Redefining Terrorism: The Danger of Misunderstanding the Modern World's Gravest Threat

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“The Security Council of the United Nations calls upon all Member States to . . . cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts . . . [understanding] the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security.”

“The [adopted legal concept of ‘terrorism’] is imprecise; it is ambiguous; and above all it [currently] serves no operative legal purpose.”

-Richard Baxter

I. Introduction

Governments and media entities label many forms of violence as “terrorism.” The negative connotation this term carries with it does little to resolve the fundamental threat of this modern form of mass violence. All that a “terrorism” label does is perpetuate fear while offering no real understanding of the underpinnings of this threat. Governments and militaries remain paralyzed against this global threat of “terrorism”—a term that still has no universal definition. The faces of violence and war have changed drastically as threats of terror continue, but the international community has failed to reexamine unconventional warfare in order to understand the extent of the terrorist threat. Therefore, non-state actors—such as violent extremist organizations—are able to act with impunity, just as genocidal State Officials leaders did prior to World War Two and the codification of international crimes at the Nuremburg Tribunals. On the most basic level, the current definitions of terrorism generally possess

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3 When widespread acts of systematic violence are carried out by non-state actors, the default label attached to such acts is “terrorism” yet the international community has yet to solidify any uniform definition outlining the criminal elements of the act so that it can be prosecuted on an international level. Regional organizations and state governments have delineated acceptable definitions of “terrorism” in their respective territories, since most times, “terrorism” is whatever a government or “legitimate” authority wants it to be: from secessionism to political graffiti. Cite
4 MARY ELLEN O’CONNELL, RICHARD F. SCOTT & NAOMI ROTT-ARIAZA, THE INTERNATIONAL LEGAL SYSTEM 509 (Robert C. Clark et al. eds., 6th ed. 2010). Despite the various conventions that address forms of “terrorist acts,” none have yet been able to thwart the cancerous growth that organized group violence poses today. DAVID LUBAN, JULIE R. O’SULLIVAN & DAVID P. STEWART, INTERNATIONAL AND TRANSNATIONAL CRIMINAL LAW 677 (Vicki Been et al. eds., Aspen Publishers 2010). The existing treaties relating to terrorism fall short of establishing a universal system to prevent the atrocities that are continuing to occur at the hands of certain terrorist organizations.
the following elements: (1) violence or the threat of violence, (2) stealth conflict, (3) political motivation, (4) intent to frighten, and the (5) targeting of civilians. These elements are simply inaccurate and incomplete. What is needed is factual codification that takes an honest look at the goals and motivation of modern extremist organizations in order to prosecute and prevent the main perpetrators. While the current laws governing terrorism were drafted in the 1960s and 1970s when sporadic “acts of violence” were carried out for political purposes, extremist organizations today pose greater threats of mass violence through unconventional warfare and the proliferation of nuclear weapons necessitating a realistic transnational look into the goals and motivations of such organizations.

This paper will identify the objective intentions of modern extremist groups (that governments label “terrorists”) by highlighting how modern “terrorist acts” fall under codified and universal international criminal laws, rendering a new title or uniform definition unnecessary. In his book entitled *Worse Than War*, Daniel Goldhagen discusses the duty that individuals, institutions, and governments have to preserve humanity against repeated campaigns where groups or governments have sought to eliminate entire people groups through mass murder or forced displacement (which this paper will refer to as “eliminationist campaigns”). He states that the international community has been unable to prevent episodes of mass murder because it fails to understand the real nature of eliminationist

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5 Luban, *supra* note 5, at 670-71 (emphasis added).
6 Daniel Jonah Goldhagen, *Worse Than War: Genocide, Eliminationism, and the Ongoing Assault on Humanity* 550 (Public Affairs Publisher, 1st ed. 2009) (discussing the importance of preventative measures to combat campaigns bent on the annihilation and elimination of nations, religions, or groups).
8 Goldhagen, *supra* note 6, at xi.
campaigns, and then once the violent intent of the mass murderers is understood, they have failed to act in order to prevent. Government definitions of “terrorism” purposely fail to account for the true intentions of these violent groups. If the current network of sovereign states comprising the international legal system continues to fear political “incorrectness” or place proper criminal labels on the violence, it will never be able to prevent future occurrences of eliminationism or protect the innocent lives that we know are already targets.

II. Current Laws on “Terrorism.”

The first time the global community attempted a uniform definition of terrorism was in 1937 through the adoption of a convention at the League of Nations. Since 1963, the international community has elaborated fourteen universal legal instruments attempting to prevent terrorist acts. In 1972, the Sixth Legal Committee of the United Nations (UN) General Assembly attempted a universal definition of terrorism but, once again, failed to reach a consensus. Finally, in lieu of a universal, over-arching definition of terrorism, the UN passed numerous conventions to address types of violent acts of terror involving civil aviation, the taking of hostages, certain types of bombing, and the transnational organized financing of terror acts. The UN Security Council has also addressed the
issue of terrorism delineation and prevention by declaring that UN Member States are individually obligated to prevent violence resulting from “terrorist” activities.\textsuperscript{15} It noted a close connection between international terrorism and transnational organized crime which this paper agrees should be amended into the Transnational Organized Crime Convention.\textsuperscript{16}

The conflicting definitions of “terrorism” amongst regional actors displays the gaps in opinion of terrorism, but also shows how the universally undefined principle is used as political rhetoric to downgrade any violence with which the government cannot prosecute or prevent. For example, the European Union (EU) defines terrorism as, “criminal acts carried out by non-state or state actors, individuals, or groups that use some form of violence irrespective of the result, committed with the intention to intimidate a civilian population, or compel a government, military, or other formal institution in doing or abstaining from doing something, or another purpose.”\textsuperscript{17} The Organization of Islamic Cooperation (OIC) defines terrorism as the following:

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\textsuperscript{16} Id. at 4; \textit{See also} Transnational Organized Crime Convention art. 3 (2) (a)-(d), Nov. 15, 2000, 40 I.L.M. 335 (2001); G.A. Res. 55/383 at 25, art. 3 (2000); U.N. Doc. A/RES/55/25 at 4, art. 3 (2001) “an offence is transnational in nature if: (a) it is committed in more than one state; (b) it is committed in one state but a substantial part of its preparation, planning, direction or control takes place in another state; (c) it is committed in one state but involves an organized criminal group that engages in criminal activities in more than one state; or (d) it is committed in one state but has substantial effects in another state., art. 6 (a)(i) criminal offences, when committed intentionally [under this convention, include] the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action.” 6 (b)(i) “the acquisition possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime.” Art. 23(b) the use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official.
\textsuperscript{17} \textsc{The Nature of Terrorism: Defining Terrorism within the EU 16 (June 28, 2007), available at http://www.transnationalterrorism.eu/tekt/epublications/Europe%20Definitions.pdf. For an excellent overview on the current attempts to define terrorism and a global context of each specific definition, see Young, supra note 6. The EU’s final “Framework Decision,” adopted by the EU Member States in 2002, “offer[ed] a firm foundation for an internationally accepted definition of terrorism encompassing elements of other international conventions and keeping it broad enough to reflect the normative consensus that terrorism undermines the State and the political process, \textsc{The Nature of Terrorism: Defining Terrorism within the EU 16, at 11.}
\end{verbatim}
[A]ny act of violence or threat thereof notwithstanding its motives or intentions perpetrated to carry out an individual or collective criminal plan with the aim of terrorizing people or threatening to harm them or imperiling their lives, honor, freedoms, security or rights or exposing the environment or any facility or public or private property to hazards or occupying or seizing them, or endangering a national resource, or international facilities, or threatening the stability, territorial integrity, political unity or sovereignty of independent States.¹⁸

The Association of Southeast Asian Nations (ASEAN) drafted its own convention on “counter terrorism” but failed to specifically define “terrorism.”¹⁹ It merely referred to “terrorism” as understood through various international conventions and used rhetoric that obligated its own member states to cooperate with each other in order to prevent instances of “terrorist acts.” It proposed an extradition cooperation treaty and continues to mandate that its signatories identify the root causes of terrorism to form effective countermeasures.²⁰ Another interesting approach is the Russian Federation’s laws regarding counter-terrorism, as it reaches beyond the borders of Russia if the government believes that “terrorist” activities are affecting Russia or the Russian political system.²¹

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²⁰ Id. preamble (discussing the “grave danger posed by terrorism to innocent lives, infrastructure and the environment, regional and international peace and stability as well as to economic development”). “Subject to the consent of the Parties concerned, Parties shall cooperate to address the root causes of terrorism and conditions conducive to the spread of terrorism to prevent the perpetration of terrorist acts and the propagation of terrorist cells.” Id. art. VI (2) (emphasis added).

