



Program on Extremism

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CHALLENGES POSED BY RETURNING FOREIGN FIGHTERS

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About the Program on Extremism

The Program on Extremism at George Washington University provides analysis on issues related to violent and non-violent extremism. The Program spearheads innovative and thoughtful academic inquiry, producing empirical work that strengthens extremism research as a distinct field of study. The Program aims to develop pragmatic policy solutions that resonate with policymakers, civic leaders, and the general public.

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The views expressed in this paper are solely those of the author, and not necessarily those of the Program on Extremism or the George Washington University.

Introduction

When the US-supported Syrian Democratic Forces (SDF) recovered the last pocket of territory from under the control of the Islamic State in March 2019,¹ the problem of how to deal with the foreign fighters who had joined IS but were now seeking to return to their countries of origin (or might do so the near future) became increasingly pressing. The issue became even more urgent following President Trump's decision to withdraw US forces from northeast Syria in October 2019, which enabled Turkey's military operation in the area. In response to this offensive, Syrian Kurds affiliated with the SDF have threatened to abandon their posts guarding ISIS detention camps.² The potential escape of thousands of ISIS prisoners could create an immediate security threat to countries across the world as many of these fighters could attempt to return to their home countries and carry out terror attacks there. Finally, Turkey's forced repatriation program, which began in November 2019,³ returned many ISIS foreign fighters to their home countries, including those in Western Europe. Announcing the start of this policy, Turkish interior minister Süleyman Soylu said that Turkey was "not a hotel" for Islamic State detainees from other countries.⁴ All of these events have forced states to deal with the challenges posed by returning foreign fighters.

Pressures to Repatriate Foreign Fighters

To date, most of the states that have been called to face the problem of returning foreign fighters are unable (or unwilling) to find an adequate, coherent, and consistent response to the challenge. Several international actors have been pressuring countries across the world to take back their foreign fighters. President Trump, in particular, has been pressuring European countries to take back their foreign fighters, even threatening to release ISIS fighters at European borders if France, Germany, and other European countries do not take back their captured nationals.⁵ In addition to these pressures by the United States, online campaigns to free female prisoners supportive of the Islamic State detained by the SDF emerged in October 2019⁶ and a group of Dutch ISIS women and their children have sued the Dutch state, threatening to “hold the government liable for their suffering” if the state doesn’t repatriate them.⁷

Finally, groups of foreign policy and national security professionals have also made the case for repatriating the foreign fighters, women, and children held in camps in northeastern Syria: in November 2019, several Council Members of the European Council on Foreign Relations (ECFR), a pan-European think tank focusing on European foreign and security policy, issued an open letter which urged European governments to immediately begin a program of managed repatriation of ISIS foreign fighters in Syria. Highlighting the security risks posed by leaving the foreign fighters in Syria, the experts who issued the letter argued that “repatriation would ensure European control of ISIS members who might otherwise escape and become involved in new attacks,” and also noted that “children in the camps are at risk of becoming radicalized if they remain in a lawless environment without treatment for their trauma or hope for the future.”⁸

Another open letter was published by former senior American and British national security professionals in September 2019. Noting that Western governments have mostly refused to take their nationals back, the experts warned that “this ‘hands-off’ stance will only create greater danger in the future” and called on Western governments to repatriate “their nationals—men, women, and children—with a view to prosecution or rehabilitation as they deem appropriate and secure.”⁹ However, despite these various pressures to repatriate foreign fighters, the question of how best to deal with foreign fighters captured in Syria remains problematic for many countries, and many governments have been trying to evade the issue and/or have resisted calls to take back their nationals. It is worth emphasizing that the challenges associated with the

return of foreign fighters do not concern only one single country; it is “the international community as a whole” that lacks a strategy to bring to justice those citizens who have fought with IS or like-minded groups in Syria and Iraq.¹⁰

The Challenges Posed by Returning Foreign Fighters

While the numbers of captured foreign fighters today are much higher than in previous historical cases, the challenges associated with dealing with returning foreign fighters are not entirely new. As David Malet and Rachel Hayes note, “The potential threat that foreign fighters, also known as foreign terrorist fighters, pose to their countries of residence once they return from the battlefield has concerned policymakers since the invasion of Afghanistan in 2001.”¹¹ In the context of ISIS returnees, public debates on how governments should deal with such individuals had already emerged by 2017, after significant numbers of foreign fighters returned from Syria to Europe.¹² However, this debate became much more urgent following the collapse of ISIS’ territory and the mass surrender of ISIS fighters, including many foreign fighters, in February-March 2019.

