EUROPEAN CENTRE FOR LAW AND JUSTICE

24 July 2017

VIA OVERNIGHT DELIVERY SERVICE

HE Emmanuel Macron
President of the French Republic
[redacted]

RE: Request for Recognition of ISIS Atrocities Against Christians and Other Religious Minorities as Genocide and for Appropriate Action

Your Excellency:

By way of introduction, the European Centre for Law and Justice (ECLJ) is an international not-for-profit law firm located in Strasbourg, France, dedicated to protecting human rights and religious freedom in Europe and around the world. The ECLJ holds Special Consultative Status as an NGO before the United Nations. The ECLJ has submitted both written and oral statements to the United Nations Human Rights Council on this very subject. The ECLJ submits this correspondence on behalf of its members and over 536,000 persons, including persons residing in 147 nations and territories.

The Islamic State (commonly referred to as ISIS, ISIL, and Daesh) and its affiliates are spreading. Increasingly, we are witnessing Islamic State attacks in regions of the world beyond Iraq and Syria. There have been recent attacks in the United Kingdom, France, and Belgium[1]. The Islamic State has carried out attacks against Coptic Christians in Egypt[2]. Even Southeast Asia is affected, as the Islamic State attempts to gain a foothold in the Philippines[3]. It is imperative that the international community join together to stop this growing threat.

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[1] Alice Foster, *Terror Attacks Timeline*, EXPRESS.CO.UK (June 23, 2017, 6:00 PM), http://www.express.co.uk/news/world/693421/Terror-attacks-timeline-France-Brussels-Europe-ISIS-killings-Germany-dates-terrorism.

[2] *Coptic Christian Attack*, FOXNEWS.COM (May 27, 2017), http://www.foxnews.com/world/2017/05/27/coptic-christian-attack-isis-claims-its-soldiers-opened-fire-on-bus-killing-29-in-egypt.html.

[3] James Griffiths, *ISIS in Southeast Asia*, CNN.COM (May 29, 2017), http://www.cnn.com/2017/05/28/asia/isis-threat-southeast-asia/index.html

Shockingly, the United Nations has yet to formally recognise that the ongoing atrocities committed by the Islamic State against Christians, Yazidis, and other religious and ethnic minorities in Iraq, Syria, and elsewhere in the region constitute genocide for purposes of implicating the obligations of the international community pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide and the well-established responsibility to protect[4]. The United Nations must do so with haste.

While we call for swift and decisive action by the international community to stop the genocide and protect the victims, we also appreciate the reality that the first step is for the United Nations to *recognise* that the atrocities constitute genocide and to recognise *all* those victimised thereby, includingChristians.

In February 2016[5], March 2017[6], and again in June 2017[7], we presented oral interventions before the Human Rights Council calling for the United Nations to recognise the ongoing genocide in Iraq and Syria. Yet, so far the United Nations has remained silent. We continue to advocate for the victims of the ongoing genocide, and will tirelessly present our requests until the United Nations is no longer silent. We urge you to join us in advocating before the United Nations on behalf of the victims of the ISIS genocide.

As you know, the United Nations Human Rights Council will soon hold its 36th Session, which will begin on 11 September 2017. This Session provides an excellent opportunity for this critical organ of the United Nations to squarely address the ongoing humanitarian crisis posed by the Islamic State. We respectfully urge you to advocate that the United Nations take action in order to stop the genocide and provide relief for the genocide victims.

I. The United Nations Must *Recognise* the Genocide Against Christians and Other Religious and Ethnic Minorities.

The first step the United Nations must take in order to fulfill its responsibility to protect is to recognise the ongoing atrocities as genocide. We strongly and respectfully urge you to press all relevant U.N. bodies, including the Security Council and the Human Rights Council, to make such a declaration. With such a designation, the United Nations could then begin to take the steps necessary to halt the genocide and fulfill its responsibility to protect those victimised.

The action we request — a declaration of genocide by the United Nations — rests on solid ground and precedent. In declaring these acts to be genocide, the United Nations will join the Parliamentary Assembly of the Council of Europe, the European Parliament, the Holy See's representative at the U.N. in Geneva as well as Pope Francis, the British House of Commons, the United States Department of State, the United States House of Representatives, the United States Commission on International Religious Freedom, and numerous NGOs — all of whom have condemned the Islamic State's acts and recognised such acts as genocide.

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[4] *The Responsibility to Protect*, OFF. OF THE SPECIAL ADVISER ON THE PREVENTION OF GENOCIDE AND THE RESPONSIBILITY TO PROTECT, http://www.un.org/en/genocideprevention/about-responsibility-to-protect.html (last visited 17 Apr. 2017), [hereinafter Responsibility to Protect].

[5] Official ACLJ, *Condemning Genocide at the United Nations*, YOUTUBE.COM (11 Mar. 2016), https://www.youtube.com/watch?time_continue=8&v=b4eDtk0ARdg.

[6] Official ACLJ, *ECLJ's Oral Intervention on Genocide at the UN*, YOUTUBE.COM (21 Mar. 2017), https://www.youtube.com/watch?v=FbHfMqHhikA.

[7] Official ACLJ, *ECLJ at UN*, YOUTUBE.COM (14 Jun. 2017), https://www.youtube.com/watch?v=_Yi7HyItdzA.

As recognised in the Convention,

> genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
> (a) Killing members of the group;
> (b) Causing serious bodily or mental harm to members of the group;
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
> (d) Imposing measures intended to prevent births within the group;
> (e) Forcibly transferring children of the group to another group[8].

Article III of the Convention identifies the following as punishable acts: "(a) Genocide; (b) Conspiracy to commit genocide; (c) Direct and public incitement to commit genocide; (d) Attempt to commit genocide; (e) Complicity in genocide"[9]. Article IV makes clear that "Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals"[10]. Such provisions mean little if the United Nations fails to recognise particular acts as acts of genocide.

The growing body of evidence demonstrates that the inhuman violence at issue is, in fact, genocide as defined by the Convention.

In the summer of 2014, Islamic State leader, Abu Bakr Al-Baghdadi, self-proclaimed to be Caliph Ibrahim, declared the creation of an Islamic caliphate under his leadership. Since Al-Baghdadi declared the creation of his caliphate, the Islamic State has systematically killed Christians, Yazidis, and other non-Muslim as well as Muslim minorities who do not adhere to the Islamic State's ideology. *Islamic State members have killed Christians and Yazidis by the thousands, have enslaved and raped thousands more because of their religion, and have destroyed their places of worship, their homes, and their livelihoods.*

In Iraq and Syria, Christians represent a small minority of the population, making up roughly 8% of the Syrian population[11] and less than 3% of the Iraqi population[12].

