

Marching home? Why repatriating foreign terrorist fighters is a pan-European priority

Ian Acheson
Amanda Paul



Credit: Fabian SOMMER / DPA / AFP

Table of contents

Executive summary	3
Introduction	3
Ticking time bombs	4
Repatriation: Unpopular and piecemeal	5
Emerging themes	7
Ending the bunker mentality	7
Endnotes	10

ABOUT THE AUTHORS



Ian Acheson
is a senior advisor to the Counter Extremism Project and a Visiting Professor at Staffordshire University's School of Law, Policing and Forensics



Amanda Paul
is a Senior Policy Analyst in the Europe in the World Programme programme

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Executive summary

Since the fall of the 'caliphate' of the so-called Islamic State (ISIS), hundreds of European foreign terrorist fighters (FTFs) and their families remain incarcerated in overcrowded, insecure and unsanitary prisons and camps in Syria and Iraq. While some children have been repatriated, there is a broad popular European resistance to the idea of bringing 'dangerous traitors' home, as they are often viewed as significant security threats. Rather, European political elites prefer to wash their hands of the problem, leaving them in the 'care' of the Kurdish-led Syrian Democratic Forces (SDF) or proposing that they be tried in Iraq or elsewhere.

The future situation in north-eastern Syria remains highly volatile and uncertain. Fighting between Turkish-led forces and the SDF in October 2019 led to significant upheaval, increased instability, and a number of prison breakouts – which included Europeans FTFs – and riots taking place. European governments face the risk that more of their nationals could escape from prisons and re-join ISIS or other jihadist groups, perhaps becoming involved in attack plans or recruitment efforts back at home or elsewhere. Allowing European FTFs to return home illicitly, equipped with dangerous skills and connections, should be avoided at all costs.

Moreover, delaying the repatriation of women and children is a mistake. Growing up in brutal conditions and subjected to persistent indoctrination, children, particularly teenage boys, are particularly at risk of becoming radicalised. These conditions breed a new

generation of ISIS militants, ready to carry out a terrorist attack on European soil. Dealing with European FTFs appropriately is an important part of the EU's broader approach to preventing the resurgence of ISIS and should not be avoided. A parallel commitment to human rights in this process is not a sign of weakness, but rather demonstrates the enduring superiority of the values of liberal democracies over theocratic violence.

European governments should stop burying their heads in the sand and take responsibility for their citizens. Several key steps can be taken. For example, the process of investigating European FTFs' crimes could already start in Syria and Iraq, and then be followed through by the respective judicial systems across Europe. A 'European Entry/Dispersal Model' should be created for this purpose, under an expanded Directive 2017/541. This is the Directive that criminalises those who seek to travel for the purposes of violent extremism.

European governments must abandon their dangerous 'bunker mentality' and hold their citizens accountable in their home countries, with appropriate punishment and proportionate control measures for those who have committed crimes abroad and remain a national risk. The threat they pose can be substantially reduced by the development of a menu of practitioner-led and -validated interventions, specifically for returning European FTFs who receive custodial sentences. It should include utilising genuinely recanting jihadis to combat the attraction of violent extremism inside prisons.

Introduction

Since the fall of the so-called Islamic State (ISIS) 'caliphate' in Syria and Iraq in December 2017, hundreds of European foreign terrorist fighters (FTFs) and their families remain incarcerated in Syria and Iraq. The repatriation and prosecution of FTFs have proven to be an incredibly divisive issue for political elites across Europe. As such, European capitals remain reluctant to accept their nationals back, believing that this will protect their citizens at home. Some states have even gone as far as to strip them of their citizenship.

This approach amounts to a denial of responsibility for the return of these FTF and their families and their civil rights. It also poses a danger to global security, as it risks hardening the ideology of detainees further, potentially preparing them to form the core of a future resurgence of ISIS. Moreover, the increasing instability in north-eastern Syria is resulting in growing numbers of detained combatants escaping from the prisons and camps where they are detained, and possibly returning home with devastating consequences. In the meantime, the humanitarian and security conditions in said prisons and camps continue to worsen. The COVID-19 pandemic has further exacerbated this situation. European nations must take responsibility for their nationals and bring them home. Kicking the can down the road is a recipe for disaster.