²¹ See Federal Law No. 35-FZ of 6 March 2006 on Counteraction Against Terrorism, Adopted by the State Duma on Feb. 26, 2006, Endorsed by the Federation Council on March 1, 2006, available at http://www.coe.int/t/dlapil/codexter/Source/country_profiles/legislation/CT%20legislation%20-Russian%20Federation.pdf. In Russia, terrorism is defined as the “practices of influencing the decisions of government, local self-government or international organizations by terrorizing the population or through other forms of illegal violent action . . . [using any] ideology of violence. Id., at art. 3. The definition of terrorist activity is even broader and includes the following acts: propaganda of terrorist ideas, dissemination of materials or information which call to terrorist activity, justify or support the need for such activity, and also “informational or other types of aiding and abetting with regard to planning, preparation or implementation of a terrorist act.” Id.
for Rwanda (ICTR) discussed terrorism in its founding statute giving it the power to prosecute the following offenses:

[C]ommitting or ordering to be committed serious violations of Article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include, but shall not be limited to: a) Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment; b) Collective punishments; c) Taking of hostages; d) Acts of terrorism; e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault; f) Pillage; g) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples; h) Threats to commit any of the foregoing acts.22

Similarly, the International Criminal Tribunal for the Former Yugoslavia (ICTY) attempted to discuss and define the crime of terror in the Stanislav Galic case stating that “[e]lements of the Crime of Terror include: (1) Acts of violence directed against the civilian population or individual civilians not taking direct part in hostilities causing death or serious injury to body or health within the civilian population; (2) The offender willfully made the civilian population or individual civilians not taking direct part in hostilities the object of those acts of violence; (3) The above offence was committed with the primary purpose of spreading terror among the civilian population.”23

Acts of terrorism can be currently prosecuted by the international criminal tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) only if they amount to crimes against humanity and/or war crimes (see Arts. 2, 3, and 5 of the ICTY Statute and Arts. 3 and 4 of the ICTR Statute). The only exception is the Special Tribunal for Lebanon (STL), which has jurisdiction over terrorist acts (see Art. 2(a) of the STL Statute). However, the Special Tribunal acts under Lebanese domestic law and not international law. The International Criminal Court (ICC) does not have jurisdiction over terrorism as a distinct crime. Terrorism is also excluded from the list of war crimes provided in Article 8 of the Rome Statute of the International Criminal Court. The only manner in which the International Criminal Court could exercise jurisdiction over acts of terrorism is if terrorist acts would

23 Prosecutor v. Galic, Case No. IT-98-29-T, Judgment, ¶ 4 (Int’l Crim. Trib. for the Former Yugoslavia Dec. 5, 2008). “The Prosecution is required to prove not only that the Accused accepted the likelihood that terror would result from the illegal acts . . . but that that was the result which he specifically intended [as] [t]he crime of terror is a specific-intent crime.” Id.
amount to another crime over which the Court has jurisdiction (for instance, crimes against
humanity under Article 7 of the Rome Statute). 24

Although these definitions contain basic similarities, they fail to account for any religious
inspiration, and therefore, are unable to delineate the actual intention (or mens rea) of modern day
extremist organizations since they do not consider religious or eschatological aspirations as goals of said
organizations. This paper argues that modern violent extremist groups intend to commit international
crimes (such as genocide, conspiracy to commit genocide, and crimes against humanity) that are already
universally defined, thus rendering the necessity to determine a universal definition of “terrorism”
legally moot. 25

Legal scholars that have proposed definitions based on the regional elements of “terrorism”
understand this crucial gap and have attempted to propose general guidelines for future attempts to
universally codify terrorism. 26 Two examples are Ben Saul, a law and policy scholar, and Susan
Tiefenbrun. Saul proposed the following definition: (1) Any serious, violent, criminal act intended to
cause death or serious bodily injury, or to endanger life including by acts against property; (2)
committed outside an armed conflict; (3) for a political, ideological, religious or ethnic purpose; and (4)
intended to: (a) create extreme fear; and (b) seriously intimidate a population; or (c) unduly compel a
government or an international organization to do or to abstain from doing any act. Saul notes in his
proposal that “advocacy, protest, dissent or industrial action which is not intended to cause death,
serious bodily harm or serious risk to public health or safety does not constitute a terrorist act.” 27 This
would preclude future “terrorist labels” to populations exercising their inherent right to self-
determination. Along similar lines, Tiefenbrun proposed five abstract elements of terrorism: (1) The

24 Terrorism, INT’L CRIMES DATABASE, http://www.internationalcrimesdatabase.org/Crimes/Terrorism (last visited Feb. 1,
2015); Rome Statute of the International Criminal Court, supra note Error! Bookmark not defined.
25 (Dan) The BBC has stopped using the term terrorism and gone with the idea that a bombing is a bombing, a shooting is a
shooting, and “terrorism” is a term used by states to inspire fear.
26 O’CONNELL, supra note 4, at 60.
perpetration of any violence; (2) targeting of innocent civilians; (3) intent to cause violence; (4) for the purpose of causing fear, coercing or intimidating an enemy; (5) in order to achieve some political, military, ethnic, ideological, or religious goal.\textsuperscript{28}

There is a discernable distinction between organized violent extremism and rebellion movement contained within a population for purely self-determination purposes within that delineated territory.\textsuperscript{29} Global powers have historically championed violence in pursuit of political aims (or violence for the cause of “self-determination”) since the age of colonialization and imperialism came to an end.\textsuperscript{30} In 1949, the revised codification of the Geneva Conventions highlighted the changing face of political opposition and violence today.\textsuperscript{31} “Wars known as ‘wars of national liberation’ form a general exception to violence with domestic political aims that many label as ‘terrorist acts.’”\textsuperscript{32} However, “even when the use of force is legally and morally justified, the right of self-determination has its limits.”\textsuperscript{33}

\textsuperscript{28} Id. at 15 (emphasis added).

\textsuperscript{29} See Bruce Hoffman, Inside Terrorism, in GLOBAL AFFAIRS, supra note 13, at 206-09 (discussing the inevitable trajectory of terrorism if it remains undefined).

\textsuperscript{30} Bruce Hoffman, Inside Terrorism, in GLOBAL AFFAIRS, supra note 13, at 205-217.


\textsuperscript{32} For a thorough and compelling report on the various faces of intra-national or domestic terrorism see THE NATURE OF TERRORISM: DEFINING TERRORISM WITHIN THE EU, supra note 37. UN Charter art. 1, para. 2; On the basis of this principle, the UN has been induced to adopt a supportive position towards peoples fighting in the exercise of their right of self-determination. This point of view, which has repeatedly been confirmed in resolutions and declarations, is now universally recognized. This would allow proper prosecution of people who commit a crime through the use of political violence since violent uprising is inspired by the view that political freedoms are somehow restriction by the incumbent government in a sovereign state. It is important to keep in mind that one of the main contentions preventing the international community from accepting a universal definition is the, now commonplace, quip that “one man’s terrorist is another man’s ‘freedom fighter,’” originally coined in GERALD SEYMOUR, HARRY’S GAME (1975). Once such example of this displaced and politically motivated labeling is the situation in the eastern parts of Ukraine as rebel groups seek to separate from the rule of the Western-influenced Kiev government and live under Russian custom, laws, and leadership. See Anthony Deutsch & Gabriela Baczyńska, Malaysia: Dutch Report Suggest MH-17 shot down from ground, REUTERS (Sept. 9, 2014, 1:41 PM), http://www.reuters.com/article/2014/09/09/us-malaysia-accident-mh17-shootdown-from-ground-idUSKBN0H40LM20140909. MH17 Verdict: Real Evidence Points to US-Kiev Cover-up of Failed “False Flag”, TWENTY-FIRST CENTURY WIRE & GLOBAL RES. (July 17, 2014), http://www.globalresearch.ca/mh17-verdict-real-evidence-points-to-us-kiev-cover-up-of-failed-false-flag/5393317; see also Tyler Durden, Ukraine Releases YouTube Clip “Proving” Rebels Shot Down Malaysian Flight MH-17, ZEROHEDGE.COM (July 17, 2014, 7:46 PM), http://www.zerohedge.com/news/2014-07-17/ukraine-releases-youtube-clip-proving-rebels-shot-down-malaysian-flight-mh-17.

\textsuperscript{33} Id. at 205. The UN’s “encouragement for wars of national liberation and the right of self-determination” renders any attempt to prosecute episode of systematic violence moot as it counteracts the UN’s purpose in promoting self-determination. See Hoffman, Inside Terrorism, in GLOBAL AFFAIRS, supra note 13, at 212-17. The broad generalizations of acts that have been associated with the current-accepted definitions of terrorism (as fear for political change) have caused any resolution
The philosophical intentions of modern extremists mirror the language of eliminationist campaigns that led to prior instances of genocide. Transnational terrorism naturalizes national boundaries and involves groups whose intent is to operate beyond national boundaries through the use of violence. Violent Extremists today that follow certain eschatological ideologies intend solely to bring about global dominance and international governance through the use of violence and mass extermination aimed at civilians who do not abide by their ideas of religious rule. Therefore, the current definitions and conventions of “terrorism” are no longer applicable to acts that the modern world considers “terrorism.” Organizations such as the Islamic State of Iraq and the Levant (more commonly known as ISIS) ultimately seek to bring about political domination through the creation of a global that aims to prevent such violence impracticable to incorporate on a domestic level, as state governments would be incapable of integrating legislation to prosecute liberation movements who intend secessionist strategies. Id.

