

The Unjust War in the Syrian Arab Republic and the Protection of Syrian Churches as Cultural Property

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INTRODUCTION

While the destruction, looting, and black market sales of cultural property, defined as property possessing great inherent cultural value of a particular society (which varies from movable items of historical importance such as objets d'art and manuscripts, to immovable real property like churches, museums, and archaeological sites), in the international sphere is not a new phenomenon, the issue presents itself with greater significance and results in more red flags being waived at the unwary with each escalating international conflict because when such property goes missing or cannot be recovered or restored, one can infer that whatever purpose, identity, sentiment, and significance that property served for the possessing society, the result could be devastating to it as well as to the global community in several aspects.¹ This was, indeed, the case from Nazi art lootings during WW II,² to the vandalism and looting of the ancient Cambodian temple Angkor Wat by the Khmer Rouge, to the destruction of various cultural property by warfare in Kuwait, Iraq, and Afghanistan.³ The common theme among these instances is that a society's history and identity ingrained through cultural property are victims of the repercussions of civil unrest or international conflict. This theme is indistinguishable from this article's focus on the geographical area of the Syrian Arab Republic, or as it is widely-known as, Syria,⁴ and its civil war.

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¹ U.N. Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954, 249 U.N.T.S. 240, entered into force Aug. 7, 1956.

² Christa L. Kirby, *Stolen Cultural Property: Available Museum Responses to an International Dilemma*, 104 Dick. L. Rev. 729, 730 (2000).

³ Catherine Foster, *Stolen Art as War Booty: Hostages or Harbingers of Peace?*, Christian Sci. Monitor, Feb. 8, 1995, at 1.

⁴ Patty Gerstenblith, *Article: The Destruction of Cultural Heritage: A Crime Against Property or a Crime Against People?* 15 J. Marshall Rev. Intell. Prop. L. 336, 343 (2016).

To translate the latter when considering that Syrian cultural moveable and immovable property in the form of its Eastern Orthodox and Catholic churches and the relics within are among some of the most historic in the nation, but also in the world,⁵ the loss of or inability to restore these preyed-upon churches and their once amalgamated relics creates negative religious, political, and social residuum – forthcoming to blatant violations of fundamental human rights and the erasure of a society's history, culture, and identity⁶ through what could be referred to as cultural genocide.⁷

A. Divergence and the Ramification for Syrian Christians

In the context of political consequences, the eradication of Christian cultural property in Syria by the government's opposition dismantles and restricts a Syrian Christian church members' speech in the way that the disbursed members of that organization can no longer possess a voice⁸ to represent themselves as a community of that church. This is especially denoting when taking into account that Syria summates Christians to represent ten percent of its population – an already minuscule number.⁹ The end in itself turns out to be nothing but violative of the Christian community's freedom of speech.

The segue of what occurs next could not be more appropriate. When considering the societal impact of the prevalent circumstance, the dissolution of Syrian Christian communities is detrimental not only to the rich and deep-rooted history of Christianity in Syria¹⁰ and the practitioners thereof, but also to the purpose and existence of such communities when looked at from a global scale because religion is not limited exclusively to any one state. These

⁵ *Syria Condemns IS Attack on Assyrians*, ASSYRIAN INTERNATIONAL NEWS AGENCY, (Feb. 28, 2015, 8:07 PM), <http://www.aina.org/news/20150228150739.pdf>.

⁶ David W. Bowker ET. AL., *Confronting ISIS's War on Cultural Property*, 20 Am. Soc'y of Int'l Law (Jul. 14, 2016), <https://www.asil.org/insights/volume/20/issue/12/confronting-isis-war-cultural-property>.

⁷ Gerstenblith, *supra* note 4 at 336.

⁸ Jonathan Drimmer, *Hate Property: A Substantive Limitation for America's Cultural Property Laws*, 65 Tenn. L. Rev. 691, 703 (1998). See also Kristen A. Carpenter, Sonia K. Katyal, Angela R. Riley, *In Defense of Property*, 118 Yale L.J. 1022 (2009) (propertizing culture impedes the free flow of ideas, speech, and perhaps culture itself), <https://1.next.westlaw.com/Document/I2dd40278704b11de9b8c850332338889/View/FullText.html?listSource=Foldering&originationContext=MyResearchHistoryRecents&transitionType=MyResearchHistoryItem&contextData=%28oc.Search%29&VR=3.0&RS=cblt1.0>.

⁹ *Syria*, U.S. DEPARTMENT OF STATE (Sep. 13, 2011), https://www.state.gov/j/drl/rls/irf/2010_5/168276.htm.

¹⁰ Bowker, *supra* note 6.

are the foremost reasons why a majority of Christians have fled from Syria, or have been martyred in the name of Christianity beside the need for self-preservation as an effect of the civil crisis.¹¹

Now that it is clear that compelling arguments exist to remedy the issues at hand, therefore at least one viable, simple, and effective solution should exist in order to attain the expected goal: to prevent looting and desecration of Syrian churches and religious relics by applying some relevant body of law with the intention of holding the perpetrators accountable and responsible for their actions. Given that the Syrian head of state's, Bashar al-Assad, government is incapable of efficiently enforcing Islamic jurisprudence due to ad-hoc courts in rebel-held areas whose legal proceedings vary greatly in content and form¹² due to the existence of several controlling organizations, which include the Free Syrian Army, Islamic State of Iraq and the Levant (ISIL), and other extremist organizations,¹³ Syria's legislation would therefore not be the best body of law to apply.¹⁴

International Law pertaining to cultural property does currently exist, mostly for the justification of UNESCO's (United Nations Economic, Scientific, and Cultural Organization) existence and mission;¹⁵ however, UN (United Nations) treaties for the protection of cultural property and religious freedom were neither easily applicable nor effective in either World War, Yugoslavia,¹⁶ Syria, Iraq, or North Africa.¹⁷ If anything, these treaties were and are substantively inadequate since they have not been successfully applied to the Syrian Civil War thus far considering their non-unprolonged history.¹⁸ To this, this article will analyze the applicable legal framework and

¹¹ Alex Newman, *World Turns Away as Rebel Massacres of Syrian Christians Intensify* (Dec. 20, 2013), THE NEW AMERICAN, <http://www.thenewamerican.com/world-news/asia/item/17229-world-turns-away-as-rebel-massacres-of-syrian-christians-intensify>.

