Wendy Rubi Chavez Tacuri

Professor Lyial S. Sunga

PL 334-1

15th April 2024

How Have the Challenges Posed by Foreign Fighters in ISIS Influenced International Counter-Terrorism Strategies, Laws, and Societal Reintegration Processes?

The rise of the Islamic State of Iraq and Syria (ISIS) during the 21st century caused a significant shift in the landscape of terrorism. This extremist group, known for its brutal tactics and widespread use of social media for propaganda, has attracted an unprecedented number of foreign fighters from around the globe; in fact, “as of December 2015, approximately 30,000 fighters from at least 85 countries had joined ISIS.”[[1]](#footnote-1) These individuals, driven by various motivations, have left their home countries to join the ranks of ISIS, raising many challenges for international counter-terrorism efforts. The purpose of this paper is to analyze the influence of these foreign fighters on international counter-terrorism strategies, laws, and societal reintegration processes. The aim is to understand how the presence of foreign fighters has shaped the global response to terrorism. This paper will first provide a factual background on the rise of ISIS and the phenomenon of foreign fighters. It will then identify the key issues and challenges posed by these individuals, including legal ambiguities and the difficulties in prosecution. Moreover, it will also explore the applicable international and domestic laws and evaluate their effectiveness in addressing the issue of foreign fighters. Furthermore, it will examine the institutional responses to these challenges, focusing on the role of the United Nations, regional organizations, governments, and non-governmental organizations. Finally, it will analyze the strengths and weaknesses of current counter-terrorism strategies in order to offer recommendations for future actions.

The Islamic State of Iraq and Syria (ISIS), also known as Daesh, emerged in the early 2000s as a branch of Al Qaeda in Iraq.[[2]](#footnote-2) Initially, ISIS began as an insurrection against the US occupation of Iraq. Subsequently, it managed to extend its influence and territorial control by exploiting the problems caused by the instability of the region during the Syrian civil war. ISIS gained global notoriety in 2014 when it declared a "caliphate" over large swathes of Iraq and Syria.[[3]](#footnote-3) The main objective of this caliphate was to establish a state governed by a strict interpretation of Islam. It also indicated ISIS’s desire to exercise control over a specific territory, which would be subject to their laws and authorities. The caliphate, led by Abu Bakr al-Baghdadi, is known for consolidating its power using strong propaganda. In fact, the widespread presence of ISIS on social media has allowed the group to promote its ideology and thus managed to recruit new members from different parts of the world. Therefore, thousands of individuals from around the world, motivated by ideological, political, and personal reasons, traveled to Iraq and Syria to join the ranks of ISIS. Consequently, the international counter-terrorism efforts face a unique challenge due to the phenomenon of foreign fighters. One of the most outstanding examples of the involvement of foreign fighters in ISIS is the 2015 Paris attacks that were planned in Syria. On November 13, 2015, a series of coordinated terrorist attacks occurred in multiple locations across Paris. The attacks were perpetrated by three groups of men, including several who had fought with ISIS in Syria.[[4]](#footnote-4)The attacks, which included suicide bombings and mass shootings, resulted in the death of 130 people and injured hundreds more, causing widespread fear and leading to significant changes in security policies in Europe.[[5]](#footnote-5) The involvement of foreign fighters in this attack highlighted the global reach of ISIS and the potential threat posed by individuals returning from conflict zones. In fact, the attacks prompted a state of emergency in France and sparked international efforts to combat terrorism. However, the 2015 Paris attacks are not an isolated incident. In fact, there have been numerous other incidents involving foreign fighters, such as the 2016 Brussels bombings, where 32 people were killed and over 300 were injured.[[6]](#footnote-6) The attacks hit Zaventem airport and Maelbeek metro station. Among those found guilty was Salah Abdeslam who had already been sentenced to life imprisonment in France for his involvement in the 2015 Paris terrorist attacks. [[7]](#footnote-7) These incidents underscore the transnational nature of the foreign fighter phenomenon and its implications for international security. The recruitment and involvement of foreign fighters in ISIS have been influenced by a variety of factors such as the group's use of social media for recruitment, the appeal of its ideological narrative, and the geopolitical dynamics of the regions from which these fighters originate. Moreover, the number of foreign fighters who joined territories controlled by ISIS peaked around 2014 and 2015. However, this flow declined shortly after because of territorial losses suffered by ISIS and because of numerous efforts by the international community to stop the rise of foreign fighters in those years. Today, although the number of fighters has decreased, the risk posed by those who are still active and who have returned to their countries of origin is still a major concern for international security.