The Christian population in both Syria and Iraq has been decimated. In fact, hundreds of thousands of Christians have fled Syria and Iraq since the rise of the Islamic State[13]. The Islamic State's barbarity knows no bounds.

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[8]Convention on the Prevention and Punishment of the Crime of Genocide, art. II, Dec. 9, 1948, 78 U.N.T.S. 277 [hereinafter Genocide Convention].
[9]*Id.* at art. III.
[10]*Id.* at art. IV.
[11]BUREAU OF DEMOCRACY, H.R. AND LAB., U.S. DEP'T OF STATE, SYRIA 2014 INTERNATIONAL RELIGIOUS FREEDOM REPORT 2 (2014) [hereinafter SYRIA REPORT].
[12]BUREAU OF DEMOCRACY, H.R. AND LAB., U.S. DEP'T OF STATE, IRAQ 2014 INTERNATIONAL RELIGIOUS FREEDOM REPORT 3 (2014) [hereinafter IRAQ REPORT].
[13]GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST, KNIGHTS OF COLUMBUS AND IN DEFENSE OF CHRISTIANS (9 Mar. 2016) [hereinafter GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST], http://indefenseofchristians.org/wp-content/uploads/2016/03/Genocide-report.pdf.; *see also* SYRIA REPORT, *supra* note 11.

Syria

In Syria, the Islamic State has beheaded and stoned men, women, and children for blasphemy, heresy, and apostasy[14]. One Christian Syrian woman described "'Christians being killed and tortured, and . . . children being beheaded in front of their parents'"[15]. She spoke of "250 children [who] were put in the dough mixer, they were kneaded. The oldest one of them was four-years-old".[16] At times, the Islamic State has also demanded that religious minorities pay a tax (called jizya), or flee—punishing by death those who fail to comply[17].

"In Syria . . . the organization Aid to the Church in Need has reported on mass graves of Christians"[18] found in Sadad, Syria, after an "Islamist rebel siege" left as many as 45 dead, 30 wounded, and 10 missing[19]. "Melkite Catholic Archbishop Jean-Clément Jeanbart of Aleppo estimates the number of Christians kidnapped and/or killed in his city as in the hundreds, with as many as 'thousands' killed throughout Syria"[20].

> After burning Christian books, destroying churches, and kidnapping priests in Raqqa in 2013, ISIS then publicized, in February 2014, a new dhimmi pact with Christians in Raqqa State. The announcement received considerable attention in international media, but there is little evidence that there was much of a Christian community to form the pact with. Although the agreement includes the standard language of "not building a church, monastery or monk's hermitage," there is no evidence that any existing churches actually remained open or in Christian hands, much less that anyone would want to build any. Indeed, there are no images whatsoever of what could be described as normal Christian life in ISIS-controlled territory – no functioning churches, no monasteries or working priests, and no Christian families or Christian schools . . .[21].

In fact, according to other reports, the Islamic State's ultimatums to Christians living in Raqqa City, Syria, in February 2014, resulted in nearly all of the Christians fleeing their homes[22]. The property of the Christians who fled was confiscated, and all churches in the city were transformed into mosques[23]. Remaining residents were forbidden from worshipping according to any religion other than Islam[24]. According to eye-witnesses who were present in the city, very few Christians remained after the Islamic State issued its ultimatum, and those

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[14]SYRIA REPORT, *supra* note 11, at 1.
[15]Katie Mansfield, *Barbaric ISIS Mangle 250 Children in Industrial Dough Kneader and Cooks Rest Alive in Oven*, EXPRESS.CO.UK.COM (26 Oct. 2016, 4:00 PM), http://www.express.co.uk/news/world/723942/ISIS-kills-250-children-dough-kneader-burns-men-alive-oven-Syria-Open-Doors-report.
[16]*Id.*
[17]*Id.*
[18]GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST, *supra* note 13, at 11.
[19]*Id.* at 38; *see also Christians in Syria Feel Forgotten as Mass Graves Found in Sadad*, MORNING STAR NEWS (5 Nov. 2013), http://morningstarnews.org/2013/11/christians-in-syria-feel-forgotten-as-mass-graves-found-in-sadad/.
[20]GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST, *supra* note 13, at 11.
[21] Alberto M. Fernandez, *The ISIS Caliphate and the Churches*, MEMRI.ORG (27 Aug. 2015), http://www.memri.org/report/en/.
[22]SYRIA REPORT, *supra* note 11, at 11.
[23]*Id.*
[24]*Id.*

who chose to remain and pay jizya were forced to pay the Islamic State a tax totaling $335 per family per year[25].

In February 2015, the Islamic Stated took approximately 230 Assyrian Christians hostage "after overrunning several communities on the southern bank of the Khabur River in northeastern Hassakeh province"[26] in Syria. During the attacks, thousands fled[27]. One year later, the last of the living hostages were released after the Islamic State receiv[ed] millions of dollars in ransom"[28]. The fate of at least five of the hostages is unknown[29]. According to other reports, between 9 and 15 Christians were killed, and 373 were taken hostage[30].

In August 2015, twelve Syrian Christians (including men, women, and children) were brutally and publicly tortured and executed in a village near Aleppo, Syria, because they refused to convert to Islam[31]. Islamic State members cut off a young boy's fingertips and beat him as they demanded that his father and two other men renounce Christianity, before executing all four by crucifixion[32]. Eight women were also publically raped and beheaded after they refused to renounce Christianity[33].

In December 2015, reports surfaced that the Islamic State was responsible for multiple bombings in Kamishli, Syria, that targeted Assyrian and Kurdish Christians and killed nineteen[34].

Iraq

The Islamic State's religion-targeted abuses in Iraq include beheadings, burning victims alive in caskets, and other barbaric "killings, rape, kidnapping, enslavement, theft . . . destruction of religious sites . . . sexual slavery, forced conversion, ransom demands, property seizures, and forced business closures"[35]. Islamic State fighters destroyed Iraq's oldest Christian monastery, St. Elijah's[36]. Father Paul Thabit Habib, a Catholic priest "who now lives in Kurdish-administered Irbil" said that Iraq's "Christian history was 'being barbarically leveled'"[37]. He added, "'[W]e see it as an attempt to expel us from Iraq, eliminating and