¹² *Who's to judge: The future of Syria's judiciary*, SYRIA JUSTICE AND ACCOUNTABILITY CENTRE (May 7, 2013), <https://syriaaccountability.org/updates/2013/05/07/49855185394/>.

¹³ Asaad Hanna, *Syria's Sharia courts* (Feb. 11, 2016), AL-MONITOR: THE PULSE OF THE MIDDLE EAST, <http://www.al-monitor.com/pulse/originals/2016/02/syria-extremist-factions-sharia-courts-aleppo-idlib.html>.

¹⁴ *Id.*

¹⁵ *Introducing UNESCO*, UNESCO, <http://en.unesco.org/about-us/introducing-unesco> (last visited Feb. 2, 2017).

¹⁶ David Kearne, *LEAD ARTICLE: THE FAILURE TO PROTECT CULTURAL PROPERTY IN WARTIME*, 14 DePaul-LCA J. Art & Ent. L. 1 (2004).

¹⁷ Gerstenblith, *supra* note 4 at 352.

¹⁸ *Id.* at 383.

the alternatives to it pertaining to the protection of Syrian Christian cultural property in the midst of the Syrian Civil War.

I. BACKGROUND OF SYRIA: ONCE THE HUB OF CHRISTIANITY, NOW A HAVEN FOR RADICAL ISLAMISTS SEEKING NATIONAL POWER

A. *Syria's Christian Community is One of the Oldest in the World*

Syrian culture was not always known to be predominantly influenced by Islam.¹⁹ In 34 AD, by the time that Jesus Christ was already heard of in Syria, steps were being put in motion to spread Christianity – starting with the conversion of Saul of Tarsus, who later became known as St. Paul, on the road to Damascus.²⁰ Between the years 46-48 AD, “Jesus' disciples were called Christians” in the city for the first time.²¹ Following this, an Antiochian school of theology started developing between the 2nd and 4th centuries ad from which one of the most prestigious disciples, John Chrysostom, emerged.²² Shortly thereafter Monasticism spread in Damascus and to other areas of Syria, to include the inner regions, with “thousands of ascetics, monks and cenobites.”²³

St. Maron, after whom the Maronite Eastern Catholic Church was named and recently destroyed by Syrian rebels,²⁴ resided in the vicinity of Aleppo.²⁵ The seventh century proved to be the climax of Syrian Christianity by the fact that the Syrian population of four million was composed of 3.8 million Christians.²⁶ By the ninth century, half of the population was forced to convert to Islam by the ambitious directive of an Abbasuid Caliph to transform churches to mosques.²⁷ Christians of course, revolted, but not to regain their once dominating numbers.²⁸ Out of a population of one

¹⁹ L'Osservatore Romano, *Overview of Religious History of Syria LOR* (May 9, 2001,) at 16, ETERNAL WORLD TELEVISION NETWORK, <https://www.ewtn.com/library/CHISTORY/SYRIAHIS.HTM>.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

million in the middle of the thirteenth century, Christians amounted to a mere 100,000.²⁹

Currently, it is estimated that about ten percent of Syria's population is Christian, but in reality it may be more like eight percent due to the ongoing migration stemming from the region's conflict.³⁰ The largest Christian group belongs to the Greek Orthodox Church, followed by Uniate churches, which recognize the Roman Catholic Pope while being an autonomous Orthodox church, and include the Syrian Catholic church, the Maronite Church, the Chaldean Catholic Church, and the American Catholic Church.³¹

Although the modern Christian community in Syria is diminutive, some Christians hold noteworthy titles of top bureaucrats, to include the Minister of Defense,³² merchants, and religious leaders.³³ Additionally, Syrian Christians regard the state as "a model Arab country when it comes to freedom of worship."³⁴ Therefore, an implication should be acquiesced how any shift in power would endanger the Christian community to a greater extent when taking into account the dire state of Syrian Christian churches because one of the more significant purposes of ISIL is to destroy "shrines" belonging to followers of minority sects of Islam, as well to those of Christians, out of a longing to "purify the region from what are considered to be heretical depictions and faith."³⁵

B. Background on the Syrian Conflict: West's Influence of Pro-democracy, and Its Intolerance by Assad

Having been described by the Washington Institute as the "worst humanitarian crisis since WWII, "with over a quarter million killed, roughly the same number wounded or missing, and half of Syria's twenty-two

²⁹ *Id.*

³⁰ U.S. DEP'T. OF ST., *supra* note 9.

³¹ *Id.*

³² Rick Sterling, *US Violations of International Law* (Sep. 11, 2014), COUNTERPUNCH, <http://www.counterpunch.org/2014/09/11/us-violations-of-international-law/>.

³³ Primoz Manfreda, *Religion and Conflict in Syria: Is the Conflict in Syria a Religious War?* THOUGHT CO. (Nov. 25, 2014), <https://www.thoughtco.com/religion-and-conflict-in-syria-2353551>.

³⁴ Dale Gavlak and Timothy C. Morgan, *Syria's Christians Back Assad* (Jul. 7, 2011) CHRISTIANITY TODAY, Vol. 55 No. 7 at 15, <http://www.christianitytoday.com/ct/2011/july/syria-christians-assad.html>.

³⁵ Gerstenblith, *supra* note 4 at 357.

million population displaced from their homes” as a result of President Bashar al-Assad’s attempt to suppress “Syria’s largest uprising,” the mortality and displacement rates continue to rise conceding that those statistics were published in 2015.³⁶ While most of these statistics may be truthful, what the Washington Institute, in addition to multiple mainstream media sources, fail to mention is that “Syrians are not fighting their government, and Assad is not killing his own people”³⁷ – but rather that the uprising was and is orchestrated and conducted by Jihadists from various foreign nations “to aid the United States, Turkey, Saudi Arabia, and Israel in order to gain control over Syria.”³⁸ This is corroborated by numerous independent and international news sources which assert that many of the rebel fighters are of international and domestic origin who are “on salary” and actively supported by the already acknowledged nations while adding Qatar, Egypt, France, and Britain to the list.³⁹

