

# **Iraqi Christians after Daesh: the Challenges Faced and the Needed Response**

## **Report**

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## **1. Introduction**

In the first part of 2014, Daesh (also called Islamic State or ISIS) began to establish the so-called 'caliphate' in many regions of Syria and Iraq. As Daesh gained more territories, stories of mass atrocities perpetrated by the group started circulating in the media. These included mass beheadings of 'infidels', the throwing of people from high buildings, burning prisoners in metal cages. However, the mass atrocities did not instigate any adequate response. Only after Daesh attacked Sinjar, Iraq, killed hundreds of Yazidis, and forced the rest to flee could the world no longer look away. This attack on the Yazidis on August 3, 2014, was followed by subsequent mass atrocities in the Nineveh Plains, Iraq, where Christians were forced to flee or die by Daesh's sword. Approximately 120,000 Iraqi Christians fled to Kurdistan, a part of Iraq which Daesh could not conquer.

Although the August 2014 atrocities gained international attention and provoked an international response from 73 countries (the Coalition against Daesh), it was not until the second half of 2016 that Iraqi forces started to regain significant territories previously controlled by Daesh for two years.

Over these two years, Daesh committed murder, enslavement, deportation and forcible transfer of population, imprisonment, torture, abduction of women and children, exploitation, abuse, rape, sexual violence, forced marriage - unabated. During this time, many areas of the Nineveh Plains were subjected to destruction by Daesh fighters who looted homes, shops, schools, and churches. The Daesh' fighters confiscated all valuables and possessions and burned down houses. The destruction of villages sent a clear message—the looting was about more than just financial gains. Daesh wanted to destroy all signs of the religious communities who had inhabited the area for centuries and eradicated evidence of their existence. But although Daesh seemed to flourish unabated, they never established a fully functioning and self-sustainable state. As Daesh is being defeated, it is crucial to address the challenges faced by religious minorities in the region to preserve the remnant.

The nature of the crimes committed by Daesh cannot be neglected. Daesh specifically targeted Christians, Yazidis, and other religious minorities, including Muslim minorities, for destruction in an attempt to annihilate religious pluralism and to establish a purely Islamic region. The atrocities amounted to genocide. The atrocities committed by Daesh against religious minorities have been

recognised as genocide by the Council of Europe, the European Parliament, the US Congress and the Secretary of State, the UK House of Commons, and the Lithuanian, Canadian, Australian, French, Hungarian, and Austrian Parliaments.

The focus of this report is to present the situation of Iraqi Christians post-Daesh. First, I present the current situation faced by Iraqi Christians in Iraq and beyond. Second, I consider the current progress of rebuilding in areas recovered from Daesh and attempts of people to return home. Third, I scrutinise the security measures needed to ensure adequate protection for vulnerable religious minorities from Daesh or any other perpetrators who may come later. Fourth, I discuss what reconciliation steps need to be undertaken to ensure peaceful coexistence between the region's diverse religious communities. Fifth, I look into what legal measures have been taken or should be taken to bring Daesh perpetrators of atrocities to justice. Lastly, I scrutinise how States could address the challenges faced by Iraqi Christians in Iraq and beyond.

Despite the fact that this report is focused on Iraqi Christians only, the recommendations made within the report could be applied to assist other religious minorities in the region as well.

## **2. The Current Situation**

On August 6, 2014, after an attack on Yazidis in Sinjar, Daesh came after Christians in Nineveh Plains. Overnight, Daesh captured 13 villages and forced approximately 120,000 Iraqi Christians to flee their homes leaving their lives behind and walking towards an uncertain future in Kurdistan. They did not take much with them as they hoped that they would be able to return after a few days. This hope began to perish when days turned into weeks, months and years.

The thousands of Iraqi Christians found themselves in Kurdistan, mostly Ankawa, a Christian friendly district of Erbil. Kurdistan was not adequately prepared for the thousands of internally displaced persons (IDPs) arriving at once. The IDPs turned to churches for help. They found refuge in churches, church courtyards, parks, and streets - homeless but safer than in the hands of Daesh. As the situation progressed and Daesh continued to rule over Nineveh Plains, tents and temporary accommodation were provided for some IDPs. Some people were also moved from the churches to a construction site of a shopping mall before IDPs camps were up and running.

