

**ISIS’S CRIMES AGAINST HUMANITY AND THE
ASSYRIAN PEOPLE: RELIGIOUS
TOTALITARIANISM AND THE PROTECTION OF
FUNDAMENTAL HUMAN RIGHTS**

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I. INTRODUCTION

Despite great technological progress, increasing free trade, instant access to international communications, and other positive aspects of globalization, the world is still characterized by systematic and widespread violations of human dignity. For example, it is difficult to express in words the shocking actions of terrorist organizations such as the “Islamic State of Iraq and Syria” (ISIS). In the 21st century, the systematic killing of innocent human beings, slavery, torture, and other violations of human dignity should not happen. The widespread killing of ethnic and religious minorities and other atrocities, committed in territories controlled by ISIS, show the reality

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of the existence of extreme political evil and the importance of confronting crimes against humanity by all means.

According to Malcolm Nance, leading expert on global terrorism,

The Islamic State of Iraq and Syria—“ISIS” or “the caliphate of the Islamic State”—has become the single most dangerous threat to global security since al-Qaeda. It is more than just a threat to America and the West, because it also poses an existential threat to Islam: its goal is to coopt or enslave 1.8 billion Muslims.¹

ISIS’s terrorist actions are global in scope. However, to properly understand the nature of ISIS’s international crimes and why a normative response is necessary to end its actions, it is essential to focus on its activities in a concrete historical setting and against specific people.

This article focuses on crimes against humanity in the context of ISIS’s violations of fundamental human rights of the Assyrian people. Crimes against humanity are very closely related to international human rights law, just as war crimes are closely related to international humanitarian law.² The concept of crimes against humanity was first used by George Washington Williams to describe Belgium’s practices in the Congo in the 1890s,³ and again in 1915 to describe the widespread massacre of the Armenian people by the Ottoman Empire.⁴ It is important to remember that the Assyrian people were also victims of Ottoman actions during the 19th and 20th centuries.⁵ Therefore, the concept of crimes against humanity, in that historical context, should also be applicable to the crimes against Assyrians.

Today, Assyrians are once again victims of one of the most extreme forms of political evil, defined by international law as “crimes against humanity.”⁶ Those crimes include widespread murder, torture and persecution. Assyrian Christians are one of the main victims of the criminal

1. MALCOLM NANCE, *DEFEATING ISIS* 19 (2016).

2. ANTONIO CASSESE, *INTERNATIONAL CRIMINAL LAW* 64–65 (3rd ed. 2013).

3. ADAM HOCHSCHILD, *KING LEOPOLD’S GHOST: A STORY OF GREED, TERROR, AND HEROISM IN COLONIAL AFRICA* 111 (1999).

4. *Id.* at 117.

5. David Gaunt, *The Assyrian Genocide of 1915*, ASSYRIAN INFORMATION MANAGEMENT (Apr. 25, 2014 4:35 PM), <http://www.atour.com/history/1900/20140424a.html>.

6. See Assyrian Universal Alliance, *Australia Recognizes Crimes Committed By ISIS Against Assyrians As Genocide*, ASSYRIAN INTERNATIONAL NEWS AGENCY (May 2, 2016 6:25 GMT), <http://aina.org/news/20160502022530.htm>; see also Chris Bowen MP, *It’s Important that the House Recognizes the Genocide of the Assyrian People in Syria and Iraq*, YOUTUBE (May 1, 2006), <https://www.youtube.com/watch?v=Oh4DTRYZeWE&feature=youtu.be>.

actions of ISIS.⁷ As a distinct minority ethnic and religious group, they were the victims of systematic human rights violations during Saddam Hussein's regime in Iraq, and during other oppressive regimes.⁸ In the current historical context, those violations have become more extreme in territories controlled by ISIS. Assyrians have been targeted because of their ethnic and religious identity.⁹ They have been systematically murdered, tortured and enslaved by ISIS's militants, and Assyrian women have been raped and forced into sexual slavery.¹⁰

International law is one of the most powerful discourses to analyze and provide answers to ISIS's actions against the Assyrian people and other ethnic and religious groups. To properly understand the place of international law, in situations such as the crimes against humanity committed by ISIS, it is necessary to consider not only the applicable international legal norms, but also philosophical, historical, and cultural issues that influence the process of creation and implementation of legal principles and norms.

II. WHO ARE THE ASSYRIAN PEOPLE?

The Assyrian people are an ethnic and religious group which has a rich historical and cultural heritage. They have inhabited the territory of what is now Iraq for thousands of years. They speak Syriac, which is a language derived from Aramaic.¹¹ Assyrians were among the first people groups to convert to Christianity, in the first to third centuries, and they spread their religious beliefs across the Middle East in the following centuries.¹²

The Assyrian church has a theology which is similar to the Catholic faith.¹³ Assyrians believe in Jesus Christ as the Son of God, they believe in the death and resurrection of Jesus, and they accept the Bible as being

7. *Id.*

8. MINDY BELZ, *THEY SAY WE ARE INFIDELS* xviii (2016).

9. AMNESTY INT'L, *ETHNIC CLEANSING ON A HISTORIC SCALE: ISLAMIC STATE'S SYSTEMATIC TARGETING OF MINORITIES IN NORTHERN IRAQ* 4 (2004).

10. *Id.* at 16.

11. Hannibal Travis, *The Cultural and Intellectual Property Interests of the Indigenous Peoples of Turkey and Iraq*, 15 *TEX. WESLEYAN L. REV.* 415, 434 (2009).

12. Christine Chaillot, *The Ancient Oriental Churches*, in *THE OXFORD HISTORY OF CHRISTIAN WORSHIP* 131, 161 (Geoffrey Wainwright & Karen Westerfield Tucker eds., 2006); WILLIAM BAUM & DIETMAR WINKLER, *THE CHURCH OF THE EAST: A CONCISE HISTORY* 7–12 (2000); A.J. MACLEAN, *SYRIAN CHRISTIANS*, in 12 *ENCYCLOPEDIA OF RELIGION AND ETHICS* 167, 170 (James Hastings ed., 1920).

13. See W.A. WIGRAM, M.A., D.D. *AN INTRODUCTION TO THE HISTORY OF THE ASSYRIAN CHURCH* 1909, <http://www.aina.org/books/itthotac/itthotac.htm>.

inspired by God.¹⁴ According to the “Profession of the Orthodox Faith of the Holy Apostolic Catholic Assyrian Church of the East,” Assyrian Christians adhere to seven tenets of faith: priesthood, holy baptism, oil of chrism, Holy Qurbana (Eucharist), absolution of sins, Holy Heaven, and the sign of the life-giving cross.¹⁵ Unlike ISIS’s followers, Assyrian Christians have a missional history; however, they do not believe in forcing others to conform to their religious beliefs.

Some authors hold the view that the term “Assyrian Christians” has more of an ethnic connotation than it does a religious one.¹⁶ The Assyrian people are seeking to have their own land in the Nineveh region where they can be politically independent to protect their status as a people group.¹⁷

When the Arab people invaded and conquered the region, the Assyrians were subjected to religious and cultural discrimination and persecution.¹⁸ They were often treated as second-class citizens, and did not have the same political and social rights as others.¹⁹ In the 19th and 20th centuries, the Assyrians were repeatedly massacred and persecuted by the Ottoman Empire, which viewed them as a potential threat. During World War I, the “Assyrian Genocide” claimed between 175,000 and 250,000 lives at the hands of the Ottoman Empire.²⁰

In 1932, the Assyrian people refused to become part of the state of Iraq, instead, choosing to be recognized as a “nation within a nation.”²¹ Assyrian Christians enjoyed a short period of peace from the 1940s until 1963, but have been persecuted by both Iraqi and Syrian Islamic extremists since

14. *Id.*

15. *Profession of the Orthodox Faith of the Holy Apostolic Catholic Assyrian Church of the East*, MAR YOSIP PARISH, <http://www.maryosipparish.org/aboutus.aspx?TID=2> (last visited Sept. 30, 2016).