The involvement of foreign fighters in terroristic groups such as ISIS presents a myriad of challenges for international counter-terrorism efforts. One of the primary issues is the prosecution of these individuals. Collecting sufficient evidence to prosecute foreign fighters is a complex task due to the nature of the conflict zones they operate in. In fact, “even if those countries agree to take in the defendants, they would be difficult to prosecute due to a lack of evidence, which is often not shared internationally.”[[8]](#footnote-8) This highlights the difficulty in prosecuting foreign fighters and underscores the challenges faced by legal systems in dealing with foreign fighters involved in ISIS. Legal systems across the world grapple with questions such as what constitutes sufficient proof of membership in a terrorist organization, and how to handle evidence collected on the battlefield. Another challenge is the issue of nationality. In fact, “Western governments have tried to dump citizens accused of fighting abroad on their supposed ‘countries of origins,’ including cases where they had never even visited those countries.”[[9]](#footnote-9) This action is problematic because it raises various legal and moral questions since it is expected that developing countries will address the problems of developed countries. Moreover, some countries have taken the controversial step of stripping citizenship from foreign fighters, leaving them stateless. For example, “the Netherlands and France are the only two EU countries that explicitly list terroristic activities as a reason to cancel a person’s citizenship.”[[10]](#footnote-10) This approach raises questions about the responsibility of states towards their nationals who get involved in terrorism; moreover, it could lead to possible violation of human rights, especially if foreign fighters risk being abused or violated in their countries of origin. Another problem is the reintegration of foreign fighters into society. Indeed, when these individuals have to return to their own countries, they often face serious physical and mental problems caused by the conflicts in which they have participated. Moreover, there is a possibility that they may be radicalized or sympathetic to extremist ideologies, posing a potential risk to national security. To try to reduce this risk, it is important to try to develop effective programs that will help them to reintegrate into society. Furthermore, there is also controversy over the use of military force against foreign fighters, with critics arguing that this approach can fuel radicalization. Hence, although it is true that foreign fighters represent a significant security risk, it is essential to understand that we must focus on the causes of radicalization. Moreover, it is important to respect the principles of justice and their human rights, which means that fair legal processes must be guaranteed, collective punishment must be avoided and the social and economic problems that push people to join extremist groups must be addressed.

The issue of foreign fighters in ISIS intersects with various norms of international law, including international human rights law, international criminal law, and international humanitarian law. At the international level, the United Nations Security Council (UNSC) has adopted several resolutions addressing the issue of foreign fighters. For instance, UNSC Resolution 2178, adopted in 2014, “Decides that with regard to foreign terrorist fighters, member states shall prevent and suppress recruiting, organising, transporting or equipping; prevent and suppress financing; and prevent travel.”[[11]](#footnote-11) This resolution represents a significant step in the international legal response to foreign fighters, although its implementation at the national level varies. This variation from one country to another one is due to several factors such as the differences in the counter-terrorism laws of individual countries; in fact, “each country has its own legal and institutional framework for dealing with terrorism, which can affect how they implement and enforce international resolutions like UNSC Resolution 2178.”[[12]](#footnote-12) Another factor to consider is the different capabilities and resources of each country since implementing such decisions often requires many means, such as law enforcement and judicial capabilities, which may not be equally available in all countries. In addition to UNSC resolutions, there are several international treaties relevant to the issue of foreign fighters. These include the International Convention for the Suppression of the Financing of Terrorism and the International Convention for the Suppression of Terrorist Bombings. The International Convention for the Suppression of the Financing of Terrorism criminalizes “the provision or collection of funds with the intention or knowledge that they are to be used to carry out any act intended to cause death or serious bodily injury to any person not actively involved in armed conflict, in order to intimidate a population, or to compel a government or an international organization to do or abstain from doing any act”[[13]](#footnote-13) while the International Convention for the Suppression of Terrorist Bombings criminalizes “the act of unlawfully and intentionally delivering, placing, discharging, or detonating an explosive or other lethal device in, into, or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility, with the intent to cause death or serious bodily injury, or extensive destruction likely to result in major economic loss.”[[14]](#footnote-14) Moreover, at the regional level, various organizations have also taken steps to address the issue of foreign fighters. For example, the European Union has adopted a Directive on Combating Terrorism, which criminalizes acts related to foreign terrorist fighters.[[15]](#footnote-15) Similarly, the African Union's Convention on the Prevention and Combating of Terrorism provides a framework for cooperation among African states in dealing with terrorism and related issues.[[16]](#footnote-16) Furthermore, at the domestic level, countries have adopted a range of measures to deal with foreign fighters that are often in line with international and regional norms. These measures include criminalizing travel to conflict zones, membership in terrorist organizations, and other activities related to foreign fighters.

