

Effects of Terrorism on Enjoyment of Human Rights: ISIS/Daesh and Boko Haram

Ewelina Ochab and Kelsey Zorzi

REPORT

23 September 2016

Executive Summary

Recent years have witnessed the emergence of powerful terrorist groups, notably, ISIS/Daesh in the Middle East and Boko Haram in West Africa. Despite various steps taken to combat them, the terrorist groups continue unchecked by effective deterrence or punishment. While Boko Haram's atrocities are being considered by the Office of the Prosecutor to the International Criminal Court (ICC) in a preliminary examination, ISIS/Daesh remains unchallenged by either the UN Security Council or the ICC. The international community's failure to prosecute ISIS/Daesh may suggest that a new international mechanism is needed.

This report focuses on two main terrorist groups, namely, ISIS/Daesh in the Middle East and beyond, and Boko Haram in Nigeria and West Africa. The report presents the scope of the atrocities committed by both terrorist groups and the effect of the atrocities on the enjoyment of human rights in the affected regions, and beyond. The report further outlines the challenges faced by the affected States in responding to the threats posed by terrorism and proposes best practices to go forward.

Table of Contents

(a) Introduction	3
A. ISIS/Daesh.....	3
a) Background	3
b) Effects on Enjoyment of Human Rights	4
i. The Rights to Life.....	4
ii. The Right to Liberty and Security of Person.....	6
iii. The Right to Freedom of Religion or Belief.....	6
c) Effects on Enjoyment of Human Rights in General	8
d) Challenges.....	8
e) Best Practices	9
B. Boko Haram	13
a) Background	13
b) Effects on Enjoyment of Human Rights	14
i. The Rights to Life.....	14
ii. The Right to Liberty and Security of Person.....	15
iii. The Right to Freedom of Religion or Belief.....	17
c) Effects on Enjoyment of Human Rights in General	21
d) Challenges.....	22
e) Best Practices	23
(b) Conclusion.....	24

(a) Introduction

1. Recent years have witnessed an increase in terrorist acts. Increasingly, terrorist acts are organized and systematic, and are perpetrated by terrorist groups that are prominent internationally. Terrorist groups like the Islamic State (ISIS/Daesh) in the Middle East and Boko Haram in West Africa have become the biggest threat to international peace and security—a threat that the international community is struggling to address adequately.
2. The magnitude of and the increase in the number of attacks, and their locality have a significant effect on the enjoyment of human rights in the affected regions. However, as the attacks have become more frequent and widespread, the terror has begun to affect all.
3. This report focuses on two major terrorist groups, namely, ISIS/Daesh in the Middle East and beyond, and Boko Haram in Nigeria and West Africa. The report presents the scope of the atrocities committed by both terrorist groups and the effect of the atrocities on the enjoyment of human rights in the affected regions, and beyond. The report further outlines the challenges faced by the affected States in responding to the threats posed by terrorism and proposes best practices for going forward.

A. ISIS/Daesh

a) Background

4. ISIS/Daesh is a violent extremist group predominately active in Syria, Iraq, Libya, Afghanistan, Tunisia, and Egypt. ISIS/Daesh imposes a violent religious ideology upon those within its territorial control, not allowing for any religious diversity. ISIS/Daesh targets anyone who opposes its ideology. However, religious and ethnic minorities have particularly suffered at the hands of ISIS/Daesh. Many victims have been and continue to be Christians and are targeted by ISIS/Daesh and other extremist groups because of their religion.
5. While ISIS/Daesh primarily operates in the Middle East, it has also conducted attacks elsewhere, namely in Belgium, France, Germany, and the United States.
6. ISIS/Daesh is very influential among other terrorist groups and has received assurance of allegiance from many international and regional terrorist groups, including: Ansar Bayt al-Maqdis in Egypt; Bangsamoro Islamic Freedom Fighters, Abu Sayyaf and Ansar al-Khliafah in the Philippines; Ansar Al-Sharia in Libya and Tunisia; Ansar al-Tawhid fi' Bilad al-Hind in India; Al-Qaeda in the Arabian Peninsula in Yemen; Al-Qaeda in the Islamic Maghreb in Algeria and Mali; Ansar Bayt al-Maqdis in Gaza; Boko Haram in Nigeria and West Africa; Caucasus Emirate in Russia; Islamic Movement of Uzbekistan in Uzbekistan; Hezb-e-Islami in Afghanistan; Islamic Youth Shura Council in Libya; Jemaah Islamiyah in Malaysia, Thailand, Singapore, Brunei, the Philippines, and Indonesia; Jund al-Khilafah in Algeria and Egypt; Jundallah in Pakistan; Katibat Uqbah Ibn Nafaa in Tunisia; and Taliban and Tehreek-e-Khilafat in Pakistan.¹

¹ Independent, All the groups worldwide that have pledged their allegiance to Isis, <http://indy100.independent.co.uk/article/all-the-groups-worldwide-that-have-pledged-their-allegiance-to-isis--WyppUO47Kg>.

b) Effects on Enjoyment of Human Rights

i. The Rights to Life

7. The right to life is protected under international law in Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and other international law provisions. International law places obligations not only on States but also on individuals. Therefore, ISIS/Daesh fighters are bound to adhere to international law.

Killings and Murder

8. It is undisputed that ISIS/Daesh has perpetrated killings and murder all over the world, including of individuals belonging to protected groups (e.g. Christian communities and other religious or ethnic minorities). These killings amount to a breach of the victims' right to life as guaranteed and protected under international law.
9. Islam and Christianity coexisted in Syria and Iraq for centuries. It was not until ISIS/Daesh established a caliphate in many regions of Syria and Iraq that Christianity was perceived as an enemy that had to be destroyed.² As a result, the population of Christians in Syria fell from over 2 million in 2011 to less than 1 million in 2015,³ and the Christian population in Iraq dropped from 1.4 million in 2003 to 260,000 in 2015.⁴ The exact number of victims of ISIS/Daesh atrocities is unknown.
10. It was reported that ISIS/Daesh has conducted over 143 attacks in 29 countries resulting in 2,043 deaths.⁵
11. This includes the following major attacks:

France: In the November 2015 attacks in Paris, ISIS/Daesh killed 130 people⁶ and injured over 368 people.⁷ The July 2016 attack in Nice claimed 86 lives⁸ and injured hundreds, including many children. On 26 July 2016 a French priest, Jacques Hamel, was brutally murdered during a service by an ISIS/Daesh fighter.⁹

² WND, 'Isis Declares Christians No.1 Enemy', available at: <http://www.wnd.com/2014/10/isis-document-ids-christians-as-enemy-no-1/>

³ Aid to the Church in Need, 'Syria', *Persecuted and Forgotten? A Report on Christians Oppressed for their Faith 2013-2015*, [online report] (2015) <<http://www.acnuk.org/persecuted#countries>>, accessed 5 May 2015.

⁴ Aid to the Church in Need, 'Iraq', *Persecuted and Forgotten? A Report on Christians Oppressed for their Faith 2013-2015*, [online report] (2015) <<http://www.acnuk.org/persecuted#countries>>, accessed 5 May 2015.

⁵ CNN, ISIS goes global: 143 attacks in 29 countries have killed 2,043, (26 July 2016), <http://edition.cnn.com/2015/12/17/world/mapping-isis-attacks-around-the-world/index.html>.

⁶ RTE News, Paris attacks death toll rises to 130, (20 November 2015), <http://www.rte.ie/news/2015/1120/747897-paris/>.

⁷ CBS News, Injuries from Paris attacks will take long to heal, (19 November 2015), <http://www.cbsnews.com/news/injuries-from-paris-attacks-will-take-long-to-heal/>.