Three years later, most of the Nineveh Plains is liberated from Daesh. However, Daesh left the area in rubble. This is a venture that will require significant funding. In early 2017, Aid to the Church in Need assessed the cost of reconstruction at over \$250 million. Once the area is rebuilt, Iraqi Christians will be able to return to their homes. Whether they would want to return, is a different question. As Nineveh Plains remains a ghost area (with some minor exceptions of early rebuilding attempts), the question is: where are the thousands of Iraqi Christians from Nineveh Plains?

### *Kurdistan*

Many Iraqi Christians are still in Kurdistan as IDPs. NGOs and religious leaders assess that there are still around 11,000 Iraqi Christian families living in the IDP camps (each family consisting of 5-7 family members). Also, it is estimated that between 55,000 to 60,000 Iraqi Christian families (around 250,000) have been living in Kurdistan since Daesh took over Nineveh Plains.

There are currently four IDP camps in Erbil province. Early March 2017, Rudaw reported that all four IDP camps are at maximum capacity and cannot take more IDPs fleeing Mosul. The IDPs live there in small metal container houses. The camps are overcrowded and cramped. There is no heating for the cold Iraqi winters and no air conditioning or fans for the hot summer days. There is not much hope in the camps. However, the majority of the people that remain in Kurdistan still believe that they will be able to return to their homes. They all know that resettling to different countries is very difficult after hearing stories of other Iraqi Christians stuck in Jordan or Lebanon with nowhere to go.

### *Jordan, Lebanon, and Turkey*

Many Iraqi Christians left Iraq for Lebanon, Jordan or Turkey after their exile from Nineveh Plains. There are approximately 20,000 Iraqi Christian families in these countries awaiting resettlement to the United States, Australia, Canada or Europe.

In Jordan, Iraqi Christians do not live in camps. The four big camps in Jordan, including the media's favourite camp, Za'atari, are for Syrians only. Also, officially, there are no religious minorities in the camps, neither from Syria nor Iraq. Iraqi Christians live in private accommodation often heavily subsidised by local churches and humanitarian organisations.

Iraqi Christians in Jordan are grateful to Jordan for opening the doors to so many of them. However, their life in Jordan is challenging. Iraqi Christians are perceived as visitors and their route to be recognised as refugees is long and challenging. Iraqi refugees, contrary to Syrian refugees, cannot work (and the work permits are unaffordable). After the Supporting Syria Conference in London in February 2016, Jordan pledged to grant 200,000 work permits to Syrian refugees. Iraqi refugees were not included in that promise. Without work, Iraqi Christians living in Jordan do not have any prospects of starting a new life there. They are frozen in time awaiting resettlement. The majority of them do not want to return to Iraq as they have lost hope that Iraq will ever be safe for Christians again. They believe that after Daesh, there would be yet another oppressor who would abuse the internal instability to prosecute minorities.

As in the case of Jordan, Iraqi Christians in Lebanon live in private accommodations. The situation of refugees in Lebanon is dire. In Lebanon, the status of refugees is not recognised. This severely affects the lives of the people that count on that recognition. Children born to refugees in Lebanon are stateless as they cannot be registered in Lebanon. Without being registered and having any ID, they cannot travel with their parents. There is no access to free education or other government services. The issue of trafficking in persons, in particular for forced labour or modern slavery is of extreme concern.

Iraqis in these countries predominately rely on assistance provided by churches or NGOs. Nonetheless, Iraqi Christians in these countries do not have access to medical assistance. Children (especially teenagers) do not have access to free education. While, for example, in Amman, there is a school providing primary education to Iraqi Christian children, there is no free school that would provide secondary education. Iraqi Christians struggle for survival. However, they remain forgotten.

### *The Rest of the World*

Generally speaking, Iraqi Christians from Nineveh Plains face difficulties in being granted refugee status and being allowed to resettle. However, some Iraqi Christian refugees from Nineveh Plains managed to relocate to the US, Canada, Australia, and other parts of the world. Nonetheless, the number of resettled Iraqi Christians remains very low.

