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The Challenges in the International Prosecution of Crimes by ISIS

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Abstract

The armed conflict in Syria, which has been ongoing since 2011, has given rise to numerous grave violations of international humanitarian law and human rights. One of the main actors responsible for these crimes is the extremist group *Islamic State of Iraq and Syria* (ISIS). This article aims to examine the enforcement of international law regarding crimes committed by ISIS in Syria. The research employed a normative approach, drawing data from primary sources—namely, statutes and international conventions on humanitarian law and human rights—as well as secondary sources from previous studies on this topic. The research findings indicate that there are several challenges in the enforcement of international law regarding war crimes committed by the terrorist group ISIS; one of the main obstacles is the limited jurisdiction of the International Criminal Court (ICC). This is because Syria is not a State Party to the Rome Statute. Furthermore, the unstable security situation in the conflict zone, difficulties in gathering admissible evidence, and a lack of coordination between states in prosecuting the perpetrators further complicate the law enforcement process. Nevertheless, the international community has taken several steps to address the crimes committed by ISIS, namely through global cooperation in eliminating the movement both in Syria and in various other countries.

KEYWORDS: *International Law, Humanitarian Law, ISIS, War Crimes*

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Introduction

The protracted conflict in Syria is one of the most complex and deadly humanitarian tragedies of the 21st century. Since the outbreak of anti-government protests in 2011, which subsequently escalated into a civil war, various armed groups, both domestic and foreign, have been involved in the escalation of violence in the region.[1] One of the most brutal groups to emerge from this chaos is the Islamic State of Iraq and Syria (ISIS), also known as Daesh.[2] Since its emergence in 2013, ISIS has become a group that has sparked controversy among both Arab and Western nations. The group is known as a religiously-based political movement with substantial financial backing, influential leadership, modern military equipment, and a vast international network.[3] Many view ISIS as a serious threat due to its extremely radical ideology, which justifies acts of violence against those with differing views, as well as the destruction of sites deemed symbols of idolatry — even going so far as to threaten sacred sites such as the Ka'bah.[4]

In armed conflict against the Iraqi and Syrian national armies, ISIS has succeeded in seizing control of several regions in Iraq and Syria, subsequently establishing these areas as its territory. The group declared a "caliphate" in parts of Syria and Iraq in mid-2014 and is known globally for its acts of extreme violence, including the public beheading of hostages, mass killings of ethnic and religious minorities, and other forms of atrocity. ISIS has committed various acts that legally constitute serious international crimes. These include crimes against humanity, war crimes, and, in some contexts, even genocide, particularly against the Yazidi community. Furthermore, the group has systematically destroyed cultural sites and World Heritage sites in Palmyra and other regions, demonstrating an intent to erase local cultural and historical identities. The violations committed by ISIS not only directly harm victims but also undermine the social structures and collective identity of the affected communities.[5]

The UN Security Council has issued several resolutions in response to the ongoing conflict. In Resolution 2169 of 2014, the UN Security Council called

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1 Sherko Kirmanj, "The Syrian Conflict: Regional Dimensions and Implications," *Journal of International Studies* 10 (2020), https://doi.org/10.32890/jis.10.2014.7948.

2 R. Lafta, V. Cetorelli, and G. Burnham, "Living in Mosul during the Time of ISIS and the Military Liberation: Results from a 40-Cluster Household Survey," *Conflict and Health* 12, no. 1 (2018), https://doi.org/10.1186/s13031-018-0167-8.

3 Susan R. Klein and Crystal M. Flinn, "Social Media Compliance Programs and the War Against Terrorism," *SSRN Electronic Journal*, 2016, https://doi.org/10.2139/ssrn.2833368.

4 Klein and Flinn.

5 Ameneh Bazrafshan et al., "Managerial Ability, Earnings Quality and ISIS: Evidence from Iraq," *International Journal of Emerging Markets* 18, no. 9 (2023), https://doi.org/10.1108/IJOEM-08-2020-1012.

upon all parties to the conflict to respect and protect medical personnel, medical transport services, and facilities that assist civilians in war-affected areas. Meanwhile, Resolution No. 2170 of 2014 highlighted the actions of ISIS in Syria, strongly condemning their acts, which resulted in civilian casualties, the destruction of infrastructure, and the demolition of cultural and religious heritage sites.[6]