34 The term “transnational” means “violating another nation’s territorial sovereignty or operating in or involving more than one country; extending or going beyond national boundaries.” See “Transnational” Definition, MERRIAM-WEBSTER DICTIONARY, http://www.merriam-webster.com/dictionary/transnational, (last visited Feb. 11, 2015) (stating that “transnational” means “operating in or involving more than one country”).

35 Ex (Naturalizes national boundaries. We also champion the SPLA, who operated from Ethiopia and Kenya with the intent of using violence in Sudan to overthrow the government. ) Understanding that modern extremist organizations seek to recast and refashion their world under their own versions of “international justice” often resulting in the creation a new global empire, is an important concept to understand in codifying a modern definition of this form of terrorism. GOLDHAGEN, supra note 6, at 492 (noting that certain forms of Political Islam have elements that exacerbate eliminationist tactics such as the religious consecration of Allah’s goals to which slavish devotion is due, the reflexive and insistence public demonization of its opponents, and a culture of death that glorifies those who die or kill others in the name of Allah’s law). For a great explanation about the vast majorities of Muslim populations that fear such extremism, see Yasmine Hafiz, Muslims worldwide fear the rise of Islamic Extremism, HUFFINGTON POST (updated July 23, 2014 11:59 AM), http://www.huffingtonpost.com/2014/07/02/muslims-against-extremism-pew-survey_n_5551693.html.

36 The intent of violent Eliminationist campaigns is often documented or promulgated in their publicized statements or charts See e.g. ADOLF HITLER, MIEN KAMPF (1927); see also e.g. Hamas Leader Khaled Mash’al at a Damascus Mosque: “The Nation of Islam Will Sit at the Throne of the World and the West will be full of remorse when it’s too late”: No. 1087, MEMRI SPECIAL DISPATCH SERIES (Feb. 7, 2006), www.memri.org/bin/articles.cgi?Area=sd&ID=SP108706&Page=archivesMarija Ristic, ICJ rejects Genocide Claims of Serbia and Croatia, supra note 29 (displaying that although the ICJ found that the act of genocide had been established, the intentional element of genocide was lacking. Here, the Genocide Convention’s element that a perpetrator possess an “intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such” is essential to such a finding and is considered “dolus specialis,” meaning specific intent, id.); Recently, the International Court of Justice concluded that genocide could not occur in a court of law if the mental element (mens rea or intent) of genocide elements was not met—despite an overt act of genocide and thousands of deaths.
Islamic Government (or “Caliphate”) as evidenced in the 2014 speech of its self-proclaimed Caliph (leader), Abu Bakr al Baghdadi.37

Jus Cogens (or peremptory norms) refer to “certain fundamental, overriding principles of international law, from which no derogation is ever permitted.”38 One such Jus Cogens crime is the Crime of Genocide; which all nations have generally accepted as international criminal intent and behavior. The term “genocide” was first used by Raphael Lemkin in his book, Axis Rule in Occupied Europe, published in late 1944.39 In 1948—following the devastation of the genocidal campaign that sparked World War Two—the young UN defined genocide on a universal level in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide in order to prevent such mass violence whether attempted in times of peace or war.40. 41 However, legal and political scholars feared that getting hung up on genocidal definitions coined in the wake of Nazi gas chambers would miss the

37 See Amir Abdallah, URGENT Video: ISIS releases Abu Bakr al-Baghdadi sermon in Mosul Grand Mosque, IRAQI NEWS (July 5, 2014), http://www.iraqinews.com/features/urgent-video-isis-releases-abu-bakr-al-baghdadi-sermon-mosul-grand-mosque/. Al-Baghdadi was head saying (translated to English), “Allah the Most High says: And I did not create the jinn (demon-possessed humans and animals) and mankind except to worship Me. And He ordered us, Blessed and Exalted be He, to fight His enemies and set out in Jihad in His cause in order to achieve that and establish the Religion. Allah the Most High says: Fighting has been enjoined upon you while it is hateful to you. And He the Most High says: And fight them until there is no fitnah and [until] the religion, all of it, is for Allah. O people, verily the Religion of Allah, Blessed and High be He, will not be established and this purpose for which Allah has created us will be attained except by ruling by the Law of Allah and legislating to it and establishing the limits (of Allah). This verily will not except by battle and authority.” Id. (quoting the Quran, suras 51:56, 21:26 & 8:39); see also Criminal Complaint of the United States against Shannon Conley, at 7, ¶ 12. “Conley said ISIS was ‘going to try to make Syria and Iraq the beginnings of a calipha (ph).’” Id.

38 Richard D. Kearney & Robert E. Dalton, The Treaty on Treaties, 64 AM. J. INT’L L. 495, 535 (1970). There have been three general categories of Jus Cogens: (1) the threat or use of force in violation of the United Nations’ principles, (2) acts or omissions whose suppression is required by international law, and (3) international crimes so characterized by international law. The four basic international crimes (as characterized by international law) are (1) crimes against humanity, (2) war crimes, (3) genocide, and (4) the crime of aggression. Id. Those who violate such norms are condemned as “common enemies of all mankind and all nations have an equal interest in their apprehension and prosecution regardless of their ‘state’ status or willingness to accede to a treaty,” Demjanjuk v. Petrovsky, 776 F.2d 571 (1985).

39 William A. Schabas, Convention for the Prevention and Punishment of the Crime of Genocide, UN LEGAL AFFAIRS (2008), http://legal.un.org/avl/pdf/ha/cppcg/cppcg_e.pdf, (stating that even though “genocide” appears in the drafting history of the Charter of the International Military Tribunal, the final text of that instrument uses the cognate term “crimes against humanity” to deal with the persecution and physical extermination of national, ethnic, racial and religious minorities, and therefore, the Genocide Convention was the first true codification of the crime on an international level).


41 See Schabas, supra note 37 (stating that that genocide is a crime under international law which the civilized world condemns). Many scholars argue that the global community considers genocide to be the worst of all international crimes.
opportunity to prevent modern forms of genocide.\textsuperscript{42} Genocidal boundaries must be reestablished to face the threats of nuclear power in the hands of extremist organizations. The current elements of genocide—accepted by the 193 member states of the UN and prosecuted by the International Criminal Court as a crime of universal jurisdiction—include “the deliberate killing of a large group of people, especially those of a particular ethnic group or nation . . . committed with intent to destroy, in whole or part a national, ethnic, racial, or religious group . . . [including] complicity in the commission of act.”\textsuperscript{43}

As familiar as this egregious criminal ideology may sound to those witnessing the modern scourge of “terrorism” those responsible to produce uniform prosecutorial and preventative methods are paralyzed from producing protective laws by the moral considerations of accepting the perpetrators’ ideology.\textsuperscript{44}

Definition, in a legal sense, must only “require[] specifying what it is [one is] examining.”\textsuperscript{45} Facing a fact must not be muddled by moral considerations or attempts to clarify the pure intention of the religious ideology from which such violent organizations are operating. During the Crusades and Spanish Inquisition of the 1400s, that religious ideology was enforced Catholicism. Today, it is fundamental Islamic theology. Many Arab leaders in nations that have a majority Muslim population have taken steps to thwart the spread of Islamic militants involved in violent extremism.\textsuperscript{46}

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\textsuperscript{42} Gregory Stanton, Create a United Nations Genocide Prevention Focal Point and Genocide Prevention Center, GENOCIDEWATCH.NET, http://www.genocidewatch.org/images/Prevention-Create_a_United_Nations_Genocide_Prevention_Focal_Point_and_Genocide_Prevention_Center.pdf (proposing a UN-funded center to identify and prevent modern-day genocidal crimes).

\textsuperscript{43} Genocide Convention art. 1; see also Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T Judgment (Sept. 2, 1998) (emphasis added).

\textsuperscript{44} See GOLDHAGEN, supra note 6, at 8 (stating that “[w]e must consult the corrective lenses of others. We must look at mass killings using impartial criteria. We must keep distinct the tasks of definition . . . explanation . . . and moral evaluation . . . [and] approach the phenomenon with the willingness to think it through systematically and from the beginning.” Id.)

\textsuperscript{45} Id.

\textsuperscript{46} One example of Muslim leaders renouncing such violence under the guise of Islam is Egyptian President Abdel Fattah el-Sisi who stated (in his 2015 New Year’s speech in Al Azhar University that addressed top Sunni clerics), “it is not possible that 1.6 billion people [reference to the world’s Muslims] should want to kill the rest of the world’s inhabitants—that is 7 billion—so that they themselves may live.” Ali Sina, The Dilemma of Islamic Terrorism, FAITHFREEedom.ORG (Jan. 26, 2015), http://www.faithfreedom.org/the-dilemma-of-islamic-terrorism/. “Sisi did not blame Abu Ghraib, Israel, nor made other silly excuses for Islamic terrorism. He blamed the ‘ideology’ of it.” Id.
international community must do the same. This is a present-day issue so it must be dealt with squarely, but need not be offensive to any single religion which does not purport to accept the acts of the few.