Additionally, it is a well-known fact that the Obama Administration sent military weapons to the opposition of Assad following non-credible sources of whether the Syrian government used chemical weapons on its citizens.⁴⁰ It has been evidenced that during the “winter of 2012/2013 three thousand *tons* of weapons were delivered to the rebels.”⁴¹ This in turn helped to create ISIL, which the citizens of the U.S. are ironically continuing to fight against after having contributed to its manifestation through the voting process.⁴²

Additionally, and to make matters worse, most of the renowned human rights organizations are directed by “liberal interventionists” which sequentially have dominated the United Nations by “US and

³⁶ Saman Mohammadi, *99% of Syrian Rebels Are Islamic Extremists And Jihadist Terrorists* (Dec. 11, 2012), INFOWARS, <http://www.infowars.com/99-of-syrian-rebels-are-islamic-extremists-and-jihadist-terrorists/>.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Sterling, *supra* note 34. See Martin Chulov, *France funding Syrian rebels in new push to oust Assad* (Dec. 7, 2012 2:58 PM) THE GUARDIAN, <https://www.theguardian.com/world/2012/dec/07/france-funding-syrian-rebels>; See also *Id.*

⁴⁰ Richard Spencer, *US and Europe in ‘major airlift of arms to Syrian rebels through Zagreb’* (Mar. 8, 2013), THE TELEGRAPH, <http://www.telegraph.co.uk/news/worldnews/middleeast/syria/9918785/US-and-Europe-in-major-airlift-of-arms-to-Syrian-rebels-through-Zagreb.html>. See also Trevor Timm, *The US decision to send weapons to Syria repeats a historical mistake* (Sept. 19, 2015 0700 AM) THE GUARDIAN, <https://www.theguardian.com/commentisfree/2015/sep/19/us-weapons-to-syria-repeats-historical-mistake>.

⁴¹ Sterling, *supra* note 34.

⁴² Omer Aziz, *How Barack Obama betrayed the Syrian people: Obama’s refusal to confront Assad and support the opposition set in motion the events that gave rise to ISIL* (Aug. 22, 2015), ALJAZEERA, <http://www.aljazeera.com/indepth/opinion/2015/08/barack-obama-betrayed-syrian-people-150822084544918.html>.

Western interests.⁴³ An example of such an organization is the Human Rights Watch (HRW), which is substantially funded by liberal billionaire George Soros,⁴⁴ who is well-known to corrupt politics.⁴⁵ Even when disregarding the latter, the most relevant fact derived from the operation of HRW is that it fails, very possibly intentionally, to distinguish “between major and minor violations of international law and ignores or minimizes the most extreme violations of international law by powerful countries.”⁴⁶

C. *The Just War Theory States that when Engaging in War at all, it should be Morally Justifiable*

What exactly is a just war and how is it relevant to the protection of cultural property? These next few sub sections (this one in addition to D and E) will define the Just War Theory, will demonstrate that a just war was waged by Bashar al-Assad after multiple attempts to pacify civil unrest, and how the war was and is retaliated by unscrupulous acts executed by the government’s opposition.

The Just War Theory is not a doctrine based off law or a decree given by authority from above, but is rather a Natural Law which St. Augustine of Hippo and Thomas Aquinas established by the Latin motto as *jus ad bellum*, translated as the *right to fight* while touching upon “the morality of going to war at all.” The doctrine acknowledges that war is not always the greatest evil while it certainly can never be “positively good,” nor absolutely the worst when entertaining its comparison to genocide, ethnic cleansing, and wholesale slaughter.⁴⁷ The theory is comprised of two criteria: the elements and the conduct tests.⁴⁸

⁴³ Sterling, *supra* note 34.

⁴⁴ *Id.*

⁴⁵ Mike Gonzalez, *Liberal Billionaire George Soros Is Corrupting Politics in Small European Nation with His Money* (Mar. 3, 2017, 10:57 AM) CNS NEWS, <http://www.cnsnews.com/commentary/mike-gonzalez/liberal-billionaire-george-soros-corrupting-politics-small-european-nation>; See Rose Namayanja, Human Rights Watch report on graft a sham (Oct. 29, 2013), DAILY MONITOR, <http://www.monitor.co.ug/OpEd/Commentary/Human-Rights-Watch-report-on-graft-a-sham/689364-2051414-format-xhtml-q8uj6yz/index.html>; See also Eric Mack, *Soros Funding Airport Protests, Ban Lawsuits Against Trump’s Order* (Jan. 29, 2017, 10:19 AM) NEWSMAX, <http://www.newsmax.com/Newsfront/liberal-activist-soros-funding/2017/01/29/id/770919/>.

⁴⁶ *Id.*

⁴⁷ Charles Guthrie, *‘We can’t fight future wars without Aquinas’* (Nov. 7, 2013), CATHOLIC HERALD, <http://www.catholicherald.co.uk/news/2013/11/07/we-cant-fight-future-wars-without-aquinas/>

⁴⁸ *Id.*

The elements of the just war tradition serve as a foundational framework for most of international laws of war by UN member states.⁴⁹ The six elements are:

- (1) Having a just cause – a morally justifiable reason to engage in war, which by interpretation could be accounted for to ‘protect the innocent, stop genocide, restore rights wrongfully denied, re-establish just order, and as a means of self-preservation;’
- (2) The cause must be proportionate; meaning the reason for the war warrants its engagement. Proportionality could easily be misinterpreted if disregarding moral principles;
- (3) The intention must be ‘right,’ in the manner of achieving a greater good and peace if not having had engaged in war;
- (4) The person exercising the decision to engage in war must possess proper authority, such as the head of state, and not, for example, an illegitimate party’s leader empowered by various nations;
- (5) There must a higher than not reasonable probability of the war’s success. For example, the motto ‘death before dishonor’ does not fit into this element since the result of the war would not materially or substantially impact the wagger’s respective nation. And finally;
- (6) War should be engaged as the last resort – after exhaustion of all attempts not to justify the first five elements.