⁸ Star Tribune, Nice truck attack claims 86th victim, (19 August 2016), <http://www.startribune.com/nice-truck-attack-claims-86th-victim/390715371/>.

⁹ New York Times, Jacques Hamel, 85, a Beloved French Priest, Killed in His Church, (26 July 2016), http://www.nytimes.com/2016/07/27/world/europe/jacques-hamel-85-a-beloved-french-priest-killed-in-his-church.html?_r=0.

Belgium: On 22 March 2016 three bombings in Brussels resulted in 35 deaths and over 300 injured.¹⁰

Germany: In a series of attacks in July 2016 over 20 people were injured.¹¹

United States: On 2 December 2015 a couple that pleaded allegiance with ISIS/Daesh killed 14 people and injured over 21 in San Bernardino, California. On 12 June 2016 49 people were killed in a night club in Orlando, Florida.¹²

Egypt: On 31 October 2015, 224 people were killed in a plane crash caused by ISIS/Daesh attack.¹³

12. The above list of casualties does not include the ISIS/Daesh atrocities in Syria and Iraq. It was reported that in Iraq alone, ISIS/Daesh has killed over 18,800 people in the last two years.¹⁴ Some of the reported casualties have been documented online.¹⁵

Forced Abortions

13. It has been reported that, in order to maintain a supply of sex slaves, ISIS/Daesh forces enslaved women (most of whom belong to religious minorities) to abort their unborn children or take oral or injectable contraceptives.¹⁶ Apart from being fatal to the unborn child or to the potential life, both methods may have severe consequences on the physical and psychological health and well-being of the enslaved women, and may negatively affect their ability to have children in the future. Abortion, especially when conducted in unsanitary environments, is associated with high mortality rates and other side effects, including potentially fatal

¹⁰ CNN, Brussels attacks: Charges filed, a man freed and suspects on the run, (29 March 2016), <http://edition.cnn.com/2016/03/28/europe/brussels-investigation/index.html>.

¹¹ The Guardian, Germany's first attack by radicalised asylum seeker alarms officials (19 July 2016), <https://www.theguardian.com/world/2016/jul/19/germany-train-attack-could-prompt-rethink-of-counter-terrorism-policy>; CNN, Suicide bomber in Germany pleaded allegiance to ISIS leader, (26 July 2016), <http://edition.cnn.com/2016/07/24/world/ansbach-germany-blast/>.

¹² CNN, ISIS goes global: 143 attacks in 29 countries have killed 2,043, (26 July 2016), <http://edition.cnn.com/2015/12/17/world/mapping-isis-attacks-around-the-world/index.html>.

¹³ Independent, Isis plane attack: Egypt admits 'terrorists' downed Russian Metrojet flight from Sharm el-Sheikh for first time, (24 February 2016), <http://www.independent.co.uk/news/world/africa/isis-plane-attack-egypt-terrorists-downed-russian-metrojet-flight-from-sharm-el-sheikh-islamic-state-a6893181.html>.

¹⁴ NBC News, ISIS Death Toll: 18,800 Killed in Iraq in 2 Years, U.N. Says, (19 January 2016), <http://www.nbcnews.com/storyline/isis-terror/isis-death-toll-18-800-killed-iraq-2-years-u-n499426>. See also: UNAMI, Report on the Protection of Civilians in the Armed Conflicts in Iraq 1 May- 31 October 2015, available at: <http://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport1May31October2015.pdf>.

¹⁵ Islamic Terror Attacks on Christians, available at: <http://www.thereligionofpeace.com/pages/christianattacks.htm>.

¹⁶ Rukmini Callimachi, 'To Maintain Supply of Sex Slaves, ISIS Pushes Birth Control', *New York Times* [online news] (13 March 2016) <<http://www.nytimes.com/2016/03/13/world/middleeast/to-maintain-supply-of-sex-slaves-isis-pushes-birth-control.html>>, accessed 5 May 2016.

complications such as haemorrhaging, infections, sepsis, and perforation of internal organs.¹⁷

ii. The Right to Liberty and Security of Person

14. The right to liberty and security of person is protected under Article 9 of the ICCPR and other international law provisions.
15. In breach of that right, ISIS/Daesh has subjected many individuals to arbitrary and prolonged detention and deprivation of liberty, accompanied by interrogation, infliction of physical and psychological pain and suffering, rape, sexual violence, starvation and dehydration. The exact statistics of individuals deprived of their liberty by ISIS/Daesh are not known.
16. Under the ISIS/Daesh reign, there are different types of deprivation of liberty and security of person that need to be distinguished, namely arbitrary detention (including enslavement) and preventing individuals from living in cities and imposing conditions that severely impact their freedom and well-being.
17. Christians living in the so-called ISIS/Daesh caliphate or Christians that have fled ISIS/Daesh and are forced to seek refuge in neighbouring countries are in urgent need of humanitarian help and assistance, including access to food and water, sanitation, and safe shelter. The conditions of life deliberately inflicted by ISIS/Daesh on Christian minorities in Syria and Iraq are designed and intended to bring about the physical destruction of the Christian communities in Syria and Iraq, in whole or in part.

iii. The Right to Freedom of Religion or Belief

18. The right to freedom of religion or belief is protected under Article 18 of the ICCPR and other international law provisions.
19. In breach of this international law obligation, ISIS/Daesh prevents religious minorities from living out their faith. Furthermore, ISIS/Daesh specifically targets Christians and other religious minorities because they belong to a religious group.
20. ISIS/Daesh has expressed its specific intent to destroy Christianity in the region on numerous occasions.
21. In October 2014 ISIS/Daesh published the fourth issue of *Dabiq*. The cover depicts a black Daesh flag flying over the Vatican. The magazine confirmed ISIS/Daesh's desire to conquer Rome and 'break the cross':

And so we promise you [O crusaders] by Allah's permission that this campaign will be your final campaign. It will be broken and defeated, just as all your previous campaigns were broken and defeated, except that this time we will raid you thereafter, and you will never raid us.

We will conquer your Rome, break your crosses, and enslave your women, by the permission of Allah, the Exalted ... If we do

¹⁷ Gunnel Lindell and Folke Flam, 'Management of Uterine Perforations in Connection with Legal Abortions', 74(5) *Acta Obstetrica et Gynecologica Scandinavica* (1995), 375. <<http://onlinelibrary.wiley.com/doi/10.3109/00016349509024431>>, accessed 5 May 2016.

not reach that time, then our children and grandchildren will reach it, and they will sell your sons as slaves at the slave market [Indeed Your Lord Is Ever Watchful].¹⁸

22. The promise that ‘this time we will raid you thereafter, and you will never raid us’ may refer to killing members of the group or causing serious bodily or mental harm to members of the group as prohibited under Article II of the Convention on the Prevention and Punishment of the Crime of Genocide (the Convention on Genocide). Furthermore, the intent to enslave women may fall under paragraph (c) of Article II of the Convention on Genocide, which prohibits acts that deliberately inflict on a group conditions of life calculated to bring about its physical destruction in whole or in part. It may also fall within paragraphs (d) and (e), which state that genocide includes measures intended to prevent births within the group and the forcible transfer of children from the group to another group.
23. This excerpt makes clear ISIS/Daesh’s specific intent to destroy the Christian religion, heritage, and tradition. This is a clearly stated intention to commit cultural genocide. While cultural genocide is not recognized under the Convention on Genocide, the explicitly attempted destruction of the Christian culture and tradition confirms ISIS/Daesh’s intent for Christianity—and Christians—to disappear from the region. It is evidence of the militant group’s intent to commit genocide against a religious group.
24. In November 2015 the ISIS/Daesh magazine restated the intention of ISIS/Daesh to fight against ‘cross-worshippers’:

Shortly after the Russian airstrikes began, the resolute soldiers of the blessed Shāmī Wilāyah of Saynā’ succeeded in downing a Russian passenger plane, resulting in the deaths of 224 Eastern crusaders. The operation exacted revenge upon the cross-worshippers for recently killing hundreds of Muslims in Shām, including their women and children. And nothing changes for the Islamic State, as it will continue to pronounce takfir upon the Jews, the Christians, the pagans, and the apostates from the Rafidah, the Nusayriyyah, the Sahwah, and the tawaghit. It will continue to wage war against the apostates until they repent from apostasy. It will continue to wage war against the pagans until they accept Islam. It will continue to wage war against the Jewish state until the Jews hide behind their gharqad trees. And it will continue to wage war against the Christians until the truce decreed sometime before the Malhamah. Thereafter, the slave markets will commence in Rome by Allah’s power and might.¹⁹

25. It is clear from the above that the ISIS/Daesh-imposed restriction on the right to freedom of religion or belief is not limited to living out one’s faith but is aimed at the destruction of the religious groups, in whole or in part.

¹⁸ Dabiq, ‘The Failed Crusade’, 1435 Dhul-Hijjah, 4th Issue [online journal] (2014), 5.

¹⁹ Dabiq, ‘Just Terror’, 1437 Safar, 12th Issue [online journal] (2015), 43.

c) Effects on Enjoyment of Human Rights in General

26. As presented above, the actions of ISIS/Daesh have a significant impact on the victims' enjoyment of human rights. The atrocities committed by ISIS/Daesh have predominately impacted religious minorities such as Christians. Considering that the Christian population in Iraq decreased from 1.4 million in 2003 to less than 260,000 in 2015, and the Christian population in Syria decreased from over 2 million in 2011 to under a million in 2015, there can be no doubt that ISIS/Daesh has intentionally destroyed a significant part of the Christian community. There is a substantial risk that the destruction of the Christian communities in these regions may be long-term, if not permanent.
27. However, the impact of ISIS/Daesh atrocities reaches even further. The random attacks conducted all over the world have a negative impact on the enjoyment of human rights of all. The atrocities perpetrated by ISIS/Daesh aim to cause terror and fear all over the world. As a result, numerous States have introduced extraordinary measures limiting the freedom of all.
28. As a result of the November 2015 attacks, France introduced a state of emergency. This decision equipped the police forces to raid over 3,000 homes. A state of emergency means that certain rights and freedoms will be limited in order to address the threat posed by ISIS/Daesh. Some of those limitations have already been introduced. At the end of July 2016 the French government announced the deployment of 3,000 troops to guard public schools from terrorism.²⁰ School children aged 13 will have classes teaching life-saving skills, and children as young as three will practice being silent during attacks to increase their chances of surviving an attack.²¹ While this is only one example of the impact of the ISIS/Daesh terror on the enjoyment of human rights by all, it is clear that such measures may limit and ultimately affect the enjoyment of human rights of all.

d) The Challenges

29. There are numerous challenges that have to be considered. First, ISIS/Daesh is an international terror organization, a non-State actor posing one of the worst security threats of the 21st century. ISIS/Daesh poses a new kind of threat that international law may not be able to address adequately. Second, ISIS/Daesh predominately operates (and claims to have established its so-called caliphate) in States that are on the verge of collapsing. As ISIS/Daesh is predominately located within the territory of Syria, which has been struggling with a civil war since 2011, and Iraq, which has experienced political instability for several years, domestic responses to ISIS/Daesh are inadequate. Unfortunately, the response of the international community to the ISIS/Daesh atrocities has been slow and inadequate²², and has

²⁰ The Daily Caller News Foundation, France deploys 3000 troops to guard schools from terrorism (25 August 2016), <http://dailycaller.com/2016/08/25/france-deploys-3000-troops-to-guard-schools-from-terror/>.

²¹ The Daily Caller News Foundation, France deploys 3000 troops to guard schools from terrorism (25 August 2016), <http://dailycaller.com/2016/08/25/france-deploys-3000-troops-to-guard-schools-from-terror/>.

²² Manjana Pecht, International response to ISIS (and why they are failing), (29 January 2016), Stockholm International Peace Research Institute, available: <https://www.sipri.org/commentary/essay/2016/international-responses-isis-and-why-they-are-failing>.

allowed the situation to reach a point of no return. As it is clear, now, even the combined efforts of so many nations are not able to address the issue effectively.

e) Best Practices

30. A number of actions have already been taken, both military actions to combat ISIS/Daesh, and humanitarian actions aimed at helping the victims. However, to date, no legal actions have been taken to bring the perpetrators to justice.
31. The atrocities committed by ISIS/Daesh clearly amount to genocide. This genocide has been recognized by the European Parliament (EP), the Parliamentary Assembly of the Council of Europe (PACE), the Australian and Lithuanian Parliaments, the UK House of Commons, and the Canadian government. This genocide must be addressed by the United Nations, and more specifically, by the UN Security Council. The UN Security Council must respond to this genocide in line with the legacy of previous incidents of genocide, namely, the Rwandan and Bosnian genocides.
32. The mere recognition of genocide is not enough. Actions must follow. Not only are military or humanitarian assistance needed, but also needed are steps to bring the perpetrators to justice. Prosecution is key as it leads to deterrence.
33. The main and most relevant steps in relation to prosecution must be taken by international institutions, like the UN Security Council or the International Criminal Court. Alternatively, a regional court could be established.

The Ad Hoc Tribunal

34. The UN Security Council can take two different approaches to the situation in the Middle East. First, the UN Security Council could establish a commission of experts on genocide for the Middle East to consider the available evidence, collect further information, and prepare an opinion. The UN Security Council followed this route when responding to the atrocities in Bosnia and Herzegovina and Rwanda. If the commission confirms that the atrocities amount to genocide, the UN Security Council would likely pass a resolution establishing an ad hoc criminal tribunal.
35. There are numerous benefits to this approach. First, the UN Security Council would be able to define the role and the responsibilities of the commission of experts and therefore could adjust them to address the needs of the specific case. This flexibility also applies to an ad hoc tribunal. Second, both the commission of experts and the ad hoc tribunal would be established exclusively to perform one targeted function. This means that their work is focused on certain issues. It follows that they may be more efficient and productive than any other body with a more general approach. The flexibility offered by this route may be the sensible option for cases of international non-State actors and cross-border terrorism with foreign fighters. Despite the existence of a permanent international court, the idea of establishing an ad hoc tribunal is not extinct and is re-introduced periodically.

