



ADF INTERNATIONAL

10 Questions and Answers to the Middle East Genocide

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1. What is genocide?

Genocide, the “crime of crimes”, is an internationally recognized legal term, defined in Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (the Convention on Genocide) as follows:

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

It requires an intent to destroy and the targeting of a specific group of people.

2. Has the threshold of genocide been met in the Middle East?

Yes. The situation in Syria and Iraq is catastrophic and has led to one of the worst humanitarian crises in decades. The number of Christians has dropped from over 2 million to 1 million in Syria, and from 1.4 million to under 260,000 in Iraq.

Reports from the region have brought evidence to light showing that ISIS/Daesh has assassinated church leaders, committed torture, mass murders, kidnapping, sexual enslavement, systematic rape and sexual abuse of Christian and Yazidi girls and women, and engaged with destructions of churches, monasteries, cemeteries and other places of religious values.¹ ISIS/Daesh has documented its specific intent to destroy Christian groups in Syria and Iraq in its official propaganda videos and newspapers including Dabiq, the official ISIS magazine used for propaganda and recruitment.²

The atrocities committed against Christians and other religious minorities in Syria and Iraq therefore satisfy the criteria established in Article II of the Convention on Genocide as: i) Christians and the other religious minorities clearly fall within the groups protected under Article II of the Convention on Genocide; ii) the atrocities committed fall within the given examples listed in Article II; and iii) ISIS/Daesh has acted with specific intent required by the Convention on Genocide.

3. What is the difference between genocide, crimes against humanity, and war crimes?

The Convention on Genocide does not define crimes against humanity and war crimes. Crimes against humanity and war crimes are defined in the Rome Statute,³ which also mirrors the definition of genocide from the Convention on Genocide.

Article 7 of the Rome Statute defines crimes against humanity. It sets out a list of acts that qualify as crimes against humanity, some of which appear to be similar to acts listed under Article II of the Convention on Genocide. However the acts listed in Article 7 of Rome Statute are to be committed “as part of a widespread or systematic attack directed against any civilian, with knowledge of the attack.” This means that there is no specific intent required for crimes against humanity, unlike the requirement in cases of genocide. Article II of the Convention on Genocide is narrower in that it refers only to “national, ethnical, racial or religious groups”, while Article 7 of Rome Statute covers atrocities committed against all civilians.

In relation to war crimes, the acts detailed in Article 8 of Rome Statute again do not differ significantly from acts that qualify as genocide or crimes against humanity. Particular attention is given to crimes committed in accordance with a plan or policy, however, as in the case of crimes against humanity, there is no requirement for any specific intent in order for the atrocities to be classified as war crimes. The Convention on Genocide captures atrocities committed during both war and peace time.

Therefore, genocide is a crime that requires a specific intent in its perpetration, and would most likely follow a prolonged course of action against specific groups. Where perpetrators are left unchecked, genocide can develop from instances of war crimes and crimes against humanity.

4. Why is recognizing the genocide important?

Recognition of genocide is usually followed by a swift international response to stop the atrocities, to help the survivors with their urgent needs, and to initiate prosecution of the perpetrators.⁴ Recognizing the actions of ISIS/Daesh as genocide will inject momentum into the slow international effort to stop the killings – which is especially pertinent given ISIS/Daesh’s recent growth in Libya and elsewhere.

It is also likely to make new recruits think twice about joining, given i) the gravity of the crimes being committed, and ii) the ramifications for group members who are caught. It may also lead to the active safeguarding of those members of religious minorities on the ground whose lives are currently hanging in the balance.

Recognition of genocide is not the final action of the international community, but is a crucial step in halting the atrocities.

5. Has genocide against Christians and other religious minorities in the region been recognized officially?

Yes. The Council of Europe was the first major international institution to condemn the actions of ISIS in the Middle East as genocide. On 27 January 2015, the Parliamentary Assembly of the Council of Europe adopted Resolution 2091 (2016) entitled “Foreign fighters in Syria and Iraq” specifically recognizing the atrocities as genocide and reminding member states of their obligation to prevent genocide and calling upon them to take all necessary measures to prevent it from occurring.⁵

On 4 February 2016, the European Parliament adopted a resolution on the systematic mass murder of religious minorities by ISIS, which passed by an overwhelming majority. The resolution also recognized that the atrocities had reached the threshold of genocide, and called for a referral to the International Criminal Court.⁶

Further afield, on 2 March 2016, the United States House Committee on Foreign Affairs passed a resolution (H.Con.Res.75) introduced by Congressman Jeff Fortenberry and supported by 213 cosponsors. The resolution calls for the recognition of the atrocities committed against Christians and other religious or ethnic minorities as war crimes, crimes against humanity, and genocide. On 14 March 2016, H.Con.75 was passed by the U.S. House of Representatives without a single dissenting vote. On Thursday 17 March, Secretary of State John Kerry said that the United States had determined that ISIS' action against the Yazidis, Christians and other minority groups in Iraq and Syria constituted genocide.

6. What is the position of the British Government?

Her Majesty's Government has thus far refused to acknowledge that genocide is occurring in the Middle East. However, there is growing political support in the UK to recognize the genocide:

- On 21 December 2015 a letter was sent to the Prime Minister signed by 75 members of both Houses, calling on the Government to recognize the genocide.
- On 22 January 2016, the House of Commons tabled Early Day Motion 998 on the treatment of Yazidi and Christian minorities. The motion denounced genocide committed by ISIS and was signed by 48 MPs.
- On 10 February 2016, Shadow Foreign Secretary, Hilary Benn, submitted a number of written questions to the Secretary of State for Foreign and Commonwealth Affairs concerning the situation in Iraq and Syria, and specifically asked whether the Government recognised the killing of the Yazidis by ISIS/Daesh as genocide.
- On 18 February 2016 a follow up letter was sent to the Prime Minister signed by human rights campaigners and senior lawyers, including the former Lord Chancellor.
- On 3 March 2016, another House of Commons motion was tabled (no. 1192), with MPs expressing “frustration at the reluctance of Ministers to present evidence and to work to create a consensus at the UN that the killing is genocide.”