Once *all* the elements have been satisfied, a second component of the Theory prescribes conduct – to include behavior to be exemplified by the soldiers partaking in the war.⁵⁰ It sets forth the notion that innocent bystanders must not be deliberately attacked by the soldiers or fighters engaging in the warfare.⁵¹ The definition of “innocence” is certainly open to subjectivity and personal interpretation when considering that civilians may deem themselves “innocent” by not engaging in the actual warfare. However, this is a false perception because if they are logistically aiding any soldiers or fighters, they are indeed supporting their cause.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

Additionally, terrorist and rebel fighters rarely wear uniforms, which needless to say, are oftentimes indistinguishable from civilians.⁵² Also, when fighters are not trained on the conduct of warfare, known as the Rules of Engagement; they most likely would not be conducive to properly conforming to *jus* rules when engaging in offensive or defensive action.⁵³ Lastly, just conduct applies to all the phases of war, not solely in the pre or during phases. The implication here is that there is a critical societal issue which needs to be addressed after the war is finally over: Who will be instrumental in the post-conflict phase to aid with the recovery of wounded people and animals while also restoring society? One author proposed that this was another failure of not pursuing a just war in Iraq and Afghanistan because at the finale of those wars, “judges, lawyers, policemen, prison officers, diplomats, doctors, aid workers, civil engineers, vets and economists [were needed to help with the aftermath] and not the soldiers attempting to fill all their parts.”⁵⁴ This is significant because examples will be provided below where not only unscrupulous acts took and currently take place by the government’s opposition, but also that those acts were in no way remedied. Therefore, not only do the elements of the just war need to be met in order to justify waging one, but the conduct of the soldiers and any other party engaging in the warfare, and after it, must be just also.

D. A Just War Established In Syria

By rudimentary application of the just war elements to the Syrian government and Assad as the head of state (who is by no means purported to be an ideal one here), it will demonstrate that the war was initiated for a just cause, which yields to a contention that foreign nations need to ally with the Syrian government and against the rebels in order to prevent further destruction of cultural property. Additionally, it will conclude that the opposition is violative of human rights by its retaliation to the Syrian government, which in turn serves as the basis for foreign nations to prosecute these individuals and hold them accountable by means of International Law.

The first element of the Theory of having a just cause is satisfied because reestablishing order from the Arab Spring uprising, which initially served as a catalyst for the conflict, was a priority of addressing an

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

imminent threat to the sovereign state of Syria.⁵⁵ To support this notion, Assad considered Syria to be the “last stronghold of secularism and stability in the region . . . [and that the toppling of his government will] have a domino effect that will affect the world from the Atlantic to the Pacific and you know the implication on the rest of the world.”⁵⁶ Syrian Christians agree.⁵⁷

The second element of the cause needing to be proportionate is satisfied because Syria was facing a threat which toppled governments across the Middle East and North Africa.⁵⁸ The reason for the war warranted its engagement because it could have easily led, and almost manifested, to the toppling of the Syrian government as seen in the previous element. Satisfaction of the third element, which requires the intention to be right in the manner of achieving a greater good and peace; is justified by the fact that the Syrian people appointed Assad as the President, and that illegitimate representatives, such as those of radical Islam organizations such as ISIL, would strongly contradict the purpose for which Assad was chosen – to maintain order and peace in the country as the head of state.⁵⁹

In reference to the rebels, Assad stated, “Their words are meaningless. They speak this way of a president who was elected by the Syrian people and not appointed by the West – the president is not a minion of the United States. We have chosen *political means* of solving our problems within the first days since the onset of those events.”⁶⁰ This serves as compelling evidence that neither violence nor authoritarianism were intended to be the methods of achieving peace. The fourth element of the person exercising the decision to engage in war must possess proper authority, such as the head of state, is satisfied because Assad was the officially elected and appointed as the Syrian head of state.⁶¹

The requirement of the fifth element of meeting a higher than not reasonable probability of the war’s success could be justified by the argument that Assad possessed control over, and implemented the Syrian

⁵⁵ *From Arab Spring to 2016 truce: RT’s timeline of 5-year Syrian war* (Mar. 15, 2016 4:01 PM) RT, <https://www.rt.com/news/335711-rt-syrian-war-timeline/>.

⁵⁶ *Id.*

⁵⁷ Gavlak, *supra* note 35.

⁵⁸ RT, *supra* note 56.

⁵⁹ *Id.*

⁶⁰ *Id.* (emphasis added).

⁶¹ *Id.*

military to engage unruly protesters after exhausting all possible methods of negotiations, which proportionally outweighs the opposition and logically infers a more than probable than not result of establishing social order. Assad called for elections for the people of Syria to voice their decisions on a potential replacement that would be the most appropriate and qualified to govern the country. This, along with Assad's initial concession to release political prisoners in order to achieve peace in the region are clear and convincing attempts that measures other than war were considered before actually waging it.⁶²

E. Just War of Syria Retaliated by Unscrupulous Acts

Regardless of the silly semantics used by the media in relation to who's to blame for the civil unrest, the fact of the matter remains that human right violations of Syrian Christians as a result of the unwarranted destruction of cultural property by the rebels in Syria are evident. Three such illustrative cases are briefly summarized.

The first noteworthy event occurred on August 21, 2015 in the town of Qaryatain, where a 5th century (refer back to sub sec. I(A)) monastery of Saint Elian was demolished by the Islamic State.⁶³ Relatedly, this event occurred days after ISIS rebels "publicly beheaded an 81-year-old antiquities scholar who had dedicated his life to studying and overseeing the town's ancient ruins;" and after dozens of Christians were abducted earlier that month from the same location.⁶⁴ It does not require a theologian to establish the fact that some, if not significant amounts, of Christian culture was inherent in the monastery, which qualifies it to be cultural property prescribed by the UN's definition because a church is an immovable object, and this particular one has at least some inherent historic credentials. Additionally, not only is cultural property attacked, but the people who dedicated their lives are also.

In regard to the UN after this event occurred, a resident of Qaryatain "called on [it] to protect Christians in Syria, as well as ancient Christian sites." ⁶⁵ This evidences that it is not only the international

⁶² *Id.*

⁶³ *Islamic State destroys fifth-century monastery in central Syria*, Associated Press in Damascus (Aug. 21, 2015 1:56 PM), THE GUARDIAN, <https://www.theguardian.com/world/2015/aug/21/islamic-state-destroyed-ancient-saint-eliane-monastery-syria-says-priest>.

⁶⁴ *Id.*

⁶⁵ *Id.*

community that is concerned for the welfare of cultural property, but that Syrian citizens are as well. How ironic.