On 29 July 2015, the UN Security Council adopted Resolution No. 2233 of 2015, stating that resolving this conflict requires the cooperation of all the people of Iraq in maintaining security, emphasising the need for long-term solutions to address political instability, and underscoring the importance of international support.[7] Furthermore, ISIS and the armed group known as the ‘ ’ are required to comply with the provisions of International Humanitarian Law, such as the protection of civilians; this obligation also applies to the Iraqi armed forces and member states assisting in the fight against ISIS.[8]

Although ISIS's actions have drawn the attention of the international community, efforts to bring perpetrators of crimes to justice still face various challenges. One of the main obstacles is the International Criminal Court's (ICC) lack of jurisdiction over crimes in Syria, as the country is not a party to the Rome Statute. Furthermore, the political turmoil within the UN Security Council—which has the authority to refer cases to the ICC via resolutions—often leads to deadlock due to vetoes by permanent members, particularly in the context of Syria, which enjoys the support of countries such as Russia and Iran.[9]

Beyond the limitations of international institutions, efforts to enforce the law through national courts in ICC member states also face constraints, particularly regarding jurisdiction over foreign nationals and the collection of credible evidence from conflict zones.[10] However, some states have taken the initiative by applying universal jurisdiction to prosecute their citizens proven to have committed crimes alongside ISIS, as seen in Germany and the Netherlands. These steps serve as examples of how international law enforcement can be carried out outside the ICC's framework.

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6 Lafta, Cetorelli, and Burnham, “Living in Mosul during the Time of ISIS and the Military Liberation: Results from a 40-Cluster Household Survey.”

7 Younes Karimi, Anna Squicciarini, and Peter Kent Forster, “A Longitudinal Dataset and Analysis of Twitter ISIS Users and Propaganda,” *Social Network Analysis and Mining* 14, no. 1 (2024), https://doi.org/10.1007/s13278-023-01177-7.

8 Michael Mulligan, “Conceptualizing an Internal Conflict: ISIS and International Law,” *International Journal of Contemporary Iraqi Studies* 10, no. 1–2 (2016), https://doi.org/10.1386/ijcis.10.1-2.73_1.

9 Paweł Bielicki, “Policy of the Russian Federation towards Kurds in the Syrian Conflict,” *Southern Cultures*, no. 2 (2021), https://doi.org/10.4467/24497436SCU.18.004.9927.

10 Hassan Ahmad, “Prosecuting ISIS at the ICC,” *SSRN Electronic Journal*, 2017, https://doi.org/10.2139/ssrn.2807320.

Against this backdrop, the central question addressed in this journal is: what form does the enforcement of international law take, and how effective is it, in relation to crimes committed by ISIS in Syria and Iraq? To answer this question, this article will examine the normative foundations of international law applicable to ISIS crimes, explore the available legal instruments and mechanisms, and evaluate the efforts undertaken by international institutions, individual states, and regional organisations. In this context, a legal-normative approach will be employed to analyse the relevant legal provisions.[11] By analysing the various dimensions of the enforcement of international law in the case of ISIS, this study aims to contribute to the discourse on global justice and the prevention of impunity in armed conflicts. Furthermore, this research aims to identify gaps in the international legal system that need to be addressed to prepare it better to respond to serious crimes in the future.

The type of research used in this study is normative legal research, also known as doctrinal legal research. This research was conducted by analysing secondary data through a literature review that included primary, secondary, and tertiary legal materials. The sources in this legal research are classified into two categories: primary legal materials and secondary legal materials. According to Rauf et al., "Primary legal materials are authoritative in nature, meaning they possess authority or power in their implementation, whilst secondary legal materials consist of all legal materials that are not official documents".[12]

The primary data sources used consist of written legal sources, namely legislation, international treaties, and principles of international law, including the Rome Statute, the UN Charter, the 1949 Geneva Conventions, and UN Security Council Resolutions concerning Syria and ISIS. The secondary data, meanwhile, comprises the latest scientific and academic journal literature from both reputable international journals (indexed in Scopus/Web of Science) and accredited national journals, which discuss legal and policy aspects of enforcing international law against non-state actors such as ISIS.

Data collection was conducted through library research by examining various legal documents, scientific articles, official reports, and other relevant publications. Data were collected using qualitative methods, with source selection based on the credibility, relevance, and recency of the information. The collected data was analysed using a descriptive-analytical method. A descriptive

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[11] Muhammad Siddiq Armia, *PENENTUAN METODE & PENDEKATAN PENELITIAN HUKUM*, ed. Chairul Fahmi (Banda Aceh: Lembaga Kajian Konstitusi Indonesia, 2022).