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[25] *Id.*
[26] *Islamic State Frees Syrian Christians Held Since 2015 for Ransom*, L.A. TIMES (22 Feb. 2016), http://www.latimes.com/world/middleeast/la-fg-isis-releases-hostages-for-ransom-20160222-story.html.
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST, *supra* note 11, at 38 and n. 70 (citing *ISIS Kills 15 Assyrian Christians*, ASSYRIAN INT'L NEWS AGENCY (26 Feb. 2015), http://www.aina.org/news/20150226164408.htm; *Up to 373 Assyrians Captured By ISIS, Executions Have Begun*, ASSYRIAN INT'L NEWS AGENCY (26 Feb. 2015), http://www.aina.org/news/20150226184327.htm).
[31] *Christian Workers in Syria Crucified, Beheaded*, CHRISTIAN AID MISSION (Oct. 1, 2015), http://www.christianaid. org/News/2015/mir20151001.aspx.
[32] *Id.*
[33] *Id.*
[34] GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST, *supra* note 13, at 38
[35] IRAQ REPORT, *supra* note 12, at 2.
[36] *Iraq's Oldest Christian Monastery Destroyed by Islamic State*, BBC NEWS (Jan. 20, 2016), http://www.bbc.com/ news/world-middle-east-35360415.
[37] *Id.*

finishing our existence in this land'"[38]. Such savagery has been punctuated by evidence that the Islamic State is burning Christians alive in locked caskets[39].

Indeed, the Islamic State's notorious abuses are targeted primarily against religious minorities, including an estimated 200,000 Iraqi Christians in 2014[40]. In June 2014, after the Islamic State seized the city of Mosul, Iraq, it demanded that Christian residents either convert to Islam, pay a tax for protection, or be executed; further, the Islamic State gave the Christians less than a week (14 to 19 July) to make their decision[41]. Several important religious sites and Christian institutions in Mosul were destroyed[42]. Even now, "[t]he military campaign to retake Mosul, Iraq's second-largest city, is . . . bogged down in a grueling fight. Seeking to escape the fighting, more civilians than ever are taking the risk of evacuation"[43]. Some Iraqi Christians are participating in the battle to expel the Islamic State from Mosul[44]. Other Iraqi Christians, who fled Mosul when the Islamic State invaded in 2014, now watch the news of the battle, exiled in Jordan[45].

In June 2014, an Iraqi Christian mother and her daughter were brutally raped by Islamic State members "in front of the husband and father. The husband and father was so traumatized that he committed suicide". Four other Iraqi Christian women were shot to death by members of the Islamic State for not wearing veils[46].

In May 2016, Islamic State members in Mosul, Iraq, burned a twelve-year-old Christian girl to death: The "[j]ihadi fighters had come to claim a religious tax from the girl's mother . . . but when the mother delayed in paying, they burned down the family home"[47] while the mother her and daughter were still inside. "Mother and child were able to escape the burning building, but the girl had suffered such severe burns that she later died in the hospital"[48].

In June 2016, an Iraqi Christian woman was able to escape from an Islamic State stronghold in Mosul. She described the horrific ways in which Islamic State members use captured Christian women as sex-slaves. She "narrate[d] how Islamic State terrorists 'married and divorced' her as many as nine times a night to rape her with 'justification'"[49]. "Another

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[38] *Id.*

[39] Anuragh Kumar, *ISIS Burns Christians Alive in Locked Caskets, Escaped Prisoner Reveals*, CHRISTIAN POST (5 Jan. 2016), http://www.christianpost.com/news/isis-burns-christians-alive-locked-caskets-escaped-iraqi-soldier-islamic-state-prisoner-revels-154281/.

[40] IRAQ REPORT, *supra* note 12, at 4.

[41] *Id.* at 13.

[42] *Id.*

[43] Sergey Ponomarev & Tim Arango, *Scenes of Flight From Mosul's Front Lines*, THE N.Y. TIMES (22 Nov. 2016), http://www.nytimes.com/2016/11/22/world/middleeast/iraq-civilians-flee-mosul.html?_r=0.

[44] *See* Alisa Reznick, *Mosul's Christian Exiles Have Little Hope of Return*, AL JAZEERA (3 Nov. 2016), http://www.aljazeera.com/news/2016/10/mosul-christian-exiles-hope-return-161031083345637.html.

[45] *Id.*

[46] *ISIS Rape Christian Mother and Daughter, Kill 4 Christian Women for Not Wearing Veil*, ASSYRIAN INT'L NEWS AGENCY (23 June 2014, 10:55 PM), http://www.aina.org/news/20140623185542.htm.

[47] Sara Malm, *Christian Girl Burned Alive by ISIS Told Her Mother to Forgive Them as She Lay Dying in Her Arms*, DAILY MAIL (19 May 2016, updated 9:02 AM), http://www.dailymail.co.uk/news/article-3598413/Christian-girl-burned-alive-ISIS-told-mother-forgive-lay-dying-arms.html.

[48] *Id.*

[49] Anugrah Kumar, *Iraqi Christian Says ISIS Fighters 'Married, Divorced' Her 9 Times a Night for Rape*, CHRISTIAN POST (4 June 2016, 7:39 AM), http://www.christianpost.com/news/iraqi-christian-says-isis-fighters-married-divorced-her-9-times-a-night-for-rape-164821/.

woman was victimized so often that she resorted to defecating on herself to make herself less desirable, and had to be trained to use the bathroom again after she escaped"[50]. Then,

> [t]here was Khalia, a woman in her fifties, who was captured and held hostage along with 47 others. During her 15 days in captivity, she rebuffed demands to convert, despite a gun being put to her head and a sword to her neck. She literally fought off ISIS militants as they tried to rape the girls, and again later when they tried to take a 9-year-old as a bride. Because of the abuse, 14 men gave in to ISIS' demands and said they would convert to Islam. Khalia would not[51].

One survivor in Iraq recounted how her family-member was told by the Islamic State that, "if you want to live[,] you will need to convert to Islam so we will not hurt you"[52]. That same survivor also recounted how a nephew defied an Islamic State Sharia Court order not to enter Baghdida by returning "to the city to help the needy Christians in the region and in the third month of 2015 one of the terrorists called me using my nephew's phone [sic] said forget about Ammar and we lost contact with him to this day"[53].

Another survivor, a blind man, recounted: "They told me to embrace Islam or be killed"[54]. He also told the story of how the Islamic State kidnapped his daughter and "forced her to become a Muslim and married [sic] one of the gangsters"[55].

A mother in Iraq told this story:

> On 09/06/2014 Daesh came into the house and searched it. They gave us the choice to convert or leave and if we chose to leave one of the parents will have to remain behind. My husband stayed in Bartella and I saw him restrained and being beaten in the back of a pickup truck. Then they took my 11 month old daughter and threw her on the couch under the pretext of inspection she began to cry and scream. Then looted the house and took cash and gold then took us to their inspection office [where] one of them came to me and said that [] gold coins [were] hidden in a baby's diaper so they took my baby and threw her against the wall[56].

