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June 27, 2016

Alexander Maduro, Esq.  
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P.O.BOX 12-1251 - 10203  
Escazu, Costa Rica

Via email

RE: Jurisdiction in Da'esh cases

Dear Mr. Maduro:

We have been discussing the idea of prosecution of Da'esh personnel as war criminals by the RINJ Foundation (Foundation). I am writing this email as a consultant to you. You have asked me to cc Micheal O'Brien Director of the Foundation. At this time, I have no professional relationship with the Foundation. The Foundation favors prosecution through the ICC. They have to find a member state sponsor. Canada is a member. Iraq, the US, Russia, Iran, Turkey Syria and the other players are not. It is unlikely the US Senate would ratify the Rome treaty in our lifetimes.

Canada is a signatory, however given the Trudeau Government's stance against declaring the actions of the Da'esh as genocide, I suspect there is no interest in sponsoring the litigation. I find this ironic given the support given by the Foundation to the Liberals, but be that as it may.

The purpose of this email is to discuss extraterritorial jurisdiction under United States law. The US exercises extraterritorial jurisdiction in several fields. Relevant to this discussion are concepts of Universal Law, i.e. acts so offensive and heinous as to offend all of mankind that any state would be justified in imposing punishment no matter the location of the offenders or the offense. This is determined by treaty or international consensus.

There are several areas within Universal law that apply to what the Foundation does. Slave trading, and Terrorism. There are early cases going back to the 1820's equating slavery with piracy. Slave trading is banned under several treaties sign by the US dating back to the 1840's. Certain acts of terrorism are also recognized as a basis for extraterritorial jurisdiction. These include Hostage taking, torture and extortion.

Slave trading, particularly sex slavery, is well documented. So are tools of the trade, torture and hostage taking. There is a terrorism aspect to these crimes.

There are several questions here to be resolved. I have not seen the evidence the foundation has and have no clue about its chain of custody. I am also unsure which suspects are currently in custody, who is holding them and the inclination to extradite. Witnesses, including survivors, may have to be brought from the war zone. The Obama administration may be willing to prosecute, there was some interest at one point in Steve Mamon. The administration has a problem with the appearance of inaction, so doing something here would contradict that. It also fits into the policy of favoring using civilian courts to prosecute terrorists.

Be well and keep in touch

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'M. Schutz', with a long horizontal flourish extending to the right.

Matthew R. Schutz