[12] Anis Abdul Rauf, Chairul Fahmi, and Muhammad Husnul, "THE LEGAL ENFORCEMENT OF CONSUMER PROTECTION LAW IN THE CIRCULATION OF IMPORTED PHARMACEUTICALS," *JURISTA: Jurnal Hukum Dan Keadilan* 10, no. 1 (February 24, 2026): 192–209, https://doi.org/10.22373/JURISTA.V10I1.363.

approach was used to explain the applicable legal provisions and practices adopted by international actors in responding to ISIS crimes. Meanwhile, the analytical approach was used to assess the effectiveness of existing legal mechanisms, identify weaknesses in the international legal system, and provide a normative evaluation of the policies implemented.

Forms of ISIS Crimes against Humanity

The presence of ISIS in Syria since 2013 has marked a new chapter in the dynamics of the armed conflict and violations of international law in the region. At the height of its power, the group controlled a vast territory, implemented a repressive system of governance based on extremist ideology, and committed various international crimes involving thousands of civilian victims.[13] This study outlines the various dimensions of the crimes committed by ISIS, the law enforcement mechanisms available within the international legal system, the practical challenges in their implementation, and an evaluation of the global community's response.

ISIS acts not only as an armed insurgent group but also as a political-military entity that actively and systematically commits violations of international law, particularly international humanitarian law and international criminal law.[14] The most egregious crime committed by ISIS is the genocide against the Yazidi community in the Sinjar region and its surroundings. According to the report of the Independent International Commission of Inquiry on the Syrian Arab Republic, several crimes committed by ISIS are recorded as follows:[15]

A. The crime of genocide

The 1998 Rome Statute also contains provisions regarding the criminal liability of perpetrators of the crime of genocide.[16] This provision is set out in Article 25(3), which states that any individual may be held criminally liable and sentenced for crimes falling within the jurisdiction of the International Criminal Court.

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[13] Deepika Badhan and Rupam Jagota, "Geopolitical Interests and Contemporary Conflicts in the Middle East," *International Journal of Innovations in Science Engineering And Management*, 2025, https://doi.org/10.69968/ijisem.2025v4i2244-252.

[14] Badhan and Jagota.

[15] Craig Whiteside, "A Case for Terrorism as Genocide in an Era of Weakened States," *Dynamics of Asymmetric Conflict: Pathways toward Terrorism and Genocide* 8, no. 3 (2015), https://doi.org/10.1080/17467586.2015.1104418.

[16] Talal Yassin Aleissa et al., "Principle of Legality in International Criminal Law," *Pakistan Journal of Criminology* 15, no. 4 (2023), https://doi.org/10.1093/acprof:oso/9780199608935.003.0010.

1) Committing the crime of genocide either alone or jointly or through another person.
2) They ordered, instigated or caused the commission of genocide which subsequently occurred.
3) Those who assist in the commission of genocide, including by providing the means to commit it.
4) Those who intentionally contribute to the commission of the crime.

According to Article 7(1) of the 1998 Rome Statute, crimes against humanity are acts committed as part of a widespread and systematic attack, deliberately directed against the civilian population. Such acts include various offences such as murder, extermination, enslavement, deportation or forcible transfer of the population, imprisonment or deprivation of liberty in violation of fundamental rules of international law, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of serious violence, and enforced disappearance of persons.[17]

Based on the regulations outlined above, as well as the elements of genocide and crimes against humanity as defined by the International Criminal Court (ICC) in the Rome Statute of 1998, the question that arises is whether the crimes committed by ISIS should be classified as genocide and crimes against humanity.[18] One example of the many crimes committed by ISIS can be seen in the attacks on the Yazidi community. On 3 August 2014, ISIS launched a massive attack on the Sinjar region in northern Iraq. Hundreds of villages at the foot of Mount Sinjar—which served as the main settlement centre for the Yazidi ethnic group and lay just 15 kilometres from the Syrian border—were destroyed.[19] This attack was carried out in a coordinated manner, with hundreds of ISIS members seizing towns and villages from various sides of the mountain. As they began to enter the Sinjar region, resistance emerged; however, Iraqi forces, including the Peshmerga, reportedly retreated, leaving the area without adequate defences. Knowing that the Peshmerga forces had abandoned their posts, Yazidi

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[17] Bambang Purwanto, "RATIFIKASI STATUTA ROMA 1998 (ICC) TERHADAP TEGAKNYA KEADILAN DALAM PERLINDUNGAN HAK ASASI MANUSIA DI INDONESIA," *Hukum Dan Dinamika Masyarakat* 15, no. 2 (2018), https://doi.org/10.36356/hdm.v15i2.680.