A different woman told how she left her home town "[b]ecause of the shelling and fear of death and rape of women, as we have heard that Daesh committed such acts in Mosul"[57]. She explained that at 5:00 a.m. on August 7, 2014, "we tried to leave in two cars. However Daesh caught up to [] my brother's car and forced them to stay in the city"[58].

Another Christian in Iraq described his reason for leaving his home: "I left due to the announcement of the leader of Daesh Abu Bakir al-Baghdadi that the Nazarene (that's how

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[50] GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST, *supra* note 13, at 40.
[51] *Id.* at 10.
[52] *Id.* at 55.
[53] *Id.*
[54] *Id.* at 57.
[55] *Id.*
[56] *Id.* at 58.
[57] *Id.*
[58] *Id.*

they call the Christians) must leave or pay the 'tax' (jizya) or become Muslim or get killed"[59]. He explained that his family had not left sooner because they had no vehicle and had handicapped persons with them. Ultimately, they hired a taxi to flee, but were stopped by "members of Daesh" who learned that they were "Nazarenes": "they robbed us, and took everything we had"[60]. After that, they were dumped on the border "only with the clothes we were wearing and nothing else"[61].

Yet another Iraqi Christian woman told her story:

> They told me when I was in Mosul that I must become a Muslim or leave Mosul so [I] decided to immigrate to Baghdida. After the events of 8/6/14 I stayed in Baghdida because I was sick and one day of [the] Daesh men named Abo Hasan came to me and wanted to force me to convert to Islam. When I refused, he took me to the Amir and [he] slapped my face and brought a pot and ax and said I'll slaughter you if you don't become Muslim. . . . [T]hey took my husband to a room by himself. After 20 days, he tortured us and forced us to leave Baghdida after they took all of our money and goods to the point that the Amir said that he would cut my finger if I don't give him my ring. They moved us to Erbil[62].

And consider the story of this man, who specifically mentioned a United Nations' visit to his region:

> On 7/27/2014 during the visit to the area by the officials in the Iraqi government, led by the Speaker of Parliament we presented them with what happened to us and asked for their help to no avail. ***We did the same during the UN visit to the area again to no avail.*** I feel we are neglected in the refugee camps and no one cares about us like we are not human. We are thankful that you are looking into this and we appreciate any help you can provide in procuring our rights and the rights of all the people in the region[63].

As areas within Iraq have been liberated by Allied forces in recent months, the extent of the genocide against these religious minorities are only now being realised. Mass graves have been exhumed, ancient churches and holy areas have been found in rubble, and the very few survivors who remain have lost everything. For example, in October 2016 when Allied forces began their campaign to liberate the Nineveh region of Iraq from the grips of ISIS, some Christian leaders were able to return to their ancient homeland for the first time in over two years. Having fled for their lives when ISIS took over the region in 2014, the leaders returned to piles of dust. The 200,000 Christians who resided in the region when ISIS brutally took over has now dwindled to 20 to 30 Christian residents. Their places of worship, ancient texts, and congregations have summarily been wiped out by ISIS[64].

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[59] *Id* at 66.
[60] *Id.*
[61] *Id.*
[62] *Id.*
[63] *Id.* at 70 (emphasis added).
[64] *In Biblical Lands of Iraq, Christianity in Peril After ISIS*, CNN NEWS (21 Nov. 2016), http://www.cnn.com/2016/11/20/middleeast/iraq-christianity-peril/.

These reports are consistent with the United Nations' own fact-finding. For instance, according to a report issued by the Office of the United Nations High Commissioner for Human Rights and the United Nations Assistance Mission for Iraq, in Iraq alone:

> At least 18,802 civilians have been killed from January 2014 to October 2015.
>
> At least 36,245 civilians have been wounded during that same time period.
>
> An estimated 3,500 are being held as slaves by the Islamic State, most of them women and children.
>
> 3.2 million have been displaced[65].

The Report concluded: "The violence suffered by civilians in Iraq remains staggering. The so-called 'Islamic State of Iraq and the Levant' (ISIL) continues to commit systematic and widespread violence and abuses of international human rights law and humanitarian law. These acts may, in some instances, amount to war crimes, crimes against humanity, *and possibly genocide*"[66].

The brutality with which the Islamic State victimises religious minorities is beyond belief. The accounts of the trauma experienced by survivors in both Iraq and Syria are heartbreaking. "One account [tells] of a couple whose children had been captured by ISIS militants. When they answered their door one day, they found a plastic bag on their doorstep. It contained the body parts of their daughters and a video of them being raped and tortured"[67].

Moreover, the Islamic State genocide specifically and intentionally targeting Christians is expanding beyond the region of Syria and Iraq — just as the Islamic State has promised.

Beyond Syria and Iraq

In February 2015, the Islamic State "released a video of 21 Coptic Christians from Egypt being executed on a Libyan beach"[68]. And, in April 2015, it executed at least 30 Ethiopian Christians in Libya[69]. "One group is beheaded on a beach along the Mediterranean Sea, while the other group is shot in Southern Libya"[70].

In June 2016, "[e]ight suicide bombers launched two waves of attacks on the Christian town of Al Qaa in northeastern Lebanon"[71]. The New York Times reported that "[f]our attackers blew themselves up in the town before dawn, killing five people and wounding a dozen others, according to local officials. Four more attacks took place at night as residents

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[65] High Commissioner for Human Rights, *Report on the Protection of Civilians in the Armed Conflict in Iraq: 1 May – 31 October 2015*, (5 Jan. 2016), *available at* http://www.uniraq.org/images/humanrights/UNAMI-OHCHR_%20POC%20Report_FINAL_01%20May-31%20October%202015_FINAL_11Jan2016.pdf.

[66] *Id.* (emphasis added).

[67] Matt Hadro, *Stories of ISIS Victims are Emerging, and They're Unbelievably Brutal*, CATHOLIC NEWS AGENCY (29 Apr. 2016, 3:48 PM), http://www.catholicnewsagency.com/news/stories-of-isis-victims-are-emerging-and-theyre-unbelievably-brutal-64701/.

[68] Eliott C. McLaughlin, *ISIS Executes More Christians in Libya, Video Shows*, CNN (20 Apr. 2015), http://www.cnn.com/2015/04/19/africa/libya-isis-executions-ethiopian-christians/.

