



The Becket Fund

FOR RELIGIOUS LIBERTY

March 15, 2016

The Honorable John F. Kerry
Secretary of State
U.S. Department of State
Washington, D.C. 20520

Re: Genocide Against Christians and
Other Religious Minorities in Iraq

Dear Secretary Kerry:

The Becket Fund for Religious Liberty submits this letter to provide a legal analysis of Daesh's treatment of Christians and other religious minorities in Iraq. We conclude that Daesh has committed genocide, and we urge you to formally recognize that fact.

I. Interest of Organization

The Becket Fund for Religious Liberty is a nonprofit law firm dedicated to the free expression of all religious traditions. The Becket Fund has represented agnostics, Buddhists, Christians, Hindus, Jews, Muslims, Santeros, Sikhs, and Zoroastrians, among others, in lawsuits across the country and around the world. We advocate for the principle of religious liberty for all, and have long opposed laws, such as anti-blasphemy laws, that interfere with religious liberty.

The Becket Fund frequently litigates and advocates on behalf of these principles before international fora, including the European Court of Human Rights, the United Nations Human Rights Council (where it has consultative status) and the appellate courts of many nations. Both in the United States and abroad, the Becket Fund has advocated for a vision of religious liberty that affirms that the sphere of conscience must remain inviolate.

Genocide is the worst of human rights violations and, when used to target a religious group, the worst of religious liberty violations.

The Becket Fund therefore submits this letter to encourage the United States government to recognize Daesh's attacks on religious minorities for what they are—genocide.

II. Factual Background

In April 2013, Daesh—which is also known as ISIS, ISIL, and the Islamic State—formed in Iraq and Syria.¹ Since then, it has amassed territory, bringing millions of people under its rule.² Life under Daesh is characterized by oppression in both the ordinary aspects of life, like text messaging, accessing social media, and listening to the radio, and the most personal decisions of one's life, including choosing one's spouse, religion, and occupation.³ Those who violate Daesh's commands or who are members of disfavored groups are punished with torture, sexual enslavement, and murder.

Because Daesh purportedly desires to establish a Sunni Muslim Caliphate, Daesh has targeted the region's religious minorities. Iraq's Christian, Shia, Yazidi, Turkmen, Mandaean, and Shabak communities, among many others, have suffered mass killings, enslavement, confiscations of their property, and destruction of their cultural heritage sites. Though all religious minorities have endured significant violence, "Yazidis and Christians [are] taking the brunt of summary executions and murders" in Iraq.⁴ And because Christians are Iraq's largest non-Muslim religious minority, attacks against them are frequent and severe.⁵ A brief sampling of reported attacks on Christians shows the variety and breadth of Daesh's actions:

- September 2013: A suicide bomb targets the home of a Christian member of parliament, injuring 19.⁶

¹ *Syria Iraq: The Islamic State Militant Group*, BBC News (Aug. 2, 2014), <http://www.bbc.com/news/world-middle-east-24179084>.

² *Life Under the ISIS Caliphate*, The Week (Aug. 22, 2015), <http://theweek.com/articles/572910/life-under-isis-caliphate>.

³ *Id.*

⁴ *Iraq Conflict: Civilians Suffering 'Staggering Violence' – UN*, BBC News (Jan. 19, 2016), <http://www.bbc.com/news/world-middle-east-3534986>.

⁵ Robert P. George, Mary Ann Glendon, and Katrina Lantos Swett, *Christians Are Genocide Victims, Too*, The Philadelphia Inquirer (Dec. 28, 2015), http://articles.philly.com/2015-12-28/news/69337168_1_isis-yazidis-christians.

⁶ *Iraq 2013 International Religious Freedom Report*, U.S. State Department, <http://www.state.gov/documents/organization/222503.pdf>.