The resettlement is often not possible as Iraqi Christians struggle to be granted refugee status by the United Nations and be resettled. Iraqi Christians who fled from Daesh out of fear for their lives are not subject to an expedited relocation process. Under the 1951 Refugee Convention, the United Nations qualifies refugees as any person who *'owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.'*<sup>1</sup> In addition to the definition above, the UNHCR recognises refugees as *'persons who are outside their country of nationality or habitual residence and unable to return there owing to serious and indiscriminate threats to life, physical integrity or freedom resulting from generalised violence or events seriously disturbing public order.'*<sup>2</sup>

Even though the conditions of living through Daesh genocidal campaign may be perceived in line with a state of civil war, the situation in Iraq has not been recognised as such. Furthermore, the Daesh genocide of religious minorities has not been officially recognised by the United Nations as genocide (with a small exception of the UN International Independent Commission of Inquiry on the Syrian Arab Republic that recognised the Daesh genocide against the Yazidis in Iraq).

As the Daesh genocide against Iraqi Christians is not officially recognised by the United Nations, Iraqi Christians cannot benefit from the group-determination procedures on a prima facie basis for refugee status determination. This meaning that Iraqi Christians are subjected to individualised determination procedures and their applications have to prove that they or their family were personally subject to persecution as defined above. This process is lengthy, involves numerous interviews, and is rarely granted during the first application. Making the situation worse, Iraqi Christians in exile do not have any legal advice on how to fill the applications and what evidence to submit in support, and hence their applications are often rejected.

### **3. Reconstruction and Return**

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<sup>1</sup> Article 1(A)(2) of the 1951 Refugee Convention <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>

<sup>2</sup> UNHCR Resettlement Handbook 2011, available at: <http://www.unhcr.org/46f7c0ee2.pdf>

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The area that used to be full of life became a ghost town. Houses, churches, schools and shops were looted, burnt down and damaged by Daesh. The perseverance of Daesh to destroy the area was beyond imagination. It was not enough for Daesh to force the Christian communities to flee. It was not enough for Daesh to enslave girls and women or forcibly recruit boys and men to fight as Daesh fighters. It was not enough for Daesh to take over all possessions belonging to Christians. Daesh destroyed all signs of Christianity in the towns. Crosses were broken, the statues of Jesus and Holy Mary were destroyed, Holy Bibles and books were burnt.

As Daesh is defeated village by village, the indigenous communities wish to return to their homes. Indeed, many people who fled Daesh in the Nineveh Plains in August 2014 want to go back to the recently liberated villages, even if they must return to rubble. And they have a right to do so. Refugees and IDPs have a so-called 'right to return', namely, a right to go back to their countries and their homes. This right is protected under international law, for example under Article 13(2) of the Universal Declaration of Human Rights and Article 12(4) of the International Covenant on Civil and Political Rights. This right is sometimes also protected under domestic law, for example in the Iraqi Constitution under Article 44(2). However, the existence of this right does not mean that in practice it is easily achieved. It takes time, money, and effort for liberated areas to be safe for refugees and IDPs to return. The international organisation Aid to the Church in Need has assessed that in only nine Nineveh Plains towns over 12,000 houses were vandalised by Daesh. The cost of rebuilding nine villages is in the region as \$200 million.

According to Aid to the Church in Need and the Nineveh Reconstruction Committee, approximately 13,000 homes, 363 Church properties, and 140 public properties were destroyed by Daesh during its two-year reign over the area. During my visit in November 2016, I remember seeing some people visiting the villages. They were coming to see what was left of their homes. My big hope was that they would start returning to the towns, start rebuilding their lives. Almost a year later, not many people are returning to their homes. Places like Quaraqosh that used to be a home for over 50,000 people remains a ghost town haunted by the evil of Daesh crimes. The return is very slow. Currently, it is assessed that approximately 3,258 Iraqi Christian families (14,347 people)<sup>3</sup> have returned to Nineveh Plains. This constitutes 17% of the population of the Nineveh Plains prior to 2014. Despite the level of destruction and the high cost of rebuilding, over a thousand private

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<sup>3</sup> Nineveh Reconstruction Committee, Data updated on 16 September 2017, available at: <https://www.nrciraq.org/reconstruction-process/>.

houses in Quaragosh have already been renovated. This has allowed some to return to the area. Another 600 homes in Quaragosh are currently in the process of being renovated. Progress is slow but steady with the aim of ensuring that Iraqi Christians can return to populate their indigenous lands.

