressing judicial independence. Processes are also in place to disqualify judges when conflicts arise.

The tribunal also promotes transparency and integrity by setting clear rules for appointing judges, principals, deputy principals, and staff and detailing their required qualifications and terms of service.

The Principal oversees investigations and prosecutions with complete autonomy. Both the Principal and Registrar are responsible for appointing qualified staff. Special units like the Victims and Witnesses Unit protect vulnerable individuals involved in cases.

Tribunal members enjoy diplomatic privileges and immunities, ensuring the independence of their functions, though these can be waived under specific circumstances. The tribunal operates in multiple languages, including English, Spanish, French, Arabic, and national languages relevant to distinct cases, ensuring inclusivity and accessibility in its proceedings.

*Section 4: General Principles of Criminal Law* articulates the key principles of criminal law, stressing that no one can be held responsible for actions not defined as crimes under the charter. Penalties must align with established legal provisions. It holds individuals, including state officials and military commanders, accountable for crimes such as genocide and aggression,

regardless of official capacity or superior orders, and specifies that crimes under the charter are not subject to statutes of limitations.

This section describes the standards for criminal responsibility, focusing on factors like intent, knowledge, and reduced responsibility in cases of mental illness or self-defense. It clarifies that holding a government position or following orders does not provide immunity and declares that the tribunal has the power to prosecute anyone regardless of their position or status. Rules also guide the investigative process to ensure it aligns with the charter's goals and international law.

### **Investigation and Prosecution Process**

*Section 5: Legal Code, Investigation and Prosecution* outlines the investigative duties and powers of the Principal, who is responsible for investigating the facts and evidence to determine criminal responsibility. Investigations are initiated independently or based on petitions and include questioning suspects, victims, and witnesses, collecting evidence, and conducting fieldwork in line with human rights and customary laws. The Principal may seek cooperation from states, communities, or organizations and must maintain confidentiality when necessary.

*Article 57* in the section ensures that all individuals under investigation are presumed innocent, informed of their rights, and protected from arbitrary detention. They are entitled to legal representation, the right to remain silent, timely trials, and the opportunity to present

and cross-examine witnesses. Proceedings are conducted in accordance with international standards and local customs, including options for alternative dispute resolution.

### **Trial Process, Penalties, Appeals and Revisions**

*Sections 6: Trial Process, Section 7: Penalties, and Section 8: Appeals and Revisions* of the charter describe the procedures of the overarching tribunal trial process.

*Section 6* of the tribunal's charter outlines trial procedures, strongly emphasizing the respect and integration of Indigenous rights and customs. It states that trials are held at the tribunal's seat—Armenia in the Yezidi's case—unless another location is more appropriate to accommodate the Indigenous nation's or state's cultural and legal traditions. The tribunal acknowledges and incorporates Indigenous legal practices, such as using plaintiff juries (outlined in Annex C) and alternative dispute resolution methods like mediation or community-led decision-making. Indigenous leaders may also be consulted in cases involving admissions of guilt to ensure that traditional values guide the judicial process.

The rights of the accused are protected within both international legal frameworks and the customary laws of their Indigenous nation, provided these are consistent with human rights law. The presumption of innocence is upheld and guilt must be proven beyond a reasonable doubt, while the accused retains the right to defend themselves through culturally appropriate means. The tribunal also prioritizes the protection

of Indigenous victims and witnesses to ensure their safety and integrity. Additional measures can be put in place to protect witnesses during testimony if needed, and the tribunal may hold closed sessions when public hearings conflict with Indigenous customs or endanger community members.

In order to incorporate traditional practices, the court considers Indigenous forms of justice in cases involving reparations. Reparations may include compensation, restitution, and rehabilitation. The court also works diligently to ensure that the security concerns of states do not infringe on the sovereignty of Indigenous nations seeking justice.

*Section 7* of the tribunal's charter outlines penalties and sentencing, again emphasizing respect for Indigenous rights and customary legal practices. While the court may impose traditional penalties like imprisonment (up to 30 years or life for extreme crimes), it also integrates Indigenous approaches by allowing for fines, forfeitures, and other penalties rooted in the nation's customary laws. The court should consult traditional leaders, clans, families, and community bodies when determining penalties to ensure Indigenous perspectives and restorative justice measures such as reparations to victims are central to the sentencing process.

Sentencing decisions consider the nature and gravity of a crime, the circumstances of the convicted person, and the collective interests of affected communities. The court prioritizes reconciliation and reintegration over imprisonment. The charter also stipulates the

creation of a fund to support those harmed. Notably, the tribunal's procedures do not override penalties ordered under state or nation-based laws.

*Section 8* provides mechanisms for reviewing and contesting court decisions while paying particular attention to fairness and respect for Indigenous rights. It states that the Appeals Division can revise convictions and sentences based on errors in procedure or law. It declares that victims have the right to appeal on grounds affecting the fairness of proceedings and that the court ensures that any delays or suspensions during appeals do not prejudice victims' rights. When the Appeals Division reviews sentencing, it considers more than legal errors; it also considers the views of Indigenous leaders, acknowledging their role in the justice process.

*Article 79* articulates the process for revising convictions when new evidence emerges, or judges have acted improperly, providing a pathway to rectifying wrongful judgments. Compensation is available for the unlawful detention of individuals, families, and communities. The overarching framework ensures that the legal system remains sensitive to Indigenous customs and integrates traditional practices and perspectives into international legal proceedings.