In dealing with this challenge, states have several different options at their disposal. Although the legal responses to foreign fighters may vary significantly from state to state, depending on the political system and the legal tradition in each state, four main options can be identified in response to this issue. The first option is to leave foreign fighters and their families where they are to be prosecuted by local authorities. The second option is to actively prevent foreign fighters from returning home, either by stripping them of their nationality or by using technical arguments to contest the existence of their initial citizenship. A third option is to recognize the foreign fighters’ right to return but avoid active consular efforts to facilitate their repatriation. Finally, a fourth option is to actively repatriate foreign fighters and subject them to prosecution in their home country in addition to monitoring, rehabilitation, or reintegration efforts following their return.¹³ In addition to these existing options, some states, as well as the head of the United Nations Special Probe into Islamic State crimes, have advocated for the creation of a Nuremberg-style international tribunal to prosecute returning foreign fighters.¹⁴ However, at the moment this option remains a theoretical possibility and, therefore, will not be examined in the present

research. Future developments will allow us to see if such a proposal gains the necessary political support to materialize and become an effective mechanism to seek justice for crimes committed by foreign fighters under ISIS.

In this paper, the focus of attention will be on the situation in which states decide to actively repatriate or allow the return of their nationals who left to fight abroad. This decision rests on the belief that foreign fighters remain, fundamentally, the responsibility of their home countries. As argued by former Dutch Minister of Foreign Affairs Bert Koenders, “We keep referring to these people as foreign terrorist fighters. The uncomfortable truth is that they are not foreign at all. They may be foreigners in the countries where they are going. But in reality, they are our compatriots, our acquaintances, the classmates of our kids, the guys and girls we see in our supermarkets. They are part of our societies. Perhaps the only thing that’s foreign to us is their mentality.”¹⁵ Similarly, a former head of the British Army, General Lord Dannatt, has argued that Britain’s foreign fighters in Syria must be brought back to the United Kingdom because they are the United Kingdom’s responsibility: “They have got to be held while they are talked to and if there is sufficient evidence against any of them ... they have to be put through due process and imprisoned if that is the right thing to do. But I think it is also important that we treat them fairly with justice and tempered with a bit of mercy as well because ... the way we treat them may well have important significance for the way other people view our society.”¹⁶ In the same vein, and as part of the United States’ efforts to pressure other countries to repatriate their citizens, Nathan Sales, the United States State Department’s coordinator for counterterrorism, claimed that “if a country sees its citizens traveling to Syria and Iraq to fight with ISIS, it’s up to that country to prosecute those individuals.”¹⁷ However, even if states decide to follow this course of action and allow the return of their foreign fighters despite the security risks and threats posed by them, they find themselves facing a series of challenges. Specifically, these challenges concern the following dimensions: security, law, politics, and society.

Security Challenges: Returning Foreign Fighters as Ticking Time Bombs?

Given the extensive attention accorded to security considerations in policy and media discussions on the issue of returnees, the first step in any discussion on states' responses to returning foreign fighters should focus on the threat posed by such individuals. Security officials have warned of the threat posed by returnees upon their return to their home countries. Alex Younger, the head of Britain's MI6, said that returning foreign fighters "are likely to have acquired both the skills and connections that make them potentially very dangerous and also experienced extreme radicalization."¹⁸ This is reflective of the attitude of many governments across the world, which hold an almost unanimous view of returning foreign fighters (including women) as security threats to their countries of origin. For example, in the North African context, "foreign fighters are perceived by Tunisian authorities and by the mainstream population as a potential threat to security with an unprecedented lethality and capacity to cause mass destruction."¹⁹ Two former officials in the Shin Bet, Israel's domestic security agency, interviewed for this research expressed the same fears: according to them, the agency's main concern is that returning foreign fighters could act as sleeper cells to be activated one day by external actors and "commit the next terrorist attacks" after their return.

Jürgen Stock, Interpol's chief, acknowledged this concern, stating, "The security agencies [of Interpol member states] are concerned about when they [returning foreign fighters] are coming back because most of them are battle-hardened, they are trained and they are internationally connected." Stock called this scenario "ISIS 2.0", as a second wave of Islamic State-linked or radicalized individuals return to their home countries.²⁰ Thus, security officials worry that the return of foreign fighters from Syria will be marked by a "blowback" of attacks executed by experienced, more lethal and battle-hardened individuals, increasing the threat of domestic terrorism.

Governments, especially of European countries, have been concerned about the threat posed by the return of foreign fighters from Syria and Iraq since shortly after the start of the Syrian civil war in 2011, even prior to the regional rise and expansion of ISIS in 2014-2015. In July 2013, former French Prime Minister Manuel Valls described the return of foreign fighters to their home

countries as "a ticking time bomb." The main concern of European security officials was that foreign fighters would one day return to Europe, equipped with deadly military skills, trained in the tradecraft of international terrorism and steeped in the extremist anti-Western ideology of al-Qaeda and its Syrian affiliate, the al-Nusra Front (which rebranded as Jabhat Fatah al-Sham in July 2016).²¹ Former US President Barack Obama expressed similar fears, warning in September 2014 that "thousands of foreigners, including Europeans and some Americans, have joined them [Islamic State forces] in Syria and Iraq. Trained and battle-hardened, these fighters could try to return to their home countries and carry out deadly attacks."²²