Despite the high cost, Nineveh Plains must be rebuilt. The sooner towns and villages are up in the running; the sooner people will start returning to their homes. This would take the pressure away from other areas and countries that, over the last years, have seen hundreds of IDPs or refugees. The people who have not left the area yet, are willing to go back. Aid to the Church in Need indicated that 41% of the interviewed people from Nineveh Plains want to go back and 46% seriously consider returning home. This is a massive shift from November 2016 when only 3% of the people considered returning.

However, they need to have something to go back to. Rebuilding towns and villages and Nineveh Plains gives hope to Christians in the region that there is still a life for them in Iraq. This will not be achieved if the world continues to turn their back on the people in need in Iraq. The international community has already failed to prevent the Daesh atrocities from escalating to genocidal proportions, resulting in the annihilation of the communities from the region.

#### **4. Security Measures**

Despite the fact that the Iraqi army has liberated many areas from Daesh, those areas are not safe yet. Over the months post-liberation, the Iraqi army and the Nineveh Plain Protection Units had to check all homes and properties for explosives. Underground tunnels which Daesh used to move between buildings had to be sealed off. However, other steps still need to be taken to ensure the area's security. These measures include ensuring the villages are not abandoned by the military or security forces should Daesh, or other militias threaten them again. The previous failing to protect the indigenous population from Daesh attacks in August 2014 has to be investigated and addressed. Only then will it be possible to prevent any such future security failings. Moreover, steps ought to be taken to ensure that, in a perceived post-Daesh vacuum, other violent extremists or terrorist groups are prevented from entering the region.

Recent news reporting suggests that few IDPs and refugees are returning home. This is not only because of their hometowns being destroyed. Security concerns remain an issue that has not been adequately addressed. In response to this failing, NGOs continue to call upon international institutions to establish safe zones in Nineveh Plains. Establishing such safe zones is not without difficulty. As history has shown, the environment in safe zones may contribute to post-conflict community oppression. For example, while the ‘safe zones’ established in Bosnia in 1993, Rwanda in 1994 or Sri Lanka in 2009 provided humanitarian assistance, they failed to protect people from further abuse.

Establishing an autonomous region, as in the case of Kurdistan in Iraq, may provide for a more sustainable and long-lasting solution. However, the establishment of Iraqi Kurdistan was not easy. The peace accord that granted the Kurdish autonomy in 1970 was followed by violent clashes and years of debate surrounding the autonomy arrangements. In October 1991, Kurdistan gained *de facto* autonomy after Iraqi forces left the region and the Kurdish government was established in 1992. Instability in the region continued in subsequent years. Nonetheless, as Kurdistan withstood the Daesh invasion in 2014, this option would need to be scrutinised, as it proved to be a more secure option than safe zones.

Establishing safe zones for religious minorities may also have an adverse impact on the perception that religious minorities are the ‘other’ - rather than a part of the Iraqi community. All religious communities in Iraq must be treated as a part of the Iraqi community, with equal rights enshrined in the Iraqi Constitution and according to international law. Religious minorities must be able to live among other groups without fear, whether they live in a safe zone or not. Such peaceful coexistence must be supported by the Iraqi government.

The proposals establishing an autonomous region for religious minorities, modelled on the Kurdistan autonomous region, are not less challenging. However, creating such an autonomous unit would take years while persecuted religious minorities continue to live in fear and uncertainty. Furthermore, establishing yet another autonomous region within the borders of Iraq could lead to further fragmentation of the country rather than uniting the torn communities. These challenges may well be manageable. But previous mistakes in implementing safe zones in post-conflict regions must be analysed to identify and address failings and to prevent previous errors from reoccurring.

The alternative to fragmenting Iraq into autonomous regions or establishing units erroneously perceived as safe zones would be to ensure that steps are taken to create stability in areas mainly populated by Iraqi Christians, and across Iraq in general. The Nineveh Plains, which is home to Iraq's largest and oldest Christian population, remains unstable and a continued zone of conflict. Two main challenges exist in the area: remaining pockets of Daesh fighters and other Islamic extremists and the lack of a consistent security force to ensure order and stability. With these issues in mind, States must play a more proactive role in promoting stability and defending the indigenous Christian population in the region.