[69] *Id.*

[70] *Id.*

[71] Ben Hubbard & Hwaida Saad, *Elaborate Suicide Attack Hits Christian Village in Lebanon*, N.Y. TIMES (27 June 2016), http://www.nytimes.com/2016/06/28/world/middleeast/al-qaa-lebanon-suicide-bombers.html?_r=0.

prepared for funerals to be held on Tuesday morning, wounding 11 more people"[72]. "'People are stuck in their houses, not daring to go out and fearing more suicide bombers,' the Rev. Elian Nasrallah, the priest of the town's Mar Elias Church," told reporters. "He had been in his home at night, preparing his message for the funerals of those killed that morning, when he heard an explosion and saw a ball of fire erupt outside the church. 'We're living in terror in this town,' he said"[73]. According to reports, "nearly all experts believe it was carried out by ISIS fighters who infiltrated al-Qaa from nearby Syria"[74]. "*Make no mistake, the[y] targeted [the] village for one reason: it is Christian*"[75].

In July 2016, Islamic State "soldiers" slit the throat of an 85 year old Catholic priest in a church near Normandy, France, during Mass[76]. Reuters reported that according to the Islamic State's news agency, Amaq, the Islamic State claimed the two attackers as its "soldiers"[77]. According to French officials, "[o]ne of the two suspects in the attack was known to anti-terror authorities after attempting a trip to Syria"[78]. The spread of Islamic State genocide against Christians — and its direct link to Syria — should come as no surprise: "For two years, the black-clad jihadist army has called for attacks on Christians in Rome, throughout Europe and across the world. It has even called for the assassination of Pope Francis"[79].

In February 2017, ISIS released a video making reference to its December 2016 bombing of a Christian church in Egypt, and described Christians as its "favorite prey"[80]. Just weeks later, ISIS claimed responsibility for the bombing of two churches on Palm Sunday in Egypt that killed 49 and injured more than one hundred people[81]. Most recently, the Islamic State claimed responsibility for the failed attack on Saint Catherine's Monastery in Sinai. While the attack failed, the Islamic State "has vowed more attacks against Christians in Egypt"[82].

Similarity of ISIS Atrocities Against Christians and Yazidis

Islamic State treatment of Christians is directly comparable to its treatment of another religious minority, the Yazidis. Much like the Islamic State treatment of Christians in Mosul and Raqqa City, in August 2014, the Islamic State captured a Yazidi village and demanded that its residents convert to Islam. After the villagers refused to convert over a period of several days, Islamic State members executed at least 100 Yazidi men and took the women

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[72] *Id.*
[73] *Id.*
[74] Johnnie Moore, *After Fallujah, ISIS Moves to Lebanon and Targets Christians*, FOXNEWS.COM (2 July 2016), http://www.foxnews.com/opinion/2016/07/02/after-fallujah-isis-moves-to-lebanon-and-targets-christians.html.
[75] *Id.*
[76] Noemie Olive, *Islamists Attack French Church, Slit Priest's Throat*, REUTERS (27 July 2016), http://www.reuters.com/article/us-france-hostages-idUSKCN1060VA.
[77] *Id.*
[78] Hamdi Alkhshali & Schams Elwazer, *Suicide Bombing Kills Dozens in Syria*, CNN (27 July 2016), http://www.cnn.com/2016/07/27/middleeast/syria-isis-suicide-bombing/.
[79] Malia Zimmerman, *Murder of French Priest Brings ISIS' Long-threatened War on Christians to Europe*, FOXNEWS.COM (26 July 2016), http://www.foxnews.com/world/2016/07/26/murder-french-priest-brings-isis-long-threatened-war-on-christians-to-europe.html.
[80] *ISIS Egypt Affiliate: Christians are Our 'Favorite Prey'*, FOXNEWS.COM (20 Feb. 2017), http://www.foxnews.com/world/2017/02/20/isis-egypt-affiliate-christians-are-our-favorite-prey.html.
[81] Joe Sterling, Faith Karimi, Mohammed Tawfeeq, & Hamdi Alkhshali, *ISIS Claims Responsibility for Palm Sunday Church Bombings in Egypt*, CNN.COM (10 Apr. 2017, 2:00 AM), http://www.cnn.com/2017/04/09/middleeast/egypt-church-explosion/.
[82] *ISIS Claims Attack on Police Checkpoint Near Renowned Egypt Monastery*, FOXNEWS.COM (18 Apr. 2017), http://www.foxnews.com/world/2017/04/18/policeman-killed-when-gunmen-attack-renowned-egypt-monastery.html.

and children hostage as sex slaves[83]. Similarly, in Syria, the Islamic State beat and tortured twenty-five Yazidi men in an attempt to force them to convert[84]. A small number were reportedly released after their families paid a ransom, but the rest were killed[85].

In June 2016 a United Nations-mandated human rights inquiry released its official report "They Came to Destroy: ISIS Crimes against the Yazidis" in which it declared that Genocide has occurred and is ongoing[86]. The report's findings were based on interviews with survivors, religious leaders, smugglers, activists, lawyers, medical personnel, and journalists, as well as extensive documentary material, and the evidence led the commission to conclude that ISIS had indeed perpetrated genocide against Yazidis in Syria and Northern Iraq. The report stated:

> ISIS has committed the crime of genocide as well as multiple crimes against humanity and war crimes against the Yazidis, thousands of whom are held captive in the Syrian Arab Republic where they are subjected to almost unimaginable horrors. . . .
>
> ISIS has sought to destroy the Yazidis through killings; sexual slavery, enslavement, torture and inhuman and degrading treatment and forcible transfer causing serious bodily and mental harm; the infliction of conditions of life that bring about a slow death; the imposition of measures to prevent Yazidi children from being born, including forced conversion of adults, the separation of Yazidi men and women, and mental trauma; and the transfer of Yazidi children from their own families and placing them with ISIS fighters, thereby cutting them off from beliefs and practices of their own religious community, and erasing their identity as Yazidis. The public statements and conduct of ISIS and its fighters clearly demonstrate that ISIS intended to destroy the Yazidis of Sinjar, composing the majority of the world's Yazidi population, in whole or in part.
>
> Over 3,200 Yazidi women and children are still held by ISIS. Most are in Syria where Yazidi females continue to be sexually enslaved and Yazidi boys, indoctrinated, trained and used in hostilities. Thousands of Yazidi men and boys are missing.
>
> The genocide of the Yazidis is on-going[87].

The facts that led to the commission's declaration of genocide against the Yazidis are equally as applicable to Christians and other religious minorities in the region who have endured the same targeted campaign by ISIS.