- June 2014: Daesh cuts off the water supply from the Tigris River to the Christian town of Qaraqosh.⁷ Electricity is also cut off and food becomes scarce due to constant shelling.⁸
- July 2014: Daesh paints an “N” on Christian homes in Mosul for Nasrani, an epithet referring to Christians. Next to that letter is painted “Property of the Islamic State of Iraq.”⁹
- July 2014: Five Christian families in Mosul convert to Islam in order to avoid being killed.¹⁰
- August 2014: More than 150,000 Christians flee Mosul and the Nineveh Plains as Daesh advances. Of those who remained behind, women and children are enslaved or killed.¹¹
- August 2014: After Daesh captures Qaraqosh, a three year old Christian is taken from her mother in order to be raised as a Muslim, an 18 year old Christian girl is taken as a slave for a Daesh member, and a 31 year old Christian woman is taken and forced to marry a Daesh member.¹²

⁷ Joseph Moltagh, *Iraq’s Waterless Christians: The Campaign to Expel a Religion*, Bloomberg News (July 22, 2014), <http://www.bloomberg.com/bw/articles/2014-07-22/iraqs-waterless-christians-the-campaign-to-expel-a-religion>.

⁸ Fernande van Tets, *Isis Takes Iraq’s Largest Christian Town as Resident Told – ‘leave, convert or die,’* The Independent (U.K.) (Aug. 7, 2014), <http://www.independent.co.uk/news/world/middle-east/isis-takes-iraq-s-largest-christian-town-of-qaraqosh-9653789.html>.

⁹ Alissa J. Rubin, *ISIS Forces Last Iraqi Christians to Flee Mosul*, N.Y. Times (July 18, 2014), <http://www.nytimes.com/2014/07/19/world/middleeast/isis-forces-last-iraqi-christians-to-flee-mosul.html>.

¹⁰ Tim Arango, *Concern and Support for Iraqi Christians Forced by Militants to Flee Mosul*, N.Y. Times (July 20, 2014), http://www.nytimes.com/2014/07/21/world/middleeast/concern-and-support-for-iraqi-christians-forced-by-isis-militants-to-flee-mosul.html?_r=0.

¹¹ Joint Motion for a Resolution on the Systematic Mass Murder of Religious Minorities by the So-Called ‘ISIS/Daesh,’ Eur. Parl. Doc. RC\1085712EN.doc (2016), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bMOTION%2bP8-RC-2016-0149%2b0%2bDOC%2bPDF%2bV0%2f%2fEN>.

¹² Eliza Griswold, *Is This the End of Christianity in the Middle East?*, N.Y. Times (July 22, 2015), http://www.nytimes.com/2015/07/26/magazine/is-this-the-end-of-christianity-in-the-middle-east.html?_r=1.

- August 2014: During an attack on Qaraqosh, Daesh cuts a five year-old Christian boy in half.¹³
- August 2014: 7,000 Christians flee Tel Isqof as Daesh advances.¹⁴
- September 2014: Daesh destroys the Assyrian Green Church in Tikrit, which dated back to 700 A.D.¹⁵
- September 2014: Daesh destroys St. Elijah's Monastery, which dated back to 595 A.D.¹⁶
- November 2014: Four Iraqi children are beheaded by Daesh after refusing to convert.¹⁷
- November 2014: A father is forced to convert after Daesh threatens to kill his children.¹⁸

Though these attacks by Daesh all occurred in Iraq, the group also commits violence against Christians throughout the Middle East¹⁹ and North Africa.²⁰

¹³ *Anglican Vicar of Baghdad: "Child I Baptised Cut in Half by ISIS,"* Anglican Communion News Service (Aug. 8, 2014), <http://www.anglicannews.org/news/2014/08/anglican-vicar-of-baghdad-%E2%80%9Cchild-i-baptised-cut-in-half-by-isis%E2%80%9D.aspx>.

¹⁴ Lara Logan, *Iraq's Christians Persecuted by ISIS*, 60 Minutes (March 22, 2015), <http://www.cbsnews.com/news/iraq-christians-persecuted-by-isis-60-minutes/>.

¹⁵ *Persecuted and Forgotten? A Report on Christians Oppressed For Their Faith 2013-2015*, Aid to the Church in Need, <http://www.acnuk.org/data/files/Iraq.pdf>.