III. The Global Community is Afraid to Call Intentional Eliminationism “Genocide” and Still Refuses to Objectively, Accurately Label Modern Extermination Campaigns.

The sovereign community of states failed to prevent the 1994 eliminationist campaign in Rwanda, and despite the tribunals that have addressed the aftermath, it is still failing to prevent mass murder due to misunderstood labels and political correctness. Beginning in March 1994, an extremist group of the Rwandan Hutu population took over a UN peacekeeping mission in Kigali with the intention to annihilate the population of Rwandan Tutsis within their territorial control.47 Prior to the commencement of the Hutu extermination agenda, the UN peacekeeping mission leader, Canadian General Roméo Dallaire, received the information of an informant saying that Hutu extremists were planning to kill all Tutsis and diplomats.48 Dallaire conjured a plan to raid the military bunkers of the Hutu extremists, but when he informed Kofi Annan at the UN headquarters of his plan, he was immediately told to stand down and that a military raid of any Rwandan group was “outside the scope of his peacekeeping mission.”49 Further, the UN told him that his only course of action was to inform the Rwandan government of what Dallaire’s informant had relayed to him, despite knowing that many government officials were part of the Hutu plot.50 Although the UN passed resolutions condemning the

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47 Cite (Supported by the “legitimate” Rwandan government, by the way. And by machetes sent from the US, which recognized the legitimacy of the Rwandan government.)
48 Dallaire’s book Shake Hands with the Devil is also a good source, but very depressing. I believe he attempted suicide once or twice after returning to Quebec.
50 Id. The UN forces in Rwanda had issued at least ten clear warnings to the UN of the ‘Hutu power’ and plans; During this time, the UN General Assembly passed a resolution entitled “Human Rights and terrorism, G.A. Res. 48/122, U.N. Doc. A/RES/48/122 (1994); “The UN Security Council met in secret after the start of the violence. At this meeting Britain urged that UNAMIR should pull out (and later blocked an American proposal to send in a fact-finding mission when the death toll had reached six figures). Council members resisted admitting ‘that the mass murder being pursued in front of the global media was in fact ‘genocide.’ Genocide involved action no-one wanted to take. Once it was inescapably clear that genocide was indeed going on, it was too late. (The United States, at this point, had actually banned its officials from using the term.” Information on the Genocide in Rwanda, PEACE PLEDGE UNION, http://www.ppu.org.uk/genocide/g_rwanda1.html (last visited Feb. 1, 2015. This website provides a detailed, but concise timeline of the events in Rwanda (Statement by the
violence, even the strongest Security Council resolution purposefully omitted the word “genocide,”
because if the term “genocide” had been used, the international community would have been legally
obliged to act to “prevent and punish” the perpetrators.51 52 When the targeted population was being
destroyed in mass numbers, those in power to help ignored the genocide except for the select men and
women who gave everything to save innocent civilian lives, such as Senegalese Captain Mbaye Diagne and
American missionary, Carl Wilkins.53 With no action from the global community over 800,000
human beings were slaughtered in the course of 100 days.54

“The definition of ‘genocide’ was clearly an international sticking-point [during this time], and
because so many were unwilling to classify the atrocities as a ‘genocide,’ the global community—that
had the means and might to stop the violence—remained purposely powerless.55 Today, international
legal actors working to prevent and prosecute violent extremism refuse to pair the labels of Islamic
eschatology with the current campaigns of elimination, and therefore, are committing the same
purposeful blindness as the apathetic UN of 1994. The truth is that all mass murder campaigns contain
similar elements but very unique intricate motivations and that should be addressed during the
prosecution phase. Although Rwanda was “state-sponsored terrorism,” (whereas extremist organizations
are generally non-state or quasi-state actors), it could have been prevented by squarely facing the

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51 Id.
52 Id.
53 Id.
1, 2015).
55 Id. (emphasis added). Peace Pledge Union Information on Genocide in Rwanda, PEACE PLEDGE UNION, http://www.ppu.org.uk/genocide/g_rwanda1.html (last visited July 23, 2014) (stating that “[t]he UN Security Council met in secret after the start of the violence and.. At this meeting Britain urged that UNAMIR should pull out (and later blocked an American proposal to send in a fact-finding mission when the death toll had reached six figures). Council members resisted admitting 'that the mass murder being pursued in front of the global media was in fact genocide': genocide involved action no-one wanted to take. Once it was inescapably clear that genocide was indeed going on, it was too late. (The United States, at this point, had actually banned its officials from using the term).
published intentions of the Hutu perpetrators and properly labeling the violence “genocide” rather than hiding behind a wall of “sovereignty” and political correctness. While the Hutu extremists used machetes to commit the acts, modern extremists seek the use and proliferation of nuclear weapons.\(^{56}\) As the next section will illustrate, the most widespread and influential extremists (or “terrorists”) operate with the intent to commit genocide.\(^{57}\)

Extremist organizations committing systematic violence are guilty of the crime of genocide and the intent to commit genocide. Following the Islamic Revolution in Iran that ushered in the political rule of Ayatollah Khomeini, Iranian religious leaders decided to create a militant wing of Shi’a Islamic extremists in Lebanon whose foundational ideologies would include viewing Iran as the “vanguard and new nucleus of the leading Islamic State in the world. . . . [Abiding] by the orders of . . . Khomeini.”\(^{58}\) This militant wing of Shi’a extremists became known as Hezbollah and was led primarily by Sheik Hassan Nasrallah.\(^{59}\) The global reach of Hezbollah’s activities illustrates the expertise of extremists in masking their end goals by “becom[ing] experts in the art of concealing their activities.”\(^{60}\) Hezbollah covertly operates throughout Europe, the Middle East, Southeast Asia, Africa, and North America.\(^{61}\) Nasrallah, the Hezbollah leader throughout the 1980s, restated Hezbollah’s goals saying, “[w]e do not believe in multiple Islamic Republics; we do believe however in a single Islamic world governed by a central government” (the “caliphate” mentioned above).\(^{62}\) Hezbollah believes that Shi’a Muslims

\(^{56}\) Goldhagen, supra note 10.

\(^{57}\) See Goldhagen, supra note 6, at 496.


\(^{59}\) Id. Hezbollah operates with direct Iranian funding and was trained by Iran’s Islamic Revolutionary Guard Corp-Qods force. Id. See also Adam Goldman & Ellen Nakashima, CIA and Mossad killed senior Hezbollah figure in car bombing, Wash. Post (Jan. 30, 2015, 10:14 PM), http://www.washingtonpost.com/world/national-security/cia-and-mossad-killed-senior-hezbollah-figure-in-car-bombing/2015/01/30/ebbb8862-968a-11e4-8005-1924ede3c54a_story.html.

\(^{60}\) Levitt, supra note 58, at xii. Matthew Levitt spent ten years researching the transnational criminal activities of Hezbollah because information on such organizations is very difficult to find through their covert methods of operations. Id.

\(^{61}\) Id.

possess a duty to create the Caliphate, and therefore, Hezbollah’s operations serve Shi’a rebel organizations all over the world whose ideologies mirror their own.\(^{63}\)

Iran considers Hezbollah its main Shi’a extremist proxy that will ultimately bring about carnage that allows a Shi’a ruled Islamic Caliphate to usher in the return of the Mahdi.\(^{64}\) Iran even supports Sunnis when it fits with Iran’s geopolitical interests. (keep? Cite?) Hassan Nasrallah, the leader of Hezbollah stated that “America will remain the nation’s chief enemy and the greatest Satan. . . . [and that] Israel will always be, for us, a cancerous growth that needs to be eradicated.”\(^{65}\) He continued, stating that likeminded extremist organizations are “not interested in our own personal security. . . . [but rather daily hopes] more than anything to be killed for the sake of Allah.”\(^{66}\).\(^{67}\) While its military and terrorist threats currently remain largely unknown, Hezbollah has been a cunning adversary, and prior to September 11, 2001, Hezbollah had targeted and killed more Americans than any other modern terrorist organization.\(^{68}\)

Next, the Islamic Resistance Movement (known more commonly as Hamas) began its operations in the Gaza Strip in 1986 as an organization intent upon destroying the State of Israel and replacing the

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\(^{63}\) See e.g. LEVITT, supra note 111, at 288 (stating that throughout the 1990s, Hezbollah documented its strategic support of radical Shi’a groups in Tunisia, Kuwait, Saudi Arabia, Egypt, Pakistan, and Yemen). It would not be surprising to discover that Hezbollah’s significant resources helped to fund and prepare for the military coup in Yemen where Shia extremist Houthi group ousted the Yemeni Parliament and President.

\(^{64}\) Id. at 8-9.


\(^{66}\) LEVITT, supra note 58, at 7 (discussing Hezbollah’s media outlet in Lebanon: Al-Manar TV program).