The current strategies, laws, and reintegration processes addressing the issue of foreign fighters present many strengths and weaknesses. On the positive side, the international community’s strong commitment to addressing the issue of foreign fighters is shown by their adoption of United Nations Security Council resolutions and regional directives. These legal instruments have provided a scheme for states to criminalize activities related to foreign fighters and to cooperate in their prosecution and extradition. Moreover, the involvement of non-governmental organizations in research, advocacy, and reintegration efforts has added a crucial dimension to the response. In fact, “in times of conflict non-governmental organizations are said to be the first to arrive and last to leave, stepping in to provide invaluable social and humanitarian relief when governments cannot.”[[17]](#footnote-17) However, “for those countering terrorism, non-profits present a double-edged sword. By alleviating poverty and strengthening cohesion they can help to prevent radicalization. Yet, some of their organizational features put them at risk of being exploited to fund terrorism.”[[18]](#footnote-18) Therefore, these types of organizations play an important role in preventing radicalization and promoting social cohesion because they often focus on alleviating poverty and addressing the social and economic disparities that can increase extremist recruitment. However, the characteristics of non-governmental organizations such as, for example, transparency and easy access to funds may make them vulnerable since terrorist groups could exploit them as a means of financing terrorism, hiding their illegal activities behind charities. Therefore, to prevent this from happening, there is the need to actively control the financial activities of non-profit organizations. This implies the necessity to carefully regulate and monitor the activities of these organizations to ensure that their beneficial role and contribution to the prevention of radicalization are not undermined. Moreover, there are also other significant weaknesses and gaps in the current law, policy, and practice. One of the main challenges is the enforcement of laws against foreign fighters. Despite the existence of international and domestic laws criminalizing activities related to foreign fighters, the prosecution of these individuals remains difficult due to challenges in gathering evidence and ensuring due process. Another weakness is the controversial practice of stripping foreign fighters of their nationality. While this measure may seem to offer a quick solution to the problem, it raises serious human rights concerns and does not address the root causes of radicalization. In fact, “States shall not deprive persons of nationality for the purpose of safeguarding national security.”[[19]](#footnote-19) Martin Scheinin also acknowledges the risk of human rights violations, stating that the execution of specific functions “may never violate peremptory or non-deroglable norms of international law, nor impair the essence of any human right.”[[20]](#footnote-20)Moreover, it leaves individuals stateless and may hinder efforts to prosecute them for their actions.[[21]](#footnote-21)Another problem is the reintegration of foreign fighters into society since many “countries continue to look for innovative ways to rehabilitate individuals who may have travelled to conflict zones but cannot be prosecuted due to lack of evidence.”[[22]](#footnote-22) Hence, to address these challenges, several recommendations can be made. First, states should enhance their cooperation in the prosecution of foreign fighters. This could involve sharing evidence and strengthening international legal mechanisms for extradition; in fact, in the Model Treaty on Extradition[[23]](#footnote-23) is stated that “the establishment of bilateral and multilateral arrangements for extradition will greatly contribute to the development of more effective international co-operation for the control of crime.”[[24]](#footnote-24) In addition, Article 1 of this model states that “Each Party agrees to extradite to the other, upon request and subject to the provisions of the present Treaty, any person who is wanted in the requesting State for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence.”[[25]](#footnote-25)Second, instead of resorting to revocation of nationality, states should consider alternative measures that comply with human rights and international law; for example, this could include the use of administrative measures, such as travel bans and asset freeze. Lastly, states and international organizations should invest in the development of comprehensive reintegration programs. In fact, these programs should provide support for the physical and psychological rehabilitation of foreign fighters and facilitate their reintegration into society through education, employment, and community engagement. Hence, while the international community has made significant progress in addressing the issue of foreign fighters, there are still considerable gaps in law, policy, and practice. Consequently, there is a need for a more comprehensive approach that addresses the root causes of radicalization, ensures accountability for foreign fighters, and supports their reintegration into society.