¹⁶ *Iraq's Oldest Christian Monastery Destroyed by Islamic State*, Wall Street Journal (Jan. 20, 2016), <http://www.wsj.com/articles/iraqs-oldest-christian-monastery-reduced-to-field-of-rubble-1453287029>.

¹⁷ Tim Macfarlan, *Four Young Christians Brutally Beheaded By ISIS in Iraq For Refusing to Convert to Islam, Says British Vicar of Baghdad Forced to Flee*, Daily Mail (U.K.) (Dec. 12, 2014), <http://www.dailymail.co.uk/news/article-2871508/Four-young-Christians-brutally-beheaded-ISIS-Iraq-refusing-convert-Islam-says-Vicar-Baghdad-Canon-Andrew-White.html>.

¹⁸ *Id.*

¹⁹ *See, e.g., Annie Cotton, 11 Christian Missionaries Crucified and Beheaded*, Charisma News (Oct. 5, 2015), <http://www.charismanews.com/world/52438-11-christian-missionaries-crucified-and-beheaded> (describing murder of Christians in Syria).

²⁰ *See, e.g., ISIS Shoots, Beheads 30 Ethiopian Christians in Libya*, MSNBC News (April 19, 2015), <http://www.msnbc.com/msnbc/isis-shoots-beheads-30-ethiopian-christians-libya-video> (30 Ethiopian Christians shot and beheaded in Libya).

The total number of Iraqi Christians killed, raped, or enslaved by Daesh is difficult to estimate, as Daesh routinely kills journalists to stifle such information.²¹ But Iraq's Christian population, which was 1.5 million in 2003, has plunged to just 200,000.²² The exodus from a city being approached by Daesh is often so sudden that Christians are forced to abandon their homes and businesses.²³ And when they flee, they are often robbed of whatever valuables they take with them, as happened at Daesh checkpoints for Christians fleeing Mosul in July 2014.²⁴ Though some reports have indicated that Christians have been offered the option of paying a tax (known as a *jizya*) rather than being killed or forced to convert,²⁵ there is no evidence that paying the tax is a realistic option for Iraqi Christians.²⁶ Indeed, there are no reports of functioning churches, clergy, or congregations in Daesh-controlled territories in Iraq. But there are instances where Christians have been offered the binary choice of either converting or being killed.²⁷

The evidence available indicates that Daesh's goal is to eliminate religious minorities, and such evidence comes from both Daesh itself and those who have encountered the group:

- Daesh's English-language magazine, *Dabiq*, featured the group's flag flying over the Vatican, called on followers to attack the Catholic Church, and declared that it would conquer Rome.²⁸

²¹ Joshua Meservey, *Why ISIS is Hunting Down and Killing Journalists*, Newsweek (Nov. 13, 2015), <http://www.newsweek.com/why-isis-hunting-down-and-killing-journalists-392905> (noting that between June 2014 and November 2015, 48 journalists in Mosul were killed or abducted and 60 fled).

²² Miles Windsor, *The Assault on Christians, and Hope, in Iraq*, Wall Street Journal (May 14, 2015), <http://www.wsj.com/articles/the-assault-on-christians-and-hope-in-iraq-1431645492>.

²³ Moltagh, *supra* note 7.

²⁴ Ahmed Rasheed and Maggie Fick, *Ancient Christian Population of Mosul Flees Islamic State*, Reuters (July 19, 2014), <http://in.reuters.com/article/iraq-security-christians-id-INKBN0FO0V920140719>.

²⁵ *Iraqi Christians Flee After ISIS Issues Mosul Ultimatum*, BBC News (July 18, 2014), <http://www.bbc.com/news/world-middle-east-28381455>.

²⁶ Naomi Kikoler, *Bearing Witness Trip Report: The Islamic State's Targeting of Iraqi Minorities in Ninewa*, U.S. Holocaust Memorial Museum, Sept. 2015, at 14.