The growing body of evidence demonstrates that the inhuman violence and intentional decimation of a religious group is, in fact, genocide as defined by the Convention. The joint Report of the Knights of Columbus and In Defense of Christians, based on the superior and

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[83] IRAQ REPORT, *supra* note 12, at 11.
[84] SYRIA REPORT, *supra* note 11, at 10.
[85] *Id.*
[86] Rep. of the Indep. Int'l Comm'n of Inquiry, *"They Came to Destroy": ISIS Crimes Against the Yazidis*', 32nd sess., U.N. Doc. A/HCR/32/CRP.2 (15 June 2016).
[87] *Id.*

thorough fact-finding of the Shlomo Organization for Documentation, contains numerous first-hand accounts of genocide survivors and relatives of deceased or missing victims[88]. Again, the evidence is well-documented, and it is sickening. And while acknowledging that estimates may contain inaccuracies or duplication, due to what's known by some as "the fog of war," this valuable source of data emphasised a critical point: "speculation about the accuracy of figures cuts both ways"[89]. In their estimation, and in ours, "the numbers are likely to be much higher"[90].

Virtually every day brings new reports and accounts of the Islamic State's barbarism. Any question as to the genocidal nature of the atrocities committed against Christians and other religious and ethnic minorities has been answered in the affirmative.

International Bodies Recognising ISIS Genocide Particularly Targeting Christians

In congruence with the internal reports and findings of these United Nation bodies, other international organs have likewise concluded that genocide is occurring at the hands of ISIS. For example, the Parliamentary Assembly of the Council of Europe,

> individuals who act in the name of the terrorist entity which calls itself "Islamic State" (Daesh) and who have perpetrated acts of genocide and other serious crimes punishable under international law. States should act on the presumption that Daesh commits genocide and should be aware that this entails action under the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide[91].

The European Parliament went even further, specifically recognising the genocide *of Christians and other religious and ethnic minorities*. In a nearly unanimous resolution, it declared:

> [W]hereas religious and ethnic minorities, such as Christian (Chaldean/Syriac/Assyrian, Melkite and Armenian), Yazidi, Turkmens, Shabak, Kaka'i, Sabae-Mandean, Kurdish and Shi'a communities, as well as many Arabs and Sunni Muslims, have been targeted by the so-called 'ISIS/Daesh'; whereas many have been killed, slaughtered, beaten, subjected to extortion, abducted and tortured; whereas they have been enslaved (in particular women and girls, who have also been subjected to other forms of sexual violence) and forcibly converted, and have been victims of forced marriage and trafficking in human beings; whereas children have also been forcibly recruited; whereas mosques, monuments, shrines, churches and other places of worship, tombs and cemeteries have been vandalised[92].

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[88] GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST, *supra* note 13.
[89] *Id.* at 39.
[90] *Id.*
[91] Eur. Consult. Ass., *Foreign Fighters in Syria and Iraq*, 6th sitting, Res. 2091 (2016), http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=22482&lang=en.
[92] Eur. Parl. Ass., *Joint Motion for a Resolution*, 2016/2529(RSP) (2 Feb. 2016), http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P8-RC-2016-0149+0+DOC+XML+V0//EN.

The resolution details several specific incidents in which the Islamic State committed numerous international crimes against Christians and other religious minorities in the Middle East, from the more than 150,000 Iraqi Christians who fled Mosul in August 2014 to the kidnapping of more than 220 Assyrian Christians in February 2015.

Importantly, the European Parliament

> stresses that the so-called 'ISIS/Daesh' is committing genocide against Christians and Yazidis, and other religious and ethnic minorities, who do not agree with the so-called 'ISIS/Daesh' interpretation of Islam, and that this therefore entails action under the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide[93].

In its resolution, the European Parliament "urges the members of the UN Security Council to support a referral to the International Criminal Court" and invites the Security Council to take measures for these acts "to be recognized as genocide" by the International Criminal Court.

Finally, the European Parliament stresses the responsibility on the international community to take collective action in order to "provid[e] protection and aid, including military protection and aid, in accordance with international law, to all those targeted by the so-called 'ISIS/Daesh' and other terrorist organizations in the Middle East." The European Parliament submitted the resolution to United Nations bodies, the Organization of Islamic Cooperation, and to the Cooperation Council for the Arab States of the Gulf.

Following suit, on March 17, 2016, United States Secretary of State John Kerry declared:

> Daesh is responsible for genocide against groups in areas under its control, including Yezidis, Christians, and Shia Muslims. Daesh is genocidal by self-proclamation, by ideology, and by actions – in what it says, what it believes, and what it does. Daesh is also responsible for crimes against humanity and ethnic cleansing directed at these same groups and in some cases also against Sunni Muslims, Kurds, and other minorities[94].

He continued:

> We know that in Mosul, Qaraqosh, and elsewhere, Daesh has executed Christians solely because of their faith; that it executed 49 Coptic and Ethiopian Christians in Libya; and that it has also forced Christian women and girls into sexual slavery. . . .
>
> We know that in areas under its control, Daesh has made a systematic effort to destroy the cultural heritage of ancient communities – destroying Armenian, Syrian Orthodox, and Roman Catholic churches; blowing up monasteries and the tombs of prophets; desecrating cemeteries; and in Palmyra, even beheading the 83-year-old scholar who had spent a lifetime preserving antiquities there.

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[93] *Id.*

[94] U.S. Department of State, John Kerry, *Remarks on Daesh and Genocide*, YOUTUBE.COM (17 Mar. 2016) https://www.youtube.com/watch?v=hrbeMwlBYLY.

> We know that Daesh's actions are animated by an extreme and intolerant ideology that castigates Yezidis as, quote, "pagans" and "devil-worshippers," and we know that Daesh has threatened Christians by saying that it will, quote, "conquer your Rome, break your crosses, and enslave your women"[95].

And most recently, the British House of Commons unanimously passed a motion condemning the Islamic State atrocities as genocide and calling for action by the United Nations:

> That this House believes that Christians, Yazidis, and other ethnic and religious minorities in Iraq and Syria are suffering Genocide at the hands of Daesh; and calls on the Government to make an immediate Referral to the UN Security Council with a view to conferring jurisdiction upon the International Criminal Court so that perpetrators can be brought to justice[96].

As indicated above, a growing number of international bodies have recognised that the ongoing atrocities committed by members of the Islamic State constitute genocide against Christians and other religious and ethnic minorities. On this point, there can now be no meaningful dispute.

Your Excellency, it is time for the United Nations not just to join, but also to lead the international community in confronting the ongoing genocide. To do so, however, it must first formally recognise the genocide and all its victims. The United Nations Office on Genocide Prevention and the Responsibility to Protect can play a critical role in obtaining that recognition.

II. The Alleged Application of Jizya Neither Downgrades Nor Provides a Defense for the Islamic State's Genocide Against Christians.