The ICC

36. The UN Security Council can also pass a resolution referring the situation in the Middle East to the ICC. While this was attempted in 2014, there are various factors suggesting that if such a resolution were tabled now the result would be different.
37. The draft resolution from 2014 referring Syria to the ICC was predominately directed against the Assad regime and the crimes committed during the Syrian Civil War. For this reason, the draft resolution failed as Russia and China believed that the Syrian government could resolve the issues without external intervention. The draft resolution predated the rise of ISIS/Daesh and the establishment of its so-called caliphate.
38. Since the draft resolution in 2014, the situation has changed dramatically. ISIS/Daesh has established its so-called caliphate in many regions of Syria and Iraq. The death toll and the humanitarian crisis have reached new levels. The UK, the US, the Russian Federation, and many more have commenced military intervention. Given the current realities of the situation in Syria, it is likely that a resolution targeting ISIS/Daesh and referring the crimes committed by ISIS/Daesh to the ICC would be passed without veto. Considering that the UN Security Council successfully referred to the ICC the situation in Darfur in 2005, and the situation in Libya in 2011, States should renew their efforts to have the UN Security Council refer the situation in Syria and Iraq to the ICC.
39. In relation to the ICC, the wording of the Rome Statute suggests that the ICC Prosecutor could initiate investigations (at least the preliminary examination) into the genocidal acts in the Middle East. On 8 April 2015 the ICC Prosecutor made a statement concerning ISIS/Daesh's crimes. The ICC Prosecutor confirmed that the OTP had considered 'communications received alleging crimes committed by ISIS.' However, the ICC Prosecutor concluded that 'the jurisdictional basis for opening a preliminary examination into this situation is too narrow at this stage.' The ICC Prosecutor can re-evaluate the stance by taking into consideration any further information about crimes committed by foreign fighters in the Middle East. The Prosecutor was encouraged to reinitiate preliminary examinations of crimes committed by foreign fighters in Iraq in a recent statement made by the Special Rapporteur on Minority Issues.

Special Tribunal for Terrorism

40. Recent years have witnessed the emergence of powerful terrorist groups, notably, ISIS/Daesh in the Middle East and Boko Haram in West Africa. Despite various steps that have been taken to combat them, the terrorist groups continue to operate unchecked by effective deterrence or punishment. While Boko Haram's atrocities are being considered by the OTP in a preliminary examination, ISIS/Daesh remains unchallenged by either the UN Security Council or the ICC. The law relating to genocide, and the international frameworks intended to enforce the law, were not designed to combat terrorist activities by non-State actors. This suggests that a new international mechanism is needed.

41. An international criminal tribunal for international terrorism is one possible solution. The tribunal could be established as a subsidiary body to the UN Security Council and have a mandate to respond to atrocities committed by terrorist networks. Such a tribunal should not be established by treaty, as in the case of the ICC, as this would significantly limit its jurisdiction. The statute for the tribunal should define international terrorism and the crimes falling within its jurisdiction.
42. Such a tribunal would address jurisdictional deficiencies that currently allow terrorist organizations like ISIS/Daesh to benefit from outdated legal definitions and ultimately escape accountability for genocide, crimes against humanity, and war crimes. Such an international criminal tribunal could prosecute terrorist leaders (superiors) and their subordinates.

Regional Tribunals

43. Lastly, a regional prosecution model may be a good approach to be adopted in the case of ISIS/Daesh fighters. Such a regional prosecution model could be based on the piracy prosecution model.
44. In 2009 the United Nations Office on Drugs and Crime (UNODC) established the Maritime Crime Programme (MCP) in response to the UN Security Council resolution calling for international efforts to combat maritime crime in the Indian Ocean. The piracy prosecution model, a part of the MCP, was developed by the UNODC in cooperation with the Eastern African states to address the issue of piracy in the Indian Ocean.
45. The piracy prosecution model allows the willing prosecuting States, which have the necessary legislation in place, to prosecute piracy domestically. The prosecuting States need to formalize transfer agreements with naval forces. In accordance with such transfer agreements, the naval forces are allowed to arrest individuals suspected of piracy, secure the available evidence, and submit a request to prosecute to one of the prosecuting States. Such requests may be accepted based on the prosecuting State's assessment of the evidence before it (and based on other considerations). If the prosecuting State accepts the case, the suspected pirates are transferred to the prosecuting State, and once the suspected pirates are within the jurisdiction of the prosecuting State, the prosecuting State is able to investigate the case and prosecute domestically.²³ The MCP supports the prosecuting States along the way.
46. Adopting this model would allow any State that participates in the model to investigate and prosecute cases of suspected ISIS/Daesh participation in atrocities, complicity, membership, etc. in accordance with the domestic law of the prosecuting States.

²³ UNODC, Maritime Crime Programme - Indian Ocean [online resources] <https://www.unodc.org/unodc/en/piracy/indian-ocean-division.html>.

47. The advantage of this model is that it would allow courts to prosecute ISIS/Daesh fighters in addition to ISIS/Daesh leaders (unlike the ICC or ad hoc tribunals, which could only prosecute leaders).²⁴ (Nonetheless, it may be argued that the leaders should be still prosecuted by the ICC or an ad hoc tribunal because of the magnitude of the crimes committed.)
48. The disadvantages of the model are that: 1) the acceptance of the cases would depend on the prosecuting State's political will, and 2) the prosecution would be based on the prosecuting State's domestic law.
49. As each case would have to be voluntarily accepted by a prosecuting State, there is always a risk that some States may be reluctant to accept such cases. This may be because of the political situation in the State, or the fear of repercussions. In the case of ISIS/Daesh, the risk of repercussions may be higher than in the case of piracy prosecutions.
50. Also, since the cases would be handled by domestic courts and in accordance with domestic law, it would be required that: (1) the prosecuting States have the necessary legislation in place, (2) the law meets the international standards, (3) the prosecutor and the domestic courts are properly equipped to investigate and prosecute the crimes (both in terms of experience to deal with cases of genocide, war crimes, and crimes against humanity), and (4) the prosecutor and domestic courts have the required resources.
51. It is crucial that the prosecuting States have procedural laws that address challenges embedded in extraterritorial investigations. It may also be necessary to form mutual legal assistance agreements between States in relation to obtaining testimonies. Ideally, these issues would be addressed in a global procedural framework agreed upon by the prosecuting States.
52. A number of States have expressed their willingness to bring ISIS/Daesh fighters to justice. Furthermore, many States have laws criminalizing genocide (in accordance with the Convention on Genocide) and/or ratified the Rome Statute.
53. All States have the right (under the principle of universal jurisdiction) and are under a duty to investigate (with a view to prosecuting) genocide, crimes against humanity, and war crimes. Such investigations and prosecutions have been initiated in Austria, Belgium, Canada, Denmark, France, Finland, Sweden, Germany, the UK, the Netherlands, Norway, Senegal, Spain, and the US for the crimes committed in Iraq, Mauritania, Uganda, Rwanda, Sierra Leone, DRC, Chad, Argentina, Tunisia, Chechnya, and the former Yugoslavia. However, some domestic mechanisms may not be adequately equipped to investigate and prosecute these crimes.
54. A number of States already have well-established specialized war crime units (SWCU), domestic mechanisms that are specifically designed for investigating and

²⁴ Please see the statistics of prosecutions in Appendix A.

prosecuting genocide, crimes against humanity, and war crimes. The SWCUs are in Belgium, Denmark, Sweden, the Netherlands, Norway, Germany, the US, Canada, the UK, Switzerland, South Africa, and Croatia.

Other Good Practices

55. Apart from the above listed measures that may be taken to ensure investigation and prosecution of the crimes, the UN must take steps to assist the States affected by ISIS/Daesh terrorism, and especially in:

- Intensifying its efforts both against terrorism and the continuing impunity of the perpetrators;
- Addressing the issue of domestic insecurity in the Middle East and working towards a comprehensive approach to deal with all challenges present;
- Intensifying its efforts in promoting and protecting human rights, including the rights of religious minorities, through legislation, and practical measures;
- Ensuring that human rights of all are being adequately protected, especially from terrorism and other human rights violations;
- Improving security in the countries affected by the ISIS/Daesh atrocities;
- Ensuring the right to freedom of religion or belief of all, in accordance with international law standards;
- Combating all forms of extremism;
- Protecting vulnerable groups, including religious minorities, and girls and women that have been significantly affected by terrorism.