[18] Rene Provost, "Accountability for International Crimes within Insurgent Groups," *SSRN Electronic Journal*, 2015, https://doi.org/10.2139/ssrn.2701951.

[19] Emily Hawley, "Isis Crimes against the Shia: The Islamic State's Genocide against Shia Muslims," *Genocide Studies International*, 2018, https://doi.org/10.3138/GSI.11.2.02.

militants—armed only with light weapons—put up a fight to buy time for their families to flee the area.[20]

Following the attack, Yazidi civilians were captured and forcibly relocated to Mosul and Tel Afar. During this relocation, the roads were littered with the bodies of victims, as ISIS members executed hundreds of Yazidis, including adult men and children who refused to convert to the ISIS ideology. Adult men and teenage boys who were not immediately killed were taken prisoner and subjected to various forms of cruelty. They were separated from women and children, then taken to locations such as Tel Afar, Mosul, and Baaj, where they were forced to perform hard labour such as building projects, digging trenches, and tending livestock.[21] Furthermore, they were also forced to renounce their identity as Yazidis. Those who attempted to escape would be executed if caught. ISIS's brutal treatment of the Yazidi community clearly violates principles of humanity, international law, and human rights. In its report, the UN stated:

> "The UN Human Rights Commission report states that ISIS is committing crimes against the Yazidi population in Syria and Iraq. When the Islamic State seized territory in northern Iraq a couple of years ago, one of the hardest-hit groups was the Yazidis. In their ancestral home, many fled to their sacred Mount Sinjar. Nevertheless, thousands of women were taken into slavery whilst their men were massacred. A new report from the UN Human Rights Commission accuses ISIS of genocide, detailing how ISIS is attempting to wipe out the Yazidis in their home territory.

This explanation provides a clear picture that the actions carried out by ISIS have undermined the stability of the international order and disrupted world peace in the modern era. The actions of ISIS militants are rightly categorised as genocide and crimes against humanity. UN investigators have equated the violence committed by ISIS—including rape, enslavement and murder—with acts of genocide and serious violations of human rights.[22]

The UN reports that ISIS is still holding more than 3,200 women and children captive. The women are being used as sex slaves, whilst young boys are being brainwashed to become new members of the group. The UN investigation

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[20] Wendy Cook et al., "Exploring the Shared Experiences of Yazidis Who Survived Genocide," *Journal of Trauma and Dissociation* 23, no. 4 (2022), https://doi.org/10.1080/15299732.2021.1989116.

[21] Miriam Cooke, "Murad vs. ISIS: Rape as a Weapon of Genocide," *Journal of Middle East Women's Studies* 15, no. 3 (2019), https://doi.org/10.1215/15525864-7720627.

[22] Sophia Sultan and Christopher Michael Garrity, "International Law and The Responsibility to Protect," *Journal of Student Research* 11, no. 3 (2022), https://doi.org/10.47611/jsrhs.v11i3.2605.

report also mentions cases of young girls committing suicide to avoid being sold to ISIS members. Those who attempt to escape are instead subjected to extreme violence, such as beatings and mass rape. From the very start of their encounter with the Yazidi community in Sinjar, ISIS's attacks have indeed been focused on this group.[23] One member of the UN investigation team even stated that they had obtained detailed information on the locations of the incidents, the nature of the violations, and the identities of the perpetrators.

B. Crimes of Terrorism

As outlined above, ISIS's crimes also constitute acts of terrorism because they involve widespread and systematic attacks directed against civilians, and there is knowledge that these attacks are widespread and systematic. If an armed group or organisation carries out brutal violent attacks against civilians on a large scale, or against individuals not directly involved in the conflict, and carries out arrests, rapes, or torture against the opposing side, to spread fear or terror amongst the enemy, or as an attempt to force the enemy to release prisoners from their group, then such acts can generally be classified as war crimes.[24]

Both political and non-political motives can drive acts of terrorism. The targets of terrorist attacks may include civilians (such as in supermarkets, shopping centres, schools, places of worship, hospitals and other public facilities) or non-civilians (for example, military facilities or military camps). Terrorist acts are often intended to intimidate or influence a state's government policies. Terrorist acts are usually carried out in disregard of international law or international ethics, such as attacks deliberately aimed at destroying the civilian population, as occurred with the Yazidi people in Iraq.[25] This is clearly a violation of international law, as civilians must be protected under all circumstances.