Despite these concerns regarding the security threats posed by returning foreign fighters, it is important to note that not all those who left to fight in Syria return to their home countries afterwards: some foreign fighters are killed in combat, while others become disillusioned by fighting or by the dissonance between the religious ideals promised in ISIS' propaganda and the reality of life in Syria. Even among those who do return to their home countries, not all foreign fighters are motivated to plan and execute terrorist attacks. In fact, some return severely traumatized by what they have witnessed in Syria due to ISIS' brutality or the general dynamics of civil war and the anti-ISIS coalition airstrikes on ISIS-held territories. Thus, while the number of foreign fighters who have left for Syria since 2011 is unprecedented, the scale of mobilization does not inherently represent the number of returning fighters. In an empirical assessment of the return rate of foreign fighters published in 2013, Norwegian jihadism expert Thomas Hegghammer notes that "no more than one in nine foreign fighters returned to perpetrate attacks in the West."²³ Conversely, R. Kim Cragin notes that "a strong majority of the Afghan veterans [those who participated in the Soviet-Afghan War in the 1980s] from both Algeria and Indonesia returned home," and argued in 2017 that US law enforcement and other security officials should expect roughly 80% of the foreign fighter populations in Syria and Iraq to return home after a ceasefire.²⁴

Despite the relatively low number of returning foreign fighters, the terrorist threat posed by those returnees remains significant. In the same research, Hegghammer found that those plots that involved foreign fighters were more likely to result in fatalities, indicating that returnees are indeed more lethal terror operatives than jihadists who have not left to fight in a foreign country.²⁵ This is related to the first threat posed by returning foreign fighters: that they will be involved in acts of domestic terrorism, using the skills and experience they have gained while fighting under

IS in Iraq and Syria. The historical evidence seems to confirm this threat – two of Tunisia’s deadliest terrorist attacks (the March 2015 Bardo National Museum assault and the June 2015 mass shooting on a beach in Sousse) were conducted by returnees.²⁶ Furthermore, David Malet and Rachel Hayes note that the first wave of foreign jihadi fighters did commit acts of terror upon their return, with 1980s Afghan Arab returnees responsible for bombing attacks such as those in New York in 1993 and Bali in 2002.²⁷ In addition, the November 2015 attacks in Paris were executed by French and Belgian Islamic State foreign fighters who had trained in Syria²⁸ and, similarly, the attack on Brussels’ Jewish Museum on May 24, 2014, was carried out by Mehdi Nemmouche in what is considered as the first attack on European soil by a returning foreign fighter from Syria (in March 2019, Nemmouche became the first European foreign fighter to be convicted of terrorism offenses²⁹).³⁰ Conversely, Thomas Hegghammer and Petter Nesser argued in 2015 that “the blowback rate – the proportion of outgoing fighters who return and plot attacks against their home country or region – from Syria is thus far very low indeed: 11 plotting returnees from an outgoing contingent of around 4,000 makes for a blowback rate in the order of 1 in 360.”³¹ More recently (in 2018), Thomas Renard similarly concluded that “the number of returnees directly involved in attacks is relatively low, compared to the overall number of returnees and foreign fighters. The so-called ‘blowback rate’ is very low.”³² Based on this low return rate, some scholars argue that, while genuine, the potential threat posed by returning foreign fighters should not be overly exaggerated.³³ The debate about the potential for increased “blowback” or acts of terrorism committed by returnees remains a significant point of contention among terrorism scholars and policymakers. While there have been previous waves of foreign fighters to which the present mobilization to ISIS can be compared, the present wave is qualitatively and quantitatively different from previous historical cases. This contention, which directly impacts the threat assessment regarding returnees, has undermined efforts toward the formulation of a coherent policy in many countries.

Another persistent question regarding returning foreign fighters refers to the time span in which those returnees who will engage in terrorism after their return are likely to execute terror attacks. In other words, if, indeed, such battle-hardened and radicalized individuals are “ticking time bombs”, when will they go off? David Malet argues that “domestic terror plots by returnees, including successful attacks, occur only within the first few months and that there is no evidence of any long-term threats by returnee sleeper cells.”³⁴ Research conducted by Malet and Hayes

showed that among those foreign fighters who do engage in terrorism, almost all attempted terrorist plots occur within a year of their return. This indicates that the terrorist threat posed by returning foreign fighters can be monitored, tracked, and contained by law enforcement efforts following their return to their home countries.³⁵

While the potential for further terrorist attacks remains a primary concern for states attempting to formulate a coherent foreign fighter policy, an additional concern is that these returnees will play an important role as recruiters and will attempt to radicalize others in their community upon return.³⁶ The potential for increased recruitment may be a result of the “celebrity status” of returnees. In Tunisia, for example, incarcerated foreign fighters who returned from Syria were treated with reverence by other inmates because of their battlefield knowledge and experience,³⁷ while veterans of the Afghan-Soviet war (the so-called Afghan-Arabs) inspired Abdelhamid Abaaoud and other youngsters on the streets of Brussels and London, who believed “them to be the living embodiment of the heroes of yore, *mujahideen*.”³⁸ One study described such returnees as “jihadist rockstars” who enjoy celebrity appeal among at-risk populations and who radicalize new recruits to join the fight.³⁹ Thus, even if foreign fighters do not get directly involved in planning or executing domestic terrorist attacks after their return, some fear that they will inspire others to engage in terrorist activities and radicalize vulnerable members in their communities.