16. Jeremy Courtney, *What Everyone Gets Wrong About the Persecution of Christians in Iraq*, THE WEEK (Apr. 10, 2015), <http://theweek.com/articles/548138/what-everyone-gets-wrong-about-persecution-christians-iraq>.

17. See Romsin McQuade, *Iraq’s Persecuted Christians Are In Limbo*, THE TELEGRAPH (July 30, 2014, 12:05 PM), <http://www.telegraph.co.uk/news/worldnews/middleeast/iraq/11000168/Iraqs-persecuted-Assyrian-Christians-are-in-limbo.html>.

18. See CLINTON BENNETT, *MUSLIMS AND MODERNITY: AN INTRODUCTION TO THE ISSUES AND DEBATES* 163 (2005).

19. Travis, *supra* note 11, at 436.

20. *Id.* at 437.

21. See Phillip Zane & Waleeta Canon, *The League of Nations and the Quest for an Assyrian Homeland*, ASSYRIAN INTERNATIONAL NEWS AGENCY, <http://www.aina.org/articles/lfnafah.htm> (last updated Sept. 30, 2016 07:34 GMT).

then.²² Between 2003 and 2009, “over 350,000 Iraqi Christians have fled (at least one-third of the Iraqi Christian population).”²³

In recent years, the Assyrian people have found themselves the target of further discrimination and persecution at the hands of ISIS terrorists.²⁴ ISIS justifies its international crimes—against religious and ethnic minority groups—by using a totalitarian religious discourse which dehumanizes anybody who has a different worldview.

III. ISIS’S IDEOLOGICAL SOURCES OF JUSTIFICATION FOR CRIMES AGAINST HUMANITY

For Malcolm Nance, a leading expert on ISIS, “[t]he global jihad movement is arguably the most wealthy, influential, and violent terror cult in the history of humankind.”²⁵

ISIS is an insurgent and terrorist organization which has the objective of establishing an Islamic Caliphate.²⁶ *The Management of Savagery* is a document which serves as a foundation for ISIS’s ideology and actions. Regarding this document, journalist Jessica Sterns writes:

Al Naji wrote of the necessity of violence, in all its “crudeness and coarseness,” in order to awaken potential recruits to the reality of the jihadis’ war and to intimidate enemies by showing the price they would pay for their involvement.²⁷

The ideology of ISIS is often expressed in audio and video messages. One of those messages reflects the complete disregard of any view which opposes them. Al Adnani, an ISIS spokesperson, believes that all fundamental ideas which originated in the West, including Christianity, secularism and democracy, should be rejected by Muslim believers and they should embrace Jihad against non-Muslims.²⁸ This is consistent with the

22. Travis, *supra* note 11, at 448 n.43 (citing Annia Ciezadlo, *Iraq’s Christians Consider Fleeing as Attacks on Them Rise*, *Christian Sci. Monitor*, 7 (July 13, 2004); Stephen Franklin, *They Dream of Survival*, *Chi. Trib.*, 1 (Apr. 1, 2004)).

23. Michael Youash, *Iraq’s Minority Crisis and U.S. National Security: Protecting Minority Rights in Iraq*, 24 *AM. U. INT’L L. REV.* 341, 343 (2008).

24. Paul Isaac, *The Urgent Reawakening of the Assyrian Question in an Emerging Iraqi Federalism: The Self-Determination of the Assyrian People*, 29 *N. ILL. U. L. REV.* 209, 212 (2008).

25. NANCE, *supra* note 1, at 189.

26. See JESSICA STERN & J.M. BERGER, *ISIS: THE STATE OF TERROR* 1 (2015).

27. *Id.* at 114–15.

28. *Id.* at 117.

Salafist perspective of Islam which is a fundamental tenant of ISIS's ideology. Salafism is a theological interpretation of Sunni Islam which seeks to eliminate idolatry.²⁹ Salafism holds the view that they are the only true Muslims.³⁰ Shi'a Muslims, and the ones who embrace democratic values, are apostates.³¹

Another key aspect of ISIS's ideology is an aggressive extreme form of jihad. Regarding this, Cole Bunzel, a leading expert on ISIS, says: "[t]he Islamic State also emphasizes the offensive form of jihad, which in the Wahhabi tradition is premised on the uprooting of shirk, idolatry, wherever it is found"³²

ISIS's ideology seeks the destruction of religious and political symbols of whoever opposes its views. This terrorist methodology serves to promote widespread violence and sectarian wars between Sunni and Shiite Muslims.³³ Malcolm Nance synthesizes ISIS's ideology as follows:

In the interpretation of ISIS, their ideology commits them to work solely in the belief that all God wishes, is prayer and devotion to God and commitment to the literal words of the Qur'an and the events it predicts. . . . They believe the only way to convince 1.8 billion Muslims that God is pleased with the beheading of children and the rape of women is to characterize those acts as a form of worship. This is the interpretation of ISIS that defines their cultism. All mass murder, subjugation, slavery, death and more death is the highest form of worship to God. They are his instrument and absent direct orders they accept that they are fulfilling the events of the Qur'an's book of Tribulation.³⁴

ISIS's ideology promotes the view that its members who die in suicide attacks, are expressing their greatest faith in God, which insure them a place in Paradise.³⁵ Secretary of State John Kerry stated that ISIS's "entire worldview is based on eliminating those who do not subscribe to its perverse

29. Cole Bunzel, *From Paper State to Caliphate: The Ideology of the Islamic State*, 7 (Mar. 2015), <https://www.brookings.edu/wp-content/uploads/2016/06/The-ideology-of-the-Islamic-State.pdf>.

30. *Id.*

31. *Id.* at 8.

32. *Id.* at 10.

33. Maj. Aaron L. Jackson, *Hunting Down Terrorists "Wherever They Exist": ISIL in Syria and the Legal Argument for United States Military Operations Within the Territory of a Non-Consenting Nation-State*, 74 A.F. L. REV. 133, 138 (2015) (quoting Charles River Editors, *The Islamic State of Iraq and Syria: The History of ISIS/ISIL*, *supra* note 14, at 17 (2014)).

34. NANCE, *supra* note 1, at 194.

35. *Id.* at 197.

ideology.”³⁶ ISIS has pointedly attacked any other group that it considers to be in apostasy, including Shia Muslims,³⁷ Yazidis,³⁸ and Christians.³⁹ Because this persecution is based on religious identity, it will not stop unless either all of the “non-believers” are eliminated, or ISIS is defeated. ISIS’s interpretation of Sharia law specifically authorizes this conduct, sanctioning aggressive jihad against all non-Muslims.⁴⁰

IV. ISIS’S INTERNATIONAL CRIMES AGAINST THE ASSYRIAN AND OTHER RELIGIOUS AND ETHNIC MINORITY GROUPS

To accomplish its objectives, ISIS seeks to expand its control of territories and populations, in Iraq and Syria, by using all available means, including murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecution, enforced disappearance and other inhumane actions. ISIS’s actions constitute extreme violations of fundamental norms of international law, including international human rights law and international humanitarian law. ISIS’s international crimes include genocide, war crimes, and crimes against humanity.

In March of 2016, the European Parliament officially recognized that the actions of ISIS against minority groups including Assyrian Christians are classified as international crimes.⁴¹ Just days later, the United States followed suit, in a rare unanimous vote in the House of Representatives.⁴²

Regarding the main characteristics of ISIS’s actions in its control territories, Michael Weiss and Hassan Hassan said:

36. Matthew Rosenberg, *Citing Atrocities, John Kerry Calls ISIS Actions Genocide*, N.Y. TIMES (Mar. 17, 2016), http://www.nytimes.com/2016/03/18/world/middleeast/citing-atrocities-john-kerry-calls-isis-actions-genocide.html?_r=0.