A second significant event which was reported on February 23, 2014 was the result of Islamist terrorists destroying “one of the country’s oldest Christian shrines - the church of Saint Constantine and Helen.”⁶⁶ Albeit the building manifested into a church in 331 AD, it dates back to the first millennium BC.⁶⁷ Inside were priceless historical icons and church utensils which were reportedly emptied out of the church before it was set on fire.⁶⁸ Not only is this is another atrocity committed against Syria’s Christian community which results in the violation of those Christians’ rights to practice their religion, but the event also denies this community to officially exist, whether temporary or not, due to that community’s inability to rebuild the church out of scarce resources, fear of future attacks, self-preservation, or simply for pursuing a safer location by flight.

The last substantial example of the continuing human rights violations of Syrian Christians takes form in the event which occurred on Easter Sunday of 2015 when Islamic State militants blew up the 80-year-old church of the Virgin Mary in Tal Nasri village.⁶⁹ While it is arguable that the church may not be old enough to be construed as cultural property, its leveling affects the previously discussed religious, social and political implications, but is also significant in the way that Christianity itself as a religion is being attacked, and in the most contemptible ways. During the same time-frame of this act, St. Maron’s church was also destroyed.⁷⁰ When looking at secular cultural property affected by the opposition, damage to “all six UNESCO World Heritage Sites in Syria”⁷¹ has taken place, as well as the destruction of a part of a Roman theater in Palmyra.⁷² In conclusion, it is not difficult to determine that International Law should be invoked in order to address and remedy what is left of the

⁶⁶ Orontes, *One of Syria’s oldest Churches Destroyed* (Feb. 2014), <https://orontes.jimdo.com/2014/02/23/one-of-syria-s-oldest-churches-destroyed/>.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Thomas D. Williams, *ISIS Blows Up Historic Christian Church in Syria on Easter* (Apr. 6, 2015), BREITBART, <http://www.breitbart.com/national-security/2015/04/06/isis-blows-up-historic-christian-church-in-syria-on-easter/>.

⁷⁰ The Voice of Russia, *Syrian rebels desecrate St. Maron’s church* (Feb. 11, 2013 2:54 PM), https://sputniknews.com/voiceofrussia/2013_02_11/Syrian-rebels-desecrate-St-Marons-church/.

⁷¹ *Id.*

⁷² RT, *From Arab Spring to 2016 truce: RT’s timeline of 5-year Syrian war* (Mar. 15, 2016 6:44 PM), <https://www.rt.com/news/374315-syria-palmyra-roman-theatre/>.

opposition's aftermath if the reason for an intervention was or is lacking due to a misconception of why the war is being fought.

II. APPLICABLE PROTECTIVE INTERNATIONAL LAW

A. Background

As one of the founding fathers of International Law, Francisco de Vitoria concluded that a justification for waging war was reserved for cases where harm was done.⁷³ That philosophy was later expanded upon by Hugo Grotius "to allow action against gross violations of the laws of nature."⁷⁴ In 1648, the Treaty of Westphalia allocated the nation state as the ultimate authority in international affairs.⁷⁵ However, it was abandoned and replaced with the concept that infliction of harm was a violation of national sovereignty, pioneered by the UN Declaration.⁷⁶ Therefore, UN treaties are relevant to the preservation of cultural property since harm is done by its destruction, especially since the civil conflict should have terminated with the support of the international community before it ever escalated to such turmoil and caused the damage because the Syrian Arab Republic is not only a UN member,⁷⁷ but also a state whose national sovereignty was fought and financed against by the same states which should have been supporting it.

B. Failed Application Attempts of U.N.'s Body of Law

1. The Genocide Convention

The Convention on the Prevention and Punishment of the Crime of Genocide originated in 1933 from the work of Rafael Lemkin; a Polish lawyer.⁷⁸ Lemkin defined cultural genocide as "one of the eight dimensions

⁷³Niamh Maria O'Sullivan, *The Moral Enigma of an Intervention in Syria: A Just War Analysis*, at 3. (Istituto Affari Internazionali, Working Paper No. 12/22, 2012). <http://www.iai.it/sites/default/files/iaiw1222.pdf>

⁷⁴*Id.*

⁷⁵*Id.*

⁷⁶*Id.*

⁷⁷United Nations, *Member States*, <http://www.un.org/en/member-states/index.html> (LAST VISITED Feb. 2, 2017).

⁷⁸Gerstenblith, *supra* note 4 at 342.

of genocide: political, social, cultural, economic, biological, physical, religious, and moral.⁷⁹ Lamkin focused on two specific acts, the acts of barbarism and acts of vandalism, which relate to any “form of systematic and organized destruction of the art and cultural heritage in which the unique genius and achievement of a collectivity are revealed in fields of science, arts and literature.”⁸⁰ It is obvious to see how such a Convention would be applicable to the present case since acts of barbarism and vandalism are blatant. However, after having included cultural genocide in the draft Genocide Convention, several participating States did not approve of the concept, and therefore it was ultimately excluded from the Convention.⁸¹ This was a bleak foretelling of the future failures to come from the International Law community concerning the security of cultural property.

2. UN 1954 Convention

With the already given definition of cultural property, the 1954 Convention was enacted for the purpose of protecting it in the event of armed conflict with regulations for the execution of the Convention.⁸² Article 2 of the convention, Protection of cultural property, states that the protection of the property “shall comprise the safeguarding of and respect for such property.”⁸³ Given the obvious violations by the opposition in the Syrian conflict, UNESCO voiced its opinions on the matter:⁸⁴

Archaeological sites are being systematically looted and the illicit trafficking of cultural objects has reached unprecedented levels.

There are alarming reports that Syrian heritage has been deliberately targeted for ideological reasons . . .

All layers of Syrian culture are now under attack - - including . . . Christian . . .

The protection of cultural heritage, both tangible and intangible, is inseparable from the protection of human

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² U.N. Convention for the Protection of Cultural Prop in the Event of Armed Conflict with Reg’s for the Execution of the Convention 1954, *supra* note 2.

⁸³ *Id.*

⁸⁴ *Id.*

lives, and should be an integral part of humanitarian and peacebuilding efforts.

This was published at the end of 2014, yet as delineated by the examples, destruction of cultural property in Syria continues without any imposed ramifications.

