

FROM SINJAR TO THE HAGUE: A CASE FOR THE INTERNATIONAL CRIMINAL COURT

TEXT // KEVIN SULEIMAN

A people rooted in the fertile soils of Mesopotamia for more than 3000 years, are once again victim to genocide. The villages that were illuminated by sacred fires, burned by the Yezidis to worship God, turned into the darkest places on earth when jihadists of the Islamic State of Iraq and the Levant (ISIL) invaded the Sinjar region of Northern Iraq on 3 August, 2014.

The invasion marked the start of a genocidal campaign which resulted in the massacre of more than 2100 Yezidis and the displacement of an estimated 360,000, of which, thousands fled to their nearby Mount Sinjar. After days of isolation, Kurdish forces backed by U.S. airstrikes managed to rescue many of the Yezidis. Nevertheless, Reports from the United Nations Assistance Mission to Iraq (UNAMI) suggest that more than 6000 women and girls were abducted and forced into sexual slavery – some as young as eight years old.

The Sinjar massacre is the 73rd genocide conducted against the Yezidis. The mass murder of these people embodies a pattern in which there is increasingly less space for the fruitful mosaic of cultural and religious minority peoples. This is particularly the case in ‘artificially’ created states – such as Iraq and Syria – which have been ruled for decades under Ba’ath fueled Arab nationalism. This ideology has not only subjugated minorities, including the Assyrians, Turkomans, Kurds, and Yezidis, but has consistently attempted to assimilate, if not annihilate, minority peoples in the region. As history seems to repeat itself, worrisome parallels can be drawn between the Yezidi genocide and the Al-Anfal campaign conducted by the Ba’ath regime of Saddam Hussein in the 1980’s against Kurdish civilians. The latter resulted in more than 182,000



A young Yezidi girl rests at a border crossing between Iraq and Syria

casualties, and the mass graves are still being uncovered today in the deserts of Iraq, like those graves of the Sinjar massacre. Al-Anfal in Arabic means ‘Spoils of War’, and similar to the Yezidi genocide, it was invoked through deliberate incitement of ethnic hatred, and conducted with the primary purpose to ‘purify the Arab nation’. After the U.S. liberation or invasion – depending on who you ask – an estimated 400,000 former Ba’athists were banned from participating in the political processes through the de-Ba’athification policy. It was expected that some of them would further their Ba’athist ideology by extra-legal means, and consequently, numerous violent Iraqi insurgencies emerged. It is therefore important to note that besides ISIL being an extremist Salafist terrorist organization, it is essentially rooted in a Sunni Iraqi insurgency. In retrospect, this insurgency is partly a consequence of the sectarian policies from

the Shia-dominated Iraqi government, which further polarized the Iraqi people.

When Saddam Hussein was hanged after his conviction for crimes against humanity, I remember my grandmother saying, “that is not justice”. Although she lost two sons because of this man and was obliged to pay 100 Iraqi dinars for the one-hundred-and-one bullets that penetrated their hearts, she condemned the cruel punishment of Saddam. The humanity and reconciliatory message that she embodied despite the bitterness she endured, is something I deeply cherish. These are the scars that families of minority peoples in the region bear, yet the seeds of reconciliation and the hope for a flourishing future are soothed by the tears of suffering.

Therefore, it is now more important than ever that holistic protection and empowerment mechanisms can be

“Genocide is not just a murderous madness; it is, more deeply, a politics that promises a utopia beyond politics - one people, one land, one truth, the end of difference. Since genocide is a form of political utopia, it remains an enduring temptation in any multi-ethnic and multicultural society in crisis.” - Michael Ignatieff



PHOTO // RODI SAID

Yezidis flee from Sinjar for ISIL violence on August 2014, Iraq

constructed for minority peoples, in defense against fascist ideologies and human rights infringements by any state or non-state actor. International courts can play a fundamental role in this process and empower the rule of law to take root in the environment of impunity. Although there is a legal justification to prosecute ISIL jihadists, solutions appear to be scarce as the international community has reached a political deadlock. The United Nations (UN) has already confirmed in a report that genocide has occurred and is on-going. To solve this conundrum, a specialized court needs to investigate the crimes committed against the Yezidis and other peoples in the region and beyond. The international city of peace and justice—The Hague—is home to this court: The International Criminal Court (ICC).

The UN Security Council can break through the dreadful impasse by

referring the situation to the ICC; however, Russia and China have previously vetoed the UN referral of the ‘Syrian crisis.’ Despite these obstructions, Nadia Murad is one of those pressuring the UN from within. She has been appointed the UN Goodwill Ambassador for the Dignity of Survivors of Human Trafficking. The then 19-year-old Murad witnessed six of her brothers, and her mother – for she was ‘too old to be enslaved’ – being executed. She was raped and tortured by the jihadists, yet despite her suffering, Murad managed to escape from captivity. Now, Murad’s barrister, Amal Clooney, is advocating for the Yezidi genocide case to be brought to the ICC.

The existence of ISIL is the severe symptom of a disease, being decades long authoritarian fascist governance in the region, without a rule of law that could protect minority peoples and establish justice.

For that reason, it is crucial that the ICC initiates a *Proprio Motu* investigation regarding the crimes committed against the Yezidis. Not only will this contribute to the deterrent effect of the court, a crucial factor to prevent future massacres, but it will simultaneously enhance the position of the ICC as a legitimate judicial body which is capable of prosecuting atrocious violations of human rights.

It may take decades to bring the perpetrators of these crimes before the court, and chances are that many will evade prosecution. Nevertheless, besides justice for the victims and their families, the deterrence of international prosecutions can make a substantial contribution in countering the cycle of genocidal violence and consolidate the international criminal justice system. The fires of humanity are burning, we must hope they exorcise the darkness.