In explaining its disappointing decision to leave Christians out of its declaration, the Independent International Commission of Inquiry wrote in its Report:

> While the Christian communities still living in ISIS-controlled territory live difficult and often precarious existences, are viewed with suspicion, and are vulnerable to attack if ISIS perceive they are seeking protection from non-aligned forces, their right to exist as Christians within any Islamic state existing at any point in time, is recognised as long as they pay the jizya tax[97].

This argument fails to fully appreciate how the jizya tax is arbitrarily used against Christians, the difference between the historical understanding of that term and the meaning of the term as applied by the Islamic State[98], and the full breadth of the threats Christians face at the hands of the Islamic State. The Islamic State's Caliph "Abu Omar al-Baghdadi has admitted

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[95] *Id.*

[96] *Debate on a Motion on Recognition of Genocide by Daesh*, PARLIAMENT.UK, http://www.parliament.uk/business/committees/committees-a-z/commons-select/backbench-business-committee/news-parliament-2015/chamber-debate-on-recognition-of-genocide-daesh/ (last visited 17 Apr. 2017).

[97] Rep. of the Indep. Int'l Comm'n of Inquiry, *supra* note 86.

[98] GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST, *supra* note 13, at 12.

for nearly a decade that Christians no longer qualify for the historical protection offered by Islamic law"[99].

According to al-Baghdadi:

> We find that the sects of the People of the Book and others from the Sabians and [sic] so in the State of Islam today are people of war who qualify for no protection, for they have transgressed against whatever they agreed to in many countless ways, and if they want peace and security then they must start a new era with the State of Islam according to (Caliph) Omar's stipulations [the historic "Covenant" of Caliph Omar with Christians] that they have annulled[100].

This explains why the Islamic State's concept of jizya has been described to be "more a Salafi Caliphate publicity stunt than a careful recreation of jizya as practiced by the early Caliphs"[101].

Islamic State jihadists have expressed their specific intent to kill all Christians if they do not convert or, sometimes, pay jizya. To the extent the practice of jizya and the protection it entails are honoured by the Islamic State, paying jizya or converting to Islam to avoid death are not meaningful alternatives, as the many Christians who are too poor to pay the tax have no option but to flee their homeland, deny their faith, or die.

For example, "[o]ne Christian farmer from Aleppo province fled recently after more than a year of living under Islamic State rule, saying the heavy taxation stripped him of his livelihood"[102]. The suggestion that the alleged availability of jizya converts genocidal actions designed to decimate a particular group into non-genocidal actions or that jizya constitutes, in essence, a defense to the charge of genocide, is misguided, naïve, and grotesque.

Reliance on jizya to deny genocide also fails under international law. Forcible conversion coupled with destruction of Christian places of worship are acts that by their very nature are intended to destroy Christians as a religious group. Destruction of places of worship is generally "designed to annihilate the centuries-long presence of the group"[103]. If Christians succumb to forced conversion, there will be no such group called Christians in Iraq and Syria. If they do not convert and refuse (or are unable) to pay jizya, they will be killed. Either way, Christians as a religious group will cease to exist in the region — a clearly stated and demonstrated goal of the Islamic State. Moreover, just because the Islamic State *may* allow *some* Christians to pay jizya to spare their lives does not negate Islamic State actors' intent to destroy Christians as a religious group. The fact that some Christians have not been killed does not legitimise the many instances where thousands have been killed.

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[99] *Id.*

[100] Alberto M. Fernandez, *The ISIS Caliphate and the Churches*, MEMRI.ORG (27 Aug. 2015), http://www.memri.org/report/en/.

[101] GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST, *supra* note 13, at 12.

[102] Maria Abi-Habib, *For Many Christians in the Middle East, Intimidation or Worse*, WALL STREET JOURNAL (26 July 2016), http://www.wsj.com/articles/for-many-christians-in-middle-east-intimidation-or-worse-1469573266.

[103] *Karadzic*, Case Nos. IT-95-5-R61, IT-9-18-R61, at ¶ 94.

Furthermore, international law does not require that the targeted group be destroyed completely in order for it to constitute genocide. Intending to destroy the targeted group "*in part*" fully suffices[104]. As such, one cannot legitimately claim that, because *some* Christians can, allegedly, save their lives by paying jizya, the Islamic State is not engaged in the genocide of Christians. A substantial number of Christians have already been killed. More will be killed if they either decline to pay or cannot pay jizya. Converting to Islam, paying jizya, or suffering death, all amount to "[d]eliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part" under subparagraph (c) of the Genocide Convention's definition of genocide.

The jizya tax is a devious tactic of the Islamic State used to extort money from Christians, often right before they turn around and murder those same Christians or expel them from their homeland. Jizya should never be legitimised, especially by an international legal body holding itself out as a bastion of peace and security.

III. The United Nations Must Fulfill Its Solemn and Well Established "Responsibility to Protect".

Once the United Nations as an organisation recognises the genocide as such, *then* it may properly mobilise the international community to honour the terms of the Genocide Convention and fulfill its responsibility to protect. The Security Council can play a significant role in mobilising the international community.

According to the Genocide Convention, "[t]he Contracting Parties confirm that genocide . . . is a crime under international law which they undertake to prevent and punish"[105]. The Convention makes clear that "the competent organs of the United Nations" have a responsibility "to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide." According to the Office of the Special Adviser on the Prevention of Genocide, "[t]he duty to prevent and halt genocide and mass atrocities lies first and foremost with the State, but the international community has a role"[106].

Indeed, this role — the "responsibility to protect" — was stipulated "in the Outcome Document of the 2005 United Nations World Summit (A/RES/60/1, para. 138-140), and formulated in the Secretary-General's 2009 Report (A/63/677) on Implementing the Responsibility to Protect." As the U.N. Secretary General's office has recognised and as has been adopted by the General Assembly:

> *The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.* In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and *national authorities are manifestly failing*

[104]Genocide Convention, *supra* note 8.
[105]*Id.* at art. I.
[106]Responsibility to Protect, *supra* note 4.

> *to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications*, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out[107].

As a member of the United Nations, we respectfully urge you to remember, fulfill, and promote *this* responsibility and obligation. We request that your country use its influence to pressure the United Nations to first recognise the ongoing atrocities as genocide, then to mobilise along with other appropriate organs of the United Nations, to take action. There can be no serious doubt that the relevant States, Iraq and Syria, are "manifestly failing to protect [their] populations" of Christians, Yazidis, and other religious minorities. The estimated number of genocide victims demonstrates the manifest failure, and the contributing causes are not difficult to ascertain: the current status of the Syrian government and the Islamic State's lengthy control over significant portions of Iraq's territory. Even while military efforts against the Islamic State continue, the Islamic State continues its genocide with staggering consistency.