3. UN 1970 UNESCO Convention

An unsuccessful implementation history did not stop the UN from creating yet another, ill-fated treaty, the Convention on the Means of Prohibiting the Illicit Import, Export and Transfer of Ownership of Cultural Property.⁸⁵ The treaty “requires” States to partake in preventative measures, to abide by restitution provisions, and be a part of the international cooperation framework.⁸⁶ The preventative measures include educational campaigns, monitoring trade, imposing penal or administrative sanctions, and keeping inventories and export certificates. This is slightly difficult to achieve when a region is attacked by fighters from a multitude of foreign nations because a language barrier most likely exists in order to enforce effective educational campaigns and to keep inventories and export certificates, but also due to the nature of Christian cultural property – it not being a mere materialistic object with a number attached to it for the sake of record keeping.

The restitution provisions require State parties to “take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property.”⁸⁷ This feat may pose to be challenging as well since most of the destroyed churches cannot be simply returned to the owner, especially if the owner is a dissolved community. If the government opposition were to take it upon itself to incorporate Amish carpentry and work ethic for the purpose of restoring places of worship as this article is making its way to the

⁸⁵ *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property – 1970*, UNESCO, <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/1970-convention/> (LAST VISITED Feb. 2, 2017).

⁸⁶ *Id.*

⁸⁷ *Id.*

ultimate concluding phase, the provisions seem to be a part of an inadequate measure. Lastly, it would truly be difficult to prove an “innocent,” or as taught in law, a bona fide, purchaser in black-market sales due to the illegality of the parties involved in the transactions in the first place. Stateside museums such as the Metropolitan and the Cleveland Museum display looted property.⁸⁸ What is the resolution to that dilemma when taking into account that no conflicts stand between the so-called owners and bailees of that property when compared to an international conflict’s barriers of restoring destroyed or looted cultural property?

When considering the last requirement of the Treaty, “strengthening cooperation among and between States Parties” sounds promising on paper, but again, in reality, proves to be extremely challenging considering the fact that neighboring states, such as the previously-mentioned Turkey, Israel, Qatar, Egypt, and Saudi Arabia are funding the opposition of the Syrian government.⁸⁹

4. UN Security Council Resolutions

a. Resolution 2199

The Resolution’s aim is to prevent terrorist groups in Iraq and Syria from benefiting from trade in oil, antiquities and hostages, and from receiving donations.”⁹⁰ It is unmistakable that this resolution is not only violated because terrorist groups in Syria are indeed, receiving donations, but also because those donations are generously given by the previously mentioned states. Reverting to the point made in the previous subsection, if these States can without ability be held accountable for their actions, then how can the people they are funding? Syria’s Permanent envoy to the UN Dr. Bashar al-Jaafari supported this notion by stating:

Syria welcomes . . . Resolution 2199 to crack down financing terrorist groups through illicit oil sales, trading in antiquities . . .

⁸⁸ Kirby, *supra* note 3 at 731.

⁸⁹ Barry Temmo & Haifa Said, *Syria welcomes UNSC resolution 2199 cracking down on financing terrorist groups*, SYRIAN ARAB NEWS AGENCY (Feb. 13, 2015), <http://sana.sy/en/?p=28391>.

⁹⁰ Press Release, Security Council, Unanimously Adopting Resolution 2199 (2015), Security Council Condemns Trade with Al-Qaida Associated Groups, Threatens Further Targeted Sanctions, U.N. Press Release SC/11775 (Feb. 12, 2015).

The . . . resolution imposes serious commitments over member states which support terrorism in Iraq and Syria, and such commitments treat, particularly, trading oil and gas and smuggling archeological and cultural properties in a way that prevent terrorists to get financed from them.

Now we have three resolutions over fighting terrorism, and Turkey is still allowing terrorists, particularly from Islamic State in Iraq and Syria (ISIS) and Jabhat al-Nusra, to cross the joint border with Syria, as Israel assists terrorists in Golan . . .⁹¹

It is now easy to see how ineffective UN treaties and resolutions and UN members severely impede the protection of cultural property and Syrian Christians' human rights. Having mentioned which, the following body of law will be discussed.

C. The International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) is relevant because it places obligations of States under the Charter of the United Nations.⁹² One of the purposes of the Covenant is to establish that individuals, by way of duty "to other individuals and to the community to which he belongs, are under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant," which includes religious freedom.⁹³ Articles 18 and 27 are particularly relevant.⁹⁴

Article 18, section 1 prescribes that "everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."⁹⁵

Article 27 requires States in which "ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied

⁹¹ Temmo, *supra* note 89.

⁹² International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI) (1966) (entered into force Mar. 23, 1976).

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”⁹⁶ In regard to both of the Articles, there have been numerous accusation of “both sides” of the Syrian War of violating human rights, but no such causes of action have been brought forth and litigated since the UN and its organizations are not even enforcing their own laws as previously illustrated.⁹⁷ Therefore, this is yet another detriment to the citizens of the nations which cannot be protected by said Articles, and to those citizens of the member states who are represented by officials not capable of agreeing on and enforcing International Law which yields to the abuse of public monetary resources.

1. Resolution 36/55: The enactment of 1981 Declaration on Religious Discrimination

In 1981, the General Assembly of the UN enacted the Declaration on Religious Discrimination, which basically reaffirmed the ICCPR in the way that “discrimination against human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter.”⁹⁸ The recent history of the Declaration is most notable up to the year of 2011, when the UN General Assembly “urged States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief,” as:

To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience and religion or belief to all without distinction, inter alia, by the provision of access to justice and effective remedies in cases where the right to freedom of thought, conscience and religion or belief, or the right to freely practice one’s religion, including the right to change one’s religion or belief, is violated.⁹⁹

⁹⁶ *Id.*

⁹⁷ Georgiana Constantin, *The Plight of the Christians in Syria: Flagrant Violations of Christians’ Human Rights* (Jun. 17, 2013), GEORGETOWN J. OF INT’L AFFAIRS, <http://journal.georgetown.edu/the-plight-of-the-christians-in-syria-flagrant-violations-of-christians-human-rights-by-georgiana-constantin/>.

⁹⁸ UNITED NATIONS’ DECLARATIONS ON RELIGIOUS INTOLERANCE, RELIGIOUS TOLERANCE, (Sept. 7, 2006), http://www.religioustolerance.org/un_dec.htm.