\(^{67}\) Id. at 288. Since 2012, the United States has also seen a resurgence of activity by Iran’s Islamic Revolutionary Guard Corps’ Qods Force (IRGC-QF), the Iranian Ministry of Intelligence and Security (MOIS), and Tehran’s ally Hezbollah; On January 23, 2013, the Yemeni Coast Guard interdicted an Iranian ship carrying weapons and explosives likely destined for Houthi rebels, U.S. STATE DEPARTMENT COUNTRY REPORTS ON TERRORISM, April 2014, http://www.state.gov/r/pa/prs/ps/2014/04/225406.htm (last visited Feb. 7, 2015) (emphasis added to show Iranian and Hezbollah involvement in recent Houthi takeover in Yemen). On February 5, 2013, the Bulgarian government publically implicated Hezbollah in the July 2012 Burgas bombing that killed five Israelis and one Bulgarian citizen, and injured 32 others, id. On March 21, 2013, a Cyprus court found a Hezbollah operative guilty of charges stemming from his surveillance activities of Israeli tourist targets in 2012, id. And on December 30, 2013, the Bahraini Coast Guard interdicted a speedboat attempting to smuggle arms and Iranian explosives likely destined for armed Shia opposition, id.; See also Isabel Kershner & Anne Bernard, Missile Attack kills 2 Israeli soldiers near Lebanon: Hezbollah claims responsibility, N.Y. TIMES (Jan. 28, 2015), http://www.nytimes.com/2015/01/29/world/middleeast/israel-lebanon-hezbollah-missile-attack.html?_r=0.

\(^{68}\) LEVITT, supra note 58, at 358 (stating that Hezbollah likely went underground for planning once America’s “War on Terror” sought to annihilate Osama bin Laden’s al-Qaeda).
territory known as Israel with Palestine once all Israelis were killed or captured, or deported. The goal of Hamas remains the desire to “conquer evil, break its will, and annihilate it.” Hamas identifies “evil” as the nation-state of Israel and its allies. Merriam-Webster defines annihilate as “(1) to destroy something or someone completely, (2) to cause to cease to exist, (3) to reduce to nothing.” The annihilation of an entire nation and religion is at the forefront of Hamas’ Charter and Covenant which fostered its initial creation. Hamas was voted into political power in the Gaza Strip in 2006 by promising civilians access to water, but since then has utilized its extensive war chest to plan rocket launches and declare war against the State of Israel targeting Israel’s civilians and using its own civilians as bait to gain international sympathy and garner universal support against Israel. Hamas’ opinion towards peace initiatives is codified in their charter:

[International peace] conferences are nothing but a form of enforcing the rule of the unbelievers. There is no solution to the Palestinian Problem except by Jihad. The initiatives, options, and international conferences [on establishing peace in Palestine and a two-state solution with Israel] are a waste of time and a kind of child’s play.

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72 See Hamas Charter, supra note 124.

73 See id., art. 16 (emphasis added) (stating that Hamas believes their goal is to “train the Muslim generation in our area, an Islamic training that depends on . . . careful study of the enemy’s ability, current events, and new trends, studying the analysis and commentaries on it”). (to what end?) Hamas’ mode of operation is written in their charter to know political trends and that media and the UN will report civilian casualties, Hamas Charter art.

74 Hamas has not only conducted violent strikes against the state of Israel or her sympathizers (August 2014 of Hamas carrying out public executions of Palestinian civilians they believed were allied with Israel) but also on other sects of Islamic leadership in the land of Palestine (“Jund Ansar Allah is, or was, an armed Salafist jihadist organization in the Gaza Strip. On August 14, 2009, the group’s spiritual leader, Sheikh Abdel Latif Moussa, announced during Friday sermon the establishment of an Islamic emirate in the Palestinian territories attacking the ruling authority, the Islamist group Hamas, for failing to enforce Sharia law. Hamas forces responded to his sermon by surrounding his Ibn Taymiyya mosque complex and attacking it. In the fighting that ensued, 24 people (including Sheikh Abdel Latif Moussa himself), were killed and over 130 were wounded.” (Al-Quds Al-Arabi (London), August 19, 2009.).

75 Hamas Charter, supra note 124, art. 13.
Several journalists working in Gaza during a time of conflict with Israel noted that it is “undisputable that Gaza militants [members of Hamas Al-Qassam Brigade] operate in civilian areas, draw return fire to civilian structures, and . . . benefit in the diplomatic arena from the rising casualties [of their own people].”77 The journalists also noted that Hamas encouraged its residents not to flee their homes when Israel had warned Palestinian residential areas that there was an impending strike.78 Further, although Hamas “prepared extensively for war,” it did not build any civilian bomb shelters but rather utilized civilian locations and hospitals as areas to conduct media interviews in direct violation of the Geneva Convention.79 Even as the official elected representative of the Palestinian civilians, Hamas’ goal has not shifted to caring for their civilian population, but remains intent on annihilating Israel and tarnishing Israel to the international community despite the loss of Palestinian lives. After over 2,000 Palestinians had been killed in Hamas’ war against Israel80, Hamas still declared victory in the 2014 Gaza conflict.81 The deaths of civilians, including children, are no concern to Hamas as was observed in an article during the 2014 Gaza-Israeli:82

78 Id.
80 See Hamas admits kidnapping of Israeli Teens, USA TODAY (Aug. 21, 2014), http://www.usatoday.com/story/news/world/2014/08/21/hamas-kidnapping-israeli-teens/14406827/ (displaying that the event which triggered the 2014 conflict was, indeed, perpetuated by Hamas).
81 The Reasons Why Israel’s Military Is In Such A Tough Fight, NPR (July 25, 2014, 10:52 PM), http://www.npr.org/blogs/parallels/2014/07/24/334893877/the-reasons-why-israels-military-is-in-such-a-tough-fight; See also the Geneva Conventions (which ones) “The parties to a conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations” “the presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations.”
82 See Hamas is playing a dangerous game with Gazan lives, WASH. POST (July 15, 2014), http://www.washingtonpost.com/opinions/hamas-is-playing-a-dangerous-game-with-gazan-lives/2014/07/15/cc5f101e-0c3b-11e4-8c9a-923ec0c7d23_story.html?wpmk=MK0000203 (noting that one must wonder why Hamas would refuse to honor or recognize a cease fire with Israel when their civilians were faring so poorly against the IDF); see also Plosker, Hamas’ Human Shields Tactics, supra note 77 (stating that even when warnings from Israeli officials to evacuate reach Palestinian civilians, oftentimes, the innocent cannot escape because Hamas—as an elected representative of the Palestinian civilians—blocks radio broadcasts or tells their fleeing civilians that Israel is blocking the exits or that they cannot leave through such an exit); See Rosen, Targeting Enemy Forces in the War on Terror: Preserving Civilian Immunity, supra note Error!
Hamas on Tuesday rejected an Egyptian cease-fire proposal that was supported by Western governments and the Arab League and had been accepted by Israel. Why would Hamas insist on continuing the fight when it is faring so poorly? The only plausible answer is stomach-turning: The Islamic movement calculates that it can win the concessions it has yet to obtain from Israel and Egypt not by striking Israel but by perpetuating the killing of its own people in Israeli counterattacks. More than 200 people, including a number of children, have already died in Gaza; Hamas probably calculates that more deaths will prompt Western governments to pressure Israel to grant Hamas’s demands.  

The civilians living in Hamas-controlled territories know this as evidenced by the drop in positive ratings according to recent polls conducted in Gaza, and the world now understands the extent Hamas was willing to go to perpetuate international condemnation against Israel given that almost 2,200 people died as a result of Hamas’ refusal adopt the proposed cease-fires. Regardless of one’s stance on the situation involving Israel and Palestine, the intent to exterminate any people, ethnic group, nationality, or religion directly conflicts with the laws prohibiting genocide and crimes against humanity, which have been signed and acceded to by all 196 member and observer states of the UN—including the State of Palestine in 2014.

Quasi-state actors such as Hamas and Hezbollah have been able to gain forms of political power in their respective territories. However, both organizations continue to have the shared goal of

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84 See *Muslims Worldwide Fear the Rise of Islamic Extremism: Pew Survey*, HUFFINGTON POST (Updated July 23, 2014, 11:59 AM), http://www.huffingtonpost.com/2014/07/02/muslims-against-extremism-pew-survey_n_5551693.html (showing that “Hamas has fallen out of favor in Palestine since 2007, when 62 percent of Palestinians viewed them positively. Now, in 2014, only 35 percent reported a favorable opinion, with 53 percent on record as having an unfavorable opinion. In the Gaza Strip, which is controlled by Hamas, 63 percent of people have a negative opinion of the group, which is up from 2013, when only 54 percent reported unfavorable views,” id.); Mariano Castillo, Chelsea J. Carter & Salma Abdelaziz, *Captured, Killed or missing? Fate of Israeli soldier remains unknown*, CNN (Aug. 6, 2014, 12:02 PM), http://www.cnn.com/2014/08/01/world/meast/mideast-crisis/ (speaking of how Hamas broke a peaceful ceasefire in 90 minutes with a suicide bomber placing their civilians in more danger exposing them to defensive fire).

annihilating entire nations or people groups using violence or extermination.\textsuperscript{86} To these organizations, such goals outweigh all desire to abide by international laws and respect for human rights and dignity and therefore, the definitions of modern-day terrorist organizations should fit their stated intent and refuse to allow them political office over civilians with such eliminationism intentions. The next section will cover non-state organizations whose similar intentions span across borders and have no legitimate state alliance.

