



## **UN Forum on Human Rights, Democracy and the Rule of Law**

*Equal access to justice for all: a necessary element of democracy, rule of law and human rights protection*

17 November 2021

### **When emergency strikes: access to justice in times of crisis**

*Speaker: Yassin Osman, Programme Lawyer, International Bar Association's Human Rights Institute*

Thank you, Chair.

The International Bar Association's Human Rights Institute welcomes this panel discussion on *When emergency strikes: access to justice in times of crisis*.

During times of crisis, there is a clear pattern of a deterioration of the rule of law, human rights and access to justice. The pandemic has severely undermined the functioning of judicial systems, increasing the risk that States will be left without an accessible and independent system.

This is also true during times of conflicts, with the impact disproportionality severe for vulnerable groups, including women and girls. We wish to highlight the issue of sexual and gender-based violence (SGBV), which has been on the rise in recent months and continues to flourish with impunity, by state and non-state actors alike, referred to as the 'shadow pandemic' by UN Women, with little progress made to address the issue comprehensively and provide accountability.

The IBAHRI is especially concerned over the rise of SGBV as a genocidal tool used against women and girls belonging to targeted communities. Under International Humanitarian Law, sexual violence is strictly prohibited, and an effective justice system requires that states protect against such crimes and hold perpetrators to account, even during states of emergency.

We note that over 2,700 Yazidi women and children are still missing, with none of the perpetrators having been prosecuted and brought to justice for their crimes of rape and sexual violence, much less for their role in the genocidal atrocities, with prosecutions based on terror-related crimes only. By failing to

adequately account for persecution based on gender grounds, as well as religious grounds, there is a risk of inadequate prosecution and access to justice.

We further highlight that in Ethiopia's Tigray region, this pattern of sexual violence during conflict has disproportionately affected women and girls, who make up the majority of displaced persons. A breakdown of traditional accountability mechanisms, under-prioritisation, lack of reporting and increased normalisation are highlighted as contributing factors to widespread SGBV.

On this occasion, the IBAHRI calls for firmer action in ensuring access to justice during crises, especially on addressing SGBV, by (1) ensuring justice systems are effectively functioning during a state of emergency including access to lawyers, (2) strengthening effective domestic prosecutions of SGBV through intersectional analysis, (3) ensuring that victims have access to effective remedies (4) and working towards an international mechanism for investigations of SGBV, especially where such domestic mechanisms do not exist or are ineffective.

Thank you.

*Contact:*

*Francesca Restifo, Senior Human Rights Lawyer and UN Representative*  
*International Bar Association's Human Rights Institute*  
[francesca.restifo@int-bar.org](mailto:francesca.restifo@int-bar.org)

*Dr Ewelina Ochab*  
*Programme Lawyer*  
*International Bar Association's Human Rights Institute*  
[ewelina.ochab@int-bar.org](mailto:ewelina.ochab@int-bar.org)

*Yassin Osman*  
*Programme Lawyer*  
*International Bar Association's Human Rights Institute*  
[Yassin.osman@int-bar.org](mailto:Yassin.osman@int-bar.org)