37. Hamdl Alkhshall & Angela Dewan, *40 Dead in ISIS Attack on Iraqi Shiite Shrine, Officials Say*, CNN (July 8, 2016), <http://www.cnn.com/2016/07/08/middleeast/iraq-isis-attack-shiite/>.

38. David Stout, *Be Captured and Killed, Or Risk Dying of Thirst: The Awful Choice Facing the Refugees of Sinjar*, TIME (Aug. 6, 2014), <http://time.com/3085270/iraq-yazidi-mount-sinjar-islamic-state-refugees/>.

39. Treza Kamal, *Thousands Mourn Egyptian Victims of Islamic State in Disbelief*, REUTERS (Feb. 16 2015), <http://uk.reuters.com/article/uk-mideast-crisis-egypt-village-idUKKBN0LK1L420150216>.

40. Qur’an 9:29; *see also* Qur’an 29:8, 31:15, 47:31.

41. *See* European Parliament Resolution on the Systematic Mass Murder of Religious Minorities by the so-Called ISIS/Daesh, No. 2016/2529 of 02 March 2016,(RSP).

42. H.R. Con. Res. 75, 114th Cong. (2015–16).

Typically, when ISIS takes over a new town, the first facility it establishes is a so-called Hudud Square, to carry out Sharia punishments such as crucifixions, beheadings, lashings, and hand amputations. It then establishes a Sharia court, police force, and security operation station. The work of Sharia police known as al-Hisbah, is not restricted to the implementation of the religious code, but also includes regulation of the marketplace.⁴³

The testimonies before the United States House of Representatives Committee on Foreign Affairs, regarding Assyrians and other religious and ethnic groups, show that ISIS is responsible for widespread violations of international human rights law and international humanitarian law. According to the hearing:

These communities—Assyrian and Chaldean Christians, Yezidis, Alawites, and others—are under mortal threat in their ancestral homelands. And the mass execution of men, the enslavement of women and children, and the destruction of religious sites, is part of the ISIS effort to destroy these communities, to destroy all evidence of the preexistence of these communities. In fact, ISIS maintains a special battalion. They call it the “demolition battalion.” And that battalion is charged with going after art and going after artifacts, religious and historic sites that it considers heretical or idolatrous, and their job is simply to destroy history.⁴⁴

The Assyrian people, together with other Christian communities, have been systematically persecuted in the territories controlled by ISIS. This persecution is based on ethnic and religious reasons.⁴⁵

Regarding the Assyrian and other Christian communities in Iraq, Brian Katulis, Senior Fellow at the Center for American Progress, writes: “ISIS[’s] seizure of Mosul and surrounding parts of the nearby Nineveh Plains devastated Christian communities that had roots in those areas reaching back more than 1,500 years.”⁴⁶

43. MICHAEL WEISS & HASSAN HASSAN, *ISIS: INSIDE THE ARMY OF TERROR* 230 (2016) (eBook).

44. *Ancient Communities Under Attack: ISIS War On Religious Minorities: Hearing Before the Committee on Foreign Affairs, House of Representatives* 114th Cong., 3 (2015).

45. See Brian Katulis, *The Plight of Christians in the Middle East* 1 (2015), <https://cdn.americanprogress.org/wp-content/uploads/2015/03/ChristiansMiddleEast-report.pdf>.

46. *Id.* at 14.

Amnesty International has documented a number of ISIS crimes. Regarding ISIS's actions against the Assyrian people and against other ethnic and religious minorities, Amnesty writes:

The group that calls itself the Islamic State (IS) has carried out ethnic cleansing on a historic scale in northern Iraq. Amnesty International has found that the IS has systematically targeted non-Arab and non-Sunni Muslim communities, killing or abducting hundreds, possibly thousands, and forcing more than 830,000 others to flee the areas it has captured since 10 June, 2014.⁴⁷

Since April 2013, ISIS has expanded its influence and exerted its control over large territories and populations in Syria and Iraq.⁴⁸ ISIS indiscriminately targets civilian populations, including children, and systematically violates fundamental human rights, displacing civilian populations and violating the right to life of minority groups in ISIS occupied territories.⁴⁹ According to the United Nations:

Where ISIS has occupied areas with diverse ethnic and religious communities, minorities have been forced either to assimilate or flee. The armed group has undertaken a policy of imposing discriminatory sanctions such as taxes or forced conversion—on the basis of ethnic or religious identity—destroying religious sites and systematically expelling minority communities. Evidence shows a manifest pattern of violent acts directed against certain groups with the intent to curtail and control their presence within ISIS areas.⁵⁰

ISIS has systematically targeted Christian populations and churches. In September and October of 2013, ISIS fighters destroyed one Greek Catholic church, occupied an Armenian Orthodox church, and burnt down another Armenian church.⁵¹ As ISIS spreads, so does the destruction of Christian places of worship.⁵²

47. AMNESTY INTERNATIONAL, ETHNIC CLEANSING ON A HISTORIC LEVEL: ISLAMIC STATE'S SYSTEMATIC TARGETING OF MINORITIES IN NORTHERN IRAQ 4 (2014).

48. See Rep. of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, *Rule of Terror: Living Under ISIS in Syria*, A/HRC/27/CRP.3, 6 (Nov. 19, 2014) [hereinafter *Rule of Terror*].

49. *Id.* at 4.

50. *Id.* at 5.

51. *Id.*

52. *Id.*

ISIS terrorists have publicly beheaded, shot, and stoned civilians, including women and children, mutilating and publicly displaying the bodies.⁵³ This is often justified by “the practice of takfir, declaring someone to be a heretic.”⁵⁴ ISIS victimizes entire communities by forcing them to witness the executions.⁵⁵ Following the executions, ISIS will display the corpses on crosses for days, or place heads on spikes, to intimidate local populaces.⁵⁶

Some of ISIS’s most disturbing crimes illustrate its complete lack of respect for children’s rights. “Children have been the victims, perpetrators and witnesses of ISIS’s executions.”⁵⁷ ISIS has beheaded and shot children “for alleged affiliation with other armed groups,” and has also forced children to execute others.⁵⁸ Trauma is also inflicted on children through the psychological effects of public executions, either through forced attendance or by viewing the mutilated corpses in the coming days.⁵⁹

Inflicting terror on children is not an accidental byproduct of ISIS’s actions; rather, children are prioritized “as a vehicle for ensuring long-term loyalty, adherence to their ideology and a cadre of devoted fighters that will see violence as a way of life.”⁶⁰ These actions are inhumane, shocking, and barbaric. They are contrary to any rational understanding of what it means to be human. In philosophical terms, these actions constitute extreme political evil.

ISIS systematically destroys churches, monuments, and other important cultural buildings, without military importance, of any ethnic or religious group that opposes its ideology.⁶¹ Those actions, against protected objects, are international crimes and violations of international humanitarian law.⁶²

53. *Rule of Terror*, *supra* note 48, at 6.

54. *Id.*

55. *Id.* at 7.

56. *Id.*

57. *Id.* at 10.

58. *Rule of Terror*, *supra* note 48, at 10.

59. *Id.*

60. *Id.*

61. *Id.* at 6.

62. *Id.*

V. ISIS AND THE ELEMENTS OF CRIMES AGAINST HUMANITY

Widespread murder, torture, rape, forced disappearance, sexual slavery, forcible displacement, sentencing and executions without due process of the law, forced pregnancy are some of ISIS's international crimes.⁶³ ISIS is consistently and systematically violating fundamental norms of international human rights law and international humanitarian law. Those actions are international crimes. International crimes are often organized and implemented by government entities or by organizations that have political objectives, such as terrorist organizations. Regarding the interconnectedness of diverse international crimes, Wayne McCormack writes:

There are also fundamental links among terrorism, genocide, and slavery. A great deal of collective violence is based on ethnic or cultural identity. The crimes of genocide and crimes against humanity reflect not just an intolerance of widespread violence but a revulsion for treating people as less than human.⁶⁴

The different names used for international crimes help us understand why ISIS's actions are crimes against humanity. According to Professor Bassiouni, "[i]nternational crimes are also called 'delicti jus gentium' (crimes against humanity) . . . U.S. founders, often citing European scholars like Grotius, Vattel, Ayala, and Gentili, referred to them also as 'crimes against mankind' and crimes 'against the whole world,' and their perpetrators as 'enemies of the whole human family.'"⁶⁵

The term "crimes against humanity" was first used by the framers of the Nuremburg Charter; it was selected by U.S. Supreme Court Justice, Robert Jackson, who was the chief U.S. prosecutor during the Nuremburg Trials.⁶⁶ It was used then to describe the actions of extreme political evil perpetrated by the Nazi regime, including the systematic killings of innocent human beings solely because of their ethnic and religious identity. The crimes

63. *Rule of Terror*, *supra* note 48, at 13.