In conclusion, the phenomenon of foreign fighters in ISIS has had a profound impact on international counter-terrorism strategies, laws, and societal reintegration processes. States and international organizations have faced difficult challenges as a result of the recruitment and engagement of these individuals in terrorist operations. In fact, the 2015 Paris attacks, which were planned by individuals who struggled with ISIS in Syria, and the 2016 Brussels bombings demonstrate the difficulty and importance of international cooperation in preventing and countering terrorism. The challenges posed by foreign fighters range from the complex problem of prosecuting them due to difficulties in gathering evidence from conflict zones to the intricate situations that arise due to nationality and citizenship that could lead to the practice of stripping individuals of their nationality raising moral and legal concerns. Moreover, the reintegration of foreign fighters into society also represents a challenge due to their vulnerability to radicalization upon their return. Essentially, foreign fighters pose legal, security, humanitarian, and social concerns that require comprehensive and coordinated responses at the national, regional, and international levels. At the national level countries have implemented legal systems to criminalize involvement with terrorist organizations and activities related to foreign fighters. Additionally, some nations have developed reintegration programs aimed at supporting the rehabilitation and social integration of returning fighters. However, the effectiveness of these reintegration programs depends on resource limitations and differing legal interpretations. At the regional level, the European Union and the African Union have taken steps to address the issue through cooperation agreement and conventions. Lastly, at the international level, the United Nations Security Council has adopted resolutions and treaties addressing the issue of foreign fighters such as the International Convention for the Suppression of the Financing of Terrorism that provides legal frameworks for combating related activities and the International Convention for the Suppression of Terrorist Bombings; however, the differences in legal systems among member states can impede effective cooperation. Hence, the issue of foreign fighters in ISIS is a complex problem that requires a coordinated and comprehensive response. In fact, states should enhance cooperation in prosecutions, explore alternatives to nationality revocations, and invest in comprehensive reintegration programs for returning fighters. This involves sharing evidence, strengthening legal mechanisms, and ensuring human rights compliance for effective counter-terrorism measures.

Bibliography

1997 International Convention for the Suppression Of ... Accessed April 11, 2024. https://www.unodc.org/documents/treaties/Special/1997 International Convention for the Suppression of Terrorist.pdf.

1999 International Convention for the Suppression of the ... Accessed April 11, 2024. https://www.unodc.org/documents/treaties/Special/1999 International Convention for the Suppression of the Financing of Terrorism.pdf.

1999 International Convention for the Suppression of the ... Accessed April 9, 2024. https://www.unodc.org/documents/treaties/Special/1999 International Convention for the Suppression of the Financing of Terrorism.pdf.

“The Challenge of Foreign Fighters: Repatriating and Prosecuting Isis Detainees.” Middle East Institute. Accessed April 9, 2024. <https://www.mei.edu/publications/challenge-foreign-fighters-repatriating-and-prosecuting-isis-detainees>.