B. Boko Haram

a) Background

56. Boko Haram²⁵ is a Salafi-jihadi Muslim group that emerged in 2003.²⁶ Boko Haram's crimes are widespread geographically and vary greatly in magnitude. Boko Haram is based in north-eastern Nigeria but is also active in Niger, Chad, and Cameroon. It has been reported that Boko Haram has conducted attacks on civilian populations in Borno, Yobe, Katsina, Kaduna, Bauchi, Gombe, Kano States, Abuja, and Plateau

²⁵ Full name of Ahlis Sunna Lidda'awati wal-Jihad meaning People Committed to the Propagation of the Prophet's Teachings and Jihad.

²⁶ Africa Check, 'Explaining Nigeria's Boko Haram and its Violent Insurgency', available at: <https://africacheck.org/factsheets/factsheet-explaining-nigerias-boko-haram-and-its-violent-insurgency/>.

State.²⁷ Boko Haram has also perpetrated attacks in Niger, Adamawa, and Kogi States and has claimed responsibility for an attack as far south as Lagos State.²⁸

57. Boko Haram specifically targets Christians as ‘non-believers’. The attacks are not random and are directed against Christians, politicians, and Islamic leaders who oppose Boko Haram’s ideologies.²⁹

58. In 2015 it was reported that Boko Haram pledged allegiance to ISIS/Daesh.³⁰

59. Also in 2015 Boko Haram was named the deadliest terrorist organization in the world:

The country witnessed the largest increase in terrorist deaths ever recorded by any country, increasing by over 300 per cent to 7,512 fatalities. Boko Haram, which operates mainly in Nigeria, has become the most deadly terrorist group in the world. Boko Haram pledged its allegiance to ISIL (also known as the Islamic State) as the Islamic State's West Africa Province (ISWAP) in March 2015.³¹

b) Effects on Enjoyment of Human Rights

i. The Rights to Life

60. There is irrefutable evidence to confirm that Boko Haram both perpetrated and continues to perpetrate killings and murder in various regions in Nigeria as part of its campaign to establish an Islamic state in Nigeria.

61. It is estimated that in Northern Nigeria between 2006 and 2014 almost 44,000 people died from non-natural causes and over 26,000 people died because of religious motivated violence.³²

62. Boko Haram killed at least 1,600 civilians between June 2015 and September 2015 alone.³³ Amnesty International assessed that the number of Boko Haram-caused

²⁷ International Criminal Court, Situation in Nigeria, Article 5 Report, 5 August 2013, 79. Available at: https://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/reports%20and%20statements/statement/Pages/NGA-05-08-2013.aspx.

²⁸ Premium Times, How Kogi attack, Maiduguri bomb blasts happened– Nigerian Army, (14 October 2015), <http://www.premiumtimesng.com/news/headlines/191472-how-kogi-attack-maiduguri-bomb-blasts-happened-nigerian-army.html>.

²⁹ International Criminal Court, Situation in Nigeria, Article 5 Report, 5 August 2013, 79. Available at: https://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/reports%20and%20statements/statement/Pages/NGA-05-08-2013.aspx.

³⁰ BBC, ‘Nigeria’s Boko Haram pledges allegiance to Islamic State’, available at: <http://www.bbc.com/news/world-africa-31784538>.

³¹ Institute for Economics and Peace, 2015 Global Terrorism Index Report, 2. Available at: <http://economicsandpeace.org/reports/>.

³² Open Doors, Crushed but not defeated. The impact of persistent violence on the Church in Northern Nigeria, 22. Available at: <https://www.worldwatchmonitor.org/research/4316020>.

³³ Amnesty International, Boko Haram: Civilians continue to be at risk of human rights abuses by Boko Haram and human rights violations by state security forces, AFR44/2428/2015, 2.

deaths in 2015 (until September 2015) amounted to at least 3,500.³⁴ Some of the examples of the killings are listed in this report on the situation in Nigeria. However, the list of atrocities in this report is not exhaustive.

63. Considering the magnitude of the crimes committed by Boko Haram, the widespread and systematic nature of the killings, and the group's ultimate aim of eliminating Christians to establish Islamic states, the crimes may amount to the crime against humanity of extermination.

ii. The Right to Liberty and Security of Person

Deprivation of Liberty

64. As suggested in numerous reports, it is the practice of Boko Haram to imprison and deprive individuals of their liberty.
65. Numerous reports confirm that Boko Haram inflicts severe physical and mental pain and suffering on the people it has kidnapped, abducted, or enslaved. That is, Boko Haram tortures people under its control. The kidnappings and abductions perpetrated by Boko Haram are well documented. Some of the kidnapped or abducted persons have been and continue to be sold as slaves or presented to Boko Haram soldiers as payment.
66. It has been reported that at least 2,000 individuals have been abducted by Boko Haram.³⁵ In the Gwoza local government area between 500 and 1,000 abductions were reported in the period between November 2014 and February 2015 alone.³⁶ On 6 January 2015, 134 women and girls and 84 boys were abducted by Boko Haram from Katarko village in Yobe.³⁷
67. The OTP has determined that between January 2014 and March 2015 there were over 55 reported incidents of abductions. In 2014 Boko Haram abducted over 1,123 persons, including 536 women and girls.³⁸ However, other sources suggest that the number of abducted persons in Nigeria between May 2013 and April 2015 has crossed the threshold of 2,000.³⁹
68. On 14 April 2014 Boko Haram abducted 276 schoolgirls from the Chibok Government. Two-hundred and nineteen of them are still missing. The kidnapping was followed by reports of further abductions conducted by Boko Haram.⁴⁰ In June 2014 over 60 women, girls, and children were abducted in Borno State.⁴¹

³⁴ Ibid.

³⁵ United States Department of State, Bureau of Democracy, Human Rights and Labor, Nigeria, Country Reports on Human Rights Practices for 2015, 17.

³⁶ Ibid., 17.

³⁷ Ibid., 17.

³⁸ Ibid.

³⁹ Amnesty International, 'Our job is to shoot, slaughter and kill, Boko Haram's reign of terror in North-East Nigeria', 59. Available at: <https://www.amnesty.org/en/documents/afr44/1360/2015/en/>.

⁴⁰ The Telegraph, 'Islamist fighters kidnap 90 women and children from Nigeria villages', available at: <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/nigeria/10922087/Islamist-fighters-kidnap-90-women-and-children-from-Nigeria-villages.html>.

⁴¹ Ibid.

69. In November 2014 Boko Haram kidnapped more than 506 women and children from Damask in Northern Nigeria. Boko Haram killed approximately 50 women and children before leaving the town. An additional 70 bodies of women and children were found outside Damask.⁴²
70. The abducted women and girls were subject to abuse, rape, and other forms of sexual abuse, forced labour, forced marriage, forced conversion, and forced militant service.⁴³ Boko Haram also abducted men, women, and children from villages and schools. Many of the victims were targeted for being students or for being Christians.⁴⁴

Attacks on Women and Girls

71. Women and girls are severely affected by the atrocities committed by Boko Haram. The exact number of women and girls attacked and targeted by Boko Haram is not known. However, the victims are believed to number in the thousands.
72. Boko Haram commits sexual and gender-based violence including sexual slavery, sexual violence, forced marriage, and forced pregnancies.⁴⁵ Women and girls are also forced to give birth in extreme conditions that can lead to injuries and infections. Many suffer from miscarriages due to the conditions of captivity and a lack of adequate medical care.⁴⁶ Boko Haram abducts women and girls for sexual exploitation, forced conversion, forced marriage, and forced labour.⁴⁷
73. It is reported that such attacks on women and girls have increased since 2013. Attacks are conducted 'for punitive reasons, i.e. on the basis of their religion or for attending schools, and tactical reasons, for example forcing them to carry out cleaning and cooking or other operational tasks.'⁴⁸ The attacks include rape, sexual violence, and slavery, forced marriages, abductions, and murders. The OTP has assessed that, between November 2014 and February 2015, Boko Haram abducted over 500 women and 1,000 children from the Gwoza local government area.⁴⁹ It was confirmed that Boko Haram specifically targets Christian women and girls.⁵⁰ Abducted women and girls are subjected to sexual violence and gender-based violence, including forced marriage, rape, and sexual abuse.⁵¹ The abductions, including the abduction of 276 schoolgirls from Chibok, may have amounted to cruel,

⁴² Reuters, 'Boko Haram kidnapped hundreds in northern Nigeria town: residents', available at: <http://www.reuters.com/article/us-violence-nigeria-kidnapping-idUSKBN0MK22Y20150324>.