64. WAYNE MCCORMACK, INTERNATIONAL CRIMINAL LAW CASES AND MATERIALS 15 (2015).

65. JORDAN J. PAUST ET. AL., INTERNATIONAL CRIMINAL LAW: CASES AND MATERIALS 5 (1996).

66. M. CHERIF BASSIOUNI, CRIMES AGAINST HUMANITY IN INTERNATIONAL CRIMINAL LAW 17 (1992).

against the Jewish people were so extreme that they were considered not only to be crimes against the Jewish, but against all humankind.⁶⁷

In the same way, the actions of ISIS against Assyrian Christians and other groups—systematic torture and murder of innocent human beings, motivated solely because of ethnic and religious identity—are so extreme that they constitute crimes against all humanity. This means, that these crimes are committed not only against the Assyrian people, but also against the American people, the French people, the Russian people, the Bolivian people, the Nigerian people, and all other people of the world. Regarding the characteristics of crimes against humanity, David Luban stated:

[First], the phrase, “crimes against humanity,” suggests offenses that aggrieve not only the victims and their own communities, but all human beings, regardless of their community. Second, the phrase suggests that these offenses cut deep, violating the core humanity that we all share and that distinguishes us from other natural beings.⁶⁸

Luban also states, that crimes against humanity “are so universally odious that they make the criminal *hostis humani generis*—an enemy of all humankind, like the pirate on the high seas under traditional international law.”⁶⁹ Luban points to the Biblical account of Cain as an example of the concept of *hostis humani generis*, quoting God’s banishment of Cain in Genesis 4: “The voice of thy brother’s blood crieth unto me from the ground. And now art thou cursed from the earth, which hath opened her mouth to receive thy brother’s blood from thy hand . . . a fugitive and a vagabond shalt thou be in the earth.”⁷⁰ Cain became “unfit for the society of anyone, and (within the moral limits of proportionality) anyone’s legitimate target”—an enemy of humanity.⁷¹

The Charter of the international Military Tribunal for the Trial of Nazi War Criminals defines crimes against humanity as:

67. See 2010 Education Working Group Paper on the Holocaust and Other Genocides, TASK FORCE FOR INTERNATIONAL COOPERATION ON HOLOCAUST EDUCATION, REMEMBRANCE, AND RESEARCH, http://www.un.org/en/holocaustremembrance/EM/partners%20materials/EWG_Holocaust_and_Other_Genocides.pdf (last visited Oct. 15, 2016).

68. David Luban, *A Theory of Crimes Against Humanity*, 29 YALE J. INT’L L. 85, 86 (2004).

69. *Id.* at 90.

70. *Id.* at 140 (quoting *Genesis* 4:10–12 (King James)).

71. *Id.*

murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of, or in connection with, any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.⁷²

Consistent with Professor David Luban's view, there are five legal features of crimes against humanity: crimes against humanity are committed against fellow nationals and foreign citizens; they are international crimes committed by politically organized groups; they consist of the most extreme acts of violence and persecution and they are inflicted on victims because of their membership to a specific population.⁷³ Each one of these distinctive features can be applied to ISIS's crimes against Assyrian Christians.

ISIS's crimes are committed against both fellow nationals and against foreigners. The "Islamic State of Syria and Iraq" acts against anyone that stands in the way of its goal to create a global caliphate. ISIS has shown its capability to commit crimes around the world, in addition to its ground campaign in Iraq and Syria.⁷⁴ Assyrian Christians are Iraqi and Syrian nationals, as are many ISIS members. The crimes committed by ISIS are done against foreign and national citizens. The crimes against the Assyrian people and other groups, who are under the political control of ISIS, are comparable to the Nazi regime crimes which included German and non-German citizens.

ISIS justifies its actions by applying its "legal" system, which is a version of Sharia law, in territories under its control. Those norms include the justification of the killing of human beings who do not share ISIS's view of Islam.⁷⁵ It is obvious that, by any rational standard, ISIS's "legal system" is unjust, irrational and a perversion of the meaning of law. ISIS's actions

72. INTERNATIONAL MILITARY TRIBUNAL, TRIAL OF THE MAJOR WAR CRIMINALS BEFORE THE INTERNATIONAL MILITARY TRIBUNAL, OFFICIAL DOCUMENTS 11 (1947).

73. Luban, *supra* note 68, at 93–103.

74. *Islamic State Claims Responsibility for Orlando Nightclub Shooting*, REUTERS NEWS (June 12, 2006), <http://www.reuters.com/article/us-florida-shooting-claim-idUSKCN0YY0VU>; see also Rukmini Callimachi, *ISIS Claims Responsibility, Calling Paris Attacks 'First of the Storm'*, N.Y. TIMES (Nov. 14, 2015), <http://www.nytimes.com/2015/11/15/world/europe/isis-claims-responsibility-for-paris-attacks-calling-them-miracles.html>.

75. See Stephen O'Brien, *Syrian Conflict, Requesting added Funds for Life-Saving Operations*, UNITED NATIONS MEETINGS COVERAGE (Sept. 16, 2015), <http://www.un.org/press/en/2015/sc12046.doc.htm>.

are crimes against humanity and its “legal system” cannot be used to justify its criminal behavior.⁷⁶

Traditionally, there was a ‘state action’ requirement for a crime to be considered a crime against humanity; that is, they “could be committed only by state actors, or by high—placed civilians embroiled with state actors.”⁷⁷ However, international law has changed in this area, and this requirement is not necessary anymore. This has been seen in cases such as the actions of non-state actors, Serb militias, during the Bosnian War and the civilian groups who perpetrated a significant part of the Rwandan genocide.⁷⁸

Today, the requirement of state action has transformed into a requirement of “organizational responsibility.”⁷⁹ Professor Luban claims that, “the definition of crimes against humanity emphasizes the collective character of the perpetrator.”⁸⁰ Crimes against humanity are characterized not by whether a state actor is involved, but rather by whether the perpetrator has decided to participate in a widespread and systematic attack. ISIS has made its political strategy, to systematically torture and kill Assyrian Christians. These crimes have been committed while the organization claims to exert legitimate political power over the citizens of its conquered territory, and are justified by ISIS’s interpretation of Sharia law.⁸¹ Therefore, there is an organizational responsibility in the commission of the crimes.

According to Article 6(c) of the Nuremberg Charter, there are two categories of crimes against humanity: the first includes crimes such as “murder, extermination, enslavement, deportation, and ‘other inhumane acts,’” such as food deprivation, violating corpses, forced witnessing of atrocities against loved ones, and so on.⁸² Such crimes are considered within

76. See Luban, *supra* note 68, at 95. (Professor Luban explains this feature of crimes against humanity as follows: “Article 6(c) of the Nuremberg Charter, in bringing under international law crimes committed by a state against its own residents, represents an incursion against state sovereignty—a point emphasized by the criminalization of acts whether or not in violation of the domestic law of the country where perpetrated.”).

77. *Id.*

78. *Id.* at 96.

79. *Id.*

80. *Id.* at 98.