²⁷ Logan, *supra* note 14.

²⁸ Robert Windrem, *ISIS Magazine Dabiq Singled Out Pope Francis Ahead of U.S. Trip*, NBC News (Sept. 22, 2015), <http://www.nbcnews.com/storyline/pope-francis-visits-america/isis-magazine-dabiq-singles-out-pope-francis-ahead-u-s-n431681>.

- A historian from Al-Mustansiriya University in Baghdad has said that Daesh “wants to eliminate Christianity from Iraq and the Middle East.”²⁹
- Daesh has “bulldozed or otherwise destroyed [the] remaining Christian churches and shrines in Mosul.”³⁰
- Daesh killed a Muslim professor from the University of Mosul for objecting to Daesh’s treatment of Christians.³¹
- A militiaman from the Nineveh Plains stated that Daesh’s intent is “[t]o wipe [Christians] out.”³²

III. Law of Genocide

In international law, genocide was first criminalized by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.³³ The United States ratified the Genocide Convention in 1988.³⁴ Congress subsequently codified genocide as a crime with slightly more demanding language, at 18 U.S.C. § 1091.³⁵ Section 1091(a) provides that genocide occurs when someone acts “with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such[.]” And § 1091(a) then lists six types of genocidal acts: (1) killing members of a group; (2) causing serious bodily injury; (3) causing the permanent impairment of mental faculties through drugs, torture, or similar techniques; (4) subjecting the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part; (5) imposing measures intended to prevent births within the group; or (6) transferring children by force to another group. Therefore, the crime of genocide has three elements:

- (1) a national, ethnic, racial, or religious group has been attacked;

²⁹ Steven Lee Myers, *ISIS Has Destroyed One of Iraq’s Oldest Christian Sites*, N.Y. Times (Jan. 20, 2016), http://www.nytimes.com/2016/01/21/world/middleeast/isis-iraq-st-elijahs-monastery.html?_r=0.

³⁰ Christopher M. Blanchard, *The Islamic State and U.S. Policy*, Congressional Research Service (Feb. 9, 2016), at 18, <http://www.fas.org/sgp/crs/mideast/R43612.pdf>.

³¹ Aid to the Church, *supra* note 15.

³² Logan, *supra* note 14.

³³ David L. Nersessian, *The Contours of Genocidal Intent: Troubling Jurisprudence From the International Criminal Tribunals*, 37 Tex. Int’l L.J. 231, 254 (2002).

³⁴ Steven V. Roberts, *Reagan Signs Bill Ratifying U.N. Genocide Pact*, N.Y. Times (Nov. 5, 1988), <http://www.nytimes.com/1988/11/05/opinion/reagan-signs-bill-ratifying-un-genocide-pact.html>.

³⁵ Memorandum on Genocide and Darfur from William H. Taft to Deputy Secretary of State (June 25, 2004), at 2, http://nsarchive.gwu.edu/NSAEBB/NSAEBB356/20040625_darfur.PDF.

- (2) at least one of the specified acts has been committed against a protected group;
and
- (3) there was a specific intent to destroy the protected group in whole or in substantial part.³⁶

Importantly, the crime “does not require the actual destruction of the group; the crime is complete when the enumerated acts are committed with the requisite intent.”³⁷

A. Protected Groups

Daesh’s activities in Iraq easily satisfy the first element of genocide: Christians, Yazidis, Turkmen, Mandeans, and Shabak are all religious groups.

B. Genocidal Acts

As for the second element, Daesh has committed multiple genocidal acts.

1. Killings

International courts have differed in defining the first element, with some courts just requiring that a killing have occurred and others requiring a killing be intentional and unlawful.³⁸ The better interpretation is that a killing satisfies this element because the intention of an actor is a separate element of genocide and the lawfulness of the act is the very issue of the analysis.³⁹ But that ambiguity is immaterial where there are mass numbers of intentional, unlawful killings, as here.

