

MODEL PARLIAMENTARY RESOLUTION

Resolution from the Parliament/Chamber/Senate of [name of country]

Providing justice to the victims of ISIS/ISIL/Daesh

THE PARLIAMENT/CHAMBER/SENATE OF XXX,

CONDEMNING in the strongest terms the horrific inhumane acts committed by the Islamic State in Iraq and the Levant (ISIL) — also known as ISIS/Daesh or ‘IS’— and other extremist groups in Iraq, Syria and other regions of the Middle East and North Africa and beyond, encompassing the specific targeting of vast segments of the civilian population, religious minorities and vulnerable communities, which, due to their nature and gravity, must be qualified as acts of genocide, crimes against humanity or war crimes, including murder, extermination, enslavement (including abductions of women and children for exploitation as child-soldiers and sexual abuse), rape, sexual violence including forced marriage, enforced disappearances, deportation and forcible transfer of population, torture and arbitrary imprisonment;

CONCERNED that these crimes were specifically intended at eradicating the existence of religious minorities from the regions where ISIL established a self-described ‘caliphate’, including Yazidis, Christians and other groups perceived by Daesh as infidels (kafir);

CONSIDERING the right of their victims to obtain justice and redress for the immense harm and suffering that was inflicted upon them and the obligation of States to protect the civilian populations under International Law, without prejudice to the duty of States to offer refuge to those fleeing such atrocities under the Convention relating to the status of Refugees;

NOTING that the United Nations Security Council (UNSC) requested in its Resolution 2379(2017) the UN Secretary General (UNSG) to establish an independent investigative team to collect evidence on acts committed by ISIL in Iraq that could constitute war crimes, crimes against humanity and genocide;

NOTING that an agreement was reached on 8 February 2018 between the UNSG and the Government of Iraq on the terms of reference for this investigative mechanism;

NOTING that the United Nations General Assembly (UNGA) adopted Resolution A/71/L.48 (2016) establishing the *International, Impartial and Independent Mechanism (IIIM) to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic*. The goal of this body is to collect, preserve and prepare evidence of atrocity-crimes perpetrated in Syria since 2011, including those committed by ISIL;

STRESSING that it is essential that crimes under International Law committed by all sides are duly investigated, documented, prosecuted and adjudicated, and that only impartial and credible prosecutions may ultimately have a deterrent effect and create a guarantee of non-repetition that would effectively protect the civilian populations from future mass-atrocity crimes;

REITERATING that alleged mass atrocities committed by ISIL members amount to genocide, crimes against humanity or war crimes when they fulfill the legal requirements of the definition of each crime under International Law, and that such crimes shall be punishable offenses under each national Criminal

Law in accordance with the States' obligations under the UN Convention on Prevention and Punishment of the Crime of Genocide (1948), the Geneva Conventions (1949) and other relevant treaties;

AFFIRMING that these mass atrocities shall be not be primarily addressed as terrorist offenses, given that the interest protected by the definition of terrorism is not (i) the existence of a group as such, (ii) any civilian population, and (iii) all persons who are *hors de combat* in armed conflict, and that such interests are respectfully protected by the definitions of (i) genocide, (ii) crimes against humanity, and (iii) was crimes.

RECOGNISING that there are several challenges faced by the Iraqi judiciary that still needs to be addressed to ensure justice for victims, whose rights may be better fulfilled by the International Criminal Court (ICC) or another competent international, regional or hybrid criminal tribunal;

The Parliament of [name of State]:

REQUESTS the government to work with UNSC Members so that the investigative mechanism can begin as soon as possible and with as much support as needed to ensure that evidence is duly collected, preserved and prepared for future prosecutions;

URGES the government to call on Iraq to accede to the Rome Statute of the ICC and to voluntarily accept its jurisdiction over the period during which ISIL is alleged to have committed the mass atrocities and, in parallel, to come forward with a proposal to the UNSC for an *international mechanism* that would be able to prosecute alleged crimes;

ENCOURAGES the government to consider other options of engaging the ICC in investigating and prosecuting crimes committed in Iraq through a referral by the UNSC;

REQUESTS all relevant prosecutorial and judicial institutions to use all the powers the law makes available to them, including universal or extraterritorial jurisdiction, to investigate and prosecute alleged acts committed by ISIL fighters, and notably nationals returning from Iraq or Syria, that may constitute genocide, crimes against humanity or war crimes;

URGES the government to do its utmost possible to ensure that alleged ISIL fighters receive a fair trial before any competent tribunal in Iraq or other State, including by requesting the extradition of its nationals from Iraq or other State if necessary;

URGES the government to set up (A) appropriate reparation programmes for the victims of mass atrocities, including rehabilitation, restitution and compensation, as well as (B) appropriate procedures to ensure that ISIL fighters returning from Iraq or Syria, apart from being prosecuted for their involvement or complicity in the crimes, are subjected to mandatory programmes on rehabilitation/re-education/de-radicalization and reintegration in society.

Signed by [name], MP (name of country)

Date