81. Balsam Mustafa, *Islamic State Feature: We Need to Talk about ISIS’s Interpretation of Islam*, EA WORLD VIEW (Nov. 30, 2015, 8:49 PM), <http://eaworldview.com/2015/11/islamic-state-feature-we-need-to-talk-about-isiss-interpretation-of-islam/>.

82. Luban, *supra* note 68, at 98.

the realm of crimes against humanity because of the “sheer ugliness” inherent in their commission.⁸³ The second category, or “crimes of the persecution type,” as Luban terms it, includes acts such as persecution based on racial, religious, political, or other grounds; this persecution can take various forms, including “deprivations of the rights to citizenship, to teach, to practice professions, to obtain education, and to marry freely; arrest and confinement; beatings, mutilation and torture; confiscation of property; deportation to ghettos; slave labor; and extermination.”⁸⁴ Therefore, there is no doubt that ISIS is committing crimes against humanity of the “murder” type and the “persecution” type. As it was established in a previous section of this Article, ISIS’s crimes consist of the most extreme acts of violence and persecution.

ISIS’s international crimes against Assyrian Christians are among the most repugnant in modern history. ISIS has repeatedly raided, kidnapped, and murdered Assyrian Christians since it came to power, and it has committed other heinous acts such as destroying Assyrian homes and churches, vandalizing and digging up Assyrian cemeteries, and forced displacement from cultural and historical lands.⁸⁵

ISIS’s crimes are committed against the Assyrian Christians and against other ethnic and religious minorities because of their ethnic and religious identities. The victims are “getting attacked for being (rather than for doing).”⁸⁶ This is a clear description of what ISIS is doing to Assyrian Christians. The victims of ISIS’s crimes are not being singled out for their identities as individuals, but rather because they are identified as part of an ethnic and religious group.⁸⁷ ISIS’s raids target villages with predominantly Christian populations, and ISIS’s bombings in Syria specifically target

83. *Id.* at 99.

84. *Id.* (quoting Steven R. Ratner, Jason S. Abrams & James Bischoff, ACCOUNTABILITY FOR HUM. RTS. ATROCITIES IN INT’L LAW: BEYOND THE NUREMBERG LEGACY, 74 (3d ed. 2009)).

85. *List of Assyrian and Other Churches Destroyed in Syria*, ASSYRIAN INTERNATIONAL NEWS AGENCY NEWS (Dec. 13 2:15PM), <http://www.aina.org/news/20151212211531.htm>; *See also ISIS Bomb Assyrian Homes, Monastery in Iraq, Cemeteries Vandalized*, ASSYRIAN INTERNATIONAL NEWS AGENCY NEWS (Dec. 26, 2015, 10:21 85PM), <http://www.aina.org/news/20151226052124.htm>.

86. Luban, *supra* note 68, at 105.

87. Belz, *supra* note 8, at xiii.

Christian neighborhoods, like the bombings of restaurants in Qamishli, Syria.⁸⁸

Crimes against humanity have two elements: *actus reus* and *mens rea*.⁸⁹ Regarding the first element, Professor Kriangsak Kittichaisaree writes:

The *actus reus* of a crime against humanity . . . comprises commission of an attack that is inhumane in nature and character, causing great suffering, or serious injury to body, or to mental, or physical health. The inhumane act must be committed as part of a widespread or systematic attack against members of a civilian population.⁹⁰

ISIS's actions of systematic murder of ethnic and religious minority groups, persecution of anybody that opposes its religious ideas and others, are extreme inhumane actions which not only seek to exterminate Christians and other religious groups, but are aimed at causing unspeakable suffering to innocent human beings. This is done as part of ISIS's policy and it is implemented in systematic attacks against civilian populations. For example, when ISIS captured Mosul in June of 2014, it issued an ultimatum to Assyrian Christians in the city: convert to Islam, pay the *jizya* tax, or be murdered.⁹¹ As a result of this ultimatum, over ten thousand Assyrian Christians left the city within the month.⁹² ISIS has repeatedly raided Assyrian villages and kidnapped or murdered Christians and other minority groups. Often, the terrorist insurgent organization has sold women and children in the human trafficking market.⁹³ Senior UN official Zainab

88. John Davison, *Twin Suicide Bombs in Northeast Syria Kill Dozens*, REUTERS NEWS (Dec. 31, 2015, 2:01am), <http://uk.reuters.com/article/uk-mideast-crisis-syria-kurds-idUKKBN0UD1WZ20151231>.

89. See GUÉNAËL METTRAUX, INTERNATIONAL CRIMES AND THE AD HOC TRIBUNALS 156–73 (2006) (Mettraux lists five “sub—elements” of crimes against humanity: the ‘attack’, the nexus between the acts of the accused and the attack, ‘any civilian population’ as the primary object of the attack, ‘widespread or systematic’ character of the attack, and the requisite state of mind or *mens rea*).

90. KRIANGSAK KITTICHAISAREE, INTERNATIONAL CRIMINAL LAW 90–91 (2002).

91. *Iraqi Christians Flee after ISIS Issue Mosul Ultimatum*, BBC NEWS (July 18, 2014), <http://www.bbc.com/news/world-middle-east-28381455>.

92. *Id.*

93. *Islamic State ‘Abducts Dozens of Christians in Syria’*, BBC NEWS (Feb. 24, 2015), <http://www.bbc.com/news/world-middle-east-31601451>.

Bangura confirmed in August, 2015, that ISIS had released a “price list” for captured sex slaves.⁹⁴

Regarding the *mens rea* element of crimes against humanity, professor Antonio Cassese writes: “[a]s the ICTY Appeals Chamber held in Tadic (Appeal), the perpetrator needs to know that there is an attack on the civilian population and that these acts comprise part of the attack.”⁹⁵ The perpetrator must have some *mens rea*, or subjective intent, for their crime to be considered a “crime against humanity.” Regarding this subjective element, Cassese writes:

To sum up, the requisite subjective element or *mens rea* in crimes against humanity is not simply limited to the criminal intent (or recklessness) required for the underlying offence (murder, extermination, deportation, rape, torture, persecution, etc.). The viciousness of these crimes goes far beyond the underlying offence, however wicked or despicable it may be. This additional element—which helps to distinguish crimes against humanity from war crimes—consists of awareness of the broader context into which this crime fits, that is knowledge that the offences are part of a systematic policy or of widespread and large-scale abuses.⁹⁶

As it was seen before in this Article, ISIS’s religious totalitarian ideas have the specific intent, as a matter of policy and as part of a systematic plan, to exterminate those that do not agree with their version of Islam. Therefore, ISIS terrorists have knowledge that their actions are part of a widespread and systematic effort to attack and destroy the Assyrian civilian population and other religious minority groups. As part of ISIS’s strategy to implement its ideology, ISIS terrorists force Assyrian and other minority groups to choose between adopting its religious extremist worldview or death.⁹⁷

VI. ISIS, POLITICAL EVIL, AND THE DEHUMANIZATION OF THE OTHER

Legal ideas and principles are reflections of specific theological and philosophical presuppositions. To understand the nature of ISIS’s crimes

94. Sangwon Yoon, *Islamic State Circulates Sex Slave Price List*, BLOOMBERG NEWS (Aug. 3, 2015, 7:00 PM), <http://www.bloomberg.com/news/articles/2015-08-03/sex-slaves-sold-by-islamic-state-the-younger-the-better>.

95. CASSESE, *supra* note 2, at 82.

96. *Id.*

97. See *Iraqi Christians Flee After Isis Issue Mosul Ultimatum*, BBC NEWS (July 18, 2014), <http://www.bbc.com/news/world-middle-east-28381455>.

against humanity and the normative response of the international community, it is necessary to have a philosophical consideration of the case.

As rational human beings, who are concerned and attempt to make sense of the world in which we live, how can we understand the extreme violations against the human dignity of the Assyrian and other ethnic and religious groups in territories controlled by ISIS? The word “evil” properly describes actions that can be characterized as crimes against humanity. One of the most important analyses, in the history of Western philosophical and theological ideas, regarding the problem of evil was done by St. Augustine of Hippo.