The notion of violent Jihad carried out by extremist groups was not widespread until the mid to late twentieth century, when Osama bin Laden—whom many consider to be the founder of transnational violent jihad—founded the movement.\textsuperscript{87} After fighting and defeating the Soviet forces in Afghanistan in the 1980s, bin Laden moved back to his home, Saudi Arabia to build up an army that would seek to fight and eradicate “un-Islamic” governments by purging.\textsuperscript{88} Al-Qaeda also worked to forge alliances with other organizations such as the “International Islamic Front for Jihad against the Jews and Crusaders,” Hezbollah, the Harakat ul-Ansar, and others.\textsuperscript{89} (Bin Laden established training base in Sudan around 1992, at the same time as Sudan had Iranian revolutionary guards training forces in the country. I believe Bin Laden was linked to the attempted assassination of Hosni Mubarak in Addis Ababa in 1995.)

Suleiman Abu Geith, Al-Qaeda’s spokesman stated, at one point, that Al-Qaeda had “the right to kill 4 million Americans—2 million of them children—and to exile twice as many and wound and cripple hundreds of thousands.”\textsuperscript{90} This intent displays the beliefs of modern jihadists that (“peaceful”)

\textsuperscript{86} See William Booth, While Israel held its fire, the militant group Hamas did not, WASH. POST (July 15, 2014), http://www.washingtonpost.com/world/middle_east/while-israel-held-its-fire-the-militant-group-hamas-did-not/2014/07/15/116fd3d7-3cf0f-4413-94a9-2ab16af1445d_story.html.
\textsuperscript{87} JOEL C. ROSENBERG, INSIDE THE REVOLUTION 8, 108-09 (Tyndale House Publishers, Inc., 2011).
\textsuperscript{88} Id. at 109; See also Al-Qaeda, INFOPLEASE.COM, http://www.infoplease.com/spot/al-qaeda-terrorism.html#ixzz3DUUbDnK; at another point, in response to the spread of al-Qaeda and violent
Muslims who follow the Quran, live good lives, and believe in peace, family, and stability are to be declared “apostates” and should be condemned to Hell. A more pragmatic way of phrasing their intent is global domination and control over all those whom they consider enemies of Allah. Al-Qaeda’s primary alliances—which also included representatives of the government of Iran—maintained the common purpose of working together against their perceived enemies: the United States, Israel, and the nationals of both states.91 All U.S. nationals are targets for attack and mass casualties, and al-Qaeda has equipped—through funding or donating weapons—other extremist organizations who share the same intent to target an entire nationality. Today, al-Qaeda operates through various branches. Although some are of more imminent concern, one of the most dangerous is al-Qaeda in the Arabian Peninsula (AQAP) that mainly operates in Yemen and is purported to gain a stronger foothold since its main area rival—the Shiite extremist Houthis group—has ousted the Yemeni government, leaving AQAP the only other governing “option” in the country.92 Further, the AQAP has been forging ties with the Islamic State (known more commonly as ISIS or ISIL) who has started training and recruiting in certain parts of Yemen.93

With the rise of ISIS, ironically, al-Qaeda has been quick to publically denounce the ISIS reign, but the underpinnings of their operation parallel those of ISIS seeking the annihilation of certain

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93 Id.
(national groups/states) ethnic or religious groups. The global community is wise to ignore the attempts of al-Qaeda to separate themselves from ISIS as its self-proclaimed leader, Abu Bakr al-Baghdadi, rose from al-Qaeda’s roots and only recently renamed the group the Islamic State of Iraq and Syria or “The Levant.” 

ISIS’s roots are firmly established in al-Qaeda’s theology. Many of the terrorists that were freed from the American prison in Iraq—Abu Ghaib—were believed to have headed to Syria, where they proved decisive in turning al-Qaeda into the pre-eminent rebel movement, now known as ISIS, in the fight against Syrian President Bashar Assad. (more substance for this assertion) A Middle Eastern news source stated that, as of June 2014, ISIS was composed of several factions of extremist organizations including a “rebranded al-Qaeda,” Sadam Hussein’s Baath Party, and other Sufi Islamists.

The group currently has about 7,000 fighters in northern Syria, including volunteers from Britain, Canada, the United States, and Europe. Baghdadi has called on Muslims around the world to flock to territories under his control to fight and build an Islamic state. In a recording posted online,

97 The Jihadist behind the takeover of Mosul and how America let him go, see supra text accompanying note 147.
98 Obama’s “up to 300 US military advisers ” won’t stop ISIS-Sunni entrenchment in Iraq, DEBKAFILE (June 19, 2014, 9:13 PM) (stating that the Islamists advancing on Baghdad are not one, but two armies: The Al Qaeda element has been joined by a hodgepodge of Sufi groups, Saddam Hussein’s old Baath Party guard, and US-trained Sunni Awakening Council tribes).
99 Id.; Such has been ISIS’s brutality in Syria that it has even alienated other al-Qaeda affiliated groups, and prompted numerous reports that it is at least partly a creation of President Assad’s intelligence services, designed to discredit and disunite the rebel movement (id) That does not square with Baghdadi’s known-hatred of Shia Muslims, the sect to which Mr. Assad belongs. Like most other al-Qaeda extremists, Baghdadi views Shias as apostates, be they those in Syria or those in the Shia-majority government in Baghdad, id.; see also Leila Fadel, U.S. hands over Tariq Aziz, other detainees to custody of Iraqi government, WASH. POST (July 14, 2010), http://www.washingtonpost.com/wp-dyn/content/article/2010/07/14/AR2010071401604.html.
100 Shelby Lin Erdman, Who is the ISIS? CNN (June 12, 2014), http://www.cnn.com/2014/06/12/world/meast/who-is-the-isis (stating that Baghdadi served four years in a U.S. prison camp in Iraq where he almost certainly developed a network of
Baghdadi declared he wants to turn the enclave his fighters have carved out in the heart of the Middle East into a “magnet for militants.”\(^{101}\) (State what legitimate is) The goal of the Islamic State is mass destruction and imperialization of legitimate states and individuals through violence and carnage.\(^{102}\) The threat of the ISIS has been underestimated by United States and now has spread beyond the boundaries of any manageable crisis.\(^{103}\) The Secretary General of the OIC, Iyad Ameen Madani, has condemned the actions of ISIS against innocent Muslim and Christian Iraqi citizens in Mosul and Nineveh including the forced deportation under the threat of execution; thus further tearing apart the social fabric of the Iraqi people.\(^{104}\) In the United States, the Federal Bureau of Investigation arrested a woman named Shannon Conley, who had a significant relationship and knowledge of ISIS. She was detained before leaving the country and her intelligence provided information useful in understanding the methods of ISIS recruiting.\(^{105}\) Conley stated she has no interest in doing humanitarian work and that violent Jihad was the only answer to correct the wrongs against the Muslim world.” \(^{106}\) This shows that extremist organizations also feed on the sympathetic sentiments of young westerners—to protect the plight of Muslims against injustice even though most Muslims have no desire to wage violence or commit murder.\(^{107}\) According to Conley, it was acceptable to attack or kill westerners when engaged in

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\(^{103}\) See e.g. ISIS magazine claims group has enslaved and sold Yazidi women and kids, FOX NEWS (Oct. 13, 2014), http://www.foxnews.com/world/2014/10/13/isis-magazine-claims-group-has-enslaved-and-sold-yazidi-women-and-kids/.

\(^{104}\) OIC Condemns ISIS threats and forced displacement of Christians in Iraq, ORG. OF ISLAMIC COOPERATION (July 17, 2014), http://www.oic-oci.org/oicv2/topic/?t_id=9241&t_ref=3695&lan=en. Madani added that this forced displacement is a crime that cannot be tolerated; and that the practices of ISIS have nothing to do with Islam and its principles that call for justice, kindness, fairness, freedom of faith and coexistence, id.


\(^{106}\) FBI Criminal Complain Shannon Conley, at 5 (7).

\(^{107}\) Id. at 6 (8).
“defensive Jihad” since ISIS operates under its own truth that all targets of violence and murder are acceptable if they abide by “man-made laws that are not grounded in [Allah’s] law.” This intent justifies the murder of almost any legally innocent individual they deem an apostate to their religious doctrine.