Numerous reports of Daesh’s religiously-motivated murders indicate that mass killings are ongoing. Compelling evidence of the mortal threat posed by Daesh to Christians and other religious minorities is that they flee by the tens of thousands or even hundreds of thousands when Daesh is approaching. Moreover, they flee despite knowing that they are likely leaving their homes and businesses for good, that they will often be robbed of any possessions they carry with them, and that they will end up in miserable conditions in overcrowded areas. Indeed, Daesh’s extirpation of minority communities is one of the causes of the refugee crisis now affecting Europe.⁴⁰ The

³⁶ *Id.* at 1-2.

³⁷ Nersessian, *supra* note 33 at 256; *see also Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment, ¶ 497 (Sept. 2, 1998).

³⁸ *Prosecutor v. Alfred Musema*, Case No. ICTR-96-4-T, Judgment, ¶ 155 (Jan. 27, 2000).

³⁹ *See* Nersessian, *supra* note 33 at 270.

⁴⁰ Sewell Chan, *24 Die After Iraqi Kurdish Refugees’ Boat Sinks Off Greek Island*, N.Y. Times (Jan 28, 2016), <http://www.nytimes.com/2016/01/29/world/europe/refugees-migrants-kurds-greece.html>.

situation of these minorities will only become more desperate as Daesh develops⁴¹ and utilizes⁴² weapons of mass destruction, such as chemical weapons.

2. *Serious Bodily Injury*

In Adolf Eichmann’s trial, serious bodily harm was defined to include “enslavement, starvation, deportation and persecution[.]”⁴³ The Trial Chamber of the International Criminal Tribunal for Rwanda (ICTR) held that serious bodily harm includes torture, inhumane or degrading treatment, rape, sexual violence, and persecution.⁴⁴ Under either court’s definition, Daesh satisfies this element.

First, Daesh’s methods for killing Christians and others causes serious bodily harm. Sawing Christians in half, crucifying them, beheading them, beating them, and otherwise torturing them inflicts serious pain on victims in their last moments of life. The extra effort that Daesh goes to in order to inflict immense suffering and instill fear into victims must be recognized as a separate genocidal act on top of murder. Second, Daesh engages in widespread rape and enslavement. A price list for sex slaves obtained in Iraq by a United Nations official reveals what little regard Daesh has for women and children—even children as young as one year old are for sale and, indeed, fetch the highest price.⁴⁵ Furthermore, Daesh’s systematic rape of religious minorities stems from its distorted worldview and recruitment efforts, rather than uncontrolled surges of violence.⁴⁶ Because any reasonable definition of serious bodily harm—such as the ICTR’s—includes enslavement and rape, Daesh is guilty of inflicting such harm on Christians and other religious minorities.

⁴¹ Helen Cooper and Eric Schmitt, *ISIS Detainee’s Information Led to 2 U.S. Airstrikes, Officials Say*, N.Y. Times (March 9, 2016), <http://www.nytimes.com/2016/03/10/world/middleeast/isis-detainee-mustard-gas.html>.

⁴² Tamer El-Ghobashy and Safa Majeed, *Iraqis Say Islamic State Attacked Town Using Chemical Agent*, Wall Street Journal (March 11, 2016), <http://www.wsj.com/articles/iraqis-say-islamic-state-attacked-town-using-chemical-agent-1457716543> (reporting Daesh’s deadly mustard or chlorine gas attack on an Iraqi Turkmen town).

⁴³ *Att’y Gen. of Isr. v. Eichmann*, 36 I.L.R. 5, (D. Ct. (Jm.) 1961) (Isr.).

⁴⁴ *Musema*, at ¶ 156.

⁴⁵ Sangwon Yoon, *Islamic State Circulates Sex Slave Price List*, Bloomberg News (Aug. 3, 2015), <http://www.bloomberg.com/news/articles/2015-08-03/sex-slaves-sold-by-islamic-state-the-younger-the-better>.

⁴⁶ Rukmini Callimachi, *ISIS Enshrines a Theology of Rape*, N.Y. Times (Aug. 13, 2015), <http://www.nytimes.com/2015/08/14/world/middleeast/isis-enshrines-a-theology-of-rape.html>.