Terrorist activities create a sense of insecurity and have a detrimental psychological impact on society.[26] The preparation or planning of terrorist acts may also involve multinational cooperation. The short-term aim of terrorism is to attract the attention of the mass media and the public. For example, the intense

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[23] Hawley, "Isis Crimes against the Shia: The Islamic State's Genocide against Shia Muslims."

[24] Kosar Ghafoor and Amanj Qadir, "Prosecuting the Perpetrators of the Camp Speicher Crime According to Iraqi Laws or the Jurisdiction of the International Criminal Court," 2021, https://doi.org/10.21928/uhdicpgp/45.

[25] Cook et al., "Exploring the Shared Experiences of Yazidis Who Survived Genocide."

[26] Marcus Vinícius Xavier de Oliveira, "The Historical Development of the Incrimination of the Enforced Disappearance of Persons and Their Phenomenology between International Criminal Law and International Human Rights Law," *Brazilian Journal of International Law* 18, no. 2 (2021), https://doi.org/10.5102/RDI.V18I2.7727.

media coverage of the Bali bombings can be seen as a terrorist strategy to attract global attention.[27]

In the context of international law, various conventions and UN Security Council resolutions have addressed acts of terrorism, including:

1) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.
2) The 1973 New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons.
3) The Tokyo Convention of 1963 on Offences and Certain Other Acts Committed on Board Aircraft.
4) The Montreal Convention of 1971 on the Suppression of Unlawful Acts against the Safety of Civil Aviation.
5) The Rome Convention of 1988 on the Suppression of Unlawful Acts against the Safety of Maritime Navigation.
6) New York Convention, 1997, on the Suppression of Terrorist Bombings.

C. Exploitation of Children in Armed Conflict

In situations of armed conflict, children are often victims of exploitation, as seen in the violence perpetrated by paramilitary forces and militants. Such violations include murder, detention, torture, enslavement, and forced recruitment as child soldiers.[28] This clearly contravenes international law, which prohibits the exploitation of children in all forms, including in armed conflict. Children involved in the ISIS armed conflict in Iraq and Syria can be divided into two categories: (1) Children who have been abducted and recruited as child soldiers, used in suicide bombings; (2) Children who are not directly involved but have become victims of attacks, sustaining injuries or losing parents as a result of such attacks.[29]

The 1989 Convention on the Rights of the Child stipulates that states must not recruit children under the age of 15 to join their armed forces. If children aged 15 to 18 are recruited, states must give priority to the older ones. Children also have the right to be protected from economic exploitation and hazardous work. Furthermore, the Fourth Geneva Convention of 1949 protects children in

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[27] IPAC, "Indonesians and the Syrian Conflict," *JSTOR* 6 (2014).

[28] Mohammad Hazyar Arumbinang, Yordan Gunawan, and Andi Agus Salim, "Prohibition of Child Recruitment as Soldiers: An International Regulatory Discourse," *Jurnal Media Hukum* 30, no. 1 (July 27, 2023): 21–32, https://doi.org/10.18196/JMH.V30I1.19322.

[29] Christine Schwobel, "The Re-Branding of the International Criminal Court (and Why African States Are Not Falling For It)," *Opinio Juris*, no. October (2016).

situations of war, including their personal rights, family ties, and religious practices.[30]

D. Human Trafficking

Human trafficking, particularly of women, has become a very serious international issue.[31] Various international conventions, including those of 1921 and 1933, as well as additional protocols from the UN, have been drawn up to address this issue. These conventions oblige participating states to take firm action against those involved in human trafficking, including traffickers, brothel operators, and those who exploit such individuals.

The UN also adopted the Convention against Transnational Organised Crime in 2000, with protocols relating to human trafficking, the smuggling of migrants, and illicit arms trafficking. The preamble to these protocols emphasises the need for a comprehensive international approach to end human trafficking, involving countries of origin, transit, and destination, as well as ensuring the protection of victims' human rights.

International Law Enforcement Mechanisms against ISIS

International law enforcement against ISIS faces legal and political complexities. One of the main relevant mechanisms is the International Criminal Court (ICC), which has jurisdiction over four core crimes: genocide, crimes against humanity, war crimes, and aggression. However, to date, Syria is not a State Party to the 1998 Rome Statute, meaning the ICC does not have direct jurisdiction over crimes committed on Syrian territory. The only way for the ICC to handle Syrian cases is through a referral from the UN Security Council.

In carrying out this task, the UN Security Council must act in accordance with the purposes and principles of the United Nations, as set out in the UN Charter. The UN Security Council has decided to investigate the massacres and atrocities committed by the terrorist group ISIS in Iraq and Syria. The focus of the investigation is on the massacres and atrocities against humanity committed by this terrorist group.