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Ticking time bombs

Following the outbreak of the Syrian civil war in 2011, at least 40,000 people flocked to Syria and Iraq to join ISIS as FTFs or to live under its rule. It is estimated that more than 5,000 originated from Europe.¹ In a lawless combat zone with no formal government, establishing today's number of European citizens is tricky. With the fall of the 'caliphate', some European FTFs returned home or moved to other war theatres in Southeast Asia and Africa, where a resurgence of ISIS is underway.² It is approximated that between 400 and 500 adults and 700 to 750 children from Europe remain detained in prisons and camps in north-eastern Syria that are under the control of the Kurdish-led Syrian Democratic Forces (SDF). The largest group is French (130 adults, 270-320 children), followed by Germany, Belgium, the Netherlands, Sweden and the UK.³

Most male detainees are held in prisons at Hasakah and Dashisha. Women and children are detained at the al-Hol, Roj and Ain Issa camps. Conditions in these SDF camps and prisons are appalling. Dire overcrowding and horrifyingly fetid environments are risking lives. The majority of women and children (almost 70,000) reside in al-Hol camp,⁴ where sexual abuse and endemic violence are widespread and basic health services are lacking. Furthermore, according to Crisis Group, women who have rejected militancy are forced to live with committed jihadists in conditions that enable abuse and intimidation.⁵ The COVID-19 pandemic has exacerbated this situation. In July 2020, the Under-Secretary-General of the UN Counter-Terrorism Office, Vladimir Voronkov, reported that 700 people recently died in two camps in north-eastern Syria due to the "very dire conditions."⁶

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With limited resources and fewer humanitarian support personnel on the ground amid a pandemic, delivering assistance to and maintaining control over the security of thousands of detainees is becoming increasingly ineffective, making prisons and camps ticking time bombs. Such conditions also risk strengthening the radical ideology of those incarcerated. Escapes from custody are common. The SDF have repeatedly called for the repatriation of all foreign detainees.

Already struggling to deal with the FTFs they have tracked and brought home, European governments remain extremely reluctant to continue this practice, including for women and children, citing security

concerns. The repatriation of FTFs and their cohort is a very divisive issue, both societally and politically. For example, on 19 November 2019, a domestic court in The Hague ruled that the Netherlands must actively help repatriate the children of women who joined ISIS. The Dutch state immediately announced that it would appeal the ruling. In June 2020, after an ensuing legal argument, the Supreme Court of the Netherlands finally reversed this decision, ruling that the state was not legally required to assist in the repatriation of the children.⁷

A 2018 study of 230 former European FTFs who returned home reveals that those who do re-engage in terrorism do so within 12 months of repatriation.⁸ This seems to relate to the resilience of the ideological commitment of a minority of fighters, that is immune to potential disincentives of trauma, disappointment and disillusionment – which many foreign jihadists report is the reality of their insurgent experience.⁹ Returned FTFs have been implicated in some of the deadliest terror attacks and plots of the last decade in Europe, including the 2015 Paris attacks. While the European Council and Parliament have ratified counterterrorism directives that criminalise citizens who travel for the purposes of terrorism, no unanimity exists within the EU regarding what methods and interventions to use to manage the longer-term risk of FTFs returning home. Using informal and/or clandestine routes to return to their home countries – perhaps posing as refugees, as was the case with the Charlie Hebdo attackers – means limited to no contact with authorities and poses an obviously unquantifiable risk.

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Only a small number of European FTFs and their families have been repatriated as of yet. Most European states have only been ready to bring orphans back. Some have even gone as far as to withdraw citizenship. Others have supported their nationals being tried in the region: Some foreign ISIS suspects arrested in Syria, notably French, have been transferred to Iraq, where the death penalty is commonplace. International bodies have severely criticised the conduct of such terrorism trials.¹⁰ International law grants everyone the right to return to their home country and obligates states to fulfil a child's right to acquire a nationality. Consequently, the UN special rapporteur on extrajudicial, summary or arbitrary executions rebuked France for its alleged

involvement in the transfers of nationals to Iraq, who now face death penalties.¹¹

The situation in north-eastern Syria is very volatile, and its future remains uncertain. Turkey's military operation in October 2019 highlighted the urgency of the problem. Fighting between Turkish-led forces and the SDF led to significant upheaval and instability. Consequently, some 750 people escaped Ain Issa camp, including Europeans (i.e. British, French, Swedish, Belgian).¹² Among those are Belgians Tatiana Wielandt and Bouchra Abouallal, who left Antwerp for Syria together with their husbands and children. Their husbands were members of the terrorist group Sharia4Belgium. There have been many other escape attempts since October 2019.

