Forum: GA6 (LEGAL)

Issue: The question of the legal status for returning jihadists and their families

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Introduction

In the present-day society, a growing number of jihadists, individuals who joined violent Islamist extremists, are trying to return to their home countries. The ideology of jihadists represents a radical distortion of Islamic teachings, and it is overwhelmingly rejected by mainstream Islamic communities and scholars.[3] On account of the numerous violations of domestic and international law committed by these extremist groups, governments and citizens have serious concerns about the return of the members to their motherlands. Today, a variety of armed extremist groups violently promote jihadist ideologies, such as but not limited to Islamic State (named as ISIS or ISIL) and Al-Qaeda. All these groups are responsible for the majority of foreign returnees now seeking repatriation to various parts of the world, including Europe, Central Asia, and other regions. The reality is that they have families (women, children, spouses) who are unfortunately affected by every violence and attack happening, and they are forced to stay in poor conditions such as camps in Syria and Iraq (Al-Hol, Roj camps). Nonetheless, the real question is how these people will be treated after their return to their country of origin: as criminals, combatants, victims of trafficking, or stateless persons? This question leads to a major security dilemma because two different sides should be considered: on one side, the government's priority must be protecting and balancing national security by preventing the return of individuals who previously participated in violent acts of jihadist groups, and on the other side states have legal and humanitarian obligations to follow and protect the rights of vulnerable family members, notably women and children.

Definition of Key Terms

Foreign Terrorist Fighters (FTF)

Foreign terrorist fighters are individuals who travel from their home countries to conflict zones to engage in terrorist acts. Following the persuasive propaganda by the Islamic State of Iraq and the Levant (ISIL) thousands of volunteers from countries all around the world gathered to live under the rule of the terrorist group in conflict zones such as Syria and Iraq. This included not only men, but also women and families.

Deradicalisation and Reintegration

Deradicalisation is defined as the process of guiding individuals with extreme jihadist views, to adopt a more moderate position on the issue.

Radicalisation

From the European Union definition: "radicalisation is a phased and complex process in which an individual or a group embraces a radical ideology or belief that accepts, uses or condones violence, including acts of terrorism, to reach a specific political or ideological case in this topic it is jihadism.

Repatriation

Repatriation is the process in which an individual is returning to their country of origin.

Statelessness

The international legal definition of a stateless person is "a person who is not considered as a national by any State under the operation of law".

Non-Refoulement

The principle of non-refoulement forms an essential protection under international human rights, refugee, humanitarian and customary law. It prohibits States from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, illtreatment or other serious human rights violations.

Background Information

From the very beginning of the Syrian civil war, thousands of Muslims around the world traveled to join the radical jihadist groups. So, with a small nuance Syrian civil war is countable as the origin point of foreign fighters. One of the biggest and most common jihadist extremist group is Islamic State which is a militant organization, originally rooted in Iraq, which later expanded into war-torn Syria, and in June 2014 formally proclaimed an Islamic caliphate over territory in both Iraq

and Syria. Although most foreign fighters in Syria and Iraq come from the Arab world, there is a great number of members from the West's large Muslim communities: 46 (2025) million Muslims live in the EU and more than 4.45 (2020) million Muslims live in the US.[1][2] According to a 2014 study by The Soufan Group, around 28,000 foreign fighters were described as coming from Western countries. Many were driven by radical ideological motivations, identity crises, and socio-economic marginalisation.[3] After the territorial "caliphate" collapsed in 2017, states started to face unprecedented challenges surrounding prosecution, repatriation, reintegration, and long-term monitoring of returnees, including men, women, and children. In past-years, officials of Western countries have feared that these volunteers might return from the battlefield as terrorist trained to wage jihad against their home countries, posing significant security threats. While the numbers of captured foreign fighters today are much higher than in previous years, the challenges associated with dealing with returning foreign fighters are continuing and unsolved.

Following shifted conflict dynamics and loss of territorial control of IS, resulted in many fighters to return home or relocate to new conflict theatres. States were then confronted with complicated legal barriers: evidence from warzones was often incomplete, unreliable or inaccessible due to obvious reasons. Obviously, legal barriers made prosecution extremely difficult in many jurisdictions. This caused countries to split into two: on one hand, countries who opted primarily for detention and punitive measures such as France who did the criminal prosecution of returning ISIS members under terrorism laws—an approach that has limited success for addressing long-term reintegration and security risks, on the other hand, countries who chose to experiment with multi-disciplinary reintegration pathways. For instance, Denmark's "Aarhus Model," became one of the most emblematic early experiments. It combined social services, psychological support, mentorship, education, and community engagement to redirect returnees away from extremism. The program faced significant criticism, mainly focused on its scalability, its heavy reliance on trust-building, and its vulnerability to political backlash. Unfortunately, similar approaches of other countries were unsuccessful because of insufficient funding, public opposition, and inconsistent inter-agency cooperation.