Another possible threat posed by returnees is their increased propensity for violence as a result of their radicalization during their stay with ISIS. This is seen as a threat by the Shin Bet, Israel’s domestic security agency. According to a former senior official in the agency, the concern is that the returning foreign fighters will try to implement in Israel some of the brutalities performed by ISIS, including slaughter, beheadings, rape, and other well-known atrocities carried out by the group.⁴⁰ In other words, the threat posed by returnees could potentially extend beyond committing acts of terrorism to more general, if less efficient, forms of violent behavior as a result of their continued exposure to violence during their time in Syria and Iraq. In the same vein, Byman argues that returnees may pass along methods like beheadings, and points out that Islamic State-inspired groups such as Jund al-Khilafah in Algeria had already adopted this tactic.⁴¹ This radicalization which foreign fighters undergo during their stay in the conflict zone may be the most important factor that influences their propensity toward extremism, and could potentially present the greatest long-term

challenge to their reintegration into society following their return home. Terrorism expert Daniel Byman defines this change in mindset as “perhaps the most important change, but the one hardest to quantify.”⁴²

As seen above, at the security level, the main concern among policymakers, scholars, and citizens alike is that returning foreign fighters will pose a major security threat through the direct perpetration of terrorist attacks, the recruitment of others into action, and the logistical and/or material support offered to other like-minded individuals or networks engaged in the orchestration of terrorist attacks.⁴³ In this context, even as some scholars have differentiated between different types of post-conflict behavior of returnees,⁴⁴ returning foreign fighters are viewed almost universally by both public opinion and security officials as terrorists.

This view, which essentially argues that allowing foreign fighters to return home undermines national security by inviting more terror attacks, has essentially securitized the debate on the return of foreign fighters. However, while such security concerns are undoubtedly important, other factors should also be considered. Firstly, it is to be acknowledged that the military training that most foreign fighters receive throughout their period of militancy abroad is more suitable to open battlefield confrontations and operations of guerrilla warfare rather than to domestic terrorist attacks in modern, urban, and competently policed countries. Secondly, repatriating, prosecuting, and incarcerating foreign fighters allows states to monitor and control the threat posed by foreign fighters, whereas leaving them in war zones would leave the threat open-ended. Thirdly, as several American and British national security experts have argued, the denial of citizenship of foreign fighters by their home countries will bolster the foreign fighters’ sense of “being, in effect, citizens of the Islamic State, potentially preparing them to form the core of a future resurgence.”⁴⁵ Finally, it is important to avoid adopting a short-term view on the issue of returnees and rather look at the long-term effects of the decision not to repatriate them, considering whether preventing foreign fighters from returning home might actually encourage their relocation in some war-torn or poorly governed country where they might strengthen their bonds, improve their operational skills, and ultimately plan local but also international terrorist operations.

Faced with this security challenge, states have found themselves in the position of having to adopt monitoring measures and other administrative restrictions aimed at keeping returnees under surveillance and reducing the possible threat that they may pose after their return. These

measures, which can be applied to returnees who cannot be prosecuted due to lack of evidence as well as to returnees who have been released after serving a prison term, can consist of electronic surveillance, house arrest, special reporting and monitoring measures, and relocation away from specific geographical areas.⁴⁶ However, as has been noted in a study by the ICCT, these efforts are complicated by the fact that “not all the countries might have the ability and resources to monitor returning foreign fighters and their families, especially if the sheer number is overwhelming.”⁴⁷

Legal Challenges of Prosecuting Returnees

After the inevitable security challenges that emerge when a country repatriates its foreign fighters, the most significant challenges are found at the legal level. The first legal challenge is assessing the crimes committed by the foreign fighter during his/her time in Syria. In order to bring terrorists to justice within a legal framework, prosecutors need to have evidence. However, the collection of evidence from the battlefield in Syria or Iraq, its transfer to other countries, and its use as courtroom evidence constitute a significant problem. In fact, since the situation in Iraq and Syria in the last few years has been far from secure and stable, prosecutors face a number of difficulties in securing evidence: it may not be possible to travel to war-torn and conflict-ridden areas within certain countries to collect evidence, there may not be a judicial cooperation agreement in place with the country where the crimes have been committed, or the legitimate government may not have any effective control over the area where the evidence is located.⁴⁸ Also, even when the Internet and social media might be a useful source of evidence, fighters often used *noms de guerre*, which undermine efforts to legally connect cyber identities and social media posts with specific individuals.⁴⁹ As recognized by Gilles de Kerchove, the EU Counterterrorism Coordinator, “it is extremely difficult to collect evidence showing that militants have fought alongside banned terrorist groups.”⁵⁰ In other words, the lack of sufficient evidence regarding what any single individual did or did not do under the Caliphate, for which crimes he/she was directly or indirectly responsible, and to what extent he/she was coerced into action or acting voluntarily pose a significant challenge to the prosecution bodies. In the scenario that investigators are not able to collect information and evidence from war-torn areas and prosecutors cannot rely on international cooperation, studies have identified possible alternative sources of evidence. These include information collected by non-governmental

organizations (NGOs); International Commissions of Inquiry or other mechanisms established by the Security Council; the International Independent Commission of Enquiry (CoI) established by the Human Rights Council of the United Nations or the International, Impartial and Independent Mechanism established by the UN General Assembly; and the Investigative Team established by the Security Council. These alternatives, however, do not resolve the aforementioned challenges associated with collecting evidence that can then be used in court.⁵¹