Next, the media has generally ignored the lesser-funded extremist organizations that fully support ISIS’s rise, such as Boko Haram. Operating primarily in Nigeria, Boko Haram rose to infamy with the kidnapping and exploitation of nearly 300 young school-girls. While the world watches IS, Boko Haram declared an Islamic Caliphate in Nigeria amidst a government that has remained powerless to stop this extremist group. Nigerian government troops have fled while Boko Haram implements its harsh version of Islamic law on approximately 3 million civilians, which includes ongoing beheadings and forced induction of children into its own military forces, in direct violation of Geneva Conventions and international legal principles. The group’s self-proclaimed leader, Abubakar Shakau, addressed the community in Gwoza—a city that Boko Haram conquered—claiming to be responsible for over 1,000 deaths of the “mostly Christian community” in only one day’s time. Shakau is one of the prominent Islamic jihadi leaders that welcomed the rise of ISIS and has emulated al-Baghdadi’s brutal

108 Id. at 4.
111 Id.
112 Id.
113 Id.
Although the Cairo Declaration in Islam contends that “taking hostages under any form or for any purpose is expressly forbidden,” Boko Haram has gone widely unpunished. The desire of Boko Haram to join and celebrate the work of ISIS highlights the necessity for the global community to codify transnational terrorism in order to prevent a transnational genocidal alliance of extremist organizations intent on annihilating those they deem to be apostates or evil. While most international conventions seek to hold “state” actors responsible for “state-sponsored” criminal acts, the chart displayed shows that militant groups which align with no legitimate state still commit mass atrocities that the global community denounces through international conventions. These extremist organizations must be held accountable to the same international standards in a court of universal jurisdiction. While such organizations are not parties to the treaties or conventions, this should not preclude them from being tried as international criminals. Innocent lives and civilian well-being are not as important to these extremist organizations as the end goal of building the Islamic Caliphate (or global government) by “cleansing” humanity of all “apostate” Muslims, Jews, Christians, and even entire nations (such as Israel or the United States).

The gravest danger this world faces is modern extremism perpetuated by radical Islamists. These organizations are well aware of the human nature of their targets: whether they be Muslims, Jews,
Christians, or others, and yet they still perpetuate the mass murder without needing to dehumanize their victims for justification. According the Pew Research Center there are approximately 2.2 billion Christians in the world; 1.6 billion Muslims (99% of whom would be considered “moderate” and therefore apostate Muslims to the extremist Salafists or other radical Islamist factions); and 13.9 million Jews.\textsuperscript{121} If the promulgated goals of modern-day extremist organizations are evaluated in realistic data, this means that in order to “cleanse” this world bringing about the final Caliphate, radical groups are willing and poised to kill (according to their specific Charters) any or all of the following populations: (1) 1.58 billion Muslims that don’t believe in violent jihad and extremism; (2) 320 million people living in the United States (the “Great Satan”)\textsuperscript{122}; (3) 8.3 million people living in Israel\textsuperscript{123}; (4) 2,213,900,000 Christians and Jews; and worst of all (5) 3,813,900,000 “apostate” Muslims, Christians, and Jews in total. If ever there was a number that indicated the intent to commit genocide, nearly 4 billion human lives (over half of the world’s current population\textsuperscript{124}) is it.

IV. Unresolved Issues; Gaps in the System; Proposed Changes.

Rather than learning from the patterns of historical precedent to prevent brutal atrocities, the global community appears to prioritize sovereignty over protecting the defenseless.\textsuperscript{125} Right now the biggest gap in the global legal system revolves around the interplay between maintaining state sovereignty while attempting to quell a threat that knows no boundaries. Upholding state sovereignty and preventing bloodshed do not have to be mutually exclusive. The problem with maintaining state sovereignty in spite of the mass threat to the powerless civilians is that it leaves those who could rescue

\textsuperscript{121} Pew-Templeton Global Research Futures Project of 2012, http://www.globalreligiousfutures.org/questions (last visited Feb 1, 2015).
\textsuperscript{124} U.S. and World Population Clock, supra note 185.
\textsuperscript{125} At least, Sovereignty seems more important than preventing murder until after innocent blood has been shed as was evidenced in the Rwanda genocide and resolutions claiming to uphold sovereignty.
the innocent paralyzed beyond the tipping point where too many lives have been taken to ignore the situation any longer.\textsuperscript{126} The truth is that those who do not learn from the past are doomed to repeat it. Now, this does \textit{not} mean that sovereignty is not to be recognized and protected. It means that upholding sovereignty over innocent bloodshed can no longer be a foundational or practical aspect of a global community that seeks “international peace and security.”\textsuperscript{127} The main threat to international peace, security, and stability today—as stated above—is transnational terrorism; which is modern day genocide to an extent this world has yet to witness.

Those who commit acts of transnational terrorism must be put on explicit notice that perpetual violence carried out by non-state aggressors will be prosecuted under international law by legitimate courts who uphold the rule of law.\textsuperscript{128} If the legitimate state governments do not accept that modern extremism is the equivalent of genocide, then these violent organizations will defeat legitimate judicial systems by committing atrocities with impunity. To understand the roots of an organization, one must look objectively at its promulgated goals whether they are based in a religion or a secular ideology.\textsuperscript{129} This is a critical first step for lawmakers and officials in attempting to prevent further mass murder by transnational terrorists.\textsuperscript{130} The proliferation of weapons of mass destruction and nuclear materials make any illegitimate group—no matter how small—a real threat to civilians.\textsuperscript{131} These groups will continue to act with impunity by committing terrorist acts under a generic term which remains universally undefined. The extremists’ system of illegitimate power struggles seeks to overpower the legitimate

\textsuperscript{126} \textit{See} GOLDBHAGEN, \textit{supra} note 6, at 11, 26-27.
\textsuperscript{127} UN Charter preamble; \textit{see also} U.N. Charter art. 2, para. 4.
\textsuperscript{128} \textit{See} Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts, June 8, 1977 (discussing how fears of state sovereignty infringement has prevented states from enacted procedures to implement Geneva conventions regarding the protection of civilians in a conflict that is not of an international character. This shows that state sovereignty fears often limit prevention of atrocities against civilians on various levels, \textit{id.})
\textsuperscript{129} GOLDBHAGEN, \textit{supra} note 6, at 25-27.
\textsuperscript{130} \textit{Id.} at 588 (discussing the importance of preventative measure to reduce eliminationist and mass murder campaigns).
\textsuperscript{131} \textit{Id.} at 511-12 (stating how the proliferation of nuclear materials to non-state actors makes their existence and intended goals a much greater, imminent threat to international stability, peace, and security of the global population).
governmental structures of the “state” system which could undoubtedly result in the tearing down of the legitimate entities who are paralyzed to prosecute transnational crimes.

Today the word “terrorism” is used to refer to any form of violence that cannot be categorized, no matter how egregious the atrocities and no matter what the intent of the perpetrators has become.\textsuperscript{132} The current test for determining terrorism is more of an “impact test.” One asks what the impact of the violent act had on the civilians. However, to prevent terrorist acts, the universal definition should adopt an “intent test.”\textsuperscript{133} \textit{Islamic terrorists carry out acts of genocidal intent and war against humanity with impunity as non-state actors because most international conventions criminalizing their actions mainly mandate relationships between states and state officials rather than non-state organizations.}\textsuperscript{134} This failure to objectively look at the perpetrator’s intent leaves those with the power to prosecute and define the atrocities unable to do so due to the progressive forces that believe such objective methods offends a religious doctrine.\textsuperscript{135} In an excellent article by Asra Nomani, a Muslim American, this paralysis of refusing to align any form of political Islam with modern terrorist acts is a real issue, and one that must be addressed in the quest to define it universally.\textsuperscript{136} It is the largest gap in

\textsuperscript{132} See Thomas Weigend, \textit{The Universal Terrorist}, \textit{supra} note Error! Bookmark not defined., at 1.
\textsuperscript{133} But cf. Goldhagen, \textit{supra} note 6, at 510 (purporting to classify transnational terrorists as Political Islamists given the misleading identification that such groups solely intend political power, rather than asserting their global domination aspirations).
\textsuperscript{134} The preceding chart displays only a few of the most notorious “extremist” organizations and offers proof that such organizations are inciting, intending, and carrying out some of the most condemned acts of violence against the global civilians and political communities. Without properly defining the crimes of such actors, the international community has and will be paralyzed to stop the atrocities being committed. The evidence of refusal to adopt such a definition is displayed by the rise of ISIS throughout the Middle East and the number of civilians who have been murdered or retreated into hiding as the world waits for the next move of such atrocious individuals.
\textsuperscript{135} Thomas L. Friedman, \textit{Say it like it is}, N.Y. TIMES (Jan. 20, 2015), http://www.nytimes.com/2015/01/21/opinion/thomas-friedman-say-it-like-it-is.html?_r=0.
\textsuperscript{136} See e.g. ASEAN Convention on Counter-Terrorism, \textit{supra} note 19, preamble, (“Reaffirming that terrorism cannot and should not be associated with any religion, nationality, civilisation or ethnic group.”).
the current system and the reason that terrorism has yet to be defined and proactively suppressed on a universal level. Nomani writes that,

[...]his is largely because of the rising power and influence of the ‘ghairat brigade,’ an honor corps that tries to silence debate on extremist ideology in order to protect the image of Islam. It meets even sound critiques with hideous, disproportionate responses. The campaign began, at least in its modern form, 10 years ago in Mecca, Saudi Arabia, when the Organization of Islamic Cooperation — a mini-United Nations comprising the world’s 56 countries with large Muslim populations, plus the Palestinian Authority — tasked then-Secretary General Ekmeleddin Ihsanoglu with combating Islamophobia and projecting the “true values of Islam.” During the past decade, a loose honor brigade has sprung up, in part funded and supported by the OIC through annual conferences, reports and communiques.138

As stated, this is not an article to combat a religion. On the contrary, it has become common knowledge that most religious Muslims do not follow or prescribe, at all, to the philosophy of violence in the name of Allah.139 However, the factual reality is that every terrorist group mentioned above as well as those operating in many major cities and threatening the free world all operate under a form of Islam.140 In order to define “terrorism” and prosecute the perpetrators, it is necessary to study, understand, and proclaim the mens rea of the offenders without fear of public scrutiny. The “fear” that results from terrorist attacks is not from the “terrorists” themselves, but from the progressive ideologists that use incidents of premeditated murder as a platform to condemn all who dare to study the perpetrators by their stated goals.141 In order to comprehend the full extent of the extremist threat, it is important to understand the mode of operation and methodology behind the “typical terrorist” actions. Preventative measures should incorporate a substantial knowledge of the individuals’ intent who currently engage in transnational acts of terror.