Charles T. Matthews describes Augustine’s perspective on evil in the following paragraph:

[T]he Augustinian tradition interprets evil's challenge in terms of two distinct conceptual mechanisms, one ontological and the other anthropological. Ontologically, in terms of the status of evil in the universe, it understands evil as nothing more than the privation of being and goodness—‘evil’ is not an existing thing at all, but rather the absence of existence, an ontological shortcoming. Anthropologically, in terms of the effect of evil on a human being, it depicts human wickedness as rooted in the sinful perversion of the human's good nature—created in the *imago Dei*—into a distorted, mis-oriented, and false imitation of what the human should be. Privation and perversion: together, these capture the conceptual contours within which the tradition proposes its practical response to evil.⁹⁸

Although individual members of ISIS may irrationally believe that their religious totalitarian ideas are true and justify their crimes, their actions against innocent Assyrians and other people, of course, lack goodness altogether.⁹⁹ These actions constitute a “privation of being.” The systematic murder and torture of innocent human beings is an ontological shortcoming. The extreme wickedness of ISIS’s actions is a perversion of what human beings are supposed to be and do.

Regarding the place of the rational will and the problem of evil in Augustine’s perspective, G. R. Evans writes:

98. CHARLES T. MATTHEWS, *EVIL AND THE AUGUSTINIAN TRADITION* 6–7 (2001).

99. See *ISIS Attack Assyrian District in Syria, Five Killed*, ASSYRIAN INTERNATIONAL NEWS AGENCY (May 22, 2015 07:34 GMT), <http://www.aina.org/news/20160522033449.htm>; see also *IS Group Killed 21 Christians in Al-Qaryatain, Says Patriarch*, ASSYRIAN INTERNATIONAL NEWS AGENCY (Apr. 11, 2016, 05:53 GMT), <http://www.aina.org/news/20160411015349.htm>.

The only creature capable of acting against the good, and bringing about an evil happening, is a creature with a mind of its own. Augustine located the source of evil . . . in the rational will, which is free to choose between good and evil. . . . In *De Natura et Gratia*, he shows that the nature of man, too, was created faultless (*sine ullo vitio*), having all good things from God: life, senses, mind. The fault that darkened and weakened those natural goods did not come from the Creator but from the good free will he gave them (*De Nat. et Grat. I. iii.3*). It is in this sense, that every evil event may be said to have a mind behind it.¹⁰⁰

The will of sovereign states and non-state actors, is an essential element to understand the problem of evil in international relations. In exercising its free will, often sovereign states and non-state actors can and do choose to behave consistent with just normative standards which seek, among other things, to protect the humanity and dignity of other fellow human beings and of ethnic and religious groups which are different from one's own.

In other situations, sovereign states and non-state actors, such as ISIS, exercise their free will by murdering innocent persons, torturing and committing other crimes, which are contrary to what a human being should rationally do. In the Augustinian tradition, those actions are considered actions of extreme evil. When evil actions are done to accomplish political objectives, such as in the case of ISIS, those actions are a form of extreme political evil. Regarding Augustine's analysis of will and reason, Evans writes:

Evil cannot change directly the good natures God has made. The alteration of those natures is possible . . . [i]t takes place in this way: evil arises in the will of rational creatures and makes itself felt by clouding their reason and making it impossible for them to think clearly or to see the truth. They then act upon the world in such a way as to twist everything they touch out of its proper and good nature into something diminished or perverted—as far, that is, as God allows. It is in the mind, then, and specifically in the will (which together with the memory and the understanding, makes up the mind) that we must look for signs of evil.¹⁰¹

Applying this to ISIS's crimes against the Assyrian people, it can be said that the reasoning of ISIS leaders is clouded by their inhumane ideology, which systematically dehumanizes people who disagree with their view of

100. G.R. EVANS, AUGUSTINE ON EVIL 95 (1982).

101. *Id.* at 104.

the world. Regarding the relationship between crimes against humanity and the dehumanization of others, Professor Wayne McCormack said:

There are also fundamental links among terrorism, genocide, and slavery. A great deal of collective violence is based on ethnic or cultural identity. The crimes of genocide and crimes against humanity reflect not just an intolerance of widespread violence, but a revulsion for treating people as less than human.¹⁰²

The dehumanization of others is one of the most important factors behind the actions of terrorist organizations. ISIS systematically dehumanizes its victims, while simultaneously accusing them of attacks against ISIS's version of the Islamic faith.¹⁰³

This distorted view of reality has influenced ISIS's militants thinking. Their distorted reasoning has influenced their wills and this has led them to disregard fundamental natural human rights, such as: the right to life, and the right to religious freedom. This has led to an unjust use of violence against the Assyrian, and other ethnic and religious groups—which ISIS sees as apostates—and therefore, as less than human. Because of this, thousands of innocent children, women, and men have been murdered by ISIS. According to St. Augustine:

there is no single cause of evil; rather, everyone who does evil is the cause of his own evildoing. If you doubt this, recall what I said earlier: [e]vil deeds are punished by the justice of God. They would not be punished justly if they had not been performed voluntarily.¹⁰⁴

The cause of ISIS's evil actions is found in its leaders' and followers' will. Therefore, they can justly be punished for their actions of extreme political evil. They are responsible for the use of their free will and its consequences. St. Augustine further writes:

102. MCCORMACK, *supra* note 64.

103. *See id.* at 17.

104. SAINT AUGUSTINE, *THE FREE CHOICE OF THE WILL* 47 (Thomas Williams trans., 2d ed. 1993).

[T]here are traits like the love of praise and fame, and the will to power. When that drive is not subject to reason it makes us wretched, and no one considers himself superior to another because of his wretchedness. When these impulses of the soul are ruled by reason, a human being is said to be ordered. For we should not call it right order, or even order at all, when better things are subjected to worse Therefore, when reason, mind, or spirit, controls the irrational impulses of the soul, a human being is ruled by the very thing that ought to rule according to the law that we have found to be eternal.¹⁰⁵

ISIS's irrational desire to conquer people who disagree with their ideology, exterminate those that do not convert to their version of Islam, and establish a sovereign state where there is absolutely no respect for fundamental human rights, is against natural reason and conscience. ISIS's irrational ideas are seen in its view of "infidels," in its view of other religions, and in its view of human nature.

International legal instruments have a language that addresses political evil actions. This language is mainly expressed in the fields of international criminal law, international human rights law, and international humanitarian law. These areas of international law are expressions of the common will of humankind against actions of extreme political evil. Considering that widespread violations of fundamental human rights are crimes against humanity, analysis of the human rights discourse is especially relevant for this work.

VII. THE IMPORTANCE OF RESPECT FOR FUNDAMENTAL HUMAN RIGHTS

As the international community is witness to the widespread violations of international human rights' norms by ISIS, it is essential to have a normative language which properly addresses inhumane actions in the 21st century such as what Assyrian Christians are facing in the Middle East.¹⁰⁶

One of the most powerful answers to the irrationality of extreme political evil actions—such as those of ISIS against Assyrian Christians, is the recognition, by governments and individuals, of the inherent dignity of each human being and the importance of ensuring that a global culture of

105. *Id.*

106. See *Syrian Rebels to Assyrians: Convert to Islam to Keep Your Jobs*, ASSYRIAN INTERNATIONAL NEWS AGENCY NEWS (Aug. 4, 2013, 5:10 PM), <http://www.aina.org/news/20130804131312.htm>; see also *Jihadists Seize Christian Village in Syria, Expel Its Residents*, ASSYRIAN INTERNATIONAL NEWS AGENCY NEWS (May 12, 2012, 4:45 PM), <http://www.aina.org/news/20120512124546.htm>.

respect for universal human rights becomes a main foundation for the international normative and political systems.