The second major challenge from a legal perspective is that countries often lack the necessary legislation to prosecute foreign fighters. Indeed, in many countries, foreign fighting alone is not illegal, and the prosecution and incarceration of foreign fighters depends on evidence of crimes committed during their time in Syria. Thus, due to existing laws, not all countries may be able to successfully prosecute those who left to join the Islamic State, and great diversity is observed across countries in the legislation regarding foreign fighters. Under the material support provision, US law prohibits even attempting to join a designated foreign terrorist organization.⁵² The United Kingdom has adopted a similar law.⁵³ In Israel, membership, activity, or support of an association of individuals declared by the Minister of Defense to be an illegal association (or an organization or association which aims to conduct terror activity, change the constitution using violence, incite against the government, or destruct state property) is a criminal offense.⁵⁴ France may prosecute returning foreign fighters for participating in a group formed for the purpose of preparing an act of terrorism.⁵⁵ Australia has made the act of traveling to a conflict zone for foreign fighting a criminal offense, thereby outlawing foreign fighting, regardless of the crimes committed during the individual's stay in the conflict zone or the group's ideological orientation.⁵⁶ However, other countries lack such laws, and even if these states were to change their penal code now, such could not be made retroactive so that it would remain inapplicable to those individuals who left prior to its adoption.⁵⁷

Even when an assessment of the role played abroad by a specific foreign fighter can be made, and when a country has in place the necessary legislation for prosecuting him/her, a further challenge concerns the punishment to be handed to the foreign fighter. Specifically, where prison sentence is assessed as the most suitable response, the importance of devising it in a way that ensures that prisons do not become hubs of radicalization has been recognized, both in terms of the indoctrination to which foreign fighters might subject non-radical fellow inmates and in terms of

the further indoctrination to which foreign fighters might expose each other if they were secluded among themselves. This, in fact, could create an echo-chamber effect that could further strengthen existing networks and tighten group identity behind bars.⁵⁸

Finally, a major legal challenge has to do with the fate of those women and minors who wish to return from the Caliphate and whose initial decision to join might have been the result of coercion or psychological subjugation. As has already been noted, “In many respects, the wives and widows of Islamic State fighters represent a thornier problem than the fighters. Some of them were brought to Syria by their husbands; others traveled to Syria seeking jihadi husbands. Their experiences and their attitudes vary greatly. Some suffered terrible ordeals. They married into continuing captivity although with different warders. They were exchanged as sex slaves or assigned to new partners as previous spouses were killed off.”⁵⁹ Here, the main problem is assessing the women’s responsibility for crimes committed under ISIS and their agency in joining the group, as well as how to balance the imposition of a due punishment with the recognition of their vulnerability. A further aspect that has been recognized as being particularly problematic regarding female members of ISIS is that, while the Salafi-jihadist ideology traditionally confines women to a subordinate position, women under IS have in some cases engaged in fighting, worked in the al-Khansaa all-female Islamic police force, and committed violence against other women.⁶⁰ As some have already pointed out, women have joined the Islamic State for a broad range of motivations, including survival and coercion as well as status and deeply held commitments to the group’s doctrines.⁶¹ As such, different policy solutions should be adopted toward different women, based on their motivations for joining, current ideological commitment to IS, and crimes committed during their activity in the group – just as in the case of male fighters.

Even more delicate is the case of children. Experts have emphasized that “children pose an even greater challenge, perhaps the greatest challenge of all. Infants and toddlers have no appreciation of ideologies. They must be regarded as innocents, although the older ones may require counseling to address what they have witnessed and suffered and were taught in Islamic State schools and training camps. Traditionally, international law has regarded children as victims rather than perpetrators, but this view has begun to change precisely because of how the Islamic State and other irregular military formations have deliberately enlisted children in their violent campaigns.”⁶² Indeed, the Islamic State was widely reported to have forcibly sent children as young

as thirteen to training camps where they were taught to kill “infidels.”⁶³ Addressing the case of the “Cubs of the Caliphate”, as IS termed these minors, is a major legal and ethical challenge for states. However, paradoxically, despite the legal challenges posed by children returning from these conflict zones, the humanitarian situation concerning minors has led to more states repatriating children from SDF custody than adult men and women.

