

USCIRF Hearing: Ending Genocide: Accountability for Perpetrators

UNITAD Panel Intervention: J Agar

Key Points

I. UNITAD and the connection between terrorist acts and IHL / ICL

- UNITAD has for the last three years been working closely with Iraqi authorities and those of other States in order to address the key issues faced by investigators and prosecutors globally in seeking to hold those responsible for ISIL crimes accountable;
- The overall message I would seek to bring today is that through innovations in partnership and in the tools used to collect and exploit evidence, the hurdles presently faced are surmountable. The evidence is there to be able to tie individuals to specific acts, it is now for national authorities to grasp this opportunity.
- The breadth of UNITAD's work in Iraq is reflective of the breadth and severity of the crimes committed by ISIL, both in terms of the geographic scope of our activities, the communities with which we have engaged and the range of expertise that we have put in place in Iraq as part of a Team that now reaches 200 members of personnel.
- We have also sought to leverage advanced technologies as part of this work so as to process the huge amounts of data incorporated into our evidence holdings, in particular with respect to battlefield evidence and video evidence associated with ISIL crimes.
- To distill this work into something helpful today I will be using a case-study of our work investigating the crimes committed by UNITAD in Kocho village, Sinjar.

II. Addressing the challenges in the collection of evidence of ISIL crimes

Narration of video in Kocho village addressing the following areas:

- **Crime scene survey / analysis:** Description of how UNITAD has digitally reconstructed key crime scenes through 3-D laser scans / drone footage;
- **Mass Grave excavation and analysis:** Description of how we have worked with Iraqi authorities to move from addressing mass grave excavations from the perspective of identification of missing persons and instead moving to treating them as crime scenes in a way that will allow for evidence to be collected in a manner that will support its submission in domestic proceedings;
- **Testimonial evidence:** UNITAD has established a dedicated psycho-social support Team in order to assist victims and survivors, and in particular those who have suffered from gender-based crimes.

- **Digital / Battlefield evidence:** Have also worked closely with Iraqi authorities in order to exploit ISIL electronic devices including hard drives, personal computers, drones and other mass storage devices.
 - Challenge posed by the extent of information to be analysed;
 - Ability to analyze this has been harnessed through the establishment of a artificial intelligence and machine translation capacity in order to reduce the burden on individual analysts:
 - Example – ISIL video automatic transcription and translation, highly effective in increasing analytical capacity.

III. Beyond collection: Taking the crime scene to the court room

- Of course UNITAD’s mandate is not satisfied through the collection of evidence alone. To discharge our responsibilities, and also to meet the expectations of survivor groups with which we work, we have to move from the collection and systematization of evidence to getting it into before national courts;
- With a view to ensuring the evidence we collect is structured in a manner that assists national authorities in constructing int. crimes cases:
 - Case-briefs – addressing the contextual elements of international crimes;
 - Individual case-files – underlying evidence capable of substantiating individual criminal responsibility;
 - Responding to individual requests for assistance.
- Overall picture, while nascent, is a positive one:
 - Iraq:
 - Seeking to put in place legislation allowing for the prosecution of such crimes;
 - Working with UNITAD in building case-files in preparation for their submission.
 - Third countries:
 - Can see an increased interest and willingness among States to take forward prosecutions for international crimes as part of the overall strategic approach in addressing the FTF challenge – Ref. recent Eurojust report in this regard and recent convictions in Germany.
- Core message: the challenges in successfully prosecuting ISIL crimes as international crimes are numerous and significant but the tools, both in terms of legal frameworks and technological capacity, are now in place for us to address them effectively.
- Above all this requires partnerships across actors including the Government of Iraq, UN entities, private sector bodies and of course other national authorities.