



Available online at
ScienceDirect
www.sciencedirect.com

Elsevier Masson France
EM|consulte
www.em-consulte.com/en



Original article

Protecting Yazidi cultural heritage through women: An international feminist law analysis

Sara De Vido ^{a,b,*}

^a Ca' Foscari University, San Giobbe, Cannaregio 873, 30121 Venezia, Italy

^b Manchester International Law Centre, UK

ARTICLE INFO

Article history:

Received 25 May 2017

Accepted 12 February 2018

Available online xxx

Keywords:

Yazidis

Women

Violence

Intangible cultural heritage

Criminal justice

Women's tribunals

ABSTRACT

The purpose of this article is to consider, from an international law perspective, the relationship existing between violence, gender, and culture, referring to the specific situation of women belonging to the Yazidi minority, who have been abducted, raped, and sold by the Islamic State. I will demonstrate that women can be those who, despite huge suffering, will be able to preserve the unique culture of this minority during post-conflict situations. From an international law perspective, I will investigate the possibility that the crimes committed against the Yazidis are brought before the International Criminal Court, and I will recommend that a women's tribunal be established in order to give voice to the victims/survivors. I will demonstrate that the participation of women during the negotiations for peace in post-conflict situations is essential, and that the protection of intangible cultural heritage through women could be achieved learning the lesson from preceding successful experiences.

© 2018 Elsevier Masson SAS. All rights reserved.

1. Introduction

The Islamic State didn't come to kill the women and girls, but to use us as spoils of war, as objects to be sold with little or to be gifted for free.

Their cruelty was not merely opportunistic. The IS soldiers came with a pre-established policy to commit such crimes.

Islamic State had one intention, to destroy the Yazidi identity by force, rape, recruitment of children, and destruction of holy sites they captured, especially against the Yazidi woman where the used rape as a mean of destruction for Yazidi women and girls and ensuring these women will never return to a normal life.¹

The statement made by Nadia Murad Basee Taha, recently named as UNODC Goodwill Ambassador for the Dignity of Survivors of Human Trafficking, dramatically describes the threat posed to the Yazidis,² an Iraqi monotheistic religious minority, by ISIS¹. The domination of women through sexual violence with the purpose to humiliate and destroy an ethnic group is not new and it has been a

recurrent pattern of conflicts over the centuries. In the case of Yazidi women, violence represents a form of 'intersectional violence', meaning that violence is based on multiple interrelated grounds of discrimination: gender, religion, and ethnicity.³ An author has defined violence against women as a 'pandemic of violence', a definition which is particularly appropriate in the case of Yazidi women, who are victims of crimes including sexual violence, forced marriages, forced impregnations and slavery within domestic walls [1]. In the analysis of violence affecting women during conflicts, or post-conflict situations, the aspect of culture, and in particular the intangible aspects of cultural heritage, has often been neglected.⁴ Violence destroys an individual, its identity, and its identity within a community, with the consequence of putting at risk the culture of an entire group.⁵

2. Research Aims

The purpose of this article is to investigate, from an international law perspective and applying a gender lens, the violations of the rights of women belonging to the Yazidis, and the exist-

* Correspondence. Ca' Foscari University, Venice, Italy.

E-mail address: sara.devido@unive.it

¹ Statement by Nadia Murad Basee Taha, trafficking survivor, to the UN Security Council, 18 December 2015, <http://www.webtv.un.org/watch/nadia-murad-basee-taha-unodc-goodwill-ambassador-on-trafficking-in-persons-in-conflict-situations-security-council-7847th-meeting/5255419222001> (last accessed 1. June 2017). Isil, IS, ISIS, Islamic State, Da'esh will be used interchangeably for the purposes of this article.

² The name Yazidis is also spelled as Yezidis and Iyzidis.

³ An ethnic group is, in the definition provided in ICTR, Prosecutor v. Akayesu, ICTR-96-04-T, judgment of 2 September 1998, p. 513, "a group, whose members share a common language or culture".

⁴ On the definition of cultural heritage, see [2].

⁵ For example, sexual violence which impairs individuals' physical and psychological integrity has been used as an instrument of war, aimed to affect the identity of an entire ethnic group through the rape of its women [3].

ing mechanisms to avoid impunity at the international level. I will demonstrate that women can be those who, despite huge suffering, will be able to preserve the unique culture of this minority during post-conflict setting.

After briefly presenting the history of the minority, I will explore the role that international law can play in the protection of Yazidi women, and their culture in particular. In order to do so, I will analyse some aspects of the report prepared by the Independent International Commission of Inquiry on Syria in June 2016 [4]. The Commission reported dozens of cases of violence against women and girls. It concluded the report with a recommendation to the UN Security Council to refer the violations suffered by the Yazidis, including genocide, to the International Criminal Court (ICC). The ICC has demonstrated to be gender-sensitive over the years, and its action would be fundamental in assessing international criminal responsibility of ISIS combatants in the perpetration of crimes against Yazidis and, in particular, against the women belonging to the group. However, international criminal proceedings aimed at assessing individual criminal responsibility will not be able to guarantee justice for all female victims/survivors of the ISIS, and to take into account important aspects of Yazidi culture. Accordingly, I consider it necessary that the voices of women are carefully listened to, beyond the limits imposed by the mandate of an international court. Men belonging to the minority have been killed and religious sites have been destroyed, but many women – despite being abused, sold, raped, and abducted – have survived, and they can play a key role in the protection of the culture, in particular the intangible cultural heritage, of the entire community. This is why in a second part of the analysis, I will concentrate on the need of a women's tribunal, which should be established by civil society organisations in order to give voice to the experiences of women, victims of violence but at the same time capable of acting as agents of change. Compared to a 'formal' tribunal, a women's tribunal will be able to emphasise violence and violations of human rights in post-conflict situations and to link the experience of women to the protection of intangible cultural heritage. It is not necessarily an alternative to a formal tribunal, but rather a means to put emphasis on the capacity of women to promote change and preservation of culture. Linked to the women's tribunal, and starting from this experience, I will stress the role that women can play not only in remembering their culture looking at the past, but also projecting their cultural heritage into the future, by creating research centres and actively participating in the post-conflict setting. The relation between gender and cultural heritage is underexplored⁶ but of extreme interest and can permeate every attempt to guarantee justice in post-conflict settings. As posited by the Special Rapporteur in the field of cultural rights Farida Shaheed, in the UNESCO report of 2014, Gender Equality, Gender, and Creativity: 'a key challenge is how to ensure women's equal participation in discussions and decision-making [...] and enable them to create new cultural meanings and practices'.⁷