Regarding the importance of the human rights discourse, Professor Mark Amstutz writes: “[m]uch of the discussion about ethics in international relations takes place in making use of the vocabulary of rights.”¹⁰⁷ The language of international human rights is a powerful instrument to prevent and punish crimes against humanity such as the ones of ISIS.

The words of the Preamble of the Universal Declaration of Human Rights (UDHR) are very relevant for the case of ISIS. It reads:

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people . . .¹⁰⁸

ISIS’s actions are an expression of a barbarian ideology which should outrage the collective conscience of humankind, and the individual conscience of each rational human being. ISIS is violating the norms of all international human rights legal instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention on the Prevention and Punishment of the Crime of Genocide.

According to Professor Mary Ann Glendon, “[t]he United Nation’s Universal Declaration of Human Rights of 1948, is the single most important reference point for cross-cultural discussion of human freedom and dignity in the world today.”¹⁰⁹ Considering that the norms of the Universal Declaration of Human Rights are recognized as part of customary international law, they serve as a compelling source to highlight ISIS’s violations of international human rights.

Contrary to Article I of the Universal Declaration of Human Rights, which recognizes the fact that “all human beings are born free and equal in dignity and rights,” ISIS denies the freedom and dignity of Assyrian and other minority groups.¹¹⁰ Against the norm of Article II of the UDHR, ISIS

107. MARK R. AMSTUTZ, *INTERNATIONAL ETHICS* 82 (2d ed. 2005).

108. G.A Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).

109. Mary Ann Glendon, *Propter Honoris Respectum: Knowing the Universal Declaration of Human Rights*, 73 *Notre Dame L. Rev.* 1153 (1998).

110. G.A. Res. 217 (III) A, *supra* note 108.

systematical discriminates others because of race, religion, gender and other reasons.¹¹¹ ISIS also violates the customary international norm of Article III of the Declaration, which recognizes that everybody “has the right to life, liberty and security of person.”¹¹²

In fact, ISIS’s actions against the Assyrian people violate every norm recognized by the Universal Declaration of Human Rights. Considering the importance of this normative source in our current historical context, it is important to remember the specific norms that the international community has embraced and ISIS is constantly violating. The Universal Declaration forbids slavery and the slave trade.¹¹³ It prohibits torture and any other form of cruel treatment of human beings.¹¹⁴ It recognizes the right to legal personality of all,¹¹⁵ and the principle of equal protection under the law.¹¹⁶ It acknowledges the right to have effective legal remedies for human rights violations.¹¹⁷ It rejects any form of arbitrary arrest,¹¹⁸ and it recognizes the right “to a fair and public hearing by an independent and impartial tribunal.”¹¹⁹

ISIS has violated, and continues to violate, fundamental human rights of the Assyrian and other religious and ethnic minority groups. Among the rights that ISIS violates, are: the presumption of innocence until proven guilty,¹²⁰ and the right not to be subjected to arbitrary interference with “privacy, family, home or correspondence.”¹²¹ ISIS systematically denies the right to freedom of movement and residence¹²² of Assyrian and other minority groups.

ISIS violates the right of every person “to seek and to enjoy in other countries asylum from persecution.”¹²³ It also denies “the right to a

111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.*

115. G.A. Res. 217 (III) A, *supra* note 108.

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.*

120. G.A. Res. 217 (III) A, *supra* note 108.

121. *Id.*

122. *Id.*

123. *Id.*

nationality;¹²⁴ the right to marriage and family;¹²⁵ and the right to property.¹²⁶ ISIS denies Assyrians and other religious and ethnic groups the right to freedom of opinion and expression,¹²⁷ and the right to freedom of association.¹²⁸

There is no doubt, that the right to life is the most important human right, and ISIS is systematically violating that norm. Although compared to the right to life, the right to religious freedom may not seem as fundamental; in the context of ISIS's violations of human rights of Assyrians and other religious minority groups, that right is very important.

The right to religious freedom is of particular significance because one of the fundamental ideas of ISIS's religious totalitarian worldview, is the opposition to the concept of religious liberty. Because of this, religious minority groups such as Assyrian Christians, have become the main targets of the terrorist organization. Considering this fact, it is necessary to highlight the importance of respect for religious freedom as part of the answer against ISIS's ideology and criminal conduct.

Professor Robert George, former Chair of the United States Commission on International Religious Freedom, defines religious freedom as:

The right to ponder life's origins, meaning and purpose; to explore the deepest questions about human nature, dignity, and destiny; to decide what is to be believed and not to be believed; and, within the limits of justice for all, to comply with what one conscientiously judges to be one's religious obligations—openly, peacefully, and without fear.¹²⁹

Contrary to ISIS's worldview, the international community has acknowledged the importance of legally protecting the right of each human being to decide what to believe in. International religious freedom, is a fundamental legal norm which serves to create the conditions for the peaceful coexistence of diverse groups. Assyrian Christians and other religious minority groups in ISIS's controlled territories have the right to religious

124. *Id.*

125. G.A. Res. 217 (III) A, *supra* note 108.

126. *Id.*

127. *Id.*

128. *Id.*

129. *In Recognition of Dr. Robert George's Advocacy For Religious Freedom: Extension of Remarks*, 113th Cong. E178 (2014) (statement of Hon. Frank R. Wolf, of Virginia).

freedom. ISIS is violating Article XVIII of the Universal Declaration of Human Right which states:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.¹³⁰

ISIS is violating fundamental principles of the United Nations Charter which indicates that the purposes of that international organization are the promotion and encouragement of “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”¹³¹ ISIS is violating the norms of the International Covenant on Civil and Political Rights, which recognizes that every human being has the right to religious freedom, which includes the freedom to express religious views.¹³²

ISIS is violating the United Nations Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion and Belief, which was adopted in 1981. The United Nations Declaration recognizes that the right to religious freedom includes, among others, the freedom to worship, the right to write and publish religious literature, and to teach from a religious perspective.¹³³

VIII. THE UNITY OF HUMANKIND AGAINST ISIS’S INTERNATIONAL CRIMES

ISIS’s actions, against the Assyrian and other religious minority groups, are crimes against humanity. Therefore, the involvement of only some countries, such as France, the United States, Iran, and Russia is not enough. It is true, that certain countries have the military power to stop ISIS’s actions; however, from a legal perspective, all countries, both developed and developing members of the international community, can and should ensure that crimes against humanity, such as the ones committed by ISIS, are stopped and leaders responsible for the crimes are punished individually.

To accomplish this objective, the concept of universal jurisdiction is especially relevant. This type of jurisdiction means that all countries of the

130. G.A. Res. 217 (III) A, *supra* note 108.

131. U.N. Charter art. 1, ¶ 3.

132. Human Rights Council Res. 2200 (XXI) A, 1 (Dec. 15, 1966).

133. G.A. Res. 36/55 (Nov. 25, 1981).

world can prosecute and punish ISIS's individuals who are murdering, torturing, and raping innocent Assyrians. According to Professor Paust,

Universal enforcement has been recognized over 'crimes against mankind,' crimes 'against the whole world' and the 'enemies of the whole human family,' or those persons who become *hostes humani generis* by the commission of international crimes. . . . These crimes also involve obligations *erga omnes*, which are owing not merely to certain states and their nationals, but to all of humankind.¹³⁴

David Luban describes this type of jurisdiction as "vigilante jurisdiction," which "carries the implication that criminals against humanity are anyone's fair target."¹³⁵ Any nation can take official legal actions against the perpetrators of crimes against humanity; therefore, all nations have the ability to respond to the crimes perpetrated by ISIS against the Assyrian Christians.¹³⁶

Besides the application of the concept of individual responsibility and universal jurisdiction to prosecute and punish ISIS individuals, it is essential that the international community, through international organizations and each individual country, act to end ISIS's crimes against humanity.