⁴³ United States Department of State, Bureau of Democracy, Human Rights and Labor, Nigeria, Country Reports on Human Rights Practices for 2015, 17.

⁴⁴ Ibid.

⁴⁵ International Criminal Court, Elements of the Crime, 38. Available at: https://www.icc-cpi.int/en_menus/icc/legal%20texts%20and%20tools/official%20journal/Pages/elements%20of%20crimes.aspx.

⁴⁶ UN HRC, Violations and abuses committed by Boko Haram and the impact on human rights in the countries affected, 9 December 2015, A/HRC/30/67, 42.

⁴⁷ Ibid., 29.

⁴⁸ Ibid., 205.

⁴⁹ Ibid., 206.

⁵⁰ UN HRC, Violations and abuses committed by Boko Haram and the impact on human rights in the countries affected, 9 December 2015, A/HRC/30/67, 206.

⁵¹ United States Department of State, Bureau of Democracy, Human Rights and Labor, Nigeria, Country Reports on Human Rights Practices for 2015, 17.

inhuman, and degrading treatment by virtue of the conditions and duration of the captivity.⁵²

74. In January 2016 Ms Maud de Boer-Buquicchio, UN Special Rapporteur on the sale of children, child prostitution and pornography, Ms Urmila Bhoola, UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences, and Dainius Pūras, UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, called upon the Nigerian government to take steps to address the situation of women and children most affected by the Boko Haram insurgency. The Special Rapporteurs asked for ‘more information, at an appropriate time and bearing in mind security considerations, on the steps taken to locate and rescue all victims of abduction by Boko Haram, in particular the schoolgirls from Chibok.’⁵³ The Special Rapporteurs’ report of their visit in Nigeria will be presented later in 2016.
75. In April 2015, 293 women and children were rescued by the Nigerian army in Sambisa forest.⁵⁴ This rescue effort was followed by other reports of abductees being rescued. It is not known how many people are still held captive by Boko Haram.
76. The attacks on women and girls are conducted on a large scale and systematically. Sexual violence and rape are used as a weapon of war against women to punish and to establish possession. Women and girls are often sold into slavery or given to Boko Haram members as a form of payment for their service.

iii. The Right to Freedom of Religion or Belief

77. Boko Haram specifically targets religious minorities and places of worship. The US Commission on International Religious Freedom has warned that Boko Haram has ‘become the primary perpetrator of religiously related violence and gross religious freedom violations in Nigeria.’⁵⁵
78. Between 2000 and 2014 over 13,000 churches were destroyed or closed down in Northern Nigeria because of Boko Haram.⁵⁶ Between December 2013 and 14 July 2015 in Taraba State 171 churches, 314 houses, 39 businesses, and 15 family compounds—all belonging to Christians—were destroyed.⁵⁷

⁵² UN HRC, Violations and abuses committed by Boko Haram and the impact on human rights in the countries affected, 9 December 2015, A/HRC/30/67, 30.

⁵³ OHCHR, The reintegration of women and children essential to the path towards lasting peace, 26 January 2016, available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16986&LangID=E>.

⁵⁴ UN HRC, Violations and abuses committed by Boko Haram and the impact on human rights in the countries affected, 9 December 2015, A/HRC/30/67, 31.

⁵⁵ Testimony of Elliott Abrams, US Commission on International Religious Freedom, before the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations on the House Foreign Affairs Committee on the Persecution of Christians as a Worldwide Phenomenon, 11 February 2014, available at: <http://www.uscirf.gov/sites/default/files/resources/Global-Persecution-of-Christians-Testimony.pdf>.

⁵⁶ Open Doors, Crushed but not defeated. The impact of persistent violence on the Church in Northern Nigeria 21. Available at: <https://www.worldwatchmonitor.org/research/4316020>.

⁵⁷ Nigeria Conflict Security Analysis Network, Violent Conflict in Divided Societies. The Case Study of Violent Conflict in Taraba State (2013-2015), World Watch Research, 2015, 33.

79. There is ample evidence that Boko Haram commits the crime of persecution against Christians. The extremist group targets Christians because of their faith. This policy was conveyed by Abubakar Shekau in his video message released after the kidnapping of the Chibok schoolgirls when he said that:

All those clerics are to be killed for following democracy, all of them are infidels. I will tell Muslims what Allah wants them to do. We are anti-Christians, and those that deviated from Islam, they are forming basis with prayers but infidels.... To the people of the world, everybody should know his status, it is either you are with us Mujahedeen or you are with the Christians. The likes of Obama, Lincoln, Clinton, Jonathan, Aminu Kano. They are your fathers of democracy, the likes of Tafawa Balewa. It is Usman Dan Fodiyo that is our own... We know what is happening in this world, it is a Jihad war against Christians and Christianity. It is a war against western education, democracy and constitution. We have not started, next time we are going inside Abuja; we are going to refinery and town of Christians. Do you know me? I have no problem with Jonathan. This is what I know in Quran. This is a war against Christians and democracy and their constitution, Allah says we should finish them when we get them.⁵⁸

80. Boko Haram's crimes are widespread geographically. The exact number of Christians killed and persecuted is unknown. Reports indicate that over 1,200 Christians and Muslim civilians have been killed since 2009.⁵⁹ Of these, over 450 people were killed between January and April 2012.⁶⁰ Other sources suggest that at least 253 people were killed in January 2012 alone.⁶¹ Open Doors estimates that 11,500 Christians were killed in the region between 2006 and 2014 because of targeting.⁶² The OTP assesses that between January 2013 and March 2015 over 356 reported incidents of killings conducted by Boko Haram caused deaths of over 8,000 civilians.⁶³ A study from 2013 suggested that more than 45 per cent of the victims of killings perpetrated by Boko Haram were Christian women and children.⁶⁴

⁵⁸ The Voice of the Martyrs, October 2014 Newsletter Media, available at: www.persecution.com/october2014.

⁵⁹ Human Rights Watch, Nigeria: Boko Haram Widens Terror Campaign, available at: <https://www.hrw.org/news/2012/01/23/nigeria-boko-haram-widens-terror-campaign>.

⁶⁰ Oxford Research Group, Nigeria: The Generic Context of the Boko Haram Violence, 2. Available at: www.oxfordresearchgroup.org.uk/sites/default/files/AprEn12.pdf.

⁶¹ Human Rights Watch, Nigeria: Boko Haram Widens Terror Campaign, available at: <https://www.hrw.org/news/2012/01/23/nigeria-boko-haram-widens-terror-campaign>.

⁶² Open Doors, Crushed but not defeated. The impact of persistent violence on the Church in Northern Nigeria, 19. Available at: <https://www.worldwatchmonitor.org/research/4316020>.