Furthermore, the case of those children who were born in Syria and Iraq from parents who left their country of origin to join the Caliphate is particularly complex. Having been born to IS, these children have no passports and, therefore, no country to go back to or seek assistance from. Also, many detained children were born to parents from two different countries, raising the issue of which nationality they could, and should, legally claim.⁶⁴

Political Challenges

In the political dimension, the biggest challenge that the governments of the countries of origin face when they are trying to formulate policies in response to the issue of foreign fighters is posed by public opinion, which often opposes the foreign fighters’ return. As one observer put it, the controlled return of foreign fighters to their countries of origin is “a political matter more than anything,” because “lawmakers won’t dare to defy public opinion.”⁶⁵ In many Western countries, in fact, public opinion seems ever more inclined toward the closure of national borders to any external security threat (real or perceived) and assertive domestic policies. Here, an important rationale behind these arguments is the belief that the foreign fighters themselves have been the ones who renounced their citizenship and sought to replace it with citizenship in IS’ Caliphate. Photos and videos of European foreign fighters burning their passports, which circulated online in 2014-2015, when thousands of foreign fighters flocked to join the Caliphate, were seen as evidence of such a rejection of citizenship by such foreign fighters.⁶⁶ This argument was used by Denmark’s Minister of Immigration to deprive the children of Danish foreign fighters of citizenship rights. According to Immigration Minister Inger Støjberg, “Their parents have turned their backs on Denmark, so there is no reason for their kids to become Danish citizens.”⁶⁷

In Muslim-majority countries in the Middle East, ISIS fighters and their families are often

associated with the atrocities committed by IS against other Sunni Muslims, Shi'a, and Yezidi communities and, more broadly, with extremism and the sectarian violence of IS. Thus, in Tunisia, civil society organizations have held demonstrations in which they advocated closing the borders to returning jihadists.⁶⁸ In the United Kingdom, more than three quarters (77%) of adults think that the government should prevent British ISIS fighters from returning to Britain. Of these, 42% are in favor of stripping returnees of citizenship, while 35% think they should be treated as enemy combatants and legitimate targets to be attacked.⁶⁹ Similarly, in a public opinion poll conducted in Canada, the majority of respondents did not want the government to bring back detained ISIS fighters: 71% agreed that Canada “should not do anything to help bring” Canadian foreign fighters back to the country.⁷⁰ In such a political climate, it becomes highly challenging for governments to convince the public that allowing foreign fighters to return home and prosecuting them in the country of origin is a desirable course of action (let alone placing them in de-radicalization and reintegration programs, which are funded by the state). As noted by the Swedish terrorism expert Magnus Ranstorp, “It’s political suicide to try to bring them back, because the public doesn’t want them back.”⁷¹

Social Challenges

Finally, the repatriation and prosecution of foreign fighters is not free from social challenges. Here, challenges remain regarding the reintegration of returning foreign fighters into mainstream society. While the debate on reintegration and rehabilitation has so far received less attention in the media, experts have emphasized its importance. For instance, Matthew Levitt has recognized that “not every returning foreign fighter or terrorist dropout can be reintegrated into society, but some can. Even among those who can be prosecuted and convicted, the vast majority will eventually be released. It is, therefore, neither ‘soft’ nor ‘weak’ to be talking about how to rehabilitate them, especially in the prison context but elsewhere as well.”⁷² Also, as argued in a study conducted on European states dealing with returnees, the core question is not whether to adopt criminalization or reintegration, but “how best to relate these policies with one another as part of a ‘comprehensive’ response to returnees.”⁷³ In line with such recommendations, the UN Security Council has been encouraging governments to insert programs of rehabilitation and reintegration into their approach to returning foreign fighters in

its Resolution 2178.⁷⁴ However, the Security Council has not further elaborated upon the best strategies to do so, and a major challenge is posed by the fact that in developing such programs there isn't a "one-size-fits-all" model for reintegration that can easily be adopted into different contexts.⁷⁵ This is particularly worrying, considering the fact that developing and improving comprehensive rehabilitation and reintegration strategies will take a long period of time, while solutions to the reintegration of returnees need to be found now.⁷⁶

States' Responses to Detained Foreign Fighters

Facing the above challenges on repatriation and/or integration of returning foreign fighters, states have reacted in very different ways. The following table shows the responses of governments to detained foreign fighters in 64 countries, as of February 2020. This survey is based on open sources published in English and Arabic between February 2019 and February 2020.

Country	Region	Policy response
1. Netherlands	Europe	Allows return, but does not assist in return (no repatriation) with the exception of children
2. Germany	Europe	Strips foreign fighters' citizenship in case of dual nationals. Allows the return of nationals. Repatriation of women and children
3. United Kingdom	Europe	Revocation of citizenship. Refuses to take back foreign fighters
4. United States	North America	Initially denied citizenship to foreign fighters; now repatriation
5. France	Europe	Judicial process outsourced to Iraq – favors prosecution in Iraq's judicial system. Allowed the return of fighters deported from Turkey
6. Algeria	MENA	Allows return. Arrest and prosecution following return
7. Bahrain	MENA	Arrest and prosecution for joining a terrorist