3. *Serious Mental Impairment*

Daesh's extensive torture of members of religious minority groups inherently carries with it a risk that victims will be seriously mentally impaired. The group's use of chemical weapons is also likely to cause lifelong mental impairment for children and the most vulnerable.

4. *Conditions Causing Physical Destruction*

The ICTR has concluded that conditions imposed to destroy a group include "subjecting a group of people to a subsistence diet, systematic expulsion from their homes and deprivation of essential medical supplies below a minimum vital standard."⁴⁷ This group of acts was included in the second element in order to account for a genocidal act that is not as immediate as mass killings, but that nevertheless is aimed to destroy a group over a period of time,⁴⁸ causing a "slow death" of the group.⁴⁹

Daesh imposes several conditions on religious minorities that are designed to destroy them. For example, the Iraqi Christians that were fortunate enough to survive and escape the Daesh assault on Mosul were subsequently robbed of all their possessions at Daesh checkpoints, leaving them to starve and dehydrate while wandering to safety and begin with nothing wherever they settled. Daesh's marking of Christian homes and writing on them that they are property of the group is manifest evidence of the systematic expulsion particular to religious minorities in Daesh-controlled territory. As shown in Qaraqosh, Daesh has also imposed blockades on Christian towns to deprive them of food, water, and electricity—essentially, to cause a slow death and make the towns easier to overrun. Daesh's physical destruction of churches, monasteries, and cultural heritage sites also physically destroys Christians. If Christians cannot practice their faith in an area, then they either cease to be Christians or must move to a new area. In short, even where Daesh does not immediately kill Christians, it takes food, shelter, water, electricity, and faith from them—all but ensuring their physical destruction.

5. *Preventing Births*

Acts that prevent births include rape where the person refuses to subsequently procreate.⁵⁰ Daesh's systematic rape and sexual enslavement causes trauma that deters

⁴⁷ *Musema*, at ¶ 157.

⁴⁸ *Id.*

⁴⁹ Nersessian, *supra* note 33 at 258-59.

⁵⁰ *Id.* at 259.

or inhibits future procreation. In addition, Daesh specifically uses both contraception and induced abortion to prevent births among its religious minority sex slaves.⁵¹

6. *Forcibly Transferring Children*

The act of forcibly transferring children, according to the ICTR, also includes “any act of threat or trauma which would lead to the forcible transfer.”⁵² Daesh has transferred Christian children to non-Christian families so that they can be raised in the religion that Daesh subscribes to. The group also sells or gives away child brides, which results in religious minorities being forced to give up their faith. As noted above, Daesh has threatened to kill a parent’s children if the family did not convert and threatened to kill children themselves if they did not convert—and it has actually killed children who refused to convert. Either threat effects a forcible transfer because the child will cease to be a member of her own religious group by converting or she will be killed.

C. *Genocidal Intent*

The final element—intent—requires that a perpetrator commit one of the specified genocidal acts with the intention of destroying a protected group as such.⁵³ The ICTR has required that an offender have a “clear intent” to destroy a group,⁵⁴ while the Trial Chamber of the International Criminal Tribunal for Yugoslavia concluded that a perpetrator had to “share the goal” of destroying a group.⁵⁵ As seen below, those two formulations are effectively the same in practice.

Unless there is a confession, intent can be inferred from the circumstances and actions of the defendant.⁵⁶ The number of victims, methodology and pattern of genocidal conduct, and prior statements and acts are indicative of intent.⁵⁷ Destroying a group’s cultural artifacts, such as churches and libraries, can also demonstrate the requisite

⁵¹ Rukmini Callimachi, *To Maintain Supply of Sex Slaves, ISIS Pushes Birth Control*, N.Y. Times (Mar. 12, 2016), <http://www.nytimes.com/2016/03/13/world/middleeast/to-maintain-supply-of-sex-slaves-isis-pushes-birth-control.html>.

⁵² *Musema*, ¶ 159.