For example, in March 2020, a riot at Ghweran prison in the city of Hasakah led to several ISIS militants absconding. Riots have also taken place at the al-Sinaa prison, again in Hasakah, where some 5,000 FTFs are

Repatriation: Unpopular and piecemeal

While no consensus exists on the repatriation process, the European countries with the highest number of FTFs per capita in the former ISIS territory tend to rank their interventions. Generally, unaccompanied minors have the greatest chance of repatriation, followed by non-combatant women and their children. These countries include France, the UK, Belgium, Sweden, Germany and Denmark. They are all struggling to strike a balance between generally hostile public sentiments to repatriation, and ethical and/or national security concerns. Assessing the key features of the disparate approaches described below and comparing them with neighbouring Kosovo – another large exporter of FTFs – provides direction for policy improvements in Europe.

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Sweden

Sweden has one of the highest numbers of FTFs per capita in Europe: an estimated 300 of its citizens have travelled to Syria from 2012 to 2015.¹⁶ Gothenburg is a hub for Islamist radicalisation, accounting for about a third of this number. Sweden has particular characteristics that may have had a bearing on its experience with violent extremism.¹⁷ It took, per capita,

detained, including Europeans.¹⁵ As a result of the worsening security situation in north-eastern Syria, the US doubled the budget foreseen for detention facilities to \$20 million to strengthen the region's internal security mechanisms.¹⁴ The SDF have also taken parallel steps to beef up their security, such as reduce the number of inmates in their prisons. Their release of Syrian ISIS members, which began in January 2020 as part of an amnesty programme in cooperation with northern Syrian tribal leaders, is another example.¹⁵

Despite these steps, further prison breaks remain highly likely. European nationals could escape from the still relatively insecure Kurdish detention centres and re-join ISIS or other jihadist groups. They could become involved in terrorist attacks or recruitment efforts, back at home or elsewhere. Allowing European FTFs to return home illicitly, equipped with dangerous skills and connections, should be avoided at all costs.

the highest number of asylum seekers in 2015 during the European migration crisis (160,000 migrants);¹⁸ had no experience in confronting domestic terrorism before 2005; and is experiencing an unprecedented spike in violent crimes involving guns, gangs and explosives.¹⁹

The estimated 150 Swedish FTF returnees have not been convicted of further extremism-related offences in Sweden since returning. The state does not routinely investigate returning FTFs for battlefield crimes or membership of terrorist organisations. It is unclear whether they have actually rejected Islamist ideology. Minister of the Interior Mikael Damberg suggested that an international tribunal be established in Iraq, with access to local combat areas and evidence of war crimes.²⁰

France

In absolute numbers, France is the largest exporter of FTFs to Syria and Iraq. Of the 2,000 who travelled since 2012, approximately 220 returned by early 2018.²¹ Many have since been prosecuted and imprisoned by French laws which criminalise associating with terrorist enterprises. However, more have been tried in Iraqi courts as part of a controversial 'outsourcing' of detained French nationals to Iraqi jurisdiction.

There has been a steady increase in the use of prison sentences and pre-trial detention for all terrorist offenders, including FTFs, in France. This is part of a trend that started in the 90s and expanded considerably after the *Charlie Hebdo* massacre in 2015. A significant number of those imprisoned for terrorism-related offences (300) will, however, be released over the next four years.²² Some FTFs have maintained their

ideological commitment throughout the criminal process, continuing their jihad upon release. This year alone, an estimated 9% of France's 500 jihadist prisoners – which includes an unquantified number of FTFs – will be released.²³ French public opinion is resolutely against FTFs returning home.

Denmark

Danish intelligence services estimate that 150 nationals fought for ISIS. Of those, a third are dead, another third have returned, and the final third are still at large, possibly having migrated to other war theatres. Denmark has one of the lowest ratios of men to women leavers (10:1).