		group. Revokes citizenship
8. Israel	MENA	Revocation of citizenship. Allows return (arrest and prosecution after return)
9. Chechnya (Federal Subject of Russia)	Eastern Europe	Repatriation of women and children. Slowly allowing the return of fighters
10. Egypt	MENA	Allows return. Arrest and prosecution following return
11. New Zealand	Asia & Australasia	Allows return. Arrest and prosecution following return
12. Lebanon	MENA	Allows return. Arrest and prosecution following return
13. Libya	MENA	Civil war and fractured government make coherent policy difficult. Passed law for the criminalization of joining terrorist groups
14. Sudan	MENA	Repatriation
15. Albania	Eastern Europe	Amendments to penal code for the criminalization of foreign fighters. Refuses repatriation
16. Azerbaijan	Eastern Europe	Allows return. Arrest following return
17. Bulgaria	Eastern Europe	Allows return. Arrest following return
18. Georgia	Eastern Europe	Legal prosecution with severe penalties for foreign fighters
19. Kosovo	Eastern Europe	Repatriates citizens (including fighters, but mostly women and children)
20. Latvia	Eastern Europe	Allows return and prosecutes foreign fighters
21. Macedonia	Eastern Europe	Repatriation and arrest
22. Moldova	Eastern Europe	Criminalization of traveling abroad to join a terrorist group
23. Montenegro	Eastern	Allows return. Arrest and prosecution

	Europe	following return
24. Poland	Eastern Europe	Restriction of return
25. Romania	Eastern Europe	Allows return. Arrest following return
26. Slovenia	Eastern Europe	Process for revocation of passport
27. Ukraine	Eastern Europe	Attempts to prevent return, convictions
28. Kyrgyzstan	Eastern Europe	Allows return. Arrest following return
29. Tajikistan	Eastern Europe	Repatriation of women and children
30. Luxembourg	Western Europe	Allows return. Monitors and prosecutes foreign fighters following return
31. Spain	Western Europe	Criminalization and prison terms for foreign fighters. Issues international arrest warrants
32. Switzerland	Western Europe	Refuses to repatriate and took steps to strip citizenship. Prefers to see foreign fighters tried in Syria or Iraq
33. Malaysia	Asia & Australasia	Allows return provided foreign fighters agree to undergo a rehabilitation program
34. Philippines	Asia & Australasia	As of February 2020, doesn't allow the return
35. Singapore	Asia & Australasia	Allows return. Arrest following return
36. China	Asia & Australasia	Arrest, re-education, electronic surveillance, extradition treaties, repatriation
37. Trinidad and Tobago	Latin America	Repatriation of children
38. Belgium	Western Europe	Repatriates children but leaves mothers in Syria
39. Denmark	Western Europe	Strips citizenship of foreign fighters. Blocks return of ISIS fighters' children

40. Norway	Western Europe	Repatriates women and children
43. Russia	Eastern Europe	Repatriates children and wives of foreign fighters. Prosecutes jihadists (adult male fighters) in Iraq
44. Tunisia	MENA	Allows return. ISIS fighters sentenced to jail. Repatriates children
45. Morocco	MENA	Repatriation
46. Canada	North America	Doesn't repatriate, but accepts foreign fighters if they come back by themselves
47. Sweden	Western Europe	Doesn't repatriate, but accepts foreign fighters if they come back by themselves
48. Finland	Western Europe	Selective repatriation of children of ISIS fighters. Expressed support for the creation of a special court for trying foreigner fighters
49. Kazakhstan	Eastern Europe	Actively repatriates hundreds of foreign fighters (595 men, women, and children as of February 7, 2020)
50. Bosnia	Eastern Europe	Repatriation of men, women, and children. Arrest and prosecution following return
51. Ireland	Western Europe	Repatriation of women and children. Arrest following return
52. Italy	Western Europe	Repatriation and allows return
53. Saudi Arabia	MENA	Allows return. Prison term and deradicalization and reintegration programs following foreign fighters' return
54. Iraq	MENA	Repatriation. Moved families of Iraqi ISIS fighters (women and children) from Syria to Iraq
55. Indonesia	Asia & Australasia	Decided not to repatriate ISIS fighters. Will consider bringing home children on a 'case-by-case basis'
56. Kuwait	MENA	Allows return. Arrest and prosecution

		following return. Doesn't repatriate
57. Jordan	MENA	Allows return but doesn't repatriate. Prison term and deradicalization and reintegration programs following foreign fighters' return
58. Serbia	Europe	Criminalization of traveling to fight for terrorists but inconsistent application of the law. No repatriation effort; the government is opposed to repatriation
59. Slovakia	Europe	Repatriation
60. Japan	Asia	Repatriation. Prosecution and surveillance upon entrance
61. South Korea	Asia	Repatriation
62. Uzbekistan	Eastern Europe	Repatriation of nationals, mostly women and children
63. Turkey	Western Europe ⁷⁷	Repatriation. Prosecution and rehabilitation following foreign fighters' return
64. Australia	Asia & Australasia	Strips citizenship of fighters. Repatriates orphans but refuses to repatriate men, women, and accompanied children

As can be seen from the table above, states have responded very differently to the challenge of foreign fighters and their families (women and children of ISIS fighters). However, some observations can be made if these responses are divided by region.