⁹⁹ THE TANDEM PROJECT, UNITED NATIONS, HUMAN RIGHTS, FREEDOM OF RELIGION OR BELIEF (LAST VISITED on Feb. 2, 1017), http://www.tandemproject.com/issue_statements/statements/2011/021611_issue.htm.

When analyzing Res. 36/55, its contents seem to directly apply to this article's issue because the right of Syrian Christians to freely practice religion is violated by the destructors and looters of the churches. Therefore, this resolution is yet another body of law which could be applied against the perpetrators. However, one is led to stay attuned to the train of thought pertaining to the last body of law and its potential of being effective – which yields to a *de minimus*, and this may be an overstatement, effect on the communities which originally possessed the now ravaged cultural property.

2. The Rome Statute of the International Criminal Court

The Rome Statute established the International Criminal Court (ICC) in 1998 in order to exercise its jurisdiction over people for “the most serious crimes of international concern.”¹⁰⁰ Furthermore, the ICC is in a direct relationship to UN member States. However, the State parties to the Statute are not automatically indoctrinated by their UN status, but are later approved by the Assembly of State Parties.¹⁰¹ Broadly, the Statute refers to three forms of international crimes: war crimes, genocide, and crimes against humanity.¹⁰² Article 8 of the Statute of the ICC prohibits “intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes [and] historic monuments. . . provided they are not military objectives.”¹⁰³ The premier international criminal prosecution by the ICC for cultural property destruction “in which the alleged perpetrator did not commit other war crimes and crimes against humanity” was of Mali's Ahmad Al Faqi Al Mahdi, as head of the Hisbah¹⁰⁴ and a member of the Islamic Court.¹⁰⁵

The Chamber found that the Prosecutor had established reasonable grounds to believe that Al Mahdi intentionally directed attacks “against nine mausolea and the Sidi Yahia mosque in Timbuktu,” thereby committing a war crime and being “criminally responsible for having committed, individually and jointly with others, facilitated or otherwise

¹⁰⁰ The Rome Statute of the International Criminal Court, art. 1, *entered into force* Jul. 1, 2002.

¹⁰¹ *Id.* at art. 3.

¹⁰² Gerstenblith, *supra* note 4 at 346.

¹⁰³ *Id.* at 344.

¹⁰⁴ *Id.* at 386.

¹⁰⁵ *Id.*

contributed to the commission of war crimes.”¹⁰⁶ While this body of law may finally look to be like the key to unlocking this issue’s resolution that has been attempted to be unlatched by copious amounts of seemingly fitting keys (analogous to bodies of law), the very significant *however* is that while 124 States have ratified the Statute, Syria is not one of those State parties¹⁰⁷ – thereby making the Statute feckless, as well as the purpose of the UN and UNESCO, since a third-world country like Mali is a State party, but a developed one like Syria is not.¹⁰⁸

III. POTENTIAL SOLUTIONS

A. *Enforce action through military intervention*

Philosophies of humanitarian intervention are also found in the just war tradition.¹⁰⁹ A modern approach ‘is justified when it is a response. . . to acts “that shock the moral conscience of mankind.”¹¹⁰ Having arrayed how the moral conscience of Christians is shocked, especially when churches are blown up on Easter, the present issue does warrant humanitarian intervention. Additionally, globally directing military resources to oust opposing militants from regions most prone to cultural property violations by a priority list of cultural property importance is another feasible solution.¹¹¹ In consideration of the priority list, creating one would prove to be difficult for not only the global community, but also a nation’s society, to agree on what cultural property is more important to preserve. An example of this is present in the issue at hand, where Christians represent a minority of the Syrian population, yet some of the cultural property associated with the Christian community dates back to a secular Syrian society,

¹⁰⁶ *Id.*

¹⁰⁷ International Criminal Court: The State Parties to the Rome Statute, https://asp.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx (LAST VISITED Feb. 2, 2017).

¹⁰⁸ *Id.*

¹⁰⁹ Margaret M. DeGuzman, *When Are International Crimes Just Cause for War?*, 55 Va. J. Int’l L. 73, 87 (2014).

¹¹⁰ *Id.* (citing Walzer, *Just and Unjust Wars*, *supra* note 78, at 107; see also Michael Walzer, *Arguing About War* 69 (2004); Michael Walzer, *The Argument About Humanitarian Intervention*, in *Ethics of Humanitarian Interventions* 21, 23 ((Georg Meggle ed., 2004); Terry Nardin, *From Right to Intervene to Duty to Protect: Michael Walzer on Humanitarian Intervention*, 24 Eur. J. Int’l L. 67, 69 (2013)).

¹¹¹ Bowker, *supra* note 6.

if not earlier to it.¹¹² Therefore, it would be equally significant to take into account every cultural property of a region, but instead of initially prioritizing it by popularity or grandeur, a solid foundation of priority could be built upon the age of that property and the impact it made on a particular society or community.

B. Trade controls

Taking the UN's 1970 UNESCO Convention to a higher standard for the purpose of "implementing trade controls to discourage ISIS and its network from looting and trafficking in cultural property particularly in market countries, such as Turkey, Switzerland, the United States, the United Kingdom, and China," (ironically, or not, most of which fund ISIL¹¹³), the U.S. Protect and Preserve International Cultural Property Act, "imposes tighter import restrictions and harsh penalties for trafficking in looted objects."¹¹⁴ Various Syrian national and international organizations, like The Syria Campaign, are at the same time advocating for UN Security Council to restrict and ban trade in looted cultural property.¹¹⁵ This is due to the reason that the revenue which the Islamic State derives from cultural property, in the form of antiquities, and given U.S. trade data, indicates a twenty-three percent increase in cultural property "arriving from the Levant region since 2010."¹¹⁶ Needless to state, this type of trafficking not only "purges Syria, or any other nation, of 'pre or non-Islamic influence,'" but also benefits the global black market.¹¹⁷ In conclusion, one would hope that such a treaty will be enforced, and through reciprocity with other States, could make positive impacts.

C. Heightening customs screening

¹¹² Elahe Izadl, *War has damaged all but one of Syria's World Heritage Sites, satellite images show* (Sep. 24, 2014), https://www.washingtonpost.com/news/worldviews/wp/2014/09/24/war-has-damaged-all-but-one-of-syrias-world-heritage-sites-satellite-images-show/?utm_term=.e594076657d7.

¹¹³ Sterling, *supra* note 34.