“Directive - 2017/541 - En - EUR-Lex.” EUR. Accessed April 11, 2024. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32017L0541>.

Dupire, Camille. “Terrorist Financing and the Non-Profit Sector: The Case for Deepening Dialogue and Cooperation.” EU AML/CFT Global Facility, May 5, 2021. <https://www.global-amlcft.eu/terrorist-financing-and-the-non-profit-sector-the-case-for-deepening-dialogue-and-cooperation/>.

Europa. Accessed April 9, 2024. <https://www.europarl.europa.eu/RegData/etudes/ATAG/2015/549013/EPRS_ATA(2015)549013_FR.pdf>.

ICRC. Accessed April 11, 2024. <https://international-review.icrc.org/sites/default/files/reviews-pdf/2022-02/stripping-foreign-fighters-of-their-citizenship-hr-and-ihl-considerations-916.pdf>.

Model treaty on extradition\*. Accessed April 11, 2024. <https://www.unodc.org/pdf/model_treaty_extradition.pdf>.

OAU Convention on the prevention and combating of terrorism | african union. Accessed April 11, 2024. <https://au.int/en/treaties/oau-convention-prevention-and-combating-terrorism>.

“Paris Attacks: What Happened on the Night.” BBC News, December 9, 2015. <https://www.bbc.com/news/world-europe-34818994>.

“Rehabilitation and Reintegration of Foreign Terrorist Fighters and Violent Extremist Offenders.” UNICRI. Accessed April 11, 2024. <https://unicri.it/news/article/rehabilitation_reintegration_foreignfighters_terrorists>.

“S/RES/2178 (2014) Security Council.” United Nations. Accessed April 9, 2024. <https://www.un.org/securitycouncil/s/res/2178-%282014%29>.

Schumacher, Elizabeth. “Revoking Citizenship: How It Works across the EU – DW – 03/05/2019.” dw.com, March 6, 2019. <https://www.dw.com/en/revoking-citizenship-how-it-works-across-the-eu/a-47773802>.

“Six Men Guilty of Murder over Brussels Terrorist Attacks in 2016.” The Guardian, July 25, 2023. <https://www.theguardian.com/world/2023/jul/25/eight-men-found-guilty-of-brussels-terrorist-attacks-in-2016>

“Timeline: The Rise, Spread, and Fall of the Islamic State.” Wilson Center. Accessed April 11, 2024. <https://www.wilsoncenter.org/article/timeline-the-rise-spread-and-fall-the-islamic-state>.

“UNSC Resolution 2178: How Easily Can It Be Enforced?” BBC News, September 26, 2014. <https://www.bbc.com/news/world-middle-east-29359901>.

“Where Are Isis’s Foreign Fighters Coming From?” NBER. Accessed April 11, 2024. <https://www.nber.org/digest/jun16/where-are-isiss-foreign-fighters-coming>.