Danish courts have used battlefield intelligence from third parties in Syria and Iraq to secure convictions. Such evidence is not always admissible in other European countries (i.e. Germany, the UK) which rule out social media and some intercept intelligence from its courts. Denmark's approach to reintegrating returned FTFs back into society through long-term mentoring and community partnership has been upheld as a model of good practice.²⁴

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Belgium

Belgium exported, per capita, the largest number of FTFs in the EU.²⁵ Estimates vary, but probably over 500 citizens travelled to ISIS-held territory since 2011. The average age of this overwhelmingly male cohort is 26.²⁶ The return of some ideologically hostile and weapons-trained combatants to the country and the high incidence of Belgian nationals as instigators of EU terrorist attacks have prompted a reform of the Belgian penal code and greater federal control. This is notable, as Belgium is a country that is accustomed to a more decentralised criminal justice system.

In 2018, 44 returning FTFs were held across 32 of Belgium's prisons, including two special units at Hasselt and Ittre prisons for the most dangerous.²⁷ This policy of separation was designed to respond to repeated assertions that Belgian prisons are incubators for violent extremism, due to the proximity of violent criminal offenders and charismatic jihadi recruiters.²⁸

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Germany

German authorities have successfully prosecuted returning FTFs who fought in Syria and Iraq for war crimes and crimes against humanity, namely genocide. Germany does not deprive FTFs of citizenship or try them in absentia, unlike other EU jurisdictions. Of the 960 citizens who left Germany to join ISIS, the majority had already been investigated for prior criminal activity before departing. Of the more than 300 known returnees, federal sources estimate that around 80 are combat trained. Ideological disengagement was cited as a reason for return in only 10% of those interviewed; the majority cited frustration or family pressure as reasons for returning.²⁹

United Kingdom

At least 900 UK nationals deemed to be of concern to national security travelled to Syria and Iraq. Security sources estimate that to date, 20% have been killed, 40% remain in the region, and 40% have returned.³⁰ The police and intelligence services subject those who have returned and been located to a risk assessment. The majority have been assessed as "low or no risk".³¹

Since 2016, the UK has extensively revoked citizenship from around 100 citizens holding dual nationality, to prevent them from returning. Most of these cases are related to their support for or participation in terrorism abroad.³² This move reflects widespread public opposition to the repatriation of those who have joined terrorist organisations and their dependents.

Kosovo

In this majority Muslim country – itself a fragile, post-conflict state – the return and reintegration of FTFs is a specific government objective. Between 2012 and 2015, 355 Kosovars travelled to Syria and Iraq as combatants against the Assad regime, before transitioning into ISIS fighters.³³ This figure signals a remarkably high level of radicalisation in terms of population size.

The return and reintegration of FTFs is a specific government objective of Kosovo.

The first wave of returnees, before 2016, were criminalised and imprisoned. In 2019, a second group of mainly women and children were repatriated by formal means and subjected to primarily psychological

Emerging themes

Several common themes emerge from this comparative analysis and further research, assisted by an EPC-CEP Expert Roundtable event that took place in September 2020:

- ▶ There is a **slow** (yet variable) **expansion of administrative controls over FTFs in Europe**, including pre-trial detention, to overcome evidential challenges when the risk of re-engaging in violent extremism on home soil is judged high.
- ▶ There is **popular European resistance to the idea of bringing 'dangerous traitors' home**. Given the popular revulsion over recent terrorist attacks in Europe, the perception of compassion towards those who have betrayed their country, particularly in the context of a global pandemic, is political suicide.

Ending the bunker mentality

As our case studies show, the reintegration of FTFs and their dependents is unpopular and piecemeal in Europe. Furthermore, government agencies are ill-equipped to detect those who return independently, often through clandestine channels or even concealed within larger groups of transnational migration seen across Europe's porous frontiers. The increasingly poor conditions of SDF-managed prisons and camps seem set to bring more unrest among detainees, which risks further riots and escapes. During their detention, FTFs remain at risk of being further radicalised by and networking with other foreign ISIS inmates. The potential for escape is high, as is the likely threat posed by mobile and untraceable European citizens with combat experience seeking to link up with other jihadists worldwide. There is a real and imminent danger of an uncontrolled dispersal of thousands of FTFs, hundreds of whom originate from Europe.