⁶³ International Criminal Court, Situation in Nigeria, Article 5 Report, 5 August 2013, 198. Available at: https://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/reports%20and%20statements/statement/Pages/NGA-05-08-2013.aspx

⁶⁴ Barkindo, Atta, Gudaku, Benjamin Tyavkase, Wesley, Caroline Katgurum (2013), 'Boko Haram and Gender Based Violence Against Christian Women and Children in North-Eastern Nigeria Since 1999', NPVRN Working Paper No. 1, (Amsterdam: Open Doors International) 17-21.

81. Boko Haram specifically targets Christians as 'non-believers': 'We will continue with our attacks on disbelievers and their allies and those who help them.'⁶⁵ Boko Haram deliberately targets Christians, politicians and Islamic leaders who stand against Boko Haram's ideologies.⁶⁶ The UNHCR has confirmed instances of religiously motivated violence: 'According to interviewees, women and children were subject to repeated beatings when they were unable or unwilling to walk to different Boko Haram strongholds, unable to recite the Koran or refused to adopt the group's beliefs.'⁶⁷
82. In 2011, following the elections, Boko Haram attacked Potiskum and the southern Yobe state, reducing the Christian population from 15 to 3.5 per cent. 80 churches were closed, church attendance decreased by 75 per cent and many Christians fled the region.⁶⁸ The situation of Christians in Yobe is critical; their religious freedom is severely limited. Churches cannot be officially established (or rebuilt), and families have been separated.⁶⁹
83. In 2012 Boko Haram attacked Lassa, initially targeting Christians and Christian churches, schools, and missions. Subsequently, other individuals refusing to cooperate with Boko Haram were targeted. Boko Haram conquered Lassa, Chibok, Gulak, Magdagali, and in August 2014 Gwoza, Borno, Adamawa and Yobe. It was reported that 36 out of 50 church districts and 1,359 churches were closed. Many Christians fled abroad. Additionally, 356 pastors, 346 assistant pastors, and 1,390 evangelists became unemployed⁷⁰ in just one Christian denomination.
84. Boko Haram has subjected individuals to repeated beatings when they are unable to recite the Quran or refuse to convert.⁷¹
85. The crimes committed by Boko Haram have caused tension between communities and religions.⁷²
86. A recent report *Crushed but not defeated* by Open Doors and the Christians Association of Nigeria concluded that:
1. Christians in Northern Nigeria face violence from different sides
 2. A minimum of 9,000-11,500 Christians have been killed

⁶⁵ The Telegraph, 'Radical Islamist Sect Claims Responsibility For Nigeria Church Attacks', December 28, 2010. Available at:

<http://www.telegraph.co.uk/news/worldnews/africaandindianocean/nigeria/8228816/Radical-Islamist-sect-claims-responsibility-for-Nigeria-church-attacks.html>.

⁶⁶ International Criminal Court, Situation in Nigeria, Article 5 Report, 5 August 2013, 79. Available at: [https://www.icc-](https://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/reports%20and%20statements/statement/Pages/NGA-05-08-2013.aspx)

[cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/reports%20and%20statements/statement/Pages/NGA-05-08-2013.aspx](https://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/reports%20and%20statements/statement/Pages/NGA-05-08-2013.aspx)

⁶⁷ ⁶⁷ UN HRC, Violations and abuses committed by Boko Haram and the impact on human rights in the countries affected, 9 December 2015, A/HRC/30/67, 35.

⁶⁸ Open Doors, *Crushed but not defeated*. The impact of persistent violence on the Church in Northern Nigeria, 17. Available at: <https://www.worldwatchmonitor.org/research/4316020>.

⁶⁹ *Ibid.*, 16.

⁷⁰ *Ibid.*, 15.

⁷¹ UN HRC, Violations and abuses committed by Boko Haram and the impact on human rights in the countries affected, 9 December 2015, A/HRC/30/67, 35.

⁷² *Ibid.*, 72.

3. 1.3 million Christians have become internally displaced or forced to relocate elsewhere, since 2000
4. Many churches have seen a steep decline in their memberships, 13,000 churches have been closed or destroyed altogether
5. Thousands of Christian businesses, houses and other property have been destroyed
6. Distrust and fear of Christians towards Muslims have hugely increased, leading to more segregation
7. Christians in Northern Nigeria frequently face marginalization and discrimination, especially in the Sharia states in the Far North, but also in the Middle Belt states
8. Participation in church activities as well as the private life of Christians have been severely affected. There has been a steep decline due to insecurity and migration, but there is also an increased commitment amongst the Christians that have stayed behind
9. All over Northern Nigeria, the impact of persistent violence on Christian communities is enormous (decrease in numbers, traumatization, being overwhelmed by the influx of displaced and relocating Christian, loss of property and lack of resources) ... 12. Christians affected by targeted violence have been left severely traumatized.⁷³

87. Places of religious relevance, churches, mosques, and other places of worship have been systematically targeted by Boko Haram since its emergence in 2003. In June 2014 Boko Haram destroyed five churches and killed over 48 people near Chibok in Borno State.⁷⁴ On 28 November 2014 Boko Haram attacked a mosque in Kano, killed over 100 people, and injured 260.⁷⁵ Boko Haram has been conducting attacks against civilians and on protected objects, as defined under international law, such as schools, mosques, churches, prisons, hospitals, and markets. The militant group has also contaminated water installations.⁷⁶ Between 2012 and 2014 over 338 schools in Adamawa, Borno and Yobe were destroyed by Boko Haram's attacks. Boko Haram has also destroyed bridges in Kubroshosh. On 6 April 2015 Boko Haram set on fire a mosque in Kwajafa village. In June 2015 Boko Haram attacked a church in Potiskum.⁷⁷

88. Boko Haram has caused the destruction and appropriation of property. Entire villages have been destroyed, including the village of Lassa in the state of Borno in December 2014.⁷⁸ The attacks on buildings and places of worship are being

⁷³ UN HRC, Violations and abuses committed by Boko Haram and the impact on human rights in the countries affected, 9 December 2015, A/HRC/30/67, 5.

⁷⁴ Punch, Boko Haram kills 48, burns churches near Chibok, available at: <http://www.punchng.com/news/boko-haram-kills-43-schoolchildren/>

⁷⁵ BBC News, Boko Haram Kano attack: Loss of life on staggering scale, available at: <http://www.bbc.com/news/world-africa-30266868>

⁷⁶ UN HRC, Violations and abuses committed by Boko Haram and the impact on human rights in the countries affected, 9 December 2015, A/HRC/30/67, 47.

⁷⁷ Ibid., 44.