1. “Where Are Isis’s Foreign Fighters Coming From?,” NBER, accessed April 3, 2024, <https://www.nber.org/digest/jun16/where-are-isiss-foreign-fighters-coming>. [↑](#footnote-ref-1)
2. “Timeline: The Rise, Spread, and Fall of the Islamic State,” Wilson Center, accessed April 4, 2024, <https://www.wilsoncenter.org/article/timeline-the-rise-spread-and-fall-the-islamic-state>. [↑](#footnote-ref-2)
3. Ibid. [↑](#footnote-ref-3)
4. “Paris Attacks: What Happened on the Night,” BBC News, December 9, 2015, <https://www.bbc.com/news/world-europe-34818994>. [↑](#footnote-ref-4)
5. Europa, accessed April 3, 2024, <https://www.europarl.europa.eu/RegData/etudes/ATAG/2015/549013/EPRS_ATA(2015)549013_FR.pdf>. [↑](#footnote-ref-5)
6. “Six Men Guilty of Murder over Brussels Terrorist Attacks in 2016,” The Guardian, July 25, 2023, <https://www.theguardian.com/world/2023/jul/25/eight-men-found-guilty-of-brussels-terrorist-attacks-in-2016>. [↑](#footnote-ref-6)
7. Ibid. [↑](#footnote-ref-7)
8. “The Challenge of Foreign Fighters: Repatriating and Prosecuting Isis Detainees,” Middle East Institute, accessed April 9, 2024, <https://www.mei.edu/publications/challenge-foreign-fighters-repatriating-and-prosecuting-isis-detainees>. [↑](#footnote-ref-8)
9. “The Challenge of Foreign Fighters: Repatriating and Prosecuting Isis Detainees,” Middle East Institute, accessed April 9, 2024, <https://www.mei.edu/publications/challenge-foreign-fighters-repatriating-and-prosecuting-isis-detainees>. [↑](#footnote-ref-9)
10. Elizabeth Schumacher, “Revoking Citizenship: How It Works across the EU – DW – 03/05/2019,” dw.com, March 6, 2019, <https://www.dw.com/en/revoking-citizenship-how-it-works-across-the-eu/a-47773802>. [↑](#footnote-ref-10)
11. “S/RES/2178 (2014) Security Council,” United Nations, accessed April 7, 2024, <https://www.un.org/securitycouncil/s/res/2178-%282014%29>. [↑](#footnote-ref-11)
12. “UNSC Resolution 2178: How Easily Can It Be Enforced?,” BBC News, September 26, 2014, <https://www.bbc.com/news/world-middle-east-29359901>. [↑](#footnote-ref-12)
13. 1999 International Convention for the Suppression of the ..., accessed April 7, 2024, <https://www.unodc.org/documents/treaties/Special/1999> International Convention for the Suppression of the Financing of Terrorism.pdf, 1. [↑](#footnote-ref-13)
14. 1997 International Convention for the Suppression Of ..., accessed April 7, 2024, <https://www.unodc.org/documents/treaties/Special/1997> International Convention for the Suppression of Terrorist.pdf, 1. [↑](#footnote-ref-14)
15. “Directive - 2017/541 - En - EUR-Lex,” EUR, accessed April 7, 2024, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32017L0541>. [↑](#footnote-ref-15)
16. 1. OAU Convention on the prevention and combating of terrorism | african union, accessed April 7, 2024, <https://au.int/en/treaties/oau-convention-prevention-and-combating-terrorism>. [↑](#footnote-ref-16)
17. Camille Dupire, “Terrorist Financing and the Non-Profit Sector: The Case for Deepening Dialogue and Cooperation,” EU AML/CFT Global Facility, May 5, 2021, <https://www.global-amlcft.eu/terrorist-financing-and-the-non-profit-sector-the-case-for-deepening-dialogue-and-cooperation/>. [↑](#footnote-ref-17)
18. Ibid. [↑](#footnote-ref-18)
19. Institute on Statelessness and Inclusion, Principles on Deprivation of Nationality as a National Security Measure, February 2020, available at: <https://www.institutesi.org/year-of-action-resources/principles-ondeprivation-of-nationality> , p. 9. [↑](#footnote-ref-19)
20. Human Rights Council, Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, Martin Scheinin: Ten Areas of Best Practices in Countering Terrorism, A/HRC/16/51, para. 16. [↑](#footnote-ref-20)
21. ICRC, accessed April 11, 2024, <https://international-review.icrc.org/sites/default/files/reviews-pdf/2022-02/stripping-foreign-fighters-of-their-citizenship-hr-and-ihl-considerations-916.pdf>. [↑](#footnote-ref-21)
22. “Rehabilitation and Reintegration of Foreign Terrorist Fighters and Violent Extremist Offenders,” UNICRI, accessed April 11, 2024, <https://unicri.it/news/article/rehabilitation_reintegration_foreignfighters_terrorists>. [↑](#footnote-ref-22)
23. Adopted by General Assembly resolution 45/116 [↑](#footnote-ref-23)
24. 1. Model treaty on extradition\*, accessed April 11, 2024, <https://www.unodc.org/pdf/model_treaty_extradition.pdf> , 3. [↑](#footnote-ref-24)
25. Ibed. 8. [↑](#footnote-ref-25)