## **Judicial Assistance and Enforcement**

*Section 9: International Cooperation and Judicial Assistance* and *Section 10: Enforcement* clarify questions of jurisdiction between the tribunal and its signatories, and answer basic questions concerning cooperation between the nation and state parties.

*Section 9* of the tribunal addresses procedures for cooperation between the states, nations, and the tribunal. *Article 81* grants the tribunal the authority to issue arrest warrants and request the surrender of individuals while emphasizing the need to respect the domestic legal systems of the charter signatories. Additionally, it provides direction for managing conflicts, such as double jeopardy claims, and how to ensure their resolution before proceeding.

*Article 82* addresses situations where multiple jurisdictions request the surrender of the same individual. In most cases, the tribunal's request takes precedence, particularly if the case has already been deemed admissible. Additional factors such as the severity, time, and/or location of a crime are considered in the decision-making process.

The following articles in the section provide additional details. *Article 84*, for instance, establishes arrest and surrender processes. The assertion that the tribunal treats people equitably and recognizes their rights is paramount to these processes. Also articulated is the importance of shielding all proceedings from political interference.

*Articles 85* and *86* address the management of competing extradition requests and articulate that while domestic laws play a role in these cases, states and nations must harmonize any conflicts with the tribunal's requirements.

*Articles 87* and *88* expand the tribunal's power to act in pressing situations. For example, *Article 87* permits provisional arrests in urgent

cases, and in *Article 88*, a broader range of cooperative actions that parties are obligated to assist with are outlined, such as safeguarding witnesses or facilitating the collection of evidence. However, if such cooperation were to conflict with fundamental aspects of a nation or country's law, or pose a threat to national security, nations and states are expected to consult with the tribunal to find a resolution.

*Section 10* describes how to implement sentences. Crucial to sentencing is its focus on respecting Indigenous rights and legal customs. Although prison sentences are generally served in charter-sanctioned facilities, provisions exist to allow for exceptions when necessary. If the crime involves Indigenous communities, those communities can request to handle the imprisonment themselves, as long as their facilities meet international human rights standards. The court will also consider alternative forms of justice like restorative measures, if they align with Indigenous traditions and benefit the community and the person sentenced.

The rules also address transferring sentenced individuals between states and/or nations. This can only happen with the defendant's consent when it supports their well-being and reintegration into society—values that many Indigenous justice systems prioritize. The court keeps a close eye on how sentences are enforced, ensuring proceedings align with international standards while also honoring Indigenous customs. The ultimate goal of enforcement is based on the collective justice of many Indigenous cultures and seeks to restore harmony within the



afflicted community. Indigenous communities work with the court to ensure cultural values are respected each step of the way.

## International Cooperation

*Section 11: International Commission of Parties and Section 12: Financial Support* outline the roles and responsibilities of state and nation parties in all aspects of the NICT.

*Section 11* establishes the International Commission of Parties (ICP), a governing body overseeing the court's functions. Its chief duty is to ensure fair representation of state and nation parties. Each party appoints a representative to the ICP assembly that makes decisions on critical issues like the court's budget and administration. The structure gives Indigenous nations an equal voice to states by requiring an Indigenous representative to hold one of the vice-president roles.

The ICP assembly has the authority to create additional bodies to ensure accountability and transparency in its processes. Another important feature is that individuals relevant to Indigenous governance may also participate in ICP assembly meetings besides official representatives.

The ICP assembly meets annually and strives for consensus in its decision-making, though a majority vote may be needed. To ensure accessibility, Indigenous languages should be included among the charter's official working languages.

*Section 12* explains financial requirements. Dues support the court's operations; however, mechanisms prevent disenfranchisement due to

financial hardship. This is important for nations or states that face systemic economic challenges.

The financial system also includes voluntary contributions; yet, it always emphasizes transparency to prevent favoritism, and annual audits ensure funds are managed responsibly. This structure seeks to prioritize fairness and equal representation.

## Closing Clauses

*Section 13: Closing Clauses* contains articles for resolving disputes, rules for amending the charter, and guidelines for managing membership. All emphasize equal participation for both states and nations. It describes how disputes related to the court's judicial functions should be settled internally while broader disagreements between parties escalate to the ICP. The ICP assembly plays a critical role in addressing conflicts.

This section is notable as it contains a clause specifying that no reservations to the charter are permitted. All signatories are equally bound by its provisions. After five years, amendments can be proposed by any state or national party. Special provisions allow Indigenous nations to accept or reject specific changes. The structure ensures that Indigenous voices remain central in future charter modifications.

The charter provides for regular reviews, and the ratification process explicitly acknowledges nations alongside states to grant Indigenous governments equal status. Withdrawing from the charter is allowed, but it clearly states that withdrawal does not absolve any party from obligations incurred while they were members.

**Figure 4**

Yezidi refugees



Note. Iraqi Kurdistan, 2014 (Photograph by Defend International). CC BY 2.0

## Conclusion

The Nations International Criminal Tribunal has the potential to introduce a revolutionary approach to justice to the modern international legal framework that can hold to account those

responsible for historical crimes against Fourth World Nations. It also aspires to provide a measure of closure for the centuries of harm inflicted upon them, often carried out with impunity by state authorities. The NICT promises to function as an instrument of justice for present and future crimes against the Indigenous nations of the world and all peoples affected by crimes against humanity and nature.

As of June 2025, 66 nations are parties to the NICT. Iraq was the first state to ratify the NICT. With Iraq's adoption of the charter (and its recognition of Ezidikhan), the possibility emerges that the world's Indigenous peoples will finally have an enforcement mechanism through which to assert their rights of self-determination, including the capacity to address genocide.

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