In North America, Canada has so far taken a passive approach, deciding not to resist its foreign fighters' return but also not to repatriate them actively. The United States, on the other hand, while initially denying citizenship to its nationals who fought for ISIS (most famously, in the case of Hoda Muthana, whom a US federal judge ruled is not an American citizen), has actively repatriated its foreign fighters since mid-2019. This seems to be part of the US' effort to own the ISIS foreign fighter problem and minimize future threats that these individuals might pose to the US. Indeed, in June 2019, a Justice Department official said, "The United States is committed to taking responsibility for its citizens who attempt to travel or did travel to support ISIS." He also noted

that the Justice Department has prosecuted over 100 individuals who tried to travel to support ISIS and has brought charges against several who have returned.⁷⁸ Furthermore, senior officials in the Trump Administration have consistently called on states to repatriate their foreign fighters. Defense Secretary Mark Esper called on Britain to repatriate its fighters from Syria,⁷⁹ and Secretary of State Mike Pompeo stated, "We want every country to take their citizens back. Each country needs to take responsibility for their own citizens that traveled to Syria and fought as terrorists." Pompeo also pressed the Canadian government to repatriate its nationals from Syria.⁸⁰

While the US has been consistent in its calls on other countries to repatriate their nationals and has been repatriating its own foreign fighters in 2019-2020, other states have taken different approaches. In the Middle East and North Africa, with the exceptions of Sudan, Morocco, and Iraq, most states do not repatriate their nationals but do allow their foreign fighters to return home, usually arresting and prosecuting these individuals following their return. Tunisia also repatriates children of ISIS fighters (but not adults), while Bahrain and Israel revoke the citizenship of their nationals who traveled to Syria to join ISIS.

While Albania refuses to repatriate its nationals and Poland restricts their return, many states in Eastern Europe have actually been among the most active in repatriating their fighters: Chechnya, Kosovo, Macedonia, Tajikistan, Russia, Kazakhstan, Bosnia, and Uzbekistan have all repatriated their nationals from Syria. Kazakhstan, Uzbekistan, and Tajikistan alone have repatriated more than 750 of their nationals, according to Human Rights Watch.⁸¹

Western European governments, on the other hand, have been extremely reluctant so far to repatriate their foreign fighters. While Italy repatriates and allows the return of its foreign fighters, and other states, such as Luxembourg and Sweden, allow their nationals to return home while not going as far as to repatriate, most European governments oppose the return of their foreign fighters altogether. Switzerland, for example, refuses to repatriate its foreign fighters and has taken steps to strip their citizenship, and Britain has already revoked the citizenship of some of its nationals who fought for ISIS and refuses to take back foreign fighters. Denmark has also revoked the citizenship of its foreign fighters and, in addition, blocks the return of ISIS fighters' children to the country. Repatriating, or even allowing the return of, foreign fighters is deeply unpopular in public opinion across many European countries, and the governments' policies in Western Europe reflect this sentiment.

In Asia, states' responses to the issue are mixed. While some countries, such as Malaysia, allow foreign fighters to return if they agree to undergo a rehabilitation program, Indonesia has decided neither to repatriate its ISIS fighters nor to allow their return home. The Philippines similarly do not allow the return of ISIS fighters to the country. The only two Asian countries which do repatriate their nationals are Japan and South Korea. Finally, the state that has taken the harshest policy on the issue of its foreign fighters is Australia, which revokes the citizenship of fighters and repatriates orphans, but refuses to repatriate men, women, and accompanied children.

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- 75 Eva Entenmann, Liesbeth van der Heide, Daan Weggemans, and Jessica Dorsey, "Rehabilitation for Foreign Fighters? Relevance, Challenges and Opportunities for the Criminal Justice Sector", The International Centre for Counter-Terrorism – The Hague (ICCT), ICCT Policy Brief December 2015, accessed December 25, 2019, <https://icct.nl/wp-content/uploads/2016/01/ICCT-Entenmann-Heide-Weggemans-Dorsey-Rehabilitation-for-Foreign-Fighters-December2015.pdf>
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- 77 Turkey has been coded as a Western European country by the Economist Intelligence Unit's Democracy Index, and we followed the Index's coding in building the dataset. However, as Turkey's foreign policy has become increasingly less Western-oriented and more confrontational towards NATO and the EU in recent years, this geopolitical orientation and cultural identity is increasingly questioned. Moreover, this orientation (and political classification) is also questioned by Turkish observers (see, for example: Tarık Oğuzlu, "Is Turkey still part of the West?", Daily Sabah, August 19, 2019, accessed February 18, 2020, <https://www.dailysabah.com/op-ed/2019/08/19/is-turkey-still-part-of-the-west>). However, as this is still a matter of debate, we decided to follow the Democracy Index's coding, while being aware of the problematics of this issue.
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- 80 Brennan MacDonald and Vassy Kapelos, "It's 'imperative' that Canada repatriate its detained ISIS fighters, says Pompeo", CBC News, August 22, 2019, accessed February 18, 2020, <https://www.cbc.ca/news/politics/powerandpolitics/pompeo-canada-detained-isis-fighters-1.5256590>
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