There have been some efforts to accomplish that objective. For example, the United Nations Security Council adopted Resolution 2178 directly in response to the threat of ISIS. The resolution "condemns the violent extremism, which can be conducive to terrorism, sectarian violence, and the commission of terrorist acts by foreign terrorist fighters," and calls member states to cooperate in the efforts to prevent radicalization and recruitment of foreign terrorist fighters.¹³⁷ Another example is Secretary General Nabil Al-Arabi of the Arab League's statement, stating: "[w]hat is

134. M. CHERIF BASSIOUNI ET AL., CRIMES AGAINST HUMANITY HISTORICAL EVOLUTION AND CONTEMPORARY APPLICATION 281 (2011).

135. Luban, *supra* note 68, at 91.

136. See *Case Concerning Certain Criminal Proceedings in France (Congo v. Fr.)*, INTERNATIONAL COURT OF JUSTICE 1, 2 (June 17, 2003), <http://www.icj-cij.org/docket/files/129/8206.pdf>; see also Kaitlin R. O'Donnell, Note, *Certain Criminal Proceedings in France (Republic of Congo V. France) and Head of State Immunity: How Impenetrable Should the Immunity Veil Remain?*, 26 B.U. INT'L L.J. 375, 388; Kaitlin R. O'Donnell, Note, *Certain Criminal Proceedings in France (Republic of Congo V. France) and Head of State Immunity: How Impenetrable Should the Immunity Veil Remain?*, 26 B.U. INT'L L.J. 375, 388.

137. S.C.Res. 2178 ¶ 22–25 (Sept. 24 2014).

happening in Iraq, is that the terrorist organization not only threatens a state's authority, but threatens its very existence and the existence of other states."¹³⁸

Many countries have expressed their views through high ranking officials. For example, regarding ISIS's crimes, Australian Prime Minister, Tony Abbot, said, "Australia cannot leave the Iraqi people to face this horror, this pure evil alone, or ask others to do so in the name of human decency, what we won't do ourselves. It is right to do what we prudently and proportionately can, to alleviate this suffering, to prevent its spread and to deal with its perpetrators."¹³⁹ Khaled Bin Ahmed Al Khalifa, the Bahraini Foreign Affairs Minister, indicated that "[t]his situation requires immediate response from the international community in order to unify ranks, beleaguer and terminate all terrorist groups."¹⁴⁰

German Chancellor, Angela Merkel, said: "We have seen acts of unbelievable brutality . . . can we really wait and hope that somebody else will see it as his or her responsibility? . . . Now, we have the chance to help save lives and prevent any further mass murder in Iraq, and we must use this chance."¹⁴¹ King Abdullah II of Jordan said:

Those who say, this "is not our business" are wrong. The security of every nation will be shaped by the fate of the Middle East The terrorists and criminals targeting Syria, Iraq, and other countries today are extreme reflections of a global threat. Our international community needs a collective strategy to contain and defeat these groups.¹⁴²

United Kingdom's former Prime Minister, David Cameron, said, "[w]e must use all the instruments at our disposal, humanitarian, diplomatic and military, to squeeze this barbaric terrorist organization out of existence."¹⁴³ Shinzo Abe, Prime Minister of Japan, said, "Japan regards the activities of ISIL, which extends across national borders and has declared unilaterally the establishment of a so-called 'state,' to be a serious threat to international

138. Agence France—Presse, *Islamic State Must Be Confronted 'Militarily and Politically'* - Arab League Chief, GMA NETWORK, (Sept. 7, 2014), <http://www.gmanetwork.com/news/story/378152/news/world/islamic-state-must-be-confronted-militarily-and-politically-arab-league-chief>.

139. *Selected Leader Statements About International Efforts to Counter ISIL and Support the People of Iraq and Syria*, U.S. DEP'T OF STATE, <http://www.state.gov/s/seci/c64518.htm> (last visited Oct. 15, 2016).

140. *Id.*

141. *Id.*

142. *Id.*

143. *Id.*

order. What is important now is preventing extremism from taking root while also responding swiftly to the region's humanitarian crises.”¹⁴⁴

Prime Minister Haile Mariam of Ethiopia said, “ISIS’s utmost savagery is a satanic act that has no religious basis and that needs to be condemned by all people across the globe . . . the people of Ethiopia, irrespective of their religious, ethnic, socio-economic and political differences, should stand in unison to fight extremism and terrorism.”¹⁴⁵

The Panamanian Ministry of Foreign Affairs condemned ISIS’s actions as violations of human rights, intended to “spread panic, grief, and pain among the peoples of the international community,” and vowed “to combat terrorism in all its forms and manifestations, and acts of indiscriminate violence arising from religious, cultural, and ethnic intolerance.”¹⁴⁶

Countries such as Germany, France, and Spain have assisted in the fight against ISIS by providing military and counter-terrorism training, while other countries such as Albania, Hungary, Estonia, Greece, New Zealand, and the Czech Republic have pledged support in the form of weapons, ammunition, or military personnel. Several nearby Middle Eastern countries have also pledged their support against ISIS, including Lebanon, Algeria, Afghanistan, Morocco, Kuwait, and others.¹⁴⁷

IX. CONCLUSION

In the current historical context, in which the international community is witnessing extreme atrocities committed by ISIS against Assyrian and other ethnic and religious minority groups, it is difficult to make sense of what human beings are capable of doing, and propose normative responses to end acts of extreme wickedness. One of ISIS’s main ideological and legal foundations, to justify its crimes against humanity, is the presupposition that they have a religious duty to impose their worldview by using all means. This includes the systematic killing of those that oppose their ideology such as the Assyrian people.

144. *Id.*

145. *Ethiopia: Demonstrations to Protest the Utmost Savagery of ISIS*, GEESKA AFRIKA ONLINE (Apr. 23, 2015), <http://www.geeskaafrika.com/8653/ethiopia-demonstrations-to-protest-the-utmost-savagery-of-isis/8653/>.

146. *Panama Joins the International Community Coalition Against Islamic State*, MINISTERIO DE RELACIONES EXTERIORES (Feb. 5, 2015), <http://mire.gob.pa/noticias/2015/02/05/panama-se-une-coalicion-de-la-comunidad-internacional-contra-estado-islamico>.

147. Jay Akbar, *Revealed: The Astonishing Fifty-Four Countries and Groups Battling ISIS... So why Haven't they Been Crushed Already?*, DAILY MAIL UK (July 10, 2015 04:45 EST), <http://www.dailymail.co.uk/news/article-3154680/The-astonishing-FIFTY-FOUR-countries-groups-battling-ISIS-haven-t-crushed-already.html>.

An integrative jurisprudential analysis, which considers the historical facts, provides philosophical reflections and applies universal legal norms to the case, can contribute to understanding the reason for ISIS's actions and creates a persuasive discourse in the struggle to end crimes against humanity.

The Augustinian perspective, on the problem of evil, enables one to understand ISIS's crimes against humanity as acts of extreme political evil. ISIS's ideology provides an irrational justification for international crimes against the Assyrian people. Those actions dehumanize Assyrians and anybody that opposes ISIS's religious totalitarian ideas. This leads to widespread violations of human rights which amount to crimes against humanity.

ISIS's extreme form of religious totalitarianism is contrary to the consensus of the international community that has recognized the existence of fundamental human rights, including the right to life and the right to religious freedom, in the Universal Declaration of Human Rights and other international legal instruments. The Declaration exists as a result of the historical agreement, of the international community, to codify norms for the protection of fundamental inherent natural human rights and human dignity. Like, the actions of the Nazis against the Jewish community, ISIS's extreme political evil behavior requires a compelling normative response to ensure that the crimes against the Assyrian people and other groups are stopped and punished.

Considering the nature of ISIS's actions, they are crimes against the entire human race. Because of this, a global response to ISIS's violations of international law is essential. This approach should engage most members of the international community, not only powerful countries. In this decisive moment in the history of humankind, the international community needs to look back to the ideas which provided the foundation for the recognition of the existence of universal inalienable human rights. This will contribute to prevent and punish acts of extreme political evil. This is a compelling and just normative response to ISIS's religious totalitarian ideas and to their crimes against humanity.