The boundaries of this article should be declared at the outset. I will not deal with the legitimacy of the military intervention in Syria and Iraq, and I will only briefly analyse the grounds for the referral of the crimes committed against Yazidis to the ICC.

⁶ UNESCO Conventions are silent in that respect. It should be acknowledged that non-binding instruments have better emphasised the role of women in cultural heritage, despite the UNESCO Universal Declaration on Cultural Diversity adopted in 2001 being silent in that respect. As early as 1998, indeed, the Stockholm Action Plan on Cultural Policies recommended States to 'give recognition to women's achievements in culture and development and ensure their participation in the formulation and implementation of cultural policies at all levels'. (adopted during the Stockholm conference held from 30 March to 2 April 1998, objective 2, para. 8).

⁷ <http://www.unesdoc.unesco.org/images/0022/002294/229418e.pdf> (last accessed on 1. June 2017).

3. The Yazidi minority

Although being beyond the scope of my analysis and beyond my area of expertise, some notes on the history of Yazidis seem to be necessary in order to understand the peculiarity of their culture and their cultural heritage. Yazidis are primarily located in Northern Iraq, North-Eastern Syria, South-Eastern Turkey and in the Caucasus. Their history has been marked by massacres, starting from the 17th century under Ottoman rule. The most recent one before the Islamic State's attacks against the minority occurred in 2007. Yazidis, or Yezidis, or Iyzidis, have been reported to be one of the three branches of the so-called 'Yezdanism', which identifies a group of native Kurdish monotheistic religions descended from an ancient religion known as the 'cult of angels' [5]. Yazdanism was considered to be the primary religion of the Kurds until their islamisation in the 10th Century.

With regard to religion, according to some authors, it is a synthesis of Mithraism, Mazdaism, and Zoroastrianism [5]. The veneration of the serpent, and its related symbolism, is also a peculiar character of the Yazidi religion, still surrounded by enigmas and mysteries [6]. Yazidis have their own philosophy and faith, and they put a lot of emphasis on angels, and on natural elements, such as the sun, the water, the air, and the fire, which are sacred. A very ancient custom consists in lighting pitch pine candles [5,7,8]. Family law is characterised by tribal customs and religious code, according to which, for example, a Yazidi woman cannot marry a man who does not belong to the minority. Nor can a Yazidi man marry a non-Yazidi woman. Both parents must be Yazidis for a child to be considered part of the Yazidi religious group [9]. This is the reason why women feel all the shame deriving from the violence perpetrated by the Islamic State's combatants against them, and refuse to report violence in order not to be excluded by their community. A huge step in favour of victims of violence committed by the Islamic State was taken by the spiritual leader of the Yazidi community, who invited all members to reintegrate women who have suffered unspeakable violence and to offer them care and support [10].

The reasons of the Yazidis being hated relies on the fact that they are not considered as 'people of the book'. The Islamic State legally argued in favour of violence and enslavement of Yazidi women explaining that they belong to a minority of non-believers [11], and in favour of patrilineage saying that 'the slave girl gives birth to her master'⁸.

With regard to their position at the international level, it should be said that it was the League of Nations which first recognised the Yazidis as a minority. As a consequence of that recognition, their position changed from being 'an undefined and anomalous position as tolerated heretics under the Ottomans' to being considered as a protected minority. They entered the orbit of the Iraqi Minorities Rescue Committee and categorised as Christian community, reframed as originally 'Assyrian' and included as members of a proposed autonomous non-Muslim enclave in Northern Iraq [12].

3.1. Violations of Yazidi Human Rights by the Islamic State

The violations of human rights committed by the Islamic State against the Yazidis have been reported both by UN bodies and by non-governmental organisations alike. At the beginning of August 2014, a series of systematic and widespread attacks took place in the Ninewa plains and Yazidi-populated cities and villages. ISIS combatants attacked Sinjar from Mosul and Tel Afar in Iraq, and Al-Shaddadi and the Tel Hamis region (Hasakah) in Syria. In March 2015, the Office of the High Commissioner for Human Rights

⁸ [9] referring to the Dabiq, and in particular to the article "In the Revival of Slavery before the Hour", 2014, published both in English and Arabic.

Download English Version:

<https://daneshyari.com/en/article/8965295>

Download Persian Version:

<https://daneshyari.com/article/8965295>

[Daneshyari.com](https://daneshyari.com)