⁵³ *Id.* at 164.

⁵⁴ *Akayesu*, at ¶ 520.

⁵⁵ *Prosecutor v. Radislav Krstic*, Case No. IT-98-33-T, Judgment, ¶ 201 (Aug. 2, 2001).

⁵⁶ *Akayesu*, at ¶ 523

⁵⁷ Nersessian, *supra* note 33 at 266.

specific intent.⁵⁸ This element is particularly difficult to assess while a genocide is being actively carried out, but circumstantial evidence can satisfy the burden of proof.⁵⁹

Daesh has not tried to hide its genocidal intent. Rather, Daesh uses the idea of a holy war against other religions as a means to recruit new members. Daesh has singled out Christians and Christianity in both its statements and its acts. In *Dabiq*, for example, Daesh threatened to attack the Vatican—the seat of the largest Christian grouping. Those who have encountered Daesh, both scholars and soldiers, have declared that the group is intent on wiping out Christians in Iraq and the Middle East. Victims of Daesh also confirm that they were singled out for attack simply because of their faith.

Beyond what Daesh has said and what witnesses say about Daesh, the group's actions evince an intent to destroy religious minorities in Iraq. Marking Christian homes with a slur and claiming they are the property of Daesh, expelling all Christians who refuse to convert, and destroying all Christian churches and shrines in the country's second largest city make Daesh's objective plain. Perhaps most indicative of Daesh's specific intent to destroy Christians and other religious minorities is that Daesh poses an ultimatum of either converting or being killed. That dilemma demonstrates that Daesh attacks Christians not because they are a threat to Daesh or because Daesh members simply enjoy killing others. Rather, the ultimatum shows that Christians are being attacked with the clear goal of destroying Christianity. If the goal were simply to kill anyone Daesh encounters, then conversion would not be a lifesaving alternative for religious minorities.

Daesh's pattern of genocidal conduct is further evident in its systematic enslavement of women and children. That Daesh compiles a pricing pamphlet for its slave trade indicates that the practice is widespread. It is revolting that the group's slave trade exists at all, but even more abhorrent are the representations from Daesh members that sexual slavery actually helps its victims.⁶⁰ Daesh's campaign of sexual violence—and torture and murder—is not the result of maniacs with a lust for violence for its own sake. The truly chilling aspect of Daesh's violent acts is that they are done with a premeditated purpose: to destroy all Christians and other religious minorities. All evidence available indicates that a typical Christian would not be enslaved or killed if she were a member of Daesh's religion—of course, Daesh kills many Sunni Muslims too, but the reasons for such killings are particular to the individuals involved. Therefore, using either the ICTR or ICTY's definition, the conclusion is the same. Daesh has

⁵⁸ *Id.* at 266-67

⁵⁹ Memorandum on Genocide and Darfur, *supra* note 35 at 2.

⁶⁰ See Callimachi, *supra* note 46.

Hon. John F. Kerry
Page 12 of 12
March 15, 2016

committed and is committing genocidal acts with the specific intent of destroying Christians and other religious minorities in Iraq.

IV. Conclusion

Genocide was criminalized in order to hold people accountable for attacks on individuals that are carried out in order to annihilate the entire group. Undoubtedly, living under Daesh's rule is horrendous for everyone. But living under its rule as a Christian or other religious minority has become a sufficient reason to be tortured, raped, enslaved, or killed.

In the face of this existential threat, many religious communities are leaving the places that they have called home for millennia. Daesh is doing its best to rob Christians and other religious minorities of their past by destroying ancient churches and holy monuments; to steal their present through forced conversions and the murder of any members Daesh can get its hands on; and to deprive them of their future by killing, raping, and enslaving members of religious minority groups. The United States must recognize that genocide is being committed by Daesh against Christians and other religious minorities in Iraq. Such a recognition would restore dignity to those who have already suffered and would help make it possible for future generations to exist.

Very truly yours,



Eric Rassbach
Deputy General Counsel

cc: Ambassador David N. Saperstein