



ISIS IS COMMITTING GENOCIDE

By Prof. Gregory Stanton

Members of the Committee on Foreign Affairs of the Parliament of the Netherlands, it is an honor to testify before this committee about the crimes of the Islamic State in Iraq and Syria (ISIS).

In September 2015, members of the International Association of Genocide Scholars, representing the world's largest organization of experts on genocide, called upon the United States Congress and the European Parliament to declare that the crimes committed by the Islamic State of Iraq and Syria (ISIS) also known as *Da'esh*, constitute genocide in violation of the International Convention on the Prevention and Punishment of the Crime of Genocide.

On November 25, 2015, twenty-one human rights organizations, genocide scholars, and religious leaders wrote to President Obama imploring him and the US Department of State to recognize that ISIS is committing genocide not just against Yazidis, but also against Christians, Shi'a Muslims, Turkmen, Shabaks and other religious groups that ISIS labels "infidels" or "apostates."

The US Congress and European Parliament, as well as the Parliaments of the United Kingdom and Canada passed resolutions stating that ISIS is committing genocide and Secretary of State Kerry of the United States also made this declaration.

Genocide is the intentional destruction, in whole or in part, of a national, ethnical, racial, or religious group, as such. ISIS is committing genocide against religious groups that do not conform to ISIS's totalitarian definition of 'true Islam.' ISIS's mass murders of Chaldean, Assyrian, Melkite Greek, and Coptic Christians, Yazidis, Shia Muslims, Sunni Kurds and other religious groups meet even the strictest definition of genocide.

ISIS's policy of mass rape is also genocidal. The gendered pattern of persecution pursued by ISIS against groups it considers to be infidels conforms to historical patterns of genocide, particularly the mass killing of men and teenage boys accompanied by the rape and enslavement of women and teenage girls and the kidnapping of children.

ISIS government in areas it has occupied includes beheadings of captives and people considered apostates, destruction of religious centers such as churches and monasteries, and pillage of ancient cultural sites that do not conform to the regime's religious orthodoxy—acts typical of genocidal regimes.

The view that only a court has the authority to declare that genocidal acts constitute genocide is profoundly wrong. It ignores the very name of the Genocide Convention: The Convention for the Prevention and Punishment of the Crime of Genocide.

Courts are too slow to prevent genocide. They always judge genocide after it is over. States-parties to the Genocide Convention have a duty to prevent by other means, including diplomacy, sanctions, and ultimately the use of force, either authorized by the United Nations Security Council, or by regional forces under Chapter Eight of the UN Charter. It is not a legal duty specified by the Genocide Convention. But the International Court of Justice, in its *Bosnia v Serbia* decision made it clear that the obligation to prevent is a binding legal norm, not just a moral principle.

What difference would it make to call the crimes of ISIS “genocide?” Studies by genocide scholars have shown that calling genocide by its proper name, rather than using euphemisms like “ethnic cleansing” or weaker terms like “crimes against humanity,” increases the probability of forceful action to end the crimes by over four times.

Why does it make a difference whether these crimes not be named “crimes against humanity” or “war crimes,” and instead be called “genocide?” Ethnic Cleansing is a euphemism for forcible displacement. “Ethnic cleansing” is not a term used in the Rome Treaty of the International Criminal Court. It has no legal meaning in international law.

In 2007, three epidemiologists and I conducted a study of the effect of using the words “ethnic cleansing” rather than genocide in four of the most recent genocides: Rwanda, Bosnia, Kosovo, and Darfur. Our team counted the number of uses of the terms “ethnic cleansing” and “genocide” in The New York Times, UN press releases, law journals, and statements by Amnesty International and Human Rights Watch.

We came to four important conclusions:

1. Use of the terms has no relationship to the number of people who have been killed. 8000 killed at Srebrenica was ruled “genocide” by the ICTY. Yet a U.N. Commission of Inquiry ruled that over 30,000 killed in Darfur (now well over 300,000) was not sufficient evidence of intent to commit genocide by the government of Sudan.
2. Choice of the term to be used is determined by willingness to take action to stop the killing. When the terms “ethnic cleansing” or “crimes against humanity” were used, it indicated unwillingness to take forceful action to stop the crimes. These weak words never motivated the use of force. Indeed they were probably chosen because the decision whether or not to use force had already been made.
3. It was not until the term “genocide” was applied to the crimes, that force was used to stop them.

- This occurred three months into the genocide in Rwanda when the State Department finally acknowledged on June 10, 1994 that “acts of genocide” in Rwanda were the same as “genocide”, which is defined in the Genocide Convention as “acts.” This declaration came after the US had voted in the UN Security Council to pull UNAMIR troops out of Rwanda on April 21, 1994 and voted against sending in UN forces in May, when the killing was still underway.

By June 10, the Rwandan Patriotic Front had won the civil war and stopped the genocide. 800,000 Rwandans were slaughtered. The US and other world powers were not willing to risk the life of a single soldier to protect them. The International Criminal Tribunal for Rwanda has convicted over fifty leaders of genocide and courts in Rwanda have convicted hundreds more.

- The same denial emerged in Bosnia, as the world press and the US government called the massacres “ethnic cleansing” from 1991 until the Srebrenica massacre on July 11- 13, 1995, which provoked a NATO conference on July 21, and resulted in NATO bombing of Serb forces on August 30. The bombing brought Serbia to Dayton to agree to a ceasefire, division of Bosnia, and a NATO peacekeeping operation. The Bosnian civil war came to an end. The ICTY and International Court of Justice have ruled that the massacre at Srebrenica was genocide.
- Kosovo was called “ethnic cleansing” until US War Crimes Ambassador David Scheffer noted “indicators of genocide” on April 7, 1999, followed immediately by bombing of Belgrade, which brought Serb surrender and NATO occupation of Kosovo. Six Serb leaders were convicted of crimes against humanity by the ICTY and the Kosovo Tribunal has convicted other perpetrators.
- Regarding Darfur, following a careful empirical survey of evidence of genocide among Darfuri refugees, on September 9, 2004, Secretary of State Colin Powell declared that “genocide has occurred and may still be occurring in Darfur. We believe the evidence corroborates the specific intent of the perpetrators to destroy “a group in whole or in part.” He also said, “However, no new action is dictated by this determination.”

A decision had evidently been made by the President not to involve US or NATO military forces in stopping the genocide, so all that followed were ineffective increases in the African Union monitoring force, but no direct military intervention by NATO or the US.

Worse, a UN Commission of Inquiry led by Judge Cassese, the former President of the ICTY while the ICTY refused to convict any defendants of genocide, denied that the Sudanese government possessed the intent to commit genocide in Darfur. So the UN has never declared the atrocities in Darfur to be genocide.

Although the International Criminal Court has charged Sudanese President Omar al-Bashir and two others with genocide in Darfur, they have never been arrested and brought to trial. Sudan has three active genocides today. It is an example of the failure of the UN to stop genocide, and of the African Union and states-parties to the ICC Treaty to enforce international criminal law.

4. When the term “genocide” is used to describe crimes against humanity, use of force is possible. When the crimes are only called “ethnic cleansing” or “crimes against humanity,” it is a sure indicator of lack of political will to take forceful action to stop them. Since 2000, the term “atrocities” has replaced “crimes against humanity” as an indicator of absence of will to take forceful action to stop them.

The most relevant case was Kosovo, where US War Crimes Ambassador Scheffer’s determination that the crimes were genocidal massacres led nearly directly to the bombing of Belgrade and a rapid end of the conflict. The Netherlands, as a member of NATO, supported this forceful action.

One way to undermine the ideological attraction of ISIS is indictment of ISIS leaders and other perpetrators by the International Criminal Court (ICC), by national courts in Iraq, and by national courts in the Netherlands, Germany, and other nations that have effective universal jurisdiction for genocide and crimes against humanity.

Because Syria and Iraq are not states-parties to the ICC, only the UN Security Council can refer ISIS to the ICC. Russia and China have indicated that they would block such referral. However the UN General Assembly could create a mixed international tribunal in cooperation with the government of Iraq, as it did with the Extraordinary Chambers in the Courts of Cambodia. It could also provide funds to support special Iraqi courts to try ISIS.

Dutch citizens who return to the Netherlands after fighting for ISIS should be tried in Dutch courts. They could be tried for complicity in genocide.