The issue of returning jihadists is a global problem. So, it is not only the countries in Europe but also Middle Eastern and African countries. For instance, Middle Eastern states such as Syria and Iraq have unfortunately large populations of ISIS former members in overcrowded camps and prisons, while several African countries face the challenge of returnees reinforcing ongoing insurgencies. The most affected countries in Africa are Nigeria and Mozambique who are struggling to contain returnees who rejoin local jihadist groups. In particular, Nigeria created a system called Operation Safe Corridor which is a rehabilitation center for helping demobilize returnees but has also several criticizations for weak vetting, limited transparency, and inconsistent reintegration outcomes.

Another critical dimension of this issue concerns the fate of children associated with IS, many whom were brought by their parents, born in the "caliphate," or forced to conscript by armed groups.

These children are fundamentally victims of conflict, exposed to severe trauma, disrupted education, malnutrition, statelessness. The major obstacle to repatriation of children is the lack of documentation in conflict zones and political reluctance to take responsibility for minors. Meanwhile, the longer children remain exposed to violence, the worse the consequences are for their psychological well-being, and even physical well-being. Despite repeated calls from UN bodies urging Member States to immediately repatriate and rehabilitate children, unfortunately, the progress has been minimal and inconsistent.

In conclusion, today, the intractable issue that the international community faces is a mix of security, legal, humanitarian, and ethical dilemmas.

Major Countries and Organizations Involved

UN and International involvement

The United Nations has taken a leading role in addressing the issue of FTFs by establishing global counter-terrorism standards, and coordinating international efforts on prosecution, rehabilitation, and reintegration frameworks.

- Security Council Resolution on Threats Posed by Foreign Terrorist Fighters, 24 September 2014 (S/RES/2178)

- Security Council Resolution on Returning and Relocating Foreign Terrorist Fighters, 21 December 2015 (S/RES/2253)

- Security Council Resolution on Prosecution, Rehabilitation, and Reintegration, 21 December 2017 (S/RES/2396)

- UN Global Counter-Terrorism Strategy Review, 30 June 2021 (A/RES/75/291)

United States of America (U.S.)

The U.S. strongly supports the repatriation and prosecution of its nationals involved with ISIS, urging other Member States to assume similar responsibilities. The U.S. actively participates in the Global Coalition to Defeat ISIS and consistently votes in favor of counter-terrorism resolutions emphasizing accountability, border security, and international information-sharing.

Republic of Turkiye

Turkiye serves as a critical frontline state due to its shared border with Syria, intensifying its measures against foreign fighter transit, improving border control, and conducting extensive detention and deportation actions.

Republic of Iraq

Iraq bears a central role, hosting detention facilities and camps with large numbers of ISIS affiliates

and returnees.

Syrian Arab Republic

Syria remains directly affected as the violent actions and attacks of jihadist extremists are taking place in the conflict zones of Syria. The Syrian government has limited formal cooperation mechanisms due to the ongoing conflict but has allowed certain humanitarian and repatriation operations through intermediaries.

Timeline of Events

Date	Description of event
2012	Rise of foreign fighters to Syria: Individuals begin traveling from Europe, Asia, and the Middle East to join jihadist groups in Syria; early recognition of FTFs.
May 24th, 2014	A French citizen, former member of ISIS, opened fire in the Jewish Museum in Brussels. His attack appeared to mark the first time that the Syrian civil war had spilled over into the European Union.
September 24th, 2014	UNSC Resolution 2178: This resolution defines FTFs and obliges states to prevent travel, prosecute fighters, and cooperate internationally.
2014-2015	ISIL global recruitment surge: Thousands of foreigners join ISIL; legal concerns emerge over citizenship, prosecution, and the status of families.
2016	Humanitarian crisis in Al-Hol and Roj camps (Iraq/Syria): Families of fighters trapped in camps; children of members face statelessness and human rights violence.
2017	Countries begin launching pilot deradicalization and rehabilitation programs for returnees, marking the start of formalized domestic solutions. 20 was the first country to launch a rehabilitation program.
November, 2019	Turkey begins a program of forced repatriation of captured foreign fighters to their home countries, arguing it is "not a hotel" for foreign detainees.
14 December, 2025	There was a mass shooting during a Hanukkah celebration that killed 15 people and injured dozens of others in Bondi Beach, Sydney, Australia.

Possible Solutions

Dealing with the challenges posed by returning foreign fighters to countries includes solutions such

as adopting Controlled Reintegration Orders (CROs) for adult returnees and establishing an international legal mechanism dedicated to the protection and rehabilitation of child returnees.

Controlled Reintegration Orders (CROs)

This is a legally supervised alternative to prison and statelessness. For returning foreign fighters, court could issue an administrative order which requires individuals to constantly participate in rehabilitation programs, trauma treatments, ideological disengagement programs, regular reportings, electronic check-ins, and community supervisions. Rehabilitation could be seen as an overpriced solution for the government, but the brutal truth is not investing in individualized rehabilitation is far more expensive and far more dangerous.

International Legal Mechanism for Child Returnees

This is a structured, child-rights-based pathway for minors who lived in conflict zones. Establishing a collaborative law within Member States recognizing all children below a determined age as victims of terrorism rather than perpetrators, mandating trauma-informed rehabilitation, educational reintegration programs, specialized family-reunification procedures, and strengthened international cooperation for identity restoration.

Endnotes

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Appendices

1. From Daesh to 'Diaspora': Tracing the Women and Minors of Islamic State
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