A recent US Department of Defense report amplified this threat. It concluded that the "residents of al Hol and other, smaller [camps of internally displaced persons are] potentially susceptible to ISIS messaging, coercion, and enticement".³⁵ Kurdish forces controlling detention facilities in Syria for displaced citizens, including many children and women who lived under caliphate rule, have announced the release of thousands of Syrian nationals. Foreign nationals are not included in this

and educational support to re-enter society. High levels of post-traumatic stress disorder (PTSD) were detected in this group, particularly in children exposed to long-term, multi-level trauma.³⁴

- ▶ **Repatriation is generally weighted towards the 'innocent' unaccompanied children of combatants.** As European countries do not want to repatriate women, hundreds of children remain in Syria, making them particularly vulnerable to radicalisation.
- ▶ The continuing detention of European FTFs in conditions where their risk, safety and control are contingent on fragile detention with all the precursors present for radicalisation **is highly dangerous to the long-term national security of countries of origin.**
- ▶ At either end of the **spectrum of European responses to repatriating its FTFs**, the UK approach is more punitive in nature. Kosovo, on the other hand, has evolved to become more exculpatory, probably out of sheer necessity.

initiative. However, the forces have repeatedly warned that they do not have the resources to secure the remaining highly radicalised and violent core, which includes European citizens.

Delaying the repatriation of women and children is a mistake. Growing up in brutal conditions and subjected to persistent indoctrination, children – particularly teenage boys – are particularly at risk of becoming radicalised and pursuing the path of terrorism. Footage from the al-Hol camp suggests continuing ideological indoctrination of children by radicalised female ISIS supporters who also reside in the camp.³⁶ Extremist women trying to impose ISIS-style Sharia law on to other female camp residents is also a common problem, as it risks increasing numbers of radicalised women.

European governments should stop burying their heads in the sand, put an end to their bunker mentality and take responsibility for the repatriation and secure reintegration of their citizens. In parallel, ensuring the certainty of accountability and punishment through a criminal justice response and public safety is paramount. While there are superficial advantages in appearing to be hard-headed against citizens who have behaved 'treasonably' in terms of public opinion, this is a short-sighted and probably counterproductive stance. Indeed, some counterterrorism practitioners have acknowledged

the folly of European states refusing to repatriate, including Belgium's former Head of the Coordination Unit for Threat Analysis, Paul Van Tigchelt and the UK's former MI6 Director of Global Counter Terrorism Operations, Richard Barrett.³⁷ Unfortunately, these voices have been ignored. Fear of the impact of domestic support (or lack thereof) means that outsourcing the problem or even dissembling remains European states' preferred option.

European governments should stop burying their heads in the sand, put an end to their bunker mentality and take responsibility for the repatriation and secure reintegration of their citizens.

However, outsourcing European FTFs' justice to third party countries, such as Iraq, is immoral, contravenes international justice norms, and is an unacceptable attempt to subvert international law. The other option favoured by some member states, particularly the UK and Sweden, of allowing their citizens to be tried and prosecuted in Kurdish-controlled territories because they were committed there, is also unacceptable. The Autonomous Administration of North and East Syria is not an internationally recognised legal entity, meaning that it has no legal authority to prosecute or try anyone. Furthermore, European support for such an idea would certainly be viewed as political support to the Administration as a whole, which would damage EU-Turkey relations when they are already very strained.

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Finally, expecting third countries like Turkey to detain European FTFs is not a solution, either. As Turkish Interior Minister Süleyman Soyly declared, "We [Turkey] are not a hotel for Daesh/ISIS members of any country."³⁸ Consequently, since October 2019, Turkey has deported a number of Europeans back to their native countries, including at least 4 men and over 70 women and children.³⁹

Against this background, the following measures would contribute to a greater likelihood of successful reintegration of FTFs where humanity is balanced with risk management and public safety.

- ▶ **A process for investigating the crimes of FTFs in Syria and Iraq** could feed into subsequent processes in the respective judicial systems across Europe. The UN-mandated investigative mechanism for documenting ISIS crimes in Iraq, UNITAD, could serve as a model for a similar investigative mechanism for FTFs in Syria.
- ▶ **Create a 'European Entry/Dispersal Model'** under an expanded Directive 2017/541. The Directive criminalises those who seek to travel for the purposes of violent extremism. The model would standardise and enhance the European reception process for FTFs returning to EU territory. It would emphasise debriefing, risk assessment, evidence gathering, resettlement, supervision and clinical interventions for trauma, especially for minors and non-combatant dependents.⁴⁰ The siting of such a 'clearing house' within Europe would be a significant political challenge, but there are also opportunities for locating it in a third country outside EU jurisdiction, to overcome some obvious, competence-related hurdles.
- ▶ **Develop a menu of peer-reviewed and validated interventions** specifically for returning European FTFs who receive custodial sentences. It should include reliance on recanting jihadis to combat violent extremism in prisons. The reintegration of the returnees into the host community as key partners of national security, rather than subjects of it, while incorporating principles of openness and dialogue as set out in the Aarhus Model, should follow upon their release.⁴¹ In our Roundtable event in September, the experts noted that the families of returnees are often 'first responders' to emotional and material need when fighters return home. Where those families are seen to be protective influences against further terrorist offending, they should be fully involved and supported in that critical pro-social resettlement role.