IV. The United Nations Must Implement All Available Means to Stop the Genocide and Protect the Victims.

That the ongoing atrocities against Christians and other religious and ethnic minorities constitute genocide and that the United Nations and its organs possess the responsibility to protect as concerns that genocide is clear. We now turn to specific means uniquely available to the United Nations to implement its responsibility and give meaning to the Convention.

We respectfully call to your attention that, pursuant to the Charter of the United Nations, the very purpose of the United Nations is to "maintain international peace and security, and to that end: to *take effective collective measures for the prevention and removal of threats to the peace*"[108]. And, the Charter vests the Security Council with the authority to take non-military action in an effort to restore peace and security[109].

As recognised by the Genocide Convention, prosecution plays a critical role in halting genocide. In addition to state tribunals that can try persons who commit acts of genocide in a specific state, the Convention provides that persons can be tried in any "*international penal tribunal* as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction"[110]. Syria and Iraq are both contracting parties to the Genocide Convention, and neither has made any reservations or declarations.

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[107] Report of the Secretary-General, *Implementing the Responsibility to Protect* (12 Jan. 2009), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677 (emphasis added).

[108] U.N. Charter art. 1, para. 1 (emphasis added).

[109] U.N. Charter art. 41. Moreover, should non-military means be deemed inadequate, the Security Council "may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security." *Id.*

[110] Genocide Convention, *supra* note 8, at art. VI.

As you are aware, there are two actions that the Security Council in particular may take to create a penal tribunal with the necessary jurisdiction: (1) refer Islamic State members' crimes of genocide to the International Criminal Court (ICC); or (2) create an *ad hoc* tribunal for prosecuting such crimes (as was done for the Former Yugoslavia and Rwanda). Importantly, ***both*** avenues require Security Council action.

The first available avenue, the ICC, would only have jurisdiction if the United Nations Security Council specifically makes the referral[111]. The ICC does not automatically possess jurisdiction to try Islamic State members and the genocide committed in Iraq and Syria because Iraq and Syria are not signatories to the Rome statute and Islamic State members are not state actors[112]. Accordingly, the Security Council must specifically refer such a matter to the ICC in order to vest the ICC with the requisite jurisdiction and the ability to prosecute[113].

Second, the Security Council could create an "*ad hoc* tribunal" to prosecute Islamic State members committing genocide. This mechanism was utilised by the Security Council "to prosecute international criminal violations during the 1994 genocide in Rwanda and [again to prosecute] the international criminal violations that occurred during the struggles in the former Yugoslavia in the early 1990s"[114]. Unfortunately, the need for such a tribunal is present once again.

Whichever avenue is chosen, it is clear that the Security Council is vested with the authority to prosecute. In its resolution, the European Parliament "urges the members of the UN Security Council to support a referral to the International Criminal Court" and invites the Security Council to take measures for these acts "to be recognized as genocide" by the International Criminal Court[115]. We urge you to communicate with the United Nations your desire that these acts of genocide be recognised as such, and prosecuted vigorously.

* * * * *

The Islamic State's systematic pattern of widespread murder and sexual abuse has forced thousands of Christians to flee from Iraq and Syria. These acts are leading to the wholesale destruction of Christians as a group in the region. Massive deportations, widespread killings, and countless rapes may be construed as steps in the process of "gradual weakening of the population" that will result in a religious cleansing of all Christians from Islamic State-controlled territories[116]. "[M]urder, sexual assault, intimidation, harassment, and the destruction of sacred and cultural buildings" are specific methods of cleansing an area of an unwanted group[117]. As such, "[t]he number of the victims selected only because of their

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[111] Joshua Keating, *Isis May be Guilty of Genocide, but Prosecuting it Will be Tricky*, SLATE.COM (8 Apr. 2015, 4:35 PM), http://www.slate.com/blogs/the_slatest/2015/04/08/isis_and_the_icc_why_it_s_will_be_tough_to_prosecute_the_islamic_state_for.html.

[112] *Id.*

[113] *ICC Has No Jurisdiction to Prosecute ISIS Despite 'Crimes of Unspeakable Cruelty'*, THE GUARDIAN (8 Apr. 2015), http://www.theguardian.com/law/2015/apr/08/icc-no-jurisdiction-prosecute-isis-despite-crimes-unspeakable-cruelty.

[114] Erin Banco, *U.S. Says ISIS Crimes Amount to Genocide but Prosecution is Difficult*, IBTIMES.COM (17 Mar. 2016, 2:08 PM), http://www.ibtimes.com/us-says-isis-crimes-amount-genocide-prosecution-difficult-2338504.

[115] Eur. Parl. Ass., *Joint Motion for a Resolution*, 2016/2529(RSP) (2 Feb. 2016), http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P8-RC-2016-0149+0+DOC+XML+V0//EN.

[116] *See Karadzic*, *supra* note 103 at ¶¶ 63, 94.

[117] *See id.* at ¶ 62.

membership in a group . . . lead[s] to the conclusion that an intent to destroy the group, at least in part, [is] present"[118]. Without international intervention designed to end this slaughter — to paraphrase the words of former United States Permanent Representative to the United Nations Ambassador Samantha Power—the world will become "no more than witnesses at a funeral"[119] of thousands of Christians and thousands of years of the world's most important history.

The United Nations must stand against the evils of the ongoing genocide and use all available options to stop the genocide and protect the victims — by implementing appropriate penal tribunals, coordinating a more effective use of coalition military force, administering a more efficient delivery of aid, and providing meaningful in-region protection for victims such as the establishment of safe-zones. The Charter of the United Nations demands no less, and through the organs of the United Nations, equipped and empowered by the Genocide Convention, the United Nations has the unique capability, and the responsibility, to end the genocide and protect the Christians and other religious and ethnic minorities victimised thereby.

We, therefore, respectfully and solemnly urge you to call for all United Nations bodies to recognise and declare that the ongoing atrocities committed by the Islamic State and associated groups constitute genocide and that Christians are among those victimised thereby, and vocalise your support for a referral by the Security Council to the International Criminal Court or the establishment of a competent tribunal in order to investigate violations by the Islamic State committed in Iraq, Syria and elsewhere in the region against Christians, Yazidis and other religious and ethnic minorities. We urge you to communicate with all appropriate offices of the United Nations accordingly and to mobilise the international community to take swift and decisive action.

Respectfully submitted,

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Robert W. Ash
Senior Counsel

[118] *Id.* at ¶ 94.

[119] SAMANTHA POWER, "A PROBLEM FROM HELL" AMERICA AND THE AGE OF GENOCIDE 247 (2002, 2003, 2007, 2013) (referencing the Bosnian genocide).