138 Id.
140 Quran, Sura 9:73, (“Strive hard against the unbelievers and the hypocrites and be unyielding to them; and their abode is hell, and evil is their destination.”).
The UN Office of the Special Adviser on The Prevention of Genocide has stated that “[t]o prevent genocide and genocidal conflicts, it is critically important to understand their root causes.”

Whether the root causes lie within a secular manifesto (such as Hitler’s “Mien Kampf”) or a religious doctrine (such as certain sayings of Muhammad found in particular Hadith literature) it is important to understand the root causes of the violence and where it stems from, so that further bloodshed can be foreseen and prevented without fear or denial of a religious tie that the organizations, themselves, profess to follow. Any uniform attempt extremism should include the creation of tribunals that would have jurisdiction over crimes of genocide carried out by extremists. “Tribunals are [generally] set up outside the situs of [a] conflict[, both because of security concerns and because [] an outside court, staffed largely by outsiders, would have the advantages of impartiality, credibility, and expertise that would be lacking in compromised or decimated national legal systems.” This tribunal will have specific prosecutorial duties and universal jurisdiction so that affected states may appeal for aid, protection, and prosecution.

V. Conclusion

At the UN Millennium Follow-up World Summit of 2005, Heads of State unanimously affirmed that “each individual State has the responsibility to protect its populations from genocide, war

142 PREVENTING GENOCIDE: OFFICE OF THE SPECIAL ADVISER ON THE PREVENTION OF GENOCIDE, UN.ORG, http://un.org/en/preventgenocide/adviser/genocide_prevention.shtml (last visited Feb. 9, 2015); See also Geneva Conventions, General introduction to the commentary on Additional Protocol II, which discusses that most non-international armed conflicts tend to be organized groups operating against a government in a “single state” which limits the applicability of the Geneva Convention principles protecting civilians only to domestic “rebel” groups rather than extremist organizations. See e.g. O’CONNELL, supra note 4, at 520 (discussing the difficulties in defining and prosecuting terrorism).


145 O’CONNELL, supra note 4, at 504.

146 It should not be set up in the west so detached from the origination of modern extremism, but would be better suited to operate in the following states: Jordan, The United Arab Emirates, Egypt, Kuwait, India, South Africa, or Turkey. Due to the violent nature of many organizations against those who attempt to prevent it, the tribunal should be in an undisclosed location.

147 The 2005 World Summit, 14–16 September 2005, was a follow-up summit meeting to the United Nations' 2000 Millennium Summit
crimes, ethnic cleansing and crimes against humanity.”

They agreed that, when appropriate, the international community should assist states in exercising that responsibility by building their protection capacities before crises and conflict break out. However, when a state is “manifestly failing” to protect its population from the four specified crimes, then the international community must be prepared to take collective action, through the Security Council and in accordance with the Charter of the UN. When the United States declared a “war on terror” the global community was given a “false sense of security” which has continued through the Obama Administration.

A legitimate nation-state attempting to dominate the world as Hitler’s Germany sought to during the 1930s, is not the main genocidal threat to international security today now that nuclear weapons have advanced to a point that provides terrorist savages with the capabilities to commit mass murder with a single strike. The current definitions of terrorism are, therefore, not sufficient since the violence and beheadings are not perpetrated mainly to spread fear nor are they carried out to gain political momentum. Many modern terrorist organizations possess the intent to exterminate, eliminate, and control. The world may see fear spread as a consequence of the growth of extremism, but these international criminal groups certainly intend not to merely incite fear (as the legal community currently sees “terrorist acts”), but rather, such organized violent groups intent to toss out the notions of civilization as we know it, and instill a form of global governance that oppresses and terrorizes those it

149 See e.g. William J. Aceves, Liberalism and International Legal Scholarship: The Pinochet Case and the Move Toward a Universal System of Transnational Law Litigation, 41 HARV. INT’L L.J. 129 (discussing why there needs to be international consensus for prosecuting crimes of genocide and humanity).
151 See Polish Foreign Minister admits US alliance has become harmful, ASSOC. PRESS (June 22, 2014), http://www.bing.com/r/1F/CsAtd?a=1&m=EN-US (stating that recordings obtained from a private conversation displayed that Poland’s strong alliance with the U.S. was worthless and “harmful because it creates a false sense of security” with a weakened leadership).
152 See Hoffman, supra note 13, at 204-06 (showing that many extremists transnational organizations operate with genocidal intent and not an intent that seeks mainly to “incite fear for political purposes.”)
153 http://www.huffingtonpost.com/jim-wallis/5-things-to-know-about-is_b_6768668.html, GOLDHAGEN, supra note 6, at 498-99; LEVITT, supra note 58.
subjects to its control and domination.\textsuperscript{154} Underestimating the threat of such genocidal campaigns, allowing them to remain unchallenged, enables them to achieve unprecedented power, unchallenged and unprosecuted in their quest to eliminate and exterminate mass numbers of innocent people.\textsuperscript{155}

\textsuperscript{154} See Young, supra note 7.

\textsuperscript{155} See e.g. Thomas L. Friedman, Say it like it is, supra note 197.

I. The following shall be punishable as Genocide or Acts of Eliminationism:

a. intent to destroy, in whole or in part, a national, ethnical, racial or religious group, in the following manner: (1) Killing members of the group; (2) Causing serious bodily or mental harm to members of the group; (3) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (4) Imposing measures intended to prevent births within the group.\(^{156}\)

b. Subjugation to violent and forced religious indoctrination

c. Purpose of global domination or mass extinction of any protected class of civilians including but not limited to: (a) Any national group; (b) Ethnic group; (c) Racial group; (d) Religious group; or (e) Gender group.

d. Recognizing that International Humanitarian laws protecting civilians must apply to transnational and unilateral violence carried out by non-state actors. Therefore, the global community agrees to amend the Geneva Conventions Protocol to include non-state extremism in its list of violators in order to subject them to the same Geneva Provisions.

e. Accepting the campaigns of self-determination. Do not LABEL SECESSION MOVEMENTS AS TERRORISM.

II. The Foregoing acts shall be prosecuted as genocide and eliminationism campaigns in an individual capacity without regard to “state” status, non-state affiliation, political affiliation, or any other internationally recognized identifying mark.

III. Rehabilitation Programs

a. In limited circumstances, member states and tribunal representatives shall agree to promote rehabilitative programs, where appropriate, to provide social reintegration of persons involved in the commission of terrorism if such individual was subject to duress, coercion, lack of age of consent or any other situation which the tribunal deems appropriate to allow for rehabilitation with the sole purpose of preventing the perpetration of terrorist acts in the future.

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\(^{156}\) Rome Statute of the International Criminal Court, supra note Error! Bookmark not defined., art. 6.
Appendix B: Violations of International Authorities by Terrorist Groups

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<tr>
<th>Covenant</th>
<th>Hamas</th>
<th>ISIS</th>
<th>Al-Qaeda</th>
<th>Boko Haram</th>
<th>Hezbollah</th>
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<tr>
<td>Genocide Convention arts. II (a) &amp; III (b) &amp; (d), “genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group . . . [including] [k]illing members of the group; Conspiracy to commit genocide; Direct and public incitement to commit genocide.” (Human Rights Treaties) ICCPR art. 9(1) “[E]veryone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom . . . to manifest his religion or belief, in worship, teaching, practice, or observance.” ICESCR art. 12 (1) &amp; (2) (d) States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. . . . [and shall take] steps . . . to achieve the full realization of this right [including] (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.</td>
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<td>Geneva Convention Common Article 3 (1) 1231(a)-(d) &amp; Additional Protocol II: “(1) Persons taking no active part in the hostilities . . . [shall] be treated humanely. To this end, the following acts are and shall remain prohibited . . . violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which would assure to all medical service and medical attention in the event of sickness.”</td>
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162 Facing fines or death, Christians flee Mousul, supra note 102. 


168 See Adam Goldman & Ellen Nakashima, *CIA and Mossad killed senior Hezbollah figure in car bombing*, supra note Error! Bookmark not defined..