European countries must continue to share their experiences of evolving disengagement and reintegration processes. Some risks will need to be taken when approaching a challenge which is relatively new and fraught with complexity. Clearly, there is no one solution for managing the threats presented by FTFs. Some will be willing to reintegrate, others not. Some may be simply incapable, due to extensive trauma. The first 12 months post-repatriation are decisive for ex-combatants' long-term disengagement. Therefore, developing appropriate and tailored rehabilitation and reintegration programmes that are predicated on exceptionally good debriefing and individualised interventions is crucial. Trauma, including PTSD, is a significant factor in both radicalisation and disengagement. It follows that repatriated FTFs pose a danger to themselves – and therefore to others – due to what they might have seen and done in one of the most brutal theatres of conflict of modern history.

Clearly, there is no one solution for managing the threats presented by FTFs. Some will be willing to reintegrate, others not. Some may be simply incapable, due to extensive trauma.

The phenomenon of 'disguised compliance' must be researched extensively to assist decision-makers' assessment of the risks of returning FTFs. Judging the authenticity of ideologically motivated terrorist offenders' renunciation of jihad is an area fraught with complexity. In cases like the 2019 London Bridge stabbing perpetrated by ex-convict Usman Khan, which resulted in the murder of two people active in offender rehabilitation, his manipulation of those both managing his risk post-release and working for his rehabilitation is likely a key factor. Professional competence in the assessment of returning FTFs will be paramount in protecting the security of citizens.

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The utility of wearable technology for those deemed to be a security risk but who fail to meet an evidential threshold for secure custody, to contain their risk and provide real-time support, should be explored further. Advances in this field will provide additional public reassurance through continuous surveillance data and communication and support options for such returnees.

Intelligence sharing between EU member states is also essential, as we can be reasonably certain and unknown number of FTFs will be back on the streets and able to travel at some point. This could be because they were not prosecuted due to a lack of evidence, or because they have already served their sentences. In most European states, prison sentences for supporting terrorist activity – a charge typically used for jurisdictions who elect for convictions with a lower evidential threshold – are between 4 to 6 years.

Although ISIS may have been largely defeated on the battlefields of Syria and Iraq, the group is far from dead and buried. In fact, it is in the process of regrouping and recalibrating. Large factions of the group have gone underground.

Furthermore, ISIS as an idea and an ideology is far from destroyed. The ongoing incarceration of FTFs, women and children where they are in North East Syria will only serve to inadvertently exacerbate existing grievances and breed a new generation of ISIS militants. Repatriating those who have (potentially) committed grave crimes and putting them through robust criminal justice, risk and/or reintegration processes are not signs of weakness. It is a demonstration of our societies' commitment to the rule of law and the right to a fair trial, which could help undermine the narrative of abandonment, discrimination and grievance that animates much of the attractiveness of extremist Islamism.

Moreover, if Western governments reject the strong moral obligation that is ensuring the welfare of their citizens, it is likely that ISIS will exploit this deficit and insert themselves as the 'guardians' of a new generation of violent extremists, especially children.

The resurgence of post-caliphate ISIS with its former potency is a genuine possibility. It is menacing over a dozen countries in West Africa and the Sahel, gathering strength in Southeast Asia, and proving stubbornly hard to eliminate in Syria – even with the might of the Russian military ranged against it. Dealing with European FTFs appropriately and decisively through the rule of law is an important part of the EU's broader approach to preventing the rejuvenation of ISIS. The events of the last few weeks in Paris, Nice and Vienna are a stark reminder of the capacity Islamist extremism has to wreak havoc and create fear. European nations are better safeguarded when they have maximum control over insurgents who would do them harm and who are brought back home to justice to account for their crimes. This collective responsibility must not be evaded. Time is short.

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