The Norwegian Nobel Committee has decided to award the Nobel Peace Prize for 2018 to Murad and Denis Mukwege for their efforts to end the use of sexual violence as a weapon of war and armed conflict.4

But who are the Yazidis? And why is ISIS persecuting them?

About the Yazidis

The Yazidis are an Iraqi ethnic and religious minority that numbers around 700,000 people globally. Predominantly ethnically Kurdish, they are found primarily in northern Iraq in and around Sinjar (where the vast majority live), as well as southeastern Turkey, northern Syria, the Caucasus region, and parts of Iran. Their religion “includes elements of ancient Iranian religions as well as elements of Judaism, Nestorian Christianity, and Islam.”

They have kept their syncretic religion alive for centuries, despite many years of oppression and threatened extermination.5 They do not want to be identified as Kurdish because they think of themselves as an entirely separate group.

The Yazidis were denounced “as infidels and ‘dirty kuffar’” by Al-Qaida in post-Saddam Iraq, which sanctioned their indiscriminate killing. ISIS has referred to them as a “pagan minority” and add that Yazidi women can be enslaved as spoils of war.

On June 10, 2014, ISIS captured Mosul and started a campaign to “purify” the region of its “non-Islamic” and Shi’ite communities.

Since the Sinjar District attack on Aug. 3, 2014, when ISIS publicly cited the Yazidi faith as the basis for the attack, ISIS has committed the crime of genocide as well as multiple crimes against humanity (CAH) and war crimes against the Yazidis.


ISIS pursued a brutal campaign to eliminate the Yazidis and committed violations on a massive scale, including forced conversions to Islam, separation of families, and enslavement of the surviving women and children. ISIS widely publicized the crimes committed against the Yazidis, using them as propaganda to attract new recruits and to terrorize civilians.

In addition to the crimes of genocide, CAH, and war crimes, the underlying acts committed against the Yazidis constitute, in and of themselves, serious violations of international human rights law. Those acts include violations of the right to life, the freedom of movement, the liberty and security of the person, the prohibition against torture and other cruel and inhumane acts, the freedom of religion or belief, and the prohibition against slavery.

The U.N. commission’s findings are based on interviews with survivors, religious leaders, smugglers, activists, lawyers, medical personnel, and journalists. Many Yazidi women were illiterate and had never engaged with the media nor had access to the internet before meeting journalists, lawyers, or investigators following their

ISIS AND THE CRIMES AGAINST THE YAZIDIS PEOPLE

FRANCESCA BRAGA

Nadia Murad1 is a 26-year-old Yazidi woman who was captured by the so-called Islamic State of Iraq and Al-Sham (ISIS).2 She was a victim of war crimes and has refused to accept the social norm that women should remain silent and ashamed of the abuses to which they have been subjected. She has shown uncommon courage in recounting her own sufferings and speaking up on behalf of other victims.3

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Some Yazidi women and girls, as young as 9 years old, were sold at market and held in sexual slavery by ISIS fighters. Survivors “reported violent daily rapes by their fighter-owners. Some were handcuffed behind their backs during the rapes while others had their hands and legs tied to the corners of the beds... Girls as young as 9 were raped, as were pregnant women.” Many were injured as a result, suffering bleeding, cuts, and bruising. The commission also heard accounts of how some Yazidi women and girls committed suicide to escape the torment.

ISIS has used Sexual and Gender-Based Violence (SGBV) against Yazidi women and girls as an integral part of their military strategy, as a weapon of war, and as a tool of genocide and CAH. Most are held in Syria where Yazidi females continue to be sexually enslaved; raped; forcibly transferred; and persecuted on ethnic, religious, and gender grounds. U.N. investigators estimate that more than 5,000 Yazidis have been rounded up and slaughtered and some 7,000 women and girls forced into sex slavery. It is estimated that around 120,000 Yazidis have sought refuge in Europe since 2014.

SGBV, in an international criminal law context, is usually public—it is designed for an audience, to maximize the direct harm to the victim while also sending an indirect message to everybody else. If you rape a woman on the street corner or at a checkpoint, it is a weapon of war, and as a tool of genocide and CAH. Most are held in Syria where Yazidi females continue to be sexually enslaved; raped; forcibly transferred; and persecuted on ethnic, religious, and gender grounds. U.N. investigators estimate that more than 5,000 Yazidis have been rounded up and slaughtered and some 7,000 women and girls forced into sex slavery. It is estimated that around 120,000 Yazidis have sought refuge in Europe since 2014.

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What Can We Do?

Victims have a right to justice under international law, and the path to justice can take many forms—one of which is criminal prosecution. National, regional, and international courts can hold individuals criminally responsible for their actions and sentence them to punish
defending the verdict. We were also presenting the argument in his cross-appeal contending that the district court had improperly granted summary judgment to other defendants. The moot court panel’s questions came fast. She was answering them well. Then a panel member hit her with a question and she drew a blank (as we all do). She started to cry. We broke for a couple of minutes, she composed herself, returned, and knocked the question out of the park. All four of us reassured her that the blank moment happens. Although she was ready to face the Court of Appeals, I held a seventh moot in order to restore her confidence.

The last moot is held no later than a few days before the oral argument. This offers time for the student to reflect, to revise notes, and to review that portion of the record that offered difficulty. We have learned that, after six to seven moots, my students will have heard 95 percent of the questions that will be asked by the panel.

I never conducted an eighth moot for my students. It would have been unnecessary and the students would have lost some of the spontaneity that electrifies oral argument. Although we arrive at the location of the court the day before oral argument is to take place, I do not conduct a rehearsal then because rest is more necessary than repetition. I do, however, ensure that we visit the courtroom where the argument will take place to play with the podium, to move the chairs back and forth, and to generally get a feel for the venue. (I confess that on one or two occasions, my students sat in the judges’ chairs.) If possible, we sit in on arguments the day before. (This is less important now that courts of appeals make recordings of oral argument available online.)

In our San Quentin case, because we were cross-appellants, my student presented the second argument and the fourth (and final). Going second, she had the difficult job of responding to the prison’s appeal and presenting our affirmative arguments in the cross-appeal. As with the moot court arguments, the panel’s questions came fast and went to the difficult parts of our case. She answered them all well. As she sat down, I leaned over and asked, “How are you doing?” She answered, “I can’t wait to get back up there.” She won the case. She now practices law in a Montana town of 8,400.

Endnotes

See Human Rights Council, supra note 8, at ¶¶ 2, 64.
Id.
See FIDH/KINYAT, supra note 15, at 40.
Niamh Hayes, Gender Crimes in International Criminal Law, Training Session Presented by the Association of Defence Counsel (Sept. 1, 2018) (on file with author).
Id.