- The topic of genocide has also been discussed in the House of Lords on several occasions, most recently on 3 and 9 February 2016.

7. Why is the Government refusing to recognize the genocide?

On 9 February 2016, in response to Lord Alton's oral question in the House of Lords, the Earl of Courtown confirmed that Her Majesty's Government would not take a view on whether genocide was occurring in the Middle East, as such a decision was a matter for the "international judicial system" and not Governments or other non-judicial bodies. The Earl of Courtown indicated that it was a long standing government policy but did not elaborate on the role the Government plays in the "international judicial system."

On 22 February, Foreign Secretary Philip Hammond replied to Hillary Benn's written questions with the Government's stock response; condemning the atrocities committed by Daesh against all civilians, including Christians, Mandaeans, Yezidis and other minorities, as well as the majority Muslim population in Iraq and Syria, but reiterating that it is long-standing Government policy that any judgments on whether genocide has occurred are a matter for the international judicial system rather than governments or other non-judicial bodies.

The Foreign Secretary noted that the Government supported the International Criminal Court (ICC), "in its efforts to end impunity for the most serious crimes of international concern by holding perpetrators to account," but did not elaborate on the British Government's role in that process.

8. Why is the Government's approach not appropriate in the present case?

On previous questions of genocide, such as the Armenian genocide, the Government believed that there was no need to recognize genocides of the past, and the debate was better left to historians rather than governments. Such a view was widely criticized but in any event, it does not apply to the present case.

The ISIS/Daesh genocide of Christians and other religious minorities is happening now and can be stopped before the groups cease to exist in the Middle East.

9. Should the Government change its position on genocide in the Middle East?

As a signatory to the Convention on Genocide, the United Kingdom has a clear obligation under international law to "prevent and punish" acts of genocide. In order to take decisive action to prevent genocide, the very first step must be the recognition that genocide is in fact taking place, particularly in light of horrific and overwhelming evidence emanating from the region.

The Government has proposed that recognition of genocide must be made by the "international judicial system." However as a permanent member of the United Nations Security Council, the United Kingdom is well positioned to trigger the mechanisms contained within the "international judicial system" – it is simply refusing to do so.

The United Kingdom cannot satisfy its obligation to "prevent and punish" genocide where there is no domestic mechanism to determine whether genocide is occurring. Parliament has the sovereign authority to grant jurisdiction to domestic

courts to consider and determine whether genocide has occurred or is occurring. Such a formal recognition of genocide would not trigger an immediate flood of asylum seekers as the Government is entitled to limit the number as it decides, but it will provide the Government with a firm platform to urge the international community to take action.

The prosecutor of the International Criminal Court, Fatou Bensouda, made a clear statement on 8 April 2015 that despite the evidence of atrocities stemming from the region, the only way in which the ICC could investigate and prosecute these acts is either with a referral from Syria or Iraq (which at this moment appears to be highly unlikely) or with a referral from the UN Security Council, of which the United Kingdom is a permanent member.

Given the Foreign Secretary's statement of support for the ICC's efforts to hold the perpetrators to account, the United Kingdom has the opportunity to lead the efforts at the UN Security Council to refer the situation to the ICC.

10. Where can I receive further information?

Further information, including detailed briefings, the resolutions of the Council of Europe and European Parliament, expert testimony on the issue of genocide, and much more, can be found at the following address:

www.ADFinternational.org/stop-genocide

Robert Clarke, Director of European Advocacy for ADF International, can also be contacted at rclarke@ADFinternational.org.

ADF International is an alliance-building legal organization that advocates for the right of people to freely live out their faith. With offices in Vienna, Brussels, Geneva, Strasbourg, New York City, Washington D.C., and Mexico City, we are at the forefront of defending religious freedom around the world.

¹ Human Rights Council, Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups, A/HRC/28/18, 16, available at: http://ap.ohchr.org/Documents/sdpage_e.aspx?b=10&se=163&t=9; United Nations Assistance Mission for Iraq and the Office of the United Nations High Commissioner for Human Rights Report on the Protection of Civilians in the Armed Conflict in Iraq (11 December 2014 – 30 April 2015), 8, available at: www.ohchr.org/Documents/Countries/IQ/UNAMIRReport1May31October2015.pdf; Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, A/HRC/29/51, 11, available at: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Pages/ListReports.aspx>.

² See, in particular, Dabiq 'The Failed Crusade' (2014), 1435 Dhul-Hijjah, 4th Issue, 5; Dabiq, 'From Hypocrisy to Apostasy. The Extinction of the Grayzone' (2015), Rabi'Al-Akhir 1436, 7th Issue, 30; Dabiq, 'Just Terror', (2015), 1437 Safar, 12th Issue, 43.

³ The treaty that established the International Criminal Court.

⁴ Gregory H. Stanton, Could the Rwandan Genocide have been prevented? *Journal of Genocide Research*, Vol. 6, No. 2, June 2004, 211- 228. Also available at www.genocideeducation.ca/STANTON.pdf;

⁵ Resolution 2091 (2016), paras. 2,3 and 21.

⁶ European Parliament Resolution 2016/2529(RSP), paras. 4, 9, 14.