¹¹⁴ Bowker, *supra* note 6.

¹¹⁵ Amr Al-Azm et. al., *ISIS' Antiquities Sideline* (Sep. 2, 2014), THE NEW YORK TIMES, https://www.nytimes.com/2014/09/03/opinion/isis-antiquities-sideline.html?_r=1.

¹¹⁶ Yaya J. Fanusie & Alexander Joffe, *Monumental Fight: Countering the Islamic State's Antiquities*

Trafficking (Nov. 2015), FOUNDATION FOR DEFENSE OF DEMOCRACIES, http://www.defenddemocracy.org/content/uploads/documents/Monumental_Fight.pdf.

¹¹⁷ *Id.*

This measure, when combined with the latter control, could be effective in the way that heightened “customs screenings in countries that have a history as a conduit for smuggling between the Middle East and Europe, such as Bulgaria, set a standard, precedent, and an example” for violators.¹¹⁸ This would be a cooperative effort involving dedication, loyalty, and resources between States to effectuate a positive result. As noted previously, many issues exist in order for Syrian cultural property to be tightly controlled around its borders if it had not already been significantly damaged or destroyed such as in the case of the destroyed churches. Therefore, such a measure could certainly be implemented and at least establish some type of track record in order to maximize its efficiency in the future if other cases manifest.

D. Setting an Example

Investigating and bringing high-profile criminal cases against terrorist organizations and their associated “network of antiquities traffickers” to the ICC in order to send “a strong, deterrent message that individuals engaged in the destruction and looting of cultural property will be arrested and prosecuted to the full extent of the law” could certainly be effective,¹¹⁹ but given the previous analysis of the complete inapplicability of the Rome Statute towards Syrian criminals, this solution seems to be light years away from an ever-encompassing International Law giving jurisdiction to the ICC. Additionally, it is of importance to note that while Assad waged a just war but allegedly violated human rights,¹²⁰ the true criminals, those already identified as the desecrators and looters of cultural property belonging to radical Jihadist rebel organizations, would be challenging to prosecute because they are not readily-available or easily-located like a head of state would be to arresting forces.

While the UN and the global community give no high hopes for there to be immediate change for the protection of Syria’s cultural property because all six of UNESCO World Heritage sites in Syria have been destroyed (implicating that secular and archaic cultural property has

¹¹⁸ *Id.*

¹¹⁹ Bowker, *supra* note 6.

¹²⁰ United for Human Rights, *Human Rights Violations*, <http://www.humanrights.com/what-are-human-rights/violations-of-human-rights/> (last visited Feb. 2, 2017).

priority over the religious),¹²¹ there may be some opportunity to take action by foregoing this solution and drafting a legal document to effect any possible steps needed in order to protect cultural property of the international community if it is ever endangered in other world regions. In regard to this factor, a prospective solution could be recommended: The Rome Statute could automatically encompass *all* foreign nations to be State parties in order to obtain jurisdiction to cases invoking the applicable International Law. An exquisite start could be in the form of beginning to automatically indoctrinate all UN Article 2 members as ICC member States.¹²² If this were to happen, violators of the Statute could at least be within the grasp of the legal process, never mind the legal effectiveness of the ICC.

E. Create an international tribunal

The final proposal would be to establish a special tribunal, similar to the International Criminal Tribunal for the former Yugoslavia or Rwanda.¹²³ If this were to be pursued, “the tribunal could operate under customary International Law, incorporating the 1954 Hague Convention as well as relevant sections of Additional Protocol I.”¹²⁴ Attempts have been made to pursue this solution. During its fifth year of continuation, the Syrian war prompted the United Nations Independent International Commission of Inquiry to establish “an ad-hoc tribunal to prosecute both sides to ensure accountability for the perpetrators of mass crimes committed in Syria.”¹²⁵ The reason for this is to account for the use of aerial and ground weapons “indiscriminately and disproportionately” which resulted in an alarming number of human rights violations.¹²⁶

However, the previously-mentioned HRW recommended that the Commission of Inquiry take increased action to “further the quest for

¹²¹ O’Sullivan, *supra* note 71.

¹²² International Criminal Court, *supra* note 105.

¹²³ Sarah J. Thomas, *Prosecuting the Crime of Destruction of Cultural Property*, GENOCIDE WATCH, http://www.genocidewatch.org/images/Cambodia_Prosecuting_the_Crime_of_Destruction_of_Cultural_Property.pdf (last visited (Feb. 2, 2017)).

¹²⁴ Gerstenblith, *supra* note 4 at 346.

¹²⁵ Vera Padberg, *Calls for Ad-hoc Tribunal for War Crimes and Mass Atrocities in Syria*, ILAWYERBLOG (Mar. 19, 2015), <http://ilawyerblog.com/calls-ad-hoc-tribunal-syria-prosecute-war-crimes-mass-atrocities/>.

¹²⁶ *Id.*

justice of grave abuses being committed in Syria.”¹²⁷ “In particular, the Commission should – through public letters – put high-ranking individuals on all sides on notice that they could be held criminally responsible for ongoing serious crimes by forces under their command.”¹²⁸ Even if both sides are prosecuted, and when considering the just war tests, more justice would be brought to Syrian Christians than not if such a tribunal is not disestablished.

CONCLUSION

In summary, Syria was initially a Christian-dominant region which succumbed to Islamic rule. Recently, and through a series of devastating events to most Syrians, Islamic rebels proved themselves to serve as a catalyst for the Syrian government to engage in military action, which it did by way of a Just War Theory with the intention of reestablishing order of the region. Throughout the use of military action, the opposition retaliated in unscrupulous acts which resulted in the damage of massive amounts of Syrian Christian cultural property. This in turn implicated detriments on the social, religious, and political levels for Syrian citizens, but most significantly, to Syrian Christians. While the potential solutions seem like viable options to ameliorate the Christian communities’ damages and losses, they do not give much hope as UN’s treaty and charter history proves an unsuccessful record in the global sphere. However, there is still light at the end of the tunnel through the proposed solutions. They include humanitarian intervention, trade controls, heightened customs screening, and establishing criminal tribunal. Therefore, the UN needs to take a herculean step, if not a leap or two forward, and implement effective means of preserving cultural property and protecting Christians.

¹²⁷ *Id.*

¹²⁸ *Id.*