⁷⁸ Ibid., 51.

conducted on a large scale and systematically. Because of the ongoing attacks on churches and mosques, fewer and fewer safe places for worship exist. Due to the ongoing threat posed by Boko Haram, many Christians cannot live out their faith. Christians are unable to celebrate religious ceremonies for fear of persecution.

c) Effect on Enjoyment of Human Rights in General

89. The atrocities unleashed by Boko Haram have caused one of the fastest growing humanitarian crises in Africa. It is not only affecting the situation in Nigeria, but also the situation in Niger, Chad, and Cameroon.⁷⁹ The atrocities committed by Boko Haram are having destructive consequences on people living under the group's terror.
90. As a result of the ongoing attacks on schools, many schools have been destroyed, others have been closed due to ongoing threat, and students have been deterred from attending those schools that are still in operation. It was estimated that over 670,000 children were out of school for over a year.⁸⁰ It was reported that over 2,000 schools were closed in Nigeria, Chad, and Cameroon, because of the terror and threat posed by Boko Haram.⁸¹ This number is most likely higher, as UNICEF assessed that in Cameroon and North-East Nigeria alone over 1,800 schools were closed or destroyed.⁸² The lack of education may have a long-term impact on Nigeria's culture and economy.
91. There is irrefutable evidence to confirm that Boko Haram perpetrates rape, sexual slavery, enforced prostitution, forced pregnancy, and other form of sexual violence of comparable gravity, especially on kidnapped, abducted, and enslaved persons.
92. The widespread and systematic campaign of terror perpetrated by Boko Haram in Northern Nigeria causes the local population to flee their homes (and the region).
93. Attacking women and girls is a signature tactic of Boko Haram. The impact of the crimes committed by Boko Haram on women and girls is devastating. Women and girls are subjected to both physical and psychological harm. Even if the women and girls survive the attacks and the abuse, there are various challenges that they will face once free from Boko Haram. The abused women and girls may struggle to reintegrate into society because of the stigma associated with the nature of abuse suffered (e.g., rape and sexual violence). Women and girls may struggle with mental or physical injuries requiring medical assistance and counselling that is often not available in the region.
94. Apart from the above explained effects of the atrocities committed by Boko Haram, the atrocities have a negative impact on the situation in West Africa in general, contributing to the instability in the region.

⁷⁹ UNICEF, Beyond Chibok, 2. Available at: www.unicef.org/media/files/Beyond_Chibok.pdf

⁸⁰ UNICEF, Beyond Chibok, 5. Available at: www.unicef.org/media/files/Beyond_Chibok.pdf.

⁸¹ Lauren Ploch Blanchard, Nigeria's Boko Haram frequently Asked Questions (Congressional Research Service 2016), 9. See also: UNICEF, Nigeria conflict forces more than 1 million children from school, Press release, December 22, 2015.

⁸² UNICEF, Beyond Chibok, 5. Available at: www.unicef.org/media/files/Beyond_Chibok.pdf.

d) The Challenges

95. Some of the main challenges that ultimately have an impact on the situation in Nigeria over the past several years have been corruption and a failing judicial system.
96. It was reported that the judiciary in Nigeria is generally under pressure from the executive and legislative branches.⁸³ The US Department of State has reported that 'political leaders influenced the judiciary, particularly at the state and local levels. Understaffing, underfunding, inefficiency, and corruption prevented the judiciary from functioning adequately.'⁸⁴ Such pressures and political influence may have a negative impact on the independence of judicial proceedings.
97. Nigeria has been struggling with the problem of corruption for many years. President Buhari, when he assumed power, made a promise to fight corruption. The Independent Corrupt Practices Commission (ICPC) was specifically established to prosecute various forms of corruption.⁸⁵ As of November 2015 the ICPC had 295 open investigations, was prosecuting 29 cases, and had obtained convictions in 11 cases.⁸⁶
98. In May 2015, 579 officers and soldiers were facing court martial in Abuja and Lagos.⁸⁷ The reason for the proceedings was the 'incompetence and corruption in the military's prosecution against Boko Haram.'⁸⁸ Apart from failing in its approach to tackle the issue of terrorism, it was reported that the Nigerian Army committed extrajudicial killings in its operations against Boko Haram.⁸⁹
99. Despite the recent steps taken to combat corruption, the general perception continues to be that judges are easily bribed.⁹⁰ This may suggest that victims and witnesses are reluctant to come forward as they lack faith in the judicial system. While the new government appears proactive, it is still too early to observe change.
100. The Nigerian government has taken steps to address the situation in Nigeria. The government has established various committees to analyse the root causes of the deteriorating situation in Nigeria.⁹¹ It was reported that the Office of the Attorney General established a section specializing in terrorism-related cases. However, the section has struggled with 'the large number of detained Boko Haram suspects.'⁹² The Nigerian response to Boko Haram has been branded 'ineffective, insufficient, and marred by high-level corruption within the security sector.'⁹³

⁸³ United States Department of State, Bureau of Democracy, Human Rights and Labor, Nigeria, Country Reports on Human Rights Practices for 2015, 11.

⁸⁴ *Ibid.*, 11.

⁸⁵ *Ibid.*, 28.

⁸⁶ *Ibid.*, 29.

⁸⁷ *Ibid.*, 14.

⁸⁸ *Ibid.*, 14.

⁸⁹ *Ibid.*, 16.

⁹⁰ *Ibid.*, 11.

⁹¹ UN HRC, Violations and abuses committed by Boko Haram and the impact on human rights in the countries affected, 9 December 2015, A/HRC/30/67, 74.

⁹² *Ibid.*, 74.

⁹³ Lauren Ploch Blanchard, Nigeria's Boko Haram Frequently Asked Questions (Congressional Research Service 2016) 9.

101. It was reported that because of rape-associated stigma, the incidents of rape are underreported and the victims did not come forward.⁹⁴ The stigma coupled with the lack of faith in the judiciary further contributes to the growing perception that the perpetrators are not and will not be held accountable for their crimes.

e) Best Practices

102. There are fewer challenges, at least theoretically, to prosecuting the terrorists in Nigeria than those in the Middle East. Nigeria is a signatory to the Rome Statute and therefore the ICC has jurisdiction to investigate and prosecute the crimes of genocide, war crimes, crimes against humanity, and crimes of aggression in Nigeria. Nonetheless, Nigeria may benefit from a regional model of prosecuting those crimes, as detailed above.

103. There are a number of steps that can be taken by the UN to assist the Office of the Prosecutor to the ICC (OTP) and Nigeria in responding to terrorism and ensuring the enjoyment of human rights of all.

104. The current president has promised to introduce changes in Nigeria to combat corruption and to defeat Boko Haram. There is some evidence that these changes are underway. However, the changes will not occur overnight. It will take months, if not years, for the Nigerian transformation—months and years that the persecuted Christians (and persecuted opposition to Boko Haram) do not have. The current state of the judicial system does not ensure justice to the victims. Therefore, the assistance from the ICC and the UN is crucial. The UN must ensure that the OTP is provided with all first-hand information in its possession about the atrocities committed by Boko Haram. This support and information-sharing may ultimately assist the OTP in proceeding with the preliminary examination and initiating the formal investigations.

105. The UN must further assist Nigeria in:

- Intensifying its efforts against terrorism and continuing impunity of the perpetrators;
- Addressing the issue of domestic insecurity in Nigeria;
- Intensifying its efforts in promoting and protecting human rights, especially the rights of religious minorities, through legislation and practical measures;
- Ensuring that human rights of all are being adequately protected, especially from terrorism and other human rights violations;
- Ensuring that the protections of the right to freedom of religion or belief of all are in accordance with international law standards;
- Combating all forms of extremism;

⁹⁴ United States Department of State, Bureau of Democracy, Human Rights and Labor, Nigeria, Country Reports on Human Rights Practices for 2015, 32.

- Addressing the ongoing violence perpetrated by terrorist groups, notably Boko Haram, against Christians and other minorities;
- Protecting vulnerable groups, including religious minorities, girls, and women that have been significantly affected by terrorism.

(b) Conclusion

106. Recent years have witnessed the emergence of powerful terrorist groups, notably, ISIS/Daesh in the Middle East and Boko Haram in West Africa. Despite various steps taken to combat them, the terrorist groups continue unchecked by effective deterrence or punishment. While Boko Haram's atrocities are being considered by the OTP in a preliminary examination, ISIS/Daesh remains unchallenged by either the UN Security Council or the ICC. The international community's failure to prosecute ISIS/Daesh may suggest that a new international mechanism is needed. There are a number of steps that can be taken by the UN to assist States struggling with terrorism and the protection of human rights of all.