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[30] Zahirul Bashar, "Terrorism and International Humanitarian Law (IHL): Defining the Status of Islamic State of Iraq and Syria (ISIS)," *Asian Journal of International Affairs* 1, no. 1 (2021), https://doi.org/10.3126/ajia.v1i1.44759.

[31] Viacheslav Tuliakov and Oksana Stepanenko, "Jurisdictional Tensions: Divergent Judicial Approaches to Conflicts between UNCLOS and National Public Law Policies," *Lex Portus* 11, no. 2 (2025), https://doi.org/10.62821/lp11201.

The UN Security Council resolution stipulates that perpetrators of crimes involved in acts such as those committed by ISIS will be brought before a court to face criminal charges. The UN investigation team possesses detailed information regarding the locations, violations, and names of the perpetrators, which the UN Security Council will subsequently examine as the basis for charges at the International Criminal Court. This demonstrates the UN's commitment not only to punish individuals involved in international crimes but also to identify and bring them to justice in accordance with the principles of international justice.[32]

As a peacekeeper, the UN Security Council has broad authority in carrying out its duties, particularly in addressing the three main conditions requiring international intervention:

1) Threats to world peace

   A threat to world peace may include situations or actions that could trigger global conflict or undermine the world peace order. For example, a major terrorist attack threatening the integrity of a specific state or region. In such cases, the UN Security Council may issue a mandate for preventive action, such as a resolution urging member states to take preventive measures or recommending economic and diplomatic sanctions against a state or group deemed a threat.[33]

2) Violations of world peace

   Violations of world peace include military attacks carried out by one state against another without a legitimate basis for self-defence.[34] This also includes serious violations of international law involving genocide, war crimes, or crimes against humanity. An example is the crimes committed by ISIS, which have caused immense suffering to civilians in Iraq and Syria. In such cases, the Security Council may assess the situation and adopt measures to halt the violations, including condemning the actions and adopting resolutions to mobilise international support and pressure the perpetrators.[35]

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[32] Klein and Flinn, "Social Media Compliance Programs and the War Against Terrorism."

[33] Xavier de Oliveira, "The Historical Development of the Incrimination of the Enforced Disappearance of Persons and Their Phenomenology between International Criminal Law and International Human Rights Law."

[34] Jiaxi Wu, "The Legal Framework Governing the Use of Force in International Disputes: An Analysis of Self-Defense, Necessity, and Proportionality," *Global Development Dialogues* 1, no. 3 (2025), https://doi.org/10.63808/gdd.v1i3.213.

[35] Trudy Govier and David Boutland, "Dilemmas Regarding Returning ISIS Fighters," *Ethics and Global Politics* 13, no. 2 (2020), https://doi.org/10.1080/16544951.2020.1756562.

3) Acts of aggression between states
   Acts of aggression between states occur when one state attacks another without a legitimate reason or outside the context of self-defence. In this context, the UN Security Council is empowered to take immediate action to address the conflict, whether through resolutions to halt the aggression, the implementation of economic sanctions, or even the mobilisation of international forces to carry out military action.

To respond to these situations, the UN Security Council may take decisions based on the UN Charter, which is divided into three main areas of authority:

1) Non-Military Action
   The UN Security Council has the authority to take non-military measures that do not involve the use of armed forces. These measures aim to exert pressure on parties violating the peace without directly engaging in violence. Some steps that can be taken include: Economic sanctions: These include asset freezes, trade bans, or restrictions on access to international markets. Disruption of transport links, such as the suspension of air, sea, and rail transport, can slow the movement of supplies and people and have an economic impact. Diplomatic severance: Countries in breach may be diplomatically isolated, with official relations suspended, thereby reducing their international legitimacy. These methods are known as 'pre-emptive measures' used by the Security Council to reduce tensions without directly engaging in violence.[36]

2) Military Action
   If non-military measures show no significant progress, or none at all, the UN Security Council may decide to take more decisive action through military measures. These measures include the use of armed forces through military operations to halt aggression or address a serious threat to peace. These measures may involve direct military operations and large-scale military intervention, applied if the threat to peace cannot be halted by other means. However, as stipulated in the UN Charter, this may be done only after consultation with the chiefs of staff of the permanent members of the Security Council (Articles 45–47). These military actions