Iraq has remained an unstable and unsafe country since the removal of Saddam Hussain. During his rule, Saddam effectively upheld the rule of law while cracking down on groups who targeted religious minorities. But with his removal by the United States in 2003, the security apparatus that Saddam commanded fell apart. Christians then became subjected to ever-growing persecution from the Iraqi Sunni-led insurgency that stemmed from Saddam's removal. In addition, the new government failed to adequately protect its indigenous Christian population and address day-to-day persecution. Theft, stabbings, murder, and violence became a frequent occurrence of life for Iraqi Christians. This reign of terror continued until the end of the Iraqi insurgency in 2011.

Just as Iraqi Christians began rebuilding and returning to normal life, a new threat quickly emerged on the back of the insurgency. Daesh also gained power through instability caused by the Syrian civil war and swept over the Iraqi border to quickly gain control over many regions. This forced many Christians to flee from Mosul in July of 2014 and then flee again from the Nineveh Plains in August 2014. Daesh imposed even stricter Islamic rule than the Sunnis who led the Iraqi insurgency. Daesh gave Christians a brutal ultimatum: convert to Islam, pay a religious tax, flee, or be killed. This can also be seen by Daesh marking Christian homes with the Arabic letter 'n' for Nazarene to distinguish Christian homes from homes of their Muslim neighbours. The letter 'n' would then signify to Daesh fighters which homes to approach for the mentioned blackmail and extortion or to come back later and ransack Christian homes once they had fled.

Throughout 2014, Daesh established self-proclaimed 'caliphate' in many regions of Iraq, most notably, in the predominately Christian Nineveh Plains. Thousands of Christians were forced to flee overnight to seek refuge in Kurdistan. Daesh managed to rule the region for over two years destroying the villages and towns and removing all signs of Christianity ever being present in the

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area. However, the second half of 2016 has witnessed major wins on behalf of the Coalition against Daesh and liberation of many towns in the Nineveh plain region.

Fast forward to September 2017, Daesh has been largely defeated and Iraq's second largest city, Mosul, has been regained under government control. Nonetheless, the security situation in the Nineveh Plains is still of great concern to the Christian population. Currently, the security efforts are fragmented between a few actors. Iraqi security forces control the southern half of area and the Kurdish Peshmerga control the northern half. The United States also has two bases in the area with soldiers who continue to advise both groups who are still fighting against remaining pockets of Daesh fighters. While in the short-term this might be a tangible solution, this is not the solution to promote long-term stability in a region. Many Iraqi Christians are sceptical to return to the area because of fear that chaos will break out again.

## **5. Interfaith Dialogue & Community Reconciliation**

Calls to establish safe zones raise another important issue: religious minorities must be protected throughout all of Iraq and not only within the borders of the proposed safe zones. It is essential to help religious minorities feel that they are fully part of Iraqi society and for communities to work together to combat tensions and remove the atmosphere of mistrust. Religious minorities in the region must be able to live as part of the Iraqi community, not as a separate group, including the need for interfaith dialogue and the process of reconciliation.

Interfaith dialogue must be accommodated by the Iraqi government and include all religious communities. The government must include religious leaders of all religious groups in the process of establishing new policies aimed at protecting religious pluralism. Religious leaders must ensure that interfaith dialogue is implemented within their communities and engage all in the process.

The Daesh atrocities have sparked an atmosphere of mistrust between religious communities and communities in general. Some of the houses and properties belonging to Christians were snatched by their neighbours after Christians were forcibly displaced. These challenges have to be addressed in the process of reconciliation to ensure that post-Daesh Iraq will be a stable country accommodating religious pluralism and ensuring peaceful coexistence of diverse communities.

Despite the post-Daesh destruction in Nineveh Plains and the ongoing instability and security concerns, many Iraqi Christians want to return to their indigenous land and the Cradle of Christianity. To allow the return, rebuilding the region and ensuring that Iraqi Christians are safe in Iraq must be a priority. However, integration of Iraqi Christians into the society and reconciliation efforts must follow too. Integration efforts must be mindful of the challenges faced by Iraqi Christians over the years and not only under Daesh. Discrimination and persecution of Iraqi Christians are not a new or Daesh phenomena. Indeed, under Saddam Hussein, Christian minorities enjoyed reasonable protection in Iraq. Lack of a strong leader post-Saddam Hussein has resulted in deterioration of the relationships between Christians and Muslims in Iraq. Because of the pre-existing tensions between religious groups, any attempt to integrate Iraqi Christians into the society is highly challenging but crucial to ensure the future of Christian minorities in Iraq. Iraqi Christians must be able to enjoy their rights to the fullest in all of Iraq and not only in the proposed specially designated areas.

## **6. Legal Measures**

There are two types of legal steps that should be taken, namely, to officially recognise the Daesh atrocities against Iraqi Christians, Yazidis and other religious minorities as genocide and to bring Daesh fighters to justice.

### *Recognition of Daesh genocide*

The official recognition of Daesh genocide as genocide is not merely a matter of semantics. The recognition of the atrocities as genocide could help the victims to be prioritised for resettlement, as explained in previous sections.

The Council of Europe, the European Parliament and several countries have passed declarations or resolutions recognising the Daesh genocide against religious minorities as genocide, most notably, the United States Congress and Secretary of State, the UK House of Commons, the Parliaments of Lithuania, Canada, Australia, France, Austria, and Hungary.

### *Bringing Daesh to Justice*

For over three years since Daesh established the so-called caliphate in Iraq, there has been no independent commission of inquiry to collect evidence of crimes committed by the Islamic State in

Iraq. Many NGOs have been gathering evidence of atrocities committed in the region. However, the information obtained may not be admissible in court due to a lack of crucial information, as the information is collected by NGO staff who are not legally trained. Consequently, interviews with victims would have to be conducted a second time for the evidence to comply with legal standards, a process which may be distressing for the victims concerned and which would make the evidence collection by NGOs largely a futile, not least a potentially damaging, exercise.

On September 19, 2016, the UK Foreign Secretary, with the Foreign Ministers of Iraq, launched a global campaign to hold Daesh to account for the crimes committed in Iraq. Unfortunately, over the following months, the coalition has made no indication as to how it intends to bring Daesh perpetrators to justice at the international level.

On September 21, 2017, the UK Representation to the UN introduced a draft UN Security Council resolution 2379 aimed at establishing a mechanism for bringing Daesh to justice. The resolution passed unanimously. The resolution contains some features requiring further consideration.

First, the resolution requests the UN Secretary-General to establish an investigative team consisting of Iraqi judges, Iraqi criminal law and international experts. The team is to have a mandate of two years and will be headed by a Special Adviser appointed by the UN Secretary-General. Second, the newly established team would support the domestic mechanisms in collecting and preserving evidence of Daesh mass atrocities perpetrated within the territory of Iraq. Third, the resolution prescribes that the evidence will be intended primarily for use by the Iraqi authorities. However, the evidence could also be used by other states to prosecute Daesh fighters in different jurisdictions. Any other use of the evidence would have to be approved by the Iraqi government. Fourth, the resolution also raises the possibility for the newly established team to collect evidence of Daesh atrocities in countries other than Iraq. Any such request would have first to be approved by the UN Security Council. Fifth, the team would work closely with survivors to ensure that their interest and needs are put first. Under the resolution, the Special Adviser heading the team is required to prepare a report on the progress of the team within 90 days of its inception and every 180 days thereafter. The initiative will be funded by the UN and from a specially established trust fund for voluntary contributions.

According to the UN Security Council resolution 2379, it is likely to be a national court engaging with prosecutions. The Iraqi judiciary could take advantage of the resources and the expertise of the United Nations which led or assisted in other post-conflict investigations and prosecutions. It is highly relevant not only for the Iraqi judiciary but also for the people in Iraq. Daesh fighters originated not only from Iraq but also from over 80 other countries. Therefore, Daesh is not only an Iraqi issue - it is an international problem requiring an international response. The international community must show solidarity with Iraq in defeating the ongoing impunity of Daesh. States can prosecute fighters in their countries, but they should also assist the Iraqi judiciary in this important step. This is of significance as the Iraqi courts cannot prosecute Daesh fighters. Some of the problems are associated with the fact that the Iraqi legal framework does not contain provisions criminalising genocide, crimes against humanity and war crimes. Even if changes are made to the domestic law to introduce amendments to the penal code covering these crimes, such laws would be *ex-post facto*, and any future prosecution would be in breach of the prohibition preventing the application of law retrospectively.

The international community, in cooperation with the Iraqi government, must put in place the most efficient prosecution mechanism to address the challenges posed by an international terrorist group like Daesh. It may be an international criminal tribunal (as was used in the cases of Rwanda and Bosnia); a regional mechanism (similar to one implemented for piracy cases in Somalia); or a specialised national court supported by the UN (as in the case of Cambodia).

States could play a significant role providing the expertise to assist in following up on the above recommendations.

### *Other Steps*

The integration process may be aided by the establishment of a new office of an Iraqi Special Envoy on Freedom of Religion or Belief or a Special Envoy on Minority Issues. The mandate could be modelled on the office of the [UN Special Rapporteur on Freedom of Religion or Belief](#) or the [UN Special Rapporteur on Minority Issues](#), although with a much narrower geographical focus limited to Iraq only. The Special Envoy could prepare annual reports on the situation of Iraqi Christians in Iraq (and other religious minorities), the implementation of the protective mechanisms, and on the progress made in ensuring that Iraqi Christians are fully integrated into the

society. The Special Envoy could also receive complaints and support the local police in their investigations to ensure an additional overview of the situation in Iraq.

International institutions and states have to take legal action to address past crimes and prevent future crimes. It is also crucial that the Iraqi government establishes a national commission to consider early signs of discriminatory practices and persecution of (religious) minorities before they reach the threshold of genocide or other crimes against humanity. As genocide or war crimes do not happen overnight, monitoring early signs may help to prevent future mass atrocities.

The Iraqi government must consider introducing changes to its criminal code. These changes must ensure that the crime of genocide is included and enshrines international standards (especially the 1948 UN Convention on the Prevention and Prosecution of the Crime of Genocide). The criminal code should also strengthen the use of the concept of complicit acts to mass atrocities. Special protection of minorities must be adequately implemented in the whole of Iraq, and any failings must be addressed as a matter of urgency. The implementation of security must be subject to a regular review.

## **7. Recommendations for States**

States could take the following steps to address the above-explained challenges:

1. Officially recognise the Daesh atrocities like genocide and prioritise the Daesh victims for resettlement;
2. Ensure that the Investigative Team (following the recent UN Security Council Resolution) is established as soon as possible and provided with all necessary resources to collect and preserve the evidence of Daesh atrocities;
3. Provide resources and expertise to assist Iraq in addressing other pre-Daesh failings of the legal system in Iraq;
4. Work towards extending the benefits provided for Syrians in Jordan to Iraqis in Jordan, including to ensure that they are provided with work permits, have access to medical assistance and children have access to free education;
5. Ensure that all children born to Iraqi refugees are adequately registered so that they do not become stateless;
6. Provide resources to help rebuild Nineveh Plains and other regions targeted by Daesh;

7. Work with the Iraqi government to introduce domestic protection of religious minorities, including, the right to freedom of religion or belief, freedom of expression, freedom of assembly etc.;
8. Ensure that the Iraqi government establishes a domestic mechanism that would oversee the situation of minorities in Iraq and address any failings in the implementation of the minority rights.

## **8. Conclusion**

The response to the Daesh atrocities is complex and goes beyond military measures. The steps ranging from reconstruction to security measures, from interfaith dialogue and community reconciliation to legal action are closely linked and interrelated. Failure to address any of the steps may mean the collapse of the whole project.

Previous responses to genocide or other mass atrocities indicate the direction that may be taken to address Daesh's genocidal campaign. However, prior mechanisms have not been flawless. But lessons can be learned, and concerns addressed, making possible a genuine opportunity to provide feasible policies which would enable religious minorities to return to their homelands and to maintain their religious traditions in the countries where they were born. The international community of responsible nations must work together. Daesh is a global problem. Iraq and other directly affected countries cannot be left to deal with Islamist terrorism and resulting consequences alone. Unity of purpose and commitment to comprehensive strategies are required to preserve the religious communities now standing on the verge of annihilation.