[36] Jacob D. Kathman, Michelle Benson, and Paul F. Diehl, "Punching before the Bell Rings: United Nations Signaling and Pre-Deployment Violence in Civil Wars," *International Studies Quarterly* 67, no. 3 (2023), https://doi.org/10.1093/isq/sqad038.

aim to minimise further damage to the conflict-affected country and prevent the spread of tensions to wider regions.[37]

3) Peacekeeping Operations
   If the Security Council cannot reach an agreement on full-scale military action, it may launch peacekeeping operations. These operations differ from military intervention in that they aim to maintain long-term peace once conflict or violence has subsided. Peacekeepers act as a neutral party tasked with separating the warring parties: they aim to halt further hostilities, prevent the situation from deteriorating, and support the peace process by facilitating negotiations. Although peacekeeping operations do not involve direct military action, they play a vital role in maintaining long-term stability and preventing the emergence of new conflicts.[38]

Another widely discussed alternative is the establishment of ad hoc or hybrid courts, namely judicial institutions that combine national and international elements. This model has been applied in Sierra Leone, Cambodia, and Kosovo and is considered effective in some cases. However, the establishment of an ad hoc tribunal for Syria requires political, financial and legal support from various international actors, which has not yet materialised due to differing positions amongst member states in the UN Security Council and resistance from the Assad regime.

In terms of dealing with ISIS, the UN Security Council may also intervene. Under the UN Charter, Article 2(7) and Article 2(4), the UN is not permitted to interfere in the internal affairs of a state, except to maintain international peace and security in accordance with Chapter VII of the UN Charter. In this regard, the UN may initiate military intervention to respond to threats deemed to endanger world peace, particularly if the state in question is unable or unwilling to address the threat itself.

In the name of global peace and security, the UN Security Council has the right to carry out military intervention or other measures to counter groups such as ISIS, whose activities clearly undermine the international order. As the supreme authority on matters of international peace and security, only the Security Council has the authority to act in ways that can influence international

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[37] Ali Alawieh et al., "Revisiting Leishmaniasis in the Time of War: The Syrian Conflict and the Lebanese Outbreak," *International Journal of Infectious Diseases* 29 (2014), https://doi.org/10.1016/j.ijid.2014.04.023.

[38] C. Fahmi and M.S. Armia, "Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms," *Journal of Southeast Asian Human Rights* 6, no. 1 (2022), https://doi.org/10.19184/jseahr.v6i1.30242.

law and impose significant legal consequences on states or groups acting in contravention of it.

Meanwhile, Syria's national judicial system is deemed neither independent nor capable of adjudicating major crimes committed by armed actors such as ISIS. In many cases, the Assad regime itself has also been accused of committing grave violations of international law, meaning the integrity of Syria's domestic legal system is highly questionable as a fair and credible forum for the enforcement of the law.

Challenges in the Law Enforcement of ISIS

Several key challenges in efforts to enforce the law against ISIS can be categorised into legal, political, technical and practical aspects.[39] From a legal perspective, the ICC's limited jurisdiction over non-state parties constitutes a major obstacle to bringing cases before the court.[40] This indicates that the current international legal system remains dependent on the state framework and is not yet fully capable of addressing cross-border crimes committed by non-state actors; furthermore, several factors are hindering the prosecution of ISIS.[41]

In January 1977, before becoming president, Ronald Reagan stated that America's objective regarding the Soviet Union was for the US to win and the Soviets to lose.[42] After becoming president in 1980, Reagan committed to strengthening military power and pressuring the Soviets in various areas. He referred to the Soviet Union as an "evil empire" and believed communism would collapse. Although Iran adopted an anti-American stance following its revolution, the Reagan administration continued to engage with Iran in the fight against communism.[43] The CIA even assisted Iran by covertly selling weapons and compiling a list of communist figures who were subsequently eliminated.

In 1985, Reagan expanded his foreign policy into the "Reagan Doctrine", which sought not only to contain but also to overthrow communist regimes. The US supported radical Islamic groups, including the mujahideen in Afghanistan, to fight the Soviets. The CIA even encouraged the training of Islamic fighters

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39 Provost, "Accountability for International Crimes within Insurgent Groups."

40 Wilson Rubanzana et al., "Exposure to Genocide and Risk of Suicide in Rwanda: A Population-Based Case-Control Study," *Journal of Epidemiology and Community Health* 69, no. 2 (2015), https://doi.org/10.1136/jech-2014-204307.

41 Schwobel, "The Re-Branding of the International Criminal Court (and Why African States Are Not Falling For It)."

42 Nurwulan Rizkiya Anjani and Arie Kusuma Paksi, "The Involvement of The United States in the Russia-Ukraine War in The Perspective of Realism," *AEGIS : Journal of International Relations* 7, no. 1 (2023), https://doi.org/10.33021/aegis.v7i1.3897.

43 Provost, "Accountability for International Crimes within Insurgent Groups."

from across the world for jihad against the Soviet Union. Hillary Clinton's book "Hard Choices" and several videos reveal that the US played a role in supporting groups such as the Taliban and the mujahideen to bring down the Soviets. Clinton admitted she was pleased to see the Soviet Union collapse, as it was regarded as a centre for the spread of atheist-communist ideology that threatened religion and moral values.[44]

Consequently, the UN Security Council faces a major challenge in compiling an investigative report regarding the ISIS case, given that the United States is one of the permanent member states with veto power and is also a country believed to have played a role in supporting the formation of ISIS. Furthermore, the United States has specific motives, such as the aim to undermine Islam and Islamic beliefs by involving political aspects. This action reflects a pattern of behaviour that, according to certain viewpoints, is rooted in specific characteristics of certain groups. With the immense power at its disposal, the United States is frequently involved in conspiracies and the dissemination of falsehoods cloaked in the name of International Law, even though, at the same time, the United States itself often openly violates International Law.

Edward Snowden, a former employee of the US National Security Agency (NSA), claims that ISIS was formed through intelligence cooperation between three countries: the United States, the United Kingdom, and Israel (Mossad). The purpose of this formation is the 'Bee Nest' strategy, which involves creating a terrorist organisation to draw extremists from across the globe to a single location, making them easier to monitor and eliminate. Documents leaked by Snowden state that this was done to protect Zionist interests by using religious slogans. He also mentions that the leader of ISIS, Abu Bakr al-Baghdadi, received military training and ideological indoctrination from Mossad. In other words, ISIS was deliberately prepared by the Jews to safeguard their interests by destroying Islam from within.[45]

Since the emergence of ISIS on 5 June 2013, the group has carried out various acts of terrorism and seized strategic territories in the Middle East and Arab nations, the majority of which have Muslim populations. Although it clearly poses a threat to world peace and security, the United Nations (UN), particularly the Security Council, appears passive and has failed to take firm action against ISIS. This raises suspicions as to whether the UN's non-involvement is due to difficulties or is in fact deliberate. Yet, when Iraq under

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[44] Sarah Myers Raben, "The ISIS Eradication of Christians and Yazidis: Human Trafficking, Genocide, and the Missing International Efforts to Stop It," *Brazilian Journal of International Law,* 2018, https://doi.org/10.5102/rdi.v15i1.5191.

[45] Badhan and Jagota, "Geopolitical Interests and Contemporary Conflicts in the Middle East."

Saddam Hussein was accused of possessing weapons of mass destruction (which to this day remain unproven), the UN acted very actively by imposing harsh sanctions. This comparison casts doubt on the consistency and objectivity of the UN Security Council's performance.

Conclusion

The crimes committed by the ISIS group in Syria constitute serious violations of international law, particularly in the fields of international humanitarian law and international criminal law. In practice, ISIS not only acts as a transnational terrorist organisation but has also adopted a governmental structure within its territory, implemented its own legal system, and systematically carried out acts constituting genocide, crimes against humanity, and war crimes. These crimes have affected not only minority groups such as the Yazidis, Christians and Shia, but also the civilian population in general, including women and children.

The enforcement of international law against ISIS perpetrators faces several serious challenges. One of these is the International Criminal Court's (ICC) limited jurisdiction, as Syria is not a State Party to the Rome Statute. Efforts to bring these cases before the ICC via the UN Security Council have also been hampered by the political interests of permanent member states, particularly Russia and China, which have used their veto rights to block the referral process. This highlights the gaps and the international legal system's dependence on the political will of major powers, which can undermine the spirit of universality and the principle of accountability under international law.

Nevertheless, some states have attempted to use universal jurisdiction to prosecute ISIS perpetrators captured within their territories. These initiatives, though limited, have contributed to efforts to secure justice for victims, whilst affirming that international crimes must not go unpunished. However, this approach remains hampered by technical challenges, such as evidence gathering, limited access to witnesses, and the protection of victims. On the other hand, the domestic judicial system in Syria is currently unable to provide an independent and fair legal process, given the Syrian government's direct involvement in various human rights violations. Therefore, another solution worth considering is establishing a hybrid court that combines national and international elements, enabling legal proceedings to be conducted in